

THE JUSTICE OF THE PEACE RACKET

BY MITCHELL DAWSON

WERE you ever hauled up before a justice of the peace? If not, you probably will be someday. Sooner or later most Americans meet the squire and hear him drone “— and costs!”

The squire and his twin, the police magistrate, do more business than all other judges combined. The great bulk of minor civil and criminal litigation in our rural and suburban districts flows through them. Thus “petty” justice is administered throughout the United States by men untrained in the law, in makeshift courtrooms, without supervision, and with every inducement for exploitation, oppression, and fraud.

The system has been denounced again and again, by bar associations, the American Judicature Society, and commissions on criminal justice. Two states have lately taken steps to set up better courts. But the country at large is indifferent. To most people, the “J.P.” is a comic figure or a lovable old philosopher or a little of both. Serious investigation, however,

proves that the majority are neither amusing nor quaint.

The state sets the squire up in the business of dispensing justice by the piece. He parcels it out at fixed prices, quaintly known as “costs,” which go into the pockets of the justice and the constable. In most states it is the only way these worthies have of getting paid.

In criminal cases under this system, it is always better business for the squire to find the defendant guilty and squeeze the costs out of him than to let him go and try to collect from the county. Everything is arranged so that the expense of administering justice will fall on the defendants instead of the public. Some states offer a bonus of higher costs for convictions than for acquittals; others go farther and say that a magistrate is not entitled to any costs unless he convicts the defendant, though the Supreme Court held this unconstitutional. In civil cases the situation is much the same. To induce plaintiffs to file suits before

him the squire often agrees not to charge any costs unless he can get them out of the defendant. The time-worn wisecrack about J.P. meaning "judgment for the plaintiff" has been confirmed by surveys. In certain Tennessee counties judgment was entered for the plaintiff in 98.3 per cent of 25,088 cases. In six Michigan counties the defendant was found guilty in 95 per cent of the criminal and 99.2 per cent of the civil cases. A Mississippi survey revealed much the same percentage.

The squire does as much paper work as he possibly can: complaint, 50¢; warrant, 50¢; docket entry, 25¢; entering judgment, 50¢, and so on up to a hundred or more items. In ruthless hands those modest fees may add up to totals exceeding the amount involved in a case. A member of the West Virginia bar reports that in one civil suit a justice collected from a laborer not only the \$9 debt but \$19 in costs besides. A study of justice courts in Hamilton County, Ohio, charged that on a \$4.89 milk bill the costs were \$8.20; on a \$10 claim for rent, \$16; and on the attachment of a car for a \$7.50 debt, \$33.10.

The number of justices in most states far exceeds the actual need. New York has about 3600; Ohio

2400; Illinois 3500; Tennessee 2800; Wisconsin 2500; and North Carolina 5000. The majority don't make enough from their office to buy bread and butter, but for those who play the game the rewards are substantial and sometimes handsome. In less than thirteen months one squire in Ohio took in \$4553 from a single traffic light.

Competition in most places is so keen that the wide-awake justice must have "feeders." A common arrangement is the collection of accounts for business firms, on a commission basis running from 10 to 50 per cent, plus costs. If the squire doesn't collect from the defendant, he gets nothing. The Justice of the Peace thus becomes an active and interested agent for the plaintiff.

The parties to such alliances say that no harm is done because the defendants really owe the money, but the temptation is constant to make the defendant pay regardless of legal rules. Writs tie up wages; property legally exempt is attached; defendants who owe nothing are badgered with suits — so it goes. Two Maryland justices entered judgments aggregating \$127,836 and \$2348.10 in costs against a group of defendants who had never had any dealings with the plaintiff.

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The criminal trade, even more than the civil, depends on the squire's connections. Constables, deputy sheriffs, and highway police take their prisoners to the justice who plays ball. Such justices will, of course, lend a friendly ear when party headquarters telephones. This, however, is not nearly so devastating or widespread as blackmail and extortion. The formula is always the same — "Pay up, or else. . . ." "Before turning the warrant over to my constable," the squire writes, "I am giving you this chance to come in and settle." Faced with a fine or jail, the victim pays — and the squire gets his cut.

Officers in cahoots with the squire pick up vagrants, drunks, gamblers, unlicensed hunters, fishermen, dog owners, roadside petters, and speeders. Fines are measured by how much the squire thinks he can get; not by the gravity of the offense. The biggest returns come through such operations as the time-honored Saturday night round-up in which dozens are booked as drunk and disorderly, resisting an officer, or whatever. If the prisoner calls for a lawyer, the J.P. puts his case over for a week and orders him locked up unless he furnishes bail. If he wants

to give bond, the squire obligingly calls in a shark who will do the job for an exorbitant commission. Another good old custom is locking up itinerant strangers for vagrancy. The idea is to extract costs from them, or if they haven't money to send them to jail and collect the costs from the county.

Speed traps are, of course, the most familiar of the shakedown devices. Just what the demarcation is between reasonable traffic control and racketeering is sometimes hard to say, but the mulcting of motorists for income purposes is hard for squires to resist. It is especially prevalent in Connecticut, Illinois, Ohio, Maryland, Michigan, New Jersey, and New York, according to motor club officers, who are this year increasing their efforts to put crooked magistrates out of business. Last year five officials of the little village of Dixmoor, near Chicago, were convicted on charges growing out of the operation of a speed trap. The fines were supposed to go into the road-and-bridge fund but were paid out in salaries. "My cops have to make at least ten pinches a day," said the justice. "That's how we eat!" They ate well.

Of course thousands of honest and competent justices carry on their duties today with the full respect and support of their com-

munities. But while there is a growing tendency near our big cities to choose lawyers to serve as justices, we find laymen in the majority the country over. And there untrained J.P.'s are left unsupervised, without regular courtrooms or clerical help. The squire's courtroom is frequently the living-room, kitchen, or basement of his own home.

Further, statutory requirements, if any, for keeping records are loosely enforced. Consequently the squire gets careless about docketing cases. In Ohio the proportion not docketed is said to run to 90 per cent in some sections. In Hamilton County two magistrates failed to make a single entry in the course of a year.

Fines collected in cases not docketed usually stay in the squire's pocket, and state and county governments lose enormous sums. West Virginia forced one justice to surrender \$8000 he had salted away in less than a year. Five others were caught and resigned. Another disappeared. The district attorney of Allegheny County, Pennsylvania, recently sent several magistrates to jail and removed others for faking cases and padding accounts.

The justice courts could have been wiped out long ago if the public had cared. They were abolished in most big cities but reform stopped at the city limits. Some prosperous towns and villages have put their magistrates on salaries and furnished them with courtrooms. But this still leaves the courts isolated judicial units. A solution to the problem would be the abolition of the squire's office and the creation of a new court, as an integral part of the state judicial system. But usually this is impossible without difficult constitutional changes. An alternative would be to set up an efficient minor court system concurrent with that of the J.P. and, at the same time, reduce the J.P.'s powers — thus drawing his business away until he fades out of the picture. In 1936 the Virginia assembly did this. The Indiana legislature passed a somewhat similar act this year. It is too soon to evaluate these efforts, but they indicate the general trend.

But in the meantime — until the trend really takes hold — countless Americans are at the mercy of an outmoded court system and its most vicious manifestation — the Justice of the Peace.

LITTLE FAMILY

A Story

BY NANCY HALE

THERE was no hair growing on his chest. He noticed it, suddenly, as he buttoned his shirt before the mirror; he had taken a bath right after his lunch at the corner, and put on clean underclothes and this clean, white shirt, to be ready to go over and get them at the hospital at three. He had hoped the hot bath would quiet his tension somewhat, and it did. Now he was only exalted; he had stopped trembling. His wife, his *wife*, and his son were coming home from the hospital. His wife and his *son* . . . but there was no hair growing on his chest. He hadn't noticed that, or thought of it, since he was studying at college instead of teaching, and used to wonder when it would begin to grow.

But now he knew it didn't matter. There were Polynesians and Orientals who never grew any hair there, and North American Indians. And there was his son, his own offspring, the fruit of his loins, to prove him incontrovertibly a man.

There was Andrea, who had been impregnated with his seed, who had brought forth his son. Bernard shivered quickly, thinking of it. That woman, his wife — that big, lovely, soft woman — had been made pregnant, had swollen with fertility, because of something he had done to her. It made him feel dizzy with maleness. There was that absolute fact. He had done something all male to her, conquered her femaleness, made her into the receptacle and producer of his son. . . .

The exaltation held, like a trance. He went out of the apartment and down the narrow stairs. The car he had borrowed from Pete Stevens, who taught Economics, stood there at the curb, and he got in and started down to the hospital. He was so very aware of himself. He felt his man's hands controlling the wheel, his man's legs on the clutch and brake. Never before in his life had he had this awareness of himself; the upper-