

January 1926

April Luncheon Meeting

Denver Bar Association Record

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Recommended Citation

April Luncheon Meeting, 3 Denv. B.A. Rec. 5 (1926).

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trepidation he was recalled, but with no great fear, for a claim to priority resting on proofs which left it subordinate could not be made much worse.

This was John's new testimony:

"I helped begin the work of building the Martin Ditch in the spring of 1866. I do not remember the exact date. The testimony of Juan Sanchez for the Jacinto Ditch has refreshed my memory. He doubtless helped to begin the construction of that ditch. I do not know on what date. While I was working on the Martin Ditch some Mexicans and cowboys passed by and said they were going to the Corral de Toros, (Bull Corral), on another ranch, to take part in a gallo race, and they asked me to join them. I quit work and went with them to this ranch some miles away. We spent a day and a night. As I was returning to the work on the Martin Ditch they said they were going to the ranch of their friend Jacinto to help take out a ditch which he was about to construct, and they asked me to join them. We all helped each other in those days, and I agreed to go along. When we got there we found some workmen on the ranch ready to begin the ditch work, and we all pitched in and broke ground for the

Jacinto Ditch. I do not know what the date was, but I have no doubt that Jaun Sanchez is correct in saying that it was the 7th day of May. It was so long ago that I cannot remember Sanchez, though he looks familiar to me, but I have no doubt that he was there."

The last time I saw John was as he left the court room. He confided to me that he had told the facts just as they occurred; that nothing helped his memory more than the story of another man; and that no Mexican ever had as good a memory as an American.

P. S.—A Gallo Race—if you happen to have missed one—may be explained as a delightful and humane sport, in which the live gallo, or rooster, is embedded in the sand, with his head and feet exposed but thoroughly greased. The riders race past at full speed, and, bending from the saddle to the ground, attempt to pull the gallo from his lodgings. If they fall from the saddle, so much the more fun for the spectators; if they extricate the gallo, everybody is at once in a battle-royal, until all that remains of the prize is a scattering of feathers over the prairie.

—Henry A. Dubbs

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Indifference, non-interest, upon the part of lawyers, judges and the people generally, constitute the greatest barrier in the problem of caring for and dealing with the prisoners in the penal institutions of Colorado, Charles J. Moynihan of Montrose told nearly two hundred members of the association at the regular April luncheon meeting, in the Chamber of Commerce building.

President Butler introduced the subject of the address as one than which there should be none more important before the bar, and the speaker as "one by personal contact familiar with prison work, and who could speak with authority."

"I shall not indulge in personalities nor enter into any criticism of anybody," Mr. Moynihan began. "The problem is far too great and too important to descend to such a plane in approaching it.

"It occurs to me in the beginning how important it is to have judges whose integrity suggests justice. This is the starting point with the prisoner, and he should have the feeling always that he is getting a square deal before he heads down the road to the penitentiary.

"Once arrived there, we try to give him, if he observes the rules, added privileges.

He gets one month in every twelve off for good behavior, and ten days out of every thirty days additional, if he is made a trusty.

"We seldom use the dark cell, unless authority is defiantly flouted. Such cases affect a few prisoners only. These use vile epithets repeatedly, defy all authority, and tell us to go the limit."

Mr. Moynihan cited an instance of one Hill, a negro prisoner, when physical punishment was necessary to preserve order and discipline at the reformatory.

"This man was built like a gorilla," he said. "He went on a rampage one day on the streets of Buena Vista, charged the reformatory trucks, ordered all prisoners off, drove one truck back to the reformatory, spat in the guards' faces, and defied everybody to handle him.

"We assembled all the inmates in the prison grounds shortly afterward, and told Hill publicly that if he could do what he did and get away with it, we'd turn out every man in the institution. Hill was then whipped with a strap of wide leather. His was a type which one couldn't appeal to, except as to a brute of the lowest type."

Mr. Moynihan declared one could always get enough disgruntled inmates to

testify against the warden, any time. But he declared for honest criticism at all times, and suggested that Denver judges go as a committee once a year to the penitentiary and the reformatory, to inform themselves first hand of the real problems there. He said the bar should hear complaints at regular get-together meetings, and offer remedies.

That the employment problem is a serious one the speaker was convinced. He cited the fact that convicts are now building cement roads in Colorado at one-tenth ordinary cost, and said we should have money enough to put up buildings and keep the men employed.

He praised the work of Dr. Holmes, prison physician, who, he said, had performed 400 major and 900 minor operations during his incumbency, with great skill and success, and maintained the health standard there at a high average.

Mr. Moynihan said the prohibition problem was a serious one, and predicted that within five years, one third of the penitentiary inmates would be prohibition violators. He said some of the best prisoners were murderers, and that the worst came from the classes of con men, embezzlers and forgers.

He advocated an habitual criminal statute, similar to Oregon's, where third offenders are sent up for life. Summing up the causes of crime in the same connection, Mr. Moynihan said that of 327 prisoners received in 1917-1918, 36 had both parents dead, 40 had mothers dead, 73 had fathers dead. He said the percentage runs far higher where parents are yet living, but separated.

The speaker created no mild surprise when he next declared that the personnel of the penitentiary in 1924 comprised 29 college graduates, and 125 graduates of high schools. He said the average intelligence was greater than that shown by the average soldier examined by Uncle Sam in the world war.

"The most urgent need of the youth of today is industry," Mr. Moynihan pointed out, rising to eloquent force. "Ninety-five percent of our criminals now come out of feather beds. They don't know the meaning of work or of responsibility, and of sticking to a job till it's finished.

"We're working our prisoners on farms and roads, to the maximum under our facilities, and the taxpayers are saving the money they earn in cultivating the soil, and in building up the livestock industry."

He cited instances of intense interest on the part of prisoners in this sort of work, and one case where the prison board

financed a former inmate in his desire to enter the cattle breeding industry.

Mr. Moynihan referred to the recent row of Denver university students over dismissal of certain professors as evidence of unbridled youth. "We are not taught self-restraint," he said. "Those young fellows thought that anything that didn't agree with their ideas was wrong."

The average citizen hasn't been fair with the parole business, Mr. Moynihan said, and suggested a full, fair and impartial investigation of the reasons for such before judgment is passed. He showed that of 1380 prisoners paroled between Dec. 1, 1924 and Dec. 1, 1925, less than one-half of one percent gave further trouble, and that of 30 escaped trustees, 17 were returned within a short time.

As a final request the speaker pleaded for more interest among lawyers, judges and laity, and for frequent visits to penal institutions upon the part of the public.

THE BUSINESS SESSION

Previous to Mr. Moynihan's address, a motion by Horace Hawkins, seconded by Henry J. Hersey, that the present officers of the association be continued in office to Aug. 1, 1926, was passed unanimously. President Butler corrected a misapprehension about the dates of the American Bar Association convention here this summer, by again announcing the convention would be held July 14, 15 and 16.

It was announced that further sets on Restatements of other branches of the law would soon be available, and the president asked for support of members in this regard.

The president stated a conference had been held with representatives of the Community Chest, to secure membership therein for the Legal Aid Society; that the chest committee had recommended favorable action, and that membership now seems assured. This will largely take the burden from lawyers.

Luke Kavanaugh moved that a special committee of five be appointed by the president to recommend ways and means of improving the administration in the police courts. It was duly seconded and carried, and the committee was instructed to work with the police court committee of the city club and of the chamber of commerce.

"Nobody abhors the present police court system any more than the magistrates themselves," said President Butler commenting upon the motion. "It's the system, that's all. The French Revolution came largely as the result of the attitude of the authorities toward France's down-and-outers."