

LEGAL LIFE IN THE AMERICAN FAR-WEST—A BELGIAN VIEW OF WESTERN JUSTICE.*

The American West, except for some large cities like Denver, San Francisco and Los Angeles, is the domain of the cowboy and the gold-seeker. The ranch with its thousands of heads of cattle occupies the vast plain, the mine with its precious metals hollows the sides of the Rocky Mountains and the Sierra Nevadas wherever the arid climate or the perpetual snows have not made deserts. Necessarily the population is still exceedingly sparse. Distances are immense, and states half the size of France have only fifty or sixty thousand inhabitants.

Along the great transcontinental routes which span America the so-called "cities" of the Far-West are no more than handfuls of cabins to which we would deny the name of "village."

The rest are only "ranches" of cowboys and "mining camps."

Nevertheless, all this has a political organization, at least theoretically. There is a government, a legislature, a judiciary, a bar, and municipalities.

I reached Denver three days after a blizzard, in wonderful weather. The sun shone, the air was dry, no wind, and the cold, though sharp, was what Americans call exhilarating.

Upon the sidewalks and in the streets the snow remains, not to be removed except by wearing away. In places it melts until noon, then freezes, by four o'clock, into a magnificent glare of ice. Elsewhere, near the Capitol, it has been carried away; upon the asphalt two policemen are lounging in the sun—one chewing, the other smoking, both expectorating in full view of a sign which reads, "Do not spit on the sidewalks. By order of the Board of Health."

The streets have names, but no notices of them are to be seen except where people have doubtless forgotten to efface them.

* From the *Journal du Droit International Privé*, Vol. 31, p. 634. Translation by G. S. A.

I accompanied a lawyer to the headquarters of the governor of the state. Without knocking, we entered a room designated "Governor's Office," and my friend familiarly called out to the governor: "Hello! Billy; here is a gentleman from Brussels, Belgium; wants to see how you run things in this country!" And I thought of what would happen if, in Belgium, we should take a like liberty with the governor of a province! The said governor holds his position only two years; he was to quit his authority in eight days, to be replaced by a friend elected the preceding November. The last act of a retiring governor is to give a "state dinner" to his successor. This is the symbol of the new comer's entry into the "good things of office," given by the politician *emeritus* who has had his share of them. The legislature, which assembles only every two years (so that too many new laws shall not be made), passes certain laws, especially electoral laws which nobody observes or rather which nearly every one violates. There is no civil status, and when a new comer wishes to be listed on the register of electors, he always finds some obliging citizen to swear under oath that the candidate for electorship has been for so many years domiciled in the state and that he has become a citizen of it. That is enough.

In order to see to the application of the laws, particularly the penal laws, there is besides need of public administration. Now here the public administrator is a magistrate elected in each judicial district, and responsible solely to his electors. In other words, the prosecuting attorneys of hereabouts have neither attorney general nor minister of justice above them. What is more, their jurisdictions cover thousands of square kilometers and the people amenable to them are abundantly provided with revolvers, which they handle with unfailing ease and dexterity.

Do not forget, furthermore, that the commitment can take place only upon a verdict of a grand jury made up exclusively of cowboys or of miners, and that the same is necessary for a conviction. Now, these good fellows think that the apprehension and conviction of one of their fellows is not worth the bother unless there is a price on his head. Or, in other cases, guilt seems evident to them and, after that, the formality of a judgment useless enough. They are going to lynch the wretch, but first the railroad is warned, so that it may get up (of course on some good pretext) an observation train. Business is business, and it is criminal to neglect an occasion to make money!

Judges—even they—are elected by those over whom they sit in judgment. Their terms of office last from six to nine years, and they are never reelected because every one must have his turn. Moreover, the emoluments are not great, but they are enough to attract a provincial lawyer-politician. Besides, there are no conditions of eligibility. Not long since I heard a judgment pronounced which gives a slight idea of the respect with which the judges view the law. The laws of the state in question punish bigamy, but limitations run in ten years from the time of the infraction. Sentence:

“Admitting that the prisoner has married a second woman in the lifetime of his first wife and has lived with her in that condition from that time to this day; in view of the fact moreover that in my opinion the offense of bigamy consists in the deed of marrying a second woman during the lifetime of the first wife, but does not result from cohabitation continued under these conditions; it being understood that the second marriage of the prisoner was prior to the prosecution by more than ten years, and that prescription has run against the offense, it seems to me, gentlemen of the jury, that you ought to render a verdict of acquittal in the case.” Which the jury did without leaving the box, it being understood that they did not care anyway.

Another scene. It has to do with a murder. The accused coolly admits his guilt. The judge insists, “Do you demand a jury trial?” Answer: “I don’t care; it’s all the same to me.” The judge: “In your place I would plead *not guilty*, in order to get a trial by jury. That would be better.” The accused: “All right; I plead *not guilty*.”

Enter on the scene at this point the sheriff, whose function is here to assemble the jury. Invariably whenever the name of an important man, a banker, merchant or mine-proprietor, is drawn, the sheriff explains his absence by the fact that he could not be found to have personal summons served upon him. In reality he has seen him, and seen him very much and very near, too, and in his business office; but he has probably received—something with which to be dazzled. Then are taken as jurors professionals at the business, men who lounge around permanently in the court room, drawn by the windfall of two or three dollars and some free meals. Sometimes if those interested in a suit, civil or criminal, are rich, there are still better hopes in view for the jury.

I dared to express fear lest these “hopes” sometimes inspired even the magistrate. “Certainly,” a colleague an-

swered me. And as I manifested astonishment, he added: "The fact is, you see, in almost all legal questions it is possible for a jurist to have two equally defensible opinions. Then sometimes it is possible that the judge leans toward the more profitable."

And what has the bar to do in all this? Does it take no care to organize, to exercise its collective influence as in the great states of the East, in order to assure the election of a good bench?

Here is what the bar does:

A gold seeker dies a millionaire, but he has been deserted by his wife and his son is a spendthrift. The will gives a dowry to the ungrateful spouse and leaves to the young man fifty thousand dollars. The remainder of the millions is devoted to charitable institutions. The last clause of the will provides that if the son seeks to nullify the last wishes of the father, then he shall be absolutely disinherited. Remember that the Anglo-Saxon statute book does not recognize the legal reservation.* The son is naturally not satisfied, but what is there to do? It is simple enough. A firm of lawyers offers him the following bargain: "We will attack the will on certain technical questions, which are exceedingly fine. However the suit may come out, we guarantee you your fifty thousand dollars; but in case of gain, we will share alike in the profit." Naturally the son accepts.

Another firm of lawyers announces between the advertisement of a mountebank and that of a dentist: "Consultations free. Divorces our specialty. Success, speed and discretion guaranteed. No advance fee. We advance expenses in good cases. Free, if we fail. Firm established 22 years. Telephone No. — for consultations in urgent cases at night." Then follows the address of the lawyers in question.

Another announces that it makes a specialty of the recovery of bad debts, and the ejection of insolvent tenants!

Others do not announce their specialties, but it is known that they are the people to see for blackmailing suits against great mining companies or railroad corporations. There is not the ghost of a chance that these suits will eventually succeed, but the lawyer and his client speculate on the probability of the adversary becoming weary, and they hope that he, rather than to be dragged from jurisdiction to jurisdiction for

* *i. e.*, the prohibition against entirely disinheriting one's family.—Ed.

three or four years, will decide to "cash up" in preference to encountering the formidable bill of fees for his own counsel. It is while thinking of all this that I comprehend the remark of an old lawyer: "In the American West there is no government, no political organization. These institutions upon paper, these official manikins, are but a farce, and no one respects them."

But then, I asked myself, how does it happen that this latent anarchy does not manifest itself on the outside, in the public life, in frightful disorder?

It is because the great majority of this population has only one care—to make money. Private business preoccupies it and totally absorbs it.

By instinct this people understand the necessity of a certain public order, not wholly like ours, but nevertheless effective. It consists in a complete liberty to each person to attend to his own business without being embarrassed by the public authority.

It is rather like a parody on the famous saying: "Heaven deliver me from the government—I have enough to do with my competitors!"

We Europeans of the Continent, accustomed to tutelary government, always ridiculously prying in, and glad to be busy-bodies in consequence of a solicitude well or ill intended, cannot comprehend this liberty, because we do not know exactly how to imagine its environment and the social condition for which it is made. But the English, more used to the initiative of the citizen and the reserve of the government, understand this condition and appreciate it at its real worth. It is a state of transition resulting from what they very rightfully call the formative condition of American political society.

The democracy of the American Wild West is still in its infancy. It is to the political history of that country what the lyric period is to the history of all literature, and lyricism, even the best, cannot exist without some false steps. Age will smooth down these excesses and experience will correct these errors.

A. Nérinck.