MAINE STATE LEGISLATURE

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EIGHTY-THIRD LEGISLATURE

Senate Document **No. 4**

In Senate, Jan. 13, 1927.

Mr. Oakes presented, out of order, and under suspension of rules, within address of Chief Justice Wilson and moved same be incorporated with Report of Recess Committee on Courts and Court Procedure, and that 1000 copies of both papers be printed.

ROYDEN V. BROWN, Secretary.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE HUNDRED AND TWENTY-SEVEN

ADDRESS BEFORE THE STATE BAR ASSOCIATION

JANUARY 12TH, 1927

(BY CHIEF JUSTICE SCOTT WILSON)

EFFICIENCY IN OUR COURTS

A few years ago, the present Chief Justice of our Federal Supreme Court, whose words always find receptive ears, made a remark that at the time attracted nation-wide attention and has been made the subject of frequent comment and discussion in the press. As a result, the average citizen may be pardoned for drawing the conclusion that the little girl's definition of a court house as "a place where they dispense with justice" en-

titled her to at least a "passing mark"; and that the courts of this country, as compared with those of England at present, are not functioning efficiently, due either to archaic rules of procedure or from lack of businesslike methods of administration.

Public attention has also been focused on our courts through reports of recent surveys by agents or committees representing Foundations, so-called, and financed by the wealth of well known men, and of committees of various organizations devoted to reforming the social order, commissioned to investigate the so-called "crime wave" that is alleged to have been sweeping over the country since the Great War, leaving in its wake a record of unpunished assaults, robberies, and murders that is unparalleled in the history of the nation; and also by reason of the delays that have resulted in the final disposition of certain cases which have been prominently featured in the news columns of the public press.

The law or rules governing the procedure in our courts has likewise of late been the subject of much study and consideration in several of the states by what are termed judicial councils and of discussion in law periodicals and by men eminent in our profession at meetings of Bar Associations both local and national.

It is for these reasons and because our own Legislature at its last session, too, authorized the appointment of a Recess Committee to investigate conditions in our own state, the report of which committee has today been filed with the present Legis-

lature, and of which Committee I had the honor, or misfortune, to be Chairman, that I selected the topic announced as an appropriate subject for the consideration of your Association at this time.

In view of the widespread public interest that has been aroused in the question of whether our courts are functioning as efficiently as they should, it seemed that the Bar of this state could do well to examine its own house with an open mind and see if any of the criticism of the courts, that is, at least, half formed in the public mind, if not openly expressed, is in any degree merited of the courts of our state, and if so, to what extent, and what, if any, remedies can be suggested.

There is no occasion for Bench or Bar to fear sincere, constructive criticism that is the result of understanding of actual conditions. The law is no secret cult, nor the rules of procedure any mysterious ritual from a knowledge of, or the reasons for which, the public should be excluded. Nor have the courts or the rules of procedure any of the quality of sacredness that is profaned by frank discussion or honest criticism under proper conditions and for proper purposes.

Every lawyer appreciates full well that the law is not an exact science, that the Bench is not infallible, nor the Bar perfect, and that clients and witnesses are not always truthful. The human element is so prominent in the administration of justice that we can only hope to approach exact justice. It is no Utopia in which we live, and we must be content with something short of perfection.

True, there must be stability in the law, and the procedure in the courts must be orderly. Changes either in the law or in the rules of procedure upon which the rights of persons and property depend must be made with deliberation and without haste. The courts should not be weathercocks that respond to every popular breeze, yet *cessante ratione legis, cessat ipsa lex,* the reason of the law ceasing, the law itself ceases also.

A system of jurisprudence is a living organism that must from time to time slough off dead matter to give place to the new that changed conditions require, a *sine qua non* of its continued existence. When rules of procedure no longer promote justice, or unreasonably delay it, they should be abandoned or modified.

What does efficiency in our courts imply? Courts are the means employed by organized society to administer justice between its members or between society and its members. In a certain sense, they are business institutions, the purpose of which should be to give the people the rights which the facts entitle them to and with the least expenditure of time and money. While abstract justice can not be attained, it must be the goal of those whose duty it is to preside over our courts or in any way to participate therein. Justice, of which there is no "virtue so truly great and Godlike," to serve its purpose must be even handed, certain, and available to all without unreasonable delay.

How is this efficiency to be secured? First, there must, of course, be conscientious, open-minded Judges, "learned in the

law" to preside and hold the scales with an even hand, and also competent jurors to determine the facts. Courts must be accessible at all reasonable times. The proceedings must be orderly and according to established rules designed on the civil side to clearly define the issues or matters in dispute, without needless technicalities in matter of form, and ensure the disposition of the subject in dispute upon its merits; and on the criminal side to protect the innocent against unjust accusations and to provide the accused with sufficient notice of the nature of the offense with which he is charged to furnish him with reasonable opportunity to meet the charge, and while safeguarding the innocent against unjust punishment, should not afford the guilty opportunity to escape just punishment through mere technicalities.

How are Maine courts meeting these requirements? While the administration of justice in this state is in general not open to the current criticisms as to unreasonable delays, there are delays that could be avoided. There is a lack of opportunity to secure a speedy trial in some of our counties; there is delay in disposing of the appellate work; there are unequal burdens imposed upon some of the Judges under our system of courts. There are flaws that can be pointed out in our procedure, especially on the criminal side, that too often allow the guilty to escape punishment.

To bring into clear relief some of these defects, let us review briefly the system of courts under which we are operating.

First, and, of course, of prime importance is the Supreme

Judicial Court created under the Constitution which acts not only as an appellate court, a trial court, and a court of chancery, but also as the Supreme Court of Probate.

In addition, we have Superior Courts in the four most populous counties created from time to time to relieve the Supreme Court of some of the trial work. These are local courts with concurrent jurisdiction with the Supreme Court in most matters in law, except real actions, complaints for flowage and certain appeals, but with no equity powers not even to hear a case begun at law in that court if at any time an equitable defense is pleaded.

Courts of Probate were established in each county originally for the settlement of estates and appointment of guardians and the supervision of wards, but now given equity powers as to the construction of wills, though seldom invoked, and jurisdiction over the care and custody of children where the parents have separated.

And finally municipal or police and district courts, and trial justices for the disposition of civil cases involving small amounts, the enforcement of municipal by-laws, and the disposition of minor offenses and for hearing and holding to bail in cases requiring investigation by a grand jury.

And before proceeding further, it may be well to briefly outline the work on the equity side and the important place it is now occupying in the administration of justice. Few members of the Bar even realize the increase in the work in this branch

of the law, or of necessity how unevenly the burden of it rests under our present system.

The equity powers of the Court, or of the Chancellors originally, were merely to supply a lack in the law, but it now overshadows in importance the work of the trial courts, both as to the subject matters over which it takes jurisdiction, and the amounts involved.

During the first five years of our existence as a state, there were only five cases entered on the equity side in Cumberland County, then, as now, the most populous county in the state. The equity jurisdiction of the court was then limited to but few subjects. Its jurisdiction was gradually extended, but it was not until 1874, over fifty years later, that the Supreme Court was given full equity powers.

Even then, it was infrequently resorted to. From 1885 to 1890, there was only an annual average of thirty-five cases entered in Cumberland County on the equity side. From 1895 to 1900, it increased to a yearly average of sixty-five; but during the last five years, there has been an average of one hundred and ninety-seven complaints in equity filed each year in that county alone.

Throughout the entire state, the work in this branch of practice has at least doubled in the past two decades, while in Cumberland County, it has nearly trebled. The very large part of this work, at least two-thirds, is in the more populous counties of Androscoggin, Cumberland, Kennebec, Penobscot, and York, and the entries on the equity side in the counties of Cumber-

land and York during the past three years have nearly, if not quite, equalled the total of all the entries in the other fourteen counties.

Equity work, in one sense, is of necessity largely local. The cases in equity that can be disposed of at a single hearing are probably in the minority. Counsel naturally prefer to take them up before a local Justice who is readily accessible, and who can hear all interlocutory matters up to the final decree. From one—and in receiverships—to twenty-five or more interlocutory decrees may be required in a single cause. It is for this reason that it is not always practical to call in non-resident Justices from a distance to sit in equity to relieve local Judges, as it is generally essential that the Justice first acting in the cause should continue throughout. The equity work in a given county thus of necessity falls almost entirely on the resident Justice, if there be one, if not, on the most convenient one.

With this brief review, we may now consider wherein our courts or our rules of procedure are lacking in any of the essentials that make for efficiency. As to the ability of the Judges, it would not become me to say more than that in the past, the Maine Bench has ranked high in comparison with those of other states. It is, however, becoming more and more difficult to induce attorneys in the more populous centers and where the burden of equity work bears the heaviest, to accept a place on the Supreme Bench. The practice of law under modern conditions offers so much greater financial returns than a position on the Bench. We all recognize, I think, that the

salaries paid other professional public officials and especially managers and heads of private enterprises is out of proportion, in comparison with the importance of the work involved, with the salaries paid to the Judges of our courts.

There seems to be a prevailing notion among some people that a position on the Bench is sought after as a desirable place in which to spend one's declining years in restful peace and quiet. If any attorney in recent years has accepted a position on the Supreme Bench with that in view, he was soon disillusioned, if he did his full share of the work.

Next in importance to ability and integrity in our Judges is the quality of jurors. Under our system of jurisprudence the jury becomes a part of the court, and I need not add, an important part. As triers of facts, it is upon their sound judgment and capacity to weigh evidence that the quality of the justice meted out in the trial courts depend.

Under the present system of obtaining jurors, the names of outstanding business men, especially in our cities, seldom, if ever, appear in the jury lists. The lists in the several cities and towns are supposed to contain the names of those of sound judgment, well informed and of approved integrity. In some manner the names of many of those best qualified to serve fail to appear, or if drawn, are not returned to court. Generally speaking, the competent juror must be a busy man; but if perchance a man of large business affairs is drawn, or even a foreman in his employ, he immediately has some one plead with the Court to excuse him, often with the remark that there are

plenty of men with nothing to do who are willing to serve, as though the village loafer would make as good a juryman as a man qualified to manage a business or the successful farmer. Few business men ever think of so adjusting their business that once in three years they may discharge this important duty of citizenship; yet if they have a case to be tried, they are one of the first and the loudest in their complaints against the jury system. I do not wish to be understood as in any way criticizing those who do serve. In general, they do their work conscientiously and well, but our jury service could be improved if more care were taken, and under a different system, in making up the jury lists and in drawing jurymen for service.

As to the accessibility of our courts and the opportunity for speedy hearings, while the door of the court sitting in chancery is always open to the suitor in equity, trials at law can be heard only in term time, which are definitely fixed, and which in this state are usually reduced to a minimum for economy's sake. In four counties only two trial terms are held each year; and in the great and growing county of Aroostook while four civil terms are held, only two terms are open to the person accused of crime at which he may have his guilt or innocence determined. An offense committed in this county in May, the suspected person, if arrested, must wait until November before the case can be even investigated by a grand jury, and until December before he can have a trial. If he can obtain bail, he will be released from arrest, if not, he must lie in jail awaiting trial, though a grand jury find no bill, or the traverse jury

find him not guilty. In Hancock, Lincoln, Piscataquis, and Washington counties, the terms of the trial court are six months apart. If the people are satisfied with the arrangement, the Judges of the Court perhaps ought not to complain. It should, however, be taken into account that in this state our sparsely settled conditions in many counties do not warrant our trial courts to be open at all times and such delays in the disposition of cases as result from these conditions is not the fault of the courts. In general, so far as the fixed terms permit, whenever the parties are ready for a hearing, their case can be heard. If the parties are ready, there is no difficulty, so far as the court is concerned, in obtaining a hearing at the term at which a case is entered.

As to the rules governing the procedure in civil cases, there is now little real cause for complaint. While our pleadings are based on the common law principles, technicalities are not favored and amendments are freely allowed. Specifications as to the grounds of action or of defense where they do not sufficiently appear in the declaration or plea may be required. If failure of justice results on the civil side from defective pleadings, it is usually the fault of the attorney who has failed to acquaint himself with the law applicable to the facts in his case or with the simplest rules of pleading. The tendency, undoubtedly, is to still further simplify the rules of pleading in civil cases, but it may be a question whether if carried too far, it does not cultivate and encourage looseness in statement of the grounds of action, and may result in more delay from

surprise and consequent continuances. Cases thrown out of court for defective pleading, if there is a good cause of action, are the exception, as an amendment will usually cure the defect.

The experiments of summary and declaratory judgments and of disclosure and discovery are now being tried out in England and in many of the states here, and with results, especially in the large cities, said to be gratifying to both bar and litigants.

On the criminal side, however, there is, I believe, ground for complaint. Too often persons charged with crime escape the penalties of the law through some technicality in pleading or by availing themselves of the constitutional safeguards designed for the protection of the innocent. Means of securing delays in criminal cases are numerous. Criminal processes are amendable only in matters of form. Advantages of defects, plainly apparent when pointed out, unless cured by verdict, may be taken advantage of on motion in arrest of judgment after a verdict of guilty, and the state be put to the expense of a second indictment and trial with the consequent delay which is always regarded as in favor of the accused.

A respondent in a criminal case may sit silent throughout his trial, and the jury may not consider his failure to take the stand in his own behalf as any evidence of his guilt or the state's counsel comment on his failure to do so. The court is obliged to instruct the jury that he is presumed to be innocent and the fact that he does not take the stand must not in the minds of the jury be permitted to weigh against him. His silence out of court in the face of statements imputing guilt

may be shown as evidence of his guilt, but his silence before the jury, when he, above all persons, might explain inculpating testimony, is excluded from their consideration.

It is urged that to permit the jury to consider the fact that a respondent did not take the stand in his own behalf as evidence against him would in effect compel him, in case he did not see fit to take the stand, to give evidence against himself, but our court has held otherwise, State v. Cleaves, 59 Me., 298; or that it would compel him to take the stand and commit perjury. Not so, if he is innocent. If guilty, he suffers no injustice thereby.

With the Judge under our statute unable to assist the jury by commenting upon the weight of the evidence, as an English judge may do, a presiding Justice in our court must in a measure, unless he violates the spirit of the statutory inhibition, sit impotent and watch a game played, in which he is no more than an umpire to see that it is played according to rule, and in which the punishment of outraged womanhood, or the safety of human life may be the stake.

The repeal of the statute prohibiting the jury from treating a respondent's failure to take the stand as evidence against him has been recommended by the Recess Committee as well as the enactment of a statute authorizing amendments of complaints, and indictments for offenses below those of infamous crimes within the meaning of the Constitution, being a matter within the control of the Legislature in which it is not restricted by the Constitution, provided the nature of the offense charged

is not changed by the amendment and the rights of a respondent are properly safeguarded by continuance, if necessary.

It must be admitted that there are delays in the appellate work. Cases tried in October or November seldom get before the appellate court until the following June, and at least six months elapses after argument before some of the cases can be decided. But, except for conditions that are temporary, such delay is due to the system of courts under which we labor, though it is true that the increase in the equity work in certain sections is making it more and more difficult to keep up with the appellate work.

At present, what in effect are two terms of the appellate court are held each year, the June terms extending well into July and a December term. A Judge sitting at the June terms may take home fifteen or more cases. If he completes them all by the sitting of the December term with his usual quota of trial terms and equity work, the litigants, or one of them, may be deemed fortunate. The appellate work requires uninterrupted opportunity for study and thought. Frequent interruptions for equity or other work in chambers is not conducive to satisfactory opinion work.

A law case according to the practice in this state is not disposed of when argued, or even at the consulation which follows. The views expressed at consulation based on the arguments of counsel are often changed by a study of the case. Nor can fifteen cases be decided all at once. Each must take its turn. An opinion when drawn must go the rounds of all

the other Justices sitting at the argument for examination and concurrence. A Judge who writes twenty-five opinions in a year has one hundred and twenty-five of his associates to examine for concurrence. Notwithstanding errors may sometimes appear in the opinions of the court, the examination for concurrence is not regarded by the members as a mere perfunctory labor. So-called dissenting notes are more or less frequent, necessitating the opinion going back to the writer, and if he still adheres to the opinion, of it again going the rounds together with the note for consideration. In its course, it is quite likely to gather additional notes which may necessitate its being held for further consulation, all of which with Judges separated in some cases by many miles, takes a toll of time. Delays of six months and more in some cases can not be prevented under present conditions with only what are in effect two law terms per year and the appellate Judges also compelled to do both trial and equity work as well.

If earlier decisions are desired in the appellate work, and it is desirable, the trial work now performed by the Supreme Court must bé lessened by extending the jurisdiction of the Superior Courts or creating a trial court, the Judges of which shall go on the circuit and do a greater part of the trial work than is now done by the local Superior Courts, and by providing for more frequent terms of the Law Courts.

The Bar also could probably hasten the appellate work and shorten the time between the trial and final decision, if they would be prepared to argue their cases at law whenever pos-

sible at the first term of the appellate court next following the term at which they are tried. Some of the delay between trial below and the decision of the appellate court is caused by counsel failing to order testimony transcribed at once or neglecting the appellate work for some more pressing matters in their office or in the trial courts. The appellate work should be given the first place on the attorney's docket, as the Bench, so far as possible, gives it the right of way over all other work.

I have not considered the work of the municipal or district courts. If there is inefficiency here, it is either due to too many courts with overlapping jurisdiction and with trial justices also acting within the same territory. A revision of the courts of this grade establishing uniformity of jurisdiction and eventually extending the district system now already established in several counties would undoubtedly work more satisfactory results.

From this survey, I think we may fairly conclude that the inefficiency of our courts does not suffer materially from the personnel of its Judges, and that a change in our system of selecting jurors would place the machinery of the courts on as high a plane for rendering public service as we can hope for; that while there may be some grounds on which our civil procedure might be found to be wanting, if subjected to the strain imposed on the courts in the larger centers, yet under the conditions in this state it serves its purpose quite as well as a less rigid system, at least, I feel sure that any injustice that can be placed at the door of the rules of procedure is exceedingly rare in civil actions; that some reforms in our

criminal procedure should be effected. There seems to be no sound reason under proper safeguards why amendments should not be allowed in criminal as well as civil proceedings, if justice is the goal of all judicial proceedings.

Constitutional provisions will not permit drastic changes, but there appears to be no good reason why amendments in all criminal processes for offenses below the grade of infamous crimes even in matters of substance may not be permitted. Complaints are ordinarily under oath and indictments found by a grand jury which is sworn, but where the proceedings by complaint or the indictment is entirely under the control of the Legislature, there appears to be no sound reason why it may not regulate the requirements of either or both as to form or substance.

It further appears that any delay in obtaining hearings and in final disposition of cases on appeal is chiefly due to the present system of courts and the arrangement of the fixed terms, and that the relief of the Supreme Court Judges from a part of the trial work and an increase in the number of terms in some of the counties at which criminal cases could be heard and also of the terms of the Law Court would remove most, if not all, delays which under the conditions existing in our state might be termed unreasonable; and with the same purpose in view that the recommendation by the Recess Committee that the Probate Courts be given exclusive jurisdiction over children and the marital relation, but with a right of appeal to be heard *de novo* is also entitled to the careful consideration

of the Bar. It would relieve the trial courts of labor that can as well be performed by another court and would center in one court the jurisdiction of all kindred matters, a part of which is under certain conditions now vested in four courts of different grades.

There is one other branch of the Court which also vitally affects its efficiency, namely, the Bar. It is not my purpose to criticise, but in closing to point out how much the efficiency of our courts depends upon the cooperation and fidelity of the members of the Bar. It has been said that much of the credit ascribed to the great Chief Justice Marshall and his associates for the constructive work they did in the early days of our nation in interpreting the Constitution was due to the masterly presentation of the great questions that came before them by the Randolphs, Wirt, Martin, Ingersoll, Cushing, Webster, and Pinkney, and the other great advocates of those days.

Destroy the good repute of the Bar, and you undermine the public confidence in the courts. In the preamble of the Code of Professional Ethics drafted by a Committee of the American Bar Association as a model for state and local Bar Associations to follow, one finds these pregnant words:

"In America where the stability of courts and of all departments of government rests on the approval of the people, it is peculiarly essential that the system for establishing and dispensing justice be developed to a high point of efficiency and so maintained that the public shall have absolute confidence in the integrity and impartiality of its administration. The future of

the Republic to a great extent, depends upon the maintenance of justice pure and unsullied. It can not be so maintained unless the conduct and motives of the members of our profession are such as to merit the approval of all just men."

The legal profession did not originate nor has it continued to exist solely because it afforded an opportunity for gain to its members. The fees exacted by the profession in the larger cities outside our state sometime seem to deserve the censure which the covetousness and avarice of the scribes drew down upon their heads from the Master two thousand years ago. "Woe unto you, ye lawyers, for ye lade men with burdens grievous to be borne."

Speaking now as a member of the profession, and not from the Bench, I wonder at times if we are not in danger of losing sight of the fact that the practice of law is a profession and not a business; whether there is not a growing tendency to commercialize the law, to view it as any other business enterprise rather than a public service.

The duties and obligations of a member of our profession are threefold: the duty as an officer of the court: "to conduct himself within the office of an attorney according to the best of his knowledge and discretion and with all good fidelity to the courts as to his clients"; to the public as a member of a profession holding himself out as learned in the law and worthy of trust; and third to his clients by reason of the confidential nature of their relation. While in theory there is no conflict between these threefold obligations, in practice, the pathway

of duty is not always clear between what a client conceives that his interests require and an attorney's duty as an officer of the court. There is no profession or calling in which the responsibilities of its members are greater or in which greater temptations to depart from the paths of honorable conduct are placed in the way of the young and inexperienced.

The Bar of Maine as a rule has been free from those whose conduct has reflected discredit upon the profession; but instances have occurred, and transgressions of what are ordinarily considered good professional conduct are still occurring, some of minor importance and others that should require action, though I have no doubt that many of the petty violations of the standards of professional conduct are due rather to ignorance of what good professional conduct requires than to any great moral turpitude. A laxness in overlooking minor offenses, however, may result in more serious violations.

History also teaches us that the profession is not beyond the reach of popular disapproval, unless it keeps it house in order and lives up to the principles it proclaims. The uprisings of Wat Tyler and Jack Cade were in part protests against the rapacity and chicanery of the lawyers of those days in their dealing with the people, as was Shay's Rebellion in Massachusetts three centuries and more later. Cade declared in one of his proclamations that "the law serveth naught else in these days but for to do wrong," and a pamphleteer in the days of Shay wrote of that "dangerous, pernicious order of lawyers and their malpractices and extravagant fees." Shakespeare

expresses in Henry VI the spirit of Cade's time in a dialogue between Cade and tradesman.

Dick the Butcher: "The first thing we do, let's kill all the lawyers."

Cade: "That I mean to do. Is not this a lamentable thing that the skin of the innocent lamb should be made into parchment and when scribbled o'er should undo a man?"

I do not intend to suggest that the Bar of today is in any such state of disrepute in the popular mind as in the days of Cade or of Shay. We have travelled far since then. Today the great majority of our profession without public acclaim are day in and day out faithfully fulfilling with scrupulous fidelity the great trust imposed in them by their clients. The most sacred confidences are confided to them without a thought of abuse; funds and property of great value are often entrusted to their care without any receipt or surety other than their standing as members of our great profession. Notwithstanding the many jests at the expense of the profession, it is the fidelity of the great majority that passes unnoticed, and the occasional departure from the standards of honorable conduct which attract attention.

It is a source of regret, however, that we have to admit that there are still members of the profession who have apparently given little thought to their obligations as officers of the court or that they were engaged in the performance of a public service; who have sought admission to the Bar either as an avenue to political preferment or in anticipation of easy financial re-

ward, and whose sense of professional duty has become dulled by avarice, or who have prostituted their professional talents to the base uses of aiding and abetting those who prey upon the frailties of human nature, those parasites and vultures of society, who reap profits from violations of the law.

As an aid and guide for the younger members of the profession, may I not suggest that this Association adopt a written code of ethics and recommend its adoption by every county association in the state. So far as I know, there is only the merest skeleton of what might be termed a code of ethics adopted by any of the local associations, and such, as there are, are not readily accessible to the young attorney.

The Bar of Maine is surely second to none in its spirit, its aims and its ideals. Only through action by this Association can this spirit and ideals be expressed. Shall we not then put the standards of conduct of our profession into a written code which will embody the spirit of the oath administered upon admission to the Bar, and say to every applicant for admission: "There are the standards to which we expect you to conform if you enter the profession. If your purpose in applying for admission does not square with these rules, it is no place for you."

The day is also here when the public interests and the interests of our profession demand higher qualifications for its members as ministers of justice, a broader basis in educational qualifications, stronger moral character, and better preparation in knowledge of the law.

It is, therefore, eminently fitting not only that the doors of the Temple of Justice should always swing readily open to the demand of the suitor whether high or low, rich or poor, that no man should be "delayed for lucre or malice," or unreasonably delayed for any cause, that substance and not form determine his rights, and that a proper degree of ceremony and dignity should accompany the administration of justice, but that those engaged in its service should so conduct themselves as to entitle them at all times to the respect and confidence of the public which in the final analysis they serve, and should be fully qualified to fulfill the high trust which they assume.