

JUSTICE COURT IN HOUSTON COUNTY (1850s)

FOREWARD

BY

Douglas A. Hedin
Editor, MLHP

It has been often remarked that in the mid-nineteenth century courts run by justices of the peace—a/k/a “justice courts”—were places where the locals socialized and found entertainment. Many county histories of this period contain humorous accounts of early cases in justice courts. The authors or compilers of these histories relished relating the absurdities that abounded in these courts.

But justice courts were the first rung of the civil and criminal justice ladder in this period. It is a mistake to underestimate their importance, but that is what has happened. To date, there has been no scholarly treatment of justices of the peace in this state. Instead we have many anecdotes about this office, more than a few of which are told in a jocular tone.

The following excerpts are taken from page 335 of *History of Houston County* compiled by Rev. Edward D. Neill. It was published in 1882 by the Minnesota Historical Company of Minneapolis. It is complete; spelling and punctuation are unchanged. The title, “Justice Court in Houston County,” has been added by the MLHP. This article may be read together with another excerpt from this book, “The Territorial Court in Houston County,” which was posted previously on the MLHP.

JUSTICE COURT IN HOUSTON COUNTY (1850s)

SOME EARLY INCIDENTS.

At first, before things had got settled down to anything like routine, the Justices courts were the scenes, not infrequently of the most ludicrous character. On one occasion there had been some hilarity in Houston, a lot of young men breaking into a cellar, under a Norwegian residence, where some kind of meeting was in progress, and tapping a barrel of whisky, had a war dance around a bucket full of the exhilarating fluid in the front yard, putting out the inmates and compelling them to join in the frantic revels, and pummeling those who refused, "sweetly and without wrath," with other festive goings on. The whole party had warrants out for their, arrest, and the officer went over from Brownsville to serve the papers.

He was told that it was all right, he could arrest the whole crowd, but he must return alone, and if he would give notice of the day of trial, the accused would be on hand. So when the time arrived they were there in full force. Mr. McSpadden, who was on the list, announced, when the case was called, that he had been retained as counsel for the defense, and he proposed that everything should be done "decently and in order," that the precedents of frontier jurisprudence should not be overruled, and he therefore respectfully suggested that the first thing in order was for the court and the complainant to go out and take a drink. To this proceeding the Justice entered a mild demurrer, which was speedily overruled by the indomitable "Mack," who took the complainant, Mr. Knudson, by the arm, and by using a sufficient amount of physical argument he was induced to yield the point. Several other athletes, in the same persuasive manner, induced the court to move toward the door, which, having been reached, and the room emptied of its motley throng, it was locked, and the case was thus adjourned *sine-die*.

A FLOGGING AFFAIR.—After Caledonia had been quite well settled, and Mr. McPhail had become tolerably well fixed in worldly matters, the eccentric Patrick Fitzpatrick related an incident in the career of the proprietor of the village plat that created quite an excitement, especially in the breast of the object of the story, who took the first opportunity to horsewhip

its author. The case got into a Justice's court in Brownville, and the developments were rich. The partisans of Fitzpatrick, who embraced all of his nationality in the county, were on hand, and for a time there was imminent danger of personal violence, but it was finally averted, and the agitation subsided.

. . . .

PUNISHMENT OF A CRIMINAL.—At one time before the stumps were dug out of the streets, a miserable fellow was apprehended for some petty crime; he was tried before an improvised court, and the question as to hanging him forthwith, gravely discussed. It was finally concluded that he should pay a fine and dig out a certain stump in the street, and in default thereof he was to be summarily executed. With manifest gratitude at his narrow escape from impending death, he went to work under a blazing sun and came well nigh dying from sunstroke, but he succeeded in satisfying his tormentors, and made no unnecessary delay in placing himself beyond the jurisdiction of this erratic backwoods court, by getting aboard of the first steamer that touched the wharf. ■

.....

Posted MLHP: September 2009