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# SHOULD JUSTICES OF THE PEACE BE MEMBERS OF THE BAR?

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WHERE is the attorney who, at some time in his practice, has not deplored the fact that there is no provision in our law requiring Justices of the Peace to be members of the bar?

Where is the lawyer who has not seen justice fly out of the window unrestrained after he has pleaded his case in a strictly professional and adequate fashion only to find that his words have fallen on deaf ears, so far as their legal effect was concerned before the layman presiding?

The Constitution of Colorado, Article 14, Section 11, provides as follows:

"There shall be elected at the same time at which members of the general assembly are selected, beginning with the year nineteen hundred and four, two justices of the peace and two constables in each precinct in each county, who shall hold their office for a term of two years; Provided, That in precincts containing fifty thousand (50,000) or more inhabitants, the number of justices and constables may be increased as provided by law. The term of offices of all justices of the peace, that expires in January, 1904, is hereby extended to the second Tuesday in January, 1905. This section shall govern, except as hereafter otherwise expressly directed, or permitted by constitutional enactment."

An examination of this section reveals that nothing therein sets forth any qualifications whatsoever for the office of Justice of the Peace. County assemblies of political parties pay little or no attention to the nomination of men for this office and it happens not infrequently that the office goes begging. This is especially true in the rural districts.

There is little dignity in the office. The emolument for the most part, is negligible. In the sparsely settled communities of the state, the justice is usually a man of mature years who operates the office in conjunction with a real estate, insurance, or other business. He does not ordinarily have enough cases to familarize himself with procedure or practice.

Naturally, in electing the class of men who occupy, for the most part, the office of Justice of the Peace in Colorado,

we can expect but small and restricted efficiency in the functioning of this class of courts. This is especially true from the standpoint of the practicing attorney who is wont to prepare his cases for presentation and trial in the justice court the same as he would in a court of record.

In such instances, the Court and the attorney do not meet on equal terms. Their vocations are different, their training is not alike and their viewpoint upon the various aspects which a trial may assume are not the same. When a member of the bar approaches the judge of any District Court in the state, he knows that the technical legal things he is bound to say will receive a sympathetic understanding and consideration from the Court. This is mostly true in the County tribunals in Colorado. But in the average Justice of the Peace Court, cities and large towns excepted, there is usually an utter lack of comprehension of the legal requirements which must necessarily form the basic groundwork upon which the settlement of any controversy is to be predicated.

The justices under our present practice very seldom keep any books or make the required reports to the County Commissioners; they are inexperienced in taxing fees and costs and they very commonly misunderstand or misinterpret their jurisdiction. In many instances they attempt to fill out forms, blanks, findings, and decrees without proper knowledge and advice, resulting in confusion and disorder which some competent attorney must later disentangle. Many times they overreach their authority. Entries in official account books are often erroneous and preliminary matters often invalidate subsequent procedure in a higher court.

Presenting a legal argument to the average justice is a waste of time because, without the requisite legal training, decisions and precedents mean nothing to him. Nor is the justice personaly to blame. It is the system. The ordinary Justice of the Peace does the best he can. Few are the instances of wilful misconduct of justices in office. They are usually good men, but lacking in the training and temperament for the judicial job.

Even though the government found it expedient to make cooks out of newspaper writers in the military service during

the world war, it does not follow that a similar course should be adopted in achieving that degree of efficiency in the administration of justice, in our courts not of record, which the bar has an inherent right to expect.

This brings us to the question of the feasibility of amending the Constitution to provide that justices of the peace shall be "learned in the law" to conform to the requirements of the higher branches of our judiciary.

It would involve a sweeping change in our present system and would be fraught with many obstacles. In order that the ends of justice may be best served, it is essential; but considered from a political or practical standpoint, there might develop many objections to a change so radical.

The office would, perhaps, need to be elevated to a higher class if the legal requirement should be adopted, for no lawyer of any standing would consent to take the ordinary justice job at the emolument which the present fee system provides.