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Does Denver Need a Municipal Court?

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ress of the matter and inquiring as to what we had accomplished; the September issue of "the Record" had invited comments from members of the bar; a committee had been appointed and had spent a great deal of time and energy in studying the question; and we should give an opportunity to all lawyers in Denver to express themselves. Mr. Gould then suggested a referendum as a solution and thought that a ballot might be included in the June issue of "the Record," with a return envelope for this purpose. Many other associations, he said, had sent in for our schedule and had expressed approval of the idea, and many lawyers had written in telling how the schedule had helped them in fixing fees. He thought definite and final action should be postponed until the September meeting which should be a special meeting for the consideration of the question.

Schaetzel Takes Another Turn

Mr. Schaetzel then read excerpts from an article in the Saturday Evening Post, which he thought stated the crux of the whole matter. There were 1,000 working hours in the year and this afforded a working basis for fixing fees. A \$5,000-a-year man should charge \$5.00 an hour; a \$10,000-a-year man, \$10.00 an hour, etc. The estate fees in our proposed schedule, he said, had been recommended by Judge Luxford of the County Court. He also

moved that the matter be laid upon the table until the September meeting and meanwhile thoroughly discussed.

Strong Strongly Opposes

Judge Strong expressed his disapproval of the whole plan in no uncertain terms and moved for an expression of opinion on the question, to which Mr. Gould responded that if an informal vote were taken at such a small meeting it would be misleading and the resulting publicity would be harmful. Felder Cook then moved that the schedule be sent out by the secretary and Judge Butler explained that it had already been sent out in the April issue of "the Record." A motion to continue the matter to the September meeting for further consideration was then adopted.

President Butler then brought the meeting to a close with a short speech expressing his thanks to the association for its cooperation and expression of confidence in his efforts in its behalf.

—J.C.S.

MINIMUM FEES.

Now here's a wheeze
Concerning fees—
The Law of compensation
May oft succeed
But what we need
Is more remuneration.

—J.C.S.

Does Denver Need a Municipal Court?

Whether it does or not, Denver is far behind most American cities in its lower courts' methods. This much has been learned by the special committee of The Denver Bar Association and The Chamber of Commerce appointed to recommend improvements in the present system.

That Denver needs more magistrates for its lower courts is obvious. A charter amendment would provide additional judges. Whether such change would be all that might be required is a serious question.

The committee has sent inquiries to various American cities of the relative size of Denver and is receiving much aid from the replies which thus far have been received from Atlanta, Columbus, Minneapolis, Providence,

Portland, Oregon, Seattle, New Orleans and Rochester. From these letters and a study of the Municipal Court statutes of Ohio and Illinois, it is apparent that American cities of any importance have generally relegated police and so-called Justice Courts to oblivion. Municipal Courts have arisen instead and have proved satisfactory.

Jurisdiction Greater

Generally, these Municipal Courts have all the criminal jurisdiction formerly held by Justice Courts. They have jurisdiction of all violation of city ordinances and of civil matters except divorce and purely chancery cases and questions involving title to real estate. Jurisdiction varies in

amount from \$500.00 in the smaller Ohio cities to \$2500.00 in Atlanta and \$3000.00 in Rochester. They are courts of record and are presided over by judges receiving \$3500.00 annual salaries in the smaller Ohio cities, \$4,100.00 in Portland, \$5000 in Minneapolis, \$6000.00 in Rochester and \$7,500.00 in Atlanta.

In Georgia, a constitutional amendment was passed, followed by statutes providing for Municipal Courts and their jurisdiction. It is interesting to note that the Municipal Judges of Atlanta receive much higher salaries than the Superior (District) Judges of smaller Georgia districts. The Ohio statutes are flexible in this respect, permitting the County Courts of larger counties to increase the salaries of municipal judges within certain restrictions.

Seattle is one of the few large cities having a system similar to that of Denver. There are five elected Justices of the Peace, three of whom handle civil litigation exclusively, one presiding over Justice Court criminal cases and one Police-Justice who when not handling ordinance cases, devotes his time to criminal causes. In 1925 these Justices disposed of 51,133 cases with no congestion. This compares with approximately 20,000 cases handled by two Denver Justices. Only 71 appeals were taken in Seattle out of the vast number tried. Seattle has a Small Claims Court where matters in dispute under \$20.00 are heard orally, without attorneys and satisfactorily, according to the report of R. B. McClinton of the Law Department of that City.

Your Ideas Wanted

The Special Committee, of which the writer is Chairman, has no preconceived notions of what Denver should have in the way of lower courts. Suggestions and ideas are invited from members of the Bar upon the practical and legal phases of the problems involved, some of which are mentioned herein.

If it be decided that Denver should have a Municipal Court of the type now generally recognized, is there valid legal objection to establishing such Court under the so-called Home Rule Amendment to Article XX Colorado Constitution? Therein it is provided that "Such charter and ordinances made pursuant thereto in such matters shall supersede within the

territory limited and other jurisdictions of said city or town any law of the State in conflict therewith." Section 6 of Article XX also provides for "The creation of municipal courts; the definition and regulation of the jurisdiction, powers and duties thereof, and the election or appointment of the officers thereof."

In *Dixon v. People*, 53 Colo. 527, the Supreme Court decided that the office of County Judge of Denver was a State office not subject to Denver charter regulation, while in *Thrush v. People*, in the same report, it was decided that a Justice of the Peace of Denver was a county officer and hence, subject to charter regulations. The Home Rule Amendment was passed after the decisions in the *Dixon* and *Thrush* cases.

Of course, a Municipal Court could not interfere with the jurisdiction of the County Court.

What Steps Are Needed

In the event it be deemed wise to establish a Municipal Court, lawyers do not agree upon the steps. Some think a charter amendment necessary, while others assert that such is not essential, averring that the City Council may do all that is required without a vote of the people.

In the matter of the number and salaries of judges, whether of a Municipal Court or otherwise, should the charter be specific or should the City Council determine these things? The effect of a constitutional provision fixing salaries is apparent from the stipends now paid the Supreme and District Court Judges of Colorado.

Should a new court, if established, have jurisdiction up to \$2000.00? The tendency in other cities has been to increase the jurisdictional amount every few years. A court of this sort would necessarily relieve the county and district courts of much litigation.

Requests for a woman judge have been made. Reasons for and against such innovation are invited.

The question of appeals is not easily decided. If juries be permitted, appeals to another court of record might seem superfluous. If, however, juries be not allowed, as in the usual Police Court case, there should be the right of appeal. In Minneapolis, the rule in regard to juries is the same as that in the District Court. The dignity of the Minneapolis Municipal Court is apparent from the fact that it is em-

powered when in need of aid to call in District Judges. Appeals from the Minneapolis Court are direct to the Supreme Court.

Parole System Used

The parole system is usually a part of a Municipal Court. In Minneapolis, paroles and suspensions of sentences are granted by a majority of the judges, who also have the power to revoke a parole and send the offender back to jail. The work of the political "fixer" is thereby eliminated.

Much serious food for thought is furnished lawyers, members of the Chamber of Commerce and citizens generally who are interested in doing something for Denver in improving lower court conditions. Why do lower court judges in Atlanta, a city smaller than Denver, receive three times the salary of our Justices of the Peace?

It may seem strange also to some that the Minneapolis Bar Association, through the Municipal Court Act receives \$2500.00 yearly from forfeited recognizances with which to provide a law library, accessible to judges of all courts, while The Denver Bar Association provides out of its own funds a similar library.

However, "it is a condition, not a theory" that confronts the Committee. A few moments would suffice to draw a charter amendment providing for additional judges. Weeks of careful work are needed to prepare a suitable municipal court code. The Committee is ready to do what is required but is anxious to hear from lawyers and

laymen who have any suggestions. Communications will be thankfully received whether written, oral or by telephone.

Outside Lawyers Help

Invaluable aid has already been furnished by Thomas J. L. Kennedy, Corporation Counsel of Seattle, through Deputy R. B. McClinton; Clarence M. Platt, Corporation Counsel of Rochester; Neil M. Cronin, City Attorney of Minneapolis, by Assistant Attorney Thomas B. Kilbride; Charles A. Leach, City Attorney of Columbus; Elmer S. Chase, City Solicitor of Providence, Frank S. Grant, City Attorney of Portland and Henry B. Curtis, Assistant City Attorney of New Orleans.

Thanks are also due George A. Trout for his recent illuminating article on Municipal Courts in the Bar Record and to Hudson Moore, through whom the Committee obtained from Chief Judge L. Z. Rosser, the Atlanta Code.

Further acknowledgment will be made members of the Denver Bar as assistance is received.

Meanwhile, as this is a matter affecting the people as a whole, it is desired that people generally contribute their ideas to the end that whatever change may be recommended shall be for the common good.

LUKE J. KAVANAUGH,

Chairman,
Police Court Committee.

The Enforceability of Criminal Statutes

Joseph C. Sampson

There is much ado at the moment over the question of law-enforcement and there is no denying the fact that the situation in America today is, in this respect, extremely grave.

Not only is the Bar of the nation aroused to its seriousness, and doing what it can to solve the problem, but a host of others, ranging all the way from chauvinistic "leagues" of various kinds to serious-minded psychologists, sociologists, and public officers, are striving with all their might and main to correct the condition.

It is obvious that if we are to con-

tinue as a great nation, respect for law must somehow or other be maintained, but it is also obvious that it can only be had when the laws for which we demand respect are themselves inherently respectable and worthy of respect.

That there are myriads of penal laws on the statute books of every one of the forty-eight states which are utterly impossible to enforce because of their intrinsic folly, is a matter of common knowledge. A good-sized and highly entertaining book could be written on the stupid and impractical pen-