

JUDICIAL FREEDOM OF SPEECH

One of the most lively controversies in Manitoba's legal history concerned the propriety of remarks like the following, made by the late Lewis St. George Stubbs, then Senior County Court Judge for the Eastern Judicial District of Manitoba, in the course of passing judgment in cases coming before him:

I am going to give you a chance . . . You will never be able to get away with petty thefts like stealing guns . . . To get away with crimes you have to be in it on a pretty big scale, steal a million or two, or things of that kind. You have got to be a real big thief, and then perhaps you will get away with it, and even be rewarded, but not as long as you are a working man, Duddles. I am going to give you six months suspended sentence on each count.¹

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. . . it is becoming increasingly difficult for some courts to know how to gauge their sentences for criminal offences, because when rich rogues and wealthy scoundrels and those possessed of social power and political influence can get off with nominal sentences, or very light sentences, it is extremely embarrassing for the conscientious judge, with some sense of justice and proportion, to know how to sentence the ordinary run of poor men with no social power and no influential friends, who come before him.²

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The accused is indicted on two counts—one of the theft of the sum of \$2,480.13, the other for receiving and missappropriating these moneys. . . . He has been in custody for several months on an offence which he certainly has not been proven guilty of. . . . On the basis of the *Martin* case and the findings of the Court of Appeal, if I were to find this man guilty and sentence him—if, as the Court of Appeal has held, a term of eighteen months imprisonment is a proper sentence for the theft of \$284,177.18, what would be the proper proportional sentence for this man? I am going to acquit you, Mr. Rae, and the next time you get into trouble you will have a big credit coming to you on your offence.³

R.D.G.



1. *R. v. Duddles*, November 24, 1930. Reprinted in L. St. G. Stubbs, *Judicial Crimes!*, 1932, p. 7, at p. 10.
 2. *R. v. Tansowny*, December 1, 1930. *Ibid.*, p. 11, at pp. 11-12.
 3. *R. v. Rae*, September 9, 1932. *Ibid.*, p. 15, at pp. 16-17.