

# Denver Law Review

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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. I

DENVER, APRIL, 1924

No. 5

**Luncheon Meeting and Bar Primary Election**

*Time—*

Monday, April 7th, 1924, 12:15 p. m.

*Place—*

Dining Room, 6th floor Civic and Commercial Building, Champa street, between 17th and 18th. Luncheon 75 cents.

*Bar Primary—*

Polling place for the Bar Primary Election will be open for the convenience of lawyers, at the above meeting place, from 12:00 to 2:30 p. m. See more detailed announcement within.

*Guests and Speakers—*

This will be "OLD-TIMERS' DAY," the Golden Anniversary of Denver lawyers who have practiced 50 years or more—admitted in 1874 or earlier. They will be our guests and will tell us of law practice in the day of the Indian and the Buffalo. PLATT ROGERS presiding.

All practicing lawyers in Denver are invited, PROVIDED, HOWEVER, and upon the express condition that you mail the enclosed card promptly and let us know you are coming.

## The Denver Bar Association Record

### OFFICERS

Hugh McLean .....President  
James Grafton Rogers First Vice-President  
Philip S. Van Cise Second Vice-President  
Jacob V. Schaetzle...Secretary-Treasurer  
718 Symes Bldg., Main 580

### Published by

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Office, 718 Symes Bldg., Denver, Colo.

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### FUTURE PROGRAMS

The tentative program of the Denver Bar Association from this date until July 1, 1924, the end of our Association year, is as follows:

April 21—New Court House Meeting (luncheon), in charge of committee; reports of progress and presentation of proposed plans.

April 18—Annual Meeting (evening); officers and committee reports; election of officers; address by Chancellor Heber R. Harper.

May 5—(Luncheon)—“The Bar—A Body Politic,” the proposed incorporation of the Bar, to be presented both pro and con.

May 19—(Luncheon)—Grievance Committee program; reports of its work, with recommendations.

May 26—Memorial Meeting (10 a. m. at the Court House).

June 2—(Luncheon)—Legislative Committee program. Report on proposed legislative changes.

June 16—(Luncheon)—“Reforms in Our Judicial System,” to be presented by the Judiciary Committee.

The members of the Association are requested to give the above programs careful consideration, so that we may conclude the year with highly successful meetings. Suggestions and recommendations will be appreciated.

STANLEY T. WALLBANK,  
Chairman Meetings Committee.

### MEMBERSHIP

The Membership Committee has been doing excellent work, the best evidence of which is the following

list of twenty applicants for membership. These names will be voted upon at the meeting on April 7th:

Anderson, P. R.  
Bangs, Lena M.  
Biglin, Joseph A.  
Blake, Milton E.  
Herrington, Cass M.  
Kellogg, Thomas  
Kobey, Benjamin R.  
Maddock, Robert A.  
Maloney, Daniel A.  
Manby, Jocelyn, Jr.  
McBride, Walter  
McGlashen, A. E.  
O'Neill, Hugh  
Preston, Homer Glen  
Richmond, George Q.  
Rosner, David  
Samson, Roy O.  
Smith, Milton, Jr.  
Steinhauer, Ernest P.  
Thompson, Leslie A., Jr.

### NOMINATING COMMITTEE REPORT

The Nominating Committee, Henry H. Clark, chairman; Wilbur F. Denious, William E. Hutton, Henry W. Toll, Carle Whitehead, named in accordance with the by-laws, as announced in the last Record, has filed its report, making the following nominations of officers to be voted upon at the annual meeting, April 28th:

President—Stanley T. Wallbank.

First Vice-President — W. W. Grant, Jr.

Second Vice-President — Kenneth W. Robinson.

Trustees—James A. Marsh and Herbert M. Munroe.

The by-laws provide for further nominations in accordance with the following:

“Further nominations may be made by filing with the Secretary at least fifteen days before the annual meeting, the name or names of additional candidates bearing the written request of at least twenty members of the Association. No ballots for persons other than those nominated as aforesaid shall be received or counted at the election.” Art. 7, Sec. 3.

Any additional nominations must therefore be in the Secretary's hands by or before Saturday, April 12.

The annual banquet of the Denver Bar Association, given on March 3, 1924, at the University Club, will stand out in the history of our Association as one of the most memorable occasions in its annals. Lawyers from many parts of Colorado, as well as from Wyoming, were in attendance. It was the first time in the history of our local bar that all our Supreme Court Justices were in attendance together at one meeting. There was also a full attendance of district and county judges from Denver and the state. Robert S. Gast, President of the Colorado Bar Association, was present.

Hon. R. E. L. Saner, President of the American Bar Association, gave a masterly and scholarly address, urging the lawyers to greater and more unselfish public service. Excerpts from his address are given elsewhere in this issue.

Hon. Nelson H. Loomis, of Omaha, Nebraska, General Solicitor, Union Pacific Railroad Company, gave a very comprehensive outline of the men composing President Lincoln's Cabinet, and stated many hitherto unknown facts relative to the habits and eccentricities of these men.

Tyson S. Dines, Sr., one of the leaders of our local Bar, gave, with great earnestness and effect, a report for the Committee on American Citizenship.

The toastmaster of the evening, Mr. Henry McAllister, Jr., was at his best, and served ideally in this capacity. The Lawyers' Quartette (real, not scrap-iron) sang most acceptably.

Mr. Saner was very much pleased with the singing of our original songs and stated that this was one of the finest banquets he ever attended. He particularly liked the good fellowship displayed. He asked the Secretary for several copies of the program and any additional songs we had with original words, as it was his desire to send them to the American Bar Association Entertainment Committee for use on the ship taking their members to their meeting in London this summer.

The humor of the evening was furnished by our President, Hugh McLean, and the President of the Colorado Bar Association, Robert Gast. McLean obtained a long board and with the aid of his confederate,

Gast, succeeded in the intricate task of opening and shutting the windows, much to the edification of the guests; they demonstrated that not alone were they good lawyers along special lines, but that they could readily adapt themselves to other jobs, such as porter, etc.

Milnor Gleaves, who led the quartette, advised us very solemnly that they had no piano player but would endeavor to "carry on." Mr. McAllister readily caught the humor and announced the next song as: "Yes, We Have No Piano Player."

Our one regret was that a large number of our members did not avail themselves of the opportunity of assisting the committee by purchasing tickets in advance or making the necessary reservations. The result was that about thirty dined in an adjoining room and an equal number could not be served at all, and were compelled to go elsewhere for dinner. As is usual in these cases those who purchased tickets in advance were unable to be served because those who had not purchased tickets, in many instances, were there very early and selected the best seats. Some way should be devised to avoid this inconvenience.

The Banquet Committee, consisting of Caldwell Martin, chairman; D. W. Strickland, John H. Fry, Erl H. Ellis and E. G. Knowles, are to be congratulated on the smoothness and success with which the entire banquet was operated. They have set a high standard for future committees.

#### ANNOUNCEMENTS

The Secretary's Office has received the following announcements of removals:

Harry C. Davis and Stanley T. Wallbank, from 1212 Foster Building to Suite 711-717 Equitable Building. Telephone Main 1171.

Oliver Wolcott Toll, to Suite 603-615 Symes Building. Telephone Main 213.

Gail L. Ireland, to 717 First National Bank Building. Telephone Champa 1606.

W. F. Robinson, P. J. E. Robinson and W. F. Robinson, Jr., from 401-2 Interstate Trust Building to First National Bank Building.

**ONE OF OUR MEMBERS HONORED**

Signal honor has come to William V. Hodges, member of the law firm of Hodges, Wilson & Rogers, in that he has been appointed a member of the Council of the American Law Institute. Mr. Hodges is the only member of the Institute located in the Rocky Mountain Region, and one of four west of the Mississippi River. The far-reaching plans of the Institute for restatement of the law were outlined for us by former Attorney General Wickersham at our banquet last September.

**AMERICAN BAR ASSOCIATION  
JOURNAL**

It is worth the price of the dues (\$6.00 a year) just to receive monthly the Journal of the American Bar Association. The March number tells all about the meetings at Philadelphia and London. In addition it has splendid articles on the following topics: Progress Made in Restatement and Classification of Law; The Ancestral Home of the Common Law; Justice Without Denial or Delay; A Visitor's Impressions of Foreign Courts; Review of Supreme Court Decisions; Zoning Laws and Ordinances; Opinions of International Courts, and an article on Workable Plan for Discipline of Attorneys. Also many other interesting articles. The Journal is on sale in Denver at Herrick's Book and Stationery Company, 934 15th St. Price, 25c. Better still, join the American Bar Association and get the Journal regularly.

**GOLDEN ANNIVERSARY CELEBRATION, APRIL 7, 1924**

Our monthly meeting for April, as announced on page 1, is to honor our brethren of the bar who have been practicing law in Colorado for fifty years and more, and to give the rest of us, especially our younger members, the rare opportunity of hearing directly from the lips of the makers of Colorado history just what the State and its people had to contend with in the early days, and the part the lawyers had in it. Below is a list of the living members of the bar admitted in 1874 or prior thereto, taken from volume 28, Colorado

Reports. If anyone knows of mistakes or omissions in the list, please telephone the Secretary at once.

George Q. Richmond, Denver, admitted March 13, 1871.

D. B. Graham, Denver, admitted Dec. 21, 1871.

Charles S. Thomas, Denver, admitted Dec. 23, 1871.

Herman E. Luthe, Denver, admitted May 4, 1872.

Alfred C. Phelps, Denver, admitted July 22, 1872.

Platt Rogers, Denver, admitted Feb. 19, 1873.

E. A. Colburn, Denver, admitted Sept. 12, 1873.

John M. Waldron, Denver, admitted October 13, 1873.

Robert F. Foote, Denver, admitted January 6, 1874.

Channing Sweet, Denver, admitted February 4, 1874.

Webster Ballinger, Denver, admitted February, 1874.

Chase Withrow, Central City, admitted February 20, 1874.

**TELEPHONE**

The Denver Bar Association telephone number is Main 3158.

**IN MEMORIAM**

Frank G. Goudy, one of the most beloved members of The Denver Bar Association, died in Denver Friday morning, March 28, 1924. Mr. Goudy was admitted to the Colorado Bar in 1879 and was actively engaged in his profession up to the time of his death. He was very active in Odd Fellow circles and was Grand Sire of this organization in 1916. The older members of the bar in particular will miss his genial presence. His life, both personal and professional, was a distinguished success.

**SAVE YOUR "RECORDS"**

What would these Old Timers give for the record of their activities fifty years ago, or even for a copy of a newspaper published then? In years to come you will often wish that you had a copy of this little paper to remind you of pleasant associations. Perhaps we, too, are making history for Denver and Colorado in 1924. The Secretary has a few copies of the earlier editions if you will call at his office.

In accordance with the by-laws, the following names have been dropped from membership on account of non-payment of dues. They may be reinstated by making application to membership committee and paying dues in arrears:

C. R. Anderson  
 W. H. Andrews  
 B. B. Beshoar  
 James H. Brown  
 Samuel Chutkow  
 S. D. Crump  
 DeStelle DeLappe  
 Russell R. Drinkwater  
 F. A. Fleming  
 L. E. Kenworthy  
 W. B. King  
 George J. Lemmon  
 A. H. Martin  
 Thomas E. McGovern  
 V. W. Shields  
 M. A. Simpson  
 P. F. Vagnino

#### MUST THE LAW BE MELANCHOLY?

In a recent Denver District Court case which caused some members of the profession to look up from their worries and to smile for a moment at the vagaries of a picturesque action, in answer to a motion to strike a good-humored answer from the files, the defendant's attorney submitted a brief which contained the following appeal for a not-too-somber attitude on the part of the Bench:

"The idea that there is a dyspeptic tradition inherent in the Courts is hardly worthy of a scholar. If counsel would scan the quaint records of the Baron Courts, and follow down through Lord Holt, Justice Littleton and the compilations of the West Publishing Company to the present day, he would discover that the lubricant of human existence has never been abhorred by English speaking tribunals. That one should smile in Court is not unseemly. It is the very fact that we are mindful of the respect due to the Court and of the dignity to which this alternative dwelling place of justice is entitled, which excites us to mirth when we witness the spectacle of the erudite jurist who presides, the score of peers who are empanelled, the witnesses, lawyers and other attaches, devoting hours or days of

valuable time to their comic roles in a farce which might yield a fortune as a Jackie Coogan scenario.

If we may coin a phrase of double significance, it will facilitate an inquiry: Does justice require that respectful treatment be accorded to each case of every contingent attorney? Are the laws a smoke screen behind which atrocities may be elegantly and solemnly attempted in public?

There seems to be a notion that the inherent dignity of the bar is such that, in whatever travesty any upstart plaintiff may see fit to institute, the defendant, by his attorney, must conduct himself with the dignity of a butler.\* This is equivalent to a proposal that the plaintiff's counsel, in opening a juridical Virginia Reel, may sachet forward to the strains of the latest heel-and-toe medley from the light opera stage, but that the defendant's counsel must advance to meet him with wilting mien and swollen eye-balls to the accompaniment of the majestic chords of the Dead March from Saul.

The theory that a clown case acquires a halo in Court is worthy of notice: but propinquity to the throne does not endow with royalty. Since kennel similes are in order, it may be observed that if a playful puppy drags an old shoe into the portico of the White House, we do not confer presidential honors upon the shoe, nor fire a salute of twenty-one guns at its interment. We smile indulgently, and toss it into the rubbish barrel, which is its fitting resting place.

Mere ponderous motions made in dragging a molecule before a tribunal do not transform the molecule into a blazing satellite. The mountain labors and brings forth a mouse: must we make obeisance to the diminutive rodent as a prehistoric mammoth out of deference to its maternal parent?

Just Courts have always opened their portals freely to the advocate who is stirred to righteous wrath. Shall they be less tolerant or hospitable to one who, in a mellow mood, is moved, by a more human impulse, to righteous mirth?

\*Editorial query: Door or Judge?

Extracts from address delivered by Robert E. Lee Saner, President of the American Bar Association, at Annual Banquet of the Denver Bar Association, March 3, 1924.

"Whether lawyers continue to hold high office in the measure of the past matters not, but it matters everything for them and for the country that they remain true to their traditions as helpers and leaders in every public cause."

"Public duty in this country is, of course, inherent for every citizen, and it is peculiarly incumbent on the lawyer. It is his very business to see that the law is observed and enforced. We are proud to proclaim the slogan formulated first in the Constitution of Massachusetts seven years prior to the adoption of our Federal Constitution, that this is "A government of Laws and not of Men." We wont our liberties preserved and we know full well that they can be preserved only through liberty under law. This was the paramount idea of the founders of our Government. "Those men stood for liberty under the law. They had tossed long upon a wintry sea; their minds were full of images derived from their voyage; they knew that the will of the people alone is but a gale smiting a rudderless and sailless ship, and hurling it, a mass of wreck, upon the rocks. But the will of the people, subject to law, is the same gale filling the trim canvas of a ship that minds the helm, bearing it over yawning and awful abysses of ocean safely to port." And it is the plain duty of the American lawyer in this day and time to sound this note of liberty under the law in the ears of our citizens and to keep it sounding. The inscription memorializing the immortal three hundred who fell at Thermopylae bears the words, "They lie here obedient to their Laws." Great crises arise from time to time in America that furnish other Thermopylaes, when our lawyers must stand at the Pass and fight 'obedient to their laws.'"

"One must not only vote, but back of that he must see that issues and men are winnowed out in caucuses, conventions and primaries. We must realize that public duty in this country is not discharged, as is so

often assumed, merely by voting. A man may vote regularly and conscientiously and yet fail essentially in his political duty, as the Pharisee who gave tithes of all that he had and fasted three times a week, yet lacked the very heart of religion."

"The citizen who casts his ballot on election day and then simply waits for the next election day to come along, is no more a good citizen than the alleged Christian who practices his profession only on Sunday."

"The American citizen must avoid the dangerous delusion such as that suggested by John Fiske, that government in the United States dropped from Heaven and will run by Divine agency—in other words, that Providence takes care of children, idiots and the United States."

"Our citizens as a whole must more and more avoid the attitude assumed by the college professor, who when informed that his house was on fire, calmly replied, 'Go tell my wife; I never meddle in household affairs.'"

"It surely is a cause both of wonderment and alarm that even in elections which apparently arouse particular public interest we rarely have over fifty per cent of our qualified voters casting their ballots. This simply means that twenty-six per cent of our qualified voters determine the choice of representatives who make our laws and consequently determine the character of our government."

"As it is today many of the elections in the large centers of population, elections that determine vital public policies and large expenditures, the citizen votes in absolute ignorance of the candidates. These candidates are either self-nominated or chosen by an organized minority that has its own axe to grind."

"What I am here pleading for is a civic conscience and consciousness not merely for war-times or election-day, but for the constant thought and continuous activity in the affairs of government which just as surely measure the success of our form of government as the law of gravitation determines whether a body rises or falls—the heaviest always moves toward the center."

## LAWYERS' FEES

By Luke J. Kavanaugh

In ancient Greece and Rome, the lawyer was not supposed to make any charges for his services. What he received was a gratuity or present from his client.

In Great Britain at the present time, the rule is that counsellors, advocates and barristers have no right to charge and enforce payment for their services, as they are considered purely honorary. A different rule prevails with regard to attorneys and special pleaders below the Bar.

Judge Sharswood, in his lectures on legal ethics some years ago, stated that in his judgment it had been neither to the honor or profit of the Bar to depart from the ancient rule in regard to the charging of fees. However, the general consensus of opinion in the legal profession now is that Judge Sharswood was mistaken in his views on this subject; that a lawyer as well as anyone else should receive his reward in the payment of reasonable fees, rather than depend upon the gratitude of his clients.

In determining a fee, the lawyer generally takes into consideration the time used, skill employed, the amount involved and the result of the services; whether the person charged is a regular client or not, and especially the customary charges for similar services by lawyers in general practice.

There are a few charges which may be said to have the sanction of custom in Denver. These so-called customary fees apparently were based upon the dollar when it was a dollar. In the dim past charitably inclined attorneys decided that \$15.00 should compensate a lawyer for examining an abstract. People generally seem to think that magnificent sum is the established price. Office furniture and equipment, rent, supplies, stenographers' salaries and attorneys' expenses of every sort, professional and private, have increased from 50 to 200 per cent in recent years.

But the \$15.00 abstract fee, like Tennyson's book, "goes on forever." In a \$5,000.00 real estate transfer, the agent who negotiates the sale

takes his commission of \$250.00, while the lawyer, not being a business man, but a professional man of attainments, receives \$15.00. In transactions more complex or involving more money, the selling agent gets more. So may the Denver lawyer, but the proportion as a rule is relatively the same.

It is not deemed practicable for any organization to determine fees for the lawyer. Standardization of charges is out of the question, but there are flourishing Bar Associations in Colorado, as well as elsewhere, which have agreed upon minimum fees for certain legal services. These charges protect both attorney and client.

Certainly it does not add to the layman's admiration for the profession to learn that an incorporation fee in one office is \$500.00, in another \$250.00, and in a third \$100.00 or even less for the same work. Younger members of the profession especially are ever at a loss upon the question of charges.

The average client is willing to pay adequately for services. However, his ideas of fair fees are frequently based upon what he may hear as to customary charges when there is a custom governing such matters. If there is not, he is only human and therefore may think that the lowest fee he may have heard mentioned, whether real or imaginary, is the most satisfactory to him.

Regardless of the dignity of the profession and what it may think of them, "legal shoppers" are becoming more and more numerous. Clients pay the charges and they are entitled to know what constitutes reasonable fees. The information should be furnished by the profession as a whole.

"The laborer is worthy of his hire." What his hire may be is too frequently a matter of chance. What the minimum should be in many instances should not be difficult for the Denver Bar Association to decide. Lack of stability injures the profession and public alike. With no fundamental basis for charges, one client is likely to pay too much for services, another too little.

Unanimity of thought upon this subject is not expected. "Quot homines, tot sententiae," said Cicero. What do you say?

# BAR PRIMARY

DATE: APRIL 7, 1924

**POLLING PLACES:** 9:30 a. m. to 11:30 a. m., Bar Association Library, fourth floor, Court House.

12 m. to 2:30 p. m. At the meeting place for the Bar Association Luncheon, sixth floor, Chamber of Commerce Building, Champa street, between Seventh and Eighteenth.

3 p. m. to 5:30 p. m. Equitable Building (old Bankers Trust Co. quarters) entrance through lobby.

**QUALIFIED VOTERS:** All licensed attorneys practicing in Denver (whether members of the Denver Bar Association or not).

## CANDIDATES FOR JUDGE OF THE DISTRICT COURT

### Republican

CHARLES J. BLAKENEY  
HENRY BRAY  
CHARLES C. BUTLER  
CHARLES H. HAINES  
FRANK L. HAYS  
HENRY J. HERSEY  
HENRY HOWARD  
BOOTH M. MALONE  
T. E. McINTYRE  
FRANK McDONOUGH, SR.  
JULIAN H. MOORE  
CHARLES F. MORRIS  
EDWARD L. OAKES  
A. T. ORAHOOD  
HAROLD E. POPHAM

CHARLES C. SACKMANN  
BARNWELL S. STUART  
C. E. WAMPLER  
WALTER E. WHITE  
ROGER H. WOLCOTT

### Democrat

HENRY B. BABB  
WILLIAM C. DANKS  
GEORGE F. DUNKLEE  
SAMUEL M. JANUARY  
RICHARD E. LEACH  
J. WARNER MILLS, JR.  
WILLIAM F. MOWRY  
JOHN M. WARDLAW

## CANDIDATES FOR COUNTY JUDGE

### Republican

GEORGE A. LUXFORD

### Democrat

OLIVER DEAN  
ROBERT W. STEELE

## RULES FOR BAR PRIMARY

1. Polls will be open from 9:30 a. m. to 11:30 a. m. at the Court House; from 12 m. to 2:30 p. m. at the dining room of the Civic and Commercial Association on Champa street, and from 3 to 5:30 p. m. in the Equitable Building in the quarters formerly occupied by the Bankers Trust Company, entrance through the lobby of the Equitable Building.

2. Each lawyer will be given two ballots, one Republican and one Democratic. He will also, before voting, register his name on a slip or card furnished by the committee. Each voter will mark one ballot only, depositing such voted ballot in one ballot box, while the unused ballot will be placed in another box. The method of balloting will follow as closely as may be that used at the Primary Elections under the State law.

3. The seven candidates on each ticket—Republican and Democratic—

attaining the highest plurality will be returned by the Committee as the choice of the Bar of the two parties respectively. In case of a tie for seventh place on either ticket, the Committee will fix a time and place at which a primary will be held to determine which of the candidates in question shall be placed on the particular ballot in the seventh place.

4. The decisions of the Committee in charge of the primary shall be final with reference to all questions arising in connection therewith.

### BAR PRIMARY COMMITTEE

W. W. GRANT, JR.  
PAUL P. PROSSER  
ALBERT G. CRAIG  
FRASER ARNOLD  
GEORGE WINTERS  
GOLDING FAIRFIELD  
HUGH McLEAN, Chairman ex-officio