

The Rise & Fall of the Green Bag

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Many ask us about our journal's odd name – apparently, the green bag reference has gone from merely antiquarian to truly obscure. We usually respond by reminding these authors and readers that we are merely the second series, the custodians of a concept more than a century old, and refer them to Professor Currie's introduction (David P. Currie, *Green Bags*, 1 GREEN BAG 2D 1 (1997)), and to the short profile on the inside front cover of our inaugural issue. Most are satisfied, but others ask the necessary follow-up: Why did the editors of the original *Green Bag* choose such a name? What follows is a partial answer, an article from the original *Green Bag*, written in 1906, discussing the *already* anachronistic subject of lawyers' green bags. We welcome any additional insights our readers can provide as we search for our own heritage.

– The Editors

DESTINY APPEARS TO CHERISH and uphold a certain sacred principle, to wit: origins shall be obscure. The only well-authenticated account of the origin of the world places the time of the occurrence several thousand years subsequent to the days when human beings were erecting scientific memoranda of their existence and works for the edification of posterity. So it is with the Green Bag. One searches in vain through dusty shelves and yellow pages to discover a record of its first appearance. The lawyers of the world have apparently devoted all their energies to piling up the regiments of sheep-bound volumes wherein transcribed by the judge we

read the joint product of the learned counsel for the plaintiff and the defendant. As a result, they have left few records of the manners and customs of their generation. Take it all in all we may lay to our souls the flattering unctious that, however we may act as individuals, as a class we are not self-advertisers.

In individual self-advertisement, however, the green bag has played a long and conspicuous part in legal circles. In the few articles bearing on this subject one remark is always found. In deference to precedent it will now be quoted: "On the stages of the Caroline theatres the lawyer is found with a green bag in his hand." Indeed it would seem that this cus-

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tom was as prevalent among lawyers in the seventeenth century as the use of the union button among artisans to-day. In a dictionary published in 1700 is found the following definition: "Green Bag, a Lawyer." (Dict. Cant. Crew.) Of an earlier date (1677) is the oft-quoted remark of the Widow Blackacre to the barrister who refuses to urge her cause: "Impertinent again, and ignorant to me! Gadsboddikins! you puny upstart in the law, to use me so, you green-bag carrier, you murderer of unfortunate causes, the clerk's ink is scarce off of your fingers." (Wycherley's *Plain Dealer*.) There is much use made of the green bag in this play where "Wycherley indicates the Widow Blackacre's quarrelsome disposition by decorating her with an enormous green reticule and makes her son, the law-student, stagger about the stage in a gown, and under a heavy burden of green bags."

The foregoing quotation is from "A Book about Lawyers," by John Cordy Jeaffreson, barrister at law, a work written some time about 1865, and containing among other interesting matter more about the use of green bags than could be discovered from any other of the various writings investigated in pursuit of the present subject.

In Queen Anne's time the phrase of the day to indicate the adoption of the law as a profession was: "He intends to carry a green bag." An example of this usage is found in Dr. Arbuthnot's "History of John Bull" (1712), from which the following quotation is taken:

"I am told, Cousin Diego, you are one of those that have undertaken to manage me, and that you have said you will carry a green bag yourself, rather than we shall make an end of our lawsuit." In the *London Spy* is also found (in reference to the character of a pettifogger): "His learning is commonly as little as his honesty and his conscience much larger than his green bag."

At this period green bags were used by solicitors, attorneys, and members of the bar.

Various distinctions began to spring up, however, and restrictions on the use of the green bag and various changes in its color came to pass. The suggestion has been made that green bags became so offensive to the public after the trial of Queen Caroline that a change to red resulted therefrom. Jeaffreson, however, asserts that red bags were carried by leaders of the bar some time before that famous trial.

Be that as it may, a change gradually took place whereby the use of bags became restricted to the more distinguished members of the profession. Illustrative of this is an interesting incident connected with the common-law Bar of England, which occurred in 1780, when Edward Law joined the northern circuit. He received numerous briefs, and Wallace, complimenting him on his success, presented him with a bag. "Lord Campbell asserts that no case had ever before occurred where a junior had won the distinction of a bag during the course of his first circuit."

The same usage appears to have continued for some thirty years or more, for, one signing himself "Caucidicus" writes: "When I entered the profession (about 1810) no junior barrister presumed to carry a bag in the Court of Chancery, unless one had been presented to him by a King's Counsel; who, when a junior was advancing in practice took an opportunity of complimenting him on his increase of business and giving him his own bag to carry home his papers. It was then a distinction to carry a bag and a proof that a junior was rising in his profession. I do not know whether the custom prevailed in other courts."

This absolute barrier, however, was gradually broken down and left only distinctions as to the color of the bag. Blue bags and at times purple bags were carried generally by the humbler "Chancery jurors," while the leading chancery practitioners were alone permitted to carry red bags.

Probably the last prominent appearance of the green bag in history to date was in [the]

so-called Green Bag Inquiry. "A green bag full of documents said to be seditious was laid before Parliament by Lord Sidmouth in 1817. An 'inquiry' was made into these documents and it was deemed advisable to suspend the *Habeas Corpus Act*."

The downfall of the green bag was very rapid after this discreditable affair, and at the present time its use as a mark of distinction seems confined to a few university towns where it is still faithfully carried by the proud law student and the humble laundryman. Now and then a writer in some legal periodical, perhaps yearning for some badge which shall distinguish him from the "unusually intelligent" jurymen, voices a call for a revival of green bag carrying. Such an article appeared in the *Albany Law Journal* of 1872 (V. v., p. 225) and was quoted in the *Pittsburg Law Journal* of a later date by another enthusiast, who urged "that the lawyers while in professional attendance on behalf of their clients at any one of the aforementioned and mentioned courts, shall carry their green bags, or blue, red, or purple bags and wear silk or stuff gowns according to seniority and ability," and to quote the language of that *Albany Journal*, "as becoming the dignity, solemnity, authority, and learning of the Bench and Bar."

The article was apparently serious, and should not be handled with irreverent fingers. Yet fancy takes the wayward mind into the crowded court room of to-day filled with silk and stuff gowns concealing the slender or rotund outlines of our legal brethren, each noble counsellor carrying a gay colored bag, classified (by a committee of the Bar Associa-

tion supposedly!) according to seniority and ability. With apologies to Mark Twain one might phrase it thus:

*Watch, O clients, how you pay
For the scale of charges runs this way:
A green bag man,
Hundred dollars a day,
A blue bag man,
Eighty dollars a day,
A red bag man,
Fifty dollars a day,
Charge, ye lawyers, charge this way,
Charge for the brown hair less than gray,
A purple bag means little pay,
But a green bag charges what he may,
Charge, ye lawyers, charge this way.*

No, despite the plea of "Fritz," of Pittsburg, the green bag has been relegated to the things that were. Even its traditions are so mixed as to be incapable of amalgamation into one solid, consistent custom. It has departed, not because there is less pretense and sham in our profession, but because the spirit of the times is intolerant of the use of anything so plainly expressive of vanity and love of distinction. To-day the lawyer carries his green bag in his countenance. There many a client may see in the deep lines and ridges worn by "seniority and ability" the little graves of buried ideals of fairness, devotion to justice, and sincerity. If just laws are essential to good government, the hope of the republic lies in an increasing army of lawyers who will neither carry the green bag in the hand nor wear the "green bag" face. *JB*

AUTHOR'S NOTE. —Notwithstanding the concluding diatribe it must at once appeal to the intelligent reader that to read and understand THE GREEN BAG will do much to promote "fairness, devotion to justice and sincerity."

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