

June 2021

Comments of the Bench, Bar, and Public Officers Upon Some Phases of the Colorado Judiciary System: Report of the Judiciary Committee of the Colorado Bar Association

Stanley H. Johnson

Follow this and additional works at: <https://digitalcommons.du.edu/dlr>

Recommended Citation

Stanley H. Johnson, Comments of the Bench, Bar, and Public Officers Upon Some Phases of the Colorado Judiciary System: Report of the Judiciary Committee of the Colorado Bar Association, 24 *Dicta* 123 (1947).

This Article is brought to you for free and open access by the Denver Law Review at Digital Commons @ DU. It has been accepted for inclusion in Denver Law Review by an authorized editor of Digital Commons @ DU. For more information, please contact jennifer.cox@du.edu, dig-commons@du.edu.

the Senate committee, and it is urged that others do likewise. An early hearing will be held before the sub-committee.

If sufficient interest is shown by the members of the bar, the committee feels that the bill has a good chance to pass. Under the existing law there is no way for the lawyer veteran to be eligible for "on-the-job training," but if the amendment is passed relief will be available. There will be opposition; hence, the committee urges immediate action."

The attention of all Colorado lawyers is particularly invited to the last two paragraphs of the above report. Prompt action is necessary if we are to help our young lawyer veterans obtain the benefits to which we think they are entitled. The committee has done its work in getting the matter before the Congress and hopes that the profession will support its endeavors.

Accordingly, the members of the Colorado bar are urged to make their views on this matter known at once to Senator Wayne L. Morse, Chairman of the Sub-committee on Veterans' Affairs, Senator Henry Cabot Lodge, Jr., the sponsor of Senate Bill 986, or the members of the congressional delegation from Colorado.

Comments of the Bench, Bar, and Public Officers Upon Some Phases of the Colorado Judiciary System

Report of the Judiciary Committee of the Colorado Bar Association

By STANLEY H. JOHNSON, Executive Secretary

In the course of its work in analyzing the judiciary system of Colorado, and of submitting possible changes for the improvement of that system, the Judiciary Committee has sent out extensive questionnaires. Answers from a sufficient number had been received in May to warrant calling together the committee's district chairmen. Accordingly, a meeting was held on Saturday, May 24th, at the committee's office in Denver, presided over by Philip S. Van Cise, chairman of the committee, at which every judicial district, with the exception of the Sixth in southwestern Colorado, was represented.

At this meeting digests were submitted to each district chairman of the comments received concerning the courts in every county of his district. The chairmen, or their representatives, were then asked to comment freely upon their ideas of the needs of each county in their respective districts. The purpose of the meeting, primarily, was to give the committee members first hand opinion and information, not only of what might be desirable in improving the judicial system, but also what might be practical, considering the opinions of the bar and public in each community.

This information is most important at this time, because it is the intention of the committee, by the end of June, to present to the bar and public generally, for discussion and criticism, only such possible or proposed changes as

appear to be acceptable in practice, as well as desirable in theory. The suggestions of the district chairmen were of great value toward this end.

In addition to the members of the Denver Coordinating Committee, which included Worth Allen, vice-chairman, the chairmen of the Denver committees discussed the problems under consideration by their committees with the district chairmen at a luncheon meeting at the Shirley Savoy Hotel. Winston S. Howard spoke for the Non-partisan Committee, having under consideration non-partisan election of judges, salary, retirement, tenure of office, the desirability of a judicial council and a chief justice with supervisory executive powers over the entire court system.

He discussed with the various chairmen whether a non-partisan selection of judges would tend to improve justice in the state, and if so, whether it should be applied to the selection of supreme court justices alone, or by local option to district and county courts, as well; whether, if it were adopted for any courts, appointment should be made by the governor, chief justice, judicial council, or some other individual or body; whether appointment should be upon nominations by a commission, or other method, and the number, personnel, and manner of selection of such a commission; whether after appointment the incumbent should be elected by the people upon the sole question whether he should be retained in office, without an opposing candidate, as in Missouri and California, or by non-partisan ballot in a general election, or special election, as is now provided in many western states.

The following Denver chairmen spoke briefly of the matters under consideration of their committees: Fred Neef, Supreme Court Committee; Peter H. Holme, Jr., County Court Committee; Elmer L. Brock, Jr., Juvenile Court Committee; and Albert E. Sherlock, Justice Court Committee. Joseph G. Hodges, Denver Chairman of the District Court Committee then presented for consideration some problems of his committee, including the following: whether any counties should be transferred to a different district, or any two districts consolidated; whether there is an excess or insufficient number of district judges in any district; whether all or any part of the jurisdiction of the county courts should be transferred to the district courts, and if so, in what counties; whether the clerks of the district courts should be given authority to issue summary orders in the absence of the judge.

Four hours of the day were given over to the consideration of problems raised by the answers to the various questionnaires. The following district chairmen or alternates were present: District 1—Carl Cline, Golden, chairman; 3—Frank Hall, Trinidad, chairman; 4—Frederick T. Henry, Colorado Springs, chairman; 5—A. J. Laing, Leadville, chairman; 7—Norman Hotchkiss representing John P. Helman, Grand Junction, chairman; 8—Hatfield Chilson, Loveland, chairman; 9—Judge William A. Mason, Glenwood Springs, chairman; 10—John Faricy, Pueblo, representing Harry S. Petersen, Pueblo, chairman; 11—James Harrison Hawthorne, Canon City, representing John

M. Boyle, Salida, chairman; 12—Raphael J. Moses, Alamosa, chairman; 13—George Epperson, Fort Morgan, representing Judge Raymond L. Sauter, Sterling, chairman; 14—Farrington Carpenter, Hayden, representing James Mosley, Craig, chairman; 15—Gordon Allott, Lamar, chairman.

Answers and comments to questionnaires had been received from six sources: the district judges, county judges, county chairmen of the judiciary committee, district attorneys, sheriffs, and county clerks. In addition maps of each county were sent out to the county chairmen upon which the justice precincts were to be indicated.

Replies to some or all of the questionnaires had been received by May 24th from the following 39 counties: District 1—Adams, Arapahoe, Jefferson; 4—El Paso, Teller; 5—Eagle, Lake, Summit; 6—Archuleta, Dolores, La Plata, Montezuma, San Juan; 7—Delta, Gunnison, Mesa, Montrose; 8—Boulder, Jackson, Larimer, Weld; 10—Crowley, Otero, Pueblo; 11—Chaffee, Custer, Fremont; 12—Costilla, Rio Grande; 13—Morgan, Phillips, Sedgwick, Yuma; 14—Grand, Moffat; 15—Bent. It is essential that all returns from all counties be made by the first of June, so that the Denver committees may proceed with their work of digesting the statistics and comments.

Some idea of the sentiment from various parts of the state upon the possible changes suggested by the Judiciary Committee may be obtained from a tabulation of the replies. The questions and replies are for that purpose set forth. It is the hope of the committee that every attorney reviewing this article, who has comments or suggestions concerning any of these questions will mail them to the committee office at 727 Ernest and Cranmer Building, Denver. The committee needs and wants all the opinions it can get, pro or con.

Answers were received from the county chairmen, 36 counties reporting, to the following questions:

1. How much time of the judge of the district court is taken up with the business of the court in your county? Answers vary from 2 days a month in the smaller counties, to ten per cent of the time to full time in the larger counties.

2. Does the clerk of the district court also act as clerk of the county court? No—34, yes—2.

3. Can all the work of justice, county, and district courts be handled by one judge in your county? Yes—21, no—15.

4. Is the judge of your county court a lawyer? No—19, yes—15, no answer—2. If not, what was the last date a lawyer held office? Answers vary from "never" to "1943."

5. Can all the work of the justice courts of your county be handled by the county court at the county seat? Yes—26, no—10.

6. If so, can these courts be combined to the advantage of the public? Yes—23, no—6, no answer—7.

7. Is there any real need for justice courts in your county? If so, at what places? Yes (no number specified)—4, yes (county seat)—2, yes (one place)—3, yes (2 places)—5, yes (3 places)—3, yes (4 places)—3, yes (5 places)—1, no—15.

8. If the county judge also had all the functions of the justices of the peace, should he have the right to hold court in different sections of the county? If so, where, and how often? Yes (no place specified)—6, yes (one place)—2, yes (two places)—5, yes (three places)—2, yes (four places)—1, yes (anywhere)—2 no—15. Answers vary—any time, once monthly, twice monthly, 1 day, 4 days.

9. Would the public interest be served by combining police or municipal courts with justice courts, if the latter are retained? Yes—25 (many are already), no—9, none of either in the county—1, no answer—1.

Replies from county chairmen to the following questions upon the district court, 15 counties reporting were:

1. Does the court have an adequate staff? Yes—13, no—2, (probation officer—1, typist and recorder—1).

2. Are there sufficient or too many judges in your district? Sufficient—11, sufficient most of the year—1, sufficient except for distances—1, inadequate—2.

3. Should the court's jurisdiction be changed in any manner? For example, should it be given exclusive original jurisdiction of contested matters in estates? No change—8, district court should absorb county court—2, all probate matters in district court—1, trial in either court, but appeal only to supreme court—1, all contested matters to district court, where county judge is a lay judge—1.

Replies of county chairmen or district judges to questions concerning the district court, 16 counties reporting were:

1. Is there enough work for a full time judge in your district? Yes—11, no—4, no answer—1.

2. Is an additional judge necessary? No—15, yes—1.

3. Should the county courts be consolidated with the district court? No—8, yes—5, no objection if extra judges—2, no answer—1.

4. Should the justice courts be consolidated with the county courts? No—9, yes—6, no answer—1.

5. Should contested cases involving estate matters be tried originally in the district court? Yes—9, no—7.

6. Should there be a central administrative office in the supreme court to supervise assignment of judges? No—10, yes—6. To supervise clerical staffs? No—13, yes—3. To supervise purchase of supplies? No—12, yes—4.

7. Do you approve of an integrated court system in which all courts are divisions of one court with the chief justice of the Supreme Court the presiding officer? No—8, yes—5, no opinion—3.

8. Do you favor annual compulsory meeting of all judges of courts of record, expenses to be paid by the state? Yes—13, yes (under integrated court)—1, yes (if not compulsory)—1, no—1.

9. Do you believe the present method of selecting judges in Colorado is the best method? No—12, yes—2, doubtful—1, no opinion—1. If not, what method do you favor? Appointment by governor upon recommendation from local bar—2, non-partisan—2, California or Missouri plan—5, no system mentioned—3.

Replies of county chairmen to questions on county court, 22 counties reporting were:

1. Does the court have an adequate staff? Yes—14, no—4, no answer—4. If not, what help is needed and what will it cost? Probation officer—2, court reporter—2. \$1500 to \$2400.

2. Should the court's jurisdiction be changed in any of the following ways:

A. A separate estate court created? No—22.

B. Should the county court continue to handle all estate business? Yes—17, yes (if judge a lawyer)—1; no (removed to district court)—1, no—3.

C. Where the county judge is a layman, should all contested matters be transferred to the district court on motion of any party? Yes—18, no—3, judge is a lawyer—1.

D. Or should only such contested matters as require a jury be thus transferred? All matters—17, none—4, no answer—1.

E. Should the county court take over the justice court business? No—13, yes—6, only if another judge provided—2, doubtful—1.

F. Should it take over all contested cases? Yes—9, possibly—1, no—8, no, if county judge a layman—2.

G. Would it improve justice to have masters or referees acting as needed under supervision of the county judge in place of justices of the peace? No—14, yes—4, only if procedure changed—3, don't know—1.

H. Does the county court perform an essential service in your county? Yes—16, only in estates—1, no—4.

I. Or should it be consolidated with the district court? No—13, yes, if additional help—7.

J. If the county court took over all justice court business, would an additional district judge and additional employees be required? Yes—17, no—3.

3. What is the opinion of the court (not the judge) by the citizens in your community? Good—12, respected—1, fair—1, poor—2, don't know—1.

4. Would a lawyer as judge (if the judge is a layman) be preferable to one who is not a lawyer? Yes—18, no—1, question of ability—1.

Replies of district attorneys to questions on justice courts, 28 counties reporting were:

1. Is it difficult to obtain competent and reliable men to serve as justices of the peace in this county? Yes—15, yes (outside county seat)—1, no—12.

2. Is there sufficient justice court criminal work in your county to justify one or more full time, salaried judges? If so, how many? No—19, yes (one justice)—5, yes (two justices)—4.

3. If the work justified a full time, salaried, justice, do you believe a full time salaried justice would improve the administration of criminal cases sufficiently to justify the expense? Yes—8, no—6, no answer—14.

4. Could justice court cases be filed with the justice at the county seat without serious inconvenience? Yes—19, no—6, no answer—3. Approximately how many were or could have been? None in one county, all cases in two counties, from 5 to 2598 in the remainder.

5. Is the present system adequate and satisfactory? No—14, no (except at county seat)—1, fair—3, satisfactory—10.

6. As to the following my answer is:

A. One justice at county seat to handle all justice court criminal cases? No—9, yes—7, no answer—12.

B. One justice with power to hear criminal cases elsewhere than at county seat? No—13, yes—3, no answer—12.

C. Eliminate all criminal cases from justice courts and place in county court? No—16, yes—3, no answer—9.

D. Eliminate, as above, except for traffic cases? No—16, yes—1, no answer—11.

E. Abolish justice court jurisdiction in criminal cases and place under jurisdiction of a deputy judge or judges, to travel throughout the county as needed? No—16, yes—2, no answer—10.

Replies from sheriffs to questions on justice court constables, 39 counties reporting, were:

1. Can the sheriff's office discharge all the duties of the constables of the justice court? Yes—30, no—4, no answer—5.

2. How many deputy sheriffs have you in your county? One deputy in eight counties, 2 in 6, 3 in 1, 4 in 3, 5 in 3, 6 in 2, 7 in 1, 9 in 2, 12 in 1, none in 12.

3. Do you need any other deputies to handle the constable's work? If so, how many? Yes—10, no—21, no answer 18. Where the number of additional deputies was specified, never over one.

A great deal of valuable discussion upon these questions resulted from the meeting of May 24th with the district chairmen. Much more will result if all members of the bar will give the Committee the benefit of their opinions. This can easily be done with no more labor than you spend upon a cross

word puzzle, if you will tear out this article, write your ballot, or opinion on the margin opposite the question, and mail it in to the Judiciary Committee, 727 Ernest and Cranmer Building, Denver. You need not sign your name, but be sure to indicate the county in which you practice at the top of the article.

Denver Bar Association Honors Those in Practice Fifty Years or More

On April 9, 1947, at a special evening dinner meeting, the Denver Bar Association honored thirty-six members who have been engaged in the practice of law for fifty years or more, and awarded them with life memberships in the association. Those so honored and the respective dates of their admission to practice are:

<i>Name</i>	<i>Admitted</i>
John F. Tourtellotte.....	September 14, 1883
Frank T. Johnson.....	July 29, 1885
Grant L. Hudson.....	June 3, 1886
Robert Collier	June 21, 1886
Albert Sheridan Frost.....	January 27, 1887
Robert J. Pitkin.....	February 8, 1887
George F. Dunklee.....	March 12, 1887
Frank N. Bancroft.....	September 14, 1887
J. E. Robinson.....	January 11, 1889
Samuel E. Marshall.....	April 19, 1889
John Huston Gabriel.....	April 10, 1890
Harry C. Davis.....	September 17, 1890
Albert Augustus Reed.....	July 2, 1891
James Hammond Pershing.....	December 19, 1891
Warren A. Haggott.....	June 15, 1892
Clayton C. Dorsey.....	February 2, 1893
Horace Phelps	July 17, 1893
Benjamin Clark Hilliard.....	October 25, 1893
Henry H. Clark.....	December 30, 1893
Newton C. Garbutt.....	February 1, 1894
Milton E. Blake.....	July 12, 1894
Henry McAllister	July 24, 1894
Horace N. Hawkins.....	August 15, 1894
Henry A. Hicks.....	August 15, 1894
Samuel W. Johnson.....	November 10, 1894
Henry C. Vidal.....	December 17, 1894
Erwin L. Regennitter.....	March 13, 1895