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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, DECEMBER, 1924

No. 13

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.

The Denver Bar Association Record

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Stanley T. Wallbank.....President
 Kenneth W. Robinson.....First Vice-President
 W. W. Grant, Jr.,.....Second Vice-President
 Jacob V. Schaetzel.....Secretary
 718 Symes Bldg., Phone Main 3158

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THE COLORADO BAR ASSOCIATION MEETING

A well attended meeting of the Colorado Bar Association was held at Colorado Springs on Friday and Saturday, September 19th and 20th. Papers on many interesting subjects were read and thereafter the lawyers were invited to discuss the papers. About one-half of those attending were members of the Denver Bar Association.

The following officers were elected: President, W. W. Grant, Jr.; first vice president, Merle D. Vincent; second vice president, Donald C. McCreery; secretary-treasurer, Harrie M. Humphries.

The great regret is that more lawyers do not attend these annual meetings as it gives them an unexcelled opportunity of 'rubbing elbows' with their fellow lawyers.

A very liberal number of County, District, Supreme Court, U. S. District Court and U. S. Circuit of Appeal Judges were among the attendants.

The banquet held at the Antlers Hotel on Saturday night was very well attended. Frederick Sheppard Titsworth, formerly of the Denver Bar Association and now of New York City, responded to the toast "Mechanics of Government." James Grafton Rogers responded to the toast, "So This Is London!" Benjamin C. Hilliard was at his best in responding to "Blasted Hopes." The Honorable James M. Beck, The Solicitor-General of the United States, Washington, D. C., gave some very interesting side-lights on the Constitution of the United States.

Anyone attending the Colorado Bar Association Meeting with the expectation of finding the value in the meetings of the Association in so far as the reading of papers is concerned would be seriously disappointed, because while all the papers read were classical, interesting and very educational, the real merit and that which attracts the members year after year is found in the fine companionship which one encounters and the friendships that are made. This alone is worth many times the cost and effort necessary to attend the meetings.

WE MISS IT

Since the passing of Clarke's restaurant, many lawyers have greatly missed their usual stamping ground. Whether it was Clarke's rare, medium and well done roast beef that attracted the legal lights of our city, or the congeniality, humor and good-will displayed by those gathered around the table, matters not. Denver's leading lawyers and those not so leading, wended their ways to this famous old place at noontime.

The younger and rising generation of lawyers miss it as well as the more venerable members of the bar, for surely it was there that we went to get the history, the ethics, and the traditions of the Denver and Colorado Bar.

Judge Denison spoke the other day to us on "Traditions of the Bar" and stated that we needed something to take the place of the "English Inns of Court." Making it plain however, that the English system would not work here. Certainly Judge Denison had something in mind like these daily meetings which the lawyers enjoyed at this famous pioneer restaurant.

By the will of the late Judge E. T. Wells, his law library was bequeathed to Deputy District Attorney Earl Wettengel. For several years prior to the death of Judge Wells his library was stored in the Capitol Building and was at times used by some of the Judge's friends. Several volumes of various sets of reports and parts of text-book series are now missing. If any lawyer who has any of Judge Wells' books in his office will notify Wettengel at the West Side Court Building, the information will be greatly appreciated.

**SENATOR CHARLES S. THOMAS'
OLD TIMERS SPEECH**

(Continued from Last Month)

Another eccentric but singularly lovable man was Judge Amos Steck, who swore when other men prayed, sang revival songs when playing billiards, who never forgot a fact or a face, whose integrity was his obsession, and who feared no man. He associated indiscriminately with all sorts of people when on the bench and at the bar, without impairing his good name or incurring the reproaches of the good or the bad. He was for many years Judge of the Probate and County court. His administration of Justice was punctuated with striking incidents which collectively would fill a volume, of which I shall relate but one.

In 1875 Mr. E. P. Jacobson brought suit in the Probate Court upon a promissory note. His declaration recited that the defendant on January 5th, 1873 had made, executed and delivered to the plaintiff the note in suit. Mr. L. B. France, for the defendant, demurred to the complaint because the letters "A. D." were not inserted in the date alleged, insisting that without them the figures 1873 were meaningless. Jacobson very properly criticized the demurrer as arrant nonsense, but unfortunately referred somewhat cavalierly to the fact that A. D. earmarked the Christian Era, whose Lord was the Christ. He said the Lord whose advent heralded the modern calendar was not his Lord. The Savior was the Savior of Judge France, but not his own. This nettled Judge Steck, who pronounced judgment as follows: "Mr. Jacobson, France's Jesus Christ is my Jesus Christ, so by Jesus Christ I'll sustain the demurrer."

I have heretofore said, and I repeat, that the best lawyer I ever knew from the standpoint of equipment for general practice embracing every featurc of applied jurisprudence, was Major Edmond L. Smith. Patterson excelled him as a trial lawyer, and Teller in the field of mining law, but Smith excelled them all as a great outstanding common law lawyer. And this was the more remarkable in that he began life as an officer of the regular army and that his habits were not consistent with the severe demands placed upon the student by the needs of legal investiga-

tion and study. He selected his work, limiting it to his estimates of his own capacity, and drunk or sober, was always ready and prepared. He was at all times the gentleman; never personal, caustic nor boisterous, seldom yielding to emotion, never dramatic, always earnest, luminous in expression and simple in speech. He was an admirable linguist, avoided society, although extremely social within the sphere of his activities. Had he cast his lot in some great center of population, his name would undoubtedly have been enrolled among the eminent lawyers of his time.

I wish I could, without unduly prolonging this address, picture to you the character and virtues of Judge Markham, the best equity lawyer of the Territory, and the most generous of men; Judge George W. Miller, so ungainly and so homely as to be handsome; the stately and dignified Gov. Elbert; Col. R. S. Morrison, as quaint as he was capable; Orris Blake, whom I loved because he was taller and skinnier than I was; and old Ham Hunt, the perfect type of a lawyer frontiersman; Mitchell Benedict, big framed, big hearted, red headed, and jovial always, whose laugh was spontaneous, easily provoked and easily heard for a quarter of a mile. All these deserve far more than the meagre mention I can make of them. And there were the Tellers, Hugh Butler, Thomas Macon, Cal Thatcher and Gorsline, all giants in those days; and Belford, the red-headed rooster of the Rockies, graceful of speech, too impulsive to be judicial and too fond of politics to take root in the profession, obsessed with the notion that he was created for the bench and not for the forum.

I cannot close these personal references without speaking more fully of Edward O. Wolcott. He came to the bar in 1870, and was for six years in Georgetown as the junior partner of the firm of Pope & Wolcott. He was strikingly handsome, and of the most engaging personality. He therefore easily acquired business, but his partner was left to transact it. Those who knew him later in life will be surprised to learn that Wolcott was at the bar for seven years before he could develop a personal confidence sufficient to enable him to address either court or jury. This amazing defect in his equipment for the work

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of the profession prompted his brother and Prof. N. P. Hill to secure for him the Republican nomination for District Attorney in 1876. His Democratic competitor was Judge Platt Rogers, whom he defeated by a bare majority. He was thus confronted with the alternative of trying his cases or retiring from the bar, for his friends took good care that his brethren would not assist him. His first indictment was tried at Boulder early in January, 1877. He presented it to the jury and was astonished by a verdict of guilty. He told me shortly afterwards that he never knew, nor ever would know what he said to the jury, not a man of whom he could see, but he must have said something, for he was conscious of making a protracted noise. His success in the first effort, however, proved a useful stimulant. His second was less embarrassing, and to use his own words of a year later, he was entirely sure of himself and would not hesitate if necessary to address the Great White Throne. He became, as most of you will remember, one of the most graceful and accomplished speakers of his time, one of the spokesmen of his party in the Senate, and easily the outstanding figure among those who have represented the Commonwealth in the two Houses of Congress.

Two unique and valuable qualities characterized Senator Wolcott as a lawyer. Although impatient of details, he could sit in at the trial of a case and as it developed he would grasp its salient features and present them as forcibly to the jury as though he had studied all its intricacies with meticulous care from its origin. And he was the only man I ever knew who could practice law by proxy. He possessed the faculty of drawing to himself and holding the services of assistants, of men of first class ability, and of inspiring his clientele with the same confidence in them that they reposed in him. And he rewarded these subordinates in the course of time by giving them the full fellowship of partners.

The term "trust" as now used to designate large industrial and financial combinations, was unknown fifty years ago. If it had been, the firm of Sayre and Wright, afterwards enlarged to Sayre, Wright & Butler, would have been the trust lawyers of the Territory. Its clients were the First National Bank, the Chaffee in-

terests, the Kansas Pacific and Denver Pacific Railroads, the Gas Company, Water Company and the City Railway Company. I was absorbed by the firm from May, 1872, to February, 1873, when I formed a partnership with a dapper young fellow from Indiana, named Thomas M. Patterson, which continued for a period of sixteen years, a considerable part of which I spent at Leadville, in charge of a branch office transacting about 75 per cent of the firm's business.

Mr. Butler's migration from Central City proved infectious. Within three years afterwards, every prominent lawyer of that city had removed to Denver, and with their departure Ichabod was written upon the record of the glories of the Kingdom of Gilpin. Senator Hills' Smelter followed suit in 1879. Nothing remained but a few unexhausted mines and four or five thousand of our best citizenry.

In 1874 President Grant summarily displaced all Colorado officials except Moses Hallett. Wells and Belford fell under the axe, and were succeeded by Judges A. W. Stone and A. W. Brazee. It was a great sensation for a small western Territory, which attributed the President's action to the results of a game of poker between himself and Delegate Chaffee. The Senate had not then been transformed into a Board of Inquisition, hence the facts were never fully disclosed, but the bar resented the change of judges, and took pains to let its opinions be known. Wells was shortly afterwards elevated to the Supreme Bench of the State, only to resign within a year because of his meagre salary.

The bar increased rapidly after my arrival, though hardly because of it. And with the uncovering of the carbonate ores of Leadville in the summer of 1877 it grew like Jonah's gourd. In the beginning of 1880 the bar of Lake County numbered about 150, with vigorous offshoots in neighboring counties, practically all of them hoping to make a stake and move to Denver. Indeed 1879 may be said to mark the dividing line between the old frontier conditions and the modernizing of a civilization soon to be overwhelmed by more effective means of communication and an ever swelling tide of homeseekers. And communications were primitive indeed during the seventies. There were no railroads west of Alamosa, Canon

City or South Park. The telephone, developed in 1876, was a toy available to a few localities east of the Mississippi, and the telegraph had not penetrated very far beyond the rail heads.

Riding the circuit was not a pastime, but a stern necessity. Some of the county seats were very remote, and nearly all the outlying hotels were more popular with bedbugs and body lice than with travelers, while the tables supplied a fare which made them forget all their other troubles. Towns like Silverton, Ouray and Telluride, to quote from Judge Hallett, could be invaded only by mounting the hurricane deck of a mule. Yet some lawyers, of whom Judge Miller was a type, were generally on hand when the terms began. Most of my work in this line as in the mining counties forming the old Fourth District, larger than Ohio and reaching from Lake County southward to New Mexico and westward to Utah. This was Bowen's district, and Bowen was a picturesque judge. In Costilla County the clerk was the well known Billy Meyer, who died last year. The population was 90 per cent Mexican, and the translator was the most important official. On one occasion a jury was being impanelled in a petty criminal case, during which Bowen was immersed in a newspaper of fairly recent date. When both sides announced that they would take the jury, Bowen, without looking up, said, "Billy, swear them roosters."

I was present at Lake City in May, 1877, when court convened in the new court house. The entire town had assembled in the court room for the occasion. The sheriff was Henry Finley. The judge was not prompt in arriving. He finally appeared, however, and edging his way through the crowd, managed with some difficulty to reach the bench. Taking his seat, he looked over the room for a moment, then removed his cigar from his mouth, blew a long volume of smoke into the air, and said to the sheriff, "Turn her loose, Fin."

In 1878 I went with him to Parrott City, the LaPlata County seat. Durango was not then in existence. On the day of our arrival, a sheep, minus the head, appeared on the dining table in a huge dish filled with melted grease. We were there for a week, with the sheep present at every meal. Efforts were occasionally made to eat

parts of it, but our stomachs were unequal to it. At the end of the last meal Judge Bowen told the landlord court would adjourn that afternoon. "But before adjournment," he said, "I intend to discharge that damned sheep of yours on his own recognition."

His honor had a gruesome experience at Fairplay in 1880. A man named Hoover had committed an atrocious murder shortly before and was duly indicted. He plead guilty by advice of his counsel, whereupon the court, under the statutes then prevailing, had no discretion but to sentence the prisoner for life. This mortally offended the community, which believed the plea of the defendant was due to connivance with the court and District Attorney. The next morning when Judge Bowen went to the Court House he confronted the corpse of Hoover suspended over the entrance from an upper window. On entering the courtroom his eyes fell upon a noosed rope thrown across the bench and another on the bar table, marked, "For the District Attorney." These officials returned to the hotel, secured a rig and drove ten miles over to Red Hill, where they took the train for Denver. Neither of them ever revisited Park County. Bowen went to the Senate three years afterwards, although I do not know that any logical sequence of cause and effect connected these two events.

But I must stop, or you will very naturally accuse me of indulging the garrulity of old age. And in very truth I might continue this rambling discussion indefinitely, for while I try to deceive myself at times with the delusion that because I have outlived my own generation I belong to the next, I know that it is not so. For my spirit is that of the older time and my memory dwells instinctively among the scenes and the events of vanished yesterdays. Their associations are the warp and the woof of my existence, and I would not have it otherwise. Need I add that if I could have chosen the period for my span of life, I could not have cast it better. It has covered the most active and by far the most creative epoch in the progress of the race. Save the telegraph and the steam engine, it has witnessed the birth of every great mechanical invention, the development of electricity, chemistry, of geology, and of

nearly every fixed science from relatively primitive stages to established systems, the eradication of pestilences, the discovery of the causes and the control of disease, the obliteration of the frontier and the establishment of means of swift communication with every part of the habitable globe.

In subduing the interior of the continent and constructing this great commonwealth in its very heart, the pioneer bar of our Territory played its part and played it well. They were the rugged pioneers of the profession, the leaders of their time. Largely because of this, we are a great people. Whitelaw Reid once said the lawyer struggled twelve centuries with the soldier with a persistence which enabled him to wrest the sword from his grasp. Because of it the civil power has since been supreme. It is the province of the lawyer to speak for and to lead his generation. It is also his duty. Communities are safe and progressive when he performs it. They become lax and retrogressive when he neglects it. It is his noblest mission. The old Territorial bar was at all times mindful of it. The traditions they established are part of your heritage. May their successors ever invoke and be guided by the inspiration of their example.

EARLY PRACTICE IN COLORADO

By Chas. Withrow of Central City, Colo., Admitted to the Colorado Bar Feb. 20, 1874.

I do not intend to make a speech or to deliver an address, or to take much of your time; I just want you to know that I am still here and to give you a few incidents that came within my knowledge, showing that lawyers and even judges in early times had their troubles.

In the early times in Colorado men had very pronounced ideas of right and wrong and were disposed to stand by their opinions with much tenacity.

The greatest, if not the only industry in the state or territory in the 60's, was mining. Lode mining was new, the questions of identity under ground, apices, cross lodes, blanket veins, fissures, dips, strikes, feeders and many other questions came up to be determined. The mines had not been developed sufficiently to present these questions so as to have the de-

terminations of the courts, so disputes were usually settled by the parties in some way.

As the mines grew deeper and the statutes of 1866 and 1872 were passed attempting to settle some of these questions, the facts and conditions underground became more and more important, the statutes had to be applied to these facts and conditions as found. As far as possible the attorneys for the litigants found it necessary to visit the mines, so as to see and be familiar with the case, so as to fully understand the evidence. This examination of the mines was not always agreeable to the other party, and in many instances was met by sulphur fumes and other offensive gasses, as well as force, so that the life of many lawyers, and sometimes judges, was not a happy one.

I remember an instance in a controversy between the Gregory and the Briggs lodes in Gilpin county. They were parallel lodes not a great distance apart; the litigants on either side and their attorneys made several attempts to examine, and were met by fumes that stopped them. On one occasion Senator Teller, one of the attorneys, went into the mine and found all kinds of obstructions, but he found what he wanted; he also saw the judge of the court with the other party.

The next day in court when he was making his statement to the jury, in which he detailed the facts and what he expected the evidence to show, the judge interrupted him, saying that he, Teller, was employed to present that side, and the Senator replied: "Yes, and your Honor is employed on the other side." This caused quite a commotion in court, as the friends of both parties were present, and the judge ordered an arrest, but no move was made to that end, and the trial went on.

In another case in which Mr. James M. Cavanaugh (once a partner of Judge Harley B. Morse) was the attorney. He had an understanding with the Judge that his case should not be called for trial without notice to him, but the case was tried without such notice. Mr. Cavanaugh was an Irishman and had all the traits of that race, being quick, hasty and enjoyed a scrap. When he found that the case had been tried he said to the court:

(Continued next month)

TREASURER'S REPORT

Statement of Cash Receipts and Disbursements July 1, 1924, to
November 28, 1924.

Jacob V. Schaezel, Secretary-Treasurer

RECEIPTS—

General Fund	
Cash on hand July 1.....	\$ 156.33
Total dues collected.....	\$2,541.00
Less amount due Library Fund.....	1,016.40
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Balance due General Fund.....	1,524.60
Received from sale of frames for certificates.....	57.50
Refund James M. Beck meeting.....	39.00
<hr/>	
Total collected account General Fund.....	\$1,777.43

EXPENDITURES—

Stenographer's salary	\$ 241.66
Telephone	33.54
Telegraph	12.36
Printing 4 Bar Records	146.00
Postage	39.06
Meetings, including cost of addressing, printing, mailing, etc., of notices	364.17
Stationery, including cost of mailing letters to delinquent members	206.52
Miscellaneous expenses	97.35
<hr/>	
Total expenditures	\$1,140.66
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Cash on hand in General Fund November 28, 1924....	\$ 636.77

INCOME—

Library Fund	
Balance on hand July 1, 1924.....	\$ 234.49
(Due Library Fund) from Dues collected (2/5).....	1,016.40
<hr/>	
Total due Library Fund.....	\$1,250.89

EXPENDITURES—

Salary paid Lena M. Bangs, Librarian.....	\$ 175.00
Books	501.45
Miscellaneous expense	36.75
Insurance Premium	103.27
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Total expenditures	\$ 816.47
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Balance in Library Fund November 28, 1924.....	\$ 434.42

REMARKS OF TREASURER

It is apparent from a careful reading of the above statement that the Bar Association, even with the recent increase of \$1.00 in dues, cannot continue to function as it should on the present income. For the purpose of ascertaining what other associations were charging for dues and initiation fees an inquiry was sent to several of the more active organizations and a report is given below:

*Minneapolis, Minn., dues per year.....	\$ 4.50
Library, stockholders, dues per year.....	\$10.00
Library, others, dues per year.....	15.00
*St. Louis, Mo., dues per year.....	7.50
Library, under separate organization, per year.....	\$17.00
Library initiation charge	30.00

†San Francisco, Calif., dues per year as follows:

Newly admitted, but not by certificate from other state (former students) exempt first year.	
First five years, dues per year.....	\$ 6.00
More than five years, less than ten, per year.....	12.00
More than ten years, per year.....	18.00
(Board of Governors has right to remit dues in worthy cases.)	

†New York City (Association of the Bar) Active Members:

Less than 10 years standing, dues per year.....	25.00
More than 10 years standing, dues per year.....	75.00
Initiation fee, less than 10 years standing.....	50.00
More than 10 years standing.....	100.00
(This association has Club Rooms and Library of 150,000 volumes.)	

*Cleveland, Ohio, dues per year:

More than three years standing.....	12.00
Less than three years standing.....	5.00

†Chicago, Ill. This association recently installed dining room and lounge, and dues now are as follows:

Admitted less than two years.....	12.00
Admitted more than two years and less than five years.....	20.00
Admitted more than five years and less than ten years.....	30.00
Admitted more than 10 years.....	40.00
Prior to the installation of Club Room features the dues were as follows:	
Admitted less than two years.....	6.00
Admitted more than two years and less than five years.....	10.00
Admitted to the Bar more than five years and less than ten years	15.00
Admitted to the Bar more than ten years.....	18.00

*Library separate and distinct association.

†Use of library included in dues.

The present situation in our Association is that neither the Library Fund nor the General Fund gets sufficient to adequately meet their needs. The older eastern associations evidently had to go through the same kind of financial troubles, eventually divorcing the library from the general funds, or greatly increasing the dues. California has solved the library question by a State Law which permits each county to have a law library, the funds of which are raised from general taxation. I would suggest for the consideration of the members if it would not be well to sell or donate our present library to the county and let it provide the librarian and the necessary books. For after all, the county is getting the benefit of it.

Our association now has more than 600 members, and with meetings held on an average of more than two a month, with committees meeting every week, letters to be written and answered, and the thousand and one things necessary to keep the association's business going, it is getting too large a job for one to handle efficiently and at the same time endeavor to practice law. A trained and competent Assistant Secretary will have to be employed, one who can keep the books, attend to the correspondence, see to the individual needs of the members, etc. This would permit the association to elect a Secretary who could give his time to meeting with the committees, carrying out the policies of the association, etc. The Denver Bar Association is now the largest association in the city today which draws all of its members from one group or profession. Its needs are manifold and the work it can do should not be crippled for want of finances.

J. V. S.