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A Municipal Court for Denver?

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possible amount for distribution among the depositors, and ordered that another public auction be held, at which both of said parties and others might bid and any bids or offers received thereat to be subject to confirmation by the court.

Id. Following said order, "A" requested five and twenty-five days stay of execution pending appeal.

Held: No stay proper under the facts, and stay of execution denied.

In re Bank of Commerce.

COUNTY COURT JUDGE LUXFORD

Widow's Allowance—Separate Maintenance Agreement as Waiver of:

Widow, alleged to have been absent from Colorado during the year of administration of estate of deceased husband, files application for widow's allowance shortly before closing of estate and elects to take \$2,000 cash in lieu of personalty. Administrator, as a bar to said application, presents separation agreement dated 1920, executed by respective parties following institution of separate maintenance suit, whereby deceased husband gave wife \$1500 alleged to have been all the property then owned by him, the agreement providing that the execution thereof and acceptance of said sum by widow should bar any further claim against husband or his estate, etc., and that presentation of agreement in any court, wherein such claim might be made, should constitute bar to any such suit. Widow's allowance not specifically mentioned.

Held: Widow entitled to widow's allowance.

In re Estate of William E. Gray No. 36024 (Above matter appealed to District Court, No. 93417. Will be reported here when decided there.)

(In this connection, see *Wilson vs. Wilson*, 55 Colo. 70, holding, "An antenuptial agreement wherein the wife relinquished all interest in the husband's estate with a provision, however, for her support should she survive him, would not bar her widow's allowance or would not waive her right to it."

JUSTICE COURT

JUDGE A. T. ORAHOOD

Justice of the Peace—Power to Amend Process:

Paul Smith was served with summons in which name of defendant read "B. Smith" by mistake. Plaintiff asked leave of Court to amend summons to insert correct name of defendant at time of trial.

Held: The Justice of the Peace has power to amend process after service to state the true facts and a person served with process out of Justice Court wherein his name is misspelled is put upon notice, and must appear and defend and if he does not do so, process may be amended to state correct facts, or if judgment against defendant under erroneous name is entered, the property of the defendant will be bound as if name were correct, the rights of third party not intervening.

A Municipal Court for Denver?

Suggestions for the remedy of the overcrowded conditions in the justice of the peace and police courts of Denver have so far consisted in the advocacy of the addition of one or more justices of the peace, to operate under the same methods as are now in vogue. It is believed that a more fundamental reorganization can be made—and sooner or later will have to be made—which will provide not only for the present overcrowding, but correct apparent defects in procedure and also relieve the county court of its civil and criminal cases—leaving it as a probate court. The county court is one of the most efficiently administered public offices we have, but probate work is given preference, and it is thought that should the civil and criminal cases now coming within its jurisdiction be

heard in some other court an all around improvement would be made.

Creation of municipal courts, which would be courts of record, replacing entirely the present justice of the peace courts, and with jurisdiction over all cases except probate now brought in the county court is the remedy suggested. An outline of the practice in municipal courts of two other cities may assist in a determination as to whether or not such a system of courts would be desirable or practicable in Denver.

The municipal courts of Chicago and Cleveland are the most recently organized, and the most modern of their kind functioning in the United States at this time.

Chicago's municipal court is more elaborately organized, and has a greater range

of jurisdiction than is thought necessary for local purposes. Its jurisdiction embraces six classes of cases—First: Actions on contracts for the recovery of personal property; for damages for the conversion of personal property and damages for injuries to personal property when the amount exceeds one thousand dollars. Second: Cases (civil or criminal) transferred to such courts by the circuit and superior courts of Cook County (which correspond to our district courts). There is no limit as to the jurisdiction over transferred cases. Third: Misdemeanors (as known in Colorado) and other criminal cases which the laws may permit to be prosecuted otherwise than on indictment by grand jury. Fourth: Civil actions where the amount sought to be recovered does not exceed one thousand dollars—the character of such cases being about the same, except as to amount, as over which our justice courts may have jurisdiction. Fifth: Quasi-criminal cases, except bastardy cases. Sixth: Cases for the prevention of crimes, proceedings for preliminary examination, commitment and bail of persons charged with criminal offenses, searches and seizures and bastardy cases.

The jurisdiction of the Cleveland municipal court is original within the city limits as to all cases over which justices of the peace may have or may be given jurisdiction, and other actions, corresponding roughly with the jurisdiction of our county court not exceeding \$2,500, however, and excluding probate and divorce cases. The Cleveland municipal court offers us a better model, so far as jurisdiction is concerned than does the Chicago court. The needs of Denver would be better filled with a court having civil jurisdiction up to \$2,000. or \$2,500. than any higher amount, and with criminal jurisdiction over misdemeanors.

The organization of both courts is similar. Judges are elected for six year terms. A chief justice is elected separately, and has powers of general supervision over the court as a whole. He assigns the judges to work in the different divisions, and they must make monthly reports to him. The election of a chief justice as such, with general powers of supervision and control of the workings of the court is a departure that has been praised by various students of judicial organization.

Pleading and procedure in the Chicago court is governed by the statute creating that court. Cases of the first and second class are to have the same form of procedure as in the circuit and superior courts. Third class, by complaint or information as to be provided, but if no provision is

made, then such cases are to be prosecuted as in the criminal court of Cook County, or before justices of the peace. The fourth and fifth classes are to be determined without other forms of written pleadings than those expressly provided for. In most cases a short statement of the facts upon which the plaintiff relies are sufficient. In other cases special pleadings are provided, in much the same manner as special written pleadings are required in a few classes of cases tried before justices of the peace in Colorado.

Both the clerk and the bailiff of the Chicago court are elected for six year terms. To the bailiff is entrusted the service of process, etc. His office partakes both of the office of constable and of sheriff. There seems to be no reason for the election of clerk and bailiff and in Denver better success would be had should they be appointed by the judges to hold office during their pleasure.

Petit juries in Chicago are selected in the same manner as petit juries for the circuit and superior courts, and in Cleveland as for the Common Pleas court (the nisi prius court of general jurisdiction).

Criminal informations may be filed in the Chicago municipal court by persons other than the attorney general and state's (district) attorney. When so filed the information must be verified. One of the judges of the municipal court must examine it and may examine the person presenting it, and require other evidence and satisfy himself that there is probable cause for filing the same and so indorse the same.

The provisions of the law governing the Cleveland municipal court are not given for the reason that they are substantially the same as either the Chicago municipal court or our county and justice courts.

The foregoing presents the essential elements of the municipal court organizations in Chicago and Cleveland. Changes would have to be made to meet special needs in Denver. We have not stated the number of judges for either court, because in Denver local conditions would have to control. A chief justice and three or four associate judges would fill all local needs. The jurisdictional question, as before suggested, would be best met by a court which combined the jurisdiction both of the justice and county courts, exclusive of probate, and possibly divorce. The court, of course, should be a court of record. Juries should be chosen in the same manner as in the county court. Procedure might be the same as in justice court in civil cases where the amount in controversy does not exceed three hundred dollars, and by the Code of Civil Procedure

where the amount exceeds that sum. Criminal procedure should be by information of the district attorney, and perhaps with a provision for the bringing of actions by other persons under the limitations of the Chicago statute. The court also should be vested with the police court jurisdiction. It should be authorized to sit in divisions for the determination of various classes of cases.

To properly work out the organization of such a court would be a task for a committee which necessarily would have to cooperate with the present county judge and justices of the peace. These men are devoting their time and energies to making the best of the tools in their hands, and they, better than anyone else know where conditions might be remedied.

A new "paper court," however, will not alone cure conditions. Pre-eminent is the question of physical surroundings. The quarters of the present justice and police courts depress those who have to work in them day after day by their dinginess and inadequacy for the work in hand. The

same conditions fail to raise in the mind of the occasional attendant the feeling of respect for the law and its machinery which, psychologically, is a great help in the enforcement and administration of law, civil and criminal. The helter-skelter hurry, confusion and delay do not breed any great reverence for our judicial machinery. And, as was so ably pointed out by Carle Whitehead, Esq., in the April number of the Record, the summary procedure made necessary by our inadequate police court provisions disgusts those who come in contact with it.

These courts are commonly called "inferior." They are not that. More people come in contact with the procedure of these courts than all our others combined. Many people never appear in court except in these "inferior" courts. They gain their sole view of judicial practice from these courts. And these are the people who more than others need to have respect and admiration for our system of judicature.

—George A. Trout.

American Bar Association Meeting

Preparations for the great meeting have been going on apace. An Executive Committee for the Colorado Bar Association, the Denver Bar Association and the Law Club of Denver is being perfected and will be expanded as the time for the meeting approaches. James Grafton Rogers, as President of the Colorado Bar Association, is General Chairman of this Executive organization and Henry McAllister, General Vice-Chairman.

The personnel of the various committees, so far as organized, and a brief resume of their work to date, are as follows:

Finance:

Tyson S. Dines, Chairman
Horace N. Hawkins, Vice-Chairman
Robert L. Stearns, Secretary.

This committee is charged with the task of raising the \$30,000.00 fund for the entertainment of our visitors, and miscellaneous expenses of the meeting here. The Committee is hard at work and reports very satisfactory progress not only in Denver, but in many other parts of the State. Naturally, the chief burden falls upon the Denver lawyers, but the Committee reports that it may truthfully be said of practically all lawyers so far approached for contributions, as was said by the Committee representing it in Pueblo, that the request was met "not

only graciously but with enthusiastic good will." The expense of entertaining such a body of visitors is probably greater in Denver than in other cities such as, for example, Detroit or San Francisco, where a steamer can be chartered for a water excursion, with sufficient accommodation for all visitors at once, at not very great expense. In Denver it is necessary to take our visitors by automobile on some one or more of the mountain trips, which is a more expensive undertaking.

Any of the lawyers who have not been reached by the solicitations of the committee, are urged to send in their subscriptions or remittances promptly, to Robert L. Stearns, First National Bank Building, Secretary of the Committee.

Accommodations:

Erl H. Ellis, Chairman
Miss Maybelle Carter, Registrar

This committee has spoken for all available space in the various hotels, and is making reservations as fast as applied for. Up to date approximately eighty-five have registered for the meetings of the Commissioners on Uniform State Laws, of whom about seventy are bringing one or more members of their families. This indicates a large attendance for the meeting of these commissioners.

About two hundred have so far made reservations for the American Bar Asso-