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## Off the Record

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## Off the Record

BY A. H. WHITE\*

(Continued from the October issue)

All of which recalls the question Judge Sam Kinsley, of the El Paso county bar, asked a young applicant for admission to the bar. Judge Kinsley said, "How would you proceed to appeal a case to the Supreme Court?" The young man started to tell in great detail just what he would do when Judge Kinsley interrupted, saying, "You are wrong, young man, you are wrong. The first thing you should do is to consult Jim Perchard."

When Mr. Perchard was promoted from Chief Deputy Clerk to Clerk of the Supreme Court in 1918, Mr. Henry McAllister wrote Mr. Perchard, saying, "I'm most happy to see the clerk de facto become the clerk de jure."

On that occasion Judge Hayt paid tribute to Mr. Perchard as follows: "The opinion of the bar as to Mr. Perchard is correctly given by Lord Bacon, if we strike out the word 'ancient' from the following: 'An ancient clerk, skillful in the precedents, wary in the proceedings, and understanding the business of the court, is an excellent finger of the court, and doth many times point the way for the judge himself.'"

I'm sure all who knew Mr. Perchard, with one accord, would heartily join in that tribute.

The supreme court held that clerks of courts should not be included in the constitutional amendment establishing the civil service for state employees, yet, to the great credit of the court, it has not for more than thirty years been controlled in the appointment of its clerks and deputies by political influences. Democratic majorities have appointed Republican clerks and Republican courts Democratic clerks.

### III.

Judge Charles Cavender was a delightful and interesting character. He came to Leadville from Pennsylvania, a health seeker, in the 'eighties when that mining camp was at its heyday, and spent the remainder of his life there. He was a most capable and successful lawyer, served as judge of the district court in his later years, and was always one of the leading spirits of the community. He was very fond of Mr. Perchard and would often call and have a visit when he came to Denver. He would come into the office in high glee, take a seat in a big chair, cross his legs comfortably and begin scolding about some recent decision of

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\*Formerly Clerk of the Supreme Court of Colorado.

the court with which he did not agree. He never closed his visit without praising the climate at Leadville as being the best all-the-year-round climate in the state.

This story is told by a Denver attorney who sought to collect an account against a Leadville business firm. Though not a large bill, he was compelled to bring suit. The defending attorney delayed the action by filing about all the motions found in the code, and finally the Denver lawyer went to Leadville to argue the motions before Judge Cavender.

The motions were being regularly presented when the judge, in his usual brisk and positive manner, took a recess and invited the attorney to come to the court chambers. There Judge Cavender asked the attorney as to the accuracy and justness of the account and was assured that it was a just and legal claim. Judge Cavender then said, "I'll just settle this case right now," and gave the attorney his personal check for the full amount of the claim. The attorney said he never knew why, but thought possibly the defendant was some friend of Judge Cavender's whom the judge wanted to help out a little when he was possibly short of funds.

Another Denver attorney tells this story on Judge Cavender. The judge liked to play Boston, not played much now but popular several years ago. About the middle of the week Judge Cavender would call this Denver friend, saying he wanted to come down the following week end and for the friend to make the arrangements for a game. The judge came down one Friday night, spent the day, Saturday, visiting friends, and after a good dinner at the Denver Athletic Club, the game was on. The game was close and interesting and continued until after breakfast-time Sunday morning. The chips were counted and Judge Cavender was about \$160.00 out. The judge remarked, "Now that was a hell of a party, wasn't it?" and all went home happy.

#### IV.

Colonel Robert S. Morrison, father of Arthur R. Morrison, was one of the great characters who practiced law in Colorado in an early day. He was the author of "Morrison's Mining Rights," the guide book on mining litigation for a generation, and probably to this day.

One day he was trying a case in Clear Creek County. It was the habit of the trial judge to read the morning paper while the trial was proceeding. The attorneys were bickering back and forth and getting nowhere, when the judge lost his temper and said to the attorneys, "You gentlemen try this case as it should be tried. You know what is proper and what is improper. I don't want to be bothered with your objections." Colonel Morrison answered heatedly, "I don't speak to opposing counsel." "Telegraph him, telegraph him," the judge snapped back and continued to read his paper.

V.

Forty years ago the procedure in strikes following labor disputes was for the companies to appeal to the sheriff to appoint all the employees who were on its side of the controversy deputy sheriffs. Such conditions existed in the coal mining camps of Fremont County many years ago. The sheriff was asked to appoint deputies named by the company, but he was quite reluctant to do so, and sought counsel of Mr. Clyde C. Dawson, father of Mr. Clyde C. Dawson, now of the Denver bar. Mr. Dawson advised the sheriff as to his duties, but the sheriff hesitated to follow the advice, and finally Mr. Dawson became provoked and said, "Hell, Sheriff, it isn't legal advice you want, it is political advice."

Mr. James T. Locke, of the Fremont county bar, was a native of that county. When I was clerk of the district court he was district attorney. Being from Missouri, I knew all the former Missourians and those from other sections of the South. I could speak their language, as it were. When Mr. Locke was prosecuting a case where the defense was the usual plea of "self-defense," he would bring the jury list to me, saying, "Now, Archie, I want you to indicate on this list all the Southerners. I don't want anyone on the jury with the exaggerated notion of self-defense." Though a Westerner, he knew some of the traits of the old-time Southerner.

One of Mr. Locke's clients, a dear old lady, a timid soul, held a note and mortgage on which foreclosure had to be made. Mr. Locke so advised her and she greatly protested, saying it was not right to sue anyone even on a debt, but as that was her only recourse she consented. When Mr. Locke put her on the stand to prove the note, the usual questions were asked, beginning with, "What is your name?" This quite confused the old lady, but she answered hesitatingly. Then she was asked, "How long have you lived in Canon City?" This did indeed excite and confuse the witness. She looked about the court room, hesitated, and answered, "Ever since you were a little bit of a baby." How true to life. We all measure time by different events, on a calendar all our own.

(Concluded in December issue)

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**Maybe It's Breaking and Entering**

"Any baby born to any tenant in this apartment during their occupancy is a violate of the ..... House rules. Hence, in that event, said tenant is required to move forthwith."

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