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## The First Book of Judges

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some way raised himself above the beast, that he was cognizant of his own dignity and bore in his own nature the image of God. Dr. Keene, an eminent Philadelphia surgeon, eighty-five years old, looking back over his past life, had written a book, he said, with the curious title, "I believe in God and in Evolution," and it was entirely logical. It is illogical, Dr. Hibben declared, to say that belief in God is incompatible with belief in the theory of evolution, and he would have conditioned any student of Logic who had said that belief in evolution implied atheism.

#### *The Lesson of the Grand Canyon*

Illustrating his own belief in evolution, Mr. Hibben spoke of having re-

cently viewed the Grand Canyon and said that no one could see it without realizing that it had not been built in a day and knowing that all of the ages had brought their little elements of contribution to make it the magnificent thing that it is. No one, he declared, could see nature without realizing what a tremendous time had been required to evolve the wonderful world in which we live and that in itself is the greatest miracle of all time.

Man is ruling this world, he declared in conclusion; man is the master of it; and all who look on him realize that he is made in the image of God.—J.C.S.

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## *The First Book of Judges*

(As reported by JOSEPH C. SAMPSON)

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For the scribe who would essay to report such an affair as the "Judges Meeting" held at the Chamber of Commerce on the evening of February twenty-first, there is no better scriptural rule than "Judge not, lest ye be judged," for it is indeed a dangerous task. Hence, the remarks of our judicial orators are set down here without comment but as fully as our long-hand memoranda of the proceedings permit. If there is error in the Record, we can find no consolation in the possibility of appeal, for in this instance at least the District Court is Supreme.

Among our uncommon judges, we observed, for the first time on this occasion, a common characteristic—a Romanesque profile—but venture no opinion here as to whether or not this be a prerequisite to judicial prefer-

ment, leaving the answer to that riddle to the physiognomists and the character-readers. Next time they are all assembled at one table, however, not only count but study the judicial noses and you will be able to account for the unusually distinguished appearance of our Bench.

#### *President Marsh "Sounds Off"*

Getting down to brass tacks while the dessert was being served, President Marsh introduced Luke J. Kavanaugh, Chairman of the Police and Justice Court Committee, explaining the occasion for the appointment of this committee during the administration of Judge Butler and suggesting temptingly that, after Mr. Kavanaugh's report had been given, there would be intellectual refreshment.

### *Kavanaugh "Kicks Off"*

Before reading the report of his committee, which is printed in full elsewhere in this issue, Mr. Kavanaugh described in detail the preliminary labors of his committee leading up to the report—the correspondence with other cities, the difficulties encountered in obtaining definite data, the consideration of the Municipal Court idea, and the necessity for temporarily letting the ideal solution pass in order to obtain practical and immediate results at the approaching municipal election. The main thing, he declared, was to provide additional justices of the peace *now* and this was indispensable to the welfare of the community. In order to get the matter under way, he moved the adoption of his committee's report. A suggestion by Mr. Charles R. Enos that the report include a recommendation as to the service of summons was rejected and the report adopted with instructions to the committee to draft the necessary charter amendment to carry its recommendations into effect.

### *Something on Summons*

Mr. Snavely moved that the committee's report be amended to include a provision for the service of summons in justice court matters by any person over the age of twenty-one, not interested in the action. Harry Saunders, in response to this, stated that such a provision would be in conflict with existing legislative provisions and would, therefore, be ineffectual. He thought that both ideas suggested by the committee—*increase in the number of justices of the peace and increase in salaries of these officials*—should be submitted in one amendment. Judge Bray, on the other hand, felt convinced that two separate amendments should be

submitted. Henry Toll explained that there was a bill now before the legislature providing for the service of by Mr. Snavely. Mr. Frank Meyers urged that the Supreme Court rules make provision for the method of serving summons in the justice courts but this, it was explained by Mr. Snavely, couldn't be done.

### *How Many Amendments?*

Mr. Munz offered the opinion that the proposed increase in salaries would be defeated inevitably and said he thought, therefore, that there should be two amendments submitted. Judge Starkweather thought the whole matter of charter amendment should be left to the discretion of the committee but Mr. Kavanaugh insisted that he was entitled to an expression of opinion from the Association on the matter so that his committee would not be criticized for doing something of which the Association did not approve. Mr. Munz then moved that only one proposition—*increase in the number of justices of the peace*—be submitted and Mr. Marsh invited the opinion of Judge Walter E. White.

### *Wherefore From White*

Judge White stated, in response to Mr. Marsh's invitation, that he thought the committee had covered nearly all of the grounds of objection to the present police and justice court system and that the report was an excellent one. He was, personally, he declared, in favor of submitting two separate amendments and thought both would go over if the people could be made to understand that these courts were profit-making institutions. He then spoke of the physical impossibility of getting prompt service of all papers with the present number of consta-

bles and explained that the bill now before the legislature as to the service of summons had been made to apply to the City and County of Denver. He told of the press of business in his court and said that four justices of the peace were urgently needed and that the rotation idea should be adopted so that one justice of the peace could serve for one full year exclusively in the police court. He told of improvement effected in the methods of the court, of the present handling of all cases by docket number, and urged in conclusion that two amendments—one on increasing salaries and one on adding new judges—be prepared and submitted.

#### *Moore About the Same*

Judge Moore disagreed with Judge White in the matter of submitting two amendments, because, he said, this plan would tend to confuse the voter and he compared this effort with the recent one made to increase the salaries of the district court judges, saying that the same rule of reason should apply to both situations. He believed, he said, that one amendment should be submitted containing both provisions and that meantime the people should be thoroughly educated on the question. Judge Shattuck then inquired what the situation would be if, as a result of our efforts, two new justices were added and nothing else were done about the salary matter.

#### *Saunders Gets Action*

Harry Saunders moved that the Police Court Committee be instructed to draft an amendment increasing the number of justices of the peace to four, increasing the constables and clerks proportionately, and giving power to the city council to fix the salaries. This motion was then

put and carried. Frank Fetzner said that he objected to the Saunders proposal because of the fact that other charter amendments were being proposed at the coming election increasing salaries of various officials to specific sums and thought we should make our proposition conform to these other proposals.

#### *Gould Gets Going*

Albert V. Gould, Jr., then moved that a committee of three be appointed by the president to appoint speakers for the education of the public on the whole matter and carry forward the publicity program of the committee to a conclusion. This motion was carried unanimously.

#### *Happy Thought From Haines*

Charles H. Haines then moved that another committee of three be appointed to investigate the bill now before the legislature relating to the service of summons in the justice courts and added, at Senator Toll's suggestion, that the Association go on record as favoring extending the power of serving summons in these courts. This motion was, if our memory serves us correctly, also put and carried.

#### *St. Peter Takes the Reins*

President Marsh called the attention of the Association to the very useful work being done by the meetings committee and asked Robert W. Steele, chairman of that committee to rise to his feet and be identified, which he reluctantly did amid much applause. Mr. Marsh suggested that since we spent so much useless time in talking to the judges, the meetings committee had concluded that the judges might well, for a change, talk to us, and that Peter H. Holme, the Vice President of the Association who had not previously

been given an opportunity to render any service to the Association in repayment for the honor it had bestowed upon him, had been chosen as Toastmaster.

#### *Holme at Last*

In reply to Mr. Marsh's humorous insinuation concerning his lack of service, Mr. Holme asked how in the world a vice president could be expected to render any service when the president always managed to be in town on meeting days. Now that the frivolous part of the program had been concluded, he said, he wished to announce to the Bar that the judges had met en banc that very morning to discuss the question of whether sack suits or tuxedos should be worn at the dinner; that the sacks had won but that the tuxedos were nevertheless represented. Mr. Holme had asked Bob Steele, he said, how he had ever happened to select him to act as Toastmaster and Bob had replied that he and Mr. Marsh had reached the same conclusion independently, which Bob said was the funniest thing he had ever heard of and in this Mr. Holme agreed. The Toastmaster wondered how many of us appreciated the important part the Listener played in life. The Listener, he declared, was a most important person in matrimony and in art and the ratio of a performance to the listeners was only limited by the size of the auditorium. While there had been many things invented to take the place of performers, no one had ever discovered any substitute for the listener. There was another great body of listeners, he said, from whom we were going to hear this evening—the long-suffering judges—and he would first call upon the first member of the tuxedo brigade, Presiding Judge Calvert of the District Court.

#### *Calvinism From Calvert*

Judge Calvert thanked us for the invitation to speak, saying that he knew from experience that we liked to do all the talking. We had invited them to come, he ventured, to give them a feed we knew they couldn't afford to pay for on their present salaries. He felt, he declared, much as the colored man in jail felt who was asked how long he was in for. "Two weeks," was the reply. "What am de charge?" his friend inquired further. "Dey ain't no charge; ebberthing am free," he replied again. "But dat ain't what Ah means," his friend said, "What has you did?" "Oh!" said the darkey, "Ah jes' shot my wife." "You means to say dat you has shot yoh wife and is only in jail foh two weeks?" "Yessuh," the darkey said, "then I'm going to be hung."

#### *Tips on Practice Before Judge Calvert*

Judge Calvert said that he would make a few remarks on practice and procedure in his court and they were not meant as criticisms but merely as suggestions to the Bar. In matters of course, he wished that we might remember that there was a lot of noise both inside and outside the court house building. Some attorneys presented these matters in such a low tone of voice they could scarcely be heard at all and then when they had obtained their orders would go over to the clerk and distract his attention from other proceedings. He had made it a practice, he said, because of this, to make notes on matters of course and orders entered and then compare them with those of the clerk afterwards to avoid mistakes.

*State Your Case*

He suggested that we first state the title and number of the case in clear and audible tones and not use too much haste in doing so. On motion day, also, it would be well for us to remember that the court cannot pick up any idea of the case from the title on the board and, therefore, that we should explain to the court what the litigation is all about, giving the court an idea of the contents of the complaint and the pleadings, as well as of our wishes, and then make our arguments. This practice, he declared, would save much valuable time.

*Forum Decorum*

Apropos of decorum in trials, Judge Calvert explained that he did not permit attorneys to address remarks to each other but that whatever they had to say had to be said to the court and only to the court. The public had little enough respect for the administration of the law without lawyers contributing anything more to it and there should be a little more dignity and courtesy on the part of lawyers in the court room if we were to increase respect for the profession. Courts, he said, did not like to reprimand counsel and such reprimands militated strongly against a lawyer's case.

*On Getting Juries*

The printed lists, provided by the clerk of the district court and showing the names, addresses and occupations of jurors, with other information concerning them, Judge Calvert said, were extremely useful and if we got our answers to formal questions from them we would save a lot of time in the selection of a jury. With these slips available for use, he suggested that we ask only material questions relating to

the particular case and avoid the stereotyped ones the answer to which would be found in the printed jury list. To illustrate his point, he told a story about Lincoln's selecting a jury. His opponent had asked each juror if he knew Lincoln and the judge had said it was not a material inquiry. Then Lincoln proceeded to ask the same question as to their acquaintance with his opponent, when it came his turn. When the judge interrupted him and objected to this question, Lincoln had said that he wanted to be sure all of the jurors knew his opponent.

*Holme at the Helm Again*

When Judge Calvert had concluded, the Toastmaster was reminded of a story of two young people in a crowded opera audience who insisted on carrying on a continuous babble of conversation. A man sitting behind them finally tapped the young man on the shoulder and said, "Pardon me, Sir, but do you know that the people up there on the stage are making so much noise that I can't hear a word you say?" It was not often, Mr. Holme said, that a mere lawyer had a chance to play ringmaster to seven judges at the same time and he would make the most of it. He would speak of judicial seclusion. There were arguments both ways but he, personally, thought the seclusionists all wrong. The "game" we were all in was one of human relationships and the more contact we had with other human beings the better, he thought, we were qualified to pass on the human questions presented to us. He then referred to the late and beloved Judge Carlton Bliss and declared that his constant mingling with his fellow-man had increased his efficiency. One night at the University Club some years ago, Mr. Holme said that he had come in late and

found Judge Bliss giving a party with liquid refreshments. He had been invited to join them and after several drinks all around, Judge Bliss in parting with him for the night had said, "Peter, remember, next time you're in my court it's all right." It so happened, Mr. Holme said, that the following Monday he had occasion to present a demurrer before Judge Bliss, who, with a merry twinkle in his eye, had promptly over-ruled it. The Toastmaster then called upon Judge Sackman, the second of the Tuxedo brigade.

#### *Sackman on the Woolsack*

Judge Sackman ventured the opinion that we might have laid out too much work for a single evening. His bailiff, he said, had told him a story about Judge Whitford and the West Side Court which would bear repetition. A colored man was up for sentence on a conviction for assault with intent to kill. The judge, with his usual severe manner, had lectured the darkey and had then told him that if he bore in mind all of the things he had said to him he would make a man of himself. The first year in the penitentiary, said the judge, he could get so many months off; the second year in the penitentiary he could get so many months off; the third year in the penitentiary, he could get so many months off for good behavior; and Judge Whitford was about to mention how much time he could get off in the fourth year when the darkey interrupted with, "Lawd, Jedge, doan' you all think you has counted up enough already?" Such meetings as this one, Judge Sackman said, created a closer tie between us all. He had always been ambitious to have the confidence and respect of both litigants and lawyers and to deserve it.

#### *The Responsibility of Judging*

Our forefathers, Judge Sackman said, had seen fit to divide the government into executive, legislative and judicial departments, and to vest in the judicial department the protection of the rights of the people. This was an enormous responsibility and he quoted the words of the old sage, "All true laws and human justice are but a development of that Divine Justice which is the essence of Deity. . . . Woe unto him who is himself unjust and judges others," which he said was a reminder to the judges of their responsibility. Judge Sackman then concluded his remarks with this genial toast, "May the spirit of friendship and good will which now exists between the Bench and the Bar never be broken; may we continue to work together in perfect harmony always; and may we gain and deserve the unstinted respect and commendation of all the people."

#### *Holmely Theology*

Week before last, the Toastmaster said at the conclusion of Judge Sackman's address, our brethren of the clergy had put on a field week and a luncheon had been given to Bishop Johnson on the occasion of the anniversary of his consecration as Bishop of the Episcopal Church. Will Grant had presided at that luncheon and had made the statement that there were but two Democrats left in the world, one was himself and the other Bishop Johnson. There were two Methodists here, Mr. Holme added, and one of them—Judge Moore—he would call upon next, which reminded him of Bishop Johnson's definition of a Community Church as being an edifice built by popular subscription the title to which would eventually be found in the Methodists.

*Moore the Merrier*

Judge Moore declared himself, in answer to the Toastmaster's charge, a Methodist by inheritance and said that, looking at the sanctimonious and dignified face of Mr. Holme, it was hard to believe some of the stories that leaked out his front office door. Expressing his gratitude for the invitation to dinner, he was reminded of the child who had been asked by his father to say grace and had startled the guests by saying, "Good God, what a meal!" Referring to judicial isolation, which he declared should be properly called "judicial gloominess," Judge Moore said that comradeship and friendliness were the big things in life, whatever one's salary or position in life might be. Here, we had all the judges together—No, after all he didn't see the Juvenile Court represented—and good fellowship prevailed. He thought some of the younger members of the Bar gave the judges the impression of standing aloof and unnecessarily hesitated about conversing with them and declared that the judges could quickly differentiate between genial camaraderie and thoughtful intrigue.

*The Diner's Penalty*

There was a penalty, Judge Moore declared, for attending this dinner, which consisted in saving money and in getting indigestion thinking up what to say while Ed Sabin was sitting over there telling stories which Miss Lathrop couldn't hear. All a judge had to do to prove himself human was to peruse the Colorado reports and looking over the recent reports he had concluded that he was very human indeed. He wanted us all to feel that behind the fearsome mask of judicial mien there was a warm and happy smile and the latch-string of the district

judge's chambers was always out. Judge McDonough was so dignified, he said, that it was hard to believe he could play golf but he could nevertheless, after a fashion. And Judge Moore said that during a recent game when our new judge had made several unsuccessful attempts to get the ball off the tee someone had said to him, "Judge, you never swear, do you?" "No," Judge McDonough had replied, "But where I spit I scorch the grass." Judge Moore then told a story of a slander suit in Judge Sackman's court where a lawyer had asked a witness what slanderous words had been used and the witness had replied, "Why that man used such vile and indecent language that I wouldn't care to repeat it before the jury." "Then," said the lawyer, "Why not whisper it to the judge?"

*The Court House Inscription*

There was an inscription over the court house door, Judge Moore said, which meant right judgment, and it should be kept in mind by both judges and lawyers who were the moulders of popular opinion as to the character of justice. When the people at large believe that justice is uncertain or impossible, he declared, government totters, but if the mass of the people feel that justice is certain, sure and swift, then the government is secure. It was up to the Bench and the Bar to battle the feeling prevalent in the community tending to destroy the confidence people should have in the courts.

*Hints on Wash-Day*

Monday, Judge Moore said, was a day when all were bitten by a lot of different germs like motions to strike and motions to make more specific, for instance. Many of these motions were entirely frivolous and



interposed merely to gain time through delay in the proceedings. These were not well taken and the old code was at fault in many particulars. For example, the requirement that a juror should sign a paper in order to make a directed verdict valid was, in his judgment, absurd, and the judge ought to be permitted to enter judgment without having to go through this formality.

#### *Courts Must Keep Moving*

Courts must move along to despatch their business, Judge Moore declared, and cannot take many matters under advisement without forgetting what they are all about in the press of pending proceedings and thus making serious mistakes. He thought the lawyers desired to get the judge's viewpoint. Frequently they thought they must have more time in trials and did not realize that the judges were obliged to move along to get things done. We all ought to work together to despatch business in the courts and lawyers ought not to file any pleadings merely for the purpose of delay. This course was frequently resorted to to get a better adjustment for the client and was one of the elements which contributed to the feeling of disrespect for the courts among the people.

#### *Moore About Juries*

Many lawyers didn't use the jury list, Judge Moore said. It had been adopted after careful consideration to expedite business and a list of each jury panel was prepared and available to the lawyers in the office of the clerk of the district court, the panel number of each juror and his seat in the jury box being fixed by the list. The jury was the greatest of all gambles in the courts, he declared, and the more you tried to

guess which side the jury would be for the worse off you would be.

#### *Court-Room Psychology*

Judge Moore thought members of the bar had not given proper consideration to the psychology of the court-room. The court was merely a truth-finding machine and its efficiency was only as good as its machinery. The old-style court house was built only with the thought of providing ample space, but lighting, acoustics, and arrangement of the court-room were all important factors in the ascertainment of truth. The judges of our district court had given careful consideration to all of these factors and by making changes in the old arrangement had wrought many improvements. The court itself was the dominant feature and the witness next in importance. How and where the witness sits makes a big difference in the trial of a case. If his back was to the spectators, he was not so likely to tell the truth and the court-room was now so arranged that he must face the spectators. Over-head lighting was the only proper solution of the lighting question in the court-room, Judge Moore thought, for otherwise someone always gets the light in his eyes. Bad acoustics also very frequently made it impossible to get the truth over to the jurors. Summing up, Judge Moore said in conclusion that it was only by a free interchange of ideas among Bench and Bar that we could bring about progressive judgment.

#### *Holme Again*

The Toastmaster, resuming control, told a story of Chauncey Depew and Mary Garden at a dinner party. Senator Depew, it seems, commenting on her very low-cut evening gown, asked her what kept it from slipping down. "Only your

age, Senator," Miss Garden had replied. This story had no aproposity whatever, the Toastmaster declared, as he proceeded to introduce Judge Dunklee, the next speaker.

#### *Done By Dunklee*

Judge Dunklee expressed his delight with the evening's entertainment, saying that all of the suggestions made had been very happy and beneficial. He was reminded of a quotation used by President Marsh in a speech once made on city government—"Concerning forms of government fools contest; that which is best administered is best." This, Judge Dunklee declared, might well be applied to the courts. He had heard many comparisons made between our courts and those of England and in taking a trip through Great Britain this past year he had gained some first-hand impressions of this matter. On the boat going over, he said, there had been several Canadian lawyers and the Lord Chief Justice of Canada, with whom he had conversed on the subject and from them he had got the impression that to some extent it was easier and less complicated to practice law under the English system than under our own. Our system, for our country, he said, was far superior.

#### *Class Distinctions*

Great Britain, Judge Dunklee declared, while a democracy in practice, was nevertheless a monarchy in theory and, consequently, there were relics of both forms in the practice there. In Edinburgh, he had visited the Courts of Assize. The lawyers there wearing silk gowns and wigs were King's Counsel while the lawyers wearing wigs and cotton gowns were Common Counsel. He had observed the latter walking and talking with the clients and then going over to the

King's Counsel and walking and talking with them, explaining the case and the pleadings, the King's Counsel having no contact with the clients. In England, he had heard the trial of a case on appeal and the record was much the same as in one of our appellate courts. The King's Counsel sat first, the solicitor next, and the client next to him, and the conversations of the King's Counsel were never directly with the client but always through the medium of the solicitor. This plan was very good for England, Judge Dunklee said, but would never work out here.

#### *Criminal Court Criticism*

In comparing criminal statistics here with those of Great Britain, Judge Dunklee cautioned, we must consider that the population of Great Britain is entirely different from that of our own country. Here we have a foreign element that is not present there. Their people are homogeneous, patriotic and law-abiding, he said, and we should bear this in mind in making comparisons. He was impressed with the fact that in England the courts were much more ceremonious than here. They had made very few changes in their practice, he said, the last important one having been made in 1875, when they had established one supreme appellate tribunal. He was impressed with the small number of books in the library of the court house in London as compared to the number of books found in our own law libraries. We should remember that it was not possible in the United States, with its vast domain, to simplify our system to compare with that of England whose area was only equivalent to a small part of that of the State of Colorado.

*England Has Nothing On Us*

We should keep these differences in mind, Judge Dunklee said, in contrasting our conditions with those of England. Lawyers and judges here, he thought, were every bit as keen and intellectual as English lawyers and judges but here we had a much broader field and a different form of government.

*Holme Again*

For the sake of contrast, the Toastmaster said when Judge Dunklee had concluded, he would now offer our baby judge—he would call him the “kid judge” save for the fact that that title had been pre-empted by Miss Lathrop’s late lamented friend. Judge McDonough, Mr. Holme said, like many another Southern Methodist, had harbored a negro cook. She had told the judge recently that she was going to be married and the judge had cautioned her that before being married she should first get a divorce from her present husband because otherwise it wouldn’t be decent. “But,” said the cook, “Hit done cost too much fo’ to git a divo’ce.” “How much would it cost you, Mandy?” inquired the judge. “Seven fifty, Suh,” Mandy had replied, whereupon, according to Mr. Holme, Judge McDonough had advanced \$7.50 to his colored cook. Two weeks later the cook returned from her honeymoon and the judge asked her if she had got her divorce. “No Suh, Judge,” Mandy had said, “Jim an’ I thought we’d rather spend that seven fifty on somethin’ useful so we done bought ou’selves a hangin’ lamp.”

*Methodism From McDonough*

Judge McDonough announced that he had been sitting all evening with his back to a radiator and this was as close to hell as he ever wanted to

get. He thought it was a dangerous experiment, he declared, when the entire district bench had been invited to speak ten minutes each and now he was convinced of it. He had planned to say a few things in earnest about the West Side Court, he said, but the hour was late and he would, therefore, only speak a very few minutes. Speaking of the situation in the West Side Court as it now exists, Judge McDonough said that there were but sixty pending cases, and that the criminal problem in Denver today was in as good condition as it ever had been in the past or ever would be in the future. There were twenty-four cases pending in Judge Starkweather’s division, he said, and twenty-six in his own division. Trials in the West Side Court, he declared, were now had within four, five, or six weeks after the time an offense was committed and this was a truly remarkable condition of affairs.

*First Impressions*

Judge McDonough stated that he was impressed with the fact that on the West Side Bench he was dealing with the lives and liberties of people instead of merely with their property and that he had been astounded at the number of youth now before the criminal courts, most of them being first offenders. It was a difficult thing, he said, to know just how to deal with these cases, and we ought to think seriously on the question of how we can lessen the temptations of youth and thus reduce the possibility of their entering a life of crime. It was too large a subject, he declared, for a short talk and he could not, therefore, deal with it at greater length in the time allotted to him. One of his pleasing memories was that two of the committee who approached the Republican Governor to urge his ap-

pointment to the Bench had been Democrats while he, himself, was a Republican, and this led him to believe that we were now approaching the borders of the millennium.

#### *Holme Again*

The Toastmaster, when Judge McDonough sat down, told of a substitute crier in the United States Court of Appeals who had opened court with, "God help the United States and this honorable Court." In the United States Supreme Court, too, it was said that a crier once shouted, "God save the United States from this honorable Court," but this, according to the crier who had told him the story, was an episode without any foundation in fact. The stories, at any rate, Mr. Holme declared, had no point whatever in introducing Judge Bray, which he proceeded to do.

#### *Bright Sayings of Bray*

We were all good fellows, said Judge Bray in opening his talk, for making such a great effort to conceal the contempt we had for the court, and this reminded him of an incident which had occurred in the Justice Court when he was presiding there some time back. A negro was on trial and a fracas arose among several others in the back of the court room. One knocked the other down and the other drew a knife and chased him into the lavatory where, jabbing through the slats in the door, he cut him up pretty badly. When brought before the court, the knife-wielder had pleaded self defense and Judge Bray had told him that if that were true he ought not to have followed his victim, to which the prisoner had replied, "Jedge, you all doan understand' dose bad niggahs. When you gets one of 'em goin' you jes' keeps him goin'."

#### *Some Brányny Suggestions*

The hour was late, Judge Bray said, and he would, therefore, make his suggestions short. He had been impressed, on the Bench, with the many useless questions asked jurors, and to illustrate this point told of a lawyer over in the West Side Court who had asked a juror whether or not he was a married man. "No," said the juror, whereupon the lawyer had then asked him, "How many children have you?" Bob Steele, he said, had assured him before the feed that he would not be mobbed for whatever he might take it into his head to say; so he was going to state that the Denver Bar was the poorest lot of pleaders that had ever been gotten together, for, in cases on his docket on that particular day, half of the demands made of the court were to make the complaint more specific and the other half had been to strike out at least half of the remaining complaints. He thought we would just have to muddle through and do the best we could; there might be some other motive back of these various motions, as Judge Moore had suggested.

#### *The Judge's Job*

A District Judge, he declared, ought to be a pretty learned sort of individual, listening to lawyers all day, every day, and he preferred his court to the Supreme Court because he still had a chance to learn something while they had none. Also, he said, the Supreme Court labored under the disadvantage of having no one to advise them when they made mistakes. Concluding, Judge Bray said that, since the Toastmaster had done nothing else for a year other than to prepare himself for this meeting, he thought he would give him a chance.

*Holme Again*

Judge Bray's intuitions were remarkable, the Toastmaster declared, and he told a story of a lawyer arguing a case before the Supreme Court of the United States. This lawyer, it seems, had taken his case directly from the United States District Court in Wyoming to the Supreme Court and spluttered badly when rattled. One of the justices had asked him, when he was well along in his presentation, to give the court an idea of the question of jurisdiction, to which the lawyer had replied, "Read my brief and you'll see I'm here all right." Each justice then took a whirl at him and finally the genial Chief Justice said firmly, "Mr. Jones, the Court feels that you must seek your remedy in the United States Circuit Court of Appeals." Withdrawing in confusion, the lawyer remarked in reply to this, "Well, your honor, I don't want to be understood as agreeing with what you have just said." With this story, Mr. Holme then introduced Judge Starkweather, the last speaker on the program.

*Stark Truth From Starkweather*

Not long ago, Judge Starkweather said, he had been invited to deliver an address before one of the Masonic lodges on the subject of John Paul Jones. With great pains, he prepared for this task, reading up everything he could find on John Paul Jones for months in advance of the time he was to appear. Finally the day arrived for his speech and he was loaded for bear. The routine business of the lodge lasted until about nine in the evening and the master of the lodge then proceeded to deliver his introductory address which lasted two hours and three-quarters. At a quarter to twelve he finally stopped and said

that he would now introduce Senator Starkweather, the orator of the evening, and added that as soon as he had concluded his remarks refreshments would be served. He felt now, Judge Starkweather said, very much as he had felt on that occasion. After sitting for four hours listening to the delightful talks of the other judges, a saying of Bacon's in his essay on "Judicature" had come back to him—"A long-speaking judge is an ill-tuned cymbal." Bold and adventurous, he declared, would be the man who would undertake to speak at length here after four hours of other speeches.

*His First Impressions*

He had gone on the Bench, Judge Starkweather said, with considerable trepidation. He had practiced law for a long time, of course, but he was nevertheless not certain as to just what he would be up against as a judge. In two years on the civil side of the District Court, he had pushed matters before him as hard as possible and had never had the least trouble keeping pace with his docket. All this talk about motions and demurrers taking up so much of the court's time, in his judgment, was sheer bosh, and it was easy enough for a judge to see which were well founded and which were not. If a motion possessed merit, he declared, he wanted to hear it argued and the very filing of these motions had a distinct advantage, for the client was often in a great hurry to start litigation and the lawyer frequently had insufficient time to investigate his case as it should be investigated before trial. The delay afforded by the motions gave him time so that when the case was at issue he was pretty well informed about it and had also learned the point of view of his adversary.

*From Civil to Criminal Side*

He had been intensely interested in the work of the civil division, Judge Starkweather said, but was really not very sorry when he had been sent over the West Side Court and was particularly delighted when he found his old friend Judge McDonough was to be his associate. He had only been on the criminal bench about a month, he said, and he was sorry to see that the court house walls were beginning to crumble as soon as he left the building. He had learned a good deal in that month, he declared, and, before going over there, had never been in the criminal court building in his life.

*Pathos In Evidence*

In the West Side Court, Judge Starkweather said, one meets the derelicts of society, and the experience is a sad pull on the heart strings. Illustrating this, he told of a man convicted the previous week of operating a confidence game. He had made up his mind, he said, to send him to the penitentiary for five or six years when one of his friends told him about the man's family, a wife who was almost an angel and three wonderful little children, two of whom were twins. With the family in mind, he had chopped the man's sentence in two, feeling that it would be wrong to take this man from his family for a longer time than that. He then told of the appeals received from heart-broken parents concerning wayward children. If he had met with any success in his administration of the District Court, Judge Starkweather said in conclusion, it had been due entirely to the learning and ability of the lawyers who had practiced before him and he highly appreciat-

ed their zeal and fidelity to the court.

*Holme At Last*

With a brief expression of appreciation for the consideration of the assembled lawyers, Toastmaster Holme adjourned the meeting and the guests departed wiser in their knowledge of how the judicial mind functions than they had perhaps ever been before.

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*Orientation*

(Suggested by Dr. John Grier Hibben's Address)

The simple rules our fathers had in mind,  
When they worked out the fundamental law,  
In Time's perspective, we seem now inclined  
To view with somewhat less of love and awe  
Than they; and yet, when we depart,  
As we so often do, from Wisdom's course,  
We seek in vain to find a better chart  
Than theirs, and turn our compass to the source  
Of Liberty; we orient our Ship  
Of State from thence. Thus, we shall reach the port  
Of Destiny, though legislators slip  
And rock the boat in momentary sport.  
Lest we forget, and stray a bit too far,  
From Liberty—she is our guiding-star.

—J. C. S.

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*Good Alibi*

Defending Counsel.—“Think, gentlemen of the jury, my client is so deaf that he only hears the voice of conscience with difficulty.”—Korsaren (Christiania).