

AN ORIGINAL GREEN BAG CONTROVERSY

Over its long but sporadic existence, the *Green Bag* has found a variety of ways to make its own life more difficult than necessary. The original *Green Bag*, for example, put itself in the crosshairs of the competition by exercising what was at least poor judgment in its October 1890 issue. See *Facetiæ*, 2 GREEN BAG 454 (1890). Shortly thereafter, the magazine *Current Comment & Legal Miscellany* challenged the *Bag*'s editorial integrity, laying out what it obviously considered evidence of plagiarism. See *Lawyers Nearest the Fire*, CURRENT COMMENT & LEGAL MISCELLANY, Nov. 15, 1890, at 647. The challenge is reproduced in its entirety on the facing page. Take a look right now. Then read this defense of the *Bag*, which appeared on pages 750-51 of the December 15 issue of *Current Comment*:

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THIBODEAUX, LA., November 30th, 1890.

EDITOR CURRENT COMMENT.

DEAR SIR:— In the November number of your interesting periodical you take the *Green Bag* to task for plagiarism, and bring to bear against it the deadly parallel, reproducing in one column the story "Lawyers Nearest the Fire," from the CURRENT COMMENT, for July, 1890, and credited to the *Toledo Commercial*, and in the other, the same story, with slight changes of phraseology, from the *Green Bag*, for October, 1890.

The charge is that *Green Bag* "has fallen from grace" by appropriating the story of the *Commercial* without the courtesy of giving credit to the latter for it; and it must be admitted that you make a strong case against *Green Bag*, on the face of the papers.

But what if no acknowledgment was due to the *Commercial*, and it should prove to be as much a plagiarist as *Green Bag*?

Such may be the case, for in *Wit and Humor of the Age*, a book published in 1884 by Thayer & Ross, I find at page 417, the same story, under the titled of "The Lawyer Used Up," reading thus:

"Some years ago, up in Connecticut, a long, lean Yankee dropped into the old Franklin Hotel. The weather was cold, and a knot of lawyers were in the bar-room sitting around the fire, smoking, drinking, and chatting.

LAWYERS NEAREST THE FIRE.

THE GREEN BAG has fallen from grace, as witness these two stories:

(From *The Current Comment* of July, 1890.)

Mr. Isham related an anecdote connected with the early lawyers of the Maumee Valley:

He stated that one cold night John C. Spink, Judge Way, the late Chief Justice Waite, and a number of other lawyers of that day, who were attending court at Maumee, were at the hotel kept by Mr. Kingsbury, an uncle of Colonel Henry D. Kingsbury, bailiff for the Circuit Court.

A man rode up to the hotel on horse-back, dismounted, stripped off his overcoat, leggings, leather overshoes, and was escorted, before fairly warm, into the dining-room for supper.

After eating his supper, the stranger, who had the appearance of being a well-to-do farmer, was invited into the sitting-room adjoining the bar-room, where the lawyers were seated around the fire. The man was cold, fairly chilled through from riding, but there was no move on the part of the lawyers to make room for him near the glowing logs in the fireplace; but they were otherwise quite cordial in their greeting, and evidently thought to have a little sport at the expense of the stranger.

One asked the man where he hailed from. "Chicago," was his reply. Then another inquired as to the condition of the roads there. "They are horrible," he said, and, continuing, remarked, that "the roads through the swamps between here and Chicago are the worst I ever saw—worse than H-ll."

This last remark struck Judge Way as an opening for the fun to begin, so he turned toward the stranger and said: "My dear sir, you speak like one familiar with h-ll. How are things down there?"

To this the stranger replied: "Oh! it is there just as it is everywhere else, the lawyers are always nearest the fire."

That circle opened at once, and made room for the shivering stranger. —*Toledo Commercial*.

(From the *Green Bag* of October, 1890.)

A county court was sitting awhile ago; it was not far from winter—cold weather, anyhow—and a knot of lawyers had collected around the old stove in the bar-room. The fire blazed, and mugs of flip were passing away without a groan, when who should come in but a rough, gaunt-looking babe of the woods, knapsack on shoulder and staff in hand. He looked cold, and half perambulated the circle that hemmed in the fire, looking for a chance to warm his shins. Nobody moved, however, and unable to sit down for lack of a chair, he did the next best thing—leaned against the wall, and listened to the discussion on the proper way of serving a referee on a warrant deed, as if he were the judge to decide the matter. Soon he attracted the attention of the company, and a young sprig spoke to him:

"You look like a traveler?"

"Wall, I s'pose I am; I came from Wisconsin afoot, 't any rate."

"From Wisconsin! That is a distance to go on one pair of legs! I say, did you ever pass through the lower regions in your travels?"

"Yes, sir," he answered, a kind of a wicked look stealing over his ugly phiz, "I've been through the outskirts."

"I thought it likely. Well, what are the manners and customs there? Some of us would like to know."

"Oh!" said the pilgrim, deliberately, half shutting his eyes and drawing around the corners of his mouth till two rows of yellow teeth, with a mass of masticated pig-tail appeared through the slit in his cheek, "You'll find them much the same as in this region—the lawyers sit nighest the fire."

Current Comment & Legal Miscellany, Nov. 15, 1890, at 647.

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"A sprig spoke to him and said:

"You look like a traveler."

"Wall, I 'spose I am! I came from Wisconsin afoot, 'tany rate."

"From Wisconsin! That is quite a distance to come on one pair of legs. I say, did you ever pass through the lower regions in your travels?"

"Yes, sir," he answered, a kind of wicked look stealing over his ugly phizmahogany, "I ben through the outskirts."

"I thought it likely. Well, what is it like down there?"

"Oh!" said the Yankee, deliberately, half shutting his eyes, and drawing around the corners of his mouth, "you'll find it much the same as in this region — *the lawyers sit nighest the fire.*"

From this verbatim reproduction of the story from the pages of *Wit and Humor of the Age*, it looks as though the *Commercial* was not entitled to much credit for it, and that *Green Bag*, if it owe any apology at all, must doff its hat to *Wit and Humor* and not the *Commercial*. Of course, this plea for *Green Bag* does not of itself reinstate it into grace

But perhaps, after all, neither *Green Bag* nor the *Commercial* need apologize to any one for appropriating to themselves and revamping in a garb of their own make, more or less, a story old enough to have become, as it were, common property — a kind of flotsam on the vast sea of ephemeral literature. It is one of those innumerable tidbits of humor circulating through the press, whose origin is unknown, and which are lost to sight at times, and again picked up here and there, now and then, and given a local coloring to add zest and piquancy to their moral.

I recollect having seen this same story, perhaps not in the exact garb here presented, in the first half of the seventies when I was at college in Missouri. And who knows but that it was then already an aged story.

It is due to *Wit and Humor* to that it did not claim originality for the story as produced in its pages.

Very truly yours,
L.P. CAILLOUET.

We like to think that in situations like this, the modern *Green Bag* 2d behaves a bit better than its normally nobler forebear did. But we could be wrong. Please do tell us if we ever are.