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Current Legal Decisions

Mortgages--Default--Acceleration Clause--Questionable Plays--Legislative Privilege

Mortgages--Election

Albertina Realty Co. v. Rosboro Realty Corp., N.Y.L.J., April 11.

Filing of summons and complaint and a lis pendens after default in payment of an installment of principal is sufficient to constitute election under the statutory form of acceleration clause. Under the statutory form a default in the payment of the installment of principal on the due date of the entire principal of the mortgage renders the entire sum due at the election of the holder thereof, without regard to the days of grace allowed in case of default of payment of interest.

Arbitration--C.P.A. 1457

In re E. Gerli & Co., Inc., N.Y.L.J., April 12.

Where two of three arbitrators, after the hearings and without the knowledge of the parties, order official laboratory tests of the new silk involved in the controversy for the purpose of verifying the efficiency of reports of so-called semi-official tests introduced at the hearings, which semi-official tests all three arbitrators swear were sufficient to establish the inferior quality of the merchandise; and where two of the arbitrators, raw silk experts, were present when the tests were made, in order to assure themselves that the tests were accurately conducted; held, that the arbitrators were not guilty of misconduct or misbehavior within the meaning of section 1457 of the Civil Practice Act.

Obscenity--1140--a Penal Law

Frankie and Johnnie Have Their Day in Court.

In separate actions against the producers of that dramatic gem, "Frankie and Johnnie," the defendants were convicted of violating section 1140-a of the Penal Law (Consol. Laws, C. 40) prohibiting the production of obscene plays. In reversing these judgments the Court of Appeals said: "That it is indecent from every consideration of propriety is entirely clear, but the court is not a censor of plays and does not attempt to regulate manners. . . . The question is whether the tendency of the play is to excite lustful and lecherous desire." This refusal of the court to usurp the function of dramatic critic inspires the frenzied applause of this department. The prospect of the judiciary's light and airy touch in the theater has always left us cold.

Legislative Privilege

Seabury and Hastings

People ex rel Hastings v. Hofstadter (March 3, 1932), 258 N.Y. 425.

The service of a subpoena requiring the appearance of a State Senator before a committee of the Legislature is not a breach of the privilege secured to him by section 2 of the Legislative Law providing that during a stated period a member of the Legislature shall be privileged from arrest in a civil action or proceeding other than for a forfeiture or breach of trust in public office. Even if a subpoena could be viewed as equivalent to an arrest there is no privilege from arrest that can be asserted against the Legislature itself.

Freshman Class Selects Granada Roof For Dance

The First Year Class will hold its second social affair of the year, an informal Spring Dance, on Saturday evening, April 30, on the Roof Garden of the Hotel Granada. The committee, consisting of the three class presidents, Meletios Kavakos, Vincent W. Gilen, and Alfred A. Chelson announce the arrangement of an unusual program of entertainment, headed by the music of Bob Souer and his Briarcliff Lodge Orchestra. The subscription is one dollar per person. Prospects of a socially successful evening are unusually bright. Members of all classes are invited to attend.

PRIZE TRIAL SESSION WILL CLOSE SEASON

Annual Dinner, Following Court Contest, to Take Place Saturday, April 30

The renowned practice court sessions of Brooklyn Law School, founded and directed by Dr. Edwin W. Cady, which have elicited favorable comment from members of the bar, the judiciary, and other law schools throughout the country, will terminate for the year with the annual practice court prize trial and dinner. The trial will take place at 2:30 p. m., Saturday, April 30 in the Supreme Court, Kings County, Special Term, Part V with Edmund J. Mooney sitting as presiding justice. The dinner will be held at 8:30 p. m. at Joe's Restaurant, Fulton and Pierpont Streets, following the trial.

To Hold Informal Dinner

Prominent members of the bar and judiciary who sat at the practice court trials during the past year, will be present at the dinner. The gathering will enjoy the informal atmosphere of a "get-together," and members of the third year class will provide the traditional entertainment in which the students will present short skits burlesquing members of the class and faculty.

Attorneys for the final trial, who (Continued on Page 4)

3D DEGREE HEARING TO BE MADE PUBLIC, DARU ANNOUNCES

Counsel to Bar Committee to Seek Views of Roosevelt, Mulrooney, Judges

REPORTS CAUSE ACTION

Some Evidence May Be Given to D. A. He Reveals in Exclusive Justinian Interview

The public hearings in the investigation of "third degree" methods in criminal cases, which will begin soon under the auspices



of the New York County Criminal Courts' Bar Association, will not amount to a parade of criminals to the witness stand to tell of alleged police brutality, according to information disclosed exclusively to the Justinian in an interview Saturday with Robert Daru, former assistant district attorney in Manhattan and Chief Counsel to the Committee which is conducting the investigation.

Testimony to Be Public

The testimony of victims of "third degree" methods will constitute only a small part of the information which will be made public at these hearings. Governor Roosevelt, Police Commissioner Mulrooney, Judges of the Court of Appeals and of all the Criminal Courts will be asked to give their views on what Mr. Daru terms the "more important aspect" of the question, that is, whether or not the belief that "third degree" methods are in general use, does not impede the administration of Justice by prejudicing Courts and Juries against the police to the detriment of prosecution even where no charges of unlawful extortion or confessions are made.

Some of the evidence which has been presented to Mr. Daru, he will turn over directly to the District Attorney if private investigation discloses that alleged assaults have actually occurred during custody.

"We are not starting with the Po- (Continued on Page 8)

LAW REVIEW WINS HIGH PRAISE IN FIRST APPEARANCE AT BANQUET

Wormser, Rothschild, Bennett, Callaway and Jackson Contribute Leading Articles to New Publication

The inaugural issue of the Brooklyn Law Review, after several months of exacting preparation on the part of the Board of Editors, makes its official appearance today. Five leading articles, book reviews, decisions and notes comprise the contents.

"The ideal judge," declares Professor Jay Leo Rothschild in his leading article "Men and Law," "must focus the beams of his searchlight upon the preponderant public opinion, which he must ascertain in the field of vision of judicial precedents. It is from the facts as viewed by the judicial mind that the law emerges."

"No individual in any system administers his own fancies. At most he formulates and employs his personal conception of principles representing the aggregate social views of

the body politic."

Professor Rothschild describes the part of the lawyer in molding the judicial process, and then advocates the judicial system which will maintain the balance between the subjective emotions of the men who administer the laws and the objective legal standards which are handed down to them.

Following along the lines of his recently published "Frankenstein, Inc.," I. Maurice Wormser, former editor of the New York Law Journal, renews his condemnation of the lax practices of corporate directors in an article entitled "Directors -- Or Figures of Earth?"

"Directors," sums up Wormser, "must be vigilant, they must be faithful" (Continued on Page 4)

NEW PRESIDENT



LOUIS CHARLES WILLS

Message of Alumni Head

During the past year, the Alumni Association of the Brooklyn Law School, of St. Lawrence University, has taken real strides.

For the first time a formal constitution has been adopted under which the Association functions, and many steps have been taken in perfecting a working organization. Sufficient time has not elapsed to prove the value of these accomplishments, but the new officers are under deep obligations for what has been done. They undertake their duties with a well-organized plan, and it merely remains to carry it into effect in order to bring real life to the Association.

For my part I promise my hearty co-operation, and I have received assurances from so many others that I feel confident the work of the Association will make substantial progress in the year to come.

Friendships are among the most pleasant and valuable assets of any man, and they are of particular value to the lawyer. Through the Alumni Association these friendships can be renewed and cemented and will prove invaluable in the course of a lifetime.

On behalf of my associates, I invite the co-operation of all the members of the Alumni Association, to the end that we may not only renew our acquaintance, but form new friendships and keep alive the spirit of the Brooklyn Law School.

—LOUIS CHARLES WILLS

SCHOOL TO HONOR PUBLICATION STAFF

Justinian and Law Review Staffs To Meet Prominent Bar Members At Banquet

The dinner of the combined Law Review and Justinian staffs will be held at the Hotel Bossert on Saturday, April 23. Prominent members of the Bar and Judiciary will be guests of honor.

The dinner to be tendered by the Law School to the two staffs will celebrate the occasion of the inaugurations of the two publications which have met with instant success and the approval of outstanding legal authorities and prominent attorneys throughout the country.

Among the guests will be Dean Richardson, Judge Frederick E. Crane of the Court of Appeals, Justice William D. Carswell of the Appellate Division, Max D. Steuer, Prof. I. Maurice Wormser, Vice-Dean Eastman, and Prof. Jay Leo Rothschild.

Arthur Garfield Hays, George Gordon Battle, Professors Edwin Welling Cady, Donald F. Sealy, Franklin Ferris Russell and other contributors are expected to be present.

To Name New Board

The new Law Review Board will be announced at the dinner. The selections will be made by members of the present board upon the recommendation of a faculty committee. Fifteen second year men will be selected with alternates.

Law School Alumni Hold Thirtieth Annual Banquet

Metropolitan Surrogates Talk; Association Officers for Coming Year Announced; Members of '06 Class Hold Reunion; Brooklyn Law Review Lauded

The Thirtieth Annual Dinner of the Law School Alumni won whole-hearted acclaim as a most brilliant event. Held at the Hotel Bossert on April 12th, this function marked the twenty-fifth reunion of the Class of '06. Rarely, if ever, has there been assembled a more enthusiastic and congenial group of outstanding personalities. The roster of guests, numbering approximately 300, included an imposing list of distinguished leaders and prominent figures of the State, Bar, Judiciary and business. The guests of honor were Surrogates John P. O'Brien, George A. Wingate, Leone D. Howell, and James A. Foley. Prof. Clarence G. Bachrach, retiring president of the Alumni Association, presided and introduced the speakers.

"The adjustment of controversies in the Surrogate's Court is a dominant consideration of the Bar, and the eradication of the feudal spirit among the litigants is rapidly being accomplished." This was the keynote of the address delivered by Surrogate John P. O'Brien.

He vehemently attacked "invaders in the field of law" and sounded a warning that trusts, banks, and other agencies are practicing the profession. "If something isn't done to stop undertakers, bank employees, and people who think they know from practicing law, the profession of the lawyer will quickly disintegrate." He assailed the infringement which he pointed out was coming from all sides, and in illustrating, told about an undertaker who made over 450 wills in ten years. Scoring the solicitation of legal business by trusts and banks by means of circulars, inviting patrons to come for legal advice, Surrogate O'Brien asserted that these agencies were "tearing the legal profession to shreds!"

Lauds "Human" Reform

In reference to the new provisions of the Decedent Estate Law, he stated that although it was a radical change, it was the most human reform in the laws of the State. "These provisions cannot be ignored by any man who has taken over the duties of a husband and father," he said, "and the Surrogates of the metropolitan area at the present time are all human men who are well able to deal with the gripping, dramatic, and heart-warming circumstances encountered in their courts."

The Surrogate praised the commission headed by Surrogate James A. Foley for its part in affecting changes in the State laws. He congratulated the editors on their fine work in the new Brooklyn Law Review and prophesied that this publication was destined to command respect and attention from the Bar and the State and of other communities.

Surrogate Wingate suggested that the method of taking evidence be changed to conform with the French system, which enables the witness (Continued on Page 4)

GROSS ENDORSES SEABURY PROPOSAL

President of Brooklyn Bar Association Terms Plan Timely and Practicable

Fred L. Gross, President of the Brooklyn Bar Association, in discussing Judge Seabury's suggestion to consolidate the lower city courts, heartily endorsed the proposal as being eminently timely, thoroughly practicable, and certain to receive almost unanimous approval. The plan features the elimination of the Court of Special Sessions, the concentration of all litigation of minor infractions of the law into the Magistrates' Courts, and the consequent simplification of procedure, saving of time, and decrease in costs.

Scores Present System

Under the present system anyone desiring to secure recompense for injuries sustained, for example, as a result of an assault in the third degree, may be compelled to appear, with witnesses and attorney, three different times, in different courts, and on different days. Manifestly such repetition is unnecessary. Furthermore, while it may not displease the defendant to whom each delay means a postponement of the day of reckoning, it obviously works an unjust hardship on the plaintiff.

History, not logic, is the basis of the present procedure, but certainly precedent, powerful as it may be, should not be set up to oppose it. (Continued on Page 8)

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DEDICATION

TO the Alumni of the Brooklyn Law School we dedicate this issue. The Justinian affords a long-awaited opportunity to express the profound gratitude due them for their manifold favors.

They have faithfully performed the traditional duties arising from the kinship which we boast—the kinship of a common nurture and a common goal. Of them we claim continued interest, guidance and support. To them we pledge unending loyalty and faith.

Together, may we reap the fruits of a united effort!

RECONCILIATION NECESSARY

PARADOXICALLY enough, consistency of almost any kind over a long period of time begets suspicion. One begins to wonder whether arrier hardening has not set in; whether the unchanging tempo of results derived from such consistency has virtues other than statistical certainty; whether its sources will bear close scrutiny.

In the case of the State Bar Examinations, we have an example of "consistency" which has given rise to an uncrystallized wonderment at its mortality rates; to a feeling of fatalism in the mechanical operation of failing some 60 per cent. It is a situation not peculiar to New York. In any state the percentage of those passing is practically the same for each year; that percentage is abysmally low.

Traditionally, the legal profession has been—is, deemed to be composed of men of high intellectual caliber, by and large—to the man in the street, the lawyer may be a "slyster," a technician in a cabalistic art, but, withal "a clever fellow." The bar itself, surveying famous names of the past and of the present, justly cherishes the belief that its members have an I. Q. comparable favorably to any other group of similar size. But if this be so, wherein lies the explanation for the high percentage of failures on the State Bar Examination? Can it be that admission to the bar automatically augments mental stature—that such stature was non-existent until such time?

At the annual meeting of the American Bar Association last year, it was stated that in 1921 no state required more than a high school education for those preparing for admission to the bar; in 1931, at least 2 years of college education or its equivalent was necessary in 17 states. On this basis, it would seem that there should be some increase in the number of successful students taking the bar examination, but the contrary is true.

It is intimated in the proceedings of the American Bar Association, vol. 56, that since the legal profession is overcrowded, rigidity of examinations is to be favored. The trouble with this theory is that in New York, where overcrowding is especially acute, the bar examinations are accordingly very stringent. Moreover, the examiners are likely to lean towards a low maximum limit for aspirants who have taken the examinations. Examinations are hardly ever of the same degree of difficulty, yet the examiners seem to find no variance in the number who pass one or the other of such examinations.

In this connection certain recent statistical surveys merit serious consideration. The secretary of the Board of Bar Examiners, in an interesting article contained in the February issue of the New York Bar Association Bulletin, declared that approximately one-half of the June 1930 applicants took review courses, the first men raising their average from 73 percent to 90; those from undergraduate schools, from 50 percent to 60. A pamphlet issued by one of the review course directors reveals similar statistical evidence of the comparative success of those taking the course.

Exactly what significance these figures have for legal educators, it is not simple to state. If the board of Bar examiners arbitrarily and in advance of the examinations determine the number of those

Legal Periodicals

Irving Brody

IN an action on a mortgage, the defendants pleaded that in consideration of their granting consent to the marriage of their fifteen year old daughter to the mortgagee, the mortgagee would agree to refrain from collecting the principal and interest on the mortgage while either of the defendants remained alive. The mortgagee was aged seventy-one at the time of the marriage. The court held that the contract was invalid, and that the mortgage was enforceable according to its terms. The case of *Braun v. Potter Title and Trust Co.*, 152 Atl. 75, appears in the University of Pennsylvania Law Review. The doctrine of public policy designed to prevent personal gain from influencing actions of parents, as in the above case, where parental consent to the marriage is necessary, is both sound and commendable.

A dead body, though not property, is "quasi-property" in which relatives of the deceased have a right which a court of equity will protect. Persons having custody of a corpse hold it in trust for the benefit of all who may properly claim it. Parents or relatives of a decedent have the paramount right to the custody of the body and to decide on the place and manner of burial. Thus, in the recent case of *Finley v. The Atlantic Transport Company*, mentioned in the *United States Law Review*, a son could maintain an action against a steamship company for the interference with the right of sepulture. The plaintiff's father died at sea, and the defendant steamship company lowered the body into the sea in mid-ocean, despite the fact that there were sufficient funds upon his person to pay for transportation to land and for burial on land.

THE dominance of the millionaire gangster as a menace to American security has resulted in unique methods of combating lawlessness, the Michigan Law Review reveals. Confronted by the tremendous difficulties in seeking conviction of professional criminals, the prosecutors and police have resorted to means used to harass and triplicate petty offenders. The enforcement of pistol laws, vagrancy statutes, and repeated arrests on suspicion are employed to intimidate criminals.

The Michigan legislature has enacted the Public Enemies Act, wherein any person engaged in an illegal occupation or business is deemed a disorderly person. Proof of recent reputation of being engaged in an illegal occupation is prima facie evidence of being employed in an illegal business. This is used to alleviate the difficulties of proof. This statute has caused questions of constitutionality to arise. Dean Wigmore objects to the constitutionality, on the ground that the rights of trial by jury are infringed upon. In a jury trial, the jury does not convict unless it is convinced of defendant's guilt beyond a reasonable doubt. By the presumption, the jury is compelled to convict, despite a reasonable doubt in its mind as to the guilt of the accused. On the other hand, it is contended that it is an argument to the jury which it may accept or discard as it pleases.

The courts of Ohio have not looked favorably towards this presumption. In *Hughes v. State*, 29 Ohio C.C. 237, the court said that it is a raw product for the unscrupulous attorneys to manufacture a public sentiment to facilitate a conviction.

One is liable for the death of a person though fright is the causal connection between the negligent act and the injury. *Comstock v. Wilson*, 257 N. Y. 231, cited in the *Harvard Law Review*. The plaintiff's testatrix was a passenger in plaintiff's automobile which collided with the automobile negligently driven by the defendant. She stepped from the automobile and while taking the name and license number of the defendant fainted and fell to the sidewalk, fracturing her skull. She died shortly thereafter.

The opinion in the *Mitchell v. Rochester Railway* case states that damages are not recoverable in a cause of action in which fright alone, unaccompanied by physical

(Continued on Page 7)

who are to pass, a possibility strongly suggested by the almost complete lack of variation in the yearly proportion of failures, then the law schools, while they may increase competition among the applicants, cannot by means of third year review courses remedy the present mortality rate. Briefly expressed, if 60 percent must fail, intensive law school preparation for the Bar examination can only affect the composition of the successful 40 percent. On the other hand, if we would accept a less plausible explanation, the conclusion is that the uniformity of Bar examination results is purely fortuitous and that the law schools do not now adequately equip the student for the State examination, a condition which review courses might well rectify.

With all parties concerned primarily interested in the preservation of the prestige of an ancient and honorable profession, it should not be too difficult to solve the vexatious and humiliating problem of wholesale Bar examination failures. May this solution be speedily forthcoming. Too long, indeed, have the results of the State Bar Examination provided apparent justification for the lay critic's slur of incompetence.

WORMSER LAUDS EVENING STUDENTS

Finds Them More Serious and Alert

A FEW weeks ago I received an invitation from the Business Administration Society of the City College to address it and to make suggestions for business and economic readjustment. Somewhat to my amazement, the hour for the proposed lecture was set at 10:15 P. M. I spoke to the faculty adviser and chairman about the lateness of the hour and wondered whether students could give attention to so technical an address at such a late hour. The reply was that I should come and see for myself and observe how evening college students work.

This is the place to make a confession. I always have had my doubts whether college work could be done in the evening. They are now dispelled completely. Here were about 500 young men and women who had worked hard in their various occupations throughout the day, then had attended evening classes for several hours, and yet, on top of all this, were eager and anxious to listen to a not too interesting lecture involving the discussion of employment and factory statistics, the consideration of plans for readjustment and other matters of that sort essentially somewhat dry in their nature. The attention given and the interest shown would prove inspiring to any teacher or lecturer.

Finds Students Attentive

It raises a real doubt in my mind whether day students are as eager and anxious to learn as evening students. After all, success in study depends chiefly upon the interest of the student. Nearly every one can find some time to study, day or night. Only the student who is deeply interested will study at night. This act I have observed during two decades while lecturing in the law department of Fordham University, although, of course, it is fair to state that almost any student who takes up law naturally will give attention to it because he expects to make his means of livelihood.

Occupation Promotes Sincerity

But the interesting circumstance is that I found exactly the same attention given by night college and business students as is given by night law students. It would seem that earnestness, close attention and great practical experience of the evening students satisfactorily counterbalance the fact that they work by lamplight rather than by daylight. The evening students are mature and earnest. They are intolerant of levity and inattention, and are intensely practical. In the last analysis, they are the finest timber in the land, the stock that really makes a nation great, for they attain genuine accomplishment in the face of serious obstacles. The sacrifices which they make are proof that they are in deadly earnest. They have the in-born will to succeed which cannot be manufactured.

In the hue and cry that are now being lifted about conditions in our city of New York, the vast opportunities which this city offers for night study by earnest men and women have been overlooked entirely. New York is probably the busiest city in the world, not only in business and trade but in study. I feel confident that if we could project ourselves into the future, we would see that the seed which is being planted in the evening departments of our institutions of learning will ripen into a valuable and fruitful harvest, to the great betterment of the community.

I. Maurice Wormser

The Press Box

Washington, D. C. — The Interstate Commerce Commission ruled today that the Pullman Company can not make an extra charge when two persons occupy the same berth.

Los Angeles, (UP) — A local geologist sipped whisky from his pocket flask while he testified in court today in the suit for divorce from his wife. He took a number of swigs as he declared that she was not sincere in her declarations of love for him.

It was explained that he drank for his health; that he was under physician's orders to drink two ounces of whisky daily, and that the judge had given him permission to "take his medicine" while in court.

Philadelphia. — Disposing of a \$13,000 estate, the will of a local physician written on the back of a prescription blank, was filed for probate.

Vatican City. (UP) — A Roman was arrested by Papal gendarmes today for acting irreverently before a big bronze statue in St. Peter's. He threw his hat and then a handful of copper and nickel coins at the statue. He was locked up in the Vatican City prison.

White Plains. — Surrogate Slater traced the theory of implied revocation in civil law back to the time of Cicero in a ruling today in which he held that Mrs. Mosher should receive one-half instead of one-third of her husband's estate. Under the theory invoked by the court, it was held that although Mosher had provided for Mrs. Mosher before he had married her, in a will drawn eight

days after the death of his first wife that provision should be stricken out with the entire will owing to his changed status with relation to the present Mrs. Mosher after his marriage to her. It is implied that he did not desire the will to have effect in the event he married the then Miss Vetter. The effect of Judge Slater's ruling was that Mosher died intestate owing to the implied revocation.

New York, (N. Y. Times) — It was a bad guess that led Daniel Nevins to plead guilty yesterday just at the moment the jury decided to acquit him. As a result of that unlucky guess, Nevins was sentenced to Sing Sing for five to ten years.

Nevins, who killed a Brooklynite in an accident, protested his innocence throughout the trial, but after the case had been in the hands of the jury for some time, pleaded guilty to second-degree manslaughter at the precise moment the jury was returning to announce that it had reached a verdict of not guilty.

New York, (Herald-Tribune) — Three Spaniards, elaborately costumed and gayly strumming their guitars, do not constitute a cabaret, even though they walk about a restaurant and smile into the upturned eyes of romantic ladies, according to a ruling handed down yesterday in the West Side Court.

The arresting officer, who summoned the manager of one of a chain of popular restaurants, testified that while he was eating, the Spaniards, described as "dark-skinned entertainers," came through with "The

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LETTERS TO THE EDITOR

THE JUSTINIAN prints all communications which may be of interest to its readers, as space permits, and as timeliness of topic and propriety of expression warrant. Letters must be written on one side of the page and accompanied by the writer's name.

To the Editor of The Justinian:

THE Alumni Association offers to graduates of B.L.S.: the opportunity for that organization which is valuable not only to them but to the public at large. Much has been said at legal gatherings of the narrowing of the lawyer's field due to the activities of insurance, title and trust companies. These corporations have cut heavily into the lawyer's sources of income, and in so doing have violated many of the rules which are included within established canons of ethics. Lawyers have complained bitterly of these conditions but have done nothing to meet them. The public is not interested in whether lawyers have good incomes or not. It is interested in obtaining the best service at the least cost. If the corporations give such service they will get the business and lawyers will continue to suffer and complain.

These great corporations have held themselves out as financially responsible and able to furnish service at fixed price. This certainty, with the guarantee of responsibility, appeals to the public.

It is unquestionably true that due to the advertising methods of these large companies, and to the failure of the lawyer to make changes which are within his power to make, the great corporation while the lawyer has suffered. Just so long as the lawyer continues his present course, these inroads into what was once his domain will continue to increase.

It is within the power of an organization of the bar to improve present conditions. Many improper practices can be outlawed, and law-

yers who indulge in them can be disciplined. The financial responsibility of the individual lawyer to his clients can be guaranteed through a proper reserve fund. The client can be assured of finding the same financial responsibility in the law office which he finds in the trust company. There are dishonest bankers as well as dishonest lawyers, yet, if a banker steals money, the organization in back of him stands the loss, and the individual customer does not suffer. Lawyers can provide this same security for clients which has always been provided by banks for its customers. This is only one of the things which can be done by the bar as a whole which will help to restore the lawyer to his proper place in the public esteem.

There is another reason for organization which is wholly unselfish, and that is,—the educated man should bear his responsibility and assume the leadership which is expected of him. Great public questions are before us, and upon these the association should take a stand. The moral force which can be exerted by an organized body of more than six thousand alumni of B.L.S. is beyond computation. Through this association, the community may receive an unbiased expression of opinion in matters of moment.

Arthur L. Burchell,
Vice-President, Brooklyn Law School Alumni Association

To the Editor of The Justinian:

I am in receipt of a marked copy of the Justinian, Vol. 1, No. 4, and I take this opportunity to congratulate Dean Richardson, the school and the editors of the publication upon its very interesting character. I do not recall that I have seen any law school publication of the same kind, or that seems to me calculated to stimulate the interest of the student to a similar extent.

Sincerely yours,
Charles A. Boston

ALUMNI NEWS AND NOTES

The purpose of this column is to present the varied activities of the large alumni group in unified and concise form, thereby bringing closer together the law school and those whom it has trained for the legal profession and other pursuits.

The class of 1902, consisting of four men, was the first to be graduated from Brooklyn Law School. The number of graduates has since increased rapidly and the year 1932 finds the prominence of the law school, in the contribution of members to the legal profession, firmly established. At the present time the alumni body is comprised of approximately six thousand men and women whose legal training has enabled many of them to attain success in the practice of law, in business, and as public officials.

1902

Manasse Miller, President of the Prudential Savings Bank, relinquished his office, on February 10, as President of the National Title Guaranty Company to become Chairman of the Board of Directors. He resigned the Chairmanship about a month ago and is now acting as General Counsel.

1905

James P. Boyle was Deputy Clerk of the Seventh District Municipal Court of Brooklyn and Deputy Industrial Commissioner of the New York State Bureau of Compensation. **Charles L. Fasullo**, practicing at 926 Broadway, New York, was a member of the New York State Assembly from 1922 to 1923.

1907

David P. Goldstein, deceased Jan. 23, 1929, was an Assistant Corporation Counsel and a City Magistrate in 1926. **Emil J. Cohen**, deceased, was admitted to the Bar in 1908 and entered the offices of Strock & Strock in New York City. Later he became a member of the law department of the banking house of Thomas Wilson & Co., which position he held for seven years. As a Captain in the United States Army during the World War, it was said of him by his superiors that he was "distinguished by a rare combination of military dignity with a great sympathy in his treatment of the men under his command, which won their respect and affectionate loyalty." On October 20, 1918, the very day he was to receive his commission as Major, he died of pneumonia at the Camp Sheridan Base Hospital. **George H. Boyce** was a Municipal Court Justice and is now in private practice at 188 Montague Street, Brooklyn.

William P. Burke, deceased, was Deputy Commissioner of Taxes of New York in charge of Brooklyn.

1909

Charles D. Cordes, practicing law at 16 Court Street, was Assistant Chief of the Law and Adjustment Bureau of the New York City Department of Finance, and Secretary to Supreme Court Justice Kapper. **Nathan D. Shapiro** was a member of the New York State Assembly from 1915 to 1917, and is now in private practice at 50 Court Street, Brooklyn. **Paul W. Windels**, who was Counsel to the New York State Bridge and Tunnel Commission in 1920, has his offices at 149 Broadway, New York. **Russell H. Kittel**, practicing at 551 Fifth Avenue, New York, was Assistant Attorney to the New York State Comptroller on transfer matters.

1911

William L. Underwood was formerly Deputy Collector of Customs in charge of the Port of Patchogue, L. I. **Dr. Lester D. Volk**, now practicing medicine at 1314 East 19 Street, Brooklyn, was a member of the State Assembly and a Coroner's Physician.

1912

William Guerin, formerly Chief of the Bureau of Fire Prevention which

he organized in 1911, was Deputy Chief of the New York City Fire Department. **George E. Polhemus** was a State Assemblyman in 1915 and an Assistant United States Attorney for the Eastern District from 1918 to 1920. **May Patterson**, deceased, was Assistant Counsel to the Transit Construction Commission. **Stephen A. Rudd** resigned from his position as Alderman which he held for ten years to start his term in Congress in December, 1931.

1918

Maryland E. Burns, now Mrs. Justice Edward J. Byrne, graduated from the New York Medical College in 1917, and is at present a practicing physician. **Paul Lawrence Clifford**, deceased, entered the law school in Oct. 1915 and completed two years of his law course in June 1917. When the United States declared war, he went overseas and on July 20, 1918, at Lincoln Field near Waddington, England, as a result of an accident to the airplane which he was flying in the discharge of his duties, he sustained injuries from which he died almost instantly. His professors and friends greatly respected his intelligence and legal ability and had looked forward to his success in the legal profession. **Stephen F. Burkard** was a New York State Senator in 1928 and 1929.

1919

Madeline A. Jacobson was Secretary of the Women's Law Club, and a Corporal of the Women's Police Reserve. She is also a member of the Edith Cavell Post of the American Legion, and during the World War was stationed with the Inspector of Engineering Material of the United States Navy. **Frank B. Bozza** was an Assistant Prosecutor for Essex County, New Jersey. **Charles A. Schneider**, formerly a Deputy Attorney General of New York, was reappointed to that position in February, 1931. Mr. Schneider was recently reelected Secretary of the Law School Alumni Association.

1920

Leonard Burbaum, formerly a United States Naturalization Examiner for New York, is practicing law at 886 Broadway, Brooklyn. **Mogannum Elias Mogannum** upon passing the Palestine Bar Examination became a leading attorney in Jerusalem. Mr. Mogannum is a graduate of the University of Rochester. **William B. Groat Jr.**, practicing law at 160-16 Jamaica Avenue, Jamaica, was Assistant District Attorney of Queens County in 1921 and was appointed Deputy Attorney General in 1925. **William Bernstein**, a member of the American Society of Public Accountants and the New York State Society of Public Accountants, has his offices at 25 West 43 Street, New York.

1921

John C. Boylan was a Deputy Attorney General for two years, an Assistant District Attorney, and Justice of the First District Municipal Court of Richmond. In 1928, he was elected to Municipal Court Bench for a term of ten years.

Daniel L. Malbin was appointed a City Magistrate by Mayor Walker in 1931. His term extends to 1939. **George Dyson Friou** was a candidate of the "No Deal Party" for the Supreme Court in the 1931 elections. Mr. Friou has his law offices at 189 Montague Street, Brooklyn. **Selim Shehadeh**, known at the law school as Peter George, is a Magistrate in Joffa, Palestine. Mr. Shehadeh conducts his court, which has jurisdiction over both civil and criminal actions, according to the procedure of the New York Courts. The Hebrew, Arabic and English languages are used in the pleadings and during the trials.

1922

Henry H. Klein was the First Commissioner of Accountants of New York City from 1918 to 1924.

ALUMNI HEAD'S FAREWELL

THROUGH the courtesy of the editors of The Justinian, the officers of your association have been accorded this opportunity to say farewell to you upon the conclusion of their year of office, and we welcome it in order to bespeak your continued support for the Alumni Association.

The day of individualism is passing, if indeed it has not already gone. Organization is dominant in every field of activity. Even in the spheres of philanthropy and education, the power of organized effort is increasingly in evidence. Whatever may be our individual predilections as to the control of communal affairs, the advantages of organization are so manifest that no choice remains as to the actual conduct of life.

There is still an important issue however. That issue is how organization control is to affect our communal and individual life—whether or not its influence shall be wholesome and helpful; and that question, depending, as it does, upon the part which enlightened, capable men take in general organized effort, points the way to usefulness for each separate organization.

This may appear to be an over-serious preachment for so loose-jointed and limited a body as an alumni association, which at best affects life chiefly from the side-lines. But any association which is concerned, though indirectly, with the extremely important question of legal education and with the welfare of a great school of law, whose thousands of graduates exert an influence in all the diverse fields of life, is capable of being a power for good not to be ignored or lightly regarded.

The enthusiastic support which your officers have had in the year now closing is proof of your interest. With your cooperation and active participation in its affairs, The Alumni Association can go on to greater strength and a future of worthy accomplishment. On behalf of the officers and the executive board of the association, I thank you for what you have done and ask for even more active interest and support for the incoming administration.

CLARENCE G. BACHRACH,
President

Charles Solomon was a member of the New York State Assembly in 1920.

1923

Anthony Hoekstra was appointed a Magistrate in Queens by Mayor Walker on March 16, 1932. He has his law offices at 155-31 Jamaica Avenue, Jamaica, L. I. **Irwin T. Longworth**, a member of the Nassau County Lawyers' Association, was appointed Assistant United States Attorney for the Eastern District in 1925. **Henry L. Seidman**, a Certified Public Accountant at 202 West 40 Street, New York, is a member of the American Institute of Accountants, the American Society of Public Accountants, and the New York State Society of Certified Public Accountants. **Dr. Joseph R. Valinoti**, a member of the American Medical Association, New York State Medical Society, and the Kings County Medical Society, is a practicing physician at 927 Bedford Avenue, Brooklyn.

1924

David Edgar Stewart Jr., practicing law at 66 Court Street, Brooklyn, is a Professor of Law at St. John's Law School. **Eleanor L. Curnow**, Registrar of the Law School and Dean of Women, has been the National President of Phi Delta Delta, an honorary Legal Society, for the past two years. Miss Curnow is a graduate of Barnard College, and received the degree of Doctor of Jurisprudence, Magna Cum Laude, from the Law School in 1926.

1925

David E. Borten, associated with the law department of the Title Guaranty and Trust Company, was a candidate for the Assembly in 1929. **Eli Resnikoff**, practicing law at 225 Broadway, New York, is a member of the Jerusalem Bar. **Edward I. Aranow**, associated in the practice of law with Supreme Court Justice Cohen, was Assistant United States Attorney under Mr. Tuttle and was re-appointed to that position in 1931. **Dr. Israel B. Malkin** is a specialist in Medico-Jurisprudence with offices at 1557 Eastern Parkway, Brooklyn. Dr. Malkin graduated from Long Island College Hospital in 1921, and is a member of the American Medical Association, the New York State Medical Society, and the Kings County Medical Society. **Harry S. Fischer**, practicing at 274 Madison Avenue, New York, is a member of the American Statistical Association and the American Economic Association.

Rosaline A. Herbert is a member of the Mother's Kindergarten Club of Public School 134. Miss Herbert resides at 708 East 57 Street, Brooklyn.

1926

John J. Bennett Jr., Attorney General of New York, was for ten years connected with the banking house of J. P. Morgan & Company, as assistant to Edward R. Stettinius, as partner of the firm. He was a Professor at the Law School from 1928 to 1930, Secretary of the New York Citizens' Committee on Transit and Housing in 1927, Director of and Counsel to the Kingsboro National Bank, and Chairman of the Reserve Depreciation Fund Board under city subway contracts. Mr. Bennett is also a member of the Brooklyn Bar Association, Brooklyn Chamber of Commerce, Brooklyn Lodge No. 22, Benevolent and Patriotic Order of Elks, Emerald Society of Brooklyn, and the United States Army Officers Reserve Association. **Sylvan L. Cussel** is a member of the Junior Federation of New York, and has his law offices at 44 Court Street, Brooklyn. **Morris Friedman** died recently at his home at 491 Hinesdale Avenue, Brooklyn. **Freda Weinstein** and **Lee Hermann**, now Mr. and Mrs. Lee Hermann, are both members of the 1926 class and have been practicing law at 16 Court Street, Brooklyn, under the firm name of Hermann & Hermann. In the near future Mr. and Mrs. Hermann will journey westward into the State of Colorado, where they expect to practice law after being admitted to the bar of that state on motion.

1927

David D. Marcus, who became a member of the firm of Stevenson & Marcus at 32 Court Street, Brooklyn, on his admittance to the Bar, is a graduate of the United States Military Academy at West Point and was a Candidate for the State Assembly in 1928. In 1929, Mr. Marcus was appointed Assistant United States Attorney for the Southern District which position he still holds. **Emanuel H. Waldman** is practicing law and has his office at 1440 Broadway, New York.

1928

Charles Phillips, who has acted as a proctor in the Law School Practice Court, is in private practice at 1457 Broadway, New York. **Abraham I. Gladstone**, practicing law at 406 Lexington Avenue, New York, is a Cer-

(Continued on Page 4)

Alumni Dinner Guests

The list of guests at the Alumni Association Dinner, held at the Hotel Bossert, April 12, constitutes an unprecedented array of prominent men and women.

The roster of those present follows:

Dais

Bachrach, Clarence G., Bennett, Hon. John J. Jr., Easterday, Vice-Dean John H., Foley, Hon. James A., Howell, Hon. Leone D., Meagher, John J., O'Brien, Hon. John P., Richardson, Dean William Payson, Sykes, President, Richard Eddy.

Table No. 1

Finn, Edgar N., Finn, Genevieve, Flynn, Frank J., Flynn, Mrs. Frank J., Gaynor, Edward J., Gaynor, William J., Gelson, Honour B., Unser, Gertrude.

Table No. 2

Carpenter, Richard L., Gingola, Oliver J., Harter, Eugene W., Kinnball, Willard A., Mackey, Joseph W., O'Brien, Frank, Welsh, William Wallace.

Table No. 3

Barton, Bernard W., Burlingame, Alvah W., Divinelli, George W. L., Gilkes, Percy G. B., Marshall, George A., McCarty, Charles H., Milligan, Fred G., Smyth, James E., Widder, Samuel, Willis, Louis Charles.

Table No. 4

Aronson, Jacob, Brown, James S. Jr., Cady, Edwin W., Clifford, James D., Curtin, John J., Curran, Dr. Edward T., Doherty, James E., O'Connor, Francis P., Robichon, Hector A., Tuzo, Anthony F.

Table No. 5

Bachrach, Herman S., Bisguyer, Samuel S., Goldberg, Herman, Goldenthal, Nathan A., Goldstein, Helen, Gottlieb, Rose, Klyde, Charles J., Lembersky, Samuel, Lieberman, David.

Table No. 6

Bachrach, Mrs. Clarence G., Carroll, Hon. William B., Carswell, Mrs. William B., Gerstenberg, Charles W., Hagendorn, Mrs. William V., O'Brien, Michael C., O'Brien, Mrs. Michael C., Richardson, Mrs. William Payson, Wright, Harrison B.

Table No. 7

Beer, Henry Ward, Frankham, Markley, Godley, Leon G., Howard, R. A., Jardine, William N., Lucia,

Harry S. Medler, James L., Richardson, David A., Sealy, Donald F., Wrigley, Roy F.

Table No. 8

Beyer, Frederick W., Carroll, Joseph, Cohen, Charles N., Conroy, Joseph M., Cotillo, Hon. Salvatore A., Faber, Hon. Leander B., Groat, William B., Hagendorn, William U., Morris, Hon. William J. Jr., Pette, Hon. Nicholson M.

Table No. 9

Ahern, Fred M., Dillon, Rev. William T., Doyle, John C., Gilvary, James H., Keck, Frederick A., Maloney, Richard J., McDermott, Lieut. John, U.S.N., Milde, James F., Stephens, John P., Tomb, Captain James H., U. S. N.

Table No. 10

Crawford, Benjamin T., Crawford, Mrs. Benj. T., Drew, Albert, Drew, Mrs. Albert, Goddards, Leonard H., Goddard, Mrs. Leonard H., Meagher, Mrs. John J., Willson, Jay G., Willson, Mrs. Jay G.

Table No. 11

Burchell, Arthur L., Cuff, Hon. Thomas J., Fawcett, James M., Fisher, Edward Leroy, Hegeman, Adrian, Morach, Edwin C., Mulholland, Edmund P., Peters, Thomas P., Schutte, Harry H.

Table No. 12

Beck, Dr. Walter S., Beck, Mrs. Walter S., Daru, Robert, Rivkin, Mrs. Louis, Rothchild, Jay Leo, Rothchild, Mrs. Jay Leo, Schrieber, Benjamin F., Spector, George, Spector, Mrs. George.

Table No. 13

Flouton, Allen B., Flouton, Mrs. Allen B., Frederick, Mrs. Stella B., Gregory, Percival H., Humble, Henry W., Robinson, Nelson L., Robinson, Mrs. Nelson L., Sanborn, Frederic R., Vosseler, Edward A., Vosseler, Mrs. Edward A., Burke, Edward C.

Table No. 14

Donlan, James F., Klein, Henry H., Levin, William, Luber, Harry I., Luber, Mrs. Rose, Merchant, Mrs. Mitta F., Newman, Julius F., Welton, William J.

Table No. 15

Davis, Elinor, Foster, Agnes P., Kelly, Mary, Karansky, Celia, Lindborg, Lillian F., O'Halloran, Ann, Urey, M. Holland.

(Continued on Page 5)

Reorganization Plan of Alumni

A plan for the reorganization of the Alumni Association, so that it may be strengthened in its effect and influence, has been tendered, in detail form, by Professor Clarence G. Bachrach, president of the association.

The new plan of organization includes a more thoroughly concreted affiliation of the officers, the executive board and the alumni council. The executive board, composed of the president, three vice-presidents, a secretary, a treasurer and three members from the student body at large, will include the officers of the preceding year, notably because of their experience. This will limit the number of the board to 15 members at the maximum. The tendency throughout the entire structure will be to effect a more active organization, which will actually function, between the students and the alumni.

The work of the board, in part, will be to arrange for annual reunions, foster alumni-student relationships, hold meetings other than the annual one, plan public forums and supervise and aid in the suitable placement of newly graduated students.

The alumni council, whose function is to be purely advisory, has, at the present time, a membership of

approximately 60, and includes men and women as representatives from all of the 30 classes of Brooklyn Law School to date.

The fundamental idea underlying the creation of this council was to develop an organ which would be representative of the opinion of 6,000 alumni. The members of the council, selected not on the basis of their activities or their prominence, but solely on the basis of their interest in the law school, will be requested to offer comment on divers problems arising in connection with the school, even so far as a proposed addition or elimination in some phase of legal education. Questions will be submitted to this body for their approval or condemnation, as the case may be, on such matters as the public forum, radio broadcasts, and addresses of importance. In each instance, though, the alumni council will act not as an executive, but as an advisory body.

All alumni are members of the alumni association by virtue of their graduation from Brooklyn Law School, and without the payment of dues. During the year, however, the alumni, to take care of the incidental expenses entailed in operating the organization, are expected to voluntarily contribute any nominal sum.

Expediting Justice-Judges And Procedural Reform

Rothschild Advocates Additional Judges to Clear Court Calendars; Fears Hasty Decisions



A recent publication of the Institute of Law ("The King's Bench Masters and English Interlocutor Practice," by Edward S. Greenbaum and L. I. Reade), though written to present the advantages of the English system of civil procedure, demonstrates rather strikingly how easy it is for a myth to develop, even in the stony soil of lawyers' minds. The explanation must be that distance lends enchantment. We are quite accustomed to hear of the virtues of English procedure and the expedition of English justice. But few of us realize that these are characteristic of English criminal, and not of English civil, administration. And we ascribe to the mechanics of systems, what is the exclusive virtue emerging from the culture, social background, political outlook and psychology of the men who administer them and the subjects of the experiment.

Accordingly, it is startling to observe that in January of 1923, "The Observer," an English periodical, had occasion to comment:

"Few laymen would say the Law Courts are speedy. At this moment some 4000 litigants are awaiting judgment. Suits in which the writs were issued eighteen months ago have still to be heard. Ten months is the average period which the litigant must wait after his case is ready. From time to time there has been talk of reform * * * So, perhaps, in this jubilee year we shall see changes which will take all the sting out of the remark of the cabman who was requested by Lord Coleridge to drive to the Courts of Justice, and who asked where they were. 'You, a London cabman and don't know where the law courts are?' To which the 'cabby' replied, 'Oh, but you said the Courts of Justice.'"

Criticism of the law's delays is of course, a constituent part of the history of our judicial system. The description in "Bleak House" of the old Chancery Court (referred to, P. 104 of the above-mentioned book) might well be transferred to a modern setting, i.e., a court "which has its decaying houses and its blighted lands in every shire, which has its worn out lunatic in every madhouse, and its dead in every churchyard, which has its ruined suitor, with his slipshod heels and threadbare dress, borrowing and begging through the round of everyman's acquaintance, which gives to monied might the means abundantly of wearing out the right; which so exhausts finances, patience, courage, hope, so overthrows the brain and breaks the heart, that there is not an honorable man among its practitioners who would not give—who does not often give—the warning, 'Suffer any wrong that can be done you rather than come here.'"

And even what is not an unusual scene in a magistrate's court, we find appended to an old engraving of Hogarth, in 1803:

"Here Justice triumphs in his Elbow Chair
And makes his Market of the trading Fair;
His Office Shelves with Parish Laws are cradled
But spelling Books and Guides between em plac'd
Here pregnant Madam screens the real Sire,
And falsely swears her Bastard Child for hire

Upon a rich old Letcher who denies
The Fact and vows the naughty Hussie lies;
His Wife enrag'd exclaims against her spouse,
And swears she'll be reveng'd upon his Brows
The Jade the Justice and Church Ward'n's agree,
And force him to provide security."

Like the poor wretch in Victor Hugo's "Les Misérables," who was quite reconciled to his death by execution, until he discovered that his companion in misery was to be spared, that fate, it is quite consoling, if not refreshing, to find that elsewhere and in all times, the problem of the law's delays has called for solution.

But in the truth which is thus revealed, lies the real value of the comparison. For it shows that the goal in view is not to be attained by procedural readjustments, but in dispatch of the trial of cases. England, for years, has had what we now consider the highest forms of simplified procedure. Yet, its calendars are clogged, and public criticism is keen. The reason is not difficult to grasp. Any system becomes inadequate when the number and complexity of cases increases out of all proportion to the personnel available to dispose of them. The neck of the bottle is too small to allow easy passage of all that crowds through.

Procedure Unnecessary

If we could only insure expeditious trials much of our system of procedure might well go by the board. For what are motions for judgment on the pleadings, to strike out as sham, and for summary judgment—to select a few of the more striking remedies—but devices for accelerating the day of judgment? And what would be the purpose of such acceleration if the trial itself was readily available?

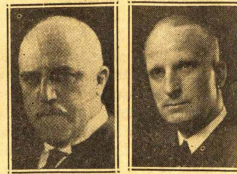
Nor do we mean by this to discourage procedural reform, but rather to assign to it its proper function, not as an expedient for eliminating, but to improve the quality of justice by minimizing its acquired characteristics of a game. Nor do we mean to speak in absolutes, for to a degree every improvement tends to expedition. For procedural reform is an essential part of the judicial process. Indeed, the relief for violation of substantive right is directly proportionate to the adequacy and efficiency of procedural remedy. Right and remedy are but different aspects, in successive stages, of the administration of any system of justice. And, undoubtedly, even correction in administrative detail, such as the new calendar system now in operation in New York County, has distinct advantages in serving convenience of judges and lawyers and relieving the high tension of waiting for "something to turn up," which resulted in irritations and frayed nerves before the trial even got under way. Under the new conditions, it is quite true that the lawyer begins to feel that he is an officer of the court, not merely in appellation but in fact.

Besides, procedural reform is an essential corrective to judicial misinterpretation of statute and rule. The recent changes in the scope of Rule 113 are an excellent example of this. Rule 113, authorizing the motion for summary judgment, in contract cases for liquidated damages, would have been quite unnecessary had not the courts abandoned an earlier and more liberal view, that plaintiff might have judgment, notwithstanding the sworn denial in the answer and the supposed constitutional guarantee of trial by jury, thus acquired by a reckless defendant—where it was apparent that

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ALUMNI REUNITED AT DINNER

(Continued from Page 1)
to tell his story in a human way without interruptions and exceptions common to American courts. He urged the change on the ground that the restricted method of examining a witness on the sole basis of fact often works injustices.



Surr, J. P. O'Brien Surr, G. A. Wingate

Dean Richardson assured the gathering that despite the present chaos in government, education and finance, the Law School will continue to unflinchingly fulfill its obligation to the legal profession by delivering attorneys of the highest calibre. Commenting upon the strong agitation by the Bar Association and other legal societies against the evening law student, the Dean declared that no distinction should be drawn between full and part time students. It was his opinion that in the final analysis the determining factor should be the lawyer's scholarship and experience in practical affairs.

The Dean paid his tribute to the achievements of the new Law Review and asked for a rising vote of applause for the editor, Milton E. Canter, and his associates.

Plans were announced for the creation of an Alumni Council to serve as Advisory Board to the school on matters of legal education and outlined further plans in the reorganization program.

The following officers were elected unanimously for 1932, after their names had been submitted by Prof. Thomas P. Peters, chairman of the nominating committee.

Louis Charles Wills '05, President; Arthur L. Burchell, '12, First Vice-President; Frank E. Lammers, '23, second Vice-President; Ida L. Woolworth, '05, Third Vice-President; Charles A. Schneider, '19, Secretary; James L. Medler, '09, Treasurer; Executive Board, Samuel G. Coler, '25, Maxwell Ross '29, Abraham Sussman, '31.

INITIAL LAW REVIEW

(Continued from Page 1)

ful, they must perform their important functions, they must be diligent and prudent, and, when tried in the balance, they must be found not wanting. If they fall short they must be prepared to pay the penalty in meal and in malt. If it be objected that this responsibility is too stringent, the answer is simple: corporate business life otherwise cannot go on."

An interesting feature in the Review is a presentation of a discussion on the relationship between the corporate fiduciary and the Bar. "The New York trust institutions," holds Merrel P. Callaway, Vice-president of the Guaranty Trust Company, "do not practice law. We have no desire to practice law and would not if we could. It is not only our practice, but our desire to have the will and trust agreement drawn by the testator's or grantor's own attorney, or one of his own selection and so we insist."

Independent Advice Necessary

In his article, John G. Jackson, Chairman of the Committee of the American Bar Association to Investigate Illegal Practice of the Law maintains that the true protection of a prospective testator or trustor consists of independent advice from an attorney not embarrassed by his relations to any corporate fiduciary. He stresses that the decisions of the courts have constantly pointed out the impropriety of an attorney securing clients through the solicitation of a bank or trust company.

Attorney-General John J. Bennett, Jr., in his contribution, "The Development of the Law as Seen in Work of the Office of the Attorney-General," asserts that the office is a powerful aid to New York State when it adventures into hitherto unvisited fields of political, social, and economic endeavor.

The Law Review also contains timely book reviews submitted by Max D. Steuer, George G. Battle, Arthur G. Hays, David L. Podell, Bruce Smith, Dean Donald Slesinger of the University of Chicago School of Social Science, and Prof. E. W. Cady and D. F. Sealy, as well as notes, decisions and book notes.

Milton E. Canter is Editor-in-Chief. The board consists of Edgar Loew, Decisions Editor, Moses M. Shapiro, Book Review Editor, John D. Clarke, Julius Datler, Benjamin Gise, Samuel Hendel, Jerome Prince, Augustus Froeb, Esther Bogner, Gerald Dermody, Emil Cramer, Solomon Portnow, Simon Klein, Vincent Gallagher, Ralph Saron and Norman Adolf.

SUMMER SESSION

The first Summer Session of Brooklyn Law School will begin on Monday, June 20, and will end on Friday, September 2. The courses offered are the same in content and character as those given in regular sessions. They carry full credit towards the Bachelor of Laws degree and thus permit the student to shorten the elapsed period of the three-year course of instruction required for the degree.

Eleven Weeks Required

Attendance upon three consecutive sessions of eleven weeks each constitutes a year's work. Students commencing the study of law in June, 1932, and continuing through two regular school years and three summer sessions may thus complete the course leading to the Bachelor of Laws degree by September, 1934, and qualify for the October Bar examination in that year.

Two sessions will be held daily in the forenoon from eight-thirty to ten-thirty and in the evening from six to eight.

Those interested in summer session work may secure further information at the office of the Law School.

PRIZE TRIAL

(Continued from Page 1)

will represent the plaintiff in a death claim against an insurance company are: Joseph L. Martin, Myron Maged, Dr. Robert Rivkin, Moses Shapiro, Joseph Tefenbrun, Fannie Galt, Arthur Milligan, Louis Marchisio and Oscar Singer. Attorneys who will represent the insurance company, the defendant in the action, are: Herbert Ferster, Joseph Freifeld, William Lotz, Charles MacDonald, Abraham Gaze, Abraham Olian, Samuel Dimshitz, Simon Klein and Milton Jacobson. Milton M. Meyer will proctor the attorneys representing the plaintiff, and Jacob Padawer, Joseph Eckhaus and Emanuel Aaronson will coach the attorneys for the insurance company.

The practice court trials have gained wide recognition and have received many and varied commendatory reports from noted jurists and newspapers throughout the country.

Murray N. Nathan will act as clerk of the prize trial and Joseph Martin and Moses Shapiro will head the committee in charge of the dinner.

Laws Of Ancient Iceland

By Julius L. Sackman

IN 1930 there was celebrated at Reykjavik, in Iceland, the millennial anniversary of the Icelandic Al-Thing or General Assembly. This Parliament is the oldest contemporary democratic institution in the world. Its decrees are respected, its laws held in high esteem. Not always, however, has it commanded the attention and the obedience which it now receives. There was a time, in its early years, when the Al-Thing's enactments were honored more in the breach than in the observance.

Let us look back at Iceland in the year 930. Let us look at the law of Iceland, as it is embodied in the ancient codification of laws which the Vikings called the Grey Goose. It is said by some authorities that this collection was called the "Gray Goose" because grey goose quills were generally used in writing Icelandic manuscripts; others say that it was so called because the manuscript copy of the laws was bound in a grey goose skin; and still others are of the opinion that the name was given as a symbol because a grey goose was formerly supposed to live for ages.

Women Were Chattels

Whatever the reason for its name may have been, the collection itself exhibits a striking contrast between the rudeness and primitiveness of an extremely archaic society and the refined intricacy of a semi-developed system of law. There is presented to us a picture in which private war is constantly going on, privacy is an honorable occupation, slavery exists openly, and there is no state administration to speak of. On the other hand, government has progressed sufficiently to make elaborate provision for the definition of legal rights process.

The women of today may thank their lucky stars that they were not born a millenium sooner, for, despite the romanticism of the ancient Vikings,—despite the breathlessness with which the modern maid may look upon these ancient Norsemen, it remains a fact that women in those days were mere chattels,—so much property to be bought and paid for by the highest bidder. Personal liberty was indeed at ebb tide. A father might deliver his child into slavery for the payment of his debts, and the insolvent debtor, too, might be made a slave. But, on the other hand, there were rules not unlike those of our modern system of jurisprudence, whereby the guardianship of a minor's estate was regulated and whereby it was permitted to apply a portion of the property to the support of a father, brother or sister who was in need of such support.

In his essay on Race, Emerson had this to say about these people: "These Norsemen are excellent persons in the main, with good sense, steadiness, wise speech and prompt action. But they have a singular turn for homicide; their chief end of man is murder, or to be murdered. Cars, scythes, harpoons, crowbars, peatknives, and hayforks are tools valued by them all the more

for their charming aptitude for assassination. A pair of kings, after dinner, will divert themselves by thrusting each his sword through the other's body, * * *. Another pair ride out on a morning for a frolic, and, finding no weapon near, will take the bits out of their horses' mouths and crush each other's heads with them, * * *. The sight of a tent-cord or a cloak-string puts them on hanging somebody, a wife, or a husband, or, best of all, a king. * * * King Ingiald finds it vastly amusing to burn half a dozen kings in a hall, after getting them drunk. Never was poor gentleman so surfeited with life, so furious to be rid of it, as the Northman. If he cannot pick any other quarrel, he will get himself comfortably gored by a bull's horns, like Egil, or slain by a landslide, like the agricultural king Onund. Odin died in his bed, in Sweden; but it was a proverb of ill condition, to die the death of old age. King Hake of Sweden cuts and slashes in battle, as long as he can stand, then orders his war-ships loaded with his dead men and their weapons, to be taken out to sea, the tiller shipped, and the sails spread; being left alone, he sets fire to some tarwood, and lies down contented on deck. The wind blew off the land, the ship flew, burning in clear flame, out between the islets into the ocean, and there was the right end of King Hake."

It is curious to note, however, that although homicide and murder were common, the punishment of death was never prescribed. Then, too, there were very fine distinctions as to who might sue for the penalty for homicide. Under modern systems of law it is always the state or the people in general, or the government in some representative collective form that has the power to redress a wrong, but, among most ancient peoples, it was deemed a matter of private satisfaction and individual vengeance.

Libel and Slander

An interesting resemblance to early Roman law may be found in the extreme severity of the law relating to libel and slander. The Icelanders were notorious for their poems of hate, their verses of wickedness, meanness and infamy. The poems were usually of the coarsest description. Scandal, slander, ill-natured remarks on neighbors, and abusive language were indulged in at their social meetings to an extent that called for legislative interference. If this is what happened at their social affairs, one may well imagine the stirring scenes and the pithy invective which punctuated their less sociable moments.

It was accordingly enacted that no one should compose verses of another, even in his praise,—and it mattered not the statement was true. To be a phrase-monger and to give a man a nickname was punishable by banishment. To teach or to repeat the verses of another was to incur a penalty equal to originally uttering

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ALUMNI NOTES

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tified Public Accountant. Mr. Gladstone is a prominent member of many fraternal and charitable organizations among which are the Masons, Elks, United Israel Zion Hospital, the Brownsville and East New York Hospital, Brooklyn Hebrew Home and Hospital for the Aged, the Brooklyn Federation of Jewish Charities, and the Jewish Publications Society.

1929

Samuel S. Googel, who on his admittance to the Connecticut Bar became an associate in the practice of the law with David L. Dunn, at 350 Main Street, New Britain, Conn., was recently appointed a Deputy Judge of the Town Court of Plain-

ville by Governor Wilbur L. Cross. He received his early education in the local schools of New Britain and the Bentley School of Accounting and Finance in Boston. He passed the Connecticut Bar Examination in June, 1920, and in the following November was nominated and elected representative to the General Assembly. Mr. Googel resides at 507 East Street, New Britain, Conn., and is a member of Bnai Brith, Moose and the Knights of Pythias.

1930

Lucie Schumer is secretary to Professor Edwin W. Cady of the Law School. Miss Schumer received the degree of Doctor of Jurisprudence in 1931. Dr. Jacob Daniels, practicing at 1141 President Street, Brooklyn, is a member of the City College Club.

CONTRACTS UNDER SEAL

By Prof. Roy F. Wrigley

SUPPOSE that a contract under seal is made by a corporation as agent, in the agent's own name, on behalf of corporate principals in a State wherein by statute all distinctions between sealed and unsealed instruments are abolished, may the principals enforce the contract so made to which they are not parties?

This question was squarely raised and answered in *Indian Territory Illuminating Oil Co. v. Bartlesville Zinc Co., et al.*, 288 Fed. 273, (C. C. A. Third Cir. Other phases of this litigation will be found in 263 U. S. 673, 701, 68 L. Ed. 500, 514; 299 Fed. 375.), although the opinion there reported does not comment on the point.

In that case two New York corporations, the Zinc Companies, in the name of their agent, an Oklahoma corporation, entered into a contract under seal in the State of Oklahoma with the Indian Territory Company, a New Jersey corporation. The contract was essentially one for the sale of natural gas by the Indian Territory Company as vendor to the Smelter Company, the Zinc Company's agent, as vendee. The issue as to the existence of the contract having arisen between the Zinc Companies and the Indian Territory Company, the Zinc Companies as plaintiffs brought a suit in equity in the New Jersey Equity Court against the Indian Territory Company as defendant, *inter alia*, to secure a decree adjudging the existence of the contract, decreeing specific performance, and for other relief.

In certain amendments to its answer the defendant pleaded that the contract was in fact sealed with the corporate seals of the Indian Territory Company and the Smelter Company and was in law a sealed instrument; that said contract was between Indian Territory Company, of the one part, and Smelter Company, of the other; that the plaintiffs were not parties to said contract and could not maintain any suit or action thereon, the only one entitled to enforce said contract, if enforceable at all, being the Smelter Company, the corporation with which it was made inasmuch as said contract was in law an instrument under seal.

In their supplemental reply the plaintiffs alleged that the contract was a contract entered into in the State of Oklahoma between the defendant and the Smelter Company, which Company, as the defendant always well knew, was acting as the agent for the plaintiffs in the making of said agreement; that under the laws of Oklahoma all distinction between sealed and unsealed instruments had been abolished by Section 949 of the Revised Laws of Oklahoma, 1910, which is as follows: "All distinctions between sealed and unsealed instruments are abolished," and that the plaintiffs were entitled to maintain the action.

This reference to the pleadings will show that the issue was squarely raised and was necessary for determination.

In their bill of complaint the plaintiffs prayed for an injunction *pendente lite* which was granted by the District Court in an unpublished opinion by then District Judge Lynch. This opinion contains the only reference to the point under discussion, which is as follows:

"PLAINTIFFS' MOTION FOR AN INJUNCTION PENDENTE LITE"
Lynch, District Judge:

"Under a written contract the defendant from leased wells produced and supplied to the Smelter Gas Company for use at the plaintiffs' smelters gas fuel at the rate of four cents per 1,000 cubic feet. The smelters and wells are all located at Bartlesville in the State of Oklahoma."

"On July 15, 1920, the plaintiffs filed their bill in this court praying for an injunction enjoining defendant from disconnecting its wells from the pipe lines of the plaintiffs, and from interfering with the connection by the plaintiffs with any new gas well or wells developed in the territory reserved to the plaintiffs under their contract, and from selling or turning over gas therefrom to others than the plaintiffs, or in any manner interfering with the furnishing of gas by the defendant to the plaintiffs pending this cause, as well as permanently, and for an order decreeing specific performance by the defendant of the Smelter Gas contract of August 31, 1912; and that the defendant be ordered and decreed to continue to make deliveries of gas from its wells in the quantities required and demanded by the plaintiffs under its contract within the maximum limit of 18,000,000 cubic feet per day."

"So far as definitely appears, there is no doubt that the plaintiffs are at the mercy of the defendant company for gas fuel which they must have to operate their large plant. It does not appear that they can, at least for the present, obtain this gas fuel elsewhere."

"There is no doubt in the Court's mind that the shutting off of this gas, even for a short time, would work havoc to the business and plants of the plaintiffs."

"ANOTHER ground urged by the defendant is that the contract between the Smelter Gas Company and the defendant is a contract under seal which does not in any wise refer to the plaintiffs, that is to say, does not in any wise show that the Smelter Gas Company acted as the agent of the plaintiffs in the making or performing of the contract, and because of this the plaintiffs have no legal right whatever to bring an action under a sealed instrument which they are not parties to or referred to in any way therein."

"Section 949 of the Revised Laws of Oklahoma, 1910, provides that 'All distinctions between sealed and unsealed instruments are abolished.'"

"In Rule 37 of the Federal Equity Rules it is provided that 'Every action shall be prosecuted in the name of the real party in interest.'"

"This is not an action at law. This is a suit in equity and the plaintiffs allege in their bill that the Smelter Gas Company was formed by the plaintiffs with the knowledge and consent of the defendant so that the gas supply for the two plants of the plaintiffs could be taken by the Smelter Gas Company and by the Smelter Gas Company properly distributed to the plants of the plaintiffs. Not only that, but the president of the defendant company was actually chosen as the president of the Smelter Gas Company. So it would seem that in the premises it is proper for a court of equity, particularly at a preliminary stage, to go back of the form of the situation and look at its substance. I assume that it is needless

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Economic Planning Necessary

Boudin Scores Recent Supreme Court Decision

I consider the Oklahoma Ice Case, decided by the United States Supreme Court on March 21st, 1932, (New State Ice Company vs. Liebman) one of the most important decisions rendered in recent years, in view of the present catastrophic depression, and the all but unanimous agreement that some sort of economic planning has become necessary if we are ever to get out of the slough of despond. I do not recall any matter of great public moment within our generation on which Conservatives and Liberals seem to be so much agreed as on the necessity of some planning, in order to help this country and the world out of its present difficulties. Of course, there are still some die-hards, who believe that we can, somehow, muddle through, and that the "eternal law" of supply and demand will right everything in the end. But the voice of these die-hards is small indeed as far as the layworld is concerned in view of the act that such eminent men of business as Mr. Gerald Swope and Mr. Owen D. Young are in favor of planning of some sort. It is therefore little short of a national calamity that the United States Supreme Court should have ranged itself with the die-hards by the decision in the Oklahoma Ice Case—for that is just what that decision means.

In his presidential address delivered before the American Political Science Association at its last annual meeting at Washington, D. C. on December 28-30, 1931, Professor Edwin S. Corbin, one of the ablest writers on constitutional law in this country today, after a very able review of the problem of "Social planning under the Constitution" ended on a hopeful note with respect to the attitude of the United States Supreme Court with respect to the problem of social planning. It is true that his hopeful note was not due to any past performances by the United States Supreme Court, but rather because he shared in the general optimism which has prevailed since the "reorganization" of the Supreme Court by the accession of Chief Justice Hughes and Mr. Justice Roberts after Judge Parker's nomination had been defeated by the Senate. During the past year or so there has been a general impression that the character of the two new judges, coupled with the great debate on Chief Justice Hughes' nomination and the defeat of Judge Parker's nomination, had resulted in a "New Majority" in the Supreme Court, which looked forward instead of backward. It is probably because of this that Professor Edwin S. Corbin after giving a rather deprecating review of the past performances of

the United States Supreme Court, made the following statement:

"As to the difficulties which face the social planner, the peculiarly American institutions of Judicial Review and Constitutional Limitations do not today assume the obstructive proportions that on first consideration might be expected. This is so for three reasons: first, because Constitutional Law is today more flexible, more free from autonomous concepts, than it has been at any time within forty years; secondly, because the Court itself is more realistically aware than ever before of the essentially legislative character of its task—more aware of its real freedom of choice in the presence of the vast variety of juristic materials which a century and a half of discussion and decision have made available to it; thirdly, because a wider public is also aware of these things, and so not disposed to be unduly impressed by mystifying talk about the nature of the 'judicial process'."

I must confess I never shared in the optimistic view taken by others with respect to the "New Majority." By a curious coincidence I read Professor Corbin's address, which is published as the leading article in the February issue of *The American Political Science Review*, on the same day when the United States Supreme Court decided the Oklahoma Ice Case, but before I knew of that decision. I enjoyed the brilliant address immensely, but could not help but disagree with Professor Corbin's conclusions as quoted above. I was going to write to him about it, but before I could do so down came the decision in the Oklahoma Ice Case with a bang smashing all the hopes of the optimists. For there must be no mistake about it: Notwithstanding the fact that the United States Supreme Court is now frankly acting as a superlegislature and is therefore "free" from old fashioned notions about the functions of the court under the Constitution, such as were laid down by John Marshall and his successors during the first century of the existence of our government under the Constitution, there is not the slightest evidence that this superlegislature in any way realizes the gravity of the present situation, or is in any way more responsive than it used to be to currents of thought in the community—even the thoughts expressed by such eminently conservative gentlemen as

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THE GRAND JURY

By Mordecai Konowitz, Asst. D.A., Queens County

FEW institutions have had so important an influence upon the social and economic and political history of the English speaking countries, as the Grand Jury. Its origin goes back one thousand years to the English of Saxon days, to the time when the unit of political, economic, and social life of the country was the small territorial division known as the "hundred." This geographical district was something between a villa and the county and an impression of its size and population may be gained from the fact that it originated as a place occupied by one hundred families.

In each "hundred" there were twelve senior Thanes or free holders whose duty it was to present and accuse such persons who they found had committed any crime within that hundred. They were sworn that they would accuse no innocent man and acquit no guilty man and met upon summons from the bailiff who was the chief officer of the hundred.

In the performance of their duty they rendered a service which was beneficial to the person wronged; and, if he were killed, to the members of his family, and indirectly of pecuniary benefit to themselves and their neighbors in the community.

It must be remembered that in this period all crimes were regarded as of purely private concern and the sole purpose of bringing offenders to justice was that the person wronged, or in the event that he was killed, his family might be properly compensated by the payment of a sum of money which varied in amount in accordance with the enormity of the offense and the rank of the person injured. To effectuate its purpose, the inhabitants of each hundred were required to bind themselves as sureties to the king for the good behavior of each other and it became the natural responsibility of the twelve senior Thanes to see to it that they would not be obliged to make good their pledge. If one committed an offense he could escape trial and punishment by making the proper payment to the person wronged. If, however, he escaped after the commission of a crime the Hundred in which he lived was liable to be assessed. Accordingly, not the Thanes alone, but each inhabitant of the Hundred was strictly concerned with the matter of law enforcement; and in order to prevent the escape of a wrongdoer it became the duty of any person aggrieved or who discovered a felony to raise the "hue and cry" and his neighbors were bound to turn out with him and assist in the discovery and pursuit of the offender.

In passing, it may be interesting to comment upon the fact that notwithstanding the lapse of ten centuries the number of jurors required for an accusation has remained unchanged. The significance of the number twelve may be traced to the superstition of the early period when great importance was attached to numbers apart from their ordinary meaning. Lord Coke said "That the law in this case delighteth herself in the number twelve and that number is much respected in the Holy Writ, as twelve apostles, twelve stones, twelve tribes, etc."

ACROSS the English Channel lived the Normans, with laws and customs considerably different from their northerly neighbors. With the Normans an accusing body such as was developed by the Saxons was wholly unknown. On the other hand, trial by jury which had been unknown to the Saxons, was known to the Normans.

The effect, therefore, of the Norman conquest of England was to lay the foundation of the system of jurisprudence which is known today. There evolved a system which absorbed both the idea of an accusing body and a trial body of jurors. There is reason to believe that after the Conquest the duties and privileges of the accusing body of jurors were extended so that the very men who presented the accusation were the ones who tried the accused.

Within one hundred years after the Norman conquest came the first change in the number of men comprising the accusing body. By the Assize of Clarendon, A.D. 1166, it was enacted "that inquiry be made in each county and in each Hundred, by twelve lawful men of the Hundred and four lawful men of every township—who are sworn to say truly whether in their Hundred or township there is any man accused of being or notorious as a robber, or a murderer or thief, or anybody who is a harbinger of robbers, or murderers or thieves since the king began to reign. And this let the justices and sheriffs inquire, each before himself." While, as has been pointed out, it was previously considered a matter of private interest to the person wronged or his family, it had now become a matter in which the king was chiefly concerned and the offenses named in the statute became offenses against the peace of the king. This change in the purpose of punishing crime inaugurated a new mode in the machinery designed to enforce the criminal law. This change is reflected primarily in the development of what are known as "itinerant courts" because they moved about from Hundred to Hundred and from county to county at stated intervals.

In order to increase his influence and insure the administration of the Norman laws and customs the king decreed that offenses would be recognized only before the justices of the king's court. Previously, the accusing body presented the offenders to the sheriff who was the chief officer of the county. As the sheriff was appointed by the king it was very much to the king's interest that the sheriffs should be judicial officers from his own court and he accordingly designated members of the royal court as justices and they fulfilled at the same time their functions and duties of a sheriff. These justices moved around with the retinue from Hundred to Hundred, accepting pleas for the crown. They held court in each county and the offenders were presented to them by the accusing body.

As a result of the Norman conquest the influence of the accusing body was somewhat curtailed because the Normans brought with them a system which was known as the "Right of Appeal" whereby the person wronged could make a direct individual accusation; and this system survived the conquest for many years. Thus, one could be accused either by "public voice" which consisted of a presentment by the accusing body or by an appeal at the suit of the person injured or, if he was killed, by his kinsmen, and if the individual appeal should fail, the king himself might sue in behalf of his peace.

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Alumni Dinner Guests

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Table No. 16

Boylan, Hon. John C., Farrell, Edward J., Haag, George, Kairalski, Vincent J., Lammers, Frank E., O'Connor, Edward L., O'Dougherty, Jarold St. L., Tiernan, J. Harry, Van Camper, Henry.

Table No. 17

Abrams, Leonard, Akelmacher, Samuel, Friptu, Abraham M., Friptu, Pauline Shilla, Halperin, Abraham, Rider, Frederic C.V., Jr., Schneider, Charles A., Schneider, Mrs. Charles A., Teitelbaum, Pauline.

Table No. 18

Brill, Abraham, Brill, Hon. Jeanette G., Brown, Brian, Burckett, Mrs. Lillie Alen, Butler, Col. William E., Cords, Charles D., Meldo, Alfred W., Schleider, Ida P., Schleider, Louis, Woolcher, Ida L.

Table No. 19

Block, Arthur, Henderson, Mrs. Frederica E. Clark, Lesnow, Mrs. Bertha M., Eisenberg, Magrena, Kathryn M., Moysse, Kern, Rotwein,

Abraham, Schillinger, Dr. Raphael, Sugarman, Robert R., Swetlow, Dr. George L., Zubrod, Alma K.

Table No. 20

Canter, Milton E., Denmark, Joseph, Goldsticker, Ruth, Jacobs, Milton, Laudeschter, Dr. Irving, Marcus, David, Montefel, Mrs. Shirley D., Schneikraut, Charles Schumacher, Lucie, Seligman, Bernard L.

Table No. 21

Goldner, Rose, Kantor, Louis A., Neglia, Frank J., Rabbino, Lester, Rabbino, Mrs. Lester, Rice, Jay Elwyn, Rubino, Joseph A., Weidner, Frederick Sr., Weidner, Harold W.

Table No. 22

Ball, Ben, Coler, Samuel G., Edson, Dr. George N., Ellis, Emil K., Goldstein, Colia, Robinson, Henry A., Ross, Maxwell and guest, Schiffman, E. Rebecca, Schapiro, Leon J.

Table No. 23

Cain, Josephine, Castner, James A., Curnow, Eleanor L., Eaton, Margaret J., Gruening, John E., Ingraham, Wallace, Kennedy, Harold M., McGrath, John P., Moran, Mary, Van Aken, Rufus Cole.

ODDITIES OF THE LAW

By Webster J. Oliver

JUST what does the average New Yorker know about the law and the many ways he may, without meaning to do so, transgress and thus lay himself open to arrest and possible fine and imprisonment?

"Ignorance of the law excuses no one."

"Every one is presumed to know the law."

These maxims have long controlled our courts in the administration of justice. That they at times work hardships must be admitted, but law can never be synonymous with justice, because law is the work of man, while justice is divine.

Our lawmaking bodies have, year after year, passed more and more laws in an attempt to control our daily lives. While these laws are duly published, they are not read by many. Indeed, some of them are known to only a few, and if they may dare say so, few are lawyers who have read and studied all such legislation. And yet the average citizen is charged with the knowledge of all of them. These statutes, often with severe penalties attached, are broken every day. Those who transgress them in most cases commit crimes and are, in consequence, criminals. The following comments are confined to regulations affecting only the average New Yorker, and no attempt is made to touch upon the obscure and sometimes humorous laws which have been passed in other sections of the country.

What May One Do?

Can you manage an entertainment for charity? Not unless you have been connected with the charity for at least three months preceding the affair, unless you first secure a license. Not only that, but a record of all expenditures must be kept and filed with the Bureau of Licenses. The penalty for not complying with the obligation is a possible fine or imprisonment.

Most of us have cement cellars and metal ash barrels, but this is not always chance or a matter of convenience. It is illegal to deposit ashes in a wooden receptacle on a wooden floor in any building.

If you are thinking of leasing a tenement, that is a building having three or more dwelling apartments, and expect to rent out any of the apartments, don't do it without first securing a license, or you may find yourself in court.

We know our public parks and perhaps feel that if we do not pluck any flowers and "keep off the grass" we can use them practically as we would. Well, there are a few things we cannot do in the park without a permit.

You must not bring into the park any "tree, shrub, plant or flower or newly plucked part thereof." Carried to its illogical conclusion, our Sunday strollers must needs discard their boutonnieres or face arrest.

Neither may you "play upon a musical instrument," so what becomes of our sentimental youth who would take his ukelele, harmonica, or jew's harp on the lake? Perhaps he could defend himself by proving that these were not "musical instruments."

Do not make a speech or offer anything for sale or post any bills or placards in a park and do not throw any ball, bean bag or other object. If you feel like taking the dog for a romp in the park, remember that he must be held on a leash not over six feet in length.

Disorderly Conduct

"Disorderly conduct" covers a multitude of sins, but where the public parks are concerned you don't have to be a ruffian to come under this classification. You may not enter or leave the park, except at the designated entrance ways. So he who hops the low park wall offends against the law. You may not loiter in the park at night where there is no light, whether on your car or otherwise,

And it is unlawful to loiter in any park after midnight under any circumstances, unless you have a permit. So, if you are thinking of strolling home through the park after the theater and seek to admire the beauties of the night, don't do it after midnight. If you do so anyway, and an officer of the law bids you move on, do not argue the matter to the bitter end. The magistrates' court is a cold and uninviting place in which to spend the early morning hours. Is this an extreme case and one purely academic? We know of one instance where this actually happened and an arrest was made.

Frequently an irate tenant raises the question as to how much heat a landlord must supply and in what season and between what hours. Well, all this is fully covered by statute and the answer is that it is a misdemeanor for a landlord to fail to supply a minimum of 68 degrees of heat between 6 A. M. and 10 P. M., whenever the outdoor temperature shall fall below 50 degrees.

Do you remember the common horse troughs of yesteryear? You may have thought they had disappeared because the advent of the automobile had made them superfluous. That is not the reason. The law makes it an offense to serve water to a horse, except from "an individual pail, bucket or other container."

And you smokers who can recall the old-time cigar store in the days of the wooden Indian. Do you recall the old metal cigar cutter on the counter, which snipped off the end of your favorite cigar and the tip of many an inquisitive finger. You haven't seen one lately because in 1922 their use was prohibited by law.

Of course, the average house owner knows he must clear off his sidewalk after a snow storm, but does he know that the statute provides that he must do this within four hours after the snow ceases to fall. Of course, the hours between 9 P. M. and 7 A. M. are not included in this computation. If he doesn't attend to this little job the city has power to do it for him at his expense.

Soap Box Speakers

Have you ever stopped to listen to some "soap-box" orator expressing sentiments which to you might have seemed anything but patriotic and yet you have seen the American flag prominently displayed? This is not a matter of choice with the orator. He is subject to arrest unless he does display the flag.

The placing of house numbers on your house is not a matter of choice either. You may be fined \$25 if you fail to do so.

You city dwellers must cultivate your flowers, but don't put your window box or flower pots on the window sill, unless they are securely fastened, or a summons awaits you.

You may have seen someone throw a broken bottle or some nails into a roadway. It is breaking the law if anyone who has done so, either "accidentally or otherwise" fails to "immediately remove the same." This has a somewhat interesting side light. You motorists are constantly dodging the results of broken windshields and shattered headlights on the street, but under this law the parties to the accident could have been compelled to remove the glass at once.

A recent controversy in Manhattan, given much publicity, drew public attention to a statute which provides that one may not stop within ten feet of a street corner.

Autoists and Street Cars

Harsh words have frequently passed between motorists and motomen when the clang of the trolley gong has irritated. It may not be clearly understood that the motorist must get off the trolley track as quickly as possible, and that the trol-

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The Press Box

(Continued from Page 2)

Peanut Vendor" or a song that sounded like it.

Magistrate Ford decided to let the matter drop.

Washington. — The section of the 1926 Revenue Act, declaring all transfers of property made without an adequate consideration within two years of the death of the donor, taxable as a part of his estate, was declared invalid today by the Supreme Court.

Judge Sutherland, in the majority opinion said, "Such a statute is more arbitrary and less defensive against attack than one imposing arbitrarily retroactive taxes, which this court has decided to be in clear violation of the fifth amendment."

Holly Springs, Miss. — Prosecution of the Railway Express Agency for shipment of 907 live quail threatened to become expensive. The company was fined \$90,700 by a magistrate who held that a State Law was violated by the transportation of the quail to points outside the State. A fine of \$100 was assessed for each bird.

The attorney for the company said today he would appeal, make a separate case out of each quail, and demand a jury trial in each case. He also will demand the birds be brought back for identification. The quail were liberated after their seizure by officers.

Frankfort, Ky. — The Kentucky Court of Appeals today affirmed decision of the lower court refusing a caddy damages for injuries suffered when he was struck on the head by a golf ball driven by Harry W. Embury.

The Court's opinion held that golf players should not be made "insurers of the safety of caddies."

"It is the duty of the driver of a golf ball," the opinion read, "to exercise ordinary care for the safety of persons reasonably within the range of danger. But ordinary care in such situations does not require the impossible. A player is not able to control either the direction or the destination of a golf ball driven by him. Obviously he must give notice to those unaware of his intended play of the purpose to send the ball in the direction of persons so situated as to be in danger. But no testimony discloses any breach of duty by Embury."

East Orange, N. J. (Herald-Tribune) — Jersey justice was administered with its legendary speed, when a driver was arrested for speeding, arraigned, pleaded guilty, and paid his fine and left the court, all within seven minutes of his arrest.

Brooklyn, (Brooklyn Eagle) — Two youths were arraigned on charges of second-degree manslaughter, the outgrowth of a fist fight. In asking for the charge, the Assistant District Attorney said, "The State holds that a fist is a dangerous weapon."

Cambridge, England. (INS) — A verdict in the famous alienation of affections suit in which Justice McCord, noted bachelor jurist, ruled "a woman's body is her own possession" was rendered today. Justice McCord decided against the plaintiff who accused a physician of enticing his wife away. The suit attracted international attention because of the Justice's comment from the bench that a husband has no right to believe that, because he has married a woman, he is lord and master of her body. He enlarged on this theme, venturing the opinion that human happiness and contentment lie beyond the scope of status, books and law, and recommending the laws now covering relations between man and wife be reconsidered in the light of woman's emancipation. He said: "The rights of married women to form independent

friendships and enjoy their own amusements can never be solved by law, but must be determined by standards of loyalty, courtesy and good sense."

New York. — An indictment accusing a broadcasting company of violation of section 50 of the State Insurance Law was disclosed today in General Sessions. The agent of the State Insurance Department alleged he heard a broadcast from the station in which listeners were urged to patronize a certain insurance company. The indictment, for a misdemeanor, is based on the section which requires an insurance company to be approved by the State Insurance Department before doing business in New York State.

Battle Creek, Mich., March 28. — Charged with using his combined office and courtroom as a speakeasy, a justice of the peace was arraigned today on a charge of violating the prohibition law.

Newport, England. (UP) — A miner found life pretty dreary after he had been legally separated from his wife. He inserted an ad in the personal column of a local paper, asking to meet a widow. He received only one reply. He wrote several letters to his mysterious correspondent, finally arranging to meet her. When he arrived, the wife from whom he was separated was awaiting him, with an order to appear in court to answer maintenance charges.

Chicago. — Frank Ginger never moved out of the house he and his wife occupy, yet she charged him with desertion in a suit for divorce. She alleged he told her several years ago that, as far as she was concerned, she was dead. Then he moved into one room, where he has since remained by himself, bringing in canned goods and otherwise caring for his own needs.

LEGAL CLINICS PROPOSED

Harold R. Medina, Professor of Law at Columbia, Lauds Women's Bar; Urges Support of Legal Aid Society; Believes Women Have Excellent Opportunity for Success in the Law

"The function of lawyers in modern society is to adjust or help to adjust different persons in the community to their surroundings," stated Harold R. Medina of the Columbia Law School faculty in an address before Brooklyn Women's Bar Association at the Hotel Pierreport on April 5th.



H. R. Medina

Mr. Medina pointed out that "Lawyers are on trial before the bar of public opinion today for the present maladjustment of society. Less than 10% of the people are able to afford legal services, thus leaving the great majority of the people in a position where they derive no benefit from lawyers and practically no benefit from the law. This may spell the doom of the legal profession unless lawyers become socially minded and recognize their duty to society to bring justice to the destitute and needy."

Szolnok, Hungary. — A writer was arrested today for incitement to photography. The complaint charges him with having made a speech in which he urged working-class camera fans to photograph not only still life, landscapes and so forth, but real life subjects such as riots and police repressive measures. Authorities said his advice was a menace to public order.

As a practical solution, Mr. Medina proposed a system of legal clinics as numerous and efficient as the medical clinics in New York today. "Service in such legal clinics should be a part of our legal lives, just as it is a part of the life of a doctor to serve in a medical clinic."

"The really important, and capable lawyers should give their time and effort to these clinics, just as the surgeons and specialists give their services to their clinics. When these things come to pass, as they must, we shall find less criticism of the Bar and less cause for it."

As a more immediate solution, Mr. Medina suggested that every lawyer support the Legal Aid Society, offer his services to judges and magistrates as a voluntary defender and watch for every opportunity to help those in the community who are in difficulty.

Medina Urges Change

Discussing the position of women as lawyers, Mr. Medina stated that he is a sincere believer of woman's place in the legal profession and that the present situation of admitting women to the Bar and yet not permitting them to become members of a public Bar Association is ridiculous. He added that he has been agitating for this change which he hopes will be effected in the near future.

Women have an excellent opportunity for success in the law, he pointed out, if they will depart from standards already set and develop their own technique and utilize their individual capabilities. Their error has been fundamentally in following where they should lead.

THE GRAND JURY

(Continued from Page 5)

OBSCURITY envelops the history of the Grand Jury during these early centuries. It is interesting to note that the feature of secrecy in the deliberations of the accusing body was observed at about the very time when the Great Charter was signed in the reign of King John and which established the liberties of the people. It was this feature which later enabled the Grand Jury to stand as a bulwark in behalf of the People against the persecution and oppression of the Crown.

I have referred to the widening of the scope of the accusing body so as to permit them to act as trial jurors as well as grand jurors but it should be noted that this development did not come directly after the Norman conquest. It was hindered and delayed by the barbaric custom of trial by wager of battle which the Normans brought with them. Under the system one accused of crime could offer to defend himself by his body in physical combat with the accuser and if he prevailed he was acquitted. The accused, however, had the right to put himself upon the country. Gradually trial by jury superseded trial by wager of battle and the Saxon custom of trial by ordeal and there developed a system of trial by jury which has been recognized as one of the greatest achievements of English jurisprudence.

Origin of the Grand Jury

It was in the year 1368 A.D. during the reign of Edward III, that the grand jury which we know to day came into being. At that time a practice was developed of having the sheriff retain a panel of twenty-four knights to inquire at large in the county and this body was called "Le Grande Inquest" to distinguish it from the Hundred inquest. Because of its county-wide jurisdiction its influence grew and the influence of the Hundred inquests declined. This system did not develop from a change in the statute and indeed

was not materially different from the older institution. It was merely a new branch of an old tree. Notwithstanding the increase in the number of the accusing body the practice continued of requiring the concurrence of twelve jurors to a presentment. This practice has continued to this very day. The form and the duties of the Grand Inquest which I shall hereafter refer to as the Grand Jury, remained practically unchanged throughout the centuries which followed, notwithstanding the violent and sinister influences which were repeatedly brought to bear against it. It started as an arm of the government and in the capacity of representatives of the crown the accusing body ferreted out all crime. It developed, however, into a strong power which steadfastly remained independent of the crown.

This independence was made possible because of the secrecy with which the grand jury held its deliberations. At the beginning it was impossible to preserve the secrecy because when the accusing jurors acted as the trial jurors the judges were permitted to inquire as to how they arrived at their verdict. When, however, the separate trial jury became established such interrogation became unnecessary and it fell into disuse. Furthermore, such interrogation became less important, because of the character of the accusing body. As the jurors were no longer chosen from the hundred but from the county, they generally knew either little or nothing of the facts involved in the crime.

Secrecy Granted

So that, as time went on, the Grand Jury was no longer required to make known to the court the evidence upon which they acted. They met in absolute secrecy and were sworn to observe secrecy, without any reservation whatever in favor of the government. They were selected from the best citizens of the county. As a result they were able, throughout the centuries, to throw off the shackles which previously

were inflicted upon them by the court and the crown and had frequent occasion to thwart the unjust desires of the government.

I shall cite two examples. In the reign of Charles II an attempt was made to indict the Earl of Shaftesbury for high treason. The king's counsel insisted that the evidence be heard in open court and obtained the consent of the chief justice to such a procedure. The Grand Jury desired to hear all the evidence in private but had to yield to the decision of the chief of justice. However, after the Grand Jury had heard the evidence in open court they insisted upon an examination of the same witnesses in their private chamber. After hearing the witnesses they refused to indict and history tells us that "the people fell abhorringly and shouting."

Even as late as 1783 in the State of Pennsylvania there was a case where the justices of the court ordered that one Oswald who had criticized the conduct of the Supreme Court should be indicted for libel. The Grand Jury refused to indict. The judges severely reproved them in open court in an attempt to overawe the inquest and sent them back to reconsider the bills; but the jury refused to return an indictment.

Progress in America

When our ancestors came to America they brought with them all the civil rights, including the system of the Grand Jury, and the Grand Jury succeeded in achieving a freedom from restraint which had been previously unknown in England.

The Constitution of the United States omits a guaranty of presentment or indictment by a Grand Jury, but that omission was remedied by the fifth amendment in the Bill of Rights which makes such presentment and indictment necessary where a capital or infamous crime against the United States is involved. In each state of the Union there is a guaranty of presentment and indictment with respect to particularly

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Conducting A Trial

Noted Counsel for New York Central Offers Important Trial Work Suggestions, Scoring Days of Bombastic Eloquence in Exclusive Justinian Interview

IF it were feasible and worthwhile to take a census of the innermost ambition of all law students, the result would undoubtedly show that with an overwhelming majority of them the dream is to become a trial lawyer. Those of us who during the years of law school and clerkship occasionally listened in at trials will recall with what intense interest we followed the skill, or lack of skill, with which the work at the bar was performed. It is of course, easier to see the defects or deficiencies in the performance of another than to do better ourselves. Indeed, a full recognition of that truism emboldens me, in response to the Editor's invitation, to contribute a few thoughts on trial work.

To state what almost sounds like an anomaly, the trial work that should be performed elsewhere than upon the trial is, frequently, at least as important as that which is performed in the courtroom. That work commences with the preparation of the pleadings. Many a pitfall is dug by verbose, reckless and extravagant allegations. Brevity and moderation are safer. If lawyers would always anticipate the possibility of submitting their clients to cross-examination upon all allegations of a verified pleading, undoubtedly greater circumspection would be employed in the preparation of the documents. A cross-examination that is able to point out inconsistencies or contradictions between allegations and testimony is usually quite effective. Intermediate motions based on alleged defects in the pleadings of the other side ought only be made after careful consideration of the eventualities. If your motion will serve to teach your adversary what is wrong in his papers and enable him to make necessary corrections, nothing of value for your side has been gained by the effort. If the pleadings of your opponent are faulty, let him carry the handicap to or through the trial.

Should Assist Judge

The extent of preparation for trial ought not be measured primarily by the expected duration or even financial importance of the trial. The lawyer who faces the judge thoroughly conversant with the law of his case and equipped, as occasion warrants, with an intelligent memorandum of law usually reaps the benefits of favorable reaction. It is easier to assist the judge to think along the correct lines of the law of the case at the outset of a trial than to convert him at or near its end. For that reason, it is a good rule to have a brief on the law ready for submission when the trial commences. The very preparation of such a paper serves also to keep before the lawyer the necessary elements of his own proofs and the vulnerable spots in his adversary's case.

Advice on the conduct of the trial itself suggests too wide a field for this contribution, to say nothing of the presumption that would be involved if it were here attempted. A few general suggestions without any pretense of originality may, nevertheless, be made.

Toward the judge, a lawyer ought always be respectful but unafraid. When a lawyer is able to conduct himself in that composite attitude, both bench and jury pay more attention to him and reward him the better for it. Inconsequential or technical objections should be avoided as much as possible. We should bear in mind the increasing impatience with such objections and seek to avoid the feeling that there is any effort to exclude relevant proof of the actual facts. It is often times more effective

to let one's adversary lead his witnesses without objection and then, in summation, show the jury what it was that did the testifying. Be gentle in cross-examination with illiterate or ignorant witnesses unless they are deliberately falsifying. Juries are not apt to relish the spectacle of an overbearing or skillful lawyer in an uneven contest with a witness to whom fortune has been unkind. Vigorous cross-examination should be, as a general thing, confined to liars. No one has any particular sympathy with them nor does anyone mind seeing them caught at the game.

Leisurely Trials Are Fast

Particularly in the courts of this metropolitan area, it is well always to bear in mind that the day of leisurely trials is over. Judges and juries subconsciously lean toward the side that improves every minute of the trial and wastes none of the minutes. Busy judges can hardly be expected to have as much patience as you have to study all of the minutes of the case. It is better and safer to under-try rather than over-try a law suit. Every time a lawyer puts an additional witness on the stand to testify to something already covered in the proofs, he should bear in mind that he is walking across the rifle range just that many additional times. The chances of being hit by stray bullets are too good to indulge in the practice more frequently than the necessities absolutely require. If an adverse ruling is made during the course of the trial, don't bewail your despair too loudly, repeatedly or patiently. Note your exception just once and pass on. Keep your disappointment to yourself. Your chances of success may be poorer by reason of the ruling, but such as they are, they will assuredly not be improved if you admit by your conduct your own hopelessness.

Days of Bombast Gone

The day, also, of bombastic or dramatic eloquence is over. As a general rule, juries prefer a summation that is a little more than conversational in tone and concretely applicable to the issue in purport. One of the most persuasive arguments to a jury is one which deals with reasonable probabilities. If a lawyer is able to point out to the jury the highly improbable nature of his adversary's testimony, he has made a long step toward a favorable verdict. That can frequently be done by showing the inconsistency between the evidence of the adversary's witnesses and one or more conceded facts in the case. In these times when it is quite fashionable to denounce the calibre of juries, it is well to bear in mind that, with rare exceptions, some, at least, of the jurors are intelligent and discerning, and those are the ones to win over. As it is true that "where MacGregor sits is the head of the table", so also is it true that the strong men in the juryroom will have a weight in the deliberations beyond the ratio of their number.

A trial lawyer should, figuratively speaking, immerse himself in the cause for which he is contending. He should recognize that, for the time being, he is the personification of his client and his cause, particularly when he appears for a corporation or any other absent or impersonal client and his cause, particularly the respective parties in terms of the attorneys representing them. Candor, consideration and sympathy are attributes of mind and heart that pay dividends just as frequently in the courtroom as elsewhere.

Trial work brings out the best or the worst that is in a lawyer, which emphasizes the necessity for painstaking preparation so that it may more frequently bring out the best than the worst.

Jacob Aronson

FRATERNITIES

PHI DELTA PHI

THE Hon. George A. Slater, Surrogate of Westchester County, was the guest of honor at the Annual Founders' Day Banquet of Evars Inn of Phi Delta Phi Fraternity, held on Saturday, March 26, in the Main Ballroom of the New York Athletic Club. The jurist spoke in detail on the Decedents Estate Law of New York State. Joseph P. Day, noted realty expert, followed Judge Slater and entertained those present with many interesting incidents of his relations with attorneys during the course of his daily business.

Dean William Payson Richardson, Dean George W. Matheson of St. John's Law School, and Professors Henry W. Humble, Allen B. Flouton and James L. Murphy were among the guests present. Prof. Murphy acted as toastmaster. The banquet was arranged by a committee headed by Louis Parmerton.

The election of officers of Evars Inn of Phi Delta Phi for the year 1932-1933 was held in the fraternity quarters on Friday evening, April 7. Those chosen were John P. McDermott, Magister; George C. Johnson, Reporter; Herbert R. McCarthy, Clerk; John Jay Scott, Historian; John J. Murphy, Gladiator; Louis V. Muscato, Tribune.

IOTA THETA

Iota Theta conducted its monthly meeting on Sunday, April 10th, at which nominations of officers for the coming school year were made. The candidates will be voted upon at the final meeting in May. After the regular business was concluded, the alumni guest speaker for the month, Meyer Bernstein, Esq., certified public accountant and practicing attorney, was introduced. He presented an interesting and practical talk on "Tax Problems of a Lawyer."

Plans are being made for the annual inter-chapter Stag Beefsteak, which will take place early in June in Mecca Temple. Leo Raucher, undergraduate praetor, is in charge of the arrangements for Alpha Chapter at Brooklyn Law School. Prominent alumni members of the fraternity and invited guests are feted at this affair. Dean Richardson, Judge Mitchell May of the Supreme Court of Brooklyn and Professor Edwin Welling Cady will attend.

OMEGA TAU PHI

A gala reception and banquet marked the installation of the newly elected officers of Omega Tau Phi. Those honored were: Sol Diamond, Chancellor; Morris Cohen, Vice-Chancellor; Joseph Newman, Exchequer; and Harry Newman, Scribe.

The Scholarship Committee, consisting of Joseph Newman and Sol Diamond, are preparing a series of lectures on various legal subjects, to be delivered by the members, as aid in the preparations for final examinations. These lectures will be open to the student body at large.

DELTA THETA PHI

Former Municipal Court Judge Harrison C. Glone, was the host to the Alexander Hamilton Senate of Delta Theta Phi at a bridge party held at his home on Saturday, April 2nd. A discussion of current topics followed the bridge. The committee in charge of the affair was headed by J. Lincoln Smith, who was assisted by Richard Palmrose, Richard Kohler, and William D. Scully.

PHI KAPPA DELTA

The Annual Spring Dance of the Phi Kappa Delta Fraternity will be tendered, Saturday evening, May 21, in the Parisian Gardens of the Ritz Carlton. The committee in charge of this affair is headed by Abe Olan.

The final smoker of the semester will be held in the Phi Kappa Delta rooms in Richardson Hall, on Friday evening, April 29th. A prominent member of the Supreme Court bench will be the guest speaker at this smoker. Abe Breitbart, Vice Rensius of the fraternity will be chairman for the evening.

SORORITIES

PROFESSOR and Mrs. Humble entertained the members of the several sororities belonging to the Pan Hellenic Council of Brooklyn Law School, at their home on Sunday, April 3rd, 1932. An interesting feature of the afternoon was a ping-pong tournament, Miss Irene Halpern of Iota Alpha Phi was the winner.

IOTA ALPHA PHI

Iota Alpha Phi held a national installation of its new members, on Sunday, February 7th, at the Pythian Temple. Those of Gamma chapter inducted were the Misses Madeleine Glickman, Esther B. Goldman, Irene E. Halpern, Nettie Lazar, and Frieda Miller. A dinner followed the installation ceremony.

Gamma entertained Beta Chapter of Hunter College at a studio party on Sunday, February 14th.

Zeta Chapter of Adelphi College held a bridge party on Tuesday evening, March 29, in honor of the members of Gamma, the Brooklyn Law School chapter.

The spring rush meeting was held at the home of Miss Edythe Morris on Sunday, March 27th.

PI ALPHA TAU

Delta Chapter of Pi Alpha Tau held a tea and bridge on February 28th at The Waverly, in Greenwich Village. Delta also cooperated with its Grand Council at a bridge on March 6th at Alice Foote MacDougall's.

The law school chapter held its spring function at a supper dance on March 26th, at the Villa Venice.

LEGAL PERIODICALS

(Continued from Page 2)

contact, is the basis. Much criticism has been directed against this decision. The above case recognizes that right may be a casual connection between the breach of duty, and the injury. However, the case does not go so far as to allow recovery where there is not physical impact.

Two Detroit evening newspapers, private corporations, were declared not to be affected with a public interest and may discriminate between advertisers. The newspapers refused to accept any advertising from the present bankrupt till he had paid the debts of an insolvent company which he had purchased. The court held that the exaction of payment was illegal. The Columbia Law Review reports the case of *In re Louis Wohl*, 50 F. (2d) 254. The finding that a business is unlawfully discriminating rests either on the charter granting such privileges or on statutory regulation.

Mr. Blockburger was indicted on two counts for having violated the Harrison Narcotic Act of 1914. In the first count, it is alleged that he sold to one Rush two grains of morphine hydrochloride not in, or from, an original stamped package. The second count alleges a sale to the same party on the following day of ten grains of the same drug, not in, or from, an original stamped package. Paragraph 26 of the U.S.A.C. A. 692 provides that it is unlawful for any person to sell opium or coca leaves, or any manufacture, salt or preparation thereof, except in, or from, an original stamped package. The court maintained that the separate sale of the morphine on different days to the same party is separately indictable. This case, *Blockburger v. U.S.*, 50 F. (2d) 795, is discussed in the Georgetown Law Review. Protection is given against double jeopardy for the same offense, but where separate offenses arise from the same transaction, the immunity does not apply.

Oddities of the Law

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ley has the right of way over all vehicles traveling at a rate less than fifteen miles per hour.

On the vexing question as to who has the right of way, perhaps it might be said that the survivor had the right of way. As a matter of fact, however, while it is not a crime to fail to give way to the driver coming from your right at the intersection of two streets, the matter is touched upon here because many serious accidents have occurred because some drivers still believe that traffic on the avenues has right of way over that on streets, or that traffic flowing north and south has precedence over east and west. The fact is that the driver coming from your right has the right of way.

Speeding a Misdemeanor

Speeding is a misdemeanor. So many have received the proverbial "ticket" that it is rare indeed to find a motorist who does not know that he must not exceed fifteen miles an hour in the city. It may be news to some that the law on the subject does not refer to any rate of speed but prohibits driving "recklessly or negligently or at a speed or in a manner so as to endanger or to be likely to endanger the life or limb or property of another." It is in connection with this that traveling at faster than fifteen miles is held to be prima facie evidence of the fact that you were "driving recklessly, etc."

Be it said for our police that in the exercise of their judgment they do allow some latitude before giving out a summons, but we seek to point out here what the law prohibits, not what violations are overlooked. There is a humorous aspect to the fifteen-mile city speed limit. Did you ever try to travel at this rate? A friend of ours did, and after being verbally abused by his fellow motorists a traffic officer came alongside and told him to "step on the gas," as he was holding up traffic. The driver politely replied that he knew the law and was sticking to his little fifteen miles per hour and would not go any faster—and he went his disgusting, law abiding way.

"Ticket Receivers" Complain

It has often been said by disgruntled "ticket receivers" that they hadn't a chance, that the officer's word was accepted unquestioningly by the court and that you couldn't "beat the case." Well, we know of one instance where friends were up on the usual speeding charge and one member of the party, sitting in the back of the car where he admitted he could not see the speedometer, testified that the car had not exceeded fifteen miles per hour. He was asked how he could be so sure, and said he had driven cars for many years and could tell the speed within two miles per hour at practically any speed. The court was incredulous and sent him out with two officers to drive and to test his knowledge of speed with the speedometer covered. As we recall it, he guessed the exact speed twice as was two miles off on the third test. Notwithstanding this, the defendant was convicted and fined. An appeal was taken, the conviction reversed and the fine remitted in an opinion which did not spare the feelings of the court below. So, you see, it can be done, but not often or too easily.

The saving grace of humor is welcome at all times, but it is hard to be funny when the spine-chilling "put-put" of the motorcycle strikes the ear and that once-heard-never-to-be-forgotten admonition "pull over to the curb" is heard. A word can here be said for the poor traffic officer who always has a "stall" handed him when he pulls out the summons book to write the bad news. As another acquaintance was stopped, the big blond officer said, as he parked his cycle, "Well, let's have it. Who do you know?" and the driver (in this case a young woman) answered de-

muely, "I don't know anybody—I feel just like a motherless child. Did she get a ticket?"

The following are crimes, although possibly not commonly known as such:

To mark "sterling" on any silverware containing less than 925/1000 pure silver.

To open or read a sealed letter addressed to another.

Hazing in public schools or colleges.

Spraying poison on fruit trees in blossom.

One who takes an auto for a "joy ride," without the owner's permission, is guilty of larceny, and the resultant penalty is heavy indeed.

Does the reader's memory go back to the old circus days when the skillful knife thrower would outline his partner's body with keen-edged knives? This is only a memory, as the stunt is now made unlawful.

You who have even short memories may recall the side shows at the beaches, where you could try your skill in throwing balls at the head of a dusky individual. No more; it is forbidden.

Libel may be a crime for which fine and imprisonment await the offender, as well as being the basis for a civil suit for damages.

Citizen Must Aid Officer

Everyone knows that fighting, being a breach of the peace, is a crime, but it is likewise against the law to offer or invite another to do battle.

Must a citizen aid a police officer if called upon to do so? Yes, indeed. One who refuses to aid an officer in making an arrest, after having been "lawfully commanded" to do so, is guilty of a misdemeanor. The same applies to refusal to assist an officer to quell a riot. True, you may get a broken head for your pains, but—it is the law. This brings to mind the case of the chauffeur whose car was commandeered by an officer to pursue escaping bandits and was killed at the wheel. It is interesting to speculate on the odium which would have been heaped on his head had he refused to act at the officer's command.

Most of us at one time or another have heard something about usury—that it is unlawful to exact more than 6 percent per annum in interest on loans. We have, however, found many instances where lenders did not know that not only the interest but the principal as well would be

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CONTRACTS UNDER SEAL

(Continued from Page 5)

to state that the granting of a preliminary injunction should not be considered as forecasting the views of the Court on all of the propositions advanced, my final hearing should be had and the status quo of the parties maintained pending such hearing.

After a trial upon the merits the plaintiffs prevailed in the District Court and their recovery was sustained by the United States Circuit Court of Appeals for the Third Circuit in the case cited.

The result, that the plaintiffs were permitted to enforce the contract so sealed to which they were not parties, which contract was made in a State wherein by statute all distinctions between sealed and unsealed instruments had been abolished, justifies the prediction made by Professor Williston in his work on "Contracts" in Volume I, Section 297, where the learned author says:

"Where seals have been altogether deprived of their common-law efficacy, it is probable that the principles stated in the preceding section as applicable to informal written contracts would be applied rather than those stated in this section."

Roy F. Wrigley

Laws Of Ancient Iceland

(Continued from Page 4)

the lines, the remedy extending even to poems attacking the memory of the dead. Saddest of all, however, and no doubt that which provided the most fertile field for violation, was that phase of the law which extended to this general proscription of verification to the tender art of love poetry, and, if a fair young thing to whom such effusions were addressed, was hard-hearted enough to render the amatory young swain who composed them liable to the prescribed punishment, she had only to enter an action against him. For the honor of the fair sex, it is to be hoped, and we will here presume, that it was a proceeding not often resorted to.

There were no half-way measures about these people. If a thing was wrong, it was completely wrong—dead wrong—and there was no excuse for it. Expiation must needs be as complete as the wrongful act complained of. There was no lukewarm admonition not to repeat the offense. There was swift and comprehensive—aye, even exaggerated—retribution. For kissing an unmarried woman either with or without her consent, the law required that every single kiss be atoned for by a fine of 144 ells of cloth, a quantity sufficient to furnish a whole ship's crew with pilot jackets. There were also antiquated anti-kissing laws have been frequently cited by modern writers as proof of the fact that the fair damsels of the north in the olden times were remarkable for their chastity and propriety of conduct. Well, if such was the fact, it really was not so very remarkable. When one kiss means financial ruin—two, hopeless insolvency—and three, inevitable bankruptcy, it was no wonder that men were asexual and women untouched.

Northmen Practical

These robust hardy men were not, however, without their practical views and much of their law is, of course, based upon their observation of human conduct and nature. Virile though they were, they were practical enough to realize that if a man Thorpe, his wife Thordis, and his eldest son, Kjartan, invited the neighbors to the funeral feast.

Drowned Ghosts Return

However, on the first night of the feast, as soon as the fire was lit in the hall, the ghosts of Thorpe and his companions entered, dripping wet, and took their seats around the fire. The guests welcomed them, since it was believed that those who attended their own funeral banquet would be well received by the goddess of the deep sea. Rude though it might have been, the ghosts refused to acknowledge any greetings and remained seated in silence till the fire had burnt out. It was only when the ashes were cold and lifeless that they rose and left. Finally, a trespass action, legally brought, effected the termination of the unwelcome visit.

Ghosts have given much trouble in many countries, but it is only the Icelanders who have summarily dealt with them by an action of ejection.

other nations, ancient or modern, in legal chicanery. Jurisprudence was the favorite study of the rich. A wealthy Icelandic was always ambitious to plead a cause, and the greater was his celebrity. A man, in fact, gained as much reputation for defeating his adversary in a law suit as for killing him in a duel.

And yet, despite this failure to separate substance from form, so great was the confidence of the general multitude in the efficacy of the law, that Iceland progressed juristically to a point not reached by its neighbors till almost four centuries later.

No Legal Utopia

Although it is remarkable evidence of the political genius of the Norsemen that they should have been able to work at all a legal system such as they had, it need hardly be said that it did not work altogether smoothly. The Icelanders were a people of warriors, little accustomed to restrain their passions, and holding revenge for a supposedly sacred duty to the law. The maintenance of order at the school, at the local court or council was entrusted to the chieftain of the locale and it was strictly forbidden to wear arms while the meeting lasted. The closing of the court was called "weapon-taking," because the arms that had been laid aside were taken when men started to ride home from the council. But the arms were after all, merely left outside and more than once it happened that the party which found itself unsuccessful in a lawsuit seized sword and spear and fought out the issue in a bloody battle, from which sprang new blood-feuds and new lawsuits.

A singular illustration of the faith of the Icelanders in their legal system deserves to be given because in it the remedies reach beyond life on earth. It comes from one of the most striking of the old Sagas.

A chief, named Thorodd, living on the west coast of Iceland, had, just before the Yule-tide, been wrecked and drowned with his boat companions. The boat was washed ashore but the bodies were not recovered. Thorpe, his wife Thordis, and his eldest son, Kjartan, invited the neighbors to the funeral feast.

However, on the first night of the feast, as soon as the fire was lit in the hall, the ghosts of Thorpe and his companions entered, dripping wet, and took their seats around the fire. The guests welcomed them, since it was believed that those who attended their own funeral banquet would be well received by the goddess of the deep sea. Rude though it might have been, the ghosts refused to acknowledge any greetings and remained seated in silence till the fire had burnt out. It was only when the ashes were cold and lifeless that they rose and left. Finally, a trespass action, legally brought, effected the termination of the unwelcome visit.

Ghosts have given much trouble in many countries, but it is only the Icelanders who have summarily dealt with them by an action of ejection.

It will be greatly appreciated if each Alumnus would fill out the following blank and mail it to The Justinian, in order that the alumni records may be completed, and the information printed in the alumni column.

Name.....	Class.....
Business Address (Nature of business, if practicing, name of firm)	
College Attended.....	Degrees.....
Member of Bar of State other than New York.....	
Have you held any judicial, legislative, or executive position in the City, State, or National Government? (State nature and dates)	
Social Activities (fraternal organizations, societies, clubs, etc.)	
Remarks.....	

DEMOCRATS HONOR THE JUSTINIAN, EXPEDITING JUSTICE

PROF. H. W. BEER

Selected As Delegate at Large to National Convention

Prof. Henry Ward Beer, who is a prominent alumnus of Brooklyn Law School and President of the Federal Bar Association, has been selected as a delegate at large to the Democratic National Convention at Chicago.

Prof. Beer who is a prominent attorney, was a former special trial counsel to the Federal Trade Commission, and special assistant U. S. Attorney General. He was chairman of the committee for the dedication of the new U. S. Customs Court at New York City in March 1930. Prof. Beer is professor of law in our graduate school and has recently written an article, "Evidencing the Customs Laws," for the Customs Service News, treating the many methods used in dodging duty.



H. W. Beer

Bordin Discusses Court Decision

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Mr. Gerard Swope and Mr. Owen D. Young.

The only hopeful note was sounded by Mr. Justice Brandeis in his remarkable dissenting opinion, which is a clarion call to the legal profession as well as to the intelligent citizens of this country in general. Unfortunately, for reasons which cannot be gone into here, but which are well known to the students of our system of government by judiciary, there is a little likelihood that the efforts of Mr. Justice Brandeis, seconded by Mr. Justice Stone, even as re-enforced by Mr. Justice Cardozo, will succeed in the near future in reversing the attitude of the Supreme Court as expressed in the *Oklahoma Ice Case*. And such a reversal is absolutely necessary in the immediate future if we are to get over our present critical straits which Mr. Justice Brandeis very correctly characterized as "an emergency more serious than war." I take this pessimistic attitude because there are, in my opinion, signs, which may be discerned by careful students of our history, that the Supreme Court in the *Oklahoma Ice Case* was trying to do exactly what it tried to do in the *Dred Scott Decision*—to stop agitation for a serious departure from old forms of political economic government by "putting its foot down" and the "nipping in the bud process."

Louis B. Bordin

3d Degree Action

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lice convicted and asking them to prove their innocence," said Mr. Daru to the Justinian reporter. "Nor are we starting with a presumption of innocence in favor of the police. This is not a criminal trial we are conducting. The investigation has been ordered by the Criminal Bar Association in the belief that it will be a good thing for the Administration of Criminal Justice to bring the matter out into the open and get at the facts."

"Reports of numerous instances of the employment of third-degree methods in criminal cases and the exporting of confessions from defendants by violence and fear" were given by Howard Hillon Spillman, president of the New York County Criminal Courts' Bar Association, as the reason for the organization's appointment of the committee "to investigate conditions with respect to confessions in criminal cases."

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there was no real issue to be tried. And the present enlargement of Rule 113, to include actions generally, would again have been quite unnecessary, had not the courts in their efforts liberally to enforce Rule 112, failed to give proper scope and effect to Rule 104, providing, as had the old Code of Civil Procedure, for judgment in any case in which the answer was sham—with the result that Rule 104, so construed, became and is a dead letter—a result completely inexplicable, except as a bit of legal psychology. Were Rule 104 given the effect which it plainly requires, it would completely abolish Rule 113, even as now extended. For it is obvious that if any answer may be stricken out as sham under Rule 104, then, certainly, nothing is gained by a specific enumeration in instances under Rule 113. Nevertheless, in wondrous ways, substantial progress has been made. Beginning with an error of judicial policy, proceeding through judicial error in construction and interpretation, we have yet emerged to something like accuracy in the application of Rule 113, which thus, under a different number, gives substantial effect to Rule 104. The power of procedural reform has agreed to correct this aberration of judicial interpretation.

No Substitute For Judges

But more than amelioration for the law's delays, this will not accomplish. There is no adequate substitute for judges who will try cases and dispose of them. The expedient of creating more judicial offices, though not free from criticism in a period of financial depression, is nevertheless founded in sound fundamental principle. The vast army of present litigants can be marshalled in no other way. The difficulty which may well be contemplated however, is the inflexibility of the system by which the number of judges is fixed by counties, and their assignments without central direction and control from the centre of the state government. But these are problems of adjustment and organization, as to which experience will undoubtedly prove the correct solution. In this respect, the voluntary cooperation of departments has, to a large extent, accomplished the adjustment, provision for which is lacking in the statutory basis of apportionment.

Systems and procedural devices are the instrumentalities by which the work of the courts is made more effective and efficient. But they can never be the substitute for the personnel essential to employ them. Without adequate personnel, in number and character, any system is a lifeless thing. Remedies are the devices, forms and measures for the intelligent dispensation of justice. They may be refined and remoulded, so that the quality of justice may be improved. But they require personal administration, and can be used no faster than the personnel of the court makes feasible. Justice cannot be dispensed with machine-gun rapidity, without sacrifice of the essence of justice itself. Leisurely dispensation is an essential constituent of the process itself. In the calm deliberation of unharried audience, lies the safest guarantee of the nearest approximation to dispassionate judgment. All devices which have speed as their prime objective, involve the sacrifice, to a greater or lesser degree of this basic function of any system of courts. The tendency to expedite—a direct result of the consciousness of the law's delays—is the greatest problem of our time. It takes away even the appearance of judicial deliberation. Its elimination can be accomplished only by the restoration of equilibrium through the election or appointment of an adequate judicial personnel. Speeding up the process to excess will inevitably result in its deterioration.

Jay Leo Rothchild

ODDITIES OF THE LAW

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lost where the transaction was tainted with usury. This does not apply where the loan was made to a corporation or where the amount loaned is \$5,000 or more on a collateral note. Many more are unaware of the fact that, under certain circumstances, usury is also a misdemeanor. Many may ask about pawnbrokers and loan associations. Their activities are controlled by statute and are specifically permitted. Pawnbrokers, for example, are allowed to charge 3 percent a month for six months and 2 percent a month thereafter on loans up to \$100, and on larger loans the rate is 2 percent and 1 percent, respectively.

Some have commented upon the fact that the press has cited cases where physicians have reported to the authorities the fact that they had treated some one for gun-shot wounds. The question might readily be asked why a doctor would disclose information secured in the course of his professional treatment of a patient. The fact is that the law imposes upon a physician a duty to make such disclosure, and failure to do so is a misdemeanor.

Substantial Justice

While it is not my intent to point out any moral here, it might be interesting to some males in the community to know that to persuade a woman to live with him as mistress is not only a breach of common decency but also a crime. It is likewise a felony, and conviction carries with it a sentence of not less than 2 nor more than 20 years imprisonment and a possible fine not exceeding \$5,000.

It is to be presumed that everyone knows that part of the so-called "Sullivan Law," which makes it a crime to carry firearms concealed on the person or to have in your possession any firearms which may be concealed on a person, unless he has previously secured a permit. This is one of those offenses where criminal intent is not a necessary element. Mere possession is sufficient.

Can this law be so strictly construed as to work a hardship? We must answer affirmatively, if we can assume a case where one would take a pistol away from a bandit and turn it over to a police officer, who thereupon arrests him. If his story is true, but he is held in jail by the magistrate, we have a situation where substantial justice has not been done, but the defendant has been technically guilty, as he did have the pistol in possession. We are informed that an attempt is now being made to modify this law to make criminal intent a necessary element of the crime.

Sunday "Blue Laws"

No attempt is made to analyze the Sunday laws here, as this subject alone has been before the courts so much that reams have been written about it and still confusion remains. In passing, it may be said that shows or entertainments are forbidden on the Sabbath, unless they be "sacred or educational, vocal or instrumental concerts, lectures, addresses, recitations and singing." And even if you bring yourself within this elastic classification your affair must be so conducted as not to disturb the peace. Baseball is specifically permitted by special legislative enactment.

There is one provision of the law to which references should be made. This makes it a misdemeanor to give or offer any gift or gratuity to any clerk or employee, unknown to the employer, for the purpose of influencing his actions. This is the substance of the statute. The section is important because it is common knowledge that commissions and bribes are given to buyers to persuade them to place orders with certain concerns. It may likewise be taken for granted that gratuities are frequently given to others in various walks of life for similar favors. It must, of course, be noted that it is not the giving or receiving of the gratuity that alone constitutes the

offense—it must be coupled with lack of knowledge on the part of the employer.

Many of the foregoing may seem extreme. It may be said that, in proper measure on a collateral note. Many more are unaware of the fact that, under certain circumstances, usury is also a misdemeanor. Many may ask about pawnbrokers and loan associations. Their activities are controlled by statute and are specifically permitted. Pawnbrokers, for example, are allowed to charge 3 percent a month for six months and 2 percent a month thereafter on loans up to \$100, and on larger loans the rate is 2 percent and 1 percent, respectively.

The Grand Jury

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every offense is indictable. In New York State it may be generally said that only felonies require presentment and indictment. For other crimes an information may be filed by the prosecuting officer.

The Code of Criminal Procedure prescribes the manner in which the Grand Jury may deliberate and present their indictment and one of the important features of the law is that the rule pertaining to secrecy is thoroughly observed. On the other hand, whereas the courts are liberal in the matter of the rules of evidence, at a hearing before a Grand Jury they repeatedly urge the necessity that only legal evidence be introduced and that it be under oath. It may be said, as a general rule that the courts will not interfere with an indictment notwithstanding the admission of illegal evidence if the legal evidence is sufficient to justify the indictment and the courts hesitate to interfere with the conduct and deliberations of the Grand Jury. They will, however, set aside an indictment when there is involved the protection of the citizen in his constitutional prerogatives and to prevent oppression or persecution.

A "Public Accuser" Today

It will be seen, therefore, that the Grand Jury today occupies a very anomalous position. It began as an arm of the government. It developed as a defense maintained by the People against governmental oppression. Today it is in the nature of a public accuser and the concern of the courts is that it shall not infringe upon the personal liberties guaranteed by the Constitution. So the pendulum swings. It has been said that the Grand Jury is no longer necessary because it is practically a review of the determination of the committing magistrate as to whether or not a prisoner should be accused of a crime. But its usefulness must be measured in other terms. One thousand years of usage has given the Grand Jury such a place in our system of jurisprudence as serves to maintain the proper and necessary balance between the instruments of power which are the creation of the People and the rights of the People themselves.

Seabury Report

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replacement of a patently outmoded method. This argument is especially sound in view of the fact that the change can be effected by transferring the powers now exercised by the Courts of Special Sessions to the jurisdiction of the Magistrates' Courts, thereby entirely eliminating the Special Sessions. A centralization of all causes of a similar nature would result to the benefit of practitioner and client. The simplicity of bringing about this worthwhile substitution is commendable.

The constitutionality of the suggested alterations is not in question. Jury trial was not of right in Special Sessions at the time of their inauguration. Therefore, under the new regime no constitutional rights would be affected by the denial of a jury trial in cases where it was not needed but previously had been customary. Of course, wherever the right of jury trial by jury still falls under constitutional protection it will be recognized.

Indifference on the part of the public is the sole obstacle in the path of the proponents of the plan.