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Calendar

January 5—Denver Bar Association regular monthly luncheon meeting, 12:15 P. M., Chamber of Commerce dining room.

February 2—Denver Bar Association regular monthly luncheon meeting, 12:15 P. M., Chamber of Commerce dining room.

Holland New Colorado Bar Association Secretary

Alex B. Holland, with offices in the Midland Savings Bldg., Denver 2, is the new secretary of the Colorado Bar Association, succeeding William Hedges Robinson, Jr., who has been secretary of the association since its reorganization, and who was recently elected president-elect of the Colorado Bar Association. Holland is a partner of Vernon V. Ketring, treasurer of the association, so the business of the association will now all be centered in one office.

The Final Plan of the Joint Judiciary Committees

By STANLEY H. JOHNSON

At the annual convention of the Colorado Bar Association at Colorado Springs, on October 18th, the plan of the Judiciary Committee for improvement of the judicial system was approved in principle by a vote of three to one. At the same time, a new committee of ten members, comprising three district court judges, three county court judges, and four lawyers, all from districts outside of Denver, was appointed by the Board of Governors, to work with the original committee in improving the details of the plan.

Since the convention the joint committee has met twice, on November 17th and again on December 13th, and through sub-committees has carried on considerable work apart from these meetings. As a result the plan has been redrawn in its final form, except for the drafting of the necessary statutes and constitutional amendments. A number of important changes have been incorporated in the plan.

Judicial Selection

The original plan provided for non-partisan nominating commissions, one for Supreme Court nominations consisting of nine members, four lawyers, four laymen, and the chief justice, and one in each judicial district to nominate all candidates for the offices of district judge and of county judge in

counties of the first three classes. From these candidates the governor must fill any vacancy and the incumbent, after a probationary period of at least one year, places himself before the public upon a non-competitive ballot. To insure selection for ability and prevent political selection it originally provided that: 1. The commission members should as far as possible be equally representative of the political parties; 2. Of the three candidates presented for each vacancy no more than two should be affiliated with one major party; 3. The incumbent judge should run against himself with no party designation.

The joint committee has made the following important changes in the plan as additional insurance that selections will be based solely upon merit. 1. The nominations of candidates by the various commissions will be without reference to or regard for political affiliation, but solely upon merit. Thus, if the three best men available happen to be from the same party, the commission may select them. The lay members of the commission are, under the plan, still selected by the governor, but in such manner as to provide equal representation among the parties, insofar as equality is possible. 2. Except in Denver, where the county and judicial district coincide, separate nominating commissions are provided to nominate candidates for judge of the district and county courts. The district court commissions consist of two lawyers elected by the bar, and two laymen selected by the governor, and these four members will select a fifth, who must be a layman. The county court commissions consist of one lawyer and one layman, who will choose as the third member a layman. Thus, a majority of lay members is assured. The county court commission may nominate two or three candidates, according to the number available. The plan does not apply to fourth, fifth, and sixth class counties.

The non-competitive form of ballot was retained. The joint committees felt that the success of the non-partisan method of selection depended upon this form. The arguments, raised against it by some members of the bar, that it would tend to retain incompetent judges in office, seemed to be outweighed by the evils which might arise from campaigning in a competitive election. Furthermore, an alert bar can defeat incompetent judges.

Salaries and Retirement Pensions

A great deal of time was spent by the committee revising recommended salaries for judges and clerks of the county courts. The salaries suggested for associate judges was raised from \$9000 to \$9500, the chief justice to receive \$10,000 and all district judges and the county court and juvenile court judges in Denver \$7500, as before.

Some of the problems encountered in fixing salaries for the judges and clerks of the county courts elsewhere were: the great differences in population and number of cases tried; the fact that under the plan judges of the fourth, fifth and sixth classes of counties, most of whom are laymen, are

permitted to carry on other occupations, including the practice of law by lawyer judges, whereas those in the first three classes are not; salaries paid to other county officials; the fact that under the plan these judges with the help of magistrates are to assume the present duties of justices of the peace. Statistics were obtained from 43 of the 63 county court judges.

The committees finally agreed upon a substantial distinction in the salaries of judges of class three, group B, and class four, group A—\$4500 for the former and \$2500 for the latter. The following table shows in the order named the present average salaries received by judges and clerks, the salaries provided in 1945 by the legislators and not effective until 1949 for all judges then in office and the salaries recommended by the joint committee. In a few counties the judge of the county court now receives an additional salary as clerk of his own or of the district court. In a number of those in the last three classes no clerk is now provided. The joint committees felt that the county commissioners should approve the clerk's salary only when the judge was serving as clerk.

	Average salaries now received	Salaries allowed by 1945 statute	Salaries recom- mended by joint committee
*CLASS II-A	\$3300/2400	\$5000/2500	\$6500/3250
*CLASS II-B	3300/2400	3600/2400	6000/3000
*CLASS III-A	2700/1800	3000/1800	5000/2500
*CLASS III-B	2100/1700	2400/1700	4500/2250
†CLASS IV-A	2100/1700	2100/1700	2500/1700
†CLASS IV-B	1800/1500	1900/1500	2200/1500
‡CLASS V	1800/900	1800/1200	2000/1200
§CLASS VI-A	1500/600	1500/1000	1700/1000
CLASS VI-B	Fees/Fees	600/400	600/0
CLASS VI-C	63/Fees	400/400	400/0

Statistics were also obtained showing the average number of lawyers practicing in counties of the various classes. They show clearly enough the difficulty of providing trained lawyers on the county court bench in many of our counties. These figures also caused the committees to change the plan

* Reports from counties in this group show lowest present judge's salary now being received, \$1200, and the highest, \$2100. The lowest clerk's salary, \$780, and the highest, \$1700. One county reporting in this group has no clerk.

† Reports from this group of salaries actually being received by the county judges go as low as \$1200 for Saguache County up to a maximum of \$1800. Only two counties in this group, which reported, had clerks.

‡ The reports of salaries actually received by the judges vary from \$600 to \$1800; clerks from \$360 to \$900, except for two judges who also act as district court clerk and receive the salary for that office. Several counties in this group have no clerks.

§ Salaries actually received by judges in this group vary from \$250 to \$1500. The \$600 item in column 1 is received by a judge who acts as his own clerk and receives this money in addition to his judge's salary of \$1200. Several counties in this group have no clerks. It is somewhat doubtful whether clerks should be provided for in Class VI.

for trial of justice of the peace cases, as will be explained later in this article.

Class	Group	No. of lawyers	No. of Counties	Average no. of lawyers per county
1		1,009	Denver	
2	A	159	3	53
2	B	141	6	23
3	A	66	5	13
3	B	94	11	8 plus
4	A	42	11	4 approximately
4	B	27	8	3 plus
5		11	10	1
6	A	7	6	1
6	B	None	1	
6	C	1	1	

Bills for the increases in salary and for retirement pensions were drafted by a committee consisting of District Judge J. Arthur Phelps of Pueblo, County Judge Christian D. Stoner of Jefferson County, and Warren W. Lattimer of Pueblo. Retirement pensions were provided at age 65; after 10 years of service a pension of forty per cent for life, after fifteen years of service fifty per cent; for disability a pension of fifty per cent to continue for the number of years served. The judges must contribute five per cent of salary to become eligible. The bill as drawn was believed to be actuarially sound.

Retirement of Judges was at first made mandatory at age 70, until statistics were obtained of the present ages of all of our judges. These showed an average age among Supreme Court justices of 67 years, ranging from 58 to 79, and among district and county judges of 60, the district court ranging from 44 to 79, and the county court from 30 to 85. Many of the judges are over 70 years of age and giving satisfactory service. The joint committee therefore fixed the age of compulsory retirement at 75, as in the original plan.

No changes were made by the joint committee in the provisions of the original plan concerning extra judicial employment and vacations, selection and powers of the chief justice, administrative office, or the judicial council.

County and Justice of the Peace Courts

Considerable discussion took place, however, concerning the proposed abolition of justice of the peace courts and constables, and the Judiciary Committee's proposed substitute. It was argued that this change might prove so controversial as to endanger the remainder of the plan. On the other hand, a majority believed that the situation in most of these courts had so deteriorated that the great majority of citizens would support any change that promised an improvement. Although the non-partisan selection of judges of courts of

record may be of the greatest importance to lawyers, the general public is most concerned with fairness and intelligence in the administration of hearings concerning petty civil or criminal matters. Furthermore, the legislators cannot, with the great number of bills presented to them, take time to bring about the improvements needed in this field. Some opposition to the abolition of justice courts has been received from lawyers in the collection business, but the committees felt that these considerations should give way to the right of the general public to fair trials. The plan devised by the Judiciary Committee seemed to be the most practical alternative to the present system.

To meet the criticism of the plan the following changes were made.

1. Although the office of constable should be abolished, the county court might appoint special constables when needed, and otherwise service could be made by any person.

2. As in the original plan, one, or two magistrates may be appointed by the county judge in counties having a population of less than 20,000, with the approval of the chief justice. In counties of 20,000 to 50,000 one magistrate must be appointed and not more than two may be, with the approval of the chief justice. In counties of 50,000 to 70,000 two magistrates must be appointed and not more than two additional magistrates may be. The county judge may also appoint referees in all towns to receive pleadings, fines, pleas of guilty.

3. If the case is tried before a magistrate, either party may upon motion try the case *de novo* before the county judge, or, if the county court judge is not a lawyer, before the district judge, but not before both. This will enable either party to perfect his record for appeal to the Supreme Court, if he desires.

The joint committees voted to present to the special session of the legislature, if one is called, those portions of the plan which a majority of the legislators indicate they will support, and the remaining sections, if possible, by initiative to the people in November, 1948. If no special session is called, and initiated bills and amendments cannot be prepared in time, the Judiciary Committee, after drafting the necessary bills and amendments will adjourn until the fall of 1948.

If action is taken by the committee early in 1948 it is hoped that every lawyer who believes in the plan in principle will do his utmost to present the plan, and the arguments for it, to the legislators and citizens of his community. Without such cooperation it is destined to fail, as so many other plans of the bar have failed in the past, from inertia and want of conviction and support.

Personals

JAMES C. FLANIGAN has opened an office for the general practice of law at 2636 Welton St., Denver 5.