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Francis Eugene Bouck

BY NORRIS C. BAKKE*



FRANCIS EUGENE BOUCK

*Is it not strange that princes and
kings,
And clowns that caper in circus
rings,
Simple folk, like you and me,
Are workers for eternity?
To each is given a bag of tools,
A shapeless mass and a book of
rules,
And each must hew, 'ere time is
flown,
A stumbling block or a stepping
stone.*

We have met here today to honor the memory of a man whose life was definitely a stepping stone to a higher and nobler life for many, many people, and it is particularly fitting that this memorial service should be held in Leadville, the place he loved to call his home, and the community in which he gave the best years of his life—a community where he was known and loved by neighbors who felt that he belonged to them.

While I feel highly honored to be privileged to speak to you on this occasion, I am not unaware of my unworthiness for the task of appraising the life of one who rose to such heights in the service of his state; but, as one of his associates on the Supreme Court, and as a fellow member of his church, you have a right to ask me to pay your friend, and mine, this tribute in your midst.

In proceeding, I shall bear in mind the motto of one of the organizations to which he belonged, and which is represented here this morn-

*Justice Colorado Supreme Court. This address was given at a memorial service for Chief Justice Bouck in Leadville on November 30, 1941.

ing: "The faults of our brothers we write upon the sands; their virtues upon the tablets of love and memory."

Francis Eugene Bouck was born in New York City, November 25, 1873, and had he lived one more day he would have been sixty-eight years of age. His father, a physician, died when Justice Bouck was only seven years of age, consequently he was early in life charged with much responsibility. There can be no doubt that because of his close association with his mother from that time on he had instilled into his life some of those fundamental qualities which compel great achievements. His mother was the daughter of one of the German leaders who, during the revolution in 1848, sought to set up a democratic form of government in Germany, but because of the failure of this attempt, he, with others, was forced to flee to America. That those principles of freedom—a very part of the mother—passed to the son was aptly demonstrated in Justice Bouck's life. After completing his elementary education in Brooklyn, he entered Columbia University, from which he received his bachelor's degree in 1895. He then entered upon the study of law at the same institution, but moved to Denver before completing his course there. He took his law degree in Denver in June, 1896. He was admitted to the bar on June 22nd and immediately took up his residence in Leadville to begin the practice of his profession.

It would be very interesting to pause here and discuss a few of the contacts that he made with some of the outstanding personalities of Leadville of the time, such as Samuel D. Nicholson, Edward T. Taylor, Simon Guggenheim and many others who have made history in Colorado. You may know that this twenty-three year old tenderfoot from New York City had some great experiences. He exerted every effort to qualify for service in the Spanish-American war, and did get as far as a short residence in Camp Alva Adams near Denver. However, he was finally rejected because of imperfect eyesight.

His service in this community is too well known to you to require much comment, except to say that he served with distinction as city attorney, county attorney, deputy district attorney, and director of your public library.

It was only natural that his service should attract statewide attention, and when Fred Farrar became attorney general in 1913, he named Francis E. Bouck at his deputy, in which capacity he served until 1918, when Governor Gunther appointed him as judge of the Fifth Judicial District. In the fall of the same year he was elected to that office by the people of this district, and reelected in 1924. During the time he was

-serving as district judge, he frequently assisted in the Denver courts, and definitely established himself as one of the ablest judges in the state. It was more or less inevitable that in 1932, when the Democratic party was looking for an outstanding candidate for the Supreme Court, that Judge Bouck should be given the nomination, and he was elected as a justice of the Supreme Court in November, 1932, with an overwhelming majority. He served in this capacity until January of this year, when he became Chief Justice, in which capacity he was serving when he passed away last Monday morning.

His greatest personal achievement was his scholarship. I think none will deny that he was the most outstanding scholar to serve on the Supreme Bench of this state. Not only was he a searching student of the law, but his appreciation of the arts and sciences was a joy to those who had the privilege to share it with him. He was an indefatigable reader of the Masters, and his very soul was permeated with the finest of literature and art of the ages, making his society and companionship a thing to be desired by those who love and search for the best things the world has to offer.

It was no idle gesture on the part of the State Historical Society in selecting Justice Bouck as its president. I have never known any other man to have such an intimate knowledge of the state's history as did Judge Bouck. This fact is important when you recall that he did not come to Colorado until he had attained his majority. Not only was he well acquainted with the leaders in nearly every county of the state in recent years, but he knew, or was familiar with the activities, of most of the men who had made any contribution to the history of his adopted state. His service to the Historical Society in this connection was inestimable.

Dr. Nicholas Murray Butler, president of Justice Bouck's alma mater, defines a liberal as "one who builds upon the foundation of what has been accomplished through the centuries in a growing and widening civilization, and who goes forward in an open-minded constructive spirit to guide the development of all this so that it will serve man's highest and finest needs and ideals, and be kept in conformity with changing facts and new needs." Dr. Butler could well have had Justice Bouck in mind when he set forth that definition. Certainly, it was in just such a spirit that Justice Bouck approached his work on the court, and particularly was it true when faced with questions involving construction of provisions of the Constitution. He realized that the progress of civiliza-

tion depended upon an upward and forward look, and that was the direction of his vision. His conception of his work was similar to that of one of the workers on St. Paul's Cathedral in London who, when questioned by Sir Christopher Wren, the architect, as to what he was doing, replied, "I am having a small part in a great work."

Justice Bouck had another outstanding characteristic—his absolute sincerity—in which connection, I think the following story is appropriate: It has to do with the derivation of our word "sincere," and I hope every time you sign your letters "Yours sincerely" you will remember this. The word is made up of the two words, of Latin origin, *sans cere*, being literally translated "without wax." The words came about because of a practice of certain sculptors in Rome who tried to cover up the imperfections in their work by heating wax and working it into blemishes to fool the judges. The practice was soon discovered and prevented thereafter by subjecting all the exhibits to great heat, which would melt the wax and expose the imperfections, and only those *sans cere* would be approved. All of Judge Bouck's work could stand that test.

I owe it to you people, gathered in this house of God, of the denomination with which Justice Bouck was affiliated, to speak of his personal faith. I have already spoken of his scholarship, which, I now add, included a pronounced familiarity with the Bible. While not presuming on my own knowledge of the Book, I confess that on several occasions Justice Bouck pointed out to me names, places, circumstances, and quotations from that source that could come only from one thoroughly familiar with it. No doubt many of you here today remember when he served as superintendent of the Sunday school in this church, and I say in this connection that such voluntary service in the Sunday schools of America is one of the finest examples of devotion to faith. Justice Bouck also served as an elder in this church, and while he never boasted of it, I am sure that he felt in his heart that it was an honor, as did President Benjamin Harrison when he said that the greatest honor that had ever come to him in his life was when he was chosen as an elder of his Presbyterian Church in Indianapolis. Justice Bouck, however, was not the kind of man "to wear his religion on his sleeve," but rather exemplified it in his daily life. It is illustrated by the following story, which I know to be true: One of those cold, blustery days, when few people venture out, Judge Bouck was driving with his family through our City Park. He passed one of the familiar red-clothed popcorn vendors shivering in the cold as he offered his wares for sale. The Judge, stopping his car, walked over to the man to make a purchase, paying with

a liberal coin. Returning to the car, he remarked, "I guess that poor fellow will not have very many customers today."

Another thing which I am sure the Judge would wish me to include in this tribute was his love for the mountains. I am sure it was as much this factor as anything that made him come to Leadville when he did. The records of the Colorado Mountain Club show that for years he was one of its most enthusiastic members, and his intimate knowledge of many of our famous peaks was derived from their actual climbing by him. Only those who share the enthusiasm for this exhilarating sport can fully appreciate all that this meant to him.

Another thing that I think should be mentioned is that regarding his affiliation with the Committee to Defend America by Aiding the Allies. I say this because he spoke to me concerning it. He believed very definitely that we face a grave crisis, and the freedoms about which he had learned from his mother were in danger of being destroyed, and he was very anxious for "all out aid." I cannot help but believe that his grave concern for his beloved country in this hour hastened his passing.

Judge Bouck would be the last man to think his name should ever be mentioned together with that of Lincoln's, but I am reminded of a tribute paid to Lincoln by my friend, T. V. Smith of the University of Chicago, which closes with the thought: "How prudently we proud men compete for nameless graves, while now and then some starveling of Fate forgets himself into immortality." There was something like that about Judge Bouck.

Finally, I believe the Judge would have me say a few words concerning something which I know was definitely a part of his faith, as well as that of all of us who are here today. You all remember the experience of Job as it is related in the Old Testament, how after his great affliction had come upon him, Job cried out, "Man that is born of woman is of few days and is full of trouble. He cometh forth like a flower and is cut down. He giveth up the ghost and where is he? If a man die, shall he live again?" Ever since then that same question has been echoing in the hearts of men through the ages.

You people up here at Leadville know something about precipitation of metals when acted upon by various chemicals, and will appreciate the following story: In the laboratory of the great Faraday, a workman once inadvertently dropped a precious silver cup into a vat of acid. The silver, as a consequence, was dissolved and the cup destroyed. The work-

man went to the master chemist in great sorrow, telling of the great loss, but the chemist replied, "No, the cup is not lost; it has only gone away for a little while." Then he placed in the vat other chemicals that caused the particles of silver to be precipitated upon the bottom in a shapeless mass. It was then taken to the silversmith, who fashioned a new and even more beautiful cup than the one before. It was a new cup, and yet it was the same. It had gone away for a little while, but it lived again.

So we believe, and in this memorial service we reconsecrate ourselves in the belief that we shall see and know Judge Bouck again.

*"Not till the loom is silent,
 And the shuttles cease to ply,
 Will God unfold the canvas
 And explain the reason why
 The dark threads are as needful
 In the weaver's skillful hand
 As the threads of gold and silver
 In the pattern he has planned."*

Denver Bar to Discuss Total Defense

The next meeting of the Denver Bar Association will be held at 12:15 P. M., on January 5, 1942, in the Chamber of Commerce dining room. Several speakers will treat various phases of the general topic, "A discussion of Total Defense—National, State and Local." Colonel Early W. Duncan, commanding officer of Lowry Field, will speak on "The Federal Program in the Denver Area"; W. H. Leonard, Coordinator of the Colorado State Defense Council, will discuss "State Defense Problems," and Mayor Benjamin F. Stapleton will detail "The Work of the Denver Citizen's Council for National Defense." Following this, the meeting will be thrown open to general discussion.

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