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THE DENVER BAR ASSOCIATION

RECORD

PUBLISHED MONTHLY

VOL. II

DENVER, APRIL, 1925

No. 4

Report of Nominating Committee

“In the selection of candidates, the sole consideration of your Committee on Nomination of Officers was to find men who would carry on the active work of this Association and extend some of the constructive work which the Association has started during the past year.

The test applied in making these selections was past performance in the work of the Association.

After a careful canvass the Committee feels that each of the nominees has, by his record in the Association, qualified for the office for which he is named.

The action of the Committee is unanimous in making the following nominations:

President.....Charles C. Butler
First Vice-President.....Henry McAllister, Jr.
Second Vice-President.....Robert W. Steele, Jr.
Trustees.....Charles R. Brock, B. C. Hilliard

Respectfully submitted,

WILBUR F. DENIOUS,
FRANK N. BANCROFT,
RICHARD S. FILLIUS,
CARL WHITEHEAD,
THOMAS WOODROW,
Committee.”

Editor's Note: Further nominations may be made in accordance with our by-laws, a copy of which is printed herein.

THOMAS JEFFERSON—THE LAWYER

Several weeks ago we asked Mr. Craig to prepare an essay on Jefferson. He has submitted the following article, which the Record feels is especially timely, inasmuch as Jefferson's birthday will be celebrated April 13.

(By Albert G. Craig)

Thomas Jefferson, lawyer, politician, scholar, statesman, President and patriot, of him, as any of these, could many encomiums be written. As a lawyer, however, the third President of the United States and the author of the Declaration of Independence is seldom appreciated and least remembered. Born in that commonwealth whose sunny clime produced so many revolutionary patriots — Virginia — Thomas Jefferson was by every token of birth and environment an aristocrat. The son of affluent parents, he found himself at the age of seventeen a student at the William and Mary College. Many educators still bespeak the virtues of the small college as against the great complex universities of the present day. In this connection it is interesting to note that no one college has furnished more than three Presidents. Only two have furnished three, Harvard and William and Mary. Monroe, Tyler and Jefferson from William and Mary, the two Adams and Roosevelt from Harvard. Princeton has furnished two, Madison and Wilson. No other can boast more than one name. When we remember the meager attendance of William and Mary and its modest endowment we are persuaded that neither attendance nor endowments in themselves necessarily make a great school. John Marshall, perhaps more useful than many Presidents, was a product of this humble little Virginia college.

After graduation Jefferson studied law in the office of George Wythe, as did also John Marshall. At this period Jefferson was well-to-do, tested by the standards of that day. Five thousand acres of Virginia land were his, together with fifty-two slaves to till this vast estate and make it productive. He had no need to practice law. He might have spent his days as a Virginia gentleman, living upon his vast estate and entertaining extensively. However, his active mind would have none of this and he plunged into the practice of law with as much enthusiasm and hard work as though he were the head of a large office in one of our American cities of today. From the outset his practice was large and lucrative for those pre-revolutionary times. The first year he had sixty-eight cases in the general court, the second year one hundred fifteen and in the third one hundred ninety-eight. Yet, he was chiefly an office lawyer because of a weakness of voice which prevented him from becoming a great advocate. Jefferson never was a great public speaker. By personal contact and with the pen was his influence most potent. It is impossible to determine where the work of the lawyer ends and that of legislator commences. To speak of Jefferson the lawyer we must consider Jefferson the legislator. The achievements of the two are one. Had Jefferson not been a member of the legal fraternity the results of his legislative labors would have been mediocre. Only seven brief years mark his active legal career and yet it must be those seven years that gave his mind that training which made him such a valuable servant to his country during his long public life of approximately forty years. Jefferson's public service is hardly equaled by any other man whose name is prominent in American his-

tory. Member of Congress, Governor of Virginia, Minister to France, Secretary of State, Vice-President and President—in all of these high places did he serve with credit to his country, but at a sacrifice of his personal estate.

Ever have the lawyers been the John the Baptists, crying aloud against the oppressors of the day. Jefferson with a pen did that which Patrick Henry and Samuel Adams did with their voices.

As a member of the Second Continental Congress which opened its memorable session in June, 1776, he was at that session on June 11th elected to the first place on a committee chosen to draft a declaration touching relations with the Mother Country. On the committee with him were John Adams, Roger Sherman, Robert Livingston and Benjamin Franklin. All of these recognized his great legal ability and turned over to him the preparation of this most important document. After a fiery ordeal of criticism but with slight changes, the words of Jefferson were adopted. The production of this immortal declaration of human rights should be added to Jefferson's legal labors. To dwell upon its effect over subsequent history would be to question the information of the readers of this Journal. What is the declaration more than a complaint prepared for the consideration of the High Court of Public Opinion? Were I to conclude here, Jefferson's fame as a lawyer ought to be secure. Not knowing themselves what enduring fame their representative had earned by reason of his labors, the people of Jefferson's district re-elected him to the Congress at Philadelphia, but he, feeling the need of reform legislation in his native state, declined the place and accepted a more humble position as a member of the Legislature of Virginia, called

the House of Burgesses. Is this not an example worthy of emulation? Should not the test of our desire for public preferment be "Where can we serve?" Within five days after he took his seat he brought forth bills which were destined to be famous because of their influence on legislation throughout the nation in years to come. Though himself an aristocrat he introduced three measures which hit at the foundation of property rights in the old dominion. His law enabled tenants in tail to convey such property in fee simple and a bill to do away with the old system of entail was certainly an innovation in that conservative community. The crashing of this system almost in a day did much to open Virginia to trade, now that the property of the landed aristocracy could be reached by creditors. Even with a more ruthless hand did he attack the principal of primo geniture. In reply to one critic of this reform who proposed that the eldest son take a doubled proportion of the property if not all, Jefferson replied: "No, not until he can eat a double allowance of food and do a double allowance of work."

The established church came next and the initial steps laid in this session became the basis of religious reform in many places, and this in a legislature whose membership was largely composed of citizens who were of the favored religious body. While no less a patriot than Patrick Henry was, raising his voice for political freedom, there were at this same time Virginia Baptists in prison for daring to raise their voice in an effort to persuade others to share their religious convictions. Who can but admit that this reform found its way a few years later into the fabric of the Federal Constitution? I have only touched upon the important measures advocated by Jefferson

while in the Virginia Legislature, among which were his efforts looking to the eventual cessation of slavery. In fact, he secured the passage of a bill prohibiting the importation of slaves into Virginia.

Space does not permit further discussion of Jefferson's extended public career, including his great services to education in the founding of the University of Virginia. All these later labors are not the subject of this paper, but his early efforts as a lawyer and legislator are so often forgotten in the discussion of his greater and more illustrious achievements that it is worth while for lawyers to consider what he accomplished as a member of their profession.

He died July 4, 1826, or half a century to the day from the day the immortal declaration was adopted. John Adams, his predecessor as President and signer of the Declaration of Independence, but for many years his political enemy, who in after life became Jefferson's fast friend, died the same day only a few hours later, not knowing, however, that death had taken his friend in distant Virginia. Adams' last words were "Thomas Jefferson still lives." Singular indeed that these two great leaders of our country in its early days should have each departed this life fifty years from the date of the adoption of the declaration and the birth of the nation whose destinies they so largely shaped.

Among Jefferson's papers was found a sketch for a granite stone which he desired for his monument, with these words to be inscribed upon it:

Here was buried
Thomas Jefferson
Author of the Declaration of Independence
Of the statute of Virginia for Religious Freedom
And Father of the University of Virginia,

and today on a simple gravestone among the Virginia hills may still be found this same simple epitaph.

DON'H WORRY WITH THOSE CONTRIBUTIONS!

Last month we made an appeal for contributions to the Record. We'll admit the response hasn't swamped us.

But seriously, judges and lawyers of Denver, we need your co-operation, and any and all articles of interest to bench and bar will be appreciated. Send your article now!

JAKE WORRIES CHARLIE

Jacob J. Lieberman, not many moons ago a member of this association, is showing several Native Sons how they do things in Denver. Jake has busted into the famous Chaplin equity suit out there, arrayed against the world-renowned comedian. To prove he's giving Charlie lots to worry about, besides his Lita, read the following excerpt from a recent number of the Los Angeles Express:

"Who's going to get Charlie Chaplin's pants and his big feet when he's dead? This was demanded of Superior Judge J. L. Hudner by J. J. Lieberman, one of the attorneys for the defense in the equity suit of Charlie Chaplin to grant him a monopoly for his costume and grimaces under the action to prevent Charles Amador from imitating him, and the Western Feature Productions from releasing films made by the defendant.

"The most extraordinary phase of the suit is the plea that Chaplin be granted a perpetual monopoly to the character which he portrays," said Lieberman in his argument. "This would mean that even after his death this character could never be portrayed on the stage or screen."

TREASURER OF BAR ASSOCIATION STUNNED

(Taken from our correspondence)

"This Record cost 10c, please read it." There is no doubt about it. Of course I read it, and find it very interesting. Here is your ten cents. (Signed) J. K. P. McCallum.

That's the stuff. We are going to frame the ten-cent piece, not because we don't need the money, but just to encourage the editors in their work. At least it shows that their efforts are appreciated by some.

"THE FIRST HUNDRED YEARS"

Mr. Whitehead is a brand new lawyer, turned out last June. The Record asked him to prepare a treatise on some of his experiences making bread and butter in those first lean months as a practitioner. Here it is:

(By Bryan L. Whitehead)

Ten years or so, ago, I made up my mind that some day I would be a lawyer, but at that time I did not have the remotest idea what being a lawyer, or practicing law was like. A lawyer, in fact, made up my mind for me, and he did it by the ease, celerity, and dispatch with which he separated me and a ten dollar bill, which represented to me nearly a week's wages. The occasion of the separation was the only time I ever consulted a lawyer in the role of a client. I remember the event vividly. He had an imposing reception room; there were book cases along the walls, filled with ponderous tomes, which even my lay eye could see were law books; the office smelled and reeked of law, and I thought I had surely come to the right place and this was Justice's "Stomping Grounds."

Client after client, at a nod from the stenographer went into the inner office, the "sanctum sanctorum," but none ever came out, and while awaiting my turn the whimsical notion occurred to me that perhaps each was struck dead as he entered the august presence of him whom I had come to consult; and that when I too should enter the last thing in this world my eyes would see, would be a pile of corpses, to which I would add one more.

The "Oracle" sat in a large swivel chair; he had a large and intelligent eye, he had a bulging forehead, and he had a monumental dignity and repose. My hand automatically dived into my trousers' pocket, came forth clutching my lonely ten dollar bill. I smoothed the wrinkles from it carefully, even lovingly, I tendered it to him with a deep sense of humility, feeling somehow that it should have been a hundred dollar bill. He reached forth a large and capable hand, and took it from my unresisting grasp; title passed; one moment I was the owner in fee simple of ten dollars lawful currency of the realm; the next he was, and not a word had been spoken. He placed it tenderly in a bill fold with many of its brothers, cousins, aunts, and other

relatives, and by the utter finality of his movements I knew the ten dollar bill and I had parted forever, but I was cheered somewhat by the thought that it would not be as lonesome in his pocket book as in mine.

Falteringly I told him my case while he pursed his lips and folded his hands across his ample waist line. At its conclusion he said in solemn, sonorous tones, as though his words would change the orbits of the planets: "I shall write a letter, and then your difficulty will be over." And the singular thing is that he did write a letter, and my difficulty was over. And so after that experience I knew that I was going to be a lawyer. Anyone who could solve a problem that loomed to me as large as the collapse of the entire cosmic scheme, with a two cent stamp and ten minutes time was a person worthy of emulation.

So I studied and in time became a member of the bar. But now that nearly eight moons have waxed and waned since I was admitted to the practice, I am no nearer to the solution of how to acquire that lawyer's impressive, majestic dignity, nor his happy faculty of collecting fees from his clients by the power of his eye. But time for me as yet is young, and perhaps I shall learn.

In the conceit of my youth, when I got my license. I prepared to make the Supreme Court dizzy with learned briefs. In common with most other very young and very green lawyers, I had visions of holding juries spell-bound with forensic oratory, of shattering the morale of witnesses by brilliant cross-examinations, of confounding opposing counsel by shrewd and astute maneuvers, and of astonishing His Honor with my wit and learning.

I went into the office of a lawyer, whom I had long admired, and who though young, has made an enviable reputation for himself, and my first assignment was to make a map of a place where an accident had occurred. I was very proud of that map; it was photographically and topographically correct, and it nearly broke my heart when the case was settled out of court, and my map was never used. After that I became the "leg man" for the office; I became a demon process server, I prowled the highways late at night, and in the early hours of dawn, seeking the wary defendant to clap a summons on; I ferreted out automobiles to take by attachment,

by skulking in the alleys at night; the soles of my shoes became thin, a wild gleam came into my eye, and like Cassius, I had a lean and hungry look.

And during all this time I was waiting the advent of a client all my very own. One day a man came into the office and asked for me. I heard him and I rushed out, I seized him by the hand, I beamed upon him, I ushered him into the office with all the dignity and grace I was capable of, mentally wondering what kind of a case he had, who had sent him to me, and how much I should charge him. He was a collector.

Some time later I did have a client and I tried a case in the Justice Court for him. I remember how feverishly I prepared for trial, he was the defendant, and I think I had a dozen or so defenses, and I carried to the Court House nearly as many law books. That trial lingers in my mind like an unpleasant dream. My cross-examination was, I know, exceptionally brilliant. What the plaintiff failed to state advantageous to his cause on direct examination I managed to bring out on cross. My first question was, I think, "What did you say your name was?" and the last, "Are you sure that is where you live?" At the close of the evidence the Judge asked me which side I represented. Upon my telling him that I represented the defendant, he spoke these fateful words, and they sounded to me like the clap of Doom: "Judgment for the plaintiff and assess his damages at ninety-five dollars and thirty-five cents and costs." I had lost my first case, and I did not sleep well for a week following.

The West Side Court holds a peculiar fascination for me as it has for every attorney at some time or other. Criminal practice is certainly the one branch of the profession which has some glamour and excitement attached to it. I used to expect to see the brand of Cain on the countenances of the prisoners in the dock, or at least some mark to set them apart from other humans, and show that they belonged to that mysterious class of creatures known as criminals. I found no such mark, they looked, and acted, and spoke just like other people, and many I think, were, and are no more evil at heart than others who will never appear before the Bar of Justice, in this world, at least.

A kind hearted judge from an outside district, seeing my hungry look, one day assigned me to defend a young woman charged with a second liquor violation. The defendant was out on bond, my predecessor having done that much for her and then quit. No one ever prepared more diligently for trial than did I. She came to the office times without number and she never varied her story in the slightest detail. I was firmly convinced that she was telling the truth, that she was guiltless of any criminal intent and that I was to be the Don Quixote who would save her. I was tilting at a windmill in reality, but I did not know it at the time. She was a girl in her early twenties, and had dissipation not graven its lines, her face would have been rather a prepossessing one. Her name was Dora, and it may have been a foolish, sentimental fondness for Dickens' David Copperfield that made me want to save her from the "Big House." The case was tried, she told the same story on the witness stand that she had told me so many times, and which I believed; she made a good witness, but though I walked very fast, the jury had returned their verdict before I got back to the office. I saw her at the jail two days later and she exploded a bombshell beneath me by telling me that her whole story was a lie and that she never expected to beat the case anyway. I made then the astonishing discovery that clients do not always tell the truth, even to their lawyers.

I have learned more in these eight months since I have been admitted to the practice than I ever learned in so short a span of time before; some of it has not been pleasant, but all of it, I guess, will be useful. I am not ready as yet to agree with the cynical commentary of some wise-acres who once said that a lawyer was only the catspaw that people used to rake their chestnuts from the fire; nor in the more humorous observation of one of the characters in an early Eighteenth Century play to this effect: "The law is a sort of hocus-pocus science that smiles in your face while it picks your pocket and the glorious uncertainty of it is of mair use to the professors than the justice of it."

There is an idea somewhat prevalent that lawyers never do any work,

all they ever do is look wise, and that should not require any effort and consequently should not be paid for. Now the general public ought to be made to realize that a lawyer has to eat the same as a horse or a cow, and in closing this rather windy script it might not be out of place to suggest that "us lawyers" formulate some way of getting the good people to pay our modest fees, because I feel as did that learned and erudite member of the Bar in another state when he said in speaking of his clients who refused to "pay up," "Gosh dang it all, Carl, it ain't right."

DUNCAN McPHAIL IN DISTRESS

Duncan McPhail, old-time Denver lawyer, and a well-known figure in this state, lies in pain and abject poverty in a hovel at 2905 West Second Avenue.

He is terribly bedridden, suffering from a back injury which makes his every movement a living torture.

His only source of care and comfort is a Mrs. Switzer, widow of his old friend, herself an old lady with a broken wrist, and utterly unequal to the task either of providing adequately for herself or McPhail, or of keeping their filthy shack clean and healthful.

Investigation has proved they are living on \$5 a month, donated by the city charities. Three tons of coal have been delivered them since last September.

The plight of the pair is a worthy object for the charity of this association, and President Wallbank has authorized this appeal to the lawyers of Denver for aid.

Mr. Schaetzel will accept any contributions. We urge a hearty response to this appeal.

DENVER'S FAME SPREADS

The dean of one of our Denver law schools sent us recently a letter he got from the South, indicating that Denver's law fame has stretched far over the country. It follows:

"Atlanta, Ga., Feb. 25, 1925.

"Denver, Colorado.

"Dear Sir:

"At the present time our company can use to advantage the services of

an intelligent young attorney who can handle a good many intricate problems of office attorney work, and who has capabilities of developing into a General Counsel. We would prefer a man who had been in practice for a few years, although a recent graduate of a law school would not necessarily be objectionable. The man we employ should be well versed in real estate law in general, and should be competent to develop rapidly, with increased responsibilities to an important executive position in our organization. We can pay a reasonable salary to start with, with prospects of advancement.

"For this position we prefer a man who is a native of the South, or, at least, is familiar with Southern conditions. It is not essential that we have such a man, but we believe, since the majority of our work is in the South, that it would be advantageous.

"In writing to you, we are doing so in confidence, in the hope that you may be able to suggest someone from among your graduates or acquaintances who can fill this position acceptably. We hope that you can give us an early reply, with your recommendations, if any.

"Very truly yours,....."

LEGISLATIVE REFLECTIONS

Give us fewer, better laws,
Less of regulation;
Civic virtue finds its cause
First in education.

Human nature can't be changed
By a statute's magic,
Nor can morals, disarranged,
Thereby be less tragic.

There's no way you can extend
Changeless institutions,
Nor can any laws amend
Mental constitutions.

So, let Liberty prevail,
Save when it transgresses
Others' rights, for Law will fail
If its rule oppresses.

Let the Lincoln motto guide
All our thought and action,
Then will Charity abide,
Firm, in every faction.
—City Club-Chronicle.