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I Quote

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CHAPTER I

"Reason is the life of the Law; nay the common law itself is nothing else but reason. The law, which is perfection of reason."

—Coke.

"The lawless science of our law—
That codeless myriad of precedent,
That wilderness of single instances."

—Tennyson.

"The law is a sort of hocus pocus science, that smiles in yer face while it picks yer pocket; and the glorious uncertainty of it of mair use to the professors than the justice of it." —Macklin.

"I have endeavored to give place in this volume to everything which may be necessary to a correct understanding of the opinions of the court and nothing more. * * * All dissenting opinions will be found in their connection, *and when the bench is not full the fact is noted.*"† (No notations to contrary.)

—Judge Hallett, 1 Colo. (1872) preface.

"Counsel in the exercise of their professional rights and discretion have flooded us with multitudinous exceptions which are strongly suggestive of the pests with which the people of Egypt were plagued to compel them to free the children of Israel. The exceptions numbered 150." —Judge Bissell, 4 C. A. 395.

"It was also proper to receive evidence as to the inscriptions on the boxes. If the production of the thing on which the inscription is found is indispensable, it would be impossible to proceed in many cases. If a sign were painted on a house, it would hardly be contended that the house would have to be produced, nor can it be said that the law converts the court-room into a receptacle for wagons, boxes, tombstones, and the like, on which one's name may be written."

—Judge Belford, 2 Colo. 442.

"It occurs to us that sobriety on the part of the judge while determining the interests of litigants is essentially requisite. * * * Can it be said that an upright judge, a scrupulously fair man, one who appreciates the dignity of his office, can impartially determine the interests of litigants, and fairly administer the law *when in a state of intoxication?*"

—Judge Richmond, 13 Colo. 109.

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†All italics supplied.

"Having in mind the awful if not unprovoked charges, set forth in the complaint, and which defendant admits he made against the plaintiff, we must assume that appellant had adopted St. Paul's theory that whom the Lord loveth he chasteneth, before we can yield our assent to this statement of counsel. If this is the language appellant resorts to when speaking of one towards whom he entertains the best of feeling, it would be interesting to know what language he would employ if he had occasion to characterize the conduct of one towards whom he entertained malice or ill will" —Judge Cunningham, 21 C. A. 651.

"There was no evidence that the tub with which the experiment was made was exactly similar to the other, nor that the limb of the witness was sufficiently similar in form to the injured limb of the plaintiff. The testimony was properly rejected." Syll. (Bath-tub case.)
—Judge Morgan, 23 C. A. 529.

"Plaintiff left his horse standing in the alley, not fastened or secured in any way, and with the lines in such a position that he could not reach them. The horse started to run away, and the accident was the result. Ordinary foresight and prudence should have suggested to the plaintiff that his horse was liable to run. He neglected the dictates of experience because, as he says, the horse was gentle and kind, and not in the habit of running away, forgetting that it is the unloaded gun and the gentle horse that usually go off unexpectedly."
—Judge Bailey, 38 Colo. 300.

"It cannot be said that the fact of leaving the horse unhitched is in itself negligence. Whether it is negligence to leave a horse unhitched must depend upon *the disposition of the horse,* whether he is under the observation and control of some person all the time, and many other circumstances, and is a question to be determined by the jury from the facts in the case." —Judge Campbell, 39 Colo. 148.

"The thought of the roping, throwing, mauling around and branding of a branded horse cannot be less offensive to one of a sensitive mind, or less apt to sear the conscience of a moral public, than the sight of a horse which has had a few joints of its tail amputated—the same might be said of the dehorning of cattle." * * *
—Judge Bailey, 40 Colo. 414.

"Two of the jurors state in their affidavits that the petitioner took them to a saloon and treated them, but that their verdict was not influenced thereby, and that they did not know they had been doing wrong. * * * A party who so far forgets his position as a litigant as to furnish entertainment for jurors who are to pass upon the merits of the controversy in which he is engaged should not complain if a verdict in his favor by jurors with whom he has been in such close communication, and to whom he has furnished drink, is set aside on motion of his adversary." —Judge Steele, 43 Colo. 221.

"As inimitably described by Lew Wallace, his hero, Ben Hur, was driving a race. Two thousand years later Barney Oldfield, midst like plaudits of the multitude, was driving a race. The one driving a chariot race, the other driving an automobile race. Both races alike were hazardous to the driver. Neither intervening time, nor the fact that the carriage of the one was propelled by Arabian horses of pure blood, while the carriage of the other was propelled by most delicately adjusted mechanical power, can alter the plain understanding that each was engaged in the driving of a race. Neither can all the definitions written in the centuries between change the common understanding of men that linked together in thought, these men engaged in driving races."

—Judge Scott, 66 Colo. 391.

"To dismiss this bill because the plaintiff did not take the right formal step at the start, when the real purpose of that step has been accomplished, would be to 'twist the strands of precedent into a rope with which to strangle justice.' "

—Judge Denison, 71 Colo. 33, 38.

"It is not uncommon, we regret to say, for men to become angry and say things that they afterwards regret, as doubtless is the case with the attorney in this case. * * * The executor has wrapped his talent in a napkin and hidden it in the earth and will be surcharged with what he ought to have gained" (i. e., interest on a bank deposit).

—Judge Denison, 73 Colo. 1.

"It is a very real thing, though not a complete action, and that an amendment is possible all know, including those who say the contrary. * * * Half a pair of scissors, though a nullity as scissors, is a real thing, and when we add the other half, is as good a pair of scissors as if we had had both halves at first."

—Judge Denison, 82 Colo. 343.

"The paper shafts of the honorable dissenting judges are so directed that they may tend to divert attention from the fact that Kolkman and his band of marauders stole Charlie Burson's bacon on the hoof. * * * I have no doubt that the weird admonitions and quizzical warnings gratuitously bestowed by Mr. Justice Hilliard on the majority members of the court as to their judicial duties and conduct were well meant, but this hint that if our opinions do not meet with popular acclaim, we may be swept away by a coming flood, contains a political philosophy so pernicious and shocking that it cannot be overlooked. * * * No one can fail to be entertained by Mr. Justice Hilliard's dissertation on the subject of French Kings, but what about Charley's hogs?"

—Judge Adams, 89 Colo. 8.

"I think the case is one of the 'mountain laboring and bringing forth a mouse.' The mouse of unconstitutionality is probably there, but I do not like its color. It is too gray, and not recognizable in the dark. Every one knows, and the majority opinion admits, that we are going through an experimental period in labor legislation, attended with litigation, and we might just as well have selected a white mouse, the kind ordinarily used in experimentation, because the results are more easily ascertainable under the microscope of critical analysis."

—Judge Bakke, 104 Colo. 386.

(To be continued in future issues of DICTA.)

Tax Lectures in Pamphlet Form

Thousands of lawyers in all parts of the United States are studying federal taxation under the national program inaugurated by the American Bar Association's section of taxation and the Practicing Law Institute. As part of this program, a group of twenty tax experts, with Professor Erwin N. Griswold of Harvard Law School acting as editor-in-chief, has prepared a series of twelve pamphlets which present each major phase of the income, excess profits, gift, and estate tax laws, as well as tax practice and procedure, including the preparation of tax returns. These pamphlets average over forty pages each. Among the writers are the tax experts of some of the largest New York law firms.

As stated by Weston Vernon, Jr., chairman of the section of taxation of the American Bar Association, and Harold P. Seligson, director of the Practicing Law Institute, in a joint foreword to the first pamphlet:

> The program has been prepared especially to meet the needs of mature practising attorneys. The presentation includes step-by-step explanations of the methods to be employed in handling typical tax matters. The pitfalls which confront the unwary are pointed out. Discussions of rare cases or fine points have been omitted, so that the attorneys studying these pamphlets may obtain a basic understanding of the major aspects of the federal tax system.

This national program of tax training for lawyers was undertaken by the American Bar Association because of requests which came to it from all parts of the United States to aid practitioners in familiarizing themselves with the tax laws. The substantial increase in tax rates and the vast number of persons who are now subject to the income tax enhances the need of attorneys for a working familiarity with the tax laws. This knowledge is needed not only to advise clients in the preparation of their tax returns, but more important to avoid subjecting them to unnecessary taxes in connection with organizing new businesses, selling