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### Report to the Second Citizens Conference

Montana Citizens for Court Improvement

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Ex 5

Report to the Second Citizens Conference  
MONTANA CITIZENS FOR COURT IMPROVEMENT

September 30, 1968

This report is given to advise those of you assembled what has happened since our first meeting held in Great Falls September 30, 1966 at which time 104 Montana citizens attended the meeting.

During the past two years we have received a great deal of help from Mr. Lowe and from Mr. Winters.

In Great Falls we were advised this was to be a Montana Citizens' program. We were asked to consider the existing court structure and its effect on the lives of Montana citizens.

We were advised the Montana judicial system is divided into three parts; the Supreme Court, the District Courts and the so-called People's Courts or JPs and Police Courts.

With regard to the Supreme Court, we were told the pay is very low compared to the national or western average. With regard to this problem, we were fortunate to get an increase enacted during the 1967 Session of the Legislature. The increase was relatively small, however a step in the right direction.

Secondly, we were asked to consider a retirement program and during the 1967 Session we were successful in getting a program enacted which appears to be satisfactory, and we understand it has already had a beneficial effect in that Judges have retired who may not have retired if this law had not been enacted. The above reference with regard to the Supreme Court also applies to the District Court.

With regard to the JP Court system a statement made fifty years ago was <sup>in fact</sup> quoted to our attention "To make Justice of the Peace Courts a forum serviceable to the people where litigation may proceed without the aid of attorneys". Unfortunately the system does not appear to be working satisfactorily. In Great Falls Judge Leslie advised us that the JPs receive 85% of their pay in the form of retained fees. This has the effect of administering justice on a commission payment plan which is highly favorable in selling merchandise but of very doubtful value in the administration of law. Furthermore, it was called to our attention that there is often a complete lack of dignity in the administration of law since the so-called Court Session is held in whatever room or area which may be available, and approximately 30% of the JPs hold Court in their homes. As a layman, I heartily agree with the statement made by Judge Leslie that an atmosphere of full Court treatment would be especially beneficial in calling attention to a violation of younger violators, for example teen-agers.

Very early the Committee learned any public discussion concerning the Justice of the Peace of Police Courts quickly became an emotional issue. Furthermore, the time between September 30, 1966 and January 2, 1967, at which time the Montana Legislature convened, was too short to attempt to recommend a change in this Court system. There was general agreement that reforms are necessary if there is to be a semblance of justice. A public attitude concerning justice was called to the attention of the Committee by a Harvard student who stated that "it is not a question of law, but a question of justice".

During the past few months we have witnessed a ten-year sentence for stealing three or four head of cattle and a three-year sentence for the killing of a calf because of spite, whereas the killing of two individuals by drunken drivers resulted in the forfeiture of a small bond and no loss of driving privileges. In neither case was the driver's license suspended. In my report in Billings I severely criticized the entire judicial system for letting this happen, and Montana Chief Justice Harrison readily agreed.

The Steering Committee appointed at Great Falls held a number of meetings during the past two years; the first meeting on November 22, 1966. At this meeting it was agreed that selection and tenure of Justice of the Peace judges required a Constitutional Amendment. The Committee decided not to recommend this because the current Constitution provides that only three Constitutional Amendments may be included in any general election.

The Committee also discussed the advisability of incorporating, and someone pointed out the possibility of tax free gifts and the necessity of perpetual existence.

At this meeting the Chairman advised the group that the Montana Judges Association had unanimously approved the Consensus Report and contributed \$750 to hire an Actuary. The group adopted an official name - Montana Citizens for Court Improvement and the Chairman appointed a nine-member Steering Committee. The group directed the Chairman to request a liaison committee from the Montana Bar Association.

The second meeting was held January 12, 1967. At this meeting Associate Justice Castles reported that a special committee of lawyers was working on the proposed salary schedule. The committee agreed to sponsor four bills to be introduced during the 1967 session:

1. Selection and Tenure
2. Elimination of the Constitutional Statute for JPs.
3. Retirement
4. Salaries.

After a thorough discussion, it was decided to actively endeavor to get number three and number four enacted.

The third meeting was held December 1, 1967. This meeting was held in Billings and was attended by approximately sixty lawyers in the Billings area. During this meeting Judge Allen explained the retirement plan enacted by the 1967 session. Mr. K. O. Crowley, Billings lawyer, explained the judicial selection committee created by the Montana Bar Association. Mr. Duke Crowley, University of Montana Law Professor, explained a plan to modernize the Montana judicial system. During this meeting Mr. Ken Davis was added to the Steering Committee. Mr. Lowe recommended that the organization be incorporated. Also during this meeting Mr. Lowe told about the successful experience in Idaho in setting up five one-day conferences in various areas of the State inviting Legislators to attend. Paul Keller, Helena Attorney, discussed the legislative council study of the constitution which is being conducted under the chairmanship of Senator Gene Turnage, Minority Leader of the 1967 Montana Senate.

The fourth meeting was held February 3, 1968. Mrs. Pemberton reported on her meeting with a similar organization in Colorado and told of their success in fund raising. Ken Davis reported on his trip to Idaho and recommended that a series of Regional meetings be held in the State. The Mason-Crowley report was discussed and it was decided to ask a "Blue Ribbon Group" of Montana lawyers to study the report.

The fifth meeting was held April 25, 1968. Mr. Ryan, Billings lawyer, reported on the proposed blue ribbon committee. U.S. District Judge William Jamison suggested that the blue ribbon committee be appointed by the Montana Bar Association. It was decided to ask the Bar Association to immediately appoint such a committee to work with our lawyers on a proposed constitutional amendment to make a change in the JP Court System possible.

The sixth meeting was held September 6, 1968. At this meeting Mr. John Kuenning presented proposed legislation per the 1966 consensus. The American Judicature Society was requested to print and mail the proposed legislation. Mr. Ken Davis reported on the progress of the series of Regional Conferences to be held between November 5th and December 15th.

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KEN DAVIS