

THE SUPREME COURT OF CONNECTICUT.\*

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Lord Coke speaks somewhere of an effluence issuing from the dusty year books and the entrancing writings of Littleton, Britton, Glanville and Fleta, and he calls it the "Gladsome Light of Jurisprudence."

Were he alive now and called upon to prepare a case for the Supreme Court of Errors of Connecticut,—with its notice of appeal, request for a finding, counter-finding, finding, motion to correct finding, hearing on motion to correct finding, amended finding, two hundred exceptions to finding, evidence in support of two hundred exceptions to finding, and lastly, saying nothing about the profanity of all concerned at all stages of the finding, four hundred reasons of appeal,—he would use another adjective than "gladsome" to describe the effluence from that record.

The outside barbarians who have never basked, as it were, in the "Gladsome Light of Jurisprudence," are apt to scoff and jeer at those who have, and to poke malicious fun at law and lawyers and courts. As to law, they assert with unholy glee and tiresome iteration, that the only element of certainty about it is the expense, and that upon this one element "hang all the law and the profits."

Voltaire, the arch scoffer, was accustomed to say that he was never ruined but twice, once when he lost a law-suit and once when he gained one.

As to lawyers, they conduct themselves so blamelessly and meekly in court and out that they have come to be looked upon as the legitimate prey of the scoffer, like the mother-in-law and the maiden aunt. How fond the "lay gents" are of repeating that old mendacious story of the two neighbors who went to law over the ownership of a luscious bivalve and were glad to get, each, one-half of the shell, while the lawyer took the fat oyster. Of course everybody knows that no such law-suit ever took place, but the libel seems to be immortal.

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\*An address delivered by Chief Justice Torrance of the Connecticut Supreme Court at the annual banquet of the New Haven County Bar, January, 1903.

A like immortality attaches to stories relating to the discomfiture of lawyers by witnesses in open court.

Here are two of that class that are probably older than the Supreme Court of Errors.

"Did you see that tree by the roadside that you spoke about in your direct?" asked the lawyer.

"Yes, sir, I saw it very plainly."

"It was conspicuous, then?"

The witness seemed puzzled by the new word.

"What is the difference," sneered the lawyer, "between plain and conspicuous?"

The witness innocently answered, "I can see you very plainly, sir, amongst the other lawyers, though you are not a bit conspicuous."

In the other story the witness is asked: "You were in the company of these other people then?"

He replied, "Yes, sir, I was in the company of these two friends."

"Friends," said the lawyer; "I suppose you mean two thieves."

"That may be so," said the witness, "they are both lawyers."

When Jack Cade, as reported by Shakespere, said, "The first thing we do, let's kill all the lawyers," I have no doubt that he voiced the sentiments of a large constituency, many of whom are still living.

The courts, too, come in for their share of criticism and banter both from laymen and lawyers. Burns says, "Courts for cowards were erected," and Carlyle calls them "chimneys for the deviltry and contentions of men to escape"; and the sacred and inalienable right of the losing party to retire to his inn, with his counsel learned in the law, and swear at the court, is universally recognized.

Plutarch records a saying made with respect to what was probably the Supreme Court of ancient Greece, and it was to this effect, that wise men pleaded causes and fools decided them. I have no doubt that this was said at an inn by counsel who had been cast in his case, and was therefore excusable.

This frank old Grecian estimate of the ability of the Supreme Court of Greece, by some subtle law of association brings me to the subject of my remarks, the Supreme Court of Connecticut.

From the very beginning in this State, or at least from the establishment of the General Court two hundred and sixty odd years ago, there has always been a Supreme Court; and for many years the General Court was not only the Supreme Court, but the supreme everything in government. It not only decided what

the law was and applied it in particular cases, but it made the law and executed it.

It is not, however, of this ancient and honorable Court that I speak, but the successor to a portion of its power, the modern Supreme Court of the State. That Court came into existence in 1784, but the Supreme Court of Errors as we know it to-day dates from the adoption of the constitution in 1818. The court has thus existed for about one hundred and eighteen years, years filled full of wonderful change and progress in law as in everything else.

Since 1784 something like ninety judges have been members of the Supreme Court, and of this number only six are now living, the present members, and the venerable and beloved State Referee, the ideal judge and true gentleman, the Honorable Dwight Loomis.

Upon its rolls are inscribed the names of Ellsworth and Sherman, and Swift and Reeve and Gould, statesmen and lawyers, whose fame follows the flag, and whose influence is still felt throughout the nation, and a long list of other names, of men now gone to their reward, illustrious in the judicial history of the State they loved and labored for.

Its work is embodied and embalmed in the judicial reports of the State, where it may be known and read of all men. The first volume of these reports (Kirby), the pioneer work of its kind in this country, is a very little younger than the Supreme Court itself. That little volume, the first faint flow of a mighty stream of reports, was doubtless considered a great blessing at the time, but now when reported cases fall yearly in all the States "thick as autumnal leaves that strew the brooks in Vallambrossa," we may be pardoned for being somewhat sceptical on that point.

Looking back through the volumes of our own reports, and through our judicial history since 1784, it may be said without fear of contradiction that Connecticut has no reason to be ashamed of her judiciary. It has made mistakes, undoubtedly, for it is very human; but so far as I know there is not a stain upon its integrity and honor.

In speaking of what the judiciary has done in the past, or may be able to do in the future, let us never forget the debt it constantly owes to the "goodly fellowship" of an able, honest and gentlemanly bar. The members of the judiciary come from the ranks of the bar. They are both ministers in the temple of justice, sworn to exercise their respective office in that temple with unswerving honesty and fidelity to all concerned therein.

To the bar is committed the great trust of giving counsel to their fellow men, and of aiding the court to mete out justice between man and man without fear or favor. Without the constant aid of a learned and upright bar, life under modern law would be well nigh impossible, and the power of the judiciary would be greatly crippled.

A learned, upright and independent judiciary, and a learned, honest, self-respecting bar, are two of the indispensable institutions of modern society. For doing justice, in the hot and complicated disputes of men, we need the services of able and honest lawyers, as well as the ability and "the cold neutrality of an impartial judge."

The world needs great lawyers and great magistrates, as much perhaps as it needs great teachers, inventors, artists or warriors. Holt and Mansfield and Erskine and others of our profession in England, and Marshall, Kent and Story and Shaw, and others like them in America, have done yeoman service for Anglo-Saxon civilization and progress.

The judiciary is the weakest of the great magistrates to which in modern times the powers of government are confided. It does not, like the executive, wield the sword, nor like the legislative, control the purse; and yet to it, in the courts of last resort, in our country, has been entrusted the power to say to both of the other departments, if they attempt to wrong the humblest citizen, "Thus far shalt thou go and no farther, and here shall thy proud waves be stayed."

The judiciary is one of the great bulwarks of liberty under law. It is, as compared with the other great departments, like the "still, small voice" which the prophet of old heard, after the thunder, the whirlwind and the earthquake; but it is the still, small voice of reason, and when it sets forth the principles of fundamental law as embodied in that great American contribution to the science of government, the written constitution, the other powers of government gladly obey the mandates of the judiciary because successful disobedience thereto would mean revolution and anarchy. Under our system of government great power is entrusted to the judiciary and the bar, and with that power go great responsibilities. Let us congratulate ourselves that in the past that great power has been exercised on the whole wisely and well.

Connecticut has no reason to be ashamed of her judiciary or her bar in the past. Let us see to it that she shall have no reason to be ashamed of them in the future.

*David Torrance.*