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Protected by Statute

L. F. Twitchell

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Protected by Statute

L. F. Twitchell

Early in the 80's, when Gunnison, Colorado, was the metropolis of the Western Slope, when its population and the optimism of its inhabitants were growing day by day, when Gunnison was in its political glory and demanding at the state political conventions an allotment to it of about one-half the nominations for the state offices, when its citizens KNEW that its natural resources were unequaled, that the territory surrounding and immediately tributary to it contained and would produce all the stone, lumber, iron, coal, lead, zinc, copper, silver, gold and probably precious stones that any one city could handle, manufacture or market without unsettling the commercial world, that from all points where the raw material would be produced there were down-hill hauls to Gunnison, that all beef would be grown right in that valley, that the nearby fertile farming and fruit-growing lands in the Ute Indian Reservation, then being opened to settlement, would furnish the growing city with abundant agricultural and horticultural products, that Gunnison was destined to become the steel, coal and smelting center of the West, in fact a New Pittsburgh, overshadowing the old; at this time, when saloons, dance-halls and pleasure resorts were enjoying the height of prosperity and faro, roulette, stud-poker and other gambling games openly flourished, Gunnison was suddenly shocked (?) by a homicide occurring within its borders. A new Delilah had come to the city and through rivalry for her favors had blood was engendered and jealousies arose between the gentlemen engaged in the saloon, dance-hall and gambling occupations; hence the killing. The killer, a gambler and dance-hall manager, as the grand jurors on their oaths charged, "with malice prepense did then and there shoot, kill and murder" a certain named gentleman saloon-keeper, "a human being in the peace of the people then and there being."

Mr. Frank C. Goudy (generally called "Frank") an able lawyer, well known and loved in the state, was then Prosecuting Attorney for that judicial district, and he was assisted in the prosecution by John M. Waldron, an

eminent and able attorney from Pueblo. The defense, with the assistance of local counsel, was conducted by Thomas M. Patterson of Denver (later to become U. S. Senator from Colorado), who was then considered the ablest defense lawyer in the state. The day of trial came on, killers from various parts of the West, as was then the custom, assembled in the city to assist in the administration of justice. The lawyers and the well-trained witnesses, including experts on gunshot wounds, etc., assembled; the stage was all set.

The prosecution desired to exclude from the jury the members of the gambling fraternity. We then had and still have a statute allowing removal from the jury by peremptory challenge of professional gamblers, as well also the excusing of members of the bar (meaning thereby lawyers). To Mr. Goudy fell the duty of selecting a jury.

Upon the jury panel had been summoned Mr. Scott Judy, clean-shaven, perfect in his dress, his brilliant solitaire gleaming in his white shirt front. Mr. Judy was an exceptionally bright character, formerly a practicing lawyer in Illinois but who, after escaping from that state, came to Gunnison and there found gambling an occupation much to his liking. After trying out both the gambling and the legal professions at Gunnison, Mr. Judy claimed that all the money he made playing stud-poker he lost practicing law, so gave up the law practice.

Mr. Judy was examined on his *voir dire* by Mr. Goudy as follows:

MR. GOUDY:

Q. Mr. Judy, what is your business?

A. I am a speculator.

Q. How and with what do you speculate?

A. Oh, I speculate (making motions indicating the dealing of cards at stud-poker).

Q. You are in fact a professional gambler, are you not?

A. I am.

Q. What is generally known as a "Tin-Horn" gambler?

A. Well, that is what the "Sky-Pilots" call me.

Q. Mr. Judy, you are also a lawyer are you not?

A. Now, Frank, why bring that up against a fellow?

The court ruled under the statutory provision, that being a professional gambler, Mr. Judy was privileged to have the challenge limited to that ground. He was so challenged, excused from the jury panel and thus saved humiliation before his friends.

COURTS AND SALARIES

By practically a unanimous vote the national senate has passed a measure calling for increase in the salaries of judges of federal courts and it is believed that the house will follow suit at this session. The public that understands will support congress in this matter. There is such a thing as a false economy. The country can well afford to pay its officers in responsible places their just hire. Honor there is in sitting on the bench, but honor does not meet the high costs of living and it costs not a little to maintain that honor nowadays. Furthermore the duties and often the responsibilities of the courts have been increased due to new conditions and experiments.

Salaries, ranging from \$20,500 paid to the chief justice of the high tribunal

at Washington down to \$10,000 for a federal district judge, are provided in the bill and they are not unreasonable. The increase will not be felt by the "overburdened taxpayer."

This brings us to a matter nearer home, that of the pay of local judges on all the benches or divisions. The salaries now paid are wholly inadequate. The probate judge with an overturn yearly in his court of a number of millions of dollars, does not receive for his year's salary as much as the attorney of a moderate estate receives for putting it through probate. A District court judge gets a miserly \$4,000 a year and he is expected to be a wise and upright judge, versed in the law and to render justice at all times. A judge of the Supreme court is given \$5,000 to maintain his dignity. If lucky he may receive a pension.

The public gets what it pays for and we fear the judiciary is not often an exception.

A revision upward in no niggardly fashion and non-partisan nominations of judges are two requisites in Colorado, if the courts are to be held in respect. The two combined would constitute a real reform.—Rocky Mountain News, May 8, 1926.

Opinions by Committee on Professional Ethics

May 21, 1926.

To Denver Bar Association,
Denver, Colorado.

The committee on Professional Ethics reports the following statements of questions submitted to it in respect of professional conduct and its opinion thereon:

I.

STATEMENT

Question: In the opinion of the Committee on Professional Ethics would the circulation by an attorney at law of the following letter generally be considered ethical?

Dear Sir:

A short time ago the writer attended at _____, a stockholder's meeting of the _____ Company. While there he had the opportunity to investigate somewhat the records of this Company with particular reference to sales of the capital stock made by the directors thereof

because of failure to pay assessments levied on said shares of stock.

In the writer's judgment there is a fair chance to recover this stock by suit. He is willing to take it on a contingent fee of 50% of the amount of stock involved.

As the matter now stands your stock has been sold and your rights thereto have been forfeited by the Company. You are no longer carried on the records of the Company as a stockholder and apparently have done nothing to assert your rights which the Company long ago forfeited. Several years ago, according to the records of the Company..... shares of stock were sold because of your failure to pay the first assessment. The writer has conferred with a number of people whose stock has been sold for failure to pay either the first or second assessments and who do not want to put up any money to bring this suit for the purpose of