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Senator Charles S. Thomas' Old Timers Speech

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Senator Charles S. Thomas' Old Timers Speech

SENATOR CHARLES S. THOMAS' OLD TIMERS SPEECH

We have received so many requests for copies of this speech that we have decided to print it, and from time to time, as space warrants, you will find it in the Record.

Washington, D. C., April 3, 1924.
Gentlemen of the Denver Bar Association:

My first contact with Denver was at early dawn on the 15th day of December, 1871. I came unheralded, as one of a dozen passengers on the old Kansas Pacific Unlimited of that somewhat remote period. Its schedule time from Kansas City was 36 hours. Among the arrivals were Mr. Channing Sweet, then of Colorado Springs, and Mrs. Wm. E. Beck, widow of the former Chief Justice, both of whom are still among the living. The passenger station then occupied the present site of the Union Pacific freight house. It was a small two-story brick building, the company offices being on the second floor. The first was occupied by the waiting and baggage rooms, with a combined space of possibly 35 by 25. Nearby was a small hillock, known as Vinegar Hill, tenanted, as I afterwards learned, by an Irish lady locally known as Vinegar Hill Mary, who specialized as a witness for the people in such criminal prosecutions as the limited enterprise of a small community afforded.

I took passage in a yellow omnibus of formidable proportions, drawn by six horses. Having exactly seventy-one dollars in my pocket, I carefully avoided the palatial American Hotel, corner Blake and G Streets, and took shelter with Luke McCarthy in West Denver. After breakfast I sought the law office of Gen. B. M. Hughes, to whom I had a letter of introduction. I reached it before he did. He was well to do, kept fashionable hours, and seldom appeared at his office before eight o'clock. When he arrived I stood at attention and presented my letter. He read it, scowled, looked at me and said, "Another lawyer, eh? Some of my damn fool friends East seem to have nothing to do except give youngsters letters to me. I can't bother with you now. Come in at one o'clock. If I'm not here see my partner. He looks like Napoleon and keeps an owl on his desk." His partner was

the late Col. Robert S. Morrison, of blessed memory. I was so buoyed up by this reception that I went back to my room and tried to estimate how much farther west my funds would carry me. But I was young, and blessed with an appetite, so was on hand for dinner. There I struck up an acquaintance with a man named Kavanagh, whom I was afterwards to know very intimately. I inquired of him the sort of man Gen. Hughes was supposed to be. "Big hearted, cranky, cusses lots of people, and loves them all," was the quick reply. I then told him my experience. "You go back at one," he said, "and don't keep him waiting." I did so, and received a welcome both genial and generous.

The General told me much regarding the practice, the members of the bar, the mining and livestock resources of the territory, and the opportunities which beckoned to young men of industry and character. He ended by inviting me to dinner on the following Sunday, and to make use of his office and his library until I had secured employment. He gave me notes of introduction to his brethren of the bar, and placed me under a lasting obligation of gratitude and affection. Although he was then well along in years, he remained at the bar until 1885, when he shifted his burdens upon the shoulders of his vigorous and gifted young partner, the late Hon. Charles J. Hughes, Jr.

During the next two or three days I made the acquaintance of nearly every lawyer in the city. The bar was then relatively as large as now, and ranked quite as high. Among them I recall Alfred Sayre, John Q. Charles, J. Bright Smith, H. R. Hunt, G. W. Miller, Edmond L. Smith, Amos Steck, Mitchell Benedict, Judge H. P. H. Bromwell, Samuel H. Elbert, B. B. Stiles, C. W. Wright, Vincent D. Markham, Samuel E. Browne, L. B. France, Hiram P. Bennet, Henry A. Clough, Orris Blake, William C. Kingsley, N. Harrison, H. E. Luthe, E. B. Sleeth, John W. Horner, M. A. Rogers, D. B. Graham, L. K. Smith, Robt. S. Morrison, E. L. Johnson, E. B. Powers, T. G. Putnam, Hiram G. Bond, J. W. Webster, and David M. Crater.

Denver then had a population of possibly 8,000 people. The business

part of town was below Lawrence Street, which was then a residence street, tenanted by such men as D. H. Moffat and H. H. McCormick. The law offices were for the most part on Market, then called Holladay, and Larimer streets. Blake was the wholesale and hotel district. The old Overland Stage road had been christened Welton Street, and Henry C. Brown had but recently donated a site for a Capitol Building, supposed to be out somewhere near Littleton. Two years after, the Board of County Commissioners bought a square for Court House purposes, now occupied by the County Building. It was so far out then as to justify the suspicion that the Board was given a handsome rake-off for making the deal; a suspicion angrily voiced by the press and the owners of competing sites nearer town. North Denver was owned by ranchmen. Some of the ground was platted, but the most of it was either cultivated or unoccupied. Possibly half a dozen houses could be counted between Broadway, then nothing but a country road, and Cheesman Park, then the city cemetery. Stage lines then operated between Denver, Central City, Georgetown and Fairplay. Erie was Boulder's nearest railway point, and Boulder had no telegraph connections. Golden was almost what it is today. It had no brewery then, and it is equally unfortunate now. Pueblo was a hamlet of probably 500 people, with rail connections at Colorado Springs, then almost wholly a town on paper. Evans was the county seat of Weld, and Weld was considerably larger than the State of Massachusetts. And the principal products of the territory were babies and toll roads in relatively equal proportions. The toll roads have become less than memories. Fortunately, the baby product was not peculiar to that day and generation.

Although Denver was the largest, it was not then the most important center of population. This was the proud position of Central City, the pivot of the mining industry, and the county seat of Gilpin County. The Kingdom of Gilpin was the fountain of politics, finance and authority. Its bar, though smaller in numbers, was concededly the best and the most opulent in the far west. The Tellers, Hugh Butler, the Rock-

wells, the Reeds, and Judge Gorsline were the king pins of the profession. I was to meet these formidable gentlemen later; an ordeal more or less perturbing in prospective.

Having a license to practice from the Supreme Court of Michigan, I was admitted as a matter of course. I might well have taken an examination, however, for I knew more law then than I have ever known since. My certificate of admission was signed by Judge E. T. Wells and James B. Belford, on the 13th day of December, 1871, and on December 29th my tin shingle partly obstructed the entrance to the stairway on the corner of Larimer and F streets, as Fifteenth was then called. It looked very attractive to me, but somehow the public did not seem to regard it as an obstruction or as an obstacle, or in fact to regard it at all. If they did, they never apprised me of it. This neglect was not at all palatable. Indeed, I actually resented it with every recurring rent day.

Some years afterward I was forcibly reminded of this period of isolation, when at a luncheon a lawyer then living in Denver, whom I will call Jones because that wasn't his name, said to John Herrick that he sometimes felt a repulsion to all human kind and then he wanted to be entirely alone. Herrick instantly replied: "George, when you feel that way, I presume you go to your office."

Early in January the District Court convened, Judge E. T. Wells upon the bench. Those were the days of common law pleading and practice. Arguments of demurrers and motions were of themselves a legal education, and I spent most of my time in court listening to them. When sustained they were apt to prove serious, for amendments were not particularly favored. Our Code of Practice was adopted by the first State General Assembly over the bitter opposition of every "old time" lawyer in the state except Hughes and Belford. By that time the tenderfeet were, however, in a large majority, and they carried the day. Judge George G. Symes, who led the fight for the Code, armed himself with all the quaint and amusing terminology of the old system, and made them quite effective in a cam-

paign of ridicule. He bombarded the committees with writs of coram nobis, de ventre inspiciendo, fieri facias, ne exeat, and used the traverse with an absque hoc, the rebutter and surrebutter, and the inquiries de lunatics inquirendo and voir dire when other ammunition failed him. No lay committee could stand that sort of discussion very long.

The Supreme Court met in April. It consisted of the three District Judges sitting in banc. I then met the third Judge and Chief Justice ex-officio, Judge Moses Hallett, of the Third District, a position which he held through all the vicissitudes of political fortune until it expired with the admission of the Territory into the Union. Hallett was, when on the bench, the august personification of dignity. Belford was his antithesis. Hallett sat upright in his chair, seldom moving to right or left. Belford sat on the small of his back, with his feet upon the bench almost under Hallett's nose, the latter powerless to rebuke or to command. Belford addressed lawyers from the bench by their first names. Hallett looked upon such conduct as lese majesty. This amusing and embarrassing juxtaposition of opposites served to take Justice Wells largely from the picture.

But Wells was the most industrious jurist I ever saw. He knew the pleadings in every case by heart, heard argument from the side against which his judgment leaned, and from the other side only when his primary convictions were shaken by the former. He predated the court stenographer and the typewriter. Hence he made his own notes of the testimony in all jury trials, and these became the basis for bills of exceptions which were correspondingly concise, carefully prepared and summarized instead of containing, as they now do, all the evidence, including side remarks of counsel, references to the weather and the biographies of the jurymen, all at 20 cents per folio prepaid.

Wells always held court when the time between terms permitted until his docket was disposed of. Cases were tried, dismissed or continued only upon showing under oath. His sessions when the trial docket was on began at 8:30 a. m. and ended at 10 o'clock p. m. He was a martinet, but he did things. Three such judges

in the City and County of Denver could easily transact the business of all its courts. The county offices, including that of the U. S. Marshal, and the court rooms until 1880 occupied the second floor of the Hughes Block, corner Lawrence and F Streets. Frank Pettepier's bar, commonly known as Lincoln's Inn, was just across the alley, with an alley entrance. It is difficult to say which bar was most in evidence.

Perhaps the most genial and best beloved lawyer in those days was Gen. Sam E. Browne, a patriarchal figure in black Prince Albert coat, high hat, smooth shaven upper lip and long white beard. The old gentleman was geniality personified. His moral obliquities were obvious, his disregard of professional proprieties was notorious, but his personality was irresistible. He was Mulberry Sellers and Colonel Carter in real life. The first time I called upon him he convinced me that he had kept his office for years upon the conviction that I would sooner or later appear to share it with him. He ordered me to come right in and go to work the next morning at any salary I cared to name, use the front office, and adorn his sign and his letterheads with my name in flaring capitals. He gave me a figure for his annual income that even now would seem extravagant. Of course I accepted and communicated my good fortune to Pettepier, with whom I had already established personal and commercial relations. That gentleman punctured my balloon by telling me that such was Browne's greeting to all fledglings, showed me an unpaid bar bill gravely imperilled by the statute of limitations, and told me to forget it. I did.

Under the prevailing practice all summons were returnable on the first day of the ensuing term if served more than ten days from that date, and to the next term beyond if not so served. The docket was called for defaults on the second day of the term. Browne always made a list of the cases where no appearances had been entered and then entered his own on default day. This would be followed by letters to the parties interested, informing them that his friendly interference had alone shielded them from judgments in the sums sued for plus costs.

(Continued next month.)

BUSINESS SYSTEMS IN LAW OFFICES

The Record will run a series of articles on the proper system for law offices, and if the lawyers of Denver will carefully read these articles and at the end of the series will say that it is not worth many hundreds of dollars to them, then the editor of this paper will readily admit that our Denver attorneys "have Some law offices."

The report is gotten out by The Illinois Bar Association, and all of the credit is due this live-wide-awake association for preparing and sending it forth to benefit all the lawyers.

Read the articles and save them. Probably all of us cannot use all of the report, but all of us can adopt some part of the recommendations.

LAWYERS MUST GIVE "SERVICE"

Today, more than ever before, the public demands "service." It must have results, not delays, not excuses, not explanations, but results. The man who carries the message to Garcia gets his reward. The business man or lawyer who cannot "deliver the goods," will not succeed in the long run. Business systems and business devices in the law office are merely a means to an end; they enable the lawyer to give the public what it wants—quick results. While "Honesty is the best policy," system is a necessity to the progressive lawyer. If a lawyer has not developed a system that will enable him to give quick and satisfactory service, his clients will go to another lawyer who is better equipped.

It is a simple proposition and whether it is approached from the point of view of the lawyer or his client, the conclusion is the same—the lawyer's best interest. From the client's point of view it means quick and effective results and profit or at least a saving to him; hence satisfaction with the lawyer, willingness to pay a fair fee, to recommend the lawyer to others, and himself to take future business to him. From the lawyer's point of view, it means time saved, results accomplished, an intelligent charge to the client, saving of wear and tear on the lawyer, and ability to do more business to make more money and to get and keep more clients.

Present times require practical methods. The church is becoming more practical and getting closer to the people by engaging in community and sociological work. The Universities, Colleges and schools each day become more practical with courses in commerce, business administration and vocational training. There is a demand for results. The legal profession must respond to that demand. In the nisi prius court, the judge who is a good executive is more effective and renders better service to the community than the erudite judge who knows the theory of the law but lacks in executive ability and practical application of the law to concrete cases.

Today the lawyer who is experienced in business matters, has the call. Every lawyer should have a business training in and out of college. He constantly advises on business policies and frequently becomes the executive head of great enterprises. It may seriously be argued that the lawyer would better serve the public and themselves if they would abolish the old traditions of the profession and become business men with knowledge of the law. Let them compete with one another and with business men on an equal footing. As it is today, the lawyers are frequently the losers by following the old regime. The client does not hesitate to drive a sharp bargain with the lawyer while the lawyer always gives the best of it to the client.

THE ACADEMIC LAWYER

The academic lawyer has done as much, if not more, to discredit the profession as the dishonest practitioner. Trying a case as an abstract, intellectual proposition usually results in failure. Advising on a business question from the purely academic point of view generally spells disaster if the advice is followed by the client. Most of us need more business sense and less erudition in handling the affairs of ourselves and our clients. As we well know, some lawyers have developed a genius at mixing things up, merely because they are ignorant of business and business principles. They can introduce so many fanciful and imaginary complications into a simple real estate deal that they frighten the seller out of selling and the buyer out of

buying. Both become satisfied that the law is a man-trap, the lawyers being the trappers and the clients the trapped.

To regain and to hold his place in the business world the lawyer must learn business methods and adopt in large measure the business point of view. Otherwise he will be passed by as being too impracticable.

A good example of the cost to lawyers by reason of not keeping abreast of the times is afforded in the case of litigated matters. In Chicago several years ago, the courts fell behind in their calendars. The lawyers themselves were largely responsible for this. A plaintiff could not get his case tried for two or more years after suit was started. Meanwhile, witnesses had departed and clients lost interest. The result was that business men would settle at great sacrifice. The lawyers were the losers. In like measure, the business men will dispense with office services of lawyers unless they can get prompt and efficient service.

It was not long ago that the lawyer had a little pocket in the back of his gown into which a client might slip an honorarium or not as he pleased. The fee was a gratuity. In those days, the dignity of the office constituted a return to the lawyer. Today, the lawyer demands as his right and receives fees sometimes running up into the hundreds of thousands of dollars.

It was also not long ago that the lawyer carried the better part of his law library and equipment in his saddle bag as he rode the circuit. His office consisted of a small dingy room and he may have had one clerk who did all of the transcribing longhand. Today, firms in New York City employ more than 75 persons and have offices, the rental alone of which amounts to upwards of \$50,000 per year. Law libraries owned by individual firms consist of thousands of volumes.

From the early and simple days to the conditions of the present is a long step. In order to keep abreast of the times, lawyers must study the business of doing business, getting business and keeping business. For their own good and the good of the public, they have given this too little attention.

TWO KINDS OF LAWYERS

There are today two kinds of lawyers, those of the old school and those of the new. The lawyer of the old type occupies a dingy, dark, dusty room in an unattractive building. The client and the book agent walk from the hall directly into his room. A clerk occupies a desk in the darkest corner; the lawyer's is near the window. He is dressed in black and a tie with a red spot in it is unknown to him. He has a roll-top desk with every pigeon-hole bulging with mussed-up papers. He also has a table near at hand. The tops of both desk and table are covered with papers and books. Confusion of papers suggests confusion of mind. When certain papers are wanted, the search begins. No one can say when it will end.

The books are dirty, the chairs are dirty, and the papers are dirty. One would expect to find dust in the water that runs out of the faucet over the wash bowl in full view of the door. When the telephone (on the wall) rings, the clerk answers, if he is there; otherwise the lawyer. When the postman calls, everything stops. If there is a check in the mail to pay a fee, the lawyer, himself, enters it up in a book that he carries in his pocket.

When a client calls, the lawyer may be in court and there is no one to attend to the client's business, important though it may be. Even if the lawyer is in, perhaps half an hour is spent looking for necessary papers, perhaps they are not found at all. Envelopes are opened and reopened and letters put back into them a dozen times. Consciously or unconsciously, the client in such an office realizes that his business is likely to be handled just as the lawyer handles his own business and then all confidence on his part is lost. This lawyer lacks system, division of labor, time-saving devices, methods of preserving and locating papers, security for his clients' valuable documents—in short, everything that appeals to the business-man client. He cannot give "service" and today service is required of every man—professional or otherwise, if he hopes to succeed.

With the lawyer of the new school, it is different. The client or prospective client enters the lobby of one of the most modern and best-located buildings in the city. It is probably a

bank building. He enters an elevator that is express to the floor on which the lawyer's office is located. He sees immediately in front of the elevators a well-lighted door where the names of the individual members of the firm stand out in clear and dignified letters. Inside the door, he is met by a good-looking, well-dressed and affable young woman who immediately puts him in touch with the person he called to see. There is no noise, no confusion, no appearance of simulated "busyness." Everything is clean; no dust is visible; no papers are exposed to view. The lawyer he came to see sits before a flat topped desk that has no books on it and no papers except those on which he is working at the time. An office boy brings in the papers that may be required and restores them to their file in the vault when they are no longer needed. There is no delay in finding the papers and none are lost. All those relating to the same case are in one envelope but in separate folders so that no delay is occasioned by going through a great many different papers. In due course within 30 or 60 days, the client receives a bill showing in general terms the services rendered. It indicates on its face that in making the charge, the sender then had in mind just what services had been rendered, the time required, the importance of the transaction and the result accomplished. The fact that the bill was sent promptly and that the charge is fairly high, does not in the least offend the client because from his entrance into the building to the receipt of the bill he was impressed with the fact that the lawyer knew two things, his client's business and his own. The client "got service"—the thing he wanted above everything else—and is willing to pay the price.

"THE LAW BUSINESS"

We are sometimes incensed at laymen who talk about "the Law Business." They are more discerning than we. There is a law business—that is, our business. There is the law profession and practice—that is, the business we do for clients. We have no occasion to be offended when a friend

asks "How is the law business?" Not one lawyer in a hundred has a correct conception of his own practice as a business proposition. He regards it generally as a profession in which he renders services for others for which he gets paid. This is true as far it goes, but what he does not see is that in fact he is conducting two businesses at the same time—his own business and that of his clients. The average lawyer devotes practically all of his time and attention to his clients' business and lets his own take care of itself. Yet from the lawyer's point of view, his own business is far and away more important than that of his clients. He does not realize that to make a real success of his profession he must all the time carry on two separate and distinct businesses—his own and his clients'. Of the two, the clients' generally speaking is far simpler than his own and is something in which he is better trained. The clients' business consists of a given piece of professional work, such as trying a case, drawing a will or probating an estate. These require books and stenographers and clerks perhaps but the business part of such work is negligible.

On the other hand, his own business is complex in the extreme and involves an elaborate organization and system in his office if he be a lawyer having any considerable practice. If he only realized it, he would observe that it also involves many things that are not ordinarily regarded as any part of a lawyer's business. Among other things, it includes his personality, his education, his dress, his ability to make and keep friends, his habits, his politics, his religion, his social connections, his family, his membership in clubs, fraternities, societies and political organizations: These are assets, a part of his capital. His standing at the Bar as well as his position in the community generally, is also a part of the lawyer's capital. These involve his taking part not only in the affairs that directly concern the lawyer, but the business and professional man generally.

(Continued next month)

The Denver Bar Association

R E C O R D

Volume 1

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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

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A New Year's Wish

Resolutions for the Year 1925

1. That all eligible members of the bar join the Denver Bar Association.
2. That all members attend every meeting.
3. That we display a little more of the milk of human kindness towards one another and that our cases be ready for trial when called.
4. That we get a fee commensurate with the work we perform and that we quit working for nothing, except in charitable cases.
5. That we will go on any committee to which we are assigned.
6. That we will give our own business a little closer attention, and will install such modern equipment as will make our offices real places for the doing of "law business."
7. That we will drive the shyster lawyers from our midst.
8. That we will join the American and Colorado Bar Associations.
9. That we will uphold the hand of every man who is attempting to accomplish a worthy object, and will endeavor to further the interests of our city by giving liberally of our time, our money and our skill.