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Justices of the Peace and Police Court

*A Report by the Committee on City Council and
Government of the City Club*

The City Council and Government Committee of the City Club presents herewith its report upon the operation of the Police Court and Justice of the Peace Courts under the City Charter.

This report is submitted from an investigation made by the committee pursuant to its study of the existing Charter and the practical working and operation of our City Government under that Charter.

Article XI of the Charter since 1910 has provided that the Justice Courts of the city and county shall have two Justices with a further provision that the Justices shall perform the functions and duties formerly performed by the Police Magistrate or the Police Court. Before 1910 for a number of years there had been three Justices to perform the duties which have now devolved upon the two Justices of the Peace at present.

The growth of the city from 1910 to the present time has been so large that a comparison of the number of cases handled both in the Police Court in the Justice of the Peace courts in the last six or seven years is of interest.

Police Court

In the year 1919, 3,136 cases were disposed of in the Police Court in Denver. This was an average per month of 261 or eleven per day. In 1920, 7,591 cases were adjudicated, an average per month of 632 or an average per day of 25. From January 1, 1925, to September 30, 1925, a total of 10,861 cases were adjudicated. The average for 1925 for the months stated was 1,207 per month or 48 per day.

In the disposition of these cases, all of which are determined in the forenoon, the Police Magistrate has for each case an average of only two and one-half minutes. The result is that for the year 1925, up to September 5, there were 8,918 convictions. There were 1,943 cases dismissed or the defendants were acquitted, showing an average of about 82% convictions.

For that period a total of \$49,203

was paid directly to Police Court in fines, \$13,655 paid at the jail later and \$3,238 paid on procedure after appeal to the County Court. This shows a total of \$66,096 paid from Police Court fines.

Justice Court

In the year 1920, Justice Bray's Court produced total receipts of \$5,363.00. Justice Rice's Court for the same year produced total receipts of \$6,158.78. The increasing receipts from the Justice Courts is shown by the record of Justice Orahood's Court from April 1, 1924, to April 1, 1925, when \$39,736.83 was received. The receipts from Justice White's Court during the same period were approximately the same, so that the total income for the year would be something over \$80,000. For the calendar year 1924 there was an appropriation for total expense for the Justice Courts of \$23,985.61.

In Justice Rice's Court in 1920, 458 criminal cases and 1,272 civil cases were disposed of. In the same court in 1924, now presided over by Justice Orahood, there were 972 criminal cases and 3,327 civil cases. In 1925 to December 5, there were 3,434 civil cases filed in Justice Orahood's Court or approximately 100 more than for the entire year of 1924. The criminal docket also shows an increase during the same period. The figures for Justice White's Court for 1924 and 1925 are approximately the same as those of Justice Orahood's.

Table of Cases Handled Police Court

Year	Total Monthly	Daily
	Number	Avg. Avg.
1919	3,136	261 11
1920	7,391	632 25
1925 (9 mos.)...	10,861	1,207 48

Justice Court Criminal Civil

Year	Cases	Cases	Receipts
1920 (Rice)....	458	1,272	\$ 6,158.78
1924 (Orahood)			
Same Court..	972	3,327	39,736.83
(April 1, 1924, to April 1, 1925)			
1925 to Dec. 5 (Orahood)			
(Civil Cases)			3,434

(The increase shown from 1920 to 1925 from Justice Bray's Court to the same court under Justice White would be substantially the same.)

In other words, the criminal cases in the Justice Courts have doubled in the last six years. The civil cases have more than trebled. The Police Court cases have increased 436 per cent since 1919 and apparently the end is not in sight.

In addition to the number of cases filed, an average of at least one writ is required for each case in addition to the summons. The handling of these papers takes additional time of the constables as well as the clerks of the court. (Each court has two clerks and two constables.)

Denver is the only county in the state in which special constables cannot be used. In other counties, if the constable is disabled or out of reach of the court and an emergency arises, a special constable can be deputized immediately. In this city no special constables are allowed and the regular constables must take care of all the papers to be served regardless of emergencies.

These figures mean that each constable must serve at least thirteen papers a day in different parts of the city provided he is fortunate enough to find the person whom he is trying to serve or each piece of property which he is trying to attach. If he is not successful, of course, he has to return until he is.

In the event either Justice or any constable takes a vacation or is ill, it means that his work either piles up until his return to duty or must be done by someone from the other court.

The present method of selecting jurors for the Justice Court is for the constable to grab whatever unfortunate person he may meet close to the court room, serve him with summons, compel him to drop whatever work he is doing and order him to serve in the Justice Court for that day at an honorarium of 50c. The result, according to officials of the courts, is that either a jury is composed of men who are unwilling to serve, or in the case of bootleggers, the jury is likely to be composed of those who are standing by, anxious to serve. These bystanders may be and often are friendly to the defendant.

Another fact unknown to the gen-

eral public is that a large part of the cases in Police and Justice Courts are cases in which foreigners are involved. These people catch their first glimpse of American justice in a mad rush where they can either plead guilty or have at the limit two and one-half minutes to explain that they are innocent.

When chairs, desks and other equipment are so broken down that they cannot be utilized anywhere else in the administration of city affairs, they are donated to the Justice Courts for the benefit of those who, for various reasons, are compelled to attend. And the surroundings generally are such that no proper dignity or respect for the law and justice can be observed or commanded.

Within recent years the Legislature has so increased the jurisdiction of the Justices that, according to the Denver Justices, it is impossible for their courts to handle all the cases that might properly be filed therein.

Conclusions and Recommendations
The foregoing study and report indicates that conditions surrounding this important branch of our city government and administration of justice are such that steps should be taken by the proper authorities and by those individuals and organizations particularly interested in law enforcement to remedy the situation promptly.

In this connection the committee wishes to commend highly the efforts of Justices Orahoad and White in the results which they have obtained in the face of almost insurmountable difficulties. The clerks and constables of both courts have also proven themselves unusually efficient.

Your committee therefore recommends:

1. That the number of Justices should be increased by at least two, together with additional clerks and constables.

2. The City Charter should be so amended that the provision regarding Justices and constables shall be elastic enough to admit of an increase in the number of Justices and constables without the necessity of further amendments to the Charter.

3. The present salaries, which are \$2,000 for the Justices with additional fees and allowances, making a total of about \$3,000 a year, should

be increased. This should be accompanied by the complete abolition of the fee system.

4. The jury system should be changed so that the jury panel for the District and County Courts could be used in Justice Courts whenever required.

5. Adequate quarters should be provided for the Justice Courts so that they may preserve insofar as possible a semblance of American courts. It is assumed that adequate quarters will be planned and provided in the new Court House.

Respectfully submitted,
 COMMITTEE ON CITY COUNCIL
 AND GOVERNMENT.

Luke J. Kavanaugh,
 Harold H. Healy,
 Robert Ryland Bowles,
 Jas. Herbert Wilkins, Jr.
 C. C. Johnson,
 Chester E. Smedley,
 O. A. Weller,
 W. E. Martin,
 I. I. Boak,
 C. E. Muehlberg,
 John Pershing,
 Earl W. Jones.

Recent Trial Court Decisions

(Editors' Note.—It is intended in each issue of the Record to print decisions of all the local Trial Courts decided within the preceding thirty days upon novel questions of law or upon points as to which there is no Colorado Supreme Court decision. The co-operation of the members of the Bar is solicited in making this department a success. Any attorney having knowledge of such a decision is requested to phone or mail the title of the case to the Secretary of this Association, who will digest the decision for this department.)

- DIVISION I. JUDGE MOORE
None.
- DIVISION II. JUDGE DUNKLEE
None.
- DIVISION III. JUDGE BUTLER

Corporations — Amending Articles — Co-operative Marketing Act.

The Colorado Wheat Growers Association was incorporated in 1922. The Supreme Court, in *Atkinson vs. Colorado Wheat Growers Association*, 238 P. 1117, held that the contracts entered into between that association and its members prior to the enactment of the co-operative marketing act (approved April 13, 1923) are void as against public policy. Dec. 6, 1923, the plaintiff and the defendant entered into the contract in suit. The co-operative marketing act provides for the incorporation of co-operative associations.

Section 27 (a) provides:

"Where any association may be incorporated under this Act, all contracts heretofore made by or on behalf of same by the promoters thereof in anticipation of such associations becoming incorporated under the

laws of this state, whether such contracts be made by or in the name of some corporation organized elsewhere, and when same would have been valid if entered into subsequent to the passage of this Act, are hereby validated as if made after the passage of this Act."

Section 29 provides:

"No association organized hereunder and complying with the terms hereof shall be deemed to be a conspiracy or a combination in restraint of trade or an illegal monopoly; or an attempt to lessen competition or to fix prices arbitrarily nor shall the marketing contracts and agreements authorized in this Act be considered illegal as such or in unlawful restraint of trade or as part of a conspiracy or combination to accomplish an improper or illegal purpose."

Held, that the contract in suit is void; that it was not validated by the co-operative marketing act.

In May, 1924, there was filed a paper entitled "Amended Articles of Incorporation of The Colorado Wheat Growers Association," which changed and greatly enlarged the objects and purposes of the association. It was an attempt to bring the association within the Co-operative Marketing Act. The defendant did not participate in the attempt to amend the articles of incorporation. Held, that under Section 2276 of the Compiled Laws, the attempted amendment is void as to defendant, and did not validate the contract in suit.

Colorado Wheat Growers Association vs. Thee. No. 88678.

Depositions — Subpoenas. The court having held that Section 6570