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Dicta Observes

Dicta Editorial Board

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DICTA

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Dicta Observes

The following draft of a proposed act to be submitted to the next Legislature, relating to courts of justices of the peace, and the draft of a proposed ordinance of the City and County of Denver, relating to justices of the peace and constables, have been prepared with a view to providing as efficient service as possible in that branch of our courts.

Members of the bar are requested to send to the city attorney any comment or suggestion which they believe might improve the procedure outlined.

"A Bill for an Act Relating to Courts of Justices of the Peace.

Be It Enacted by the General Assembly of the State of Colorado:

Section 1. From and after the passage of this act justices of the peace shall have the power to appoint for their respective courts a chief clerk and deputy clerks, to serve at the pleasure of such justices of the peace.

Sec. 2. The justice of the peace may sign and issue, or such chief clerk or deputy clerks may sign and issue in the name of the appointing justice of the peace, warrants, summons, subpoenas, writs and other process; provided, however, that no warrant of arrest or execution against the body shall be signed and issued by such chief clerk or deputy clerk until the justice of the peace shall order such issuance, which order shall be evidenced by the indorsement on such warrant of arrest or execution against the body, of the word "Or-

dered," followed by the signature of the justice of the peace. And such chief clerk or deputy clerk may likewise take, file and approve bonds and recognizances in civil and criminal cases, and sign in the name of the justice of the peace any certificate required to be signed by such justice of the peace, and may collect and receipt for the fees and other moneys payable into the office of the justice of the peace.

Sec. 3. Any such chief clerk or deputy clerk shall, before acting as such, file in said court an oath subscribed and sworn to, that he will support the constitutions of the United States and of the State of Colorado, and faithfully perform the duties of the position to which he has been appointed, and a bond in such sum as the justice of the peace may direct, with surety or sureties approved by such justice of the peace, payable to the People of the State of Colorado and conditioned for the faithful performance of the duties of such position and for the prompt payment to whomsoever the same may be due, of all moneys coming into the appointee's hands by virtue of such appointment.

Sec. 4. The justices of the peace in each precinct may agree upon and make joint appointments to the positions hereinbefore mentioned, and may maintain in such precinct a consolidated office for such chief clerk and deputy clerks, where all papers in all causes coming before said justices of the peace shall be filed. In the event a joint appointment is made, only one bond need be made by the appointee, the same to be approved by all of the justices of the peace of the precinct, and such bond shall be filed in said consolidated office. Such joint appointee shall hold his position only at the pleasure of all of the justices of the peace of the precinct.

Sec. 5. No county shall be liable for the expense of maintaining any such office, nor for any compensation for any chief clerk or deputy clerk, but the board of county commissioners of any county may in its discretion provide for the expense of maintaining such an office, and may in its discretion provide compensation for such appointees.

Sec. 6. Where such a consolidated office is maintained, each justice of the peace shall continue to have his separate docket, and separately try and decide causes, and all laws with

reference to a change of venue from one justice of the peace to another shall apply the same as if no consolidated office was maintained.

Sec. 7. Justices of the peace are hereby vested with power to make and amend rules governing procedure in their respective courts not inconsistent with the constitution and laws of Colorado. Where a consolidated office is maintained as is hereinbefore provided, rules may be agreed upon by the justices of the peace of such precinct, and may provide, among other things, for the distribution of causes between said justices of the peace where no request is made by the party instituting a cause that such cause be assigned to a particular justice of the peace, and for the distribution of process to constables and other officers authorized to serve process, and for the assigning from time to time of one of said justices of the peace as presiding justice, and conferring upon him such duties and powers as are not inconsistent with law, and for the transfer of any action or proceeding from one justice of the peace to another justice of the peace when no objection is made by any party to said action or proceeding, and making the chief clerk custodian of and responsible for all moneys paid into such courts.

Sec. 8. All warrants issuing out of any justice of the peace court may be directed to and served by any sheriff, coroner, constable or peace officer of the State of Colorado, or police officers of said precinct.

Sec. 9. If any section, sub-section, sentence, clause or phrase of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act. The legislature hereby declares that it would have passed the Act and each section, sub-section, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, sub-sections, sentences, clauses or phrases be declared unconstitutional.

Sec. 10. It is hereby declared that this Act is necessary for the immediate preservation of the public peace, health and safety.

Sec. 11. In the opinion of the General Assembly an emergency exists; therefore, this Act shall take effect and be in force from and after its passage."

“A Bill for an Ordinance Relating to Justices of the Peace and Constables.

Be It Enacted by the General Assembly of the State of Colorado:

Section 1. The Justices' Courts of the City and County of Denver shall consist of two (2) Justices of the Peace, who shall have and exercise all the powers and duties provided for Justices of the Peace by the Constitution and general laws of the State, and shall have jurisdiction in all cases arising under the Charter and Ordinances of the City and County of Denver.

Sec. 2. The Justices of the Peace shall appoint one (1) Chief Clerk, one (1) Chief Constable, three (3) Deputy Clerks, and three (3) Deputy Constables.

Sec. 3. The Chief Clerk shall establish and maintain a consolidated office for all clerical work of said Courts in such quarters as may be provided by the Commissioner of Supplies.

In the opinion of the Council this ordinance is necessary for the immediate protection and preservation of the public health, safety, convenience and general welfare, and it is enacted for that purpose, and shall be in full force and effect from and after its passage and the date of its final publication.”

The Mississippi State Bar met in annual convention in Vicksburg in September and Hon. R. M. Kelly, in welcoming the delegates and their ladies, stated in part:

“Mr. President, members of the Bar Association and ladies and gentlemen: It has been said that words possess all qualities and attributes; that there are words that gleam like jewels; words that glow with the dusky fulguration of old gold and glimmer with the pale light of frosted silver; words that shout like paeans and sob like seas. If this be true I would that I could summon words that drip with perfume, that melt with music, and laugh with love in order that I

might express to you the warmth of the welcome that the bar of Vicksburg extends to you this morning. * * *

Now, what of the ladies? When God made the Southern woman, He summoned his angel messengers and He commanded them to go through all the star-strewn vicissitudes of space and gather all there was of beauty, of brightness and sweetness, of enchantment and glamour, and when they returned and laid the golden harvest at His feet, He began in their wondering presence the work of fashioning the Southern girl. He wrought with the gold and gleam of the stars, with the changing colors of the rainbow's hues and the pallid silver of the moon. He wrought with the crimson that swooned in the rose's ruby heart, and the snow that gleams on the lily's petal, then glancing down deep into His own bosom He took of the love that gleamed there like pearls beneath the sun-kissed waves of a summer sea, and thrilling this love into the form He had fashioned, all heaven veiled its face, for, Lo, He had wrought the Southern girl." (Applause.)

We deplore to the depths of our hearts the extreme poverty of our legal brother's vocalism. If the day arrives, however, when his linguistic attainments allow him to "summon words" which will permit him adequately to welcome another convention, we want to be there.

TENNESSEE BAR RESULTS

Tennessee law apparently is getting more complicated. Of the 289 students who took the recent state bar examinations, only 97 passed. R. I. Moore, of Memphis, secretary to the state board of law examiners, says it was the largest percentage of failures in history.