

Wit and Humor of the Bench and Bar (Book Review)

John G. Kelly

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WIT AND HUMOR OF THE BENCH AND BAR. By Marshall Brown. Philadelphia: George T. Bisel Co., 1931.

Viewed merely as a bundle of precedents, the law is indeed a cold and a lifeless thing, but seen through the personalities that have enunciated and advocated these precedents, it assumes warmth and vitality. With this thought in mind, Marshall Brown, formerly Judge of the Common Pleas Courts of Allegheny County, Pa., in his "Wit and Humor of the Bench and Bar" has brought together an interesting collection of anecdotes and skeleton biographies of familiar figures of the common law from Sir Edward Coke to Joseph Choate. The range is wide and the personalities numerous, but the method and the value of the work can be adequately illustrated by consideration of the author's treatment of a few of the more prominent personages of the American bench and bar.

The author pays deserved tribute to John Marshall, who for thirty-four years presided as Chief Justice of the Supreme Court of the United States. This extended tenure of office was in itself indicative of the caliber of the man. Though his authority was protracted beyond the ordinary term of public life, none dared covet his place or express a wish to see it filled by another, for all respected the unsullied purity and penetrating analysis of the judge whose masterful decisions reconciled the Jealousy of Freedom to the Independence of the Judiciary.

Vastly different from the judicial temperament of John Marshall was the peppery personality of Andrew Jackson. While riding the circuit as an advocate, Jackson used to carry about with him a copy of Bacon's "Abridgment," in which he never failed to find the true answer to whatever knotty problem the case in hand might present. He carried his prized volume in coarse brown paper such as grocers used. A solemn function in the courtroom was Jackson's careful withdrawal of the package from his saddle bags and his grave unwrapping of his Bacon. On one occasion Waitstill Avery, counsel for the other side, determined to play a joke on Jackson and substituted a slab of bacon for Jackson's source of wisdom. In the midst of the trial Jackson confidently proclaimed, "We will now see what Bacon says." With the court, bar, jury and spectators who were all in on the fun convulsed in laughter, Jackson proceeded with the unwrapping to the point where he discovered the joke, whereupon he became infuriated, tore a blank page from a law book, and drafted an immediate challenge to Avery. Twenty-four hours later witnessed no calming down of Jackson's ruffled feelings and Avery was forced to appear for the duel. Jackson fired, flicking the ear of his adversary. The latter contented himself with shooting in the air, thus foregoing his opportunity to change the course of history.

The talent which justified Daniel Webster in his determination to use his tongue in the courts and not his pen, to be an actor and not the register of other men's actions, is well brought out in an anecdote told of this powerful figure. Webster was associated with St. George Tucker Campbell in the conduct of a case, the latter handling the preliminaries and Webster the concluding argument. Official duties at Washington prevented Webster's attendance in the court during the hearing and he arrived on the scene just one day before he was to make his concluding address. He called Campbell to his room and

asked for the salient details of the case. Campbell attempted to cram into two hours what had taken place in the courtroom over a period of days. He particularly stressed the fact that the other side was bent on securing a continuance of the case, while the interests of Webster's client demanded an immediate decision. Campbell cited the fact that the other side had already protracted the cross-examination excessively, occupying six days in the case of one witness. The next day Webster arose to address the court. Campbell was fearful of Webster's lack of familiarity with the case, but as Webster warmed and quickened in his forensic efforts, Campbell listened spellbound. Webster declaimed, "They ask for a continuance! Why, may it please the Court, they have taken at this hearing as much time in the cross-examination of one witness as it took the Almighty to create the Universe." The majestic proportions to which Campbell's six days had grown under the magic of Webster's eloquence was the genius of the man.

Further citation seems unnecessary. The reviewer is tempted instead to suggest a criticism—not for a sin of commission but for one of omission. Two of the greatest jurists America has produced find no place in these pages. The absence of one of these is understandable. Justice Holmes continues in the fullness of life and the dignity of judicial office and hence is not regarded as a fit subject for anecdote. Failure to include the man who laid the cornerstone of the common law in the State of New York is less easy to understand, unless it be that the judgments of Chancellor Kent do not in Pennsylvania carry the conviction that they do in New York. However, to mention this minor criticism is not to deny the worth of the book and surely any one interested in the law who spends the hour or so necessary to read through this little book will feel himself amply repaid in the entertainment and information he will derive therefrom.

JOHN G. KELLY.

Mount Vernon, N. Y.

CARMODY ON PRACTICE. Edited by B. G. Bonomi. New York: Clark Boardman Co., 1931, Vol. 3.

Volume 3 of the new edition of Carmody's "Pleading and Practice," recently issued, is one of the most important of this series, inasmuch as it deals with such subjects as joinder of causes, the complaint, the answer and reply, motions related to the pleadings, and objections and amendments thereto. Each of these subjects is fully treated in terms that are readily assimilated; especially are the chapters dealing with the complaint and answer exhaustive in their nature. The recurrent footnotes are plainly and briefly explanatory and the citations limited to leading cases, and simplifying same. This volume is a veritable encyclopedia of pleading on the subjects therein treated, although in language that is easily readable by the student as well as the practicing attorney, and in style that is entertaining rather than pedantic. This volume fully bears out the promise of the earlier ones as to becoming a standard work of pleading and practice.

CHARLES E. RUSSELL.

New York City.