

THE OLD RELIABLE



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LACK OF JUDICIAL TEMPERAMENT

(Oregon Law School Journal.)
One of the most important questions which the people have to consider in the selection of a judge is: Has he true judicial temperament? No matter what his learning may be, if he has not the elements in his make up which give him a reserve and composure in the consideration of questions that may come before him for decision, he is not fit for the office of judge. It is admitted by all, by the layman as well as the lawyer, that where the judge has not the proper judicial temperament, the rights of the people suffer.

The judges in the past who have commanded the respect and admiration of the people have been those who were animated by a feeling of kindness, and a desire to decide cases in accordance with the law and fairly and honestly interpret it. Judges who have been intellectually strong and destitute of the "milk of human kindness," which makes the whole world kin, have been condemned, while the judges of heart and soul have been commended and received the plaudits of a grateful people.

It sometimes happens that a person of mediocre talent and lack of culture and refinement, who has by chance been elevated to the responsible position of a judge on account of locality or environment, rather than by reason of his learning as a lawyer, sets aside all rules of decency and courtesy in his intercourse with his fellows, and seems to think that his dignity is enhanced by a series of insulting conduct which prevents the proper trial of cases in court, to the detriment of the rights of litigants, that calls for the severest condemnation. It is needless to say that such a person has not the judicial temperament of which judges are made. A person who is thrusting himself into places of prominence on all occasions, crowding out more able and competent men, does not possess the qualifications or attributes to make an ideal judge. If such a person had the modesty or reserve that are the concomitants of the learned and able lawyer, he would not be given to these small and petty propensities, which disgust right thinking men. What would have been thought, if Marshall, Taney, Chancellor Kent, Cooley and other distinguished judicial lights of the country had sought every opportunity socially to thrust themselves upon the public? The merits of these judges bespeak their modesty. They were true and cultured gentlemen, who were not given to the ways of the uncultured parvenu in their intercourse with society. They were truly educated and refined judges, who had consideration for those having business in court, and did not trample upon the rights and privileges of litigants seeking aid of the courts.

The person of the true judicial temperament is not filled with the overmastering passion to hurry through the business of the court. He is not impelled with the disposition to hurry through the legal business which may come before him in a way to startle the disinterested observer. The person of a sound judicial temperament conducts the cases in court with deliberation. He never hurries beyond reason. He is not on a nervous strain to finish the business. Questions that come before a judge of proper judicial temperament are considered carefully, thoughtfully and with earnestness, so that he may fairly and impartially decide them. If the members of the bar have been industrious enough to examine, collect and

prepare authorities, a judge who is fit to be one listens patiently to the authorities presented to him, and thanks the attorneys for their industry and desire to properly inform the court upon the questions under discussion. The judge who is utterly unfit for the discharge of his duties will not permit an attorney to cite an authority in behalf of his clients. He will not listen to the argument of counsel stating fully what the law is and that which is for the best interests of those whom he represents. His bump of self-esteem is of such tremendous proportions that he will not tolerate any other idea to be considered in his court room but what he is the head and front of all knowledge, and there is no one able to enlighten him upon the question of law involved. The nervous strain under which one of these illy-constructed judges labor during a term of court is somewhat pitiable to a close observer of human nature. Instead of being at ease during the proceedings of court, he is just the opposite. Instead of being kind and courteous during the course of the proceedings in his court, he seems to think it is an indication of his independence if he is surly and insulting. The ideal reserve that we look for in a judge is lacking in every respect, and one goes forth from the precincts of the surroundings of his court room with feelings that are anything but agreeable. The thought is uppermost in his mind, how long will a suffering and patient public be forced to put up with his whims and idiosyncracies?

The judge who has the true judicial temperament, who is possessed of the qualifications that fit him for his high office listens patiently to witnesses and clients in the course of the trial. If he is a judge in the proper conception of the word, he will not constantly display his weakness of character by thrusting himself on all occasions before the public to be gazed at and admired. If he is an ideal judge his office and the trust reposed in him are sufficient honors, without an effort to grasp every flimsy bauble in sight, and drag the judicial ermine in the dirt and slime. If he has but the least conception of the traditions of the judiciary of the country, he will not be posing before the people on all public occasions. This strife for undue notoriety is indicative of the callowness and verdancy of the judge, and the failure in his youth to have been properly inculcated with the true principles of a gentleman. As to such a judge's weakness in public we have nothing special to do, except to more fully illustrate his failure as a judge, and call attention to the fact that his inordinate ambition for popular applause unfits him for the judgeship, where questions of law are to be calmly and deliberately decided, and the welfare of the people is involved.

One of these judges who lacks the true judicial temperament is self-conceited to an extraordinary degree. While in the private walks of life this is a disagreeable trait of character, yet, when a person of this kind is elevated to the position of a judge it is far more noticeable, and the consequences to the public are of a greater calamity. Such a judge is, as a rule, a case lawyer, and not well grounded in the elementary principles of the law. Destitute of all equitable thoughts, he is so technical in the administration of the law as to prevent cases from being tried out on their merits. Such a judge is technically run to seed. He has a mania to use every effort to throw litigants out of court on the merest technicality, and

render a strained and forced construction of the law to do so. If it were not for the supervising control of a higher tribunal the interests of those having business in court would suffer greatly. Litigants are in constant fear and dread that the judge will go off on some tangent that will throw them out of court and force them to appeal to the supreme court, at great expense, in order to obtain redress.

The judge who lacks judicial temperament, and is ever seeking for some extreme technicality to prevent the trial of cases upon their merits, is a menace to the proper administration of the law, and brings the court into disrepute and contempt, and encourages lynch law.

The Lord help those parties who have business before such a court. Every manly instinct rebels against being compelled to try cases there. Is there no help for persons who are obliged to submit their cases to such a court? Can a tyrant insult the people for all time? A faint-hearted public is responsible for this state of affairs. The Journal insists upon manly and courageous courts, and nothing more is wanted. Nothing less should satisfy our people. Speed the day when the courts of the land shall be free from the blighting influences of a judge who has no consideration for any one.

Restaurants Close Their Doors.
San Francisco, Dec. 8.—About 50 restaurants, including the best patronized places in the city, closed their doors Monday, and it is announced that they will not reopen until a satisfactory adjustment of the trouble with the Cooks' and Waiters' Union is effected. Their proprietors are members of the Restaurant Keepers' Association, which yesterday voted to suspend business rather than employ none but union men, though they say they will not discriminate against members of a union. Some members of the association, whose places of business are in outside districts, failed to close, and several downtown eating houses remained open, their proprietors explaining that they were not prepared to shut down immediately. Between 1500 and 2000 men were locked out.

Committee Will Investigate.
Washington, Dec. 8.—After a political fight lasting an hour and a half today, the house adopted, without amendment, the Overstreet resolutions calling on the postmaster-general to forward to the house committee on postoffices all papers bearing on the recent investigation in his department. The Democrats made a vain endeavor to amend so the information should go to the house instead of the committee.

Could Not Quit Drinking.
North Yakima, Dec. 8.—James A. Dougherty, blacksmith of this city, committed suicide in Shardlow's saloon Sunday night by drinking an ounce of aconite. He left a letter to his wife instructing her to bring up his boy in a way that would make a better man of him than he was. He also said he was "going" because he could not quit drinking. He said his father had gone the same way, and he could not resist it.

About the Isle of Pines.
Washington, Dec. 8.—The house today adopted the resolution of Crumpacker, instructing the committee on judiciary to investigate whether the Isle of Pines is United States territory, under the constitution, and whether it can be ceded to a foreign nation without the consent of the house.

Will Not Consent.
Pittsburg, Dec. 8.—President Shaffer of the Amalgamated Association of Iron, Steel and Tin Workers, today stated emphatically that members of the union would not accept a reduction of wages, nor would such a reduction be even considered, or discussed.

The Gas Exploded.
Parsons, Kan., Dec. 8.—A natural gas explosion wrecked the Beross block this afternoon, doing \$20,000 damage. Windows a block away were smashed.

Wants Pay for Prunes.
T. M. Hicks today brought suit in the circuit court against F. W. Settlemier for the recovery of \$132, the value of 3300 Italian prune trees, sold to defendant December 5, 1902. Plaintiff also asks for his costs and disbursements. Grant Corby appears as his attorney.

I feel that Dr. Wright's Method of extracting teeth is a great blessing to humanity. I had an ulcerated tooth extracted without any pain.
P. H. RAYMOND,
Assistant Postmaster,
Salem, Oregon.

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Wants to Get Another

The fight waged by Oregon miners against the obnoxious Eddy corporation tax law has assumed definite form, and the campaign is being strenuously carried forward.

A bill amending the Eddy corporation tax law has been drawn up by R. C. Wright, who is one of the executive board of the Oregon Miners' Association, and will be introduced at the special session of the legislature, called to convene December 21st. The amendment covers the tax on all corporations in the state, making the minimum fee \$5 and the maximum \$15. The \$5 fee is for corporations up to and including a capitalization of \$25,000 and \$15 for all above that sum. This, it is contended by mining men and other incorporators, will be agreeable, and they are determined to bring the matter to a head.

It has been suggested that a mass meeting be called in Portland to take up the proposition and get united

effort. A copy of the bill, as drawn, will be sent to every branch organization of the Miners' Association in the state, as well as to all daily and weekly papers. It has not been decided as yet who will introduce the bill, but many members have signified their willingness to support the measure, both in the house and senate.

The present law was passed February 16, 1903, and has, to a great extent, been a dead letter, as many of the companies have refused to pay the license which amounts annually to from \$25 to \$250. Those mining companies that have not paid are doing work just the same, and the corporations that have complied with the terms of the law receive no more encouragement than those that have not. The backers of the bill to be introduced are confident of its passage, as every person interested in its becoming a law is using influence on the members from the different sections of the state, asking their aid towards its adoption.—Baker Democrat.

Railroading in Scotland.
President Vreeland, of the Interurban Street Railway Company, of New York, an organization that has just

issued a report showing that it carries over 1,000,000 passengers a day, and takes in over \$20,000,000 a year, was talking the other day about the railroads of Europe.

"They are not as good as ours," said he, "and this is because the Europeans are not ready to visit us and profit by modern ideas, as is the case with officials in America."

"A Chicagoan was in here talking to me yesterday, and he said that when he was abroad last summer he found the railroads of Scotland atrocious. He asserted that on one of those railroads, one day, the train stopped in a desolate country, and the guards got out, sat down on a rock and began to eat their lunch."

"The Chicagoan put his head out of the window and shouted:

"What is the matter? Why have we stopped in this forsaken spot?"

A guard replied, frowning:

"Ye maun e'en bid a wee. The water for the engine has gone aff the boll."—Boston Post.

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Journal subscribers will this year be given another special bargain day and it has been set for Friday, December 26th. On that date you can get The Daily Journal for one year, cash in advance, by mail, for \$3, or by carrier for \$5. This is a flat reduction of one dollar, not only for the use of your cash, but to save us, as well as our subscribers the time and trouble of numerous payments during the year. It saves us work and it saves the subscribers cash. Remember the date! December 26th. All who pay up arrearages, if they have any, can on that date get the benefit of this offer. Even if your subscription is paid up to the present time or in advance, you can get the benefit of an additional year on that date at the reduction. If you can't come to the office on that date send it in sooner, and the credits will be made on that date, December 26th.

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