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## REPORT ON THE DENVER DISTRICT COURTS\*

By HON. ROBERT W. STEELE, *Presiding Judge  
of Second Judicial District, State of Colorado*

A lot of things have happened to me since becoming a judge. I have been praised and cursed, affirmed and reversed. I have seen my picture in the Hall of Fame on the back page one week and have been roasted on the editorial page the next. I have been sued for damages in the Federal Court by a disgruntled litigant. I have been threatened with bodily injury verbally and with a double-barreled shotgun. I have been alluded to in the first part of an opinion of the Supreme Court as "the learned trial judge," only to see it demonstrated beyond a reasonable doubt in the rest of the opinion that, so far as the law involved in that particular case was concerned, I had never learned a thing.

Now I am undergoing a transformation. I used to be a trial judge. Now I am rapidly becoming a statistician. All my life I have been conscious of a marked ineptitude for fooling with figures, and now I eat 'em up. At the close of each day I eagerly ask my clerks: How many trials today, how many dismissals, how many default judgments, how many quiet-title decrees, how many final decrees in divorce, how many determinations of heirship; and then, of course, with my fingers crossed, how many new cases were filed this day?

Do not misunderstand me. I approved of this new deal before it was put into effect, and I approve of it now. I accepted the assignment of presiding judge and had something to do with working out the mechanical details of the plan, and I am hell-bent on making it work.

This report deals primarily with civil cases. The presiding judge must keep the criminal divisions supplied with jurors as needed and must secure the services of extra judges occasionally for criminal cases; but the assignment of cases for trial, the determination of all preliminary matters and the trials themselves in criminal cases are handled by the two judges assigned to the criminal divisions.

As you know, all cases involving domestic relations are automatically assigned for *all* purposes to Judge Cook, and he is taking excellent care of his docket with efficiency and dispatch. I am interested, of course, in the number of domestic relations cases disposed of and send him jurors and provide him with outside judges when requested.

The duties of the presiding judge under the present plan are divided into three main categories. First, he is in charge of the entire jury panel for all divisions, civil and criminal. A new panel is drawn from the wheel every two weeks throughout the year.

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\* This report was made at the Denver Bar Association luncheon on April 5, 1954, at the Chamber of Commerce Building.

The presiding judge must be present along with the other officials designated by statute when the names are drawn from the wheel. All jurors are notified to report to the presiding judge and consequently all excuses must be presented to him. On an average, two names must be drawn for every one needed for actual service, and the usual number of jurors needed for a two-week period is about 150. To relieve the judge of having to hear over a hundred excuses every two weeks, and from other details regarding jury service, two special bailiffs, a man and woman, are assigned to the presiding judge. These are in addition to the regular bailiff. They listen to most of the excuses, keep the pay-roll records of all jurors, assign them by lot to the various courts requesting them, issue the certificates upon completion of their services, stay with them when they are locked up for the night, and generally take care of their needs.

Frequently something happens to a case, civil or criminal, on the eve of trial, so that a jury is not required, and in such cases the special bailiffs, using their own phones, communicate with the jurors at their homes and tell them not to report for duty the following day. Hardly a week goes by that such is not done, and for each call made, the city is saved one dollar and a half. The average saving per week amounts to about \$100.00.

The second of the three major duties of the presiding judge concerns the hearing of motions and matters preliminary to trial and the disposition of non-controversial actions. The presiding judge tries no cases. He hears motions in all cases not criminal or involving domestic relations, hears and enters decrees in quiet-title suits, determination of heirships, change of name, and enters judgments by default. He also sits on all citations where judgment debtors are summoned to answer concerning their property, hears and determines applications for temporary restraining orders (other than in divorce cases), and citations in contempt and anything else that may arise before trial.

Motions must be set for hearing upon notice, as formerly. Those which can be heard in a short time are set for nine o'clock. Those requiring more time are set for ten o'clock and eleven o'clock, and in the very long ones at two o'clock. So far, this schedule has been carried out almost on the dot, and motions and other preliminary and non-contested matters, long or short, can be heard within a week or ten days from the time a setting is requested. The average of dispositions of this type is running seventy a week.

Default judgments, which under the rules can be entered by the clerk without calling on the judge, are farmed out to the five trial divisions. This is done to save the clerk of the presiding judge the time required in checking each case where defaults are asked for and in writing a minute order for each judgment entered. The minutes of a division clerk when only a trial is in progress

are comparatively short and few and this expedient makes it possible for the clerk in my division to keep his work up to date.

The third main job of the presiding judge is to assign the cases for trial to the five judges and to keep each trial judge busy five days a week. No division has been made between trials to court and trials to jury. The cases are assigned for trial to the available judges regardless of whether they are to be determined by court or jury.

On January 12, 1954, the effective date of the new plan, all civil cases except those involving domestic relations were transferred by court order to the division of the presiding judge. Each of the seven civil divisions had its own trial docket and it was necessary to compile some sort of list or docket embracing all cases ready for trial from all divisions and to honor as nearly as possible the dates which had been assigned for trial or the order in which they appeared on the various dockets of the seven divisions. The first list contained 420 cases and was published in the Daily Journal. The cases were grouped in brackets, each bracket covering a two-week period, and containing about 25 cases, except for the five periods during the summer when only ten cases appear. This plan seemed to have advantages over the system used previously where the cases on the list were numbered consecutively with no breakdown as to probable date of trial.

Soon after the first list was published, a second list was prepared and printed, containing 150 cases, showing the last 27 cases tentatively for trial in the last of December, 1954. Since that time, about 250 additional cases have been put on the trial docket. This makes a grand total to date of 820 cases on the trial calendar, and the last will appear on the next published list for trial probably about April or May, 1955.

To assist the presiding judge, a docket clerk has been appointed. His name is Oral K. Wilson. He has a desk and a telephone in a room adjoining the Judge's Chambers, and his duties relate only to the setting of cases for trial and the assignment on the day of trial. He keeps a card index of all cases on the docket showing dates set for trial and dispositions by judgment, settlement or otherwise. Every two weeks the docket clerk mails notices to attorneys in 30 or 40 cases advising them to appear in open court before the judge and arrange for the setting for trial of their cases. The notices advise counsel that their cases will be set for trial during a certain two-week period, which is always five or six weeks in advance of the appearance in court. Definite days within the period are assigned each case but the judges who will try them are not designated until the day of the trial. Including the call for tomorrow morning, there have been seven sets of notices sent out by the clerk involving 273 cases and sent to 568 lawyers.

Due to continuances, settlements and other hazards, some cases are stricken from the assigned trial dates, leaving open days

for trial, and at the time of the appearance in court in response to notices these dates are offered the attorneys for trial. If there are still open dates after all cases have been called, any case can be tried on those dates whether it has been placed on the docket or not, or, if on the docket, regardless of its position.

This system has been in use exactly twelve weeks. There have been a few days when some of the trial judges have not been busy. Litigants *will* go to the hospital for operations the night before the trial and lawyers will continue to wait until the gavel sounds before agreeing on a settlement, thus making it impossible to start another case the same day. Three of the twelve weeks were one court day short and five trial judges have not been available all of the time. One hundred and twenty cases have been tried, an average of ten per week, and 204 cases have been dismissed, or an average of 27 cases per week for trials and dismissals.

Since the first of the year about 30 cases have been placed on the trial docket each week. This looks like a falling behind of at least three cases a week, but the figures quoted do not in my judgment reflect a true appraisal of the plan. The number of cases included in the call for trial settings has been increased, which should result in an increase in the number of actual trials. For instance, during the two-week period just past, 28 cases were tried, an average of 14 per week.

I would like to comment briefly on pre-trials. All of the cases appearing on the first two lists had either been set for trial or were ready for trial in the separate divisions and presumably pre-trials had been held in all of these cases. The rule in effect before January 12th required a pre-trial before a trial date could be procured. Consequently, the first 570 cases on the lists have already been pre-tried, and it will be some time before these cases can be disposed of. Cases now becoming at issue but without pre-trial are placed on the trial docket when request is made; and I have in mind discussing with Judge Holland a plan whereby pre-trials can be had in these cases; not mandatory as formerly, but only if requested by counsel. Who will preside at the pre-trials remains to be seen. Obviously, there can be no assurance that the pre-trial judge will try the case, in instances this could be arranged.

Here are my predictions for 1954, based on what has happened the first three months: There will be 6,896 new cases filed. Of these, 2,758 will involve domestic relations. In October, 1,065 cases will be dismissed under Rule 18. Judge Cook will enter 1,564 interlocutory decrees in divorce, 1,316 final decrees in divorce, and many decrees of annulment, and separate maintenance. 575 cases will be tried, and 950 cases will be dismissed. I will enter judgments and sign decrees in quiet-title suits and similar actions to the number of 1,740, and will hear and rule on about 2,500 motions. 1,568 cases will be placed on the trial docket; and this does not include the 500 already there when the plan went into effect. This is our song; it is entitled, "There've Been Some Changes Made." You be the judge. Will it be a hit or a miss?