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HOW THEY WORK IN TEXAS

By J. P. Miller

In June, 1918, I made a business trip to Houston, Texas, in the interest of clients from Denver. I was so much impressed with the city, the state and the people, that I decided to make a connection in Texas and took the attorneyship of an oil company at a salary much larger than most of the attorneys can claim from the proceeds of the general practice. I mention this because I never drew but \$150.00 on my salary, kept the company out of bankruptcy and receivership, and discovered that it had a large line of liabilities with no property assets.

In August, 1918, I was admitted to the Texas Bar, but not until 1922 did I give any attention to the practice of law, having spent one year in Louisiana and one year in Chicago.

When I first came to Texas, and in talking with an attorney, who by the way I later learned to respect as one of the ablest attorneys I ever knew, and with all that he was probably a better man than he was an attorney, and asked him about Texas procedure. He replied that the Federal practice was taken from the Texas procedure, and while I smiled at the time, have since learned that perhaps there was much truth in this statement.

To one who is only known and becomes familiar with the Code as we in Colorado, and other Code states, have so prepared ourselves, the procedure here was indeed a revelation and to the beginner left the impression that there was something lacking.

We follow neither the common law nor a procedure here, and while the statute directs, there is no statutory form or expression as to a mode or method for the preparation of court procedure. Notwithstanding this, however, the method and forms adopted by the attorneys and reduced to a form book, is nevertheless complete.

Here we file our demurrer, answer and exceptions, all in one paper, and all are disposed of at the time of trial. Our procedure is by petition, under our Code a complaint, while a citation and not a summons, is issued for service on the defendant or defendants. This citation can only be issued by a clerk of the Court and in the Justice of the Peace Courts, only by the Justice.

Our Justice Court has jurisdiction in all matters except to a very few, up to \$200.00, and a case coming within this jurisdiction cannot be instituted in any other court.

The County Court is divided into the Probate and Juvenile Court and the County Courts at law. The Probate Court hears all matters including trials for insanity, as is generally the case in all states.

The County Courts at Law try nothing but civil matters, except divorce cases, with a jurisdiction not in excess of \$1,000.00. The criminal jurisdiction is also limited to a fine not to exceed \$1,000.00. No suit within this jurisdiction can be filed only in the County Courts at Law.

The Justice process can be served by any constable or sheriff in the state and in any place in the state. The party served may file a plea of privilege unless the contract or demand is specifically entered into and made payable in the county where the suit is filed. The plea of privilege is the same as our change of venue in Colorado. The Justice Court and County Courts at Law, therefore, has jurisdiction any place in the state to try the issue and render judgment unless the plea of privilege is filed and the case is removed. Likewise the constable has concurrent authority with the sheriff to serve any and all process out of any and all courts, but limited only to the counties in which they reside. It is truthfully said that one cannot be pleaded out of court in Texas, and after demurrers, motions and exceptions are sustained one can make a trial amendment and proceed or ask to file an amendment and have the case set later. This seemed, at first, restful to a Code attorney who must have all issues settled before going to trial, but after considerable experience and observations, I am of the opinion that it is an advantageous method for delay, and defeats in many instances the ends of Justice.

Our Courts of Equity are about the same except as to procedure, but the writ of injunction is frequently and readily resorted to, so provided by statute and the issuance thereof on ridiculously low bonds is astounding to the attorney who hesitates, as we under the Code, to ask for an injunction and where the Court is very reluctant in granting one.

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WORK HARD, TOGETHER!

With this edition of the Record, the new officers of the Association are "in the saddle."

There is a great work ahead for the Denver Bar Association. Good can be accomplished in almost countless directions, but committees and members generally must be ready to give of their time and talents to the common weal.

You will recall the warning of the Hon. Herbert S. Hadley, sounded at a meeting here several months ago: "Lawyers are now, more than ever, on trial before the bar of public opinion."

With a sense of the responsibility upon us, and with SERVICE as the watchword, let us travel on, WORKING HARD, TOGETHER!