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Denver Justice of Peace and Police Courts

If the Justice of the Peace and Police Courts of Denver are to function in a satisfactory manner, it is imperative that there should be additional judges, clerks and constables and a complete change in the present system. This change should provide adequate salaries for the magistrates.

A modern municipal court such as is found in Minneapolis, Atlanta, Columbus, Rochester, New York and other progressive cities would seem to be what Denver requires. This is the recommendation of the Civic and Legislative Committee of the Denver Chamber of Commerce. However, the constitutional and legislative changes necessary to provide a municipal court of the type sought would require much careful thought and take a long period of time.

Something should be done now to better conditions. Additional judges and constables could be obtained by a charter amendment to be passed at the next city election if the voters so desired.

Your Committee, aided by a special committee of the Chamber of Commerce composed of J. F. Reade, J. S. Fabling and Ed. P. Eppich, has made a long study of the entire lower court procedure in Denver. Its conclusions are presented herein.

Justice courts date from A. D. 1327 in the reign of Edward III. They are apparently as out of place in Denver as the armored knights who created them would be. Everyone interviewed upon the subject agreed that something should be done about it, but like Mark Twain's remark about the weather, "Everyone talks about it, but nobody seems to do anything about it."

Twenty-five years ago there were two Justices of the Peace and a Po-

lice Magistrate in Denver. Since the charter of 1910 there have been only two of these officials despite the tremendous increase in cases handled due to growth of population, traffic violations, prohibition and other features of modern life.

Police court sessions are necessarily a mad rush for there is little time to hear testimony. A great portion of those arraigned are foreigners. Knowing little or nothing about what is taking place they are often convicted before they have a chance to learn what it is all about. Angered and disillusioned at their only glimpse of American "justice", they go forth, a ready prey for the first glib-tongued Bolshevik they meet.

Police Court

In the year 1919, 3,136 cases were disposed of in the Police Court in Denver. This was an average per month of 261 or 11 per day. In 1920, 7,591 cases were adjudicated, an average per month of 632 or an average per day of 25. In 1926 10,003 cases were adjudicated, an average per month of 833 or an average per day of 32.

In the disposition of these cases, all of which were determined in the forenoon, the Police Magistrate had for each case an average of only two to two and one-half minutes, some cases taking more time and some less. For the year 1925 there were 13,916 cases and 11,341 convictions. There were 2,575 cases in which there were dismissals or the defendants were acquitted, showing an average of about 81% convictions. The Magistrate disposed of a daily average of 46 cases, the hours of a Police Magistrate being from 9:30 to 11 A.M. as the Judge must hold a Justice Court session im-

mediately following the Police Court.

For 1925 a total of \$104,308.30 was paid directly to the Police Court in fines and in 1926 a total of \$134,303.10. This indicates that whatever else may be said of the Denver Police Court, it is a profitable financial institution. The so-called Cafeteria Court, where traffic offenders pay without appearing before a Judge has probably reduced the number of Police Court cases somewhat.

Justice Court

In the year 1920, Justice Bray's Court produced total receipts of \$5,363.00. Justice Rice's Court for the same year produced total receipts of \$6,138.78. The increasing receipts from the Justice Courts are shown by the record of Justice Orahood's Court from April 1, 1924 to April 1, 1925, when \$39,736.83 was received. The receipts from Justice White's Court during the same period were approximately the same so that the total income for the year would be something over \$80,000. For the calendar year 1924 there was an appropriation for total expense for the Justice Courts of \$23,985.61.

In Justice Rice's Court in 1920, 458 criminal cases and 1272 Civil Cases were disposed of. In the same Court in 1924, now presided over by Justice Orahood, there were 972 criminal cases and 3,327 Civil Cases. In 1925 up to December 5, there were 3,434 Civil Cases filed in Justice Orahood's Court or approximately 100 more than for the entire year of 1924. The criminal docket also shows an increase during the same period. The figures for Justice White's Court for 1924 and 1925 are approximately the same as those for Justice Orahood's.

Table of Cases Handled

POLICE COURT			
Year	Total Number	Monthly Average	Daily Average
1919.....	3,136	261	11
1920.....	7,391	632	25
1925.....	13,916	1159	45

JUSTICE COURT			
Year	Criminal Cases	Civil Cases	Receipts
1920 (Rice)	458	1,272	\$6,158.78
)Same			
1924 (Orahood)	972) Ct.	3,327	39,736.83
Apr. 1, 1924 to Apr. 1, 1925.			
May 1, 1925 to May 31, 1926. (Orahood)	786	3,969	37,208.58
May 1, 1925 to June 30, 1926. (White)	817	4,902	40,863.95

(The increase shown from 1920 to 1925 from Justice Bray's Court to the same Court under Justice White, would be substantially the same).

In other words, the criminal cases in the Justice Courts have nearly doubled in the last seven years. The civil cases have more than trebled. The Police Court cases have also more than trebled since 1919 and apparently the end is not in sight.

The average number of civil cases disposed of in Justice White's Court for the period in 1926 above mentioned was 408 cases per month, while Justice Orahood decided 366 cases per month.

The present method of selecting jurors for the Justice Court is for the Constable to grab whatever unfortunate person he may meet close to the court room, serve him with summons, compel him to drop whatever work he is doing and order him to serve in the Justice Court for that day at an honorarium of 50 cents. The result, according to officials of the courts, is that either a jury is composed of men who are unwilling to serve, or in the case of bootleggers, the jury is likely to be composed of those who are standing by, anxious to serve. These bystanders may be and often are, friendly to the defendant. The furni-

ture and equipment of these courts and the surroundings generally are such that no proper dignity or respect for the law and justice can be observed or commanded.

Within recent years the Legislature has so increased the jurisdiction of the Justices that, according to the Denver Justices, it is impossible for their courts to handle all the cases that might properly be filed therein.

Clerical Improvements

Additional Clerks should be provided, with one head and division clerks for each Court, similar to the District Court System. This method is endorsed by City Auditor George D. Be-gole who writes the following suggestions for improvements, having made a study of this subject:

"Certain deficiencies, inconsistencies and practices exist for which there is no law, brought on by conditions and circumstances attending an abnormal and more or less sudden increase in business. Early in 1923 we were aware that immediate relief was necessary if the clerks of the court were to be able to account for and handle the financial matters and on June 1st, 1923 by agreement between the Justices, City Attorney and this office, the Flat Fee System now operating was adopted. It relieved in some measure the accounting work of the Court, but a continual increase in business since then has again brought matters to a point where not only the service to the public is crippled, but the requirements of my department in the way of sufficient attention to financial details is being neglected.

The increase in the amount of business coming before the Justices of the Peace can be accounted for, in addition to growth of population, by the Partial Payment Plan of merchandising so universally prevailing

and by the adoption by law of a Flat Fee System in the District Court where the filing fee is \$7.50 against \$3.00 in the Justice Court. As Auditor, my investigations have probably led me into other channels than those covered by the Bar Association and the Chamber of Commerce Committee, whose interest in this matter is so commendable and timely. I am, therefore, in a spirit of co-operation, making some suggestions from my point of view, with the sincere desire that the Bar Association will continue to press those matters until results are obtained.

There should be an entire reorganization of the Justice Courts, with rules and regulations to govern, setting forth not part of the fees to be charged, but all costs that can or are being assessed against the public and particularly providing what portion is payable to the Treasurer, and when.

An amendment to the Charter to provide an additional Justice to handle all Police Court matters and all criminal matters now coming before the Justices of the Peace should be drawn and championed by the Bar Association at the next City election.

In a reorganization of the Justice Courts for the City and County of Denver, whether or not one or more courts are added, I would suggest for the clerical and accounting part the adoption of a consolidated Clerk's office similar to that of the Clerk of the District Court of the Second Judicial Division. Such provision should eliminate the chance or charge that Justices receive emoluments from the office beyond that of a legal salary.

The Mayor and the City Council should at once make provision for

an additional Deputy Constable in each Justice Court."

It may be added that of a dozen cities of the approximate size of Denver, whose lower courts systems were examined, the salaries paid by Denver were the lowest with one exception. The salary of a Denver Justice is \$2000.00 and he receives approximately \$1000.00 a year for his police court services or a total of \$250.00 a month for both positions. It is hardly necessary to state that this is inadequate. The salaries should be established by ordinance instead of by the charter.

The Justice Courts are fundamentally the poor man's forum. Cases involving small amounts but of the utmost importance to the individual are tried. Many of the parties never enter another court and their ideas of our legal system are based upon what they observe in the hurry of this antique system.

Surely, in the interests of good citizenship somebody ought to try to obtain the best possible system for litigants in these Courts.

In many of the progressive cities of America, Small Claims Courts are part of the municipal courts. Attorneys are not used and defendants may be summoned by policemen or by telephone. Parole systems for petty offenders are in vogue, the judges en banc, having the power to parole first offenders and to re-imprison parole violators without further trial. The general rule in municipal courts is that all papers may be served by any policeman. No time is lost looking for over-worked constables.

Probably the best form of Court adapted to Denver would be the usual municipal tribunal with jurisdiction over civil matters generally up to \$2000.00, with exception of divorce and equity cases. This Court should also have jurisdiction of misdemeanors and

violations of city ordinances. The County Court could then be relieved of everything except probate matters.

Appeals from such a municipal court could be limited to the Supreme Court. This would end the present obsolete, expensive and useless practice of permitting two trials of the same case, first in the Justice, then in the County Court or first in the County Court and then the District Court. Establishing a modern municipal court would, of course, necessitate drastic constitutional and legislative changes.

As stated above, however, it is not possible even if it be advisable, to organize such a municipal court prior to the coming City Election. Great improvement in present conditions can, however, be obtained at slight cost and with comparatively little effort.

The present unsatisfactory conditions in the lower courts of Denver are the result of years of neglect. Nobody in particular is to blame. However, the condition is apparent to anyone who will examine it. It seems peculiarly the province of the Denver Bar Association to lead the way to better methods.

This Committee wishes to thank Mayor Benjamin F. Stapleton, City Attorney, Henry E. May, Deputy City Attorney, Thomas Gibson and the other city officials who have courteously furnished assistance in this work.

Conclusions and Recommendations

The foregoing study and report indicates that conditions surrounding this important branch of our City Government and administration of justice are such that steps should be taken by the proper city authorities and by those individuals and organizations particularly interested in law enforcement to remedy the situation promptly.

In this connection, the Committee wishes to commend the efforts of Justices Orahod and White in the results which they have obtained in the face of great difficulties. The Clerks and Constables of these Courts have also proven themselves unusually efficient. The Police Court records are well kept.

Your Committee therefore recommends:

1. That the number of Justices should be increased by at least two, together with additional Clerks and Constables.

2. The City Charter should be so amended that the provision regarding Justices and Constables shall be elastic enough to admit of an increase in the number of Justices and Constables by the City Council, without the necessity of further amendments to the Charter.

3. The present salaries which are \$2,000 for the Justices with additional fees and allowance making a total of about \$3,000 a year, should be increased. This should be accompanied by the complete abolition of the fee system.

4. The jury system should be

changed so that the jury panel for the District and County Courts, or a similar method, could be used in Justice Courts whenever required.

5. Adequate quarters should be given the Justice Courts. It is assumed that these will be provided in the new Court House.

6. A clerical system similar to that in the District Court should be established so that proper audits may be made of all accounts and receipts.

7. The Denver Bar Association should take up the recommendations herein urged with the City Council to the end that any steps necessary to bring about the suggested changes may be adopted.

Respectfully submitted,

COMMITTEE ON JUSTICE
AND POLICE COURTS OF
THE DENVER BAR ASSO-
CIATION.

By

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Chairman.

JOSEPH C. SAMPSON
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Recent Trial Court Decisions

(Editor's Note.—It is intended in each issue of the Record to note interesting current decisions of all local Trial Courts, including the United States District Court, State District Courts, the County Court, and the Justice Courts. The co-operation of the members of the Bar is solicited in making this department a success. Any attorney having knowledge of such a decision is requested to phone or mail the title of the case to Victor Arthur Miller, who will digest the decision for this department. The names of the

Courts having no material for the current month will be omitted, due to lack of space.)

Denver District Court

DIVISION II

JUDGE GEORGE F. DUNKLEE

Procedure—Request by Jury for Further Evidence—Discretion of Court

Facts: The trial of a case having proceeded to the point where it had been turned over to the Jury for its determination, the Jury, having delib-