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The Annual Banquet

A long-hand report by JOSEPH C. SAMPSON

THE keynote of the Annual Banquet, held at the Brown Palace Hotel on the evening of March fourteenth, was Idealism and any lawyer who came away from the meeting without some degree of inspiration must have been hard-boiled indeed.

A Queer Choir

Selections sung by the Bar Association Choir, by way of introduction, were perhaps a bit unorthodox but the congregation joined in the chorus in a spirit of irreligious abandon reminiscent of the Hilliard-Walker-Kavanaugh frolic of 1926. Ed Knowles, Tom Keeley, Fritz Nagel, Charley White, and Jack Scott were the singers and perpetrated parodies on Volsteadism, Minimum Fees, Pivan, Senators Toll and Bogdon, and Judge Lindsey's Companionate Marriage.

Preliminaries from the President

Genially opening the meeting, President Marsh told a story of a young graduate of Oxford who determined to go to London to enter politics at a time when the Whigs were the radical group while the Tories represented the well-to-do element and was advised by his professor to vote with the Whigs but to dine with the Tories. And, Mr. Marsh declared, in his own case, he didn't know how he would vote but he would always dine with the lawyers. He thanked the Banquet committee for its efficient work in arranging for the meeting and explained that, while they would stand sponsor for the program up to that point, the toastmaster would be responsible for the opinions expressed thereafter, and that he was a man who was inclined to disagree with

people, and only believed half the lawyers who appeared before him. The toastmaster, he said, was a genial and affable justice—and equally affable in cases of injustice. Once, he declared, Mr. Justice Burke had been much more considerate of his friends than he was now, for in the campaign of 1896 he had been claimed by both free-silver and gold-standard factions and when his friends became concerned about the matter and inquired how he stood he had replied—that he was the most misquoted man in the entire state. He had fought out the campaign vigorously on that firm stand. Men changed with the times, Mr. Marsh declared, and the Chief Justice was not the Mr. Burke of yesterday, for he took so much pride in his opinions now that he even had them printed at public expense, and they were all looked upon as high authority.

Burke at Bat

The toastmaster declared that he was more indebted to the president than he could explain for his heart warmed toward the man who had the courage to say whatever was called for by the laws of hospitality and did not swerve from his course despite the most piteous cries of Truth. He never knew, he said, that two groups had ever claimed him and he quite understood the reluctance of the president to stand sponsor for what might be said following his introductory remarks. The president and the program committee had differed over the selection of a toastmaster, he said, and the president had finally yielded to the committee's choice. The toastmaster idea, he declared, was an ancient and honor-

able institution, going back to the days of the Roman Empire when the most drunken guest was crowned toastmaster at the banquets to Bacchus because he had no reason, and he admitted the historic analogy. He had been much interested, he said, in the musical program, 'now so happily finished.' Whenever a Methodist conference gathered, the toastmaster declared, there was wit, wisdom and talent in abundance and all you had to do was to reach out and select whatever talent you required for an occasion like this one. We were indebted to such a conference for the privilege of listening to the first speaker, Professor John J. Cornelius, formerly of Lucknow University, India, and a native of that country.

Cornelius Rebellious

Professor Cornelius explained that he had been invited here by the Foundation for the Advancement of Social Science and appeared before us under its auspices. Being referred to as a native of India, recalled the story of the farmer who had for the first time seen a picture of a kangaroo in a book and called for help. When a student explained to him that the picture was of a native of Australia, the farmer had exclaimed, "For pity's sake, my sister married one of them." That was about the idea we had, he declared, of people of other countries. Western people took a peculiar attitude toward the civilization of others. Human beings were one and if they developed differently it was because of their environment. When he and his fellow-Indians had arrived in this country, he said, they had been asked by the reception committee to wear their turbans and flowing robes and in Springfield, Massachusetts, these had caused quite a sensation. They were followed down

the street by a crowd of small boys and finally when one of them turned and asked one of the boys what they wanted, he had said, "Oh Boy! It speaks." He had never forgotten this incident, he said.

Calls Us Narrow Minded

Peculiar customs and habits differentiated people, he said, but not fundamentally, and it was surprising how narrow-minded we Westerners were in putting people through the same mold. In going into an American church, he said, he had once taken off his shoes and, being corrected for doing this and being asked to take off his hat, he had explained that in India the custom was reversed and the shoes taken off before entering any carpeted place while the turban was kept on. Here, we thought of civilization as being inherent in people and accepted our own type as superior but the fact was that civilization was the outcome of the problem of meeting conditions, and the methods chosen to solve the problem gave direction to the particular type of civilization. When man analyzed life according to its purpose and meaning, it gave a spiritual civilization.

West Warlike?

All religions had their origin in the East, he said, because of the spiritual method of solving the problem of civilization prevailing there. Here in the West, our contest with man and nature had developed a civilization of conquest. There was a difference between our civilization and that of Europe, he declared, and we had made a contribution in our mechanical achievements. He told a story of a remarkable table, made by a carpenter friend of his, which had three tiers arranged in such a way that the carpenter's wife would not have to leave the table in serving the food and which had made it

possible for him to save his wife labor and thus entertain his friends. That table, he said, illustrated exactly the problem America now faced. We had vast resources and we were faced with the problem of developing them.

Human Soul the Same Everywhere

Anthropologists tell us, he said, that we all had our origin in Asia, and, after all, we find the human soul the same everywhere. Man adapts himself to his environment and has spiritual unity with all human beings everywhere. During the dinner hour, he said, Justice Butler had asked him if it were true that the Chinese ate rats and that had reminded him of the American woman who had once asked a Chinaman how it was possible for the Chinese to eat rats, to which the Chinaman had replied that it was hard for him to understand how Americans could eat hot dogs.

What Is Civilization?

"What is civilization?" the speaker demanded. The Japanese, for example, had culture, philosophy and literature before their recognition by Western nations. From our point of view, he declared, there was but one mark of civilization and that was the power to kill. This is what has happened to Japan and so we salute her, he said. If culture, art and philosophy is a mark of civilization, then the civilization of the East is a high one. If any one of us, on going out of the hotel, were held up at the point of a pistol, the man who held us up would be a criminal, he declared, but when a nation did that same thing to another nation, we called that civilization. Apropos of this subject, he told of Ghandi's efforts against what he called "British militarism." If people of the world differed, he said, it was only because of conditions over which

they had no control. We had taught the East the art of war, he declared in conclusion, and in course of time the East would teach us peace.

Mr. Justice Burke Again

After thanking Professor Cornelius for his thoughtful message, the toastmaster said that anybody might be elected to a civil office and that a number of men in Colorado had suspected that in the recent past. In Texas they were quite sure about it and some people in the District of Columbia would take an oath to it. But the lawyers had selected officers of their associations with exceptional care and reading over the names on the lists of bar association officers, past and present, was a source of genuine pride. Tonight, we had with us the president of the Colorado Bar Association. In 1907, he had been a member of the General Assembly but, because of his busy and fruitful years of service since that time, we could well forget it. Once, he said, Mr. Vincent was examining a witness in an attempt to impeach him and, after forcing him to admit conviction of quite a number of petit crimes, he finally shouted, "Now, Sir, can you tell me of any crime that you haven't been guilty of?" whereupon the witness had replied, "Well, I never was a member of the House of Representatives." He had also once defended a man charged with grand larceny, the toastmaster said, and concluding that he was lost on the facts, concentrated on the task of getting his man off on legal technicalities. He offered an instruction to the court which read, "The jury is instructed that it is a cardinal principle of the law in Colorado that it is better that ninety-nine guilty men go free than that one innocent man should be convicted." To this instruction the court had assented

but told Mr. Vincent that a slight modification would be made, and when the instructions were finally given, Mr. Vincent had been surprised to find tacked on to the end of this one, "but you are also instructed that in the opinion of the court the ninety-nine guilty men referred to have already escaped." If there were time to sketch the career of Mr. Vincent, Judge Burke declared, he would arise to speak amid a hush as profound as ever fell upon a similar gathering. When the profession is made up of men like this man, he said, the country will be safe. He trembled for him, however, because of his subject "Incidental Duties" and thought he might better discuss "Fundamental Duties." An old justice of the peace he once knew got his fundamental and incidental duties mixed up on one occasion, he said, and, after asking the bride if she would "love, honor and obey," in the usual manner, turned to the bridegroom and said, "Now prisoner at the bar, what have you to say for yourself?"

Veni, Vidi, Vincent

His subject, Mr. Vincent explained, had been selected before he had prepared what he was going to say. Mr. Marsh had telegraphed him asking for his text and he had selected it accordingly but whether or not he could build a speech around it remained to be seen. His time was limited, he said, and time was important. Lawyers regarded arguments as the best opportunity the court had of being informed of the law and rendering a correct opinion. Argument was one of our inheritances and we couldn't amend the habit any more than we could our family ties. But perhaps we indulged the privilege needlessly. One District Judge had told him that when

he went on the bench he had been a settled fundamentalist but after awhile he had become convinced that man must be the product of evolution and that when he had descended from the tree he had brought with him all the vocal characteristics of his simian ancestor. He hoped, however, that we wouldn't become as uniformly bad as the Persian judge who was called upon to judge the merits of two poems and after hearing one read, promptly awarded the prize of merit to the second without hearing any of it.

Incidental Duties Fundamental

Our incidental duties, Mr. Vincent declared, were as fundamental as they could possibly be. One of the papers read before the American Bar meeting last summer had pronounced the judicial branch of our government a conspicuous failure but he didn't agree with that. He thought the courts had been charged with delinquencies which should be levelled at other targets. He then referred to the various articles which had been written comparing our administration of the law with that of other countries and to the statement that had been made to the effect that of thirteen murders committed in London twelve convictions had resulted and the thirteenth man had gone to the insane asylum. The significant thing about that was that in London the police did get the criminals and brought them into court to be tried. And, likewise, the most significant thing about the Missouri crime survey was that it revealed that 81% of all those who committed major offenses were never apprehended. The courts, he declared, could not try criminals if the executive department of the government fails to catch them.

Bar Not Blameless

The Bar was responsible in a measure, Mr. Vincent said, for permitting the newspapers to blame the courts for delinquencies which should be laid at the door of the executive department. The Missouri Crime Survey showed among other things, he said, that in forty per cent of the cases studied prosecuting attorneys were not equipped to perform the duties of their office. Our duty, as lawyers, Mr. Vincent said, was to point out to the public where the trouble lies, and he thought we should have some constructive suggestion to make. The Bar must educate people to the idea that they will not get efficiency in the administration of justice until those charged with the duty of apprehending criminals are removed entirely from political life. In the United States, he said, we have the smallest police force per capita of any Western nation and sixty-five per cent of our policemen are engaged entirely in directing traffic or apprehending those guilty of mere misdemeanors. It is the fundamental duty of the lawyers to correct this situation and we should see to it that sheriffs are no longer appointed to office simply because they are good fellows or district attorneys simply because of their political ascendancy. In this way, Mr. Vincent said in conclusion, we could render a greater service than in the conduct of private business for clients.

Time Out for the Toastmaster

He had not expected, the toastmaster declared, to have the bench which he now encumbered dragged into the discussion and he wondered if the old Persian judge's plan, referred to by Mr. Vincent, might not be a good solution of the oral argument problem. No court in the

world, he said, would hesitate to give to an argument the very limit of time it deserved and he would cite the worst instance of the abuse of the privilege he knew of. In one case the supreme court had listened with great patience for two hours to an argument without being in the least enlightened concerning the points involved and Judge Burke had interrupted asking if the lawyer arguing the matter could tell him what the case was all about and giving him five minutes in which to do so. Opposing counsel then denied every statement made. When the argument was concluded, he said, the judges gathered around the table to discuss the case and none of them could make head or tail of it. The toastmaster then called upon George Manley to stand up and declared that when a former head of the association falls from his high estate he ought to be rebuked and he thereupon called on James G. Rogers to perform this painful duty.

Gracious Grafton

Mr. Rogers declared that no people deserved public service unless they were willing to express their gratitude for it. Last year the association had given Dean Fleming a token of its esteem and Dean George Manley had since retired as head of the Denver Law School. He referred to the long and faithful service of Dean Manley and to the fact that he had been one of the signers of the original agreement under which the school was formed in 1892. Poetically, then Mr. Rogers told of how Wyckliffe's ashes had been carried down the Avon and into the open sea and how the results of Dean Manley's able work had been carried out into the sea of the community. As a symbol of our gratitude to the Dean, we were presenting him with a silver loving-cup,

which Mr. Rogers forthwith handed over to him.

A Manley Reply

Dean Manley, responding to Mr. Rogers, said that the sentence passed on him by the court was much mitigated by the thought of the similar sentence passed on John Fleming and that he had been more than repaid for his service as Dean of the Law School by the product it had yielded. Out of the seven men in the original class, he said, six had been on the bench and the seventh had repeatedly tried to get there. When he thought of Judge Butler, Judge Shattuck and his other "boys" he felt well repaid and he refused to accept the responsibility for one of his scholars' having evolved the idea of companionate marriage.

The Toastmaster Introduces a Fellow-Townsmen

What man could ever measure the value of thirty-five years of such service as Dean Manley's? said the toastmaster, and who could doubt its benefit to this state? He would now introduce a member of the bar of his own city. All his days of active work in the bar and on the bench had been associated this man, who, he said, had been built low and squat in order that he might not bend before the winds of adversity or be warped by the sunlight of prosperity. In the only law-suit to which he had ever been a party, this man had been his counsel and had collected the full amount claimed as attorney's fees. He was a Democrat but he did not speak of this by way of reflection but merely to show how dear a Democrat might be to his heart.

A Stirring-Up from Sterling

The Honorable Thomas E. Munson, of the Sterling, Colorado, bar, has such a merry twinkle in his eyes

that it was hard to tell whether he meant to be serious or humorous in much that he had to say and some are said to be still debating the matter. It was so late, he said, that he ought not to speak at all and were it not for the fact that there were real dangers confronting the nation he would not speak. "Where are we drifting; to the shores of peace, plenty and prosperity, or over the cataracts to disaster; and who better can sound a note of warning than the lawyers?" Judge Munson interrogated.

Dwells on Dangers

In the last few years, Judge Munson said, poisonous gas had been discovered and one man in an aeroplane could now destroy every living being in a city like Denver in thirty minutes. The first danger he would speak of, he said, was the Yellow Peril. Statesmen with vision had for years predicted that China's hordes would invade this country. Ought we to wait till four hundred million of them were educated in the art of war before making our own preparations? They might rise like a dark cloud, hit our western coast and sweep across our country leaving death and desolation in their wake. Our only hope was that by the time they got through killing each other they might be fed up on war. The next danger, he said, was the Red Peril. Our whole country was now permeated with Russian bolshevik philosophy and the most effective remedy against this was for the lawyers to dwell on the advantages of our system of government. There were dangers, also, from the south; from Mexico and from Nicaragua, but none of the dangers from without compared to the dangers within.

Men and Marriage

The foundation of our government, he declared, was the family and the fireside and the divorce mill seriously threatened our security. Referring to Judge Lindsey's proposed solution of this problem, he said that man was so fickle that if you gave him four or five trials before he took the final leap he would become so disgusted or so infatuated with the idea that he would keep on trying.

Other Problems

The great bankers of New York, Judge Munson said, have pointed out that America had become the dumping ground of the world's gold which might soon become as common as buffalo chips on our western prairies, though he himself had not been troubled by this particular danger. Then there was the crime wave to be worried about. The Commissioner of Safety of Chicago had stated that there were over 3,000,000 "organized" criminals in the country. The cause, he thought, might be lack of statesmanship and suggested that if the Volstead Act were repealed we would all be happy. The very air was filled with the dynamite of danger today, Judge Munson declared, and by way of giving a sort of finishing touch to the horrors of the moment he described in some detail the baseball scandals. Concluding, Judge Munson said, "Thus the prophet of calamity continues to prophesy, but it's a good old world at that and I pray and hope that this nation may always continue to be as great and glorious as it is now."

Introducing the Piece de Resistance

With a former executive of Texas in our midst, the toastmaster declared, all former offenses of the evening would be freely pardoned, and he advised his Republican brethren

to bid him God-speed as soon as his duties had been performed. Ex-governor Pat M. Neff, he said, had been born under the administration of Governor Davis, and it was significant that Davis had been the last Republican governor of the Lone Star state. Governor Neff was a lawyer among lawyers, an able defender who had also been long a prosecutor. He was fearful, however, that his days of usefulness in these capacities might now be long past because he now officed on the nineteenth floor of the Amicable Building in Waco, and was, therefore, much too near the angels. We were indebted to the Methodist conference in Denver for Governor Neff's presence, the toastmaster explained, adding that when he had finished his administration the jails had all their population.

First Impressions

It would be unfair to those who missed the annual banquet not to say something of Pat Neff's personality before attempting to quote his remarks. A magnificent figure of a man, tall and statesmanlike, with clear-cut, handsome features, flashing black eyes, a massive head well-covered with luxuriant grey hair, and a melodious voice that will long be remembered by those who heard him, Pat Neff is perhaps the most imposing figure ever presented to the Denver Bar. You might agree or disagree with what he had to say but, listening to him, you could not doubt his sincerity or the earnestness of his appeal. It might be said in passing also, that it takes a lot of courage to put forward such a theme as his before a lot of lawyers at their annual banquet and he did it with so much grace and force that even those who were looking for nothing but amusement couldn't help liking it.

Felicitations

He was happy in the thought of enjoying the comradeship of the Denver Bar, said Governor Neff, and he brought greetings to us from the attorneys of Texas and from five million citizens of that state. He had had in mind talking on the subject of the law of the land but coming up on the train he had changed his line of thought. He recalled a quotation from Tennyson, "I doubt not through the ages one increasing purpose runs, And the thoughts of men are widened with the process of the suns." If the Bible is true, he declared, this world was not made by accident or man without a design, and the Bible was the only book on earth giving man a purpose and a place in life. If it is not true, he said, you and I have no place or purpose in the world. The world was not made and swung into being to revolve through the cosmic cycle and man endowed with his bold spirit to subdue the earth, he declared, without some kind of purpose. Man had not been driven out of Eden's garden gate to float without chart or compass, nor was he put here to roam here and there without some kind of a program and an increasing purpose having its origin in the bosom of God when the world was young. There must be one purpose to guide his footsteps.

Purpose Read in History

No student of history could follow man's footsteps, he declared, without knowing that some increasing purpose runs through all the ages and this purpose is seen as the brotherhood of all men. If we all came from the same source, it was natural to suppose that we would be taken back ultimately to the source from whence we came. The history of the human race was one of struggle. Eternal vigilance was the price of liberty and the

price of civilization to rule in the peace of the world.

Civilization Didn't Just Happen

Civilization didn't just happen, said Governor Neff. Somebody, somewhere has ever been fighting and toiling, that we might enjoy its benefits and it had never taken a backward step; like lightning, civilization never goes back. Men have always been marching, thrones falling, kingdoms crumbling, while men were seeking for the highest and the best, and in this search millions of martyrs had fallen. The speaker then referred to the passing of ancient civilizations and peoples as stepping stones to higher and better things, and declared that if God did not permit a sparrow to fall without his notice, he certainly did not permit nations to fall without his knowledge.

Right Triumphant

In the working out of the great eternal program, right was always triumphant, Governor Neff declared, but truth crushed to earth would never rise without a bold champion and defender. Mankind has always had some bold defender. We now laugh to scorn the worship of idols but it took five hundred years of toil and education to wipe out that practice, and now we could worship God according to our own conscience here in America, or not worship Him at all, as we pleased. Not long ago, woman had been a mere chattel; piracy was forgotten; and gambling halls had been outlawed. Each country and each generation had contributed to the advance of civilization and this generation had added a great step when, six years ago, we had wiped out six hundred thousand saloons. All these evils had been abolished and never again, he prophesied, would there be a legalized saloon anywhere under the American flag.

Wrong Retreats

Wrong, he said, was always on the retreat and civilization continually climbs upward. If the Bible is true we all have a place in the world and Japan has a place among the nations. There is no nation, he declared, which is not necessary to work out improvements in civilization, if the Bible is true. God doesn't make any man do anything, he ventured. After twenty centuries of war, civilization settled on England's coasts and it looked for a while as if the eternal purpose would be worked out there, but the divine right of kings proved a stumbling block and a mill-stone about the neck of civilization.

Mankind Moved On

But mankind moved on, he said, and the Pilgrim barque was seen on the chartless waves of an unknown ocean. An unseen hand guided that barque to the Plymouth Rock and on the open Bible the Pilgrim fathers dedicated the new land to civil and religious liberty.

The Three Houses

Our forefathers, he declared, were the champions and defenders of three institutions which will work out the increasing purpose of the ages: the church-house, the school-house, and the court-house. And these three institutions had been championed here as by no other people. He thought, he added, that we were the only people on earth who were fundamentally religious. Before the forefathers built their dwelling houses, they built the church-house, and the constitutional convention had been assembled in the name of God, and never before had a constitution been written which had even recognized that there was a God.

A Dramatic Episode

Our Constitution, Governor Neff declared, blends in its contents the principles of the ten commandments and the sermon on the mount and when the Constitutional Convention was held in Philadelphia, after about three months of debate without accomplishment of any kind the convention was about to break up in despair when Benjamin Franklin suggested that all the delegates kneel down in prayer to the Almighty, which they did. Next day, Governor Neff said, they commenced to write the Constitution of the United States and the work was completed without further discouragement.

Religion in Politics

Our first legislative session in this country, he said, had been opened with prayer and that was the first time in six thousand years of history that any legislative body had ever thus sought the guidance of God. Before the first white child in America was twenty-one years old, Harvard University had opened its doors. By the churches, he declared, the forefathers had built the schoolhouses and by the schoolhouses they had built the court-houses. The church had always been and would always be the most militant power in this government; it was supporting 25,000 educational institutions and spent \$25,000,000.00 annually for their maintenance. Despite this, however, he said, every fourth American called by the draft in the late war had been pronounced illiterate and so there was a question as to whether or not these institutions of ours were functioning properly. But their combined force would eventually rout every evil, he predicted.

Graphic Statistics

Referring to the breakdown in the administration of the criminal law, he said that every forty minutes some innocent American was shot down by an assassin and every twenty minutes some citizen's house was entered by a burglar. Crime was costing us sixteen billion dollars annually and vastly more than we spent on education and religion put together. He called attention to the fact that the Postmaster General had recently been obliged to put 16,000 soldiers on duty guarding the mails.

Drives a Peg

He would drive a concluding peg, he said, by asking if we would maintain the three institutions in efficiency in order that they might work out our increasing purpose. This nation did not come into being by accident, he declared, and when the successors of the forefathers first stood on the Pacific Coast the circuit of the globe had at last been completed. May we not conclude, therefore, he suggested, that here man was destined to take his stand to civilize and Christianize the world?

A Tip for Cornelius

He would remind his "friend from Japan," he said, (referring to Professor Cornelius), that our flag had never gone down to defeat on any battlefield and that Americans had never fought under that flag except in the cause of truth, freedom, and justice, and we had fought the battles of peace, he declared, with the same courage, faith and hope that inspired us in times of war. We now had more material wealth per capita than any people who had ever lived on this earth and we had one-fourth of all the wealth of the entire world. We had developed a nation which was the banking na-

tion of the world and at the same time had developed the finest and highest type of manhood the world had ever known. For himself, he would rather be a plain American citizen than wear the dazzling jewels of any king, and he had no respect for the American daughters of wealth who had changed their American names for European titles.

Not Alarmed by Perils

Governor Neff declared that he was not alarmed by any perils confronting us because he was convinced that American patriotism and manhood played an eternal role to win. While the church-house, the school-house and the court-house might not now be functioning as they should, when the call came for us to fight the battles of peace, the country would go marching on in keeping with the increasing purpose of the ages.

Anent Our Profession

We belonged to a high and honorable profession, he declared, and there were only four learned professions—the preachers, the teachers, the doctors and the lawyers. As lawyers, we ought to be pathfinders and blaze the trail as leaders in the progress of civilization. We were the beneficiaries of a hundred and fifty years of epic, romantic history and we could not shirk the responsibilities and duties of citizenship. No man had a right to go through life without rendering public service, and by this he did not mean holding public office.

A One-Way Trip

We went through this world but once, Governor Neff said, and a long time before any of us expected it a few of our friends would gather in our home for a last farewell and to follow the black hearse that would carry our mortal remains to the

cemetery. Referring to his coming to Denver and addressing our Bar, he said that he made no pretenses to public speaking but came to us as a fellow-lawyer because he felt that every man should do his part and his level best in helping to work out our American destiny.

The Three Houses, Again

If you and I, he declared in con-

clusion, are loyal and true to the church-house, the school-house and the court-house, we will transmit this government until God sees fit to call his children home and this Republic will go moving on until all nations will be gathered under the American flag and thus fulfill the angels' promise of "Glory to God in the highest and on earth Peace and Good Will to Men."

Recent Trial Court Decisions

(*Editor's Note.*—It is intended in each issue of the Record to note interesting current decisions of all local Trial Courts, including the United States District Court, State District Courts, the County Court, and the Justice Courts. The co-operation of the members of the Bar is solicited in making this department a success. Any attorney having knowledge of such a decision is requested to phone or mail the title of the case to Victor Arthur Miller, who will digest the decision for this department. The names of the Courts having no material for the current month will be omitted, due to lack of space.)

Denver District Court

DIVISION VII

JUDGE FRANK McDONOUGH, SR.

Facts: Motion to set aside a verdict of guilty of "uttering a forged instrument." The jury in convicting on this, the second count of the indictment, had failed to return a verdict on the first count charging forgery of the same instrument. Defendant bases her motion on the grounds that the failure to return a verdict on the first count is in effect a verdict of not guilty so as to bar a verdict of guilty on

the second count on the ground of *autrefois acquit*.

Held: Motion denied.

Reasoning: Conceding the failure to return a verdict to be in effect a verdict of not guilty on the "forgery" count it was nevertheless no bar to a prosecution on a second count, or by a future indictment, for "uttering" because the evidence which will support an indictment on uttering will not be sufficient for a conviction on an indictment for forgery and vice versa.

People vs. Webb, No. 28933

Pro Bono

Denver, Colo.,
March 23, 1927.

Mr. Luke Kavanaugh,
Chairman, Bar Association
Committee.

E. and C. Bldg.

Dear Sir:

As I am heartily in favor of the amendment concerning additional Justices of the Peace, and am willing to do my "bit", I gladly donate the cost of printing the petitions.

Respectfully,
SIDNEY EASTWOOD.