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DENVER BAR ASSOCIATION RECORD

VOLUME 4

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THE DENVER BAR ASSOCIATION

RECORD

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A Foreword

This, the forty-third issue of the RECORD, marks the opening of another fiscal year.

From a membership of fifty in 1891, this Association has grown to approximately seven hundred active members.

Originally formed for social purposes, it has developed into an organization with over twenty standing committees, each of which is endeavoring to improve judicial and legal conditions and procedure.

Collectively, we should strive to maintain public confidence in the Bar, but, INDIVIDUALLY, WE MUST MERIT THAT CONFIDENCE.

May the coming year witness further progress along these lines.

THE DENVER BAR ASSOCIATION RECORD

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Published monthly by the Denver Bar Association and devoted to the interests of the Association.

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. Shaeffer, 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 Shaeffer 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.*

Putting a Crimp in Crime

NEW York's new method of dealing with habitual criminals, under what is known as the Baumes Law, has proved so effective that it has aroused the interest of lawyers and law-makers throughout the nation.

The Record is indebted to Mr. W. Felder Cook for the following newspaper clipping which gives a brief account of the origin, provisions and operation of this much-discussed New York statute:

Newburgh, N. Y., March 23.—A small-town lawyer—first name Caleb—living 60 miles up the Hudson river here in what the supercilious metropolis refers to as the "tank town" of Newburgh, has first outwitted, then subdued and finally terrorized the slickest criminals in the wild and wicked city of New York.

This quiet gentleman, who wears a closely cropped mustache, has a streak of gray at each temple and gives one the general impression of the meek schoolmaster and bookkeeper that he once was, is Caleb H. Baumes.

He is the author of the famed Baumes law that has effectually snapped the backbone of crime in Gotham.

Other states now are planning similar laws.

Crooks Begin to Move Out

Baumes drafted his famous laws in January, 1925, when the New York crime wave was at its peak. He spent a year investigating the causes of crime and then laid down his code before the legislature. It was adopted almost in its entirety and soon the habitual crooks were moving out of New York.

Why? For the simple reason that under the Baumes law if they are pinched again it means life imprisonment.

"The gist of the laws," the author is explaining, "is simply this: Professional criminals are picked up by the nape of the neck and planted in Sing Sing for life with no probation, no years off for good behavior.

"Under the new code, one who commits a felony while armed has five to 10 years added to the regular sentence; second offender, 10 to 15 years; third offender, 15 to 25 years; and fourth offender gets life.

"Sentences are mandatory. A judge is compelled to impose a life sentence for a fourth offense.

Cease Sobbing Over Crooks

The appelate division of New York supreme court (in affirming life imprisonment for two men who on their sixth offense broke into a house and stole a radio) stated, "We think there has been too much leniency in dealing with the criminal. We believe sentences of this sort will be a deterrent."

One asks this keen-minded man who has such a kindly look in his eyes if he ever regretted the laws he had framed; ever thought of the daily increasing number now in Sing Sing for the rest of their lives on his account; ever feared the consequences of the underworld into whose haunts he brought such havoc.

"I think only of the results," he answered. "Citizens are safer. Cigar store robberies dropped 96 per cent; bank messenger stickups, 50 per cent; fur and silk robberies, 70 per cent; jewelry robberies, 70 per cent, and so on.

"Sob sisters weep over the constitutional rights of the criminal. It's time someone gave thought to the constitutional rights of law-abiding citizens.

"I fear for the smaller towns now that we are driving dangerous men

and women out of New York. I think in time life sentences for hardened offenders will be common in all states of the Union."

And in this connection, the following editorial from the Saturday Evening Post for March twenty-sixth will also be of interest:

More Testimonials

Every month brings a fresh crop of unsolicited testimonials in praise of the effectiveness of the Baumes laws. These statutes and amendments were adopted by the legislature of the state of New York less than a year ago; but even in the short time they have been in effect they have brought about a marked decrease in the number of crimes of violence and have exercised a material influence in causing criminals of the predatory type to seek happier hunting grounds in other commonwealths.

Police Commissioner McLaughlin, of New York City, reports that during the year 1926 the cases of assault and robbery decreased 20.9 per cent; burglaries about 18 per cent; grand larceny cases 15 per cent, and homicides more than 6 per cent, as compared with 1925. Even more striking are the figures for January, 1927. During that month there was a reduction in the number of assault and robbery cases amounting to 53 per cent, as compared with the first month of 1926.

After praising the deterrent effect of the Baumes laws, Commissioner McLaughlin goes on to tell of the practical results achieved by the adoption of stricter measures governing admission to bail: "Between April 16, 1926 —when the new bail law took effect— and December 31, 1926, six individuals committed crime while out on bail. For the same period—approximately eight months—prior to the time the law took effect, sixty-four individuals charged with crime were arrested while out on bail."

Since time out of mind, easy bail and the evils of bail shopping have been a reproach upon the administration of criminal law in the Empire State. Apparently no difficulty was experienced in coping with these conditions when they were resolutely attacked. Other states which still tolerate similar abuses can end them if they have the will and energy to do so. The particular statute which may be studied for guidance is known as Chapter 419 of the Laws of New York, 1926.

No less significant than Commissioner McLaughlin's report is the declaration of Mr. E. M. Allen, vice president of a bonding company which does business all over the country. According to this official, losses of surety companies from theft and burglary since the Baumes laws became operative have decreased 25 per cent. So firmly does this corporation believe in the salutary effects of these statutes that it is has sent out a circular letter the purpose of which is to urge its ten thousand agents to take active steps to stimulate local interest in a general tightening up of the criminal code by the introduction of corrective legislation in the backward states.

Self-interest should contribute to the success of this project, for communities a thousand miles from New York are bound to feel the effects of the presence of daring criminal groups which have been driven out of the metropolis and have journeyed west and south. California and two or three commonwealths in the Mississippi Valley have already given the matter serious study and it is not unlikely that drastic measures may be adopted before their respective legislatures adjourn. It is only a question of time when a growing need for self-protection will translate idle talk and procrastination into decisive action.

In re "The Law is a Jealous Mistress"

THE appeal which was published in the October, 1926, Docket, inviting assistance on behalf of the Colorado Bar Association as to the authorship of the phrase "The Law is a Jealous Mistress," has no doubt aroused considerable interest among the legal profession, and has caused some discussion of the pros and cons of the statement. Not many have ventured to submit the "true and correct answer."

Mr. Thomas D. Parker, of San Francisco, Cal., writes: "In a biographical sketch that I read twenty-five or thirty years ago, W. D. Howells refers, without quotation marks, to the Law as a Jealous Mistress, in connection with the fact that he was trying to follow law and literature simultaneously and found it necessary to give up one."

Mr. Merit O'Neal, of Louisville, Ky., advises us that, at the last annual meeting of the Kentucky State Bar Association, Mr. E. H. Angert, of St. Louis, delivered an address entitled "The Law is Not a Jealous Mistress," in the course of which he said: "The heresy which I am here to combat has flourished since the days of Coke on Littleton." Mr. O'Neal says that the writer of the address then proceeded to demolish the alleged heresy referred to, giving numerous authorities, among which were Chief Justice Marshall and Mr. Justice Story.

Mr. Angert has sent us a copy of his address. It is very interesting, and a masterly presentation of his theme, but it does not throw light on the author of the saying.

Mr. Daniel O'Connell, of San Francisco, Cal., writes: "I believe it was Daniel Webster who said: 'The Law is a Jealous Mistress.' My present recollection is that it was in his oration on Rufus Choate."

Mr. M. M. Margolis, of Miami, Fla., writes: "I believe it was Blackstone. At the time he seriously undertook reading law, he was very much absorbed in literature, but, concluding that 'Law was a Jealous Mistress,' he finally decided to drop literature and devote all of his time to the 'Jealous Mistress'."

Mr. A. B. Ogle, of Belleville, Ill., writes: "Allow me to say that, somewhere from twenty-five to thirty years ago, I read Sharswood's Legal Ethics, and it seems to me that Judge Sharswood, the author in commenting upon the law as a profession, early in the work, uses the phrase 'The Law is a Jealous Mistress,' and refers to the author. The book is a small one, and, if it is easily accessible, to you, it would not take you long to look through it. I do not happen to have the work, or know where I can put my hands upon it, or I would try to verify my recollection myself."

Judge Henry F. Mason, of the Supreme Court of Kansas, writes that John T. Richards, in his book, "Abraham Lincoln, the Lawyer and Statesman," attributes this phrase to Judge Sharswood, in his memoir introductory to his edition of Blackstone, copyrighted in 1859, saying: "It is not uncommon to hear the expression, 'The Law is a Jealous Mistress'."

Mr. M. Eugene Culver, of Middletown, Conn., is the only one of our correspondents who makes serious claim to having actually discovered the author. After stating that he became interested in the search, he says: "I finally ran it down by process of elimination, after having looked in 'Coke on Littleton,' 'Sharswood's

Blackstone,' and 'Broom's Legal Maxims'; also some other books. I remember that some thirty or forty years ago I had read an address by Judge Story to some law students of Harvard University. After some trouble I found a large volume of 'Miscellaneous Writings of Joseph Story,' Associate Justice of the Supreme Court of the United States, and Dane Professor of Law at Harvard University, edited by his son, William W. Story and published in Boston by Charles C. Little and James Brown in 1852, and in a discourse entitled 'The Value and Importance of Legal Studies,' which he pronounced when he was inaugurated Dane Professor of Law at Harvard, on August 25, 1829, on page 523, is this paragraph: 'The student, therefore, should at his first entrance upon the study weigh well the difficulties of his task, not merely to guard himself against despondency on account of expectations too sanguinely indulged, but also to stimulate his zeal by a proper estimate of the value of perseverance. He who has learned to survey the labor without dismay has achieved half the victory. I will not say, with Lord Hale, that "the Law will admit of no rival, and nothing to go even with it;" but I will say that it is a jealous mistress, and requires a long and constant courtship. It is not to be won by trifling favors, but by lavish homage'—the last three lines of which contain the expression with reference to law as a jealous mistress. There would seem to be no question but this is the origin of this expression, as Justice Story gives it as his own."

Mr. F. J. Trudell, Menominee, Mich., gives us a modern citation. He says: "As it is always a pleasure to read the Docket, I settled back and started. To my utter astonishment I read what your editorial staff had to say as to the quotation 'The Law is a Jealous Mistress.' Can it be that the members of your editorial staff and the members of the Colorado Bar Association have so far neglected to round out their legal education as not to have read Tutt and Mr. Tutt by Arthur Train? Open his book at page 92, and there you will find, in his story entitled Samuel and Delilah, the following: 'The Law may be, as Judge Holmes has called it, "a Jealous Mistress".'"—*The Docket.*

Dark Story

Two men who had traveled were comparing their ideas about foreign cities.

"London," said one, "is certainly the foggiest place in the world."

"Oh, no, it's not," said the other. I've been in a place much foggier than London."

"Where was that?" asked his interested friend.

"I don't know where it was," replied the second man, "it was so foggy!"
—*Youth's Companion.*

Notice

"The annual convention of the Optimist Club will be held in Denver, July 6th to 9th, inclusive. No doubt it will be remembered that this organization was very generous in lending automobiles for use during the convention of the American Bar Association in Denver last Summer. We now have an opportunity to reciprocate by tendering cars for use at the Optimist's convention. All of those who will have automobiles available for such use between the above dates should communicate with L. R. Bach, Chairman of the Transportation Committee, with headquarters at the Cosmopolitan Hotel."

New Committees for 1927-1928

President Robert L. Stearns announces the re-appointment of Albert J. Gould, Jr., as Secretary-Treasurer, and the appointment of the following committees: (The names, other than those of the Chairman, appear in alphabetical order).

Executive:

Ex-Officio

Robert L. Stearns
Luke J. Kavanaugh
Joseph C. Sampson

Appointive

Judge Charles C. Butler
William E. Hutton
James A. Marsh
Hugh McLean

Laws Relating to Women and Children:

Mary F. Lathrop, Chairman
Harold F. Collins
Otto Moore
Bertha V. Perry
Daniel K. Wolfe, Jr.

Legal Aid:

Stanley T. Wallbank, Chairman
Guy K. Brewster
George C. Manly
John Pershing
Charles Rosenbaum

Membership:

Horace Hawkins, Jr., Chairman
G. Walter Bowman
Jean Kelley
Bernard J. Seeman
Benjamin E. Sweet

Library:

Paul P. Prosser, Chairman
Frazer Arnold
Judge Charles C. Sackmann

Criminal Justice:

Harry S. Silverstein, Chairman
Frederick E. Dickerson
Clarence L. Ireland
Horace Hawkins
Earl Wettengel
Phillip S. Van Cise

Banquet:

Edward G. Knowles, Chairman
L. Ward Bannister
James G. Rogers
Jack Garrett Scott
Russell Shetterly

Auditing:

Albert S. Brooks, Chairman
Horace F. Phelps
Carle Whitehead

Press and Bar:

Luke J. Kavanaugh, Chairman
Joseph E. Cook
Sidney Moritz, Jr.
Homer McMillan
Gustave J. Ornauer

Grievance:

Ernest L. Rhoads, Chairman
Richard S. Fillius
George L. Nye
Kenneth Robinson
B. M. Webster

Meetings:

Stephen R. Curtis, Chairman
Erl H. Ellis
J. Churchill Owen

Citizenship:

Henry J. Hersey, Chairman
Tyson S. Dines
Kenaz Huffman
Ralph G. Lindstrom
John J. Morrissey

Memorial:

L. F. Twitchell, Chairman
Walter W. Blood
Theodore Chisholm
Archibald A. Lee
Charles J. Munz

Ethics:

Edward D. Upham, Chairman
Charles R. Brock
Judge John H. Denison
Richard H. Hart
Robert J. Pitkin

Judicial Salaries:

George P. Steele, Chairman
Hamlet J. Barry
Arthur Friedman
Samuel January
John Lynch

Judiciary:

Robert E. More, Chairman
Langdon H. Larwill
Platt Rogers
Ira C. Rothgerber
Dudley W. Strickland

New Court House:
Harry C. Davis, Chairman
Lewis Dick
Fred Farrar
Judge Frank McDonough
Milton Smith, Jr.

Legislative:
Leroy McWhinney, Chairman
Elmer L. Brock
Edward C. King
Will Shafroth
Henry W. Toll

Legal Education:
Peter H. Holme, Chairman
Rodney J. Bardwell, Jr.
Ernest B. Fowler
Harold H. Healy
Morrison Shafroth

Editorial
Cass M. Herrington, Chairman
Victor A. Miller
Albert J. Gould, Jr.

Trial by Newspaper Is Doomed

Recent local editorial comment in the local press on cases pending in state and federal courts makes the following, sent to us by Mr. Albert Vogl, of particular interest:

"FOR a number of years one of the great public evils has been "trial by newspaper." It has been peculiarly an American evil. It has become every year a more serious menace to our already flabby administration of justice in criminal courts. Comparatively few newspapers have been flagrant in this matter but they have been papers of very wide circulation and they have had a prejudicial influence upon many papers of good manners that merely print reports sent to them by news associations. That the effect on the popular mind has been inexcusably vicious is a reasonable belief. That the offending editors could not reform themselves owing to competition in supplying a public demand has been suspected.

"A few lawyers have profited through this vile practice but the majority has winced and grumbled year after year. And all the time the remedy has been within easy reach. There has always been law to permit courts to protect themselves from the grosser evils complained of. The turning point in the situation was reached when the Conference of Bar Association Delegates took cognizance of the matter, not without considerable pessimism. A good start was made through analysis, showing that a large share of the evil is participated in by lawyers, prosecutors, police and even judges, to promote their selfish interests and that the first duty of bench and bar is to curb these participants.

"In this number we present with some detail the Baltimore cases in which the court, through Judge Eugene O'Dunne, has asserted its prerogative and boldly restrained not only editors but also a court officer. We devote considerable space to these cases because they are significant and instructive and because they will mark the beginning of a return to sanity on the part of all such offenders.

"The opinions speak for themselves. We have no doubt that they will be a powerful factor in remedying a situation that has been a disgrace alike to officers of the law and to the public press. We wish now merely to comment on a particular phase—the comparative dependence of elective judges upon the good will of editors and their

natural reluctance to assert their power. As to this Judge O'Dunne's recent experience is reassuring.

"Appointed to the Supreme Bench of Baltimore in February, 1926, Judge O'Dunne elected to serve in the criminal court in spite of the fact that his choice was considered prejudicial to his position in the fall when he would be a candidate for election for a full term of fifteen years. Later it was feared that the contempt case against Hearst newspaper men representing interests that published both morning and evening papers in Baltimore would result in his defeat.

"Judge O'Dunne received the highest vote for judges in the primary and became one of twelve candidates for six places in the Supreme Bench in the fall election. He received the highest vote of the entire twelve. His vote of 99,982 was only a little below that of Governor Ritchie who lead the entire ticket with 104,141 votes. This was a verdict by a jury of the entire electorate. The verdict is unappealable. It stands for the reassurance of judges throughout the land."

The Record regrets that it has not sufficient space to reprint in full Judge O'Dunne's decision. It will be found at page 133 of the February, 1927, issue of the Journal of the American Judicature Society and is recommended especially to the committee on cooperation between the Press and the Bar, who should find therein a solution of many of their difficulties.

A lawyer and a doctor were arguing the relative merits of their respective professions.

"I don't claim that all lawyers are villains," said the doctor, "but you'll have to admit that your profession doesn't make angels of men."

"No," retorted the lawyer, "you doctors certainly have the best of us there."

An Appel Blossom

The Record is indebted to Walter M. Appel for the following verse, clipped by one of his clients from the Paris edition of the New York Herald:

The First Attorneys

I used to think the right of might
  Prevailed among the ancient races,
That men who simply loved to fight
  Required no courts to try their cases.
I thought that to their spears they flew
  When there arose the least dissension
And lawyers were a fairly new
  Invention.

But by the borders of the Nile
  A shovel-wielding young Egyptian
Has found a time-eroded tile
  Which bears, he tells us, an inscription
Describing predatory loot
  By some contractor, long departed,
And stating that a damage suit
  Was started.

The tile is old as old King Tut;
  With pits and scars its face is checkered,
And as a consequence is but
  A very rough and sketchy record.
But we feel sure no man would sue,
  When he could fight for satisfaction,
Unless some lawyer told him to
  Bring action.

If back so many years B.C.,
  When honest men and crooks collided,
They paid a fat attorney's fee
  To have their private rows decided,
Instead of knocking people cold
  With prude and primitive aggression,
The lawyer's must be quite an old
  Profession.

Maybe the President figured that if he doesn't go West this summer, the nomination will next summer.—*Norfolk Virginian-Pilot.*

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 II

JUDGE GEORGE F. DUNKLEE

Facts: A bank, organized and doing business in the State of Washington, offered by telegram to purchase bonds from a Delaware corporation having its principal place of business in Denver, but which at that time had not filed a copy of its articles and paid the fees required to domesticate itself in Colorado. The offer was accepted by telegram and letters. The bonds were not delivered as agreed. Meanwhile, the Washington bank had contracted to sell and deliver said bonds to its customers at a profit.

Suit was brought against the officers of the Delaware corporation in Denver as copartners doing business in the name of the corporation for loss of profits and interest thereon. After suit was brought, the Delaware corporation domesticated itself in Colorado. Defendant claimed the contract was made in Washington, and being made by telegraph and mail was interstate commerce, and that defendants could in no event be held individually liable, but that the corporation only could be held.

The Court held the contract was made in Colorado; that it was not interstate commerce, and that the defendants could be held individually liable for profits which the plaintiff would have made if the Delaware corporation had carried out its contract, but that no interest on such amount could be allowed as an element of damages.

Reasoning: As the telegram from Denver to the Washington bank stated the Delaware corporation "would" confirm the sale of the bonds at a certain price, and the answering telegram asked for such confirmation, which was given by a third telegram from the Denver office, the contract was made in Colorado; that the Colorado statute and general law upheld personal liability of the incorporators, directors, officers and agents of the foreign corporation; that subsequent domestication did not change this individual liability; that the lost profits plaintiff would have received were, therefore, recoverable against the individuals acting for the foreign corporation; and that, as interest is solely a creature of statute, it could not be allowed as an element of damages under the above facts.

Union Trust Company, vs. George E. Keeler, et al., No. 78104.

(Contributed by Guy K. Brewster)

Denver District Court

DIVISION IV

JUDGE HENRY BRAY

Facts: Contract for purchase of realty required seller to furnish abstract showing good and merchantable title. Abstract company certificates

on abstract furnished excepted all rights of way for reservoirs, ditches or public highways. The purchaser refused to accept said abstract and sued for deposit.

Held: For Plaintiff.

Reasoning: Such an abstract does not comply with contract. The purchaser is justified in refusing to accept same and judgment for deposit entered. Marcus v. Gillespy, No. 94139.

County Court of the City and County of Denver

JUDGE GEORGE W. DUNN

Facts: Forcible Entry and Detainer proceedings commenced in Justice Court. Tried on merits and judgment for plaintiff. Defendant appealed to County Court and appellees' motion for judgment on the pleadings sustained. Writ of error to Supreme Court. Reversed and remanded with directions to proceed with case. Plaintiff moved to dismiss appeal on ground only one bond was filed in the appeal from the Justice to County Court. Motion objected to by Defendant on ground plaintiff had waived his right to object to the sufficiency of the bonds by entering general appearance.

Held: Appeal Dismissed.

Reasoning: The Statute providing for the filing of appeal bonds in such case is mandatory. The Court had nothing to do but to dismiss the appeal either upon objection of counsel or on its own motion. Zamp v. Lamon, No. 69349.

Back to the Soap-Box

Two colored men down in southern Indiana were bewailing the hard times being felt in the agricultural district there. "Times is tighter than I ever seen them before," said one. "I can't even get hold of a nickel! If something don't turn up I'm going to start preaching. I done that once and I ain't too good to do it again."—*Indianapolis News.*

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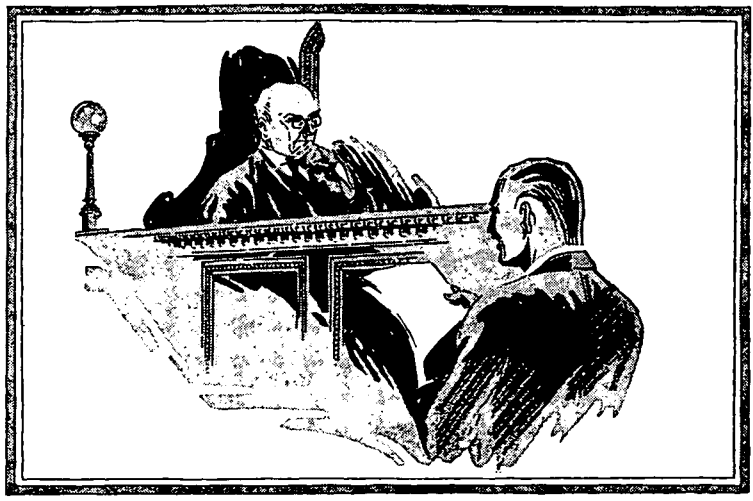

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for
THE ESTATE

IT is the established policy of the undersigned banks that the attorney designating a bank in a fiduciary capacity, shall act as attorney for the estate.

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