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# Judge Lumkin Masterminds

## The Master Docket\*

Ain't nothin' like havin' friends, 'specially friends which take you out to eat. An' when you get some good idees along with the eatin'—well you just can't beat it.

Three-four weeks ago, me an' Jake an' Olie rides into Denver with a couple of cars of steers. We sells the steers all right an' then Saturday afternoon while I'm doin' a little shoppin', Jake an' Olie decides to look over the town. I gets my shopping done, sees a picture show an' ends up at the hotel 'bout midnight, but there ain't no signs of Jake and Olie. Next morning, Jake calls me an' says him an' Olie is in jail. Seems like they had too much snake-eye, an' as near as Jake can remember, some cops objected to their throwing pavin' bricks at the street lights.

Well, I goes right down to the jail to get 'em out, 'cause our train's leavin' shortly after noon, but it weren't no use, 'cause the judge don't hold no court on Sundays, an' on top of that, them two hombres just ain't in no condition to get out nohow.

Monday morning, them bein' pretty well sobered up, the judge slaps 'em each with a fine, which me havin' paid, I'll take out of their wages, an' then—but here I'm gettin' ahead of myself.

Monday morning while I'm waiting for court to open, I runs into a friend of mine who says the Denver Bar Association is havin' a noon meetin' an' wouldn't I like to come. I says I would, and then just to be sure them two ornery cowpokes is ready to go home on time, I lets 'em go back to jail an' don't pay their fines 'til the meetin's over.

An' man, it was a meetin', too. All them city lawyers sittin' 'round, an' the head table pret' nigh filled up with Supreme Court judges. Districk judges just weren't nobody, they for the most part being spread 'round with the common lawyers.

Everybody's talkin' 'bout law all the time, but mostly 'bout suits for defamation of character, an' the dismissal of same—all with examples, or maybe I should say with *a* example. The food ain't bad neither, what with the leftovers from Thanksgivin'.

An' then when the eatin's over, President Colonel Van Cise calls the meetin' to order an' right away chucks the job of presidin' on to Tom Keely, which the latter does right well. The subject for discussion, 'cording to Keely, is the Master Docket.

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\*By Judge Homer P. Lumkin of the DICTA staff.

So that you can understand the whole business, it seems like under this Master Docket, all the cases which is to be tried is put in a hat an' then you shake the hat an' the presidin' judge deals out the cases, face up, to the five trial judges. When your case comes up, you're s'posed to be ready for trial, an' God help you if you ain't.

Judge Stan Johnson talks first on "the views of the bench," an', 'cording to him, the bench's views is mostly pretty rosy. He says right off that everybody might as well get it through their heads that the Master Docket was thought up for the convenience of the court an' not for the convenience of lawyers. An' then he goes on to say that, all on 'count of the Master Docket, the courts can try eight cases a week, 'stead of six as before; that the cost is 'bout a third of what it used to be; that anybody who wants to try a case can do it a lot sooner; that cases 'rising out of the same thing can now be tried together, and that, seein's how the same judge set all the cases, lawyers don't have to worry no more 'bout havin' to try two cases at the same time. (Seems though this last didn't work out so well, mainly on 'count of Judge Symes an' Judge Kettering an' the two J. P.'s an' the police judge not bein' members of the Master Docket.) Then the judge says, "You might think it ain't so good on 'count of——," an' names a few kicks. "But," he says, "that really ain't so bad because——," an' he knocks down every kick just as neat as pickin' blackbirds off a bob wire fence.

The judge is right slick in everything he says an' he acts like he really means it. I s'pose he does, 'cause seems like him an' them other judges thought up this Master Docket. But I can't help thinking that the whole idea is sorta immoral an' sinful. When I was readin' law, folks used to think it was bad to put suin' ideas into other people's heads, but with this Master Docket, suin's gonna get so cheap an' easy, it's just like askin' people to sue somebody.

Well, the judge's ideas is answered by Art Laws, an' does he answer 'em? He started right off by readin' some rules of court which says that courts is made for litigants (an' I s'pose their lawyers) an' not litigants for courts. An' then he reads another one which says that judges should pay 'tention to the time of litigants an' their lawyers. Them two rules is hot enough, but he goes on an' says judges would have less trouble followin' rules like that if they'd been lawyers before they was judges, or if they was, then if they'd try an' remember what it felt like.

'Bout that time, somebody sittin' at the table just 'cross from mine leans over to one of them districk judges—I won't tell you which one— an' says, seems like Laws musta just lost a law suit. An' the judge says he don't know 'bout that, but if he ain't, he's sure goin' to.

Well, Laws says that the only excuse he's ever seen offered for the Master's Docket—that's what he calls it, the Master's Docket—is that it

makes suin' cheap an' speedy, an' he don't think that's enough reason for all the trouble it's been causin'. More'n that, he says he ain't never found any way of knowing for sure just when the Masters gonna call his Docket.

After all that, Laws calms down a little and says that maybe it'll work out all right if the presidin' judge'll just bend his back a trifle an' if the judges'll try and get it out of their heads that all defense lawyers is just plain heels.

If I'd been Laws, I reckon I'd been kinda scairt to of said all he did. I s'pose a lot of other people felt the same way, but from the amount of clappin', it seems like they was plenty glad to have somebody else say it.

Then Percy Morris talks on the relationship of pre-trial conference to the Master Docket, an' from what he said, there weren't none. The judges, Perce says, has been so busy tryin' cases under the Master Docket that they ain't had time to have any pre-trial conferences. But, he says, maybe when they get caught up on trials, then they'll have more time for pre-trial conferences, which'll do away with some trials an' shorten all the rest an' that way the trials won't take so long, an' then they'll have more time for pre-trial conferences, which will give 'em more time for——Well, you can see that the whole thing gets goin' faster an' faster all the time, an' somebody says that if it keeps on, maybe five districk judges might be enough an' then two of 'em will have to go back——or start, whichever it might be——to practicin' law.

The last speaker who has writ down what he's gonna say sits down, an' then Keely says anybody else who has anything to say, can. So Al Vogl gets up an' says that he thinks they ought to have a sorta Master Judge like they had, or anyway thought 'bout havin', in 1912. This Master Judge, says Al, could adjudge all the pleadin'—that way maybe gettin' some uniformity—have all the pre-trial conferences an' then deal out the cases to the other judges for trial. Al don't say so, but I'm thinking maybe he figures that since the trial judge wouldn't know nothin' 'bout the case 'till he gets it, maybe he wouldn't decide it 'till after the trial.

Lowell White says the Master Docket's all right in some ways, but he don't like the way some judges is always suggestin' that he hire some other lawyer to try his case just 'cause he'd already agreed to try a case on that day over in Judge Symes' court. An' that's partic'ly bad when he's maybe taken the case at less than scale, an' if he has to pay what the union says to somebody else, he's gonna end up by losin' money. Likewise, Lowell says, when one pardner, who's handled and maybe knows somethin' 'bout the case, is sick or out of town or playin' golf, the judge oughtn't to shy away from settin' the case over for the other pardner, who don't pretend to know nothin' 'bout it.

Well 'bout that time Clyde Barker says he'd like to hear what Judge Symes thinks 'bout pre-trial conferences. Tom Keely, presidin', says if Barker really wants to know, he might read the judge's article in the last DICTA, an' besides there weren't enough time left for the judge to talk. Ward Bannister says maybe the judge knows somethin' about it which he didn't say in DICTA, an' then follows up with a motion that there *was* time for the judge.

I don't rightly know just what is happenin' after that, 'cause while everybody is so wrought up, I snakes in that last stalk of celery, but whatever it is, it don't take long, 'cause the next thing I know Judge Symes is talkin'. He says pre-trial conferences is O. K. in his court, an' that a lot of cases has been settled right after the conference.

After that Keely don't take no more chances, but passes the meetin' right back to the Colonel, an' the latter declares same adjourned.

Now meetin's like that is all right, but if you don't get nothin' but eats an' what people says, then you're missin' somethin'. You ought to get some idee of your own, which I did, and I'll tell you what it is.

A long time ago, it was gener'ly s'posed that people who knew somethin' 'bout the facts was in a better position to decide who was right than anybody else. That bein' so, the witnesses an' the jury was usually the same. Then they passed some new rules an' decided that it was all right if the jurors was witnesses, but it weren't necessary. Finally somebody said—fellow name of Coke, I believe—that witnesses oughtn't to be jurors, the thought bein' that if the jury didn't know nothin' 'bout the case, they couldn't decide it 'till all the witnesses had had their say.

Well, I'm thinkin' that if that was good for jurors, it ought to work just as well with judges. An' if you carried out Al Vogl's idee, then the trial judge wouldn't know nothin' 'bout the facts 'til the day of trial.

An' then we pick up Lowell White's idee—ain't no point in stoppin' with the jury an' the judge. We could just let the pardner who don't pretend to know nothin' 'bout the case do the tryin'. In some cases I've seen, it'd work just as well to let the other one, or maybe even both of 'em.

But when you get that far, you've got the jury, the judge an' the lawyers all knowin' nothin' 'bout the case, so none of them can pull any skullduggery. After all, the only two troubles anybody has in tryin' law suits is the facts an' notions somebody had before the trial started. Rules of evidence bein' as they is, any good judge ought to be able to keep the facts clear out of the case. An' then if nobody knows nothin' 'bout the case, they just natur'ly can't have any bad ideas.

So what do you get? I'll tell you. Justice! Justice, as sweet an' pure as a mountain crick.