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THE LOUISVILLE BAR FORTY-SEVEN YEARS AGO.

By E. Polk Johnson.

I have been asked by the Editor of the Kentucky Law Journal to give some reminiscences of the judges of the courts of Jefferson county at the time when I came to the bar, forty-seven years ago. The task is approached with hesitancy for the reason that the writer of reminiscences is usually classed with the superannuated who are worthless for other purposes, a classification, I trust, which is not applicable in this instance, as, at this time, I am actively engaged in public pursuits. I was admitted to the bar in Louisville in 1869 and there are now but three others in practice who were then engaged in the profession. These are Judge Theodore L. Burnett, Judge Fontaine T. Fox and Mr. Charles B. Seymour. Judge Burnett is one of the very few veterans of the war with Mexico yet living and his erect figure, despite his age, and his sunny temperament give promise of yet many years of life in which he will continue as an exemplar of the high virtues of the typical Kentuckian of the old school. During the War between the States, Judge Burnett worthily represented a Kentucky district in the Congress of the Confederate States, and for years after the conclusion of that war served acceptably as Corporation Counsel of the city of Louisville. Judge Fox came naturally to the bar and the bench, being the son of a lawyer and a judge. He served a term as Vice-Chancellor and after the abolishment of that court, returned to active practice, in which he is still engaged. In his hours of recreation, his mind turns to literary pursuits and he is the author of several works of a politico-historical character. His particular aversion is Alexander Hamilton, in whose character he sees no virtues but a long catalogue of political and personal sins. Mr. Charles B. Seymour is the student of the Louisville bar, an able
lawyer and a modest, courteous gentleman. He is said to have mastered the Persian language and is probably the only man in Louisville who can read old Omar in the original.

In 1869 the principal courts of Jefferson county were presided over by Judge Horatio W. Bruce of the Circuit Court; Judge Henry J. Stites of the Court of Common Pleas, and Judge Thomas B. Cochran of the Chancery Court. Today six judges perform the duties to which these three were then assigned.

Judge Bruce was a member of the Louisville bar at the beginning of the war in 1861, his partner being Ben Hardin Helm, elder son of Governor John L. Helm, whose daughter Judge Bruce had married. Mr. Helm, a graduate of West Point, attached himself early in the war to the Confederate cause, becoming Colonel of the First Kentucky Cavalry, in which regiment I had the honor to serve. He had declined a commission in the United States Army tendered by Mr. Lincoln, who had married Miss Mary Todd, a half sister of Mrs. Helm. Early in the war Colonel Helm was promoted to Brigadier General, was painfully wounded at the battle of Baton Rouge, La., and at the battle of Chickamauga, September 20, 1863, died the soldier's glorious death at the head of Kentucky's Immortal Orphan Brigade, which he led in the tremendous struggle.

Judge Bruce was elected a member from Kentucky in the Confederate Congress in which he ably served until the Confederacy ceased to exist, save as a holy memory to those who had followed its stainless colors to the end. Returning to his home in Louisville and engaging again in the practice of his profession, he speedily attracted the attention of the then dominant party and was elected Judge of the Circuit district, then composed, if memory is not at fault, of the counties of Jefferson, Shelby, Oldham, Spencer and Bullitt. After serving with credit and to the satisfaction of the bar and the people for several years, he resigned to become Chancellor, vice Judge Cochran, deceased, the duties of which court accorded more particularly with the bent of his mind than the arduous and burdensome requirements of the Circuit bench. After a service as Chancellor, which increased the esteem in which he was held by the bar and the public, Judge Bruce resigned to become the Chief Counsel of the Louisville and Nashville railroad in the service of which he remained until his death, long afterward.
When Judge Bruce resigned from Circuit Judgeship, there were numerous applications for the succession. I was at that time a member of the Legislature from Jefferson county, and a friend of General William L. Jackson, who sought the appointment from the Governor. General Jackson had come to Louisville from Virginia soon after the war, in which he had attained the rank of Brigadier-General. Before the war he had been a Circuit Judge and Lieutenant-Governor of Virginia. He requested Colonel Phil. Lee, then Prosecuting Attorney of the Circuit Court, and myself to go to Frankfort and see Governor Leslie in his behalf, with which request we complied. In the conference with Governor Leslie, that fine old gentleman surprised us both by tendering the appointment to Colonel Lee. That gentleman, after recovering from his surprise, positively declined to be considered for the position saying: "Why Governor, if I were a Circuit Judge the State would have to enlarge that grim old prison down there by the Mansion where you live. I have been a prosecuting Attorney so long that I have come to believe that every man who is indicted is guilty and if I were a judge I would fill that old prison so full that half the inmates would be sleeping in the open air for lack of cell room."

The Governor then told us that he would appoint General Jackson, which he did on the following day. Judge Jackson acceptably presided over the Circuit Court until his death and was succeeded by his son, William L. Jackson, Jr., a very able young man who died all too soon, but not before he had proven himself an able successor of his father.

Judge Henry J. Stites, of the Common Pleas Court, was one of those genial spirits to know whom, was a delight. No young lawyer ever appeared in his court who did not come to admire and love him. They could almost admit that his decisions were correct, though adverse to the clients they represented. I recall my first appearance in his court when he addressed me as "Mr. Stranger." I at once expressed my regret that I appeared strange to him with the hope that my future appearances in his court would be so frequent that he would recognize me by my own name. A brother member of the bar, entering into the spirit of the occasion, formally, introduced me to the Judge, somewhat to the embarrassment of each of us. After this, when appearing in his court, he punctiliously called my name cor-
rectly. Off the bench and in these prohibition days, may it be said that at another style of bar he never failed to address me as "Mr. Stranger." Judge Stites, as all Kentucky lawyers know, had served with distinction on the bench of the Court of Appeals before coming from Hopkinsville to Louisville, after the war. I have an impression that he was one among the many Kentuckians whom the exigencies of the war drove into Canadian exile.

After I had gone from the practice of law into the more attractive field of journalism the friendship between the elderly judge and my then youthful self continued and it was his habit, when opportunity presented, to come into my office and charm me with recitals of his early experiences at the bar and elsewhere. One of these experiences may be mentioned here, as related by Judge Stites. The Editor of the Democratic newspaper at Hopkinsville, having occasion to be absent for some time, secured the services of young lawyer Stites to edit his paper during his absence. Singly enough the editor of the Whig paper was called away at the same time, and he too, secured Mr. Stites to edit his paper, profoundly ignorant of the fact that he was at the same time the editor pro tem of the Democratic paper. Then the fun began. The Democratic Editor attacked the Whig Editor in the most outrageous manner. The Whig Editor came back in like style and the readers of each, during the merry war, which continued for several weeks, were duly excited and constantly expected a personal encounter between the two Editors, the absence of each of whom from the town seeming to have been overlooked. Finally the two Editors returned and were at first astounded and later amused at the antics of their substitute Editors. Judge Stites enjoyed the relation of this incident, and at its conclusion, with an air of deep regret, said: "And do you know, Stranger, neither of those Editors ever again wanted me to edit his paper."

I am safe in the assertion that no Judge of any court in Louisville ever enjoyed greater affection from the bar and the public alike, than did the venerable Judge Stites, whose passing into the Great Beyond touched the tenderest chords of the hearts of the people, whom he had so long and so faithfully served.

Chancellor Thomas B. Cochran was a dignified, quiet gentleman, with a well-stored legal mind which fitted him for the important duties of his court. He was in ill health when I came to the bar and did not
long survive. He had been an officer of Kentucky Volunteers in the Federal Army during the war, serving with that distinguished gallantry which marked the conduct of most Kentuckians in each of the armies engaged in that mighty struggle. When the Emancipation Proclamation was issued by President Lincoln, he tendered his resignation from the army and returned to his home. Some time afterwards he was elected Chancellor.

I recall with some trepidation even now, my first interview with Chancellor Cochran and recognize now, as I did not then, my great lack of knowledge of the law, of court procedure and legal ethics. I had filed a bill for divorce for one of my first clients; proof had been taken before the Commissioner and the cause duly submitted. The summer recess of the courts drew nearer and no decree had been rendered in the, to me, most important cause pending before the Chancellor. I wanted to win that case of course, and I wanted to win it at the earliest possible moment. I also wanted my fee. As a matter of serious fact, I needed that fee. Observing the Chancellor leaving the court-house one day, I tremblingly approached him and related that there was a certain suit for a divorce which had been submitted to him; one in which I felt a vital interest as I had filed the bill. I managed to tell him that it was the first cause I had brought in the Chancery Court, omitting to state that it was also the only one. I referred to the rapidly approaching recess and my fear that a decision might not be rendered and would the Chancellor permit a request for a decision before the court went into recess. I recall with a degree of pleasure that I had the grace to apologize for my request which was wholly irregular. The kindly Chancellor, doubtless recalling the days when he was a struggling young lawyer and probably did not know much more law than I did, asked for the style of the suit and promised to give it attention before the recess began. At the next setting of the Chancellor, a decree was entered in favor of my client, and I collected my fee at a time when few other worldly things were so much needed. Though long divorced from all efforts to practice law, the memory of that fee does not give me half the pleasure as does the reflection that I won that cause and that the Chancellor, ignoring my ignorance and imprudence, if you will have it so, overlooked both and brought in the decree earlier than he might have done, had I not thrown legal ethics to the winds.
Peace to his soul and to those others, his associates, of whom I have written here, to each of whom, I, in common with all the then young members of the bar of Louisville, owe a debt of gratitude for manifold kindnesses and a gracious ignoring of the errors we committed, so far as it was possible for them to do so. There may have been greater judges than Horatio W. Bruce, Henry J. Stites and Thomas B. Cochran, but I have yet to meet upon the bench or in the profession kinder or more gentle spirits. May the bench of Kentucky in the coming years know others of their kind is the heartfelt wish of the writer to whom the lengthening shadows bring the knowledge that he who in other years appeared before them, must soon stand before another Judge, a just one, from whose decrees there is no appeal, but in whom all kindness resides.

Patriotism

"Patriotism: Love and devotion to one's country; the spirit that originating in love of country, prompts to obedience to its laws, to the support and defense of its existence, rights, and institutions, and to the promotion of its welfare."—New Standard Dictionary.

The act being staged before our eyes, the spectacle of our people being divided upon a national and vital issue, dissension over the carrying into effect of a policy logically, legally, morally right is, while ludicrous, deplorable. The honor of the nation is at stake. The foundation, mortised by patriots's blood, of our republic is endangered. That sacred heritage of liberty bequeathed us by our fore-fathers is in peril.

The fallacious theory, born of a false sense of patriotism, misconception of duty, fostered by the “peace at any price” men, advocated by ambitious and unscrupulous politicians, that in order to maintain neutrality we must surrender our rights is absurd, a doctrine untenable, a principle unsound. The effect of the adoption and enforcement of such a measure is obvious. Destructive of national respect, injurious to freedom, essentially subservient, demoralizing, it would be a sure fore-runner of rebellious bedlam, a fire-brand in the hand of Mars.