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## A History of the Denver and Colorado Bar Associations

# A HISTORY OF THE DENVER AND COLORADO BAR ASSOCIATIONS

BY DONALD S. MOLEN



Donald S. Molen received his B.S. degree from the University of Denver in 1951 and his LL.B. degree from the same school in 1953. He is a member of the Denver, Colorado, and American Bar Associations, and has occupied the position of Executive Secretary of the Denver and Colorado Bar Associations since March 1954.

He is Past Chairman of the National Conference of Bar Secretaries and is presently serving on its Council. He is also a member of the Council of the A.B.A. Section on Bar Activities.

## INTRODUCTION

During the early part of the twentieth century, lawyers tended to be more individualistic than they are today. Bar associations were not as active, since the value of such organizations was not recognized nor fully appreciated. Local bar associations were more active than state organizations, and the latter were criticized for being primarily social in nature. Lawyers, individually, seemed to command more attention and respect than they did collectively. They were not required to have very thorough educations, although some of the more prominent members of the profession were well read in history and the classics. Also, it is somewhat ironic, in view of the early day educational requirements, that many of the lawyers in earlier days were gifted in oratory and had considerable command of the English language. It appears that the characteristics of the early lawyer were undergoing many changes during the first three decades of this century, for Edward Ring wrote in the 1929 *Yearbook of the Denver Bar Association*:

“The Denver Bar has its great lawyers—as great as those of the past—but the picturesque background of the earlier day has departed and with it the lawyer who was inevitably a prominent character and a fashioner of public opinion. The profession is now standardized.”

## THE DENVER BAR ASSOCIATION

The Denver Bar Association was organized at a meeting on October 31, 1891. One hundred fifty-nine members of the bench and

bar had indicated a desire to form such an association. Albert E. Pattison was elected president and governing rules were adopted. The dues were two dollars per year, and nine members constituted a quorum at business meetings.

During later years the association held annual banquets on the eve of Washington's Birthday. The selection of this date for these meetings was of noteworthy significance to the legal profession due to the implication of non-prevarication. The meetings, at the turn of the century, were very informal and included wit, wine, and song. Dinners were five dollars a plate. In later years, these annual banquets became more dignified and formal occasions, and at one meeting, the principal speaker, an attorney from Indiana, held the attention of his audience for *four* hours, and, as someone stated at that time, he could have held it until daylight!

In 1903, articles of incorporation were filed, and a code of ethics adopted. Some of the rules in that code, still timely today, are:

"Attorneys should fearlessly expose before the proper tribunals corrupt or dishonest conduct in the profession, and there should never be any hesitance in accepting employment against an attorney who has wronged his client. Prompt preparation for trial, punctuality in answering letters and keeping engagements, are due from an attorney to his client, and do much to strengthen their confidence and friendship. . . . Satisfactory relations between attorneys and clients are best preserved by a frank and explicit understanding at the outset, as to the amount of the attorney's compensation; and, where it is possible, this should always be agreed on in advance. . . . A client's ability to pay can never justify a charge for more than the service is worth, though his poverty may require a less charge in many instances, and sometimes none at all."

This code of ethics was practically the same code that was adopted by the Colorado Bar Association at its first annual meeting in 1898.

In 1903, the first year that the Denver Bar Association published a yearbook, there were 242 members in the association. (There were almost 700 lawyers in Denver at this time.) George Dunklee was president, and James Lomery secretary-treasurer. Five judges sat on the district bench, and each received a salary of \$4,000 per annum. In those days the courts in Denver, on the trial and appellate level, would sit in special session to consider memorial services for deceased members of the association. It is not known when this practice was terminated in Denver, but it still exists in many other judicial districts in the state.

When Horace Hawkins was president in 1907, the association established a law library in the Denver court house. It was felt that the establishment of this library would be of considerable benefit to the members of the bar, and the dues were increased to five dollars a year to support and maintain it. Two-fifths of the dues were earmarked for this purpose. In addition, the city of Denver allocated approximately \$1,000 a year for the purchase of new books. This library was given to the City and County of Denver by the association when the present City and County Building was built in

the early '30's. At that time, the library consisted of almost 10,000 volumes.

In December of 1923, when Hugh McLean was president, the first issue of the Denver Bar Association *Record* was published. The editorial in that issue stated:

"The Executive Committee has authorized the experiment of publishing this little paper of news from the Denver Bar Association. The plan is to publish it monthly and to include reports of the work being done by the various committees as well as personal and other news items of interest to the profession. We hope it will serve to familiarize all of our members with the work the Association is trying to do so that we shall all work more intelligently and efficiently to accomplish the aims of our association."

In that same issue a report from the judiciary committee, with the late William E. Hutton as Chairman, was printed. This report was presented to a monthly luncheon meeting of the membership with 175 lawyers in attendance. The report is significant because it was the first time that a "bar primary" had been recommended since 1894. At the time of Mr. Hutton's report, there were seven district judges and one county judge running for election, and the judiciary committee established a plan whereby eight Democratic lawyers and eight Republican lawyers would be endorsed and recommended to the respective political parties for nomination on the primary ballot. There were twenty Republican candidates, and eight Democratic candidates for the seven positions of district judge. There was one Republican candidate and two Democratic candidates for the position of county judge. The vote was taken on April 7, 1924, and the results were submitted to the respective political parties for nomination. The lawyers recommended by the association were designated by the respective political parties, and Charles C. Butler, the Republican incumbent, was designated, also, by the Democratic party. Of the eight candidates from the respective parties recommended by the association, six were subsequently elected. "Bar primaries" have been adopted periodically by the association since that time, the latest effort having been made in 1954.

Any lawyer, even one who had only passive interest in bar activities, would be considerably impressed by the first volume of the Denver Bar Association *Record*. Most of the editorial work was done by Jacob Schaetzel, who had been appointed secretary-treasurer of the association and who did a very creditable job in that position for two terms. In one of the early issues of the *Record*, he had this to say about law office management:

"Many lawyers still cling to the old type of filing cabinets which require each paper to be folded, much the same as we now fold an abstract. Others have no files at all, and in one instance which the writer knows of the floor is used as a filing cabinet, the papers and documents being deposited all over the room with a paper weight holding them in place. Even this is superior to some, where the papers are piled a foot high, and all together, on both the flat top as well as the roll top desk. . . . Much time and money could be saved by the use of proper office equipment and

coordination of office work. . . . A dictaphone is a splendid instrument to use, as it permits dictation when the stenographer is otherwise engaged. . . . A typewriter in good repair and with type properly aligned is of such importance that the other kind should never be tolerated. . . . A filing system that permits of flat filing, without folding, certainly should be installed without argument. A careful system of books should be kept . . . .”

Early issues of the *Record* included the publication of committee reports, luncheon and banquet addresses, and other articles of practical interest and value to the members. At one luncheon the subject of an integrated bar for Colorado was discussed. An editorial appearing in the May 1924 issue of the *Record* stated:

“The subject for discussion on May 5 is interesting the entire profession in the United States at this time. The proposed act regulates the practice of law in Colorado, defines the practice of law, and sets out the punishment for those who practice law without a license. It proposes a separate body entirely under the supervision of the Supreme Court, and the license fee shall be an amount not in excess of \$25 a year. . . .”

The integrated bar is again receiving considerable interest today.

In 1924, an association committee studied a proposal for a criminal code, which included rules of criminal procedure. In that year a fifteen dollar fee was the customary charge for examining an abstract. One member commented at that time: “When the \$15 fee was adopted, a generation ago, the abstract was only one-third of its present length. If that fee was fair then, a fee of \$45 should be fair now.” At one of the meetings in that year, a very comprehensive report from the grievance committee was discussed. In this report, reference was made to the problems of “ambulance chasing” and methods used by Minneapolis law firms to solicit personal injury cases. This is an age old problem which still confronts the association today.

During the period May 1, 1923, to April 28, 1924, there were fourteen luncheon meetings and two banquets sponsored by the association. The average attendance at these meetings was 145. Stanley Wallbank was then chairman of the meetings committee. Of approximately 800 lawyers in Denver, there were then 562 who were members of the Denver Bar Association. At that time, there were only 462 members in the Colorado Bar Association.

The secretary-treasurer then requested that an assistant secretary be employed to help him in satisfying the needs of the members and the committees and to expand the services of the organization.

The Denver Bar Association *Record* continued in existence until November 1928, when, during the administration of Henry W. Toll, it became a monthly magazine and was christened *DICTA*. S. Arthur Henry was the first editor of *DICTA*, Jackson Seawell its circulation manager, and John Adams, publisher. President Toll maintained that: “The two functions of the association which are most essential to the maintenance of its life and vitality are its meetings and its magazine.” The association’s records are replete with evidence that

substantiates this statement. Unfortunately, it appears that these functions are not considered as important today as they were then. The first issue of *DICTA* contained an article by our current president, Ira L. Quiat, and, also, contained summaries of Supreme Court decisions. Other changes were made in the publication, and it was soon recognized as one of the most outstanding bar association magazines in the West. The Colorado Bar Association joined in the publication of *DICTA* in 1939, and the University of Denver College of Law became a co-sponsor in 1949.

The year 1929 was very significant in the history of the legal profession. Construction of a new court house had begun in Denver. The Denver Bar Association managed to obtain passage of a bill in the legislature increasing the salaries of Supreme Court justices from \$5,000 to \$9,000 per year, and the salaries of district court judges from \$4,000 to \$6,000. Unfortunately, these bills were vetoed by the Governor.

In addition to *DICTA*, the Denver Bar Association published a yearbook. A new seal was adopted, and major revisions were made in the bylaws. Progress in the activities of the association was substantial, but much of the impetus for these new programs was initiated in 1928 during the administration of Robert L. Stearns. It was during that year that the association, for the first time, held an outing in the mountains at which some 200 attorneys of all ages forgot their dignity in a score of athletic contests. These affairs were then held at the Mt. Vernon Country Club, and in 1929 the program schedule was: 2:30 p.m.—Golf Tournament, Tennis Tournament, Bridge Tournament, Horseshoe Tournament; 4:30 p.m.—Bench v. Bar Baseball Game; 6:15 p.m.—Dinner; 7:45 p.m.—Abe Pollock's Circus; 9:00 p.m.—Presentation of Prizes."

It is interesting to note the postscript to the committee reports on this outing: "The following still will not be tolerated: Speakers and speaking, singers and singing, dancers and dancing." It was at this outing that the huge gavel, which is still presented to incoming presidents, made its appearance. The gavel was a gift from Henry W. Toll and was "surrendered" to the next incoming president, John H. Denison, a past Chief Justice of the Colorado Supreme Court. An inscription on the gavel states, in part, "It was presented to the Association as fragile livery of seisin." In view of this fact, it appears that a recent ceremony in Denver celebrating "livery of seisin" was not unique, as most of us thought.

In President Toll's annual report to the membership, which was published in the *Yearbook*, we were struck with the timeliness of some of his remarks. He said:

"During the past twelve months, there have been at least three occasions when the Denver newspapers have reiterated, with conspicuous headlines, statements casting serious doubt upon the propriety of the practices of members of the Denver Bar, but in no one of these cases has anyone filed charges against the attorneys in question with our grievance committee. This association has long recognized an obligation to endeavor to purge the profession in this community of licensed attorneys who do not respect their professional obligations, and it is increasingly apparent that it

must adopt the policy of acting upon its own initiative in such matters, in suitable cases. . . . This change of policy should have a salutary effect."

The Denver Bar Association has had an extremely colorful history. The three yearbooks—published in 1903, 1910, and 1929; *The Bench and Bar of Colorado*, published in 1917; the issues of the *Denver Bar Record*, published in the '20's; and *DICTA*, which started operating in the late '20's; in addition to the old files in the association office, are filled with the incidents and names of the individuals that helped to make Denver a great city. The officers of the association have been the leaders of the legal profession, and their dedication to the work and needs of the legal community in Denver have given substance to the noble profession of the law.

#### THE COLORADO BAR ASSOCIATION

Following the organization of the Denver Bar Association in 1891, a group of lawyers, residing primarily in Denver, decided that a similar association should be organized on a statewide level. A petition was circulated, and an organizational meeting was held on September 9, 1897, in Denver. Bylaws were adopted, and the annual dues were established at five dollars. A subsequent meeting was held in Denver in October of that year, at which time Hugh Butler was elected the first president of the Colorado Bar Association. Articles of incorporation were approved, and committees on "Law Reform, Legal Education, Admissions, Grievances, and Legal Biography" were appointed.

The first annual meeting of the Colorado Bar Association was held in Colorado Springs at the Broadmoor Casino on July 6, 1898. Mr. Justice David J. Brewer, of the Supreme Court of the United States, was the featured speaker. The business sessions were dominated by a discussion of admissions to the bar. At that meeting, Charles E. Gast of Pueblo was elected the second president of the association.

The second annual meeting of the association was also held in Colorado Springs on July 6 and 7, 1899. The Honorable Adlai E. Stevenson, former Vice President of the United States, was the principal speaker. Addresses were also received on the subjects of "Two Problems in Legal Education" and "The Superintending Control of the Supreme Court over Inferior Courts." At this meeting, more attention was given to the requirements for admission to the bar, and the results of a nationwide survey on this subject were studied. That survey indicated that some states required the equivalent of a high school education before "reading the law" in a law office or comparable training in a law school. In Colorado, an examination in English, literature, civil government, algebra, plane geometry, and history had to be passed, in addition to having two years of law school, or two years of reading in a law office.

Since 1898, all of the annual meetings of the Colorado Bar Association have been held in Colorado Springs, with the following exceptions: 1900, Denver; 1901, Manitou; 1908, Fort Collins; 1926, Denver (jointly with the A.B.A.); and 1936, Estes Park. In addition to the annual meetings, special meetings were held rather frequently to celebrate special occasions, to adopt legislative programs, and



to present memorials to the deceased members of the association. Very few special meetings of the association have been held in the past twenty years.

In 1901, the American Bar Association held its twenty-fourth annual convention in Denver. Three hundred six members and delegates of the association, representing almost every state and territory in the Union, registered for the meeting. It was at this meeting that a gavel, which was actually a carpenter's mallet, was presented to the A.B.A. by the Colorado Bar Association. The original gavel was wrapped with silver bands and had inscribed thereon the names of the presidents of the American Bar Association. The original gavel was replaced by the Colorado Bar Association at the annual meeting of the A.B.A. held in Denver in 1926. This latter gavel was subsequently replaced in 1956.

At the A.B.A. meeting in Denver in 1901, the delegates were taken on a tour of the state in two trains which were hauled, without charge, by four of the then existing railroads. Practically all of the association's business was accomplished on that trip. At that time, the total membership in the A.B.A. was 1,720. In 1926, when it again met in Denver, its membership totaled almost 25,000, and the *attendance* at that meeting exceeded 1,800. There are now almost 100,000 members in the A.B.A.

As we have previously mentioned, the first "bar primary" was held in Denver in 1894. The purpose of this plan was to accomplish the non-partisan election of capable lawyers to the bench. The Colorado Bar Association was also active in this field and presented its first plan to remove the judges from politics in 1899. The association is still attempting to achieve this very desirable and much-needed objective.

In reading the early annual reports of the Colorado Bar Association, one is impressed with the personalities and abilities of the lawyers of that day. However, one is also amazed at the high proportion of disbarments that occurred at the turn of the century. For example, during the period 1897-1901, there were fifty cases of unprofessional conduct investigated by the grievance committee of the Colorado Bar Association. Of that number, disbarment prosecutions were ordered in twenty-seven. The number of disbarment cases has decreased substantially over the years, and today there is an average of two per year in Colorado. Recent statistics from the American Bar Association show, on the average, that there is one attorney disbarred in each state every year.

During the first annual meeting of the American Bar Association in Denver in 1901, Moses Hallett was the president of the Colorado Bar Association. He had served as Chief Justice of the Supreme Court of the Territory of Colorado, was the first dean of the School of Law of the University of Colorado, and was the first federal district judge in Colorado. His decisions established the appropriation doctrine in the water law of the state, and in 1958, he received, posthumously, the distinction of being the most outstanding member of the legal profession in Colorado since statehood. During the second annual meeting of the A.B.A. held in Denver in 1926, James Grafton Rogers was the president. At that time, membership in the Colorado Bar Association exceeded 500. For this occasion, a special

issue of "*The Jealous Mistress*" was published. This publication was a four-page news letter inaugurated the previous year, during the administration of W. W. Grant, Jr., by Henry W. Toll, its first editor. It included notes about individual members and information on bar activities, and it was the first monthly publication of the association. The unusual name was suggested by Richard Peete, whose anecdotes were published in the special issue in 1926.

Until 1937, practically all of the business of the association was conducted at membership meetings. Robert Stearns of Denver was president when the idea of reorganization of the state association was originated. He was succeeded by Wilbur F. Denious of Denver. During Denious' administration, new bylaws were adopted, which resulted in substantial changes in the organization and policies of the association.

At the time of the annual meeting of the Colorado Bar Association in 1937, there were 578 members. The Denver Bar Association then had over 700 members, and it was estimated that there were nearly 1,500 lawyers in Colorado eligible for membership in the state organization. To broaden the membership and to improve the coordination of activities of the Colorado Bar Association with those of the local associations, it was provided in the bylaws that the local associations could become affiliated with the state organization. In so affiliating, the members of the locals would also become members of the Colorado Bar Association. To further this objective, the dues in the association for members belonging to local affiliated associations were three dollars per year, and for those who were not members of local associations, the dues were six dollars per year. The result of this reorganization was a rapid increase in membership and a much needed improvement in the financial condition of the association. This reorganization also provided for the establishment of a Board of Governors, comprised of representatives from the local affiliated associations who would be responsible for the future policies of the association. Actions were subject to approval of the membership at an annual meeting, and the association became a more flexible and businesslike entity. The Board of Governors, currently represented by delegates from twenty-one local affiliated associations, still manages the affairs of the Colorado Bar Association today.

At the time of this reorganization, each local affiliated association also designated one member of its local to serve on each standing committee of the association. Although this policy is no longer in effect, each president attempts to have representation on state committees from all local bar associations in the state, whenever possible.

This reorganization plan got underway during the administration of G. Dexter Blount, of Denver, who was president during the year 1938-39. Mr. Blount also appointed a committee to begin studying a proposed code of civil procedure that would be similar to the federal rules. Philip S. Van Cise, of Denver, undertook the leader-

ship of this project, and the new rules were adopted by the Colorado Supreme Court in 1941. Incidentally, Mr. Van Cise also took command of another tremendous project of the Colorado Bar Association in the late 1940's. This project, a complete revision of the judicial system in Colorado, was, for the most part, unsuccessful. However, many of the reports and recommendations of that committee will be reconsidered during the next two years, with the hope that this "dream" will soon come true.

As mentioned earlier, the Colorado Bar Association became a partner with the Denver Bar Association in the publication of *DICTA* in 1939. "*The Jealous Mistress*" was no longer being published at that time. Following the formation of this partnership, a study was begun of plans to inaugurate a looseleaf service for the members. This service was to include current developments in taxation, a digest of Colorado Supreme Court opinions, annotations to the new rules, information on current legal matters of general importance, a bar information section, and uniform real estate opinions. This service also supplanted the annual report. William Hedges Robinson, Jr. was then secretary of the association and was primarily responsible for the editorial work. The first bulletin was published on September 9, 1941, the last on January 6, 1950.

#### JOINT ACTIVITIES

In the fall of 1948, when Thomas M. Burgess, of Colorado Springs, was president of the Colorado Bar Association, and Edward G. Knowles was president of the Denver Bar Association, the two associations decided that due to the expansion of their activities and the burdens upon their respective secretaries, a joint association office should be established under the direction of a full-time paid executive secretary. The expenses of this office were to be split between the two associations. John Poyen was appointed executive secretary of the Denver Bar Association on August 1, 1948, and he became the executive secretary of the Colorado Bar Association on October 1, 1948. Mr. Poyen resigned this office in November 1948, and William B. Miller of Denver assumed this position. Mr. Miller resigned in July 1951, to become Clerk of the Denver County Court, and he was replaced by Terry J. O'Neill. Mr. O'Neill occupied the position until March 1954, at which time he resigned and the present secretary was appointed to replace him.

The activities of the Colorado Bar Association have, in some instances, paralleled, although in most cases, complemented and supplemented, the activities and programs of the Denver Bar Association. Both associations, for many years, have attempted to reform the judicial system and accomplish the non-partisan selection of judges. They have periodically studied the feasibility of establishing an integrated state bar. In fact, the Colorado Bar Associa-

tion introduced a bill in the legislature in 1949 to achieve this objective. Both associations have studied, for many years, the need for a criminal code in Colorado. Both have sponsored legislative programs that have improved the laws of the state, and both have been recognized nationally for their respective efforts and accomplishments. Although, for the past ten years, their programs have been administered and directed from a joint office, their future accomplishments will be dependent upon a parting of the ways within the next few years.

Many presidents of the Denver Bar Association have also been presidents of the Colorado Bar Association, and many lawyers active in the programs of one association have also been active in programs of the other. Men such as Harry C. Davis, the oldest living ex-president of the Denver Bar Association, and James Grafton Rogers, the oldest living ex-president of the Colorado Bar Association, will continue to be the motivating forces behind the accomplishment of the objectives and purposes of the associations. Robert Stearns, Henry W. Toll, Stanley Wallbank, William Hedges Robinson, Jr., Edward G. Knowles, and many other living members have made significant contributions to the progress of the two associations in the past, and, as a matter of fact, still are making such contributions. They followed in the footsteps of other great Colorado lawyers, such as Moses Hallett, Charles Thomas, Thomas O'Donnell Charles Butler, William Hutton, and others now deceased.

#### CONCLUSION

Although the history of the Denver Bar Association appears more colorful and includes more significant contributions to the growth of the legal profession in Colorado, in recent years its activities have become secondary in importance to those of the state organization. Nevertheless, the potential for the future is unlimited, and with the tremendous growth of the Denver metropolitan area, the opportunities and challenges that will present themselves will be met with the same dedication and foresight that was exhibited by the earlier leaders of the profession.

The progress of the Colorado Bar Association in recent years will be properly appreciated and understood only with the passing of history. The association will no doubt continue to institute and carry on programs that will assist the individual lawyer in his daily practice and improve his economic status, that will honor and uphold the integrity of the bar and improve the judicial system, that will improve the stature of the profession in the eyes of the public, and that will accomplish, above all, the "administration of justice" in Colorado.