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Baltimore's Judicial Bombshell—Eugene O'Dunne

by H. H. Walker Lewis

“... When he is good he is very very good, / But when he is bad he is awful.” Thus stated the *Baltimore Sun* in a cartoon caption concerning Eugene O'Dunne of the Supreme Bench of Baltimore City. O'Dunne's colorful statements and actions stirred his colleagues, journalists and the general public alike. Although often criticized, the judge won wide recognition in criminal work, and he also created headlines in the fields of marriage and divorce.

ON FEBRUARY 23, 1926, Governor Ritchie of Maryland appointed Eugene O'Dunne to the Supreme Bench of Baltimore City.¹ Like almost everything involving O'Dunne, the appointment roused a storm and was denounced the following night at a meeting of the Baltimore City Bar Association. O'Dunne had been president of the association some ten years before, but this did not deter a charge that he was unfit for judicial office.

Ordinarily, O'Dunne thrived on controversy. This was one of the rare occasions when a personal attack seemed to overwhelm his defenses and lay bare his feelings. Rising to a point of personal privilege, he said that he had come to the meeting without knowing that his appointment would be discussed and added, “Never but twice before in my life have I felt so grieved, and that was at the death of my honored parents. Never before in my life have I felt so embarrassed.” He then asked leave to retire. A wave of sympathy swept the meeting, and he was called back amid a thunder of applause.

O'Dunne was then 50. At the time of his retirement, twenty years later, a *Baltimore Sun* editorial said:

A good many Baltimoreans, knowing O'Dunne's peppery and unpredictable nature, gasped when the late Governor Ritchie appointed him judge. Some of them still gasp. But it is our considered opinion that the appointment was valid at the time and has proved itself a stroke of genius since.

Who was it that could so enthuse the normally chilly editors of the *Sun*? Where had he come from? What had he done to merit such extravagant praise?

The man we know as Judge O'Dunne was born June 22, 1875, in Tucson, Arizona, where his father, Edmund

Francis Dunne, was briefly chief judge of the territorial court. O'Dunne's baptismal name was Eugene Antonio Dunne. He later dropped the Antonio and added the “O”. The change had the effect of emphasizing his Irish ancestry, but it created an odd family situation. His father remained plain “Dunne”.² So did O'Dunne's younger brother, who also lived for a time in Baltimore and later gained prominence in newspaper work in Santa Fe, New Mexico.

O'Dunne's ancestry was a combination of Southern gentility and Irish *intransigence*. His mother, Josephine Cecilia Warner, of Vicksburg, Mississippi, was a scion of an old Virginia family. His father was a militant Irish Catholic. In O'Dunne, the Irish genes predominated.

In the latter part of his life, O'Dunne's father undertook to found a Catholic colony in Florida and while there acquired an orange grove in what is now the middle of Miami. When his two sons reached college age he used this property to pay their tuition at St. Mary's College (now Bel-

EDITOR'S NOTE: This article was adapted from a paper prepared for and presented to The Rule Day Club of Baltimore, Maryland. The quotations and unannotated material were taken from accounts in the following newspapers: The *Baltimore Sun*; the *News American*; the *Daily Record*; the *News Post*; the *Evening Sun*.

1. The Supreme Bench of Baltimore City consists of the judges (then eleven) of the state courts in the city exercising general jurisdiction in civil, criminal and equity cases. Its collective functions are primarily administrative, but the judges sit as a group to hear motions for new trials in criminal cases and handle disbarment proceedings, memorials and the like. Unlike other Maryland municipalities, Baltimore City has the status of a county.

2. O'Dunne's father is not known to have used the “O” during his lifetime, but he appears as “O'Dunne” in an October, 1904, obituary in *The Catholic Mirror* (Baltimore) and in the graveyard record of the New Cathedral Cemetery in Baltimore.

mont Abbey) in Belmont, North Carolina. O'Dunne said that the land later sold for a quarter of a million, making his education one of the most expensive in history.

O'Dunne was graduated from St. Mary's in 1894 and two years later received an M.A. for a paper entitled "Some Errors of Henry George as to Private Ownership of Land". Meanwhile, he had rechristened himself and had entered the practice of law with his father in Jacksonville, Florida, under the firm name of "Dunne & O'Dunne". Their letterhead shows him as "Eugene O'Dunne, A.B.". Feeling the need for a law degree, he went to Baltimore to study at the University of Maryland Law School and was graduated in 1900. Why he picked Baltimore is not known. He later said that it was the climate.

After law school he was employed by the Deering Harvester Company of Chicago to explore and check title to 50,000 acres of land in Colombia, South America. During this expedition he was captured and held at the point of death by guerrillas, was twice immobilized by seizures of fever and was shipwrecked. In the course of these adventures three of his companions died. He was also caught up in the revolution that gave birth to the Republic of Panama and the Panama Canal.

Returning to Baltimore, O'Dunne was appointed Assistant, and later Deputy, State's Attorney. For the rest of his life, criminal law held his major professional interest.

O'Dunne's Hair Color Indicative of His Spirit

O'Dunne's hair was originally red. It grayed prematurely (according to him, while being held captive by the guerrillas), but the loss of pigment denoted no dampening of inner fire. On September 26, 1906, the *Sun* reported:

Persons near the office of State's Attorney Owens in the Court House were surprised to see a well-dressed man thrown out of the office and into the corridor by Deputy State's Attorney O'Dunne. When the man had recovered himself he struck at Mr. O'Dunne with an umbrella, but the door had been closed and the blow was of no effect.

It appeared that a New York promoter named Alexander had come to Baltimore to demand the indictment of Allen McLane, a banker then prominent in Maryland politics. When, after examining the documents, O'Dunne said that they did not justify going to the grand jury, Alexander accused him of protecting McLane for political reasons. O'Dunne picked up Alexander and tossed him out.

In 1904, O'Dunne married Miss Elise Manning Reardon of Baltimore, a collateral descendant of John Quincy Adams. By 1910, the arrival of children, ultimately six, was pressing hard on O'Dunne's \$2,000 salary, and he resigned in order to devote his full time to private practice. Recording the event, the *Sun* of November 17, 1910, described him as "one of the most picturesque figures at the Baltimore bar, his tall form, stylish clothes, and eye-glasses fastened to a long, dangling, black silk cord attracting attention wherever he goes". Most of this description remained appropriate throughout O'Dunne's life. His wardrobe grew more colorful, and he always had style. And by the time the greater convenience of spectacles dispensed with the dangling silk cord, his public image was so firmly fixed that this badge of identity was superfluous.

After seven years in the State's Attorney's office, it was natural that O'Dunne should specialize in criminal law, and he did so with considerable success. But private practice failed to satisfy. At heart he was a reformer; he enjoyed power, and most of all he thirsted for the spotlight. He ran for State's Attorney three times, in 1911, 1915, and 1919, for the legislature in 1917, and for nomination to the Supreme Bench of Baltimore City in 1922. In each instance he kept himself in the headlines by lambasting the bosses and almost everyone else, but when the votes were tallied, he always trailed. It was not until he was appointed to the bench and came up for confirmation that he could command majorities. Then he regularly led the ticket.

Inasmuch as politics requires sensibilities to be resilient, O'Dunne's at-

tacks on politicians left few permanent scars. For example, when he called Baltimore boss Frank Kelly "the King of the Underworld" and intimated his complicity in a murder and a payroll robbery, Kelly merely retorted that O'Dunne was "like the whistle on a peanut stand", and the two remained on speaking terms. On the other hand, when O'Dunne directed his caustic wit at associates on the bench or at individuals in private life, he sometimes opened wounds that never healed.

For the most part, O'Dunne's sallies were directed at people amply able to take care of themselves. But not always. Once, in sentencing an incorrigible criminal, he specified a prison term in years, months, weeks and days, and then said, "On the day following, unless the mortality table is inaccurate, you will die." On another occasion, O'Dunne declared the president of a defunct bank to be 95 per cent guilty of malfeasance; however, being 5 per cent innocent, he must be turned loose, said O'Dunne, "like a singed cat".

His showmanship and his penchant for wisecracks made many think O'Dunne superficial. He was not. He was exceptionally well read and was a genuine scholar and an inspiring teacher of criminal law at both the University of Baltimore and the University of Maryland. Most of the reforms that he pressed, and he originated many, were farsighted and sound. He had limitless courage. If he believed something right, he fought for it regardless of the consequences to himself, sometimes advocating politically unpopular causes even while running for office.

After his fifth successive election defeat, O'Dunne announced to the press that he "never felt chirpier". In fact, he was already in full cry against the system of police magistrates, against third degree methods to extort confessions and, most loudly of all, against alleged vice and brutality at the house of correction, popularly known as "the Cut". Among other things, he charged the prison administrator with accepting a Cadillac from a prison supplier, threatened to impeach the entire prison board and even included Governor



A member of the Maryland Bar, H. H. Walker Lewis was educated at Princeton University (A.B. 1925) and the Harvard Law School (LL. B. 1928).

Ritchie in his denunciations. When in due course his outcries led to prosecutions, he smugly patted himself on the back, commenting that "in future there will be very few State officials accepting Cadillac sedans".

It was while the smoke from these fires was clearing that Ritchie appointed him to the Supreme Bench of Baltimore City. Although O'Dunne had evidenced his ambition for the post by running for it in the 1922 primary, he now expressed no gratitude. On the contrary, he later said that "At the time of my appointment I was not on speaking terms with Governor Ritchie. I was kicked upstairs."

O'Dunne Blasts Traditional System of Rotating Judges

Judicial robes did nothing to abate O'Dunne's aggressiveness. He immediately demanded assignment to the criminal court and then insisted that the assignment be made permanent. When this was resisted, he issued a blast in the newspapers against the supreme bench's traditional system of rotating judges among the various courts, civil, criminal and equity. It made no more sense, he said, than for Johns Hopkins University to require a professor to teach Greek one year and coach athletics the next.

The assignment of judges was something that the supreme bench decided for itself, and it considered annual rotation the fairest and best method. O'Dunne's attempted revolution met with vast unenthusiasm from his colleagues, who were particularly irked by his resort to the newspapers.

O'Dunne was sworn in February 26, 1926. On his first day he conspicuously used a cigarette holder for a gavel, as if to demonstrate his nonchalance and his control. Not long thereafter he publicly criticized the four-o'clock quitting time observed by the other judges. Then, turning more serious, he gained wide publicity by charging the grand jury that "The home is the place to start the eradication of crime. We must save the youth of today, and to do this we should start on the parents."

In reviewing O'Dunne's career, a *Sun* editorial later said:

No judge who has shown himself in these parts for the past fifty years has managed to produce so many speeches, opinions, pronouncements, letters to the editor and obiter dicta which simply could not be kept out of the paper. The man has a genius, perhaps unconscious, for publicity. But this is just another way of saying that he has a genius for being at the center of things or for getting there in a hurry.

On March 17, O'Dunne let it be known that it would be his policy to make the punishment fit the crime. Giving reality to this pronouncement, he sentenced a wife beater to five lashes at the whipping post, a practice that had fallen so far into disuse that the sheriff had difficulty finding the equipment. Each time that O'Dunne repeated this prescription, however, more and more women protested. Ultimately, he gave it up.

On another occasion, when a young Negro boy was found guilty of stealing a gold watch and chain, O'Dunne sentenced him to be whipped by his mother, who duly reported to the court that she had executed the sentence with a split leather strap.

Hearst Photographers Are Fined and Jailed

The public devoured these items. But the real splash came when O'Dunne cited for contempt two Hearst paper

photographers, a city editor and two managing editors for violating his instructions against taking photographs at a murder trial. On May 31, 1926, he sentenced all five to a day in jail and imposed a \$5,000 fine on one of the managing editors as a special present to Hearst. Roaring with unrighteous indignation, they rushed to the court of appeals, which fully sustained O'Dunne and at the same time pointed out that technically there was no right of appeal in such cases.³

This crackdown on the Hearst paper was still reverberating when O'Dunne convicted of contempt Captain Charles H. Burns of the Baltimore police for discussing with reporters the charges and evidence against two individuals who were being held for the grand jury in connection with a \$47,000 robbery and murder. Declaring that this raised "the most fundamental and far-reaching legal question affecting the administration of justice that has arisen in this court within my generation", O'Dunne denounced the interference of police and press in the proceedings of the court and in ringing tones, as well as headlines, denied the existence of any "divine right of editors".

At O'Dunne's own suggestion, a motion for new trial took the case before the Supreme Bench of Baltimore City, which sustained the conviction. Captain Burns issued a formal apology, and O'Dunne, having made his point, waived any penalty. But at a large luncheon meeting he had earlier poured salt into journalistic wounds by declaring that "A press-ridden city is the next worse thing to a crime-ridden city." These cases created a stir throughout the country. The February, 1927, journal of the prestigious American Judicature Society quoted the opinions at length and commended O'Dunne for his courage and good sense.

Ending the year, O'Dunne again made headlines by denouncing before the grand jury the excessive use of night sticks by the police. Such action, he said, branded the officer as "either a

3. *Ex parte Sturm*, 152 Md. 114 (1927). Subsequent legislation gave a right of appeal.

coward or a bully, and probably both". A more fitting epilogue to O'Dunne's first tour of duty, however, was the receipt of a Christmas card from the penitentiary, reading: "As a inmate of the Pen serving 15 years for larceny of an auto last July and sentenced by your honor, I, John Blankeney, wish to extend my best wishes to you for a Merry Christmas and a happy, prosperous New Year."

O'Dunne was at his best in criminal work. Moreover, it attracted publicity like a lightning rod. But reassignment to the civil courts could not hide him from the public view. Before long he was revelling—and creating headlines—in the field of marriage and divorce. On the ground that there was little public nourishment in jailing husbands for nonpayment of alimony, and thereby insuring that they could not earn the money to pay it, O'Dunne released them in wholesale lots. He was credited by the press with breaking up the "Alimony Club" in the city jail, to the dismay, it was said, of the regular members.

What brought his greatest fame in the marriage field, however, was his handling of a case in which a boy and girl had gone through a marriage ceremony as a prank but had immediately repented and returned home. O'Dunne annulled the marriage, saying that it was "the ancient prerogative of a daughter of Eve to change her mind". O'Dunne's phraseology made news stories all over the English-speaking world, and the British legal humorist, A. P. Herbert, said in an article in *Punch*:

The judge tells the story with a breezy humility which I commend to the High Court. It was written in New York because (a kindly and characteristic note) "I am sailing tomorrow for Paris with my son from Boston" and it would seem rather selfish and inconsiderate of me to leave this romantic couple in the "limbo" of uncertainty for the entire summer as to what is their status in life.

In an entertaining address to the graduating class of the University of Baltimore, O'Dunne caught more headlines by expounding the thesis that "Love, not money, is the power that

rules the world." He was, of course, referring to love in its more noble aspects. But he was equally versed in its coarser manifestations. Sex was just as fascinating to O'Dunne as to most of the young at heart, and he could not resist making his low-life cases into good stories.

In one such case, a young doctor sought divorce on the ground that home-brew had induced premarital relations that had been fraudulently translated into matrimony by a false claim of pregnancy. In refusing the divorce, O'Dunne had no need to describe the original intimacy, but he did so in such titillating detail that the post office sought to bar his opinion from the mails.⁴

Later, when O'Dunne was back in criminal court, a state senator was indicted for conspiracy to transport women from Baltimore to Annapolis for purposes of prostitution. The girls found better jobs than the senator's, and O'Dunne entered a verdict of "not guilty" on the conspiracy charge, saying that this type of accusation was more often a subject of blackmail than of court proceedings and should be construed with the utmost strictness. But on the "singed cat" principle he quoted in his opinion from intercepted telephone conversations revealing the prices and practices of the call house and the senator's intimacy with its management, adding:

The girls from Shirley's call house, with whose number most members also were said to be familiar, did not go to the Legislative party at old Annapolis. They got to the railroad station, phoned other customers, found more attractive dates, at less parsimonious prices than at an economical Maryland Legislature, and cancelled without giving notice.

Although O'Dunne let off the senator with no more punishment than the publicity, he was not done with Shirley, and in the destruction of her business he had the unhappy task of sentencing a police lieutenant whom he had formerly admired. He said:

To me this is a sad case, presenting a stern duty, painfully performed. The Lieutenant was commissioned by the Free State to suppress disorderly

houses. Instead of doing so he protected them and organized a small "Prostitution Trust."

I know from service in this court that he was a brave officer and later a brave Sergeant of Police. I recall cases where with rare personal courage he took his life in his own hands. He is a courageous officer gone wrong. He sacrificed his future for cheap underworld associations. He sold his birthright for a mess of booze, women, races and graft. Graft, as disclosed in this case, too petty to be dignified as real graft—a carving set, a few silk shirts, a loan of \$60 (not repaid), and the privilege of sampling each new girl in the "Call House," including, at least on State occasions, the seemingly delicate Madame Shirley.

Bookmakers Provide a Happy Hunting Ground

Although sex tickled O'Dunne's sense of humor, it was the bookmakers who supplied his happiest hunting ground. This was not because of moral aversion to gambling, or because he thought it could be, or even should be, wiped out. On the contrary, he said, "The turn of the wheel, the flip of the cards, or the click of the dice will be a human passion and indulgence as long as human nature remains human." But he saw at first hand how organized gambling preyed on the poor and corrupted the police, and he determined to do something about it. The way to control organized gambling, he said, is to take the profit out of it.

The "big fish" seldom, if ever, were caught, but as a practical matter the higher-ups had to pay the fines of the front line operators as an expense of doing business. Accordingly, O'Dunne adopted the tactic of rounding up the maximum number of bookies and escalating their fines. Each time he was assigned to the criminal courts, he pushed his system of judicial taxation a notch higher until in the first nine months of 1943, the fines reached the record total of \$111,000. By this time,

4. O'Dunne's opinion in *Miller v. Miller* was published in *The Daily Record*, September 29, 1928 (now a rare item); see also 4 Baltimore City Reports 767. A note in the latter indicating reversal by the court of appeals is erroneous; the ruling reversed was a later one, denying alimony to the wife.

however, he had become a captive of his own zeal. In his fervor he lashed out at anyone who seemed to stand in his way.

Among others, he made a whipping boy of the telephone company. At first he wanted it to listen in on the lines of suspected gamblers, but this violated not only its own rules of privacy but also the federal criminal law. Next he demanded lists of subscribers with multiple telephones. Soon he threatened to jail the officers of the company if it did not stop furnishing service to bookmakers. Finally, he had the company indicted. But the gamblers conducted their business with such sophistication and resource that it was manifestly impossible to distinguish them from other applicants for telephone service, and the prosecution was dropped.

O'Dunne's war on the bookmakers also brought him into collision with his judicial colleagues. The supreme bench system of rotation necessarily interrupted his crusade, and he reiterated his demand that his assignment to the criminal court be made permanent. In addition, the vacation schedule frustrated him. O'Dunne had no thought of giving up his summer vacation, but neither did he want other judges messing around with his gambling prosecutions. On his own initiative, he issued orders that all gambling cases be routed to his court and handled by him alone.

Judges Reluctant To Tangle with O'Dunne

Although the other judges stood firm on the issue of rotation, they were loath to tangle with O'Dunne individually. On the other hand, State's Attorney Herbert R. O'Connor, later to be Governor of Maryland and a United States Senator, had his own caseload to worry about and took a dim view of declaring a moratorium on gambling prosecutions during the months that O'Dunne was on vacation. He kept on setting cases for trial before other judges, notwithstanding the thunderbolts that roared down from O'Dunne's summer home at Blue Ridge Summit. Years later they were able to laugh about their differences, and at

O'Dunne's retirement dinner O'Connor quoted the following stanza from the press that summer:

Count that day lost
Whose low descending sun
Brings not a letter
To O'Connor from O'Dunne.

O'Connor confessed, however, that "I could not then look on it quite so amusingly as I do now."

O'Dunne's insistence on permanent tenure in the criminal court and sole control over gambling prosecutions was vetoed by the other judges. O'Dunne thereupon allowed his exasperation to overcome his judgment and rushed into the newspapers with a slashing attack. The June 24, 1929, *Sun* carried the headline: "O'DUNNE FLAYS SUPREME BENCH FOR NEPOTISM". The story quoted O'Dunne as calling the appointment of Judge Stanton's sister to a position in the probation department "a vicious form of nepotism, typical of other forms of favoritism practiced by some of the members of the Supreme Bench".

Judge Stanton commanded wide respect. Moreover, the appointment seemed justified on its merits. It was not easy to find suitable individuals willing to undertake probation work, and the appointee, who was a former staff worker for the Y.W.C.A., seemed well qualified. O'Dunne's intemperate charge did far more damage to himself than to anyone else. It makes it easier, however, to comprehend the almost incredible bitterness that existed between O'Dunne and some of his colleagues.

In 1937, when the supreme bench granted a series of new trials overturning some of O'Dunne's criminal convictions, he flared up again in a statement to the press accusing his fellow judges of having taken this action arbitrarily and during what he characterized as a "turbulent disorderly discussion". Then, in 1943, he publicly accused the chief judge of browbeating counsel and said that a disbarment proceeding, in which O'Dunne was the sole dissenter, was "a glaring example of the Supreme Bench's ill-considered decisions". For good measure he added that the chief judge's opinion in the case was "an artful blending of general

principles of law intermixed with an heroic dose of vituperative invective and much loose misstatement of fact, both of which are sometimes characteristic of his more intemperate writings".

One wonders why O'Dunne's personal relations with his fellow judges were not even worse. It would be an exaggeration to suggest that he stood high in their affections, but they continued to insist that he was an able and a courageous judge, capable of doing much good if he would only stick to his knitting. The *Sun* hit the nail on the head in a cartoon caption, saying:

On the bench Gene O'Dunne
Is a big-bore gun
A terror to the class unlawful.
When he is good he is very very good.
But when he is bad he is awful.

One of the troubles was that O'Dunne, sensitive as he was, could not seem to realize the sting that his words carried to others, especially when expressed, as they so often were, in the newspapers. One wonders why more individuals did not follow the example of an anonymous donor who sent O'Dunne a broken pistol with a note urging him "to end it all".

Even more objectionable to some of his judicial brethren was his readiness, some said eagerness, to accept habeas corpus petitions from inmates of the state penal institutions and to review the legality of the proceedings by which they had been incarcerated. According to the *Sun* of July 25, 1944, O'Dunne released 103 prisoners during a three-year period, and added insult to injury by announcing that the Baltimore City judges were "the safeguards of the liberties of persons illegally committed in the counties".

The Public's View— David Battling Goliath

But, in the eyes of the general public, O'Dunne was eminently successful in casting himself in the image of David battling Goliath. They adored him, not only for this reason but also because he kept them so everlastingly entertained. Even more remarkable than this was the continuing, indeed the growing, respect of lawyers and judges. When in 1945 he retired, there

was an outpouring of professional good will far more overwhelming than mere sense of relief.

Caustic, bitter and publicity-minded as O'Dunne was, it had to be admitted that he struck his hardest blows in causes that he believed to be just, and surely no one ever surpassed him in the courage of his convictions. Moreover, although he left much anguish in his wake, he greatly enlivened the practice of his profession and the proceedings of the courts.

Who but O'Dunne would have used a Pullman porter as an expert witness in a drunk driving case, holding that twenty-five years on the Atlantic Coast Line had qualified him as an expert on the effects of drinking? And what could express the hope for improvement in the legislature better than O'Dunne's prayer: "That some day the spirit of the Holy Ghost may descend upon it in tongues of fire and endow it with the light of greater wisdom."

Moreover, we more readily understand and sympathize with O'Dunne's touchiness when we consider the personal tragedies to which he was subjected and which he bore in silence. In 1930, just before the marriage of his younger daughter, one of his sons was killed in a heart-rending automobile accident involving both the daughter and her fiancé. O'Dunne was visibly aged, and his wife, already an invalid, was prostrated.

Some years before, Mrs. O'Dunne had been stricken with paralysis. Although she lived for nine years, she never fully recovered, requiring not only O'Dunne's constant care but also his assumption of household and maternal burdens normally outside the province of a husband. At the time, in order to eke out the slender family finances, she had been taking in boarders and operating a tavern-type restaurant at their summer home. Without complaint, O'Dunne took over many of the chores and on occasion waited on the table, although not, we are told, in his judicial robes.

Lacking any independent means, O'Dunne experienced great difficulty in supporting his family. He was determined that his children should have

the best possible education, and he saw to it that they did, even putting two of his sons through Harvard Law School. But he was always financially pinched. During the Depression he could not keep up the mortgage payments on his Baltimore home, and the mortgage was foreclosed. By some irony of fate the foreclosure order was signed by Chief Judge Dennis, with whom O'Dunne was known to be on bad terms. Judge Dennis had signed the order along with many others as a matter of inescapable routine and without even realizing that it affected O'Dunne, who had assumed the mortgage and did not appear as the original mortgagor, but the matter received wide publicity.

A group of lawyers immediately volunteered their help in tiding over the default, but O'Dunne would hear none of it. In what Louis Azrael of the *News American*, who knew O'Dunne intimately and affectionately, called "one of the most touching documents I ever read", O'Dunne expressed his deep appreciation but said that acceptance would leave him troubled by the thought that any lawyer who appeared before him might be one of his benefactors.

The matter was not allowed to drop there. An anonymous group quietly raised the amount required to pay off the mortgage, conducting the transaction in such a way that O'Dunne could not stop them or be embarrassed by the knowledge of who they were. The names were never made public, but perpetual secrecy is virtually impossible in group action, and it ultimately became known that the organizing spirit was Joseph C. France, an older leader of the Bar on whom O'Dunne twice heaped sarcasm in written opinions, and that one of the subscribers was Chief Judge Dennis, who is said to have contributed \$1,000.

In 1945, O'Dunne reached the age limit of 70 and retired from the bench. It was, he said, the result of a "constitutional imbecility". A testimonial dinner was attended by judges, lawyers, governors, mayors and assorted celebrities. O'Dunne had imposed the condition that there be no "goose grease", but the occasion had its share of com-

pliment, as well as such a choice selection of hilarity that the printed proceedings make good reading even today. There could be no better summary of O'Dunne than that given by Henry L. Mencken on this occasion:

From the press-stand, O'Dunne has looked a great deal of a faker. On the surface there appeared only an Irish frenzy to break heads—a kind of boyish delight in alarming sinners and stripping the falsefaces off the virtuous. When there was no war going on, he declared one. When the natural supply of public enemies ran out, he manufactured them. When he could find no likely candidates among the laity, he chose other judges.

But all this was merely superficial. Deep down was a profoundly serious and earnest man—a diligent lawyer, a judge with a tremendous appetite for hard work and a tremendous respect for common sense and equal justice, and a citizen of the first value to this ancient Free State and this tottering medieval city. Let us not forget the large hand he has had in all the really worthwhile reforms of the past forty-five years. From the days of his first arrival he has been the honest workman and the good citizen—always hard at his job, always bold and original, always jealous of the rights of the poor and friendless, always against false pretensions. . . .

The rest of the O'Dunne story can be briefly told. For a time he practiced law with a son and received a healthy annual retainer as public relations counsel for the local liquor industry. In 1950, he married Mrs. Helen Keep of South Orange, New Jersey, and Ogunquit, Maine. On October 30, 1959, at her home in Ogunquit, he died.⁵

The memorial of the Maryland State Bar Association provides a fitting epilogue: "A community that can produce a Mencken and nourish an O'Dunne can never be really dull."⁶

5. O'Dunne is buried in the New Cathedral Cemetery, 4300 Old Frederick Road, Baltimore. According to the graveyard record, his father and his son Evett are buried in the same lot, but the only marker is that of Eugene O'Dunne, 1875-1959.

6. 65 Md. St. Bar Assn. 18, at 20 (1960). This exceptionally well-written memorial was composed by the late Glenn C. Bramble, Secretary and Counsel of the Maryland Casualty Company.