

January 1925

The Small-Claims Court

Denver Bar Association Record

Follow this and additional works at: <https://digitalcommons.du.edu/dlr>

Recommended Citation

The Small-Claims Court, 2 Denver B.A. Rec. 6 (1925).

This Article is brought to you for free and open access by the Denver Law Review at Digital Commons @ DU. It has been accepted for inclusion in Denver Law Review by an authorized editor of Digital Commons @ DU. For more information, please contact jennifer.cox@du.edu, dig-commons@du.edu.

hours is spending the greater part of his time broadcasting the supposed abuses which he claims to have suffered at the hands of the respective attorney. In all of these cases, it is very apparent that the respective attorney has been without fault. In one case, he refused to go to Court until paid his fee, but these facts do not appear in the written statement sent to the Grievance Committee. In another case, the woman changed her mind as to the relief to be sought after the attorneys had obtained the relief originally desired. In another case, one of the attorneys was accused of conspiring to take the complainant's

property from her, whereas, the only connection he had with the transaction was that he represented the administrator, who sold the property under order of Court, subject to a contract of purchase in favor of the complainant, the administrator having notified the complainant to vacate the premises unless certain back payments were paid within the time provided by the contract, and this leads us to surmise that, perhaps, a great deal of the adverse criticism against the legal profession and its members is due to misguided and unfounded statements of such persons as those referred to above.

The Small-Claims Court

(Editor's Note: Several months ago, in addressing the alumni of Westminster Law School, Judge Charles C. Butler, now president of the Denver Bar Association, advocated many reforms in law and procedure. Among them he urged the establishment of a small-claims court, to care for the rights of poor people who cannot afford to seek "their day in court." We consider his remarks in this direction both timely and instructive, and are printing them below.)

Among many recent reform movements that are worthy of your earnest attention, are those to promote conciliation, and to establish small-claims courts. I will not attempt to discuss them at length. My purpose is to tell you just enough about them to arouse your interest, and stimulate a desire to know more.

In Norway and Denmark for over 100 years they have had a system of conciliation that has in recent years attracted much attention in this country, and has caused a movement in a number of states to establish a somewhat similar procedure.

In these two countries no suit can be brought in court until the claimant has tried to compose his dispute before a conciliation board consisting of two members, elected annually. The claimant writes a letter to the board, setting forth his claim. The board invites the one against whom the claim is made to attend the next meeting of

the board. Where both parties appear, they may agree to be bound by the finding of the board, or they may reserve the right to litigate the matter, if the finding is not satisfactory.

In the former case, the finding of the board is conclusive. The matter is then presented quite informally to the board, which attempts to bring the parties to some fair degree of settlement. Statistics show that about 80 per cent of these hearings in Norway resulted in friendly adjustments, and in Denmark, it is said, the percentage is even higher. If no adjustment is arrived at, the board so certifies, and either party may then bring an action in court.

This proceeding is so sensible, so inexpensive and so successful, that in a modified form it has been adopted in North Dakota, and Iowa, and in the municipal courts of Cleveland, Minneapolis, Philadelphia, St. Paul and Stillwater, Minnesota.

Let us hope that some day the people of Colorado will appreciate the advantages sufficiently to adopt it, at least for small claims and demands.

It has long been a reproach that a poor person, having a small claim, cannot enforce such claim for the reason that court costs, sheriff's fees and attorney's fees would amount in many instances to more than the claim itself. For a poor person to be unable to enforce a claim of \$15, \$10 or even

\$5, may be far more disastrous than it would be for a well-to-do person to lose a claim amounting to thousands of dollars, and yet, under the present procedure, it would be impracticable to enforce hundreds of such small claims in court.

This is altogether wrong, and the bar associations in many states are giving the most earnest attention to the subject of justice to the poor. As a result, Massachusetts, in 1920, passed an Act requiring the judges of all the lower courts throughout the state to establish a special procedure for the hearing of all claims amounting to \$35, or less. Shortly thereafter, the example of Massachusetts was followed by California, South Dakota, Nevada, Idaho, Kansas and Iowa. Since 1915, small causes have been tried informally in certain branches of the Chicago Municipal Court.

In the small-claims courts the costs are exceedingly small. They may be only one dollar. No lawyer is required. The proceeding is thoroughly informal.

For example: The plaintiff files his claim in simple language. Notice is sent to the defendant by registered mail, instead of being served by the sheriff. A substantial number of such cases is settled in the clerk's office without any trial.

Those that are not settled are heard by the judge very informally, without any court reporter and without any lawyers. He simply talks with the parties and with their witnesses. He tries to induce the parties to come to some fair settlement, thus acting as a conciliator.

The judgment may provide that the defendant may have fair time in which to pay it. It may even provide for payment in installments, where the circumstances make that course fair and just to the parties.

These courts everywhere are giving great satisfaction. It is said that in San Francisco, where in one year about 2,500 cases were handled, there were only three or four appeals. And to put this plan in operation, new courts need not be created. Small claims branches of existing courts may be established by law.

The idea is very practicable, and I sincerely hope that Colorado will soon

take its place among those states that can make the proud boast that justice to the poor is no longer a mere dream of the idealist, but is an accomplished fact. God speed the day!

IN RE FINANCES

The demands of the Association have been about equal to the revenues received from dues to date, there being approximately three hundred seventy members of the Association who have not yet paid their dues in the sum of \$6, which were payable July 1. We are aware, of course, that this is due, to a large extent, to the fact that the matter has been overlooked by the individual attorneys.

Commencing November 10, the Secretary will phone as many attorneys as possible each day to remind the individual attorney of his failure to pay this year's dues. Every effort is being made to avoid the necessity and particularly the expense of sending out duplicate notices. The co-operation of the members of this Association is earnestly solicited for these reasons. As stated before, your check in favor of the Association in the sum of \$6 is all that is required, you need send no letter.

If you have not already sent your check, please do so now.

DO YOU NEED HELP?

The Secretary has on file applications for employment ranging from high school students to attorneys with up to ten years' experience.

If you are interested, address a letter to the Secretary stating the qualifications required. All communications will be treated as confidential.

EVIDENCE

Cole Black had fallen afoul of the law and was having a preliminary conference with his attorney.

"Can you prove an alibi?" asked the latter.

"Al—says which, boss?"

"Alibi. Can you prove where you were at the time the offense was committed?"

"Lawdy, boss, dat's jes' what Ah's skeered dey's gwine to do!"—Ex.