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WILLIAM MORLEY CAIN

1871 — 1938

In Memoriam

WILLIAM MORLEY CAIN

William Morley Cain was born at London, Ontario, on November 15, 1871, and died at South Bend, Indiana, on January 31, 1938. On July 12, 1893, he married Grace Marie DeLong, who died on June 28, 1900. Two children, Marjorie (Mrs. A. R. Sears) and John Morley, who survive, were born to them. On October 6, 1904, he married Clara Vandermeulen, who also survives.

He attended the University of Nebraska in 1890 and 1891, receiving the LL. B. degree in 1894. He was admitted to practice in Nebraska in 1894, practicing there until 1929. During this time he was county attorney, David City, Nebraska, from 1897 to 1901; city attorney, Fremont, Nebraska, 1919 to 1920; and member of the Nebraska Supreme Court Commission, 1920 and 1921.

He became Associate Professor of Law at the University of Notre Dame in 1930,— a position that he retained until his death.

EULOGY OF JUDGE WILLIAM MORLEY CAIN

Delivered on the occasion of his funeral, by the Reverend Edward J. Finnegan, C.S.C., pastor of the Sacred Heart Parish, Notre Dame, Indiana.

God is the first, the supreme and the universal Lawgiver (from Whom all human lawgivers derive their authority and all laws their sanction). "There is no authority that is not from God and the existing authorities are appointed by God. Wherefore, he that opposeth the authority, resisteth the ordinance of God; and they that resist purchase to themselves damnation." (Romans, xiii, 1, 2.)

God is the first Lawgiver in order of time, for He is the Author of human nature, and gave it its natural tendencies to work its way to

the accomplishment of its end both here and hereafter. Furthermore, as man naturally tends to form society, and as society cannot persist without guidance and authority, God has given the leaders of human society the power of directing it to the end of all society, namely, the ultimate happiness of man and the glory of God through the progress of society itself.

God has also instituted the Church, a supernatural society of men, in order that the rulers of the Church may direct man to his supernatural end. There are, therefore, on earth, the Church and the State, two societies with two distinct objects to achieve, and Pope Leo XIII, in his encyclical entitled *Immortale Dei* (1885), says of them, "each supreme in its sphere, each with fixed limits. One has the well-being of this mortal life as its object, the other the everlasting joys of heaven. Whatever belongs to the salvation of souls or to the worship of God, is subject to the power and judgment of the Church. Whatever is to be ranged under the civil and political order is rightly subject to the civil authority."

This concept of the origin of all law derivable by human reason and fortified by the teaching of divine revelation is fundamental and necessary for the well being of the human race. If peace, security and progress are to be achieved among men, authority and its sanctions must be of God and not of men; attempts to seek another source explain the decay and utter extinction of ancient civilizations and cultures.

For the student, the specialist in any branch of human knowledge and activity, of every field of created things, the goal of his life's work, the lodestone of his ambition must be the discovery of law and its application, and, therefore, the ultimate source of law — the Lawgiver. In the physical sciences it is law that the trained observer seeks out, whether it be the farthest star or the tiniest atomic particle; so, too, in the industrial and commercial enterprises, their laboratories and researches do no more than widen the horizons of law.

But what are these most meritorious pursuits when compared with the specialists and students of rational nature? With a mind that perceives and accumulates facts, that analyzes and compares and draws conclusions with the complexities of human emotions and a determining will!

It was as a specialist in the legal field of human relations that most of us at the University knew Judge Cain. His entire life was spent in the study and application of civil law. He knew well not merely legal principles and statutes but was conversant with the philosophy of jurisprudence; and in all his legal practice and academic instruction what gave light to his powerful mentality and strength to his determinations

was the knowledge that the object of the law was a human being bearing the dignity and a certain sacredness of the handiwork of God and that He was the source of both the object and the law. He understood his position, his calling as a lawyer as a sacred vocation,—anointed as a highpriest with a sacramental ministration, entrusted with a divine delegation.

If his respect for the law was majestic it was because of his respect for the majesty of the Lawgiver. If his respect for rational creatures was sacred it was because of the sacredness of the Creator. Absorbed all his mature years with a material that he knew was divine in its source; his whole being constantly focused on God's purpose in man as reflected in law, an acquired facility through the years to sense a divine plan in human affairs, he early reached the conclusion that the grandeur and nobility of an intelligent creature lay in the fact that the creature was also a child of the Creator who was also a Father; and as a child reaches out to grasp the hand of an earthly father to guide its steps, he sought the direction of his life in earnest filiation with his heavenly Father. There is nothing so natural, as there is nothing so inspiring, as the humble surrender of a great mind to its own limitations before the Infinite Mind of Him Who created and sustains all creation. "Except you become as little children you shall not enter the Kingdom of God"—if he was the great highpriest in the sanctuary of human law, he was the trustful child at the Altar of God.

There is an empty chair at the University; no one can ever fill it so majestically as he. The source of a steady light of knowledge has suddenly been withdrawn to the disadvantage of the students of the Law School. The brilliance of a great legal mind now set leaves darker his classroom, but the memory of great inspiration is left to the members of the legal profession, to us all. Writing in the *Notre Dame Lawyer* (in November, 1936), he says, that in an experience of over 30 years active practice at the bar, "I have never known any lawyer with moral courage, ability, integrity and dependability who has failed to enjoy a satisfactory practice. None of them are, or ever will be, millionaires. None ever wanted to be. Their burning and abiding ambition was to become competent lawyers, and to enjoy the trust and confidence of the communities in which they lived and wrought, and this they achieved. And whatever others may call it, I call it 'success.'" Judged by his own standards he leaves his profession a choice heritage.

To an invalid widow who appreciated so cordially his constant and loyal attention, to his children and other relations, the University and especially the personnel of the Law School sympathetically stand with you in the sorrow of his passing. Our prayers ask God His supporting hand in your grief, as it begs of Him eternal rest for our departed member and friend.


THOMAS O'MEARA

Thomas O'Meara was born at West Bend, Wisconsin, on June 19, 1878, and died at West Bend on September 2, 1937. He was graduated from the University of Notre Dame on June 13, 1901. In October, 1901, he was admitted to the Wisconsin Bar. On June 21, 1906, he married Emma Pick. Six children, A. P. O'Meara, Daniel E. O'Meara, Thomas F. O'Meara, James P. O'Meara, Stephen M. O'Meara, and Patricia O'Meara, who survive, were born to them.

He had faith in his alma mater. Two of his children, Thomas and James, have graduated from Notre Dame; Stephen is a junior in the College of Arts and Letters at Notre Dame.

Thomas O'Meara inherited fine qualities of mind and heart, and the highest conceptions of honor. Inspired by his father's example and taught by years of constant association with his father, he became everything that a lawyer should be.

For thirty-six years he practiced his profession; and for many years he was Register in Probate of Washington County, Wisconsin. His activities were not confined to the law. For thirty-three years he was a member of the Board of Trustees of St. Aemilian's Orphanage. He was a Knight of Columbus; and he belonged to many civic organizations. His life was solidly founded because above all else he was a Christian gentleman.


EULOGY OF THOMAS O'MEARA

Delivered at a Memorial Service in the Circuit Court of Washington County, Wisconsin, by Mr. Henry Lockney, of the Wisconsin Bar.


If the Court please, and friends of Tom O'Meara! It has been said that there is nothing so ephemeral as the fame of a lawyer. That statement is both true and untrue. If the fame of a lawyer depends upon monuments and epitaphs and material things, then it is true. But the fame of a lawyer in its real sense is like his life. It consists of imponderables and intangibles that make his professional career. Of most everyone else in the world except ourselves it is true that he leads a daily life of things that can be touched; things that can be seen; things that can be weighed and measured. In one sense we are not as

fortunate as that. We are dealing with a multiplicity of minds, whose inconstant and unpredictable reactions are the clay and the straw out of which we must make our bricks. But these same intangibles create and constitute the real fame of the lawyer. It may continue through generation after generation in the recollection of the things that he has done and the inspiration of the example that he has set.

I did not know Tom O'Meara until both of us had practiced law for at least ten years. From that time on I came to know him intimately. This is a funny world. It just happened that about two years ago upon a golf course, playing by accident with a chance acquaintance, I got a slant upon Tom O'Meara that reached back to his days at Notre Dame. My chance companion was a very interesting and charming gentleman, a leader of the Chicago bar, and in the course of the first round that we had together he happened to mention the fact that he was a classmate of Tom O'Meara's at Notre Dame. The things he then told me about Mr. O'Meara the student would have led anyone here, had he at the time known them, to expect from Tom O'Meara the identical kind of a lifetime of service that he rendered. I cannot add anything to what you, who knew him better than I, have already said. He knew all the duties of a lawyer; he knew the primary duty of a lawyer: "Whose salt I eat, his song I sing." He also knew the limits of the obligations that duty imposed upon him. I think his philosophy of life can be summed up in the words of George Borrow's Lavengro: "Life is sweet, brother! There's day and night, brother! Both sweet things; sun, moon, and stars, brother! All sweet things. There's likewise the wind on the heath." Life is sweet, brother! The wind on the heath! The wind that blew from the mind and from the heart of Thomas O'Meara all weak, all mean, all unmanly things. And again I think that his life can best be summed up in the thrilling, naive and unforgettable words of Marty South over the grave of Giles Winterborne: "I never can forget 'ee, for you was a *good* man, and did good things." No finer words can be spoken of any man.


JOHN MORGAN CLAIR

John Morgan Clair was born at Chicago, Illinois, on May 20, 1915, and died at Chicago, on March 6, 1938. He entered the College of Arts and Letters at the University of Notre Dame in September, 1933; and he entered the College of Law at Notre Dame in September, 1936.



EULOGY OF JOHN MORGAN CLAIR

Always an outstanding individual in the rank and file of the students, once again John Clair has been selected from our group to an honorary position. This time it was the choice of the Divine Lawgiver, Who decreed John should be taken from our ranks. Previously, the Priests and religious had noted his love of God as being clothed with more respect and adoration than that of most of us; the professors and instructors had selected John for his ability as a scholar—reflected in a ninety-one average; the athletes in handball court could not but realize his ability demonstrated by reaching the position next to the champion in last year's tournament, and the rest of the student-body had enjoyed the coveted friendship and experience of his acquaintance. We of the Law School wonder not that John was called to his position among the select.

Since 1933, when John Clair came to Notre Dame, his time was well budgeted for work, play, and his friends. At the end of the present school year, the University would have awarded him an Arts and Letters Degree, *Magna cum laude*, with his major in Economics. He was a member of the second year class in the College of Law. It was on his summer vacation trip in the West that a sinus infection developed. Few of us realized last fall when his class work was arranged that the following six months would find John, not aiding our Law School with his inquisitive research, but away from school because of an illness which was to eventually take him from us permanently. As the fall months passed inquiries as to his illness became more frequent, prayers for his return more fervent. When news arrived of his death on March sixth, the boys were both grieved and surprised. Only now do the students begin to realize the loss.

The *Religious Bulletin* of the University of Notre Dame, in paying tribute to this fine Catholic gentleman, stated: "John's most intimate friends give us the truest portrait of his character; deeply religious, clean-cut, pure in speech, an exemplar of Catholic faith that dominated