

January 1926

The Annual Banquet

Denver Bar Association Record

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Recommended Citation

The Annual Banquet, 3 Denv. B.A. Rec. 11 (1926).

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The Annual Banquet

There was plenty of stimulant at the Thirty-Fifth Annual Banquet, held at the University Club on February 20th, but it was all mental, and the meeting itself was declared by old-timers in the association to have been one of the most successful in the history of the Denver Bar.

The committee in charge of arrangements and program consisted of Roger H. Wolcott, chairman; Walter M. Appel, Robert Collier, Edward G. Knowles, and Gustave Ornauer, secretary. In getting up the printed program (a clever classic from cover to cover entitled "The Pacific Deporter") they were assisted by Carle Whitehead, Victor Miller, Jack Phelps (who drew the cartoons on the covers), and Jack Scott.

And, before telling of the speakers, mention should be made of the lawyers' quintet, composed of Charles Beard, Bryan Whitehead, Joseph Cook, Floyd Miles, and Charles White, with Miss Kitty Wilson as their accompanist, whose harmonious singing contributed much to the success of the occasion. No professional musical organization could have given us better music or more genuine entertainment, and the solo stunts of Floyd Miles and Charles White would have done credit to the Orpheum.

After the toastmaster was introduced, Mr. Frank L. Fetzer, banquet bailiff, rose to his feet and in stentorian tones, with loud rappings of the gavel, proclaimed, "O Yes! O Yes! O Yes! The honorable Court of Last Resort is now in session. Lord bless this Commonwealth and protect the litigants!"

The Toastmaster is Installed

Mr. Hilliard, addressing himself to "the president, members of the bar,

and such honest people as may be present," said that banquets had originated in the early ages; that the King had at first been the only speaker, but had eventually evolved the idea that it would be well to have other speakers speak while he drank; that he had discovered that to have the brightest and ablest of those who had resort to the courts for his speakers robbed him of his glory and so he had finally gone to the other extreme and had selected those least prepared to speak. The committee waiting on him had explained, he said, that former meetings had been addressed by distinguished men and that they thought it would be well to have a program of ordinary men, for a change, whom they could understand; that nothing ought to excite the risibilities of the audience on this occasion more than the character of the men chosen to make the speeches. Much had been said concerning the matter of raising judicial salaries and one of the arguments advanced was that higher salaries would attract stronger men to the bench. He had interviewed the Supreme Court on this subject, he declared, and strangely they had this same point of view, each judge saying confidentially that he thought he ought to have six better men to help him with his work. He then told a story about the trial of an old farmer down in Kiowa, who had been charged with stealing a small cow, in which case he had been selected to assist Henry McAllister in assisting the district attorney in the prosecution of the case. In distributing the work of the trial among his associates, Henry McAllister, he said, had said, "Ben, you will make the speech to the jury, because the people down

here don't know you and think you're honest." He then introduced Luke J. Kavanaugh, Esq., who would address the meeting, he said, upon the subject, "Some Ethical Phases of the Activities of the Bar in the Field of Applied Publicity."

The Gospel According to St. Luke

Mr. Kavanaugh referred to the Gospel of St. Matthew, where it is said, "I come not to destroy the law," and then to a later passage, "Let your light so shine before men that they may see your good works." This latter passage he took as his text.

Both publicity and advertising, he declared, were mentioned every day by lawyers, sub rosa, and the distinction between the two was well understood; that advertising was what you paid for and publicity was what you got without charge. No lawyer, he said, was permitted to advertise unless he was connected with a bank or trust company, in which case he could take two squares or perhaps a quarter page to broadcast the slogan, "Ask your banker." However, one had to be careful in these days not to ask his banker too many questions; for example, if you asked your banker, "Where are you going?" he might now take it as an impertinent insinuation that he was on his way to Leavenworth.

Mr. Kavanaugh then, for illustration, read from a recent issue of "the Big Brother." On the front page he found the bar of Denver well represented. In the first column, he discovered that our militant district attorney, who "feared neither God nor man, nor minute man," was engaged in core drilling the pavements of Denver to find out whether any of it was one-ten-thousandth of an inch thinner than the specifications called for. In another column the prosecutor of an adjoining county had visions of a wave of light wines and beer, offering a ray of hope to the thirsty and urging that "every man who is captured with one drop of whiskey on him or in him" be sent to the penitentiary. He would like to amend this recommendation, he said, by suggesting that for the first offense the culprit be shot at sunrise, and for the second that he be hanged, drawn and quartered, and boiled in oil; then, if his heirs or assigns complained that the evidence was illegal

because obtained without a search warrant, let them seek redress under the doctrine of the recent case of Massontonio vs. the People, where our Supreme Court had differed with the report of the Colorado Bar Association and had over-ruled the United States Supreme Court on the same state of facts. It was well to have a fearless Supreme Court, he declared, and without one where would Colorado have been during the past eighteen months.

Luke Quotes "The Big Brother"

In this same issue of the "Big Brother," Mr. Kavanaugh pointed out, another prosecutor had gained for himself publicity through a liquor case where an African preacher had been charged with possession of a still and had put forward the unique defense that if the Savior had changed water into wine he didn't understand why he might not perform the miracle of changing a little corn into whiskey. But, as the prosecutor had pointed out, this defense did not hold in Littleton and the modernists had thus won a substantial victory over the fundamentalists. On another page of the same issue appeared a full length photograph of a debonair young attorney walking from the court room with a happy divorcee. On still another page a lawyer was quoted as having advocated the theory that "petting parties" were all right; and five out of seven of our district judges had expressed themselves as being opposed to cocktails, the same five being also opposed to "petting parties." The speaker declared that despite his excursions in erotic literature he did not yet know what a "petting party" was but that the judges evidently knew and we should also inform ourselves. One judge had deplored the rush of impecunious ladies into court to get large attorney's fees and, the speaker reminded us, while the salaries of judges had not been increased since 1881, the fees allowed to lawyers in divorce cases had not been increased since Coronado discovered Colorado. He suggested that the matter be referred to the committee on minimum fees.

On still another page of the same paper, a "doughty little judge" errant, not erring, had told the movie men what a terrible thing censorship

would be in the moving picture industry.

And so we see, said Mr. Kavanaugh, that we have publicity thrust upon us in all directions and lawyers are in constant contact with publicity, even to the governor of the commonwealth.

How to Obtain Publicity

To obtain publicity, he declared, you should be a district attorney, but if you can't be a district attorney, then be an assistant district attorney. One of our ex-district attorneys, a fighting gentleman, by the way, Mr. Kavanaugh said, had been interviewed on a certain murder case recently tried in Littleton and had expressed himself as being in favor of chloroforming people of subnormal intellect. We should have a care, the speaker warned, for the ranks of the bar might thereby be decimated, and he said this on the authority of the Supreme Court in cases too numerous to mention where they had reiterated the proposition that most of the lawyers appearing before them were either afflicted with subnormal intellects or else had no intellect at all.

Where would President Coolidge be today had it not been for the publicity arising out of the Boston Police Strike, or where would the late Mr. Bryan have been without the "Cross of Gold" speech publicity? The President, he said, was a good example of getting publicity by not talking and he told the story of how he had been recently interviewed on coming out of church. "What did the preacher talk about?" inquired the reporter. "Sin," replied Mr. Coolidge. "What did he say about it?" the reporter asked. "He was against it," was Mr. Coolidge's sententious answer.

The Serious Side of the Question

Seriously speaking, said Mr. Kavanaugh in conclusion, lawyers should not shun publicity because they were lawyers, nor should they court publicity because they were lawyers. We all should know the line of demarcation between legitimate and illegitimate publicity and if we didn't appreciate this distinction then we ought to be driving trucks instead of practicing law.

After telling two or three side-splitting stories, Mr. Hilliard, the

toastmaster, introduced Mr. George H. Shaw, of Fort Collins, who he declared could go Luke, the gospel writer, one better, for he had turned water into oil and a good deed into a mortgage, thereby making himself wealthy, and it was even thought that his client might get something out of it.

Shaw Explains His Mission

Mr. Shaw said that when he accepted the idea of coming to the meeting on a mission having to do with the most loved man in the legal profession of the state, he had wondered why the committee had selected a man who was not a member of the Denver Bar Association, but on looking over the list of members he had discovered that the predominating influence in the city and county was wielded by graduates of the University of Colorado Law School. When he went to the law school, he said, the students worked. Second-hand textbooks had been passed down from class to class and many of the leaves of these books were still uncut. In one which he had bought he found a pencil note on the margin, "At this point the Dean tells the story about the burro." And the Dean did. Down in Kentucky before the Civil War, Dean John D. Fleming was born, Mr. Shaw said, and he came here before there was any such place as Colorado. When he was United States District Attorney he ate all of his lunches for five cents and you could draw your own conclusions. In behalf of the Denver Bar Association, Mr. Shaw then presented Dean Fleming with a loving cup, which he said was in appreciation of the influence he had had on the members of the Bar during the past twenty-five years, which he said had endeared him to the hearts of all who had enjoyed the privilege of studying under him.

The Well-Loved "Dean" Speaks

Dean Fleming told a story of Emery Starr, the Chicago lawyer, who was at one time appointed to defend a man charged with keeping a disorderly house. Thinking that he might obtain leniency for his client, he advised him to plead guilty, but the judge gave him the limit of both fine and imprisonment. Mr. Starr then rose to his feet, Dean Fleming said, and addressing the court, said, "Your Honor has digni-

fied the calling of my client beyond my wildest expectations." And so, said Dean Fleming, it might be said on this occasion of presenting him with the cup. He could not, he said, express in words his deep appreciation of the beautiful cup, but the hour would be long held in his memory. He had been teaching in the University of Colorado for more than thirty years but he did not know how long he would still remain, and he told a story about an old man named "Uncle Billy," who had lived in the little Kentucky town where he himself had lived. No one, it seemed, knew how old Uncle Billy was and he didn't either, but a waggish lawyer of the town had said that they would have to call him up on the judgment day and shoot him. And, said the Dean, if such a fate awaits me no man could face a firing squad with greater equanimity.

At this point Toastmaster Hilliard again went into action with a story about the late Judge Scott, who he said had at one time been receiver of the United States Land Office in Kansas. One of the lawyers, having broken a rule of the office, was notified in the usual formal way of his disbarment from further practice before the office, the notice stating that he had thirty days in which to take an appeal to the General Land Office. This notice was mailed back to Judge Scott with the following reply written across the face of it: "Sir: You can go straight to hell and you have thirty days in which to take an appeal." Judge Barwise, General Counsel of the Colorado & Southern Railway, Mr. Hilliard said, had expected to address the meeting but was unable to do so because one of the railway company's trains had inopportunely run over a cow, and so Mr. Floyd Miles, who was versed in Colonial history, would address the meeting upon the subject of "Paul Revere." Mr. Miles thereupon proceeded to give a Swedish dialect parody on "Paul Revere's Ride," followed by a German dialect recitation, both of which were screamingly funny.

Vincent Ventures Some Remarks

Mr. Hilliard then introduced the Honorable Merle D. Vincent, who said that he had been most interested in Mr. Kavanaugh's comments on publicity and that if Mr. Kava-

naugh had read the Old Testament with the same diligence that he had evidently devoted to the New he would have found the text from Proverbs, "He that tooteth not his own horn, verily the same shall not be tooted." He had come here, he said, to assist in revising the rules for admission to practice and one upon which the committee was agreed was that ancestors of the candidates unto the seventh generation should be native born, white and married. He was not as glib about speaking, he said, as in his younger years, for not long ago when he was scheduled to speak at a local meeting in his home town he had overheard his boy saying to another boy that he didn't intend to go to the meeting because "I can hear that old bird any time."

Toastmaster Hilliard then told a story about Dr. Mahaffey, Provost of Trinity College. Upon being introduced to the Queen, it seems that the good Doctor had inquired concerning her progress in the study of Spanish, and he quoted Charles V as having said that he spoke Spanish to his wife, French to his mistress, and German to his servants and dogs. The German emperor, who happened to be present when Dr. Mahaffey was telling this story to the queen, seeing the queen wreathed in smiles, asked the Doctor to let him in on the joke. But the Irishman's wit was too quick to be caught in such a trap and he had replied, "Isn't it remarkable, your majesty, that I have only known the queen for ten minutes and already we have something to conceal?" Apropos of this story, Mr. Hilliard said, he had gone to Grand Junction to inquire about the next speaker. Upon arriving there, he had immediately been surrounded by a group of prominent citizens who promptly asked him if he knew "Hick" Walker. He had replied that he knew a lot of "hicks" in Denver and they had then told him by way of further explanation that their Hickman Walker was a lawyer and "the greatest lawyer in all this state." He then asked them if he were greater than George Washington. They had replied unhesitatingly that he was. Was he greater than Lincoln? Well, they had replied, Lincoln had never really had a chance while their "Hick" had. Was he greater than God Almighty, Mr. Hilliard had finally asked. At this they

hesitated for a moment and then said, "Now be reasonable, Mr. Hilliard; Hick's young yet." With this preliminary, the toastmaster thereupon proceeded to present Hickman Walker, Esq., of the Denver Bar.

Before the speaker could get to his feet, Mr. Roger Wolcott announced that someone in the audience was being called on the telephone from Pueblo.

Walker Wades In

Mr. Walker said that the untimely interruption of Mr. Wolcott had deprived him of that ovation for which he had been waiting through ten long, anxious days, and that he had expected that the demonstration from his friends would have gone far to allay the irritation of the trivial and unworthy prefatory remarks to which he had been subjected by the toastmaster; that he had a right to expect something more soothing to his inflamed ego from a man who had left his mark on every babe in his Congressional District. This was not the toastmaster's season of greatest mellowness, Mr. Walker declared, for between the periods of political ambition he must keep busy in trying to sustain his reputation for being funny.

Personally, Mr. Walker said, he could not see how Mr. Hilliard had got so far ahead in the race for cap and bells; it must have been his looks that had given him such a start. He knew from experience that a reputation for being a humorist had two bad things about it: it was hard to live down to and hard to live up to.

In the mansion of the soul, the partition was thin between the chambers of mirth and melancholy, and "our sincerest laughter with some pain is wrought." There was a haunting look of pathos in the eyes of the toastmaster, Mr. Walker thought, and it was but the adumbration of the most agonizing feeling that ever wrung the soul of man—the hopeless and insatiable yearning of a comedian to play the role of Hamlet. Some day the public might coldly inquire, "What is this stuff we've been laughing at, anyway?"

A Tribute to the Toastmaster

Yet he would not do the toastmaster an injustice, the speaker de-

clared, and he would freely say that since there was laid down more than three hundred years ago the quill of the bard at Stratford-on-Avon the world had not seen so resourceful and industrious a maker of puns as the toastmaster; to him nothing was sacred, no place secure, and from him no man was safe. During the dark days of last December he had been talking with a man who was bemoaning the failure of the banks and Mr. Hilliard had expressed the fear that the trouble might spread to the ice companies. When asked for an explanation, he had said, "Just think of all their frozen assets." And, not long ago, when clinging to a strap in a crowded owl car, the toastmaster had said to him, "Why, I thought you were a satirist."

He was simply a Boswell to this Johnson, the speaker admitted. If you had ever read Mr. Hilliard's autobiography in the Congressional Record, you would find that when he was a mere child his father had possessed a large unabridged dictionary on which Mr. Hilliard had been wont to put his tin soldiers and march and counter-march them there, whence, the speaker declared, he had doubtless acquired his life-long passion for a play upon words. These tendencies of the toastmaster, he said, were but the outcroppings of a pure fissure vein of humor apexing in someone else's claim.

The "Best" Pun

At the risk of paying a compliment by which we all acquire a greenish tinge, the speaker said that he would tell of the best pun he had heard lately, which had originated in an argument upon a demurrer and was conceived, delivered and recorded in profound silence. One of the counsel in this case was the man from whom no man's typewriter was safe (the machine, he said, he meant), and the other belligerent had once occupied the district bench. The complaint had alleged that a certain lady had conveyed certain property to her children and both mother and children had been joined as defendants. The demurrer alleged that the defendants could not be joined in separate causes of action because they were not sued in their separate characters. To this demurrer the former judge had replied, "Counsel

says that the objection is not tenable because all of the defendants are villains." The demurrer was promptly overruled.

The speaker said that he had no desire to compete in the classification of humorists; that he had an ambition to say something worth while; and so he would go back to the days which Bill Foley refused to believe had gone forever, when a Bar banquet was a Bar banquet indeed; when the wise became foolish, the dull sparkling, and the taciturn noisy. These days, he thought, might be recalled without offending even John Hipp, to whom they must bring back the memory of many a temptation bravely overcome in character-building effort or else yielded to in sweet secrecy. "By the way," exclaimed Mr. Walker, "is it true that you have something on the Hipp?"

Facts About Fees

The committee, he said, recognizing his desire to leave something solid with this assembly, had asked him to speak on the subject "Inquiry re Argument and Review," and in accordance with the policy of mystery of the banquet committee he would discuss the question of minimum fees, which were the kind most of us were accustomed to receive. Unrest, he said, was characterizing a large section of our Bar and he had been forced to the conclusion that someone must be charging less than they are charging. Something effective should be done; a committee appointed or a resolution adopted; some means whereby the dirty skunk may be made to feel the penalizing attitude of his fellow lawyers.

The lawyer's fee is *sui generis*, the speaker declared; it can have no affinity with any of the vulgar crowd of sordid stipends; it was merely a method of special assessment levied for the maintenance of the public good; and it was that part of the lawyer's livelihood due from society which he elected to impose on the particular client in the particular case. It was much too delicate to be the subject of lists, and its principal object was the exaction of a sum sufficient to meet the financial requirements of the lawyer according to his condition of life and with a view to improving the same.

Latin Lingo

And to show that his stock of Latin was not to be sneezed at, he would say that the lawyer's fee was not only *sui generis* but *E Plumibus Unum* as well, by which, he explained, he meant that it was compounded of various elements. If some of the elements were absent, he declared, those present had the property of swelling to supply the space of the missing ones so that the toll remained about the same.

If the labor and time expended on a matter is small, bear down on the item of responsibility, advised Mr. Walker. The Tramway Company transported old people and young at the same price; the butcher sold meat for the dog at the same price as that charged for human consumption; but the grand doctrine of the charge to the rich received its fullest and freest development in our own profession. When the risk involved in a matter is small, its intricacy should be emphasized, he said, as well as the dignity of the relation of attorney and client.

Pertinent Questions

"Why blast this marvelous system of ours?" demanded Mr. Walker in conclusion. "Let us range up and down at will, for in every lawyer there is an instinct that will serve to check the downward tendency and prevent the abuse of low fees. Why take away the air of uncertainty surrounding our fees, which constitutes no small part of the lure of our profession and imparts to it the spirit of a great adventure?"

As Mr. Walker took his seat amid the uproarious laughter of the audience, Toastmaster Hilliard resumed the floor for one serious moment before the final song and adjournment of the meeting.

Final Hint From Hilliard

Most appropriately, he remarked that when we had passed from the scene of earthly activity, it was not panegyrics that we wanted, but merely that our professional brethren should genuinely miss our companionship, and he expressed his satisfaction (which was shared by every one of those present) over the warm spirit of friendliness and companionship which had pervaded this Thirty-Fifth Annual Reunion of the Denver Bar Association.

—J. C. S.

THE DENVER BAR ASSOCIATION
R E C O R D

P U B L I S H E D M O N T H L Y

VOL. III

DENVER, APRIL, 1926

No. 4

*To the Members of
The Denver Bar Association:*

The Secretary is in receipt of the following communication, which explains itself:

"Denver, Colorado
March 26, 1926

Albert J. Gould, Esq.,
Secretary, Denver Bar Association
Denver, Colorado

Dear Sir:

It seems fitting that as the present officers and committees, whose terms expire July 1st, 1926, are charged with the responsibility of planning this Association's part in connection with the approaching July meeting of the American Bar Association that they should continue in office until that meeting is concluded. I, therefore, offer the suggestion that our by-laws be suspended to permit of such extension, to which end the following resolution will be offered at the next meeting of the Association:

'RESOLVED, that Section 1 of Article V and Section 3 of Article VII of the by-laws of this Association be suspended in the following respects: That the 1926 Annual Meeting for the election of officers shall be held the last Monday of May, 1926; that all nominations and notices in respect thereof be postponed in accordance herewith, and that the present officers and committees of this Association shall hold office until August 1, 1926.'

Will you please give proper notice hereof.

Very truly yours,
(Signed) Horace N. Hawkins."

In accordance with the above request and in compliance with the by-laws of this Association, you are hereby respectfully notified that the above mentioned Resolution will be presented at the next meeting of the Association to be held April 5, 1926, at the Chamber of Commerce Building, at 12:15 o'clock P. M.

(Signed) Albert J. Gould, Jr.
Secretary

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