

SAINT YVES *

At this time, standing on the threshold of a new decade, the urge is strong to speculate upon what great events lie waiting for us as we travel the highway of the years. I, for one, must resolutely refuse the challenge, for those things which lie in the nebulous shadows of the future—for good or ill—will be there when we come upon them. Today I would like to think upon the past for a while, for it is fixed and forever unchanging. Every event, every man, every object is, at any particular moment in time, the focal point of lines radiating back into that long past. Let me illustrate my meaning by reference to an ordinary every-day water glass such as we have before us upon the table. That glass is the culminating point of lines stretching out from the past and if we travel back along them we would come upon the entire history of the glass-making art and the vast change it wrought in our mode of living. If we went back far enough we would find ourselves sitting beside those Phoenician merchants who gazed in wonder at that queer shiny substance they found under their cooking pots when the fires cooled—for according to some authorities that was the beginning of glass.

Just as a glass encompasses within it the whole history of those matters relevant to its development, so do the customs and manners of the Bar link us with the spirit of things long past. Of all the professions, I like to think that ours has been enriched more than others by ancient usages and traditional customs, and while the origin of many can be traced, the origins of others are but dimly seen in the immemorial mists.

It is not right or fitting that we should not once in a while stay for a little and look about us at those quaint customs of our professional life which have walked with us down the years. Like pale ghosts they whisper to us of a colorful past. Let us examine with an enquiring eye the common every-day things. For example, why do we wear the white bands in Court? In my understanding of, it bands were a development of the ruff. Some gentleman in the sixteenth century stiffened the back of his ruff so that it stood up and became a collar. The front was allowed to fall upon shoulder and breast. He started a fashion and other gentlemen of the period followed him. When in general use in society the ancestor of our band was worn in

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Court and became the recognized and distinctive feature of professional costume. The early bands were no mean and pallid articles such as we wear. The lawyer of those days wore a band made entirely of fine, dainty and expensive lace. If he couldn't afford that, then his band was of fine lawn edged with lace. Thus our plain band too is the focal point of a long history.

I was counsel before the Supreme Court of Canada shortly after the death of the late King, and, very largely because of the example set by Senator Farris, we wore, as a sign that we too were in mourning, pleated bands and white covers on the sleeves of our coats which reached from cuff almost to elbow. The origin of the pleated band and "weepers" (the sleeve covering) is unknown to me at the moment. I leave it to some member of the bar to supply the answer.

What of the bags into which we so carelessly stuff our papers and gowns? Why are Judges' bags green, those of "silks" red and of juniors blue? In Queen Anne's time leaders of the Bar carried green bags and sometimes red bags. It has been suggested as a theory that the proceedings at the trial of Queen Caroline rendered green bags an unpleasant sight to the public, and perhaps a danger to their bearers, and thus leaders dropped the green bag altogether and adopted the red. The green bag was probably thought by the Judges to be fitting appurtenant to the green gowns that were worn in Court in summer by Judges of the King's Bench and Common Pleas. That, however, is only a guess on my part—probably a wild one at that. It is recorded, however, that no junior barrister presumed to carry a bag either in the Court of Chancery or at the common law Bar unless one had been presented to him by a King's Counsel as a mark of distinction and proof that the junior was rising in the profession. King's Counsel, who were considered officers of the Crown, were supplied as a perquisite of office with purple bags, and these were the bags which they distributed amongst deserving juniors. The purple is now faded to blue and the efficient brief case will probably soon leave the bag a mere memory, but let us remember that the now lowly bag was once a symbol for the privilege of carrying which the younger men who came before us worked into the lonely hours. A red bag was also a mark of distinction to the bearer for it indicated that he was regarded as a leader by tacit acceptance of the profession—even if not a K.C.

And what of King's Counsel? At the short time at my disposal I cannot do more than give a very sketchy outline of this interesting development in the practice of the law. You will recall, of course, the early distinction between the man who appears as the representative or agent—the attorney—of a litigant and the advocate who speaks for him and puts his case before the Court. You will remember, too, that in the Middle Ages all the chief steps in an action had to be taken in Court and no step could be taken in the absence of either of the parties. To overcome the inconvenience of this rule parties were allowed to make a constructive appearance by "attorneys", who had the power to bind their principals. As time went on, litigants found it necessary to retain, in addition to the attorneys, men skilled in law to place their case before the Courts. These men were called "narrators" or "counters" (from the Norman-French "Conteur") and in these men we find the origin of the profession of barristers. About 1300 the counters and attorneys began to get a professional organization. Attorneys were regarded as officers of the Courts in which they practised and were controlled by the Judges of the Courts of Common Pleas and King's Bench. In the course of time the narrators or counters had divided into two grades. The abler and older among them formed the order of "Serjeants-at-Law", to which order they were appointed by patents from the King. They had the exclusive right of audience in the Court of Common Pleas and it was from their ranks that the king appointed his Judges. The rest, not so honoured, formed those societies which we know as the Inns of Court (Lincoln's Inn, Inner Temple, Middle Temple and Gray's Inn). They practised in the common law Courts of King's Bench and Exchequer. Later on, of course, in the sixteenth century, their practice also included the Star Chamber, Admiralty and, greater than all, the Court of Chancery. It was in connection with the Courts of Chancery that we see the beginning of the "solicitor", but that is another story which can keep for another time.

In those earlier days the King was often engaged in litigation and at the end of the fifteenth century we find, instead of many royal attorneys, a single attorney—the Attorney-General. That office did not begin to compare in dignity with that of a serjeant for the simple reason that the Attorney-General was what his name implied—an Attorney—and not a barrister. The King would retain as his advocate or counsel one of the senior serjeants. He was called the King's Serjeant.

In the sixteenth century, however, at the time of the Tudors, the King and the Serjeants did not get along any too well, because of the serjeant's opposition to the royal prerogative. The Tudor sovereigns, however, got around that difficulty by appointing as their Attorneys-General eminent barristers outside the order of serjeants. The appointments were, of course, of men who were in sympathy with the Royal policy and who could further it in Parliament, in Council, and in the Star Chamber. The Attorney-General and Solicitor-General became the law officers of the Crown and as a reward for their services were promoted to one or other of the Chief Justiceships or as Chancellors. From that time on, the order of serjeants began to decline and finally disappeared from the picture on the passing of the Judicature Acts.

Towards the end of the sixteenth century it was found that the Attorney-General and Solicitor-General needed assistance in the conduct of the legal business in which the state was interested and the practice developed of appointing by letters patent distinguished barristers to the new rank and status of "King's Counsel". It was their obligation to place their services at the disposal of the government if required so to do, and they could not take a case against the Crown, such as defending an accused person, unless by special licence. King's Counsel were regarded, as I have noted, as officers of the Crown and were allowed £40 a year, stationery and the purple bags to which I made reference. Gradually in the slow development of things, King's Counsel ceased to be habitually consulted on Government business until eventually the rank came to be what we regard it today—a mark of distinction and precedence entitling its holder to silk and to practise within the bar. The Supreme Court of Canada, as you know, still insists upon a junior remaining outside the Bar.

You will probably wonder why I have omitted reference to that great traditional symbol of our profession—the gown. Its history is rich indeed, but the time at my disposal today does not permit me to enter upon the subject. It involves not only its own development from the days of the ecclesiastical Courts but requires consideration of the coif, coif cap, the scarlet gowns of the serjeants, the wigs, the black cap, patents of precedence and many other interesting but somewhat lengthy and related topics. That subject too can wait for another time as can the reason why the members of the Bench are addressed as "My Lord".

After all, I came here today to speak a little about St. Yves and it is time I got to my subject.

From what I have said I have, you may have guessed, endeavoured to show that the centuries past have enriched us with many traditions and customs which are still with us. And now I would like to reach back into time in an attempt to bring to this moment the life of a very great man. I am afraid we are in danger of forgetting that our profession has a patron saint—St. Yves. He is variously known as St. Evona, St. Yves, St. Yvo, and St. Ives—more popularly St. Yves. Hélyor Yves was born on the 17th of October in the year 1253 at Kermartin near Tréguier in Brittany. He was of a noble family for his father was Lord of Kermartin. His mother was Azon de Quenquis and to this day Kermartin is in possession of a descendant. The actual house in which St. Yves was born remained standing until 1834. His bed is still preserved as a relic. At the age of 14 he studied canon law at the Universities in Paris and at 24 we find him at Orléans studying civil law. On returning to Brittany he was, in 1280, appointed by his bishop ecclesiastical Judge in the diocese of Rennes and exercised both civil and ecclesiastical jurisdiction. Before long, in 1284, to be exact, Alain de Bruc the bishop of Tréguier claimed Yves for his diocese and in consequence he changed his tribunal but not his office. In 1285 he was ordained priest and made the incumbent of Trédenez. In 1298-1299 he retired to the contemplative life and died on the 19th of May 1303.

As a lawyer and a Judge he proved himself a wise, upright, honest man and justly earned his title as "the advocate of the poor". He was, in the language of today, a great settler of disputes, believing that a poor settlement is much more to be desired than a good lawsuit. He is described as an umpire rather than a Judge, and when in practice before the civil tribunal of the time pleaded the cause of the poor and oppressed "taking no payment but acting solely from his love of justice and desire to see wrongs redressed". He was in receipt of a good income which he spent in charity. He turned his hereditary estate into an orphanage and he apprenticed the older orphans in different trades. His sympathy for the poor was sincere and deep. It is recorded that one morning he found a poor half-naked man lying on his door step. The next night the beggar slept in St. Yves' bed and our good patron slept on the door step so that he might learn by experience what the sufferings of the poor were.

Although Baring Gould from whom I have drawn much of this material (in his *Lives of the Saints*) is silent upon the point, another authentic source assures us that Yves allowed himself to become verminous—I suppose for a similar reason. The story is also told of his visit to a tailor for a coat, which ended by Yves giving away his new coat to a poor man he saw from the tailor's window. Again, on one visit to a hospital he stripped himself of all his clothing and gave it to the sick. Covering himself with a coverlet, he sat upon the edge of a bed and waited until his servant brought him another suit from home. As a priest he was zealous in his work and sought out the poor and humble so that he might instruct them in religious matters. He walked the fields with ploughmen and the moors beside shepherd boys, and told them of the Bible. When he slept, a volume of the Sacred Law was his pillow. One story of his advocacy must yet be told. Two dishonest men brought a chest to a widow saying that it contained twelve hundred pieces of gold and requested her to take charge of it for them. Later one of them returned, claimed the chest and took it away. A few days later his companion appeared and demanded the chest, and upon failure of the widow to produce it sued her for the twelve hundred pieces. Yves happened into Court and seeing the lady's distress offered to defend her. To the Court he said: "My client is ready to restore the money to both of the men who committed it to her trust; therefore both must appear to claim it". At this the plaintiff sought to escape but was restrained and made a confession of the plot.

May I digress for a moment to note that, curiously enough, this story appears in Jeaffreasson's "Book about Lawyers" as an anecdote of the student days of Egerton who, in 1603, became the first man to bear the title of Lord Chancellor and was raised to the peerage as Baron Ellesmere. This time the widow is translated into the hostess of a Smithfield tavern and instead of two there are three rogues who are implicated in the plot but it is the same story except that it was Egerton and not Yves who saved the day. Let us now get back to our saint. He was canonized by Pope Clement VI in 1347, and to this day there continues to be sung at his festival—

Sanctus Yves erat Brito
Advocatus et non latro
Res mirando populo

which may be freely rendered—

St. Yves was from Brittany
An advocate but not a thief
A thing well night beyond belief.

The elevation of St. Yves is not only celebrated in the diocese of Tréguier but, as Lord Macmillan records in his book "Law and other Things" the Malta Chamber of Advocates celebrated the Festival of St. Yves at solemn High Mass in accordance with ancient precedent at the altar dedicated to him in the University Church of Valetta. Their celebration at that time took place on December 17. Why that date was chosen I do not know because St. Yves' day is May 19.

Baring Gould tells us that St. Yves is generally represented with the cat as his symbol, and says "the cat being regarded as in some sort symbolizing a lawyer who watches for his prey, darts on it at the proper moment with alacrity, and when he has got his victim delights to play with him, but never lets him escape from his clutches". With great respect I take issue with the Rev. Baring Gould on that interpretation of the symbol of St. Yves. I prefer at least to think that the cat as symbolizing a lawyer does so as the sacred animal of the Egyptians which was worshipped during life and embalmed and buried after death with pomp and ceremony. The cat was worshipped by the Egyptians because of the benefit it conferred on mankind by its destruction of noxious reptiles such as asps and other serpents. It has symbolized too the virtue of wisdom and sagacity. The Rev. Baring Gould in that quoted passage sounds as if he were at one time a disappointed litigant.

The question which at this point must be foremost in your minds is: How did St. Yves happen to be chosen as the patron saint of our profession?

Other men of law have been made saints. St. Swithin and St. Thomas of Canterbury come to mind. The Archbishop of Canterbury was, you recall, degraded from his saintly rank by a decision of the Court following upon those highly ludicrous legal proceedings instituted by Henry VIII against the holy reputation of St. Thomas in which proceedings the saint was represented by Counsel and the Crown by the Attorney-General.

There are two versions of the manner in which St. Yves was chosen to mediate between the Bar and St. Peter. I propose to take a few ingredients from both. Those curious enough to read the two versions will find the one in Jeaffreason's

Book About Lawyers, Vol. ii, p. 283, and the other in "The Green Bag", (1894), Vol. vi, p. 142. "The Green Bag", you will remember, was that entertaining and instructive legal magazine published in Boston. Unhappily, it too is now a thing of the past.

The legend of the choosing of St. Yves is somewhat as follows: In 1303 the treasurer of one of the legal societies in Brittany called a meeting of its members and addressed them to this effect :

"My Brethren, every guild has its patron in the world above and its history stored away in the celestial archives. Surely our brotherhood is as worthy as the fashioners of garments, bakers of bread and joiners of wood, and yet it has no saints to look after its interests in the Heavenly Kingdom. There are those too with evil tongues who say that we have no patron saint because never has one of us been found worthy of entering Paradise. In consequence to these things I propose that we send an ambassador to His Holiness the Pope with a view to getting him to grant us a patron".

The lawyers present signified their assent to this suggestion and from among their ranks chose as their representative an able and honourable man—Yves of Kermartin. In due course of time he arrived in Rome; sought and obtained an audience with the Pope and entreated him to give the lawyers of Brittany a patron. The Pope replied that so far as he knew the saints were disposed to other professions, but seeing how this reply had saddened Yves the Pope made a proposal to him. Yves was to be blindfolded and was to make his way around the Church of St. John de Latera, saying as he did so a certain number of Ave Marias at the conclusion of which he was to touch the image of whatever Saint his hand might find. Yves carried out his instructions and, with a heavy bandage over his eyes and his arms extended, concluded his Ave Marias. At this time he came to a halt and found, with outstretched fingers, the head of an image. "This is our Saint" he said, "let him be our Patron". Anxious to see his choice, he tore the bandage from his eyes and to his dismay and horror found that he had placed his hand upon the image of none other than Satan himself. He had stopped before the Altar of St. Michel wherein that Saint is represented as overcoming the Devil and his works.

Shortly afterwards Yves died, but St. Peter would not at first permit his entrance into Heaven saying that he had no room for lawyers. "But" said Yves, "I am that honest lawyer who never took fees on both sides or pleaded in a bad cause

and in addition I refer you to St. Luke (who is the keeper of the Archives) and he will speak of my many virtues." St. Peter, after consultation, opened the door of Heaven to Yves who entered therein, and even that same day came into the presence of the Almighty to whom Yves related the occurrence at the Church in Rome. Upon hearing of this matter, and upon it appearing from all the records of Yves' life that he was wise, just and honourable, God thereupon enrolled him among the elect of Heaven and nominated him to be the patron saint of those who follow the profession of the law. In due course, word of this reached Rome and thereupon the Pope declared Yves to be a saint and dedicated an altar to him. . . . Thus, according to the ancient legends, it was God himself who made the choice of our saint. I would suggest in all humility that on the 19th of May of this year the Bar of Vancouver celebrate the Feast of St. Yves in fitting manner.

It is right that we should, for here was a just man made perfect: one who obeyed that command to the rich man, "sell all thou hast and distribute unto the poor and thou shall have treasure in Heaven—and come and follow me". The fact that Hélyor Yves lives down the years is one more tribute to the power of intellect which alone endures when all else has passed away. The crown of laurel outlasts and outlives the crown of gold. It is not without interest to note that there is in India a member of our profession who was once rich. Today, at his own choice, he sleeps on a home-made bed and the single garment he wears comes from the weaving of his own loom, but by the power of intellect alone he influences the lives of millions.

Our profession, like every other, has had its share of dishonourable men, but our profession may well be proud of its goodly share of great men—men who made this world a better place because once they passed through. St. Yves was one of that gallant and noble company—let us remember him.

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