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The Supreme Court Dinner

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The Supreme Court Dinner

OVER one hundred members of the Association enjoyed the dinner given in honor of the members of the Supreme Court on June 18, 1927, at the Albany Hotel.

New Members

Clyde Campbell and Martin C. Molholm were unanimously elected to membership in the Association.

President Marsh Presides

Following the dinner, President James A. Marsh, who presided, explained that the meeting was given in honor of the members of the Colorado Supreme Court, and then introduced Henry McAllister, Esq. as the first speaker.

Henry McAllister.

Mr. McAllister commended the Supreme Court for its recent rules increasing the requirements for admission to the Bar and stated that he was a product of a law office but that times have changed and standards of admission must be raised in order that the standards of the Bar may not be lowered. He thought that if the matter were left to the press or to the people, the standards of the Bar would never be improved.

He quoted from a New York article relating to the raising of standards of admission, which was to the effect that not more than twenty

per cent of those applying recently could have passed, if any proficiency in other branches of learning had been required.

He added that the Bar should express its gratitude to the Supreme Court for these new rules requiring two years of college and two years of a law school course, as requisites for admission to practice law in this State.

He thought these rules would result in eliminating persons not really desirous of practicing law and that those who comply with the above requirements will be most likely to be ethical in their practice and to possess the high character necessary for the proper practice of the profession.

President Marsh then introduced the Honorable Charles S. Thomas, stating that he was born in Georgia and was admitted to the Colorado Bar in 1871, settling at Leadville, and then coming to Denver. Mr. Marsh stated that several years ago at a complimentary dinner given to Senator Thomas the statement was made that, after practicing law in this State, for more than fifty years, he was a man universally loved and respected at the Bar. Mr. Marsh thought that no greater tribute than that could be paid to any man.

Senator Charles S. Thomas

Mr. Thomas said that he had been before the courts of this State since 1871, having commenced his practice before the Territorial Courts in that year. Mr. Thomas then referred to many of the old time judges, saying that Judge Hallett was the personification of dignity and that Judge Wells was a good second, but that Judge Belford sat on the small of his back with his feet on the bench close to Judge Hallett's nose. He did this for the reason that he got a better

idea of justice from the horizontal than from the perpendicular position.

Senator Thomas referred to the practice in Territorial Courts when each counsel wrote out his own bill of exceptions and there was no printing. He referred to the preface in one of the early Colorado Reports wherein Judge Hallett said as to decisions therein that "when the Bench is not full, the fact will be noted." Senator Thomas continued his reminiscences, referring to Chief Justice Thatcher, First Chief Justice of the Colorado Supreme Court, and to the days when the Court had its offices at 1632 Larimer Street and the Clerk's office was on 15th St. between Arapahoe and Lawrence, which necessitated the carrying of the records back and forth for the transaction of business. He stated that when the Court adopted the rule requiring the printing of briefs, Senator Teller who was a beautiful penman petitioned the Court to except him from that rule.

He then made his plea for a more careful use of the English language by lawyers and stated that this would be a great aid to the Courts. He commended Mr. Justice Campbell for the splendid English used by him in his opinion in the case of Ajax vs. Hilton.

He stated that the Judiciary was the definite anchor of the country, and that it had been very seldom, if ever, that a charge of corruption had been leveled at the Courts.

He hoped that the coming election would witness the adoption of the amendment increasing the salaries of members of the Judiciary.

He stated that his favorite definition of science was the "eternal conflict of new ideas in the eternal order of things." This, he thought, would always go on and in coming

generations, legal problems to be met and solved would be as difficult as in the past.

He concluded by stating it to be his opinion that the outstanding duty of every member of the Bar, who loves his profession and is ready to perform his duty to that profession, is to stand by the Courts when assailed by the mob, for, he said, the Courts are the salvation of free government.

Mr. Marsh in introducing the next speaker, John D. Fleming, Dean of the Law School of the University of Colorado, said the purpose of a college education is to obtain horizon and mastery, that is to say,—to obtain horizon, to enable the student to see beyond his own backyard, and to master some particular subject so that he may know something about everything and everything about something.

Dean Fleming

Dean Fleming expressed the regret of Dr. Norlin, President of the University, over his inability to be present.

He then told of a student, who, when asked what the Matterhorn was, answered, "it is the horn that you blow when anything is the matter."

He expressed his pleasure at being present and, after recalling several interesting incidents, he said he was going to give way to the Supreme Court, but in doing so, he recalled the saying of the man who "liked to get up on a bright Sunday morning and hear a Populist minister dispense with the gospel."

President Marsh then introduced Chief Justice Burke of the Supreme Court and told the story of the thin, tall and gaunt minister, who rode horseback to and from his church, but whose horse was round, fat and

sleek. To the woman who asked him why his horse was round, fat and sleek, while he was so thin, tall and gaunt, he replied that, "I feed my horse but my congregation feeds me". President Marsh also hoped that the amendment for the increase of Judicial salaries might be adopted at the next election and the present inadequate salaries increased.

Chief Justice Burke

Chief Justice Burke after thanking the Association on behalf of the Court for the dinner, referred to the increased standards for admission to the Bar, and cautioned that those standards must not be raised faster than the public opinion of the Bar will support.

He doubted whether those standards would be necessary if the old conditions were now available, but he thought that changed conditions made the new rules necessary, and that a Marshall, a Webster or a Henry would not be kept from the practice because of them.

He then took as his theme: Common Sense at the Bar and on the Bench. He thought that every great argument which had helped the Courts and every great decision of the Courts was conspicuous for its common sense more than for any other quality. He thought that book learning without common sense would merely lead men into learned folly.

He then launched into an eloquent discussion of how the English judges themselves engrafted upon the common law those principles necessary to save their country. He thought that character was necessary and that learning was indispensable, but that no confidence of the people in the administration of justice could be established or maintained unless the ultimate decisions dealing with

property or persons appealed to their sound common sense.

In introducing Justice John Campbell, President Marsh stated that he was born in Indiana, educated in Iowa and was the valedictorian of his class; he was admitted to the Colorado Bar in 1880 and had served longer on the Bench and as Chief Justice of our Supreme Court than any other Justice. He was first elected in 1894 to the Supreme Court and served continuously until 1913, had been appointed in 1922 and re-elected in 1926. Mr. Marsh presented him as the Dean of the Colorado Supreme Court and not only as a lawyer but as a benefactor and philanthropist.

Mr. Justice Campbell

Justice Campbell referred to an experience when, nine years of age, he sat in an Iowa courtroom while a new Judge conducted Court, and he thought that then and there he received the inspiration, which later led him into the practice of his profession.

He thought the relation of the Courts to the common people was more important than the relation of the Bench to the Bar and he hoped sometime to put into permanent form his ideas on that point.

He told of how when a Judge in the Fourth Judicial District sitting in Elbert County, it was a custom to have a big dance on the night of the last day of the term. This dance was held in the courtroom and the Judges theretofore had danced with the crowd. On his first occasion there, he attended the dance, but did not dance because he did not know how. Much to his surprise, many of the ranchers of that vicinity commended him for this and said that they felt the people did not wish a Judge to hold himself aloof from intercourse with them, yet,

they desired that he always maintain the official dignity of his office and the proprieties expected of him.

They told him that they resented undue familiarity between the Judge and the attorneys while the trial was in progress, and for an attorney in the absence of his opponent to talk to the Judge about the case they deemed most reprehensible.

Justice Campbell then referred to Messrs. Teller, Wolcott, Vaile, Gast, Patterson and Downer and other veteran leaders of the Bar and stated that all of them in their professional activities and behaviour "represented in substance the views of the stalwart ranchmen of old Elbert County".

President Marsh then introduced Justice John W. Schaeffer, stating that he was born in Ohio, came to Colorado in 1896, served three terms on the District Bench at Colorado Springs and was elected to the Supreme Court Bench in 1922.

Mr. Justice Schaeffer

Justice Schaeffer in opening told of the time when a Democratic Governor went to address the convicts in a state penitentiary. When he arose he said "My friends and fellow citizens," but, feeling that this was not the proper opening, he said, "My fellow Democrats". He discovered, however, that there were no Democrats there, and so then he said "My Republican friends, it delights me to see so many of you here."

He said that one of his earliest experiences is still fresh in his mind: That he had a case before a Judge to whom he presented no law, assuming that the Judge knew the law. The Judge decided against him, but was reversed on appeal on the authority of one case in point, cited by Justice Schaeffer in the

Supreme Court. When the case came back the trial Judge told Justice Schaeffer that if he had called his attention to that case, the expense of appeal would have been saved. Justice Schaeffer told him that theretofore he had supposed that all Judges knew all of the law, and that he had appeared in that Court with that feeling.

Justice Schaeffer then cautioned the members of the Bar and particularly the younger members not to assume that the Court knows all the law.

President Marsh then introduced Justice Adams, saying that he was admitted to the Colorado Bar in 1900, was now President of the Colorado Society of the Sons of the American Revolution, and is a Presbyterian. Mr. Marsh assumed that being a Presbyterian, Justice Adams believed, with him, that "what is to be will be and if it doesn't be it won't be."

Mr. Justice Adams

Justice Adams then launched into a humorous address. He wanted the Bar to understand that the biographies given by Mr. Marsh in his introductory remarks were not autobiographies and that, from what he had heard, he felt that Mr. Marsh had been reading the book entitled "Who's Through in America". He said he found himself in an expansive,—not a serious mood; that he had been fed food that was good for souls and intellects.

He said he had heard that Henry McAllister, two years ago, had come up to look over the Supreme Court, and had decided thereafter to confine his practice to the Federal Courts. He said he endorsed Mr. McAllister's remarks as to increasing the standards for admission to the Bar, but that he thought it was

fortunate for both of them that those standards had not been enforced when they took the examination.

He thought in view of the fact that he had twenty-five years experience at the counsel table and two and one-half years experience on the Supreme Bench or a ratio of ten to one that he should be entitled to twenty-two and a half more years on the Bench, in order to get back the money that he, as a member of the Bar, had spent on free dinners for Judges.

He said he came to Denver with some temerity due to the advice of an old colored client, who when he was about to depart from his home town cautioned him as follows: "Judge, don't let those fellows up there in Denver out-avoirdupois you."

He said that it was a pleasure to enjoy the hospitality and the cordiality that exists and should exist between the Bench and Bar and was sorry that he had talked so long and was lacking in terminal facilities.

In closing he said every young man is in a great adventure and in this great day of advancement there is always some work to do. Man wants to know and when he ceases to want to know, he ceases to be man, and such should be the desire of all judges and lawyers, namely, "to know the Truth".

President Marsh then expressed his regret at the absence of Justices John Denison and Greeley W. Whitford, who were unable to be present.

He then introduced Justice Charles C. Butler, the "junior member" of the Court. In doing so he stated that his full name was Charles Cicero Butler, and in that connection he was reminded of a speech that the boys at school used to recite: "You never can expect one of my age—to speak with ease upon

the stage,—but should I chance to fall, Demosthenes,—don't pick me up, just let me go."

He said that Justice Butler's father was a practicing lawyer in New York City; that Justice Butler came to Colorado in 1887; that he graduated from Michigan in 1891 and first settled in Cripple Creek; that he was elected District Judge in Denver in 1912, in 1918 and 1924, and to the Supreme Court in 1926, and that last year he was President of this Association.

Mr. Justice Butler

Justice Butler said that he too was not in a serious mood. He recalled the incident in Judge Miller's County Court when a lawyer, who said that "as your Honor well knows," was cautioned not to presume too much upon "the knowledge of the Court." He said he had found in his own Court that counsel would generally follow such a remark by a statement of a proposition of law, of which he had "never heard before in all his life."

He then referred to the perfect English of Judge Helm and told of how a lawyer who had lost a case, in which the opinion was written by Judge Helm, when asked what he thought of it, said "There was not a grammatical error in it."

He recalled the occasion in the Criminal Court when a former "criminal" lawyer stated that it had been agreed by him and the District Attorney that his client should go on his personal recognizance. The District Attorney immediately denied this, stating that the attorney had agreed to sign the bond as surety; whereupon, the lawyer said "That is the same thing". Judge Butler added, "It was."

He recalled the occasion when a lawyer argued for the issuing of a

writ of ne exeat, and said that it had been customary "from time immoral to issue the writ whenever one of the litigants threatened to obscure the realm."

He cited the instance when a lawyer endeavored to have a default set aside, assuring the Judge that his client had a meretricious defense. The Judge thought that the man had used the wrong word before he tried the case, but after he tried it, he decided the lawyer was right.

He referred to the remarks of Denver lawyers following their trip to England two years ago with the American Bar Association as to the "deference" of the English lawyers toward their Judges. He stated that he did not like the word "deference" in that connection. He thought there should be a feeling of mutual respect between the lawyers and the Judges that comes from a consciousness on the part of each that the other is doing his utmost to assure the administration of justice between man and man. He was certain and was gratified that that feeling exists between Judges and lawyers of Denver and concluded, "May it always exist".

Adios

With a few well-chosen remarks, President Marsh adjourned the meeting, the last meeting of his administration.

A. J. G.

A man died recently who some time before had been in a hospital and believing he was about to pass on, desired to make his will. As no paper could be found the will was written on a white petticoat belonging to one of the nurses. We are informed that in this year of progress he would have been out of luck in finding something to write his will upon.—*LaJara Gazette*.