STATE BAR DIVIDES ON COURT REVISION

Oregon Lawyers Outside of Portland Write Views on Proposed Changes.

FEW SUGGESTIONS MADE

Majority of Legal Leaders Think Code as It Stands Good Enough, While Others Favor Quasi-Radical Alterations.

That the bar of the state is by no means a unit on the question of judicial revision is shown by the diverse sentiments expressed by lawyers and judges of prominence outside of Portland, who were written to for their views by The Oregonian. The majority believe that the code as it stands is about as good as could be had. Others are in favor of quasi-radical changes. There is much expression of the view that a good deal of popular discontent is caused by judges and attorneys failing to do their best to expedite the work of the courts.

J. W. Knowles, Circuit Judge of the Tenth Judicial District, writes from Enterprise as follows:

"There has been considerable criticism of the Commission appointed by the Governor to revise the judicial system of the state, because the majority report of the Commission does not recommend more radical changes. The absence of such recommendation of radical changes in the majority report has been taken by some as evidence that the Commissioners who signed the majority report have been derelict in the performance of their duty. Such conclusion by no means follows.

Radical Change Opposed.

"The secretary of the Commission wrote to nearly every lawyer in the state asking for his views and recommendations as to necessary changes. The Commission, no doubt, carefully considered the recommendations of the lawyers and came to the conclusion that there is no need or necessity of radical changes. In this conclusion I heartily concur. The legal procedure of our state is as simple as it can be made, except at the expense of the miscarriage of justice. The object of pleadings is to form the issues upon which the court is to try the case. The 'law's delay,' referred to in Hamlet's soliloquy, does not result so much in putting the case at issue as in the court finding time to try the case after it has been put at issue.

"Legislation should be enacted limiting the number of cases to be tried in the Circuit Court and to be tried on appeal in the Supreme Court. It is a well-known fact in the legal profession that one-half the time of the Circuit Court is taken up with the trial of petty cases which should be settled in the Justice Court. Furthermore, a great portion of the time of the Supreme Court is consumed in the consideration of cases in which the amount in controversy is small and which should not be permitted to be appealed to the Supreme Court.

Statutes of States Differ.

"The statutes of a great many of the states provide that the County and Justice Courts shall have exclusive jurisdiction of all misdemeanors and of civil actions where the amount in controversy does not exceed $250. Under these laws a person prosecuted for a misdemeanor (a crime punishable by a fine or imprisonment in the County Jail) must be prosecuted in the County or Justice Court. A person suing another on a claim not exceeding $250 must commence his case in the County or Justice Court.

"The statutes of some states have provisions that appeals may be taken from the County and Justice Courts to the Circuit Court in all cases where the judgment of the court or the verdict of the jury exceeds a certain specified amount. Other states have provisions that if, upon an inspection of the records of a trial of a County or Justice Court, the Circuit Judge should be of the opinion that the party attempting the appeal had a fair and impartial trial in the County or Justice Court, the Circuit Court shall deny the appeal; but if the Circuit Judge believes, from an inspection of the records, that the party attempting to appeal did not have a fair and impartial trial in the County or Justice Court, he shall allow the appeal.

"An appeal can be taken to the Supreme Court from the refusal of the Circuit Court to allow the appeal in all cases where the amount in controversy exceeds a certain amount. Again, appeals to the Supreme Court should be limited to cases where the amount in controversy is at least $250, or where the case involves a question affecting the construction of the Federal or state constitution, or the validity of an act of the Legislature.

Poor Man Considered.

"It is sometimes urged in opposition to the limitation of appeals that the poor man and the man with a small case might be denied justice. However, in cases where the amount in controversy is small, if the litigant wins in the Supreme Court, by the time he pays his attorney's fees and other expenses, he is financially a loser."

Edward E. Gray, of Astoria, writes:

"Above all, there should be an entire reform in our procedure, such reform having the direct tendency to minimize what are termed technicalities in practice and procedure; and that the court should not only be given greater power to control trials, but that he should exert such authority sharply. The judge should virtually control the selection of jurors, for example.

"No man can be a broad and successful lawyer whose mind is not alert and ready to receive and act upon new ideas; yet, despite this generalization, it is apparently equally true that lawyers, as a class, are deeply impressed with an accumulated inertia of centuries. Their profession and studies make them conservatives. Yet, while we as individuals have come to see the need of reform in our judicial system, it is a sharp criticism of our Bar Associations that while they read addresses and deliberate, yet they do not act.

"Upon the whole, I believe we have a most excellent system of jurisprudence. Our laws in themselves can hardly be bettered; our complaint mainly lies against what is contained in our practice, and procedure; at least very largely is this true. Our system of jurisprudence is at bottom and in detail virtually the same as England's and Canada's, yet how differently do they handle theirs.

Change Timely, Is Belief.

"I would like to advance a thought, that some may deem of importance. How deeply our people as a whole countenance and uphold the faults in our system perhaps only the lawyers know. As citizens they may deplore; as litigants I believe they exert an influence to uphold. One who deliberates upon the pages of history can hardly avoid observing that the laws are very apt to reflect the morals and manners of a people.

"I have not had time to give more than a casual examination to the report of the committee appointed by Governor West on revision of our laws, but I can hardly agree with them that the present practice and procedure are plain, effective, simple, easily understood, and, not capable of being simplified. However, it is possible that we are not all using the phrase 'practice and procedure' as being inclusive of the same things.

"There is but little just cause for complaint under the existing code. The courts, attorneys and litigants are equally responsible for about nine-tenths of the criticism, and this is especially true in Multnomah County," says C. A. Johns, of Baker.

"The procedure as defined by the code is very plain, simple and direct, and is not the cause of delay. The defendant in an action is required to answer within ten days if served in the county where the action is brought and in 20 days if served in any other county, and under the code the court has ample power to put any ordinary case at issue and bring it to trial within ten days after service is complete.

"The complaint shall contain 'a concise statement of the facts constituting the cause of action without unnecessary repetition,' and the answer shall consist of a general or specific denial and a 'statement of any new matter constituting a defense or counter claim in ordinary concise language without repetition.' 'In the construction of a pleading, its allegations shall be liberally construed with a view of substantial justice between the parties.' 'The court shall, at every stage of an action, disregard any error or defect in the pleadings or proceedings which shall not affect the substantial rights of the adverse party.' No language could be more concise, plain or comprehensive.

Blame Shared With All.

"My business has largely been in the 'cow counties,' where it is the practice to put at issue, try and decide any action at the regular term of court that is commenced ten days prior to such regular term, and where no action can or will be continued over the term without a good and sufficient showing as to the merits. That is the spirit and intent of the present code. Under the existing law a case in any Eastern Oregon Circuit Court can be tried and decided within 90 days after the action is commenced and is very often tried and decided within 20 days after the action is commenced; and, if appealed, it is decided by the Supreme Court within 60 days after the May or November terms. That is not true in other portions of the state, and in Multnomah County in particular; and in that county the litigants, attorneys and courts are all equally to blame. The country practice is not hedged in with red tape, rules and formalities, and as a rule the attorneys are required to put their cases at issue and try them without excuse or delay.

"As to reform in judicial procedure, I think some very valuable lessons can be learned by comparison of results in Multnomah County with results in counties outside of Multnomah County. When litigants in the Circuit Court can have an ordinary case tried and decided within 60 days after it is commenced, there ought not to be any just cause of complaint of the Circuit Court; and when any ordinary case can be tried and decided in the Supreme Court within 90 days after the appeal is perfected, there ought not to be any just cause of complaint of the Supreme Court. There should be at least two additional judges to relieve the Supreme Bench, which is now more than one year behind.

Code Is Found Ample.

"There is just cause for criticism, but the present code is ample and broad enough to insure certain and speedy justice, and the courts and attorneys, 'the men behind the gun,' are largely responsible for any criticism, because they do not enforce and respect the provisions of the present code."

Frank M. Calkens, Circuit Judge, Ashland, Or., responds:

"I have watched with considerable interest the discussion in regard to revision of our judicial procedure and must confess that many of the changes suggested have not appealed to me strongly. I am of the opinion that much of the delay in our judicial procedure can be eliminated under our present laws. For instance, in my experience, I find that the most frequent causes of delay are the interposing of demurrers and motions without merit.

"I think if the courts will generally apply the provisions of the code permitting the imposition of terms, in passing on such demurrers and motions, the attorneys will not find occasion to use these weapons of delay as frequently as they now do. A court rule making the imposing of terms in such cases mandatory would be sufficient to correct the abuse in a large measure.

Two Changes Suggested.

"There are, however, two changes which do appeal to me as being desirable: the making of Circuit Court rules by the Supreme Court, and the giving of Justice Courts and County Courts exclusive jurisdiction in minor civil actions and misdemeanors.

"On the first proposition the Judges of the Supreme Court have all had long experience in Circuit Court work, and are all well informed as to the needs of the Circuit Court. They are also in a better position to make rules which will harmonize the Circuit Court practice with the Supreme Court work and make such practice uniform throughout the state. If given the force of law, these rules would accomplish nearly every purpose that a revision of our judicial procedure would do.

"As to the second change, I believe it would be wise to give Justices' Courts original jurisdiction concurrent with County Courts in all civil actions where the amount involved does not exceed $250; and in criminal cases give to the Justices' Courts and County Courts original concurrent jurisdiction of all misdemeanors, exclusive of the Circuit Court. The right of appeal to the Circuit Court should remain as now provided, except that appeal should be allowed only upon the certificate of the Circuit Judge, based upon an inspection of the record, to the effect that there is probable cause for the appeal.

"These changes, in my judgment, would relieve the Circuit Courts of a large amount of needless work, and the taxpayers of considerable unnecessary expense."

Parker Suggests Change.

Under date of January 15, E. E. Parker writes from Bend, Or.:

"I know of no substitute that would serve the ends of justice better than the one prescribed in Lord's Oregon Laws. As a whole I think it is about as perfect as imperfect man can devise; there are, however, a few rules that could be made less cumbersome without interfering with the established order of things.

"I know of no reason why the practice in the State Courts couldn't conform, more nearly with the practice before the Interior Department, for instance in contest cases. Section 54, Lord's Oregon Laws, says: 'The summons shall be served by the Sheriff of the county where the defendant is found, or by his deputy; when served out of the county where the action is commenced the summons may be returned by mail.' Why not have service by registered mail in or out of the county, as is the practice in contest cases?

"Section 57, Lord's Oregon Laws, says: 'When publication is ordered, personal service of a copy of the summons and complaint out of the state shall be equivalent to publication and deposit in the Postoffice.' And here again it would seem to me that copy of summons and complaint served by registered mail would answer the purpose and that there would be no need for publication being ordered.

"I see no reason why a certified copy of the writ of attachment should be served on the garnishee as is required by section 300, Lord's Oregon Laws. The notice alone seems to me to be sufficient. In some cases requiring numerous garnishments to issue it makes it very cumbersome to serve a certified copy of the writ on each of the garnishees."

THIRTY-SECOND DEGREE MASONS OF THE CATHEDRAL CLASS, SEMI-ANNUAL REUNION, ANCIENT AND ACCEPTED SCOTTISH RITE BODIES OF OREGON.

First Row, Seated (Reading From Left to Right)—G. W. Sanborn, Astoria; A. L. Arnold, Portland; Lieutenant R. S. Hartz, U. S. A.; Major A. W. Yates, U. S. A.; Major J. F. McIndoe, U. S. A.; J. D. Lee, Portland, Class Historian; O. P. Coshow, Roseburg, Class Orator; O. O. Koeppel, Portland, Class President; E. G. Jones, Portland, Honorary Member; V. L. Clark, Portland, Class Secretary; C. S. Loveland, Portland; A. W. Norblad, Astoria; O. H. Byland, Astoria; G. M. Weister, Portland, Class Mascot.

Second Row, Standing—C. Van Buren, Commissary Sergeant, U. S. A.; Thomas R. Jarboe, Sergeant-Major, U. S. A.; A. Birmele, Sergeant-Major, U. S. A.; Fred Weller, Color Sergeant, U. S. A.; S. A. Murhard, Portland; J. C. Appel, Portland; J. H. Scott, Portland; G. Kuhn, Portland; A. Levy, Portland; Dr. C. W. Barr, Astoria; A. Rosenstein, Portland.

Third Row—D. L. Clouse, Portland; A. R. Stringer, Jr., Portland; B. E. Leonard, Portland; C. B. Hall, Portland; C. I. Leavengood, Myrtle Creek; H. E. Porz, Portland; Henry Feldman, Portland; F. Lucas, Portland; L. J. Davis, Portland; G. A. Housman, Portland; C. W. Risley, Milwaukie; J. F. Risley, Milwaukie.

Fourth Row—F. G. Urfer, Portland; J. P. Whitlock, Portland; R. B. Graham, Portland; N. A. Shipley, Portland; W. W. Wiswell, Portland; H. T. Whitney, Portland; I. G. Streit, Portland; A. O. Nelson, Portland; M. Cohn, Portland; A. C. Tomlinson, Portland; C. C. Shipley, Portland.

WORKING OF PARCEL POST IS STUDIED BY OBSERVER

Numerous Mistakes Made and Countless Questions Asked by Early Patrons of Government's Addition to Postal Facilities.

BY ADDISON BENNETT.

THE first surprise I received yesterday morning as at my request and by courtesy of Acting Postmaster Williamson I was seated at the side of F. E. Ross, in charge of the parcel post window at the Postoffice, came from a package that had been returned from the East Side Saturday, the addressee having moved from the address given. The package contained some cottage cheese when it was mailed, but the aforesaid cheese had "ripened," yea, it had become over-ripe, and it gave forth an odor that was—well, it was not fragrant. Indeed, it was so far from fragrant that it smelled like something that was intensely dead, and before Mr. Ross could get it into the stove for destruction it was necessary for the young women clerks to flee to the open windows, while the mere men folks wondered what was the matter with their breakfasts—and one or two gave them up! Yes, that little package of cheese was mighty rank—it was the cheesiest cheese that was ever cheesed.

Then came a large package containing a ledger, a blank book weighing nine pounds, which was well plastered with stamps of the parcel post variety. But they don't go for books of any kind, so there is a little bill of $6.08 lodged against the ledger which must be paid before the addressee can get it.

"I am in dire distress," remarked a woman, "for I mailed a newspaper with a parcel post stamp upon it, and I was anxious to have it go to a friend." Said newspaper probably now reposes with several hundred other pieces of such like mail matter that have been dropped into the boxes during the last few days. The consignees will get these articles—perhaps.

"You say," responded a man to the clerk, "that this little package weighing only four and a quarter ounces will cost 12 cents, and it only goes to New York? Why bless your soul it only cost 5 cents under the old rate, and I supposed the new rate was cheaper." It is, for large packages, but the new law reckons only with pounds and not with ounces. Five ounces or one pound—both the same.

"I was told I must put the name of the addressor as well as the name of the addressee on this package; pray who is the addressor?" That is a puzzler to a good many. They cannot get it through their heads that the addressee is the person to whom the package is consigned or addressed and the addressor the person who consigns or mails it, or has it mailed. The distinction seems simple, but Mr. Ross say he has to explain the matter 200 or 300 times every day.

Some Courtesies Forbidden.

"Will you please address this package for me, I have my gloves on," was the request of a sweet little miss whom Mr. Ross would have gladly accommodated had the rules permitted, but postal employes are not allowed to address letters or parcels.

Another young woman insisted on having the clerk put her stamps on a package, but patrons must lick their own stamps, the clerks need all of their tongue energy to answer questions.

"Here is a small package of laundry which I wish to send to my wife in San Francisco. It is silk underwear and my wife will not allow me to have it washed at a laundry; what will the charges be?" This from one who looked like a traveling salesman. The cost was a mere trifle, something like 10 cents, so the frugal salesman will save money.

A merchant here presents a package which he says is worth $40, and he wants to be sure of its safe transit. All right. He deposits an extra 10 cents and has it insured for its full value, as can be done for a dime provided the value is not over $50. This is one of the important changes in the postal laws and should be remembered.

Pointers Are Given.

The principal points to observe in mailing packages under the new law are these: The name and address in full, of the sender, or addressor, must be on each package. This is imperative. No package will be dispatched unless this rule has been complied with. Nearly 100 packages are now at the Postoffice which have been held for this reason.

Books, newspapers, magazines and reading matter of all descriptions must be sent under the old regulations—the parcel post law makes no provision for such matter.

Packages must be securely wrapped and tied, but not sealed. If sealed they cannot be sent by parcel post.

In dispatching a package to a foreign country a declaration of its contents, for use by the customs officials, must be made out to accompany it. This can be done at the stamp window.

A regulation, which it seems everybody ought to understand who knows there is a parcel-post law in force, seems to be a stickler for about one out of every three bringing a package to mail—the old postage stamps are of no value whatever on a package to be sent by parcel post. Nor are parcel-post stamps of any use on letters or newspapers.

Packages Should Be Weighed.

If you have not the full regulations, or do not know exactly the amount of postage a package will require, take it first to the parcel-post window and have it weighed and find out the exact amount of postage required to carry it. Then get the stamps at the regular stamp window in the south end of the lobby, attach them to the package and return it to the parcel-post window.

"Can I send these clams to Canby by parcel post?" Sure! Clams, oysters, crabs, eggs, butter, cheese or any old thing, to Canby or anywhere else. But, as in the case of the cheese aforementioned, the shipper should take into account the length of the trip and the longevity of the "subject" to be mailed. But those clams will likely arrive in Canby in good shape for a chowder within a few hours after mailing.

As you enter the postoffice you will notice to the left, at the second or third window, there is a drop box for the reception of mail matter, "Outgoing Mail." What does that mean? One would think it tolerably clear and explicit. But the clerks say they have to explain it hundreds of times every day. Intelligent-looking men and women will gaze long at that and the other signs for the information of the public, and will then ask where a letter for New England, London or some other far-away place should be dropped.

Sacks Filled by Dozens.

As the parcel-post packages are received at the window they are thrown into canvas sacks, and when a dozen or so of these are filled they are taken to the mailing station at Fifth and Glisan streets, where they are assorted and dispatched over the various routes leaving the city. They are there counted and weighed in bulk before dispatch. And to that place the department stores and other large shippers take such packages as go out of town, for nearly all of the merchants using the parcel post have the full directions and prepare their packages with care.

These directions should be had by every person expecting to do a business of any volume through the new system. By sending a money order for 75 cents to the chief clerk of the Postoffice Department, Washington, D. C., and asking for full instructions, you will receive a map, guide and every detail of the new law, and, with a brief study of these, you need make no mistake. After becoming conversant with these instructions you can prepare your packages in your office and send them to the mailing station or to the postoffice.

Local Rates Low.

Remember, however, that you cannot mail packages of merchandise in the street boxes, no matter how small or what they contain, unless you pay full letter postage on them, which is 2 cents for each ounce. The letter boxes and the old package boxes will be used only for books, papers and magazines, in addition to letters and other first-class matter.

The new law will be of great benefit locally. By that I mean the local rate is exceedingly low, being 5 cents for the first pound, and 1 cent for each additional pound. And that applies to packages mailed in town or on any of the rural routes adjacent to town. Of course this regulation applies to all postoffices. So it will be of great convenience to the merchants of small cities and towns where there are rural routes. With the telephone as its principal adjunct, the law will work many changes in the old system of doing business between the merchant and his country customers. It will save the latter many trips to town.

Acting Postmaster Williamson yesterday remarked: "The new law is sure to be a wonderful success and of the greatest benefit to all. It is too soon yet to say how profitable it will prove to the Postoffice Department. It will take some time to discover just what the expense will be and what the income will amount to. But it now looks as if it would help materially in making the postal service self-supporting."

FOUR GENERATIONS OF WELL-KNOWN FAMILY VISIT AURORA, OR.

AURORA, Or., Jan. 18.—(Special.)—Mrs. J. W. See, of this city; her daughter, Mrs. L. M. Bitney, of Woodburn; granddaughter, Mrs. H. W. Grass, of Lacrosse, Kan., and her great-granddaughter, Geraldine Grass, held a reunion here recently. The family is well known through the Aurora country.

LABORER HAS FORT PLANS

French Secrets Slip From Pocket of Drunkard, Who Is Held.

PARIS, Jan. 18.—(Special.)—On the bench of the waiting-room at the station of Forges-les-Eaux a man, dressed like a workman, was lying in a drunken sleep. When the train for Dieppe was signalled one of the other occupants of the waiting-room, M. Colombel, in an endeavor to awaken the sleeper, shook him vigorously by the shoulder. The movement dislodged a packet of papers, which slipped from the man's breast pocket to the floor. Struck by the official appearance of the papers, M. Colombel examined them, and to his stupefaction found them to be documents relating to the national defence.

He informed the authorities, and documents and bearer were taken to the police station, where the papers were found to contain plans for the forts of Jarny and Harricourt, and also of the system of costal defense at Havre. Their possessor, who gave his name as Gillet, declared that he had found the documents in a chateau near Forges, in which he had been working. Gillet, who is 62 years of age, and by trade a slater, does not seem to realize the importance of the papers found in his possession.

RAILWAY POSTS UNITED

Tacoma Man to Look After O.-W. R. & N. Business to the North.

William Carruthers, district freight agent for the O.-W. R. & N. Company at Tacoma, yesterday was appointed district freight and passenger agent, with charge of all traffic business between Tacoma and Vancouver, Wash.

This change was made necessary owing to the recent death of Robert Lee, who, for many years, had been district passenger agent at Tacoma. Mr. Carruthers now will combine the work of the freight and passenger departments, and probably will appoint a man to have charge of the passenger business under his direction.

Mr. Carruthers was in Portland yesterday and arranged to take over his new duties Monday morning.

SALARY RISE IS EXPECTED

Clackamas County Superintendent of Schools to Have More Duties.

OREGON CITY, Or., Jan. 18.—(Special.)—It is virtually assured that the bill providing for an increase of salary of the Clackamas County Superintendent of Schools from $1000 annually to not more than $1650 will be passed by the Legislature.

The plan now is to have two supervisors in the county instead of three, which, even with the increase of salary to the Superintendent, would save the county money. T. J. Gary, County Superintendent, it is understood, will be called upon to do more supervisory work if the bill becomes a law. He has, however, since the passage of the supervisor law, done as much of the work provided in the bill as the supervisors.

Mrs. Taylor Recovers.

Mrs. E. H. C. Taylor, who was seriously burned early in December, has recovered sufficiently to leave the Good Samaritan Hospital, and is now at her home, the Wilmer apartments, 742 Everett street.

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$16 Raincoats, $ 7.00
$10 Raincoats, $ 5.25

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