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TERRITORIAL DAY COURTS

(*A Reminiscence by* JUDGE JOHN C. BELL)

AMONG the effects of S. N. Wheeler, a pioneer of the Colorado Bench who died in Grand Junction last year, is the following letter written to him over twenty years ago, on January 10, 1913, by former Judge John C. Bell, now deceased. Through the courtesy of Mr. S. G. McMullin, of the Grand Junction bar, we are enabled to furnish it to DICTA readers.

January 10, 1913.

S. N. Wheeler, Esq.,
Grand Junction, Colorado.

Dear Sir:

In reply to your kind favor regarding the organization of holding court in territorial days and in the first few years of Colorado's Government, I would say I was at the Town of Saguache in Saguache County in 1874 or 1875 when the first term of court was held there. Judge Moses Hallett and District Attorney Henry rode into the town and camped. Otto Mears and myself went over to welcome them to the camping ground. There had just been a warm contest between the Town of Milton and Saguache for the location of the county seat. Otto Mears was leading the fight for Saguache. He introduced himself to Judge Hallett. "Shuge, I 'spect you'll have to try me," he said, "Shon Lawrence tried to sell me votes for Siwach and I offered him five hundred dollar for the Mexican vote and he wanted seven hundred dollar and we don't trade. He is now going to have me indicted for trying to buy votes and if he do, I'll pay my fine and then have him indicted for trying to sell votes. Don't you see?" About this time a herder rode up and asked them if he could herd their horses at \$.50 a day each. Old Judge Henry asked if he herded them where there was grass or where there was no grass. Upon the herder assuring him he herded them "to the grass" they were then let out at \$.50 a day.

The Court spent the first day with maps trying to locate the county seat. They at last concluded it was on the

Russell ranch and opened court. I had my initial case at this term, defending Rocky Mountain Hank for cutting a bartender's hand with a butcher knife. Rocky Mountain Hank and a number of his long haired followers swore that he had the butcher knife with his hand resting on the bar and twitching it from the left to the right between his thumb and forefinger and the prosecuting witness put his hand under the knife and was accidently cut, a most improbable story. However, the jury promptly rendered a verdict of not guilty. Judge Hallett announced that the prisoner was discharged. Rocky Mountain Hank, with the gusto of Buffalo Bill, approached the Judge, made a low bow and said, "I thank you, Judge." Judge Hallett raised in his chair and replied, "Yes sir, and in the language of the Indiana Judge, I would say, 'Don't you do it any more, sir'."

Early in the spring of the same year the miners from all portions of the country gathered in Del Norte, county seat of Rio Grande County, under the influence of the advertisements of the railroads, stage lines and hotels, showing that great fortunes were being uncovered daily in the Summit Mines. When they reached there, the snow was so deep that there was no chance to go to the mines for 60 days and they spent that 60 days in fleecing one another in the courts.

Among the members of the bar at that time in Del Norte were D. C. Russell, a most brilliant young lawyer; John G. Taylor, Judge Adair Wilson and later Thomas M. Bowen, Judge Ed. Richardson, Judge Tankersly and other leading lights of the state.

The most noted suit during the pioneer days was before Chancy Blackmer, as County Judge, in the case of Dr. A. vs. Mrs. Dr. A. for divorce. Dr. A. was about 70 years old and was building the first stamp mill in the Summit. He was a leading physician and capitalist of Chicago and unfortunately married a young woman of about 30, very stylish and fascinating. She didn't come with the doctor to the mountains and evidently enjoyed his absence more than his presence. Dr. A. had seen his error and made a contract with Judge Adair Wilson to get him a divorce from his young wife for \$50.00. No one had any idea that the wife would come to Del Norte to defend the suit. The summons was served

by publication and on the day set for hearing Mrs. A. appeared in court with a young baby on her lap that the doctor had never heard of and John G. Taylor, fresh from the University of Virginia, ready for battle. This created consternation in the mind of Dr. A. and he immediately retained all of the leading members of the bar of Del Norte. The Judge was wholly inexperienced in court business and as one attorney would finish an argument on an objection, the Judge would rule with him. A leader from the opposition would arise and inform the Judge that he wished to make a few observations on the same subject and when he finished the Judge would usually reverse himself and decide with him and the case continued for days, the decisions swinging from side to side as a speech was finished from one or the other. At last John G. Taylor arose and in a pathetic voice addressed the Court: "Your Honor, please, I came into this Court for the purpose of representing the rights of a forsaken widow and abandoned orphan." Dr. A. stamped the floor and shouted, "The h—I you say." The old man had never heard of the baby before the trial. Mr. Taylor proceeded, "But I find it is as impossible for me to keep with the rulings of this Court as it is for a Hindu to keep with the meanderings of the solar system and seeing that my day of usefulness is over, I bid you all a most respectful adieu," made a low bow to the Court, put his hat on the back of his head and began to stride toward the door. Mrs. A. sprang at him, gathered the tails of his Prince Albert in her arms and in a pathetic voice cried out, "Oh, Mr. Taylor, Mr. Taylor, do not forsake me at the hour of my distress." He turned and bowed to her with great deference and answered, "My dear madam, you will have to appeal to a higher power than myself to obtain relief in this august tribunal," and made his way to the door. This rivaled the best efforts of Sir Henry Irving and Ellen Terry. The Court adjourned to recouple the retreating attorney to his cause and at the end of seven days the jury returned a verdict against the beautiful woman but the versatile Judge set it aside and the doctor died before the final hearing.

In Lake City, after the election of Senator Thomas M. Bowen to the bench of the Seventh Judicial District, some of the most spectacular scenes occurred in his Court. He had a

habit of going out with the boys in the evening and joining them in their convivialities. As he became a little enthusiastic he always showed a mania for singing. His favorite song at his first term was "Here's to the Health of General Jackson, God Bless the Bold Hero." One morning while in the midst of an important mining trial twelve bankers and leading business men of the town marched through the courtroom inside of the railing and dressed up in front of the Judge and at the signal of the pointer of Major Brockett they sang at the top of their voices "Here's to the Health of General Jackson, God Bless the Bold Hero." The Judge pounded his table, called the sheriff and when the singers became quieted the Judge said, "Can it be possible that twelve of the leading business men of Lake City have gone crazy all at once." Major Brockett replied, "It is not from sentiments of disrespect but from sentiments of the greatest respect we have for your Honor that that caused us to come here. You taught us to sing this song last night and we came over to show you how much we have improved since you left us at five o'clock this morning."

At my first appearance in Montrose, I met Samuel H. Baker, a leading member of the bar, and asked him how he was starting out. He said they had had no courts in Montrose except Justice Courts; that Chancy Blackmer owned the only Justice of the Peace in Montrose and that he, Baker, hadn't been able to win any court victories so far. He said on his arrival his special friends told him that he would have to have a Justice of his own before he could succeed; that he persuaded the County Commissioners to appoint a Justice for him and by the time he had filed his bond and was sworn in that he, Baker, had accumulated a dozen cases; that he brought them all before his Justice but that Chancy Blackmer came in and filed a motion for change of venue and took them all over to his Justice and won all the cases as usual. Baker said he had done pretty well playing poker since he reached Montrose, but laboring under the disadvantages he had with the courts, he had spent it all trying to practice law.

These courts were governed largely by the prevailing sentiment of the people. For instance, in the midst of a most exciting criminal trial some anxious but dry spectator who

wanted to lose no part of the proceedings would rise and make a motion that the court adjourn long enough for those who felt inclined to go take a drink to do so. The motion was always put and carried.

When San Juan county was formed the Governor appointed Judge J. as County Judge. He felt that it was a very dignified position and he dressed as though he was going to attend an evening ball, rode into Silverton on a buckboard with his stiff white shirt, standing collar and a plug hat on. The native dress there was the blue flannel shirt, talc stained canvas clothes, nail bottom boots and a slouch hat. The miners took the new Judge in hand, beat his plug hat into shreds, took his white shirt off and ran it up on a pole at the corner of a popular restaurant and advised the Judge to supply himself with some modern clothes before entering the hotel. Judge Hallett soon afterward held his first term of court on the District bench and the members of the bar persuaded Judge J. that it was the custom for the County Judge to sit as a side Judge to the district incumbent. He was soon invited to abdicate the bench and narrowly escaped the county jail.

In the early days of the Seventh District, Charles Rood was the District Attorney. It was his custom to indict the gamblers, have them fined and when the term ended to remain a week and give them a chance to win back their fines and costs.

While in Silverton a number of visiting members of the bar were sitting in the office of the charming and entertaining John G. Taylor. He had a mania for the poker game. He said, "Come on, boys, and let's have a little game of draw." No one was inclined to join him. He said, "Oh, come! Let's put up \$10.00 and play freeze out for it before supper." No one showed any inclination to invest. He pulled down his chips and deck and said, "Sit down there, boys, and let's run them around a time or two and see how they would go were we really playing." As the game warmed up a drunken miner was passing and heard the rattle of the chips, staggered in at the door and said, "This a club room?" Mr. Taylor said, "Yes, sir." The miner threw \$5.00 on the table and said, "Give me \$5.00 worth of chips." They were counted

out to him and the wink went around and the party allowed the drunken man to win \$5.00 to \$6.00 a hand to see his bump of self-esteem swell and to hear his poker nomenclature. He soon had \$150.00 worth of chips, pushed his chair back and said, "Who cashes these chips?" Mr. Taylor said, "Nobody," and with a bland smile looked down upon the miner and said, "We were just playing a little game of shoot-mouth." The miner drew an immense revolver from his belt, held it up with his right hand and whirled the cylinder with his left and said, "I'll just give you 30 seconds to cash these chips, or there will be the d—nest game of shoot-mouth that ever occurred in Silverton." Mr. Taylor, with a heavy brow and bulging eyes, suavely said, "Quiet down, my young friend, this is a gentleman's game. Put down that gun; it might go off accidentally and some of your friends get hurt. Sit down and we will play a couple of rounds, cash your chips, go get a drink and all go to supper like gentlemen." The miner quietly slipped into his seat, resumed his hand and the nudge went around and before the two rounds had been played he was cold-decked out of all of his chips. John Taylor rose and said, "Come on, gentlemen, we will all go get a drink and go to supper, and I now give you timely warning that there will be no more shoot-mouth played in this office."

In the earliest court days in Grand Junction, while Her- shall M. Hogg was district attorney, he was trying to a jury a prisoner who had shot Mr. Pickett through and through and at the previous term he had tried another prisoner for having shot Pa Buzzard through the body. He said, "Gentlemen of the jury, we have had two of the most remarkable cases in the history of court proceedings. At the last term we tried a prisoner who shot Pa Buzzard in one side and the bullet came out at the other and in a few days Pa Buzzard had his irrigating shovel, watering his crops, with no sign of any injury except a little cherry spot on each side. We are now trying this prisoner, who, with a Winchester, shot Pickett in one side and came out the other and in a few days he was on his bucking bronco with no signs of an injury except light cherry spots on either side. I cannot account for this on any other hypothesis than that the people of Grand Junction have no vital parts."

He had a very successful term of court, convicted ten or twelve prisoners and the sheriff and his deputies fastened them together and moved them to the depot to transport to the penitentiary at Canon City, but when they reached the depot the train was an hour late. Mr. Hogg got pretty well enthused, went around and shook hands with all of them and asked them to not be discouraged; that they were no worse than the remainder of us. He reminded them that they had simply been caught; that the remainder of us were uncaught criminals. They loudly applauded him and solicited his aid and assistance during their imprisonment. He cheerfully promised all kinds of help and immediately organized them into a chain gang, marched them around for half an hour instructing them in the chain step.

I am sorry that I can't give you something more interesting. If you can find anything about this that you can use, extract the essence from it and do as you will with it or throw it in the waste basket.

Yours very truly,

JOHN C. BELL.

THE JUVENILE COURT OF DENVER

There has recently been prepared by Hon. Stanley H. Johnson, Judge of the Juvenile Court of the City and County of Denver, a very complete and interesting digest and analysis of the juvenile court law and its work. The pamphlet consists of more than 75 pages and represents considerable work on the part of the author. It will be sold for 25c per copy, which is less than the cost of printing, and the proceeds will be returned to the court funds. Arrangements have been made to have the book distributed by law students to the offices of the attorneys.