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CONVICTING THE INNOCENT?

In the article "The Last Refuge of the Rogue," which appears in the July, 1940, issue of DICTA, there is a reference to the case of State vs. Edelstein, 146 Wash. 221, 262 Pac. 622. Edelstein, a noted West Coast burglar, was convicted of burglarizing the Paulsen Building in Spokane on July 22 or 23, 1922, and in his defense he presented an alibi that he was in Lincoln, Nebraska, on the date in question. He offered evidence to sustain this alibi, a hotel register, which had been tampered with, but which showed Edelstein's name thereon on the questioned date.

The defendant was sentenced to life imprisonment in 1927, but in 1929 the trial judge, William A. Huneke, wrote to the governor of the state that Bert C. Farrar, examiner of questioned documents for the United States, had, after a careful study of the register, proved to the judge in 1929 that the register had been tampered with *after* Edelstein's name had been signed to it. Hence Edelstein's signature was the *first name* written on the register in the due course of business on the questioned date, and therefore he could not have committed the burglary in Spokane. While Edelstein had a "long and bad career of crime," Judge Huneke is now convinced that the defendant was wrongfully convicted of this "particular crime, because Mr. Farrar's proof amounts practically to a demonstration."

Mr. Milton S. Hanauer, an attorney in Spokane, who has evidenced an interest in this case, writes:

"The hotel register in question was taken from the Lincoln Hotel on or about the 10th day of October, 1925, by Chester Edwards, a detective of the Spokane Police Department. This register was produced at the trial only upon the insistent demand of the defendant, and the prosecution strenuously resisted producing the same, and did not do so until ordered by the court.

"Edelstein's alibi was not predicated alone upon the hotel register referred to. His alibi was also supported by the testimony of Lester Quick, William E. Sandler and Harry Rouk. The testimony of Sandler, an automobile dealer of St. Louis, Missouri, was to the effect that on the 25th and 26th days of July, 1922, he saw Edelstein in the sales room of the Moon Car Company in St. Louis, Missouri, and that these dates were fixed by records and an order of sale of an automobile written on July 26, 1922, and these records and order were introduced in evidence.

"The testimony of Harry Rouk showed that Edelstein occupied room 304 of the Majestic Hotel in St. Louis, Missouri, on July 25, 1922, and he further identified Edelstein as the man who so registered.

"The testimony of Lester Quick, a banker in charge of the safe deposit vaults of the Liberty Central Trust Company of St. Louis was that Edelstein entered the safety deposit vaults and opened his box, No.

281, at 1:40 p. m. on the 25th day of July, 1922, and this testimony was supported by the original records of the safety deposit department of the bank."

These facts are not mentioned in the official report of the case and instead there is reference to the fact that various witnesses claimed to have seen Edelstein in Spokane just prior to the date in question. In any event, Edelstein is serving his sentence and so far the governor has refused to issue a pardon.

Because of the use of the perjured alibi by criminals for many years, there is a general inclination on the part of all juries to disbelieve any alibi whether it is true or not. Judges, too, have frequently commented on the shocking array of perjury in cases where alibis are presented, and have stated that alibi testimony should be carefully scrutinized.

Hence an alibi defense, even if it is true, becomes of little value to the accused because of the general disrepute in which alibis in criminal cases are held by both judge and jury and particularly so when the defendant happens to be a person of questionable character, as is demonstrated by the Edelstein case. If an advance alibi law were universally enacted, perjury would be to a large extent eliminated in criminal trials, and the alibi would again regain its status as a legitimate defense. If the facts of the alibi were legitimately established in advance of trial, prosecutions of unjustly accused defendants would be fewer, the administration of the criminal law would be an even stronger shield for the innocent, and miscarriages of justice would be further avoided. —WM. HEDGES ROBINSON, JR.

Junior Bar Holds Regional Meeting

A successful regional meeting of the Junior Bar Conference was held in Denver, February 27. Philip H. Lewis of Topeka, national vice-chairman of the Conference, was in charge of the meeting.

General topics relating to membership, meetings, admission to the bar and sponsorship of the newly admitted members to the profession were discussed, as well as the question of methods of exchange of ideas between the regional conference units and a program of better public relations for the bar generally. The members in attendance were well satisfied with the results of the meeting and left with a deeper consciousness of the ability of the young lawyer to promote the best interests of his profession through organized activity.

The Meeting was addressed by Jacob Lashly, President of the American Bar Association, who spoke on the matter of bar associations and bar activities. Mr. Lashly's ten point program on public relations is already being followed as closely as is practical by the Colorado Conference this year.

During the afternoon the Conference meeting adjourned to join with the Conference of the State and Local Bar Association Executives, to hear President Lashly's address on the need of the leadership of the bar in these troubled times.

LEGAL INSTITUTES

The first institute on the new rules of civil procedure was held in Denver on February 28 and March 1, 1941, under the auspices of the Colorado Bar Association Committee on Legal Institutes. The new rules of civil procedure, which were promulgated by the Supreme Court January 6, 1941, after two years' intensive study by a committee of the State Bar, become effective on April 6, 1941.

The Denver institute, which opened with a few remarks by Judge J. Parker, justice of the Circuit Court of Appeals for the Fourth Circuit, and Jacob M. Lashly, President of the American Bar Association, is the first of a series of similar institutes to be held in the state. An average of 400 lawyers was in attendance at each of the five sessions. The first session began Friday morning, and sessions were held that afternoon and evening and all day Saturday.

The plan of the institutes has been to have the final revision committee, which drew up the final draft of the new rules, discuss each section of the rules as to their use, application and effect. As a result of this plan, the rules have been divided into 17 lectures. After each lecture, lawyers attending the institutes have an opportunity to ask questions on the practical operation of the new rules.

A session limited to the judges of all Colorado courts and their clerks was held in Division III of the Denver District Court on March 7th and 8th. At the Saturday morning session, Judge Orie L. Phillips, of the U. S. Circuit Court of Appeals, and Judge J. Foster Symes, U. S. District Judge, addressed the gathering.

Other sessions will be held in Greeley on March 15, 1941 (one day only) at the court house, in Pueblo on March 21 and 22 at the court house, and in Grand Junction on March 28, 29 at the LaCourt Hotel.

Edward L. Wood of Denver, chairman of the Committee on Legal Institutes, and Philip S. Van Cise, chairman of the Revision Committee, have worked out the plan of the institutes, and they and their committees are responsible for the smooth-working organization which has made the institutes so popular.

Regional Conferences of Bar Executives Held at Denver

Calling upon the state court judges to use their inherent powers to improve judicial administration, Judge John J. Parker, justice of the