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PERSONAL REMINISCENCES OF HENRY DODGE ESTABROOK. *

Henry Dodge Estabrook was the son of Experience Estabrook, one of the pioneers of Omaha, and the first Attorney-General of the then territory of Nebraska. The Senior Estabrook was a very public spirited citizen and was a member, if I recall correctly, of one or more of the State's Constitutional Conventions. The son, though not a native of Omaha, was born a few months after its first settlement, came to it in infancy, was reared there and received his early education at the Omaha High School. I well remember his expressions of affection for that institution and its teachers. In 1895 when the question of retaining the services of certain of his former teachers had become an issue in local politics, Henry D. Estabrook went on the hustings and espoused their cause in opposition to the regular ticket of his party, and with all his vigor and oratorical skill.

For though his father was a Democrat and had been appointed, I believe, by President Pierce, Henry D. Estabrook became a Republican and it was after he had made a race for the legislature as such that I first met him in the winter of 1888-9. I was then Reporter of the Supreme Court deci-

(1854-1917) Washington University School of Law, Class of 1876. By Charles Sumner Lobingier, Ph. D., LL. M., Judge of the Court of First Instance, Shanghai, China.

sions and Assistant State Librarian, and Mr. Estabrook spent much time in the library in preparing his contest for the seat in the legislature which was eventually given to him, his Democratic opponent having previously been declared elected. But, while a Republican, he was never an extreme partisan, as his alignment with the forces opposed to the regular Republican organization in the campaign first above mentioned showed. I recall also an illuminating remark of his in one of my last conversations with him. It was at the meeting of the American Bar Association at Saratoga Springs, in 1917, when the delegates were on their excursion up Lake George. America had just entered the war and in discussing the momentous events then transpiring Mr. Estabrook said:

“I supported Mr. Hughes for President, of course, but I am now very glad that President Wilson was reelected. For the war was inevitable in any case and had Mr. Hughes been elected we would have had a Republican war with the Democrats all lined up against us. As it is now we are having a national war with both parties in favor, and only a few malcontents against it.”

This was a characteristic attitude. He viewed public questions from a broad standpoint and not through partisan spectacles.

Mr. Estabrook practiced law in Omaha until the Spring of 1896 when he removed to Chicago, locating later in New York as the General Attorney of the Western Union Telegraph Company. His last four years in Omaha coincided with the first four of my own practice there, and during that period I naturally saw him frequently and had many opportunities to continue and extend the acquaintance I had formed with him some years before. He was long a partner of Judge Frank Irvine, later Dean of the Cornell University Law School, and afterward formed a partnership with Judge Henry J. Davis of the local District Court.

PROFESSIONAL IDEALS.

Mr. Estabrook's professional ideals and standards were very high and I cannot better express them than by quoting as follows from an article on his on "The Lawyer, Hamilton," published in the *American Law Review*.¹

"What, then, must be the equipment of the ideal lawyer? 1st, I would place the texture and quality of mind; 2nd, an encyclopædic knowledge, including, of course, an actual knowledge of the law based on adequate study; 3rd, temperament; 4th, endowment, physical and mental, with the gift of fluency and lucidity of speech; 5th, habit; 6th, character; 7th, personality. For, if a man have a legal mind, a wide and accurate knowledge—legal and general—a legal temperament, a robust constitution, a ready and felicitous power of expression, a habit of persistent, methodical, painstaking work, an upright, bold and commanding character, combined in a winsome personality, and should center these manifold gifts, acquirements, virtues, talents and energies in the prosecution of the profession of the law, his success and pre-eminence would be removed from the sphere of conjecture and become as inevitable as a demonstration in Euclid. And I affirm deliberately and, so far as I am able, judicially, that I know of no man who ever lived in whom these seven elements which I have enumerated—a prism of personal colors, so to speak—were so blended in the white light of a penetrating consciousness (as in Hamilton).

"The legal mind I have already attempted to define. But it must be distinguished even from the judicial mind. A judge may have a legal mind, to be sure, and if he has, he is something more than a judge—he is a lawyer. The lawyer must explore, discover, invent, exploit. The principles battled for at the bar in the passion of debate, are merely re-echoed from the bench in unimpassioned utterance. I would

1. 35 *American Law Review*, 841.

not be thought to disparage the judicial mind—heaven forbid! It is the mind to which all appeals are made; it is the ultimate, the determining authority—the conscience of the executive. In short, I would call it the common mind uncommonly enlightened; or I would even call it sanity enthroned.”

OTHER ACTIVITIES.

My impression is, however, that the technicalities of legal procedure, and even of substantive law, failed to interest Mr. Estabrook as much as historical and public questions. Toward the end of his career in Omaha, and especially after his removal to Chicago, he began to become famous as a public speaker at banquets and upon special occasions, such as Washington's Birthday. He had an attractive style and a very forceful delivery, and, as his reputation grew, he was much in demand in various parts of the country. He was inclined to hero worship and besides his eulogy of Hamilton, one of his favorite addresses, which he delivered in many parts of the country, was devoted to Lafayette, into whose biography he had delved with a spirit of intensive research and whose life he portrayed in vivid and impressive language.

I think he much preferred that sort of oratory to forensic speaking. I doubt if he was attracted by the opportunity of convincing men of the grade of the average jury, or if he cared to be circumscribed by the details and evidence in a particular case. He spoke often before the American Bar Association and at its Salt Lake meeting in 1915 he was the toastmaster at the closing banquet, where his wit and eloquence were particularly displayed. I think he would have enjoyed service in the United States Senate, but he certainly would not have cared for the preliminaries necessary to obtain the senatorial toga at that time in Nebraska. Had he become associated with the Chautauqua movement earlier in life, I feel sure that he would have become one of its most conspicuous and popular lecturers.

In addition to his fondness for oratory, Mr. Estabrook was a musician and when I first knew him in Omaha he sang regularly in the choir of the First Congregational Church, of which, I believe, he was a member. His temperament was artistic rather than scientific, and, as will be seen by the excerpt above quoted, he was much more of an idealist than the average member of the bar at which he practiced. This, to a certain extent, kept him out of touch with the crowd and made him a leader of tomorrow rather than of today. But he was of a type which the legal profession needs more of, and it is unfortunate that his career could not have begun at a time when altruistic ideas among members of the bar were more common than in his day. Personally I shall always remember him as one who adorned the profession and was a source of inspiration to its younger members.