

# The Justinian

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## The Justinian

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DINNER TO  
DEAN RICHARDSON  
ON APRIL 20TH

# The Justinian

et al.: The Justinian

Brooklyn Law School St. Lawrence University

DINNER TO  
DEAN RICHARDSON  
ON APRIL 20TH

VOLUME II, No. 6

BROOKLYN, N. Y., THURSDAY, APRIL 6, 1933

BY SUBSCRIPTION

## Current Legal Decisions

## Legal Drafts Topic of Talk By C. M. Lewis

Personal Injuries — Crimes — Marriage — Stocks — Taxation

Personal Injuries—Owner's Liability — Automobiles — Sec. 59 Highway Law.

Zuckerman v. Parton, 260 N. Y. 446, January 10, 1933.

The defendant had left his automobile at the garage of one Ryan to have a new battery installed. On his return, he discovered that Ryan's son had used the car on a mission to secure the battery and had so negligently operated the car as to injure the plaintiff.

Section 59 of the Vehicle and Traffic Law makes the owner of an automobile liable for death or injury to person or property resulting from negligence in the operation of the vehicle, in the business of such owner or otherwise, by any person legally using or operating the same with the permission, express or implied, of such owner.

Where the circumstances or the nature of the work is such as to suggest or indicate to a reasonably prudent person that the car must be or will be used to accomplish the work or repair, then there is implied permission to use the car.

There must be a new trial to determine whether under the circumstances, the defendant should have contemplated that his car would be used. There was sufficient evidence to warrant a submission of this question to the jury.

Crimes—Assault—Conditional Sales  
Pao v. Halliday, 237 A. D. 302. December 30, 1932.

The complainant, Scott, had purchased the car from one Tiffany under a conditional sales agreement which provided that "the seller may, upon demand, retake possession, without default, and may enter upon the premises where the property is stored and remove same." The defendant offered in evidence the conditional contract. This was excluded. From a conviction of assault in the second degree, the defendant appeals.

It was error to exclude from the evidence the provisions of a contract which authorized the retaking of the car. Under Personal Property Law (sec. 76), a retaking is authorized without legal process if it can be accomplished without a breach of peace. If the defendant had peaceably obtained possession, it was a question for the jury as to who was the aggressor, and as to whether there was a breach of the peace.

It was the duty of the court to charge the jury as to third degree assault as appellant testified that he used no weapon and that the blow which he struck in his own defense was with his fist. "A black-eye" does not amount, as a matter of law, to grievous bodily harm.

Marriage—Annulment—Fraud  
Shonfeld v. Shonfeld, 260 N. Y. 477, January 10, 1933.

This was an undefended action for an annulment. The plaintiff had been keeping company with the defendant for several years. In response to an inquiry of the defendant, concerning marriage, the plaintiff had explained that his unwillingness was due to his inability to earn sufficient

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Speaker, Noted Author, Traces Scheme and Framework of Legal Draftsmanship

ADVISES YOUNG LAWYERS

Stresses Importance of Knowing Aims and Purposes of Clients' Plans

"No human mind ever conceived and no human mind ever drew a perfect document," declared Clarence Martin Lewis, prominent New York attorney and writer, in an address before the New York University Club of the Brooklyn Law School, held in the auditorium of Richardson Hall, 375 Pearl Street.

Pointing out that one of the most important and difficult functions of the practicing lawyer, is the competent preparation of legal instruments, Mr. Lewis stated that most lawyers have an inadequate knowledge of "Legal Draftsmanship", but few have actually mastered this difficult art.

Lewis Noted Author

The speaker, a member of the Bar and an author of note, traced the intricate weaving of the scheme and framework of the law with this particular and not too well known branch of practice. He showed how the young lawyer, unfamiliar with the practical portion of that sort of practice is at a loss when confronted with an everyday problem, and he pointed out also, the almost similar predicament of many so-called experienced attorneys who should know, and whose everyday mistakes demonstrate that they do not know the correct forms for the various legal documents outside the sphere of court proceedings.

Young lawyers were advised to prepare themselves to approach every such problem with system. The speaker directed that the attorney have, first, a complete and accurate knowledge of what the parties concerned wish to accomplish. Second, a knowledge of the nature of the transaction involved in the transaction in question.

Investigate Clients' Plans

Mr. Lewis pointed out that without a complete knowledge of the aims and purposes in the minds of the parties it is impossible to draw a competent contract, and that quite often the attorney must untangle and clarify the

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## Justice Thomas J. Cuff Suggests Change In Lawyers' Attitude; Favors Selfishness

"Be selfish for your own pecuniary advantage, and don't be too anxious to advocate legislation that will take clients and fees from you," advised Supreme Court Justice Thomas J. Cuff in a talk to the members of the Kings County Lawyers Association held in the Brooklyn Law School, on Tuesday, March 28.

"Too many lawyers," he stated, "are finding it almost impossible to make a decent living at present because many cases and actions that were formerly part of the mainstay of a practice have been taken out of his hands by legislation." He used the workmen's compensation laws as an example, and while admitting that it was an admirable law for the great majority of the working populace, pointed out that a large percentage of accident litigation has been taken from the legal



WILLIAM PAYSON RICHARDSON  
Dean of the Brooklyn Law School

## Court Addition Is Suggested

## Backs Change In Bonding Law

Supplement to Supreme Court Suggested to Aid Speeding of Tax Assessment Cases

GOVERNOR GETS PROPOSAL

Visualizing a serious congestion of court calendars as property owners, in greater number than ever before, seek review of property assessments, Lawrence B. Elliman, proposes that Gov. Lehman supplement the Supreme Court Justices now sitting in New York with one or more justices who will sit in special session to decide such appeals.

Mr. Elliman feels that only by such prompt action can the property owner receive adequate treatment and the Supreme Court cleared of an accumulation.

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Greene Insists Requirement Is Unnecessary Drain on Public Purse

EXPLAINS NEW PROCEDURE

A proposal for revising the present law requiring all contractors performing public work for the State to furnish a completion bond is now before the committee on legislation of the New York Chapter of the American Institute of Architects for the committee's study and consideration with a view to enlisting the Institute's support of the proposed change. Col. Frederick S. Greene, Commissioner of Public Works, has asked the local chapter to back the proposed legislation.

Colonel Greene recently told the architects' organization that the existing requirement was an unnecessary drain on the public purse and that it did not protect the people from incompetent or dishonest contractors. On the other hand, he said, it often compelled the State to accept contractors unqualified in all respects except as to their ability to purchase a bond.

Change Favored

State officials, architects and responsible contractors apparently favor the change, according to Col. Greene, who pointed out to the New York architects that British practice does not require contractors to furnish bonds. If the New York State laws were repealed, he explained, the following protective procedure would be employed in public contracts:

Check to the amount of 5% of the bid would be deposited with the bids. The check of the successful contractor would be held by the State until the retained percentages on progress payments were equal thereto.

## Testimonial Dinner To Dean Richardson Planned By Alumni

Tendered in Recognition of Thirty Years Of Service as an Eminent Lawyer, Educator and Author

## Noted Group To Honor Dean

Prominent Members of Bench and Bar to Be Present at Testimonial Dinner

COMMITTEE IS NAMED

Richard Eddy Sykes, President of St. Lawrence University, Honorary Chairman

One of the most distinguished gatherings of prominent jurists and outstanding attorneys ever assembled will be present to do honor to Dean William Payson Richardson, eminent lawyer, educator and author, at a testimonial dinner in the Hotel Astor on Thursday, April 20th, tendered by the Alumni of the Law School and friends of the Dean.

Honorary Committee

The following is the list of the honorary committee:

Dr. Richard Eddy Sykes, Chairman; Hon. Frederick E. Crane, Hon. John C. Knox, Hon. William B. Carswell, Hon. Rowland L. Davis, Hon. William F. Hagarty, Hon. Frank F. Adel, Hon. George E. Brower, Hon. Albert Conway, Hon. James C. Crosey, Hon. Thomas J. Cuff, Hon. Charles J. Dodd, Hon. Charles J. Druehan, Hon. James J. Dunne, Hon. Leonard B. Faber, Hon. Lewis L. Fawcett, Hon. George H. Furman, Hon. Burt J. Humphrey, Hon. John B. Johnston, Hon. Harry E. Lewis, Hon. Charles C. Lockwood, Hon. John MacCrate, Hon. Mitchell May, Hon. Edward Riegelmann, Hon. Meier Steinbrink, Hon. Henry G. Wenzel, Jr., Hon. Leone D. Howell, Hon. Frank I. Smith, Hon. George A. Wingate, Hon. Jeanette G. Brill, Hon. Thomas F. Casey, Hon. David L. Malbin, Hon. Raphael R. Murphy, Henry H. Abel, Esq., Matthew T. Abruzzo, Esq., Jacob Aronson, Esq., Chas. S. Aronstam, Esq., Wm. H. Barradell, Esq., Capt. Bernard S. Barron, Bernard G. Barton, Esq., Dr. Walter S. Beck, Henry Ward Beer, Esq., Hon. John J. Bennett, Jr., Sam-

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Prominent Attorneys, Eminent Jurists and Educational Leaders to Be Present

HIGHLY ESTEEMED BY ALL

Louis Charles Wills, President of the Alumni Association Will Preside

In recognition of Dean William Payson Richardson's leadership and service over a period of more than thirty years, the Alumni Association of Brooklyn Law School will tender a testimonial dinner to him at the Hotel Astor on Thursday, April 20th. A large assemblage of prominent attorneys, eminent jurists, and recognized leaders of legal education will be present to honor Dean Richardson for his many contributions to the law.

Committee Listed

Many outstanding leaders of the legal world will be present at the dinner and many well-known names appear on the Honorary Committee. The Guests of Honor include Presiding Justice Edward Finch of the Appellate Division, First Department; Presiding Justice Edward Lazansky of the Appellate Division, Second Department; Richard Eddy Sykes, President of St. Lawrence University, and Dean Richardson. Louis Charles Wills, President of the Alumni Association, will preside.

Charles Simon Aronstam, prominent New York lawyer and Manasseh Miller, President of National Title Guaranty Co., two of the four members of the first graduating class, the class of 1902, which included Frances Xavier Carmody, deceased, will be present to recall the first sessions of the Brooklyn Law School held at the Hefley School building at 243 Remson Street, in 1901. Dean Richardson wrote the first circular in July of that year and the school opened in September, continuing under his supervision ever since.

Takes New Quarters

At the end of the first year, the school moved into new quarters at 187 Montague Street. The following year the school took over another floor of the building and soon thereafter

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MILTON E. CANTER  
Editor

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## LEGAL STANDARDS

In a recent radio address sponsored by the American Bar Association a vigorous attack was again launched against the so-called evening law schools. Such attacks if the facts were carefully analyzed are certainly without foundation.

About ten years ago, the American Bar Association went on record as favoring certain standards of legal education. They decided that two years of liberal arts college would meet the preliminary educational requirements, and that actual law study should consist of 1080 hours of instruction to be distributed over a period of three or four years. During the decade since various states have recognized the tendency towards higher educational requirements, and have acted in response thereto.

The Court of Appeals of the State of New York has in recent years raised its requirements for the state bar so that now its preliminary educational standards correspond with those of the American Bar Association. Our state, however, has not yet fully met the Association's other demands, but for that matter neither has any other state in the country. The crux of the disagreement between our court and bar associations generally, lies in the different weights to be accorded to instruction received in the daytime as distinguished from the same instruction received in the evening. Our court places no restriction upon the time of study. The standards set up by the American Bar Association do in that they require a longer period of study for students who attend in the evening.

It seems unreasonable, however, to believe a declaration that an hour of instruction after four P. M. contains fewer time units than an hour of instruction prior thereto.

Given the type of mind amenable to the intricacies of legal study; add to that a devotion to the work at hand, and the time of day during which the class meets certainly can neither add to nor detract from the training in the law acquired by the Student. To say that the time, when one studies reflects the type of mind which is suited or unsuited to bear legal cudgels with honor is to utter a self-evident falsehood. No comprehensive factual study of the comparative mental and moral equipment of the day and evening student has ever been made. The evening student is usually more conscientious than his contemporary of the day. As he has more obstacles to overcome, he is more likely to approach the study of law with a seriousness of purpose and maturity of mind not attained by the average day student.

Until critics can adduce a factual basis for their criticism, their hearsay charges should not be taken as demonstrating any failure to maintain high "legal standards."

## NEW CLERKSHIP RULING

The recent ruling of the Court of Appeals eliminating the clerkship requirement for college graduates and for students who have success-

fully completed a one year graduate course in law, meets with our unqualified approval.

The new rule will undoubtedly have a salutary effect. It will encourage the prospective attorney to lengthen his formal education, and it will relieve him of an unpleasant period of apprenticeship which, too often in the past, had proved singularly unproductive.

Viewed in the light of the conditions of the day the change is most fortunate. The excessive number of clerks upon the "legal market," coupled with the present wide-spread depression, has operated in the past to fix the salary of the average law clerk at a small sum. The new rule should reduce to a considerable degree the present oversupply of clerks, and, by so doing, permit the remaining applicants to demand a reasonable return for their services.

## LAWYER-PRESIDENTS.

In the United States Law Review, Presiding Justice Finch of the Appellate Division of the New York Supreme Court writes of Mr. Roosevelt as the twenty-third lawyer-President. Twenty-three of the thirty-two Presidents have been lawyers. He counts Washington, Jackson, Harrison, Taylor and Grant as soldier-Presidents, but Jackson was a lawyer and a judge as well as a soldier. Monroe, Pierce, Hayes, Garfield, Theodore Roosevelt might also be reckoned in both categories. It was the military glory of the last that brought him the Governorship of New York and so the Vice Presidency, against his will. He studied law at Columbia. May he not be reckoned among lawyer-Presidents, even if there was "no taint of legality," as Philander Knox said, about some of his transactions? Johnson, Harding and Hoover were neither soldiers nor lawyers.

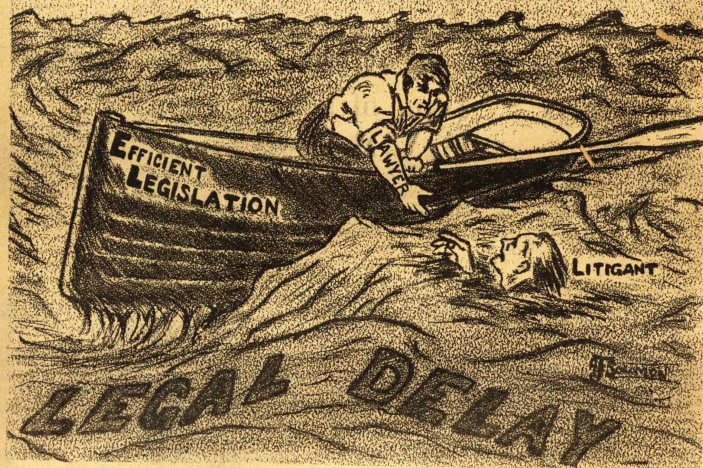
Why have so many lawyers occupied the White House? "The legal profession alone, of all the professions, trains a man by experience for leadership in general." A successful lawyer espouses his client's case before the judge, before the jury and before bureaus and departments. Not only does his client's cause make him espouse leadership for his client but, incidentally, in urging the case of his client he naturally becomes acquainted with the policies and theories of all governmental officials. He must know these theories and policies if he is to be successful in urging his client's cause so that he may demonstrate that those policies are inimical to or incompatible with the public interest or other fundamental considerations. Thus his knowledge of government theories and policies often leads him to espouse or oppose these policies and theories before the electorate. Incidentally, he knows and is known by those in government positions.

This explanation of the gift of the legal profession for "leadership in general" looks a little thin. It is the gift of gab and an attributed knowledge of the law and the Constitution that makes lawyers so numerous in Legislatures and Congress. In the Colonies they were long few in number, regarded with suspicion; in some Colonies, if our memory is correct, forbidden to practise. In the struggles preceding the Revolution inevitably they took a conspicuous part. For a time they were the only educated class except the clergy, whose authority waned, and, later, the physicians. For a couple of generations or more after 1789 they maintained their power. They were supposed to be the great conservative influence. Many of them got bravely over that. They are still multitudinous and powerful; but the most eminent of them, guilty of the atrocious crime of being counsel for great corporations, may be said to be banned from the Presidency.

Still, the lawyers seem to have a strangle-hold on the Presidency. Like it or lump it, the bar is the most-traveled road to public office. It is noticeable, however, in the biographies enshrined in the Congressional Directory that a great many lawyers in Congress still contrive to be "born on a farm." Thus the modern is reconciled with the earlier America.

The JUSTINIAN does not adopt the views set forth editorially in this article, which is reprinted from the NEW YORK TIMES of April 2. Expressions of opinion on this subject will be considered for publication.—(Editor)

## When Will He Be Rescued?



## HOOTS in the ROOTS of the LAW

(M. S. B.)

"The evidence of the defendant's crime is overwhelming. John Kolkman, a member, if not the leader of an organized gang of hog thieves, was convicted and sentenced to the penitentiary. The paper shafts of the honorable dissenting justices are so directed that they may tend to divert attention from the fact that Kolkman and his band of marauders stole Charley Burson's bacon on the hoof." *Kolkman v. People*, 89 Colo. 8, 300 Pac. 573, Adams, C. J.

"There is no more need that the State of Louisiana should make vain repetitions in her pleadings than there is that her Christians should make them in their prayers." *State v. Phelps*, 24 La. Ann. 493, per Howe, J.

"An inexperienced prosecutor may be so inadequate to the task of coping with some old war-horse of a lawyer that save for the assistance of the Court a rasal would be turned loose upon the community; or, turn about, a stupid lawyer may convict his own client if not prevented by a considerate presiding justice." *Arthur C. Train. The Prisoner at the Bar*.

"Where a sealed verdict is returned reading: 'We, the jury, agree to disagree, so say we all,' it is proper to declare a mistrial." *Tervin v. State*, 37 Fla. 396, 20 So. Rep. 551.

"There was a suggestion that it was a case of suicide, but the Lord Chief Justice disposed of that later on at the trial by asking how a woman could shoot herself twice in the back of the head, cut her throat, bury herself under the floor, and nail the boards down over her grave." *Richard Harris, K. C.*, in the *London Law Journal*, 1902.

"The sale of intoxicating liquor to a minor is unlawful, even though he is over six feet in height." *State v. Hartfield*, 24 Wis. 60.

"A father is not bound to work his children for the benefit of his creditors." *Beaver v. Bare*, 104 Pa. St. 58, 49 Am. Rep. 567.

"We know of no sound, however discordant, that may not by habit be converted into a lullaby, except the braying of an ass or the tongue of a scold." *Mygatt v. Goetchins*, 20 Ga. 350, per Lumpkin, J.

"Where a debtor is a gunsmith and a dentist, pianos and guitars are not tools of his trade." *Smith v. Rogers*, 16 Ga. 479.

"Sir Isaac Newton's discovery of the principle of gravitation could not be the subject of a patent." *Wintermute v. Redington*, 30 Fed. Cas. No. 17,896, per Wilson, J.

"All that a man has to do after securing a homestead as the head of a family is to keep on being the head of a family." *Nelson v. Commercial Bank*, 80 Ga. 328, 9 S. E. Rep. 1075, per Bleckley, C. J.

"Courts do not respect waivers obtained at the muzzle of a pistol." *Roberson v. State*, 53 Ark. 516, 14 S. W. Rep. 902, per Hemingway, J.

"The court will not without just compensation permit a city to 'take for public use' a sufficient amount of private property... to cover the dead body of a fire-fly." *Wilkes Barre v. Troxell*, 6 Pitts. Leg. J. 202, per Handley, J.

"If there is any analogy between a combination of druggists to raise and maintain prices and a biological species, the Darwinian theory is hardly a rule for a court in administering equity." *Brown v. Jacobs' Pharmacy Co.*, 115 Ga. 429, 41 S. E. Rep. 553.

"Where an amicable action is instigated by a wife against her husband and the litigation is a sort of comedy, the court will not permit new parties to intervene and convert it into a tragedy." *Smith v. Cuyler*, 78 Ga. 654, S. E. Rep. 406, per Bleckley, C. J.

"The power of the Court to appoint its janitor is inherent." *In re Janitor*, 35 Wis. 410.

## PRESS BOX

Miami, Fla.—"I would not have the judgeship if I were appointed," Senator Lewis said. "I do not feel that I am qualified for such a post because I could not conscientiously execute some of our recent laws against the poor."

### Rules of the Road—Tokio—

"3—When a passenger of the foot hove in sight, tootle the horn: trumpet at him melodiously at first, but if he still obstacles your passage, tootle him with vigor and express by word of the mouth the warning 'hi, hi'."

4—Beware the wandering horse that he shall not take fright as you pass by him. Do not explode an exhaust box at him. Go soothingly by."

7—Go soothingly on grease roads as there lurks the skid demon."

Paris—Mme. Anna Prive, on being greeted by her husband Dec. 2 at the door of their home with customary abuse and a beating, shot and killed him. A jury decided that she did what was no more than her prerogative under the circumstances and acquitted her.

However, one of the three bullets she fired missed her husband, ricocheted off a wall and hit a big toe of the concierge of their house. That was the Seine tribunal's idea of a real crime, and for it Mme. Prive was sentenced to serve a month in a prison.

Cape May Court House, N. J.—Twelve alleged violators of the Hobart state liquor enforcement act will appear before Judge Palmer Way in Cape May County Court, although the Hobart act no longer exists.

"Inasmuch as the alleged crimes took place before the repeal of the Hobart act," said Judge Way, "I will impose the full sentence including jail, if any one of the accused is found guilty."

New Jersey lawyers, it was said, have advised the accused men to plead not guilty and take their chances with a jury.

Newark, N. J.—Federal Judge William Clark said: "The system (New York Stock Exchange) of which you are a part is bad. There are many men teaching people to gamble. These brokers should be in jail. The New York Stock Exchange is a gambling institution; 95% of the bank failures in this country are due to playing on the stock exchange. Stock brokers are cogs in a rotten system. This evil should be corrected."



## LEGAL PERIODICALS

By IRVING BRODY

The Bombay Law Journal reports the case of the Emperor v. S. K. Pupala and others in detail. The defendants were indicted for inciting a crowd of Hindoos to riot, causing destruction of Mohammedan property and assaulting them, and further for the murder of an unknown Mohammedan. It is interesting to note that the procedure in India is similar to that of the United States. A presumption of innocence in favor of the accused is always present in criminal actions. Another principle disclosed in the case is the duty of the jury. "The jury are the sole judges of facts." The opinion of the judge on questions of fact is not binding on the jury....

The Journal records the findings of the "National Association of the Legal Profession in India," and includes notes, a cross word puzzle, and a section devoted to humor.

Aliens, ineligible to citizenship, are forbidden by the Alien Land Law of California to acquire real property for agricultural purposes. The case, *People v. Morrison*, (Calif. 1932) 13 Pac. (2nd) 800, cited in the Michigan Law Review, is pertinent to the enactment. The defendants, an American and a Japanese, were indicted for conspiracy to violate the act. Both were convicted, although no evidence was adduced by either side as to the birthplace of the Japanese. Upon appeal, the court asserted that the statute did not deny equal protection of the laws.

Bleckley, C. J., is quoted in the U. S. Law Review as saying in the case of *McNaught v. Anderson*, 78 Ga. 499:

"A husband can make a gift to his own wife, although she lives in the house with him and attends to her household duties, as easily as he can make a present to his neighbor's wife. This puts her on an equality with other ladies, and looks like progress."

A commitment to an institution is not equivalent to a voluntary separation to enable a spouse to obtain a divorce. This ruling related to the Louisiana Act 269 of 1916 (recently amended) which authorizes a divorce upon the allegation of seven years separation. In the case of *Leveque v. Borns*, 174 La. 919, 142 So. 126 (1932), discussed in the Tulane Law Review, the plaintiff sought a divorce, alleging a seven year separation, due to the commitment of the defendant to a public insane asylum. The defendant maintained that the plaintiff had no cause of action. This contention was upheld by the court stating that the statute contemplated a voluntary separation or abandonment. If the parties were separated, however, and one of them became insane before the statutory period elapsed, the period of insanity would be included in the computation. The Review believes that the more desirable result would have been to grant the divorce in the instant case.

The Iowa Law Review devotes its entire issue to "A Symposium on Administrative Law." Introduced by an article by Felix Frankfurter, Administrative Law in France, Germany, England, and diverse dissertations pertinent to the subject are discussed by Edwin M. Borchard, A. H. Feller, Edwin W. Patterson, John H. Wigmore, Arthur Suman of London, England, and other eminent jurists and lecturers. That the Review has deemed it expedient to devote the issue to this topic, Mr. Frankfurter feels is evidence of the period of "fruitful interplay" between theory and practice. In France, administrative law has extended, through a century of progress, to protect the individual from torts and misfeasance arising out of the government and its officers. German Administrative Law, in comparison to the French, is very systematized and general. The Germans have never disregarded the theory of close integration between administrative law and public law. Despite the differences in the public law of the various states, a common body of Administrative Law is being built up throughout the English speaking world with similar issues and outcome.

A Swedish seaman brought an action in libel "in rem" against a Norwegian steamship company for personal injuries received while working as a member of the crew. The injury occurred while the vessel was lying in Hampton Roads. The Vice-Consul of Norway, at Norway, protested at the court's assumption of jurisdiction, stating that by the Norwegian Law, a seaman cannot recover for personal injuries, but can share in an insurance fund provided by the Norwegian government, and supported by shipowners, to compensate seamen for injuries received on a vessel. The George Washington Law Review comments on the decision in this case, *The Elir*, 60 F. (2nd) 124 (C. C. A. 4th, 1933), which held that the district court should have jurisdiction.

The Georgetown Law Journal reports the case of *St. Mary's Hospital v. Paxton*, 159 Atl. 803 (1932). The hospital attempted to recover for medical services and attention rendered the defendant's wife. Mr. Paxton asserted that he had been separated from his wife, and that he had published a notice in the papers to the effect that he would not be responsible for any debts contracted by his wife, and that he had not requested the services. The hospital did not recover on the ground that it was incumbent upon them to prove that the husband was the guilty party in the separation. Thus, the tendency of the courts, at present, is to lean towards the ability of the wife to pay for all medical services rendered her on her credit.

The California General Laws, Act 4214, it is recorded in the California Law Review, provides that all egg products, domestic and imported, be inspected and certified; and all restaurants and bakeries using such products imported from a foreign country, post a sign to that effect. All food manufacturers are to designate by stamp each food package made by them containing such products. In *Ex Parte Bear*, 15 P. (2nd) 489, (Oct. 21, 1932), the petitioner, a meringue powder manufacturer, was arrested for violating the statute. He applied for a writ of habeas corpus claiming that the provisions concerning imported egg products were unconstitutional in that they infringed upon the Congressional power to control interstate foreign commerce, and were too unreasonable to be justified under the police power of the state. The California Supreme Court held that neither of the objections was substantial, and discharged the writ.

The question determined was whether the statutory requirement was void because of the discrimination of foreign egg products under the guise of the exercise of the police power. The state cannot regulate foreign or interstate commerce directly. The purpose of the enactment was to prevent deception upon the retail buyers. On the other hand, the Pure Food and Drug Act is directed against the adulteration or misbranding of products. Thus, the above legislation does not interfere nor is it repugnant to the National Law. Further, the use and consumption of property does not constitute commerce and the court, it is argued, correctly overruled the objections, for the statute was a reasonable exercise of police power.

## Actors Equity Association Has System Of Jurisprudence

By KERMIT D. BALLIN

There exists in New York an organization that practices a form of jurisprudence that should be highly interesting to the legal profession. It is the Actors Equity Association of which so much is heard in the daily press. Actors Equity is, in reality, a trade union just as much as is the plumbers' or any other trade union. It was conceived and organized for the benefit of actors who were suffering from mistreatment accorded them by the managers and producers; and against whom they had no adequate remedy but a suit at law. For reasons of finance and time this course of action was impractical for the great majority of the theatrical profession. Hence, Actors Equity Association.

### Methods Similar to Law

At first glance it would seem that such an organization would not be of interest to the lawyer, but rather to the Economist. To a certain extent this is true, but that phase of its function that is interesting to the legal profession is their way of handling disputes that arise between the actor and the people who employ him. It is in this aspect of its work that we find a system of jurisprudence that performs in an admirable fashion the duty of any legal system, i.e., to render justice on the merits of the individual case.

### Speedy Justice Submitted

Equity's method of adjusting these differences, and of combating the evil conditions in which the theatrical profession found itself, is a model of simplicity and smooth working. A proof of the efficacy of their plan is the fact that since 1924 managers and producers, as well as the actors themselves, have consented to submit their arguments to the rulings of the Association. They have found by experience that they have a greater chance for a speedy and impartial justice by thus submitting their grievances.

### Procedure Allows Relief

The procedure is, roughly, as follows:

The complainant, a manager for example, prefers his charges against the "defendant" in writing. The person against whom the complaint is made, an actor in this instance, is then called before the Council for a hearing. The Council is composed of fifty prominent and trusted members who sit in judgment once a week. Both sides are then heard and questioned, after which a decision is given. Either party may ask for friends and witnesses to bear out their contentions, and if any so asked are members they are subpoenaed, and this summons is compulsory. Most generally, however, before the matter is allowed to go to trial an attempt is made to settle the case "out of court" as it were. The opponents meet and discuss their grievances before bringing

it to the attention of the Council. If this fails they proceed as I have outlined above. An example of the way Equity works is pertinent at this point.

### Given Role

Mrs. Grace Thorne Coulter, an actress, was given a part in a play that was being rehearsed, and was told that she would have that role to perform when the play opened. She accordingly purchased some \$200 worth of dresses that would be needed for the part. Shortly before the play opened she was informed that she would not have the part given her, nor any other in the production. Several letters to the producer asking the money she had expended for the dresses were not answered. She applied to the Actors Equity Association for aid, and two days later was told that she would get a check for the sum expended (\$200) upon turning over the dresses and vouchers. This is but an isolated example of the fine work that is being done, but it is typically average of the expeditious justice that can be had.

### Decisions Final

The decisions of the Council are considered to be final, and there is the possibility of an appeal, such steps have only been taken twice in the history of the organization. The appeal is taken up before a meeting of the entire membership of the Association; beyond this there is no higher tribunal. The litigants in any case are not represented by attorneys, nor any person who may be compared to the counsel of the legal courts. The whole underlying idea is that of friendly cooperation rather than the bitter antagonisms bred in a civil suit. The proceedings are informal and no attempt is made to have a definite form of pleading and practice.

### Precedent Not Ruling

The Council is seldom swayed by precedent, tho it may give heed to past rulings if it so desires, and the litigants are not permitted to demand a certain decision on the ground that a similar case was so decided at some time in the past. This gives to those trying the case the greatest amount of freedom in deciding what should be done in the individual instance. The advantages of such a scheme are obvious. It does away with all harsh and inflexible rules and precedents such as bind the judges in Courts of Law. It is more flexible, even, than the Court of Equity.

They have, then, a system of jurisprudence that is somewhat comparable to Equity, as it is known to the lawyer. They are not so much concerned with legal theory as with Justice—and they do justice as it seems best for all parties at the time. A simple smoothly operating organization such as this has much to be said for it at a time when there is a great amount of agitation for reform in procedure in our courts.

## MISSING JUROR CITED FOR CONTEMPT

It was found that Harry B. McNeal, jurymen 12, was not in his seat and Judge Moscowitz ordered marshals to go in search of him.

The Marshals went to 757 Union St. where McNeal occupies a furnished room, to the home of his mother at 539 Ninth St., and to 156 Remsen St. where he is employed as a real estate salesman. The deputy marshals were unable to find him but he telephoned about 12 o'clock that he would be in court later.

When court resumed after the luncheon recess McNeal was in his seat. The court requested all the jurymen except McNeal to step into the corridor. He then called McNeal to the witness chair.

### Drinking Has No Effect

"Why were you not here this morning?" asked the judge as McNeal swayed a trifle in his chair.

"I went to a party last night and did not get home until half-past two

this morning," answered McNeal. "I did not wake up until 10 o'clock."

"What were you doing between 10 o'clock and 1:10?" asked the court.

"Dressing," replied McNeal.

"How much did you drink last night?" asked the court.

"I don't remember," was the reply.

McNeal said in reply to questions by the judge that he drank liquor at times, and when the court asked him how much he could drink without becoming intoxicated McNeal replied:

"I can drink three-quarters of a quart of whiskey without feeling any effects."

"Were you drunk last night?" asked the court.

"I was not," replied McNeal.

"You do not seem perfectly sober now," said the court. "Are you sober?"

### Smelling Is Believing

"Yes," was the answer.

"See if there is an odor of alcohol

(Continued on Page 8)

## Constitutionality of Beer Bill

By ALBERT G. SEIDMAN

"The Goddess knocking at the little door,  
'Twas opened by a woman, old and poor;  
Who when she asked for water gave her ale,  
Brewed long, but well preserved from being stale."

Ovid Met., Lib. 1.

The great Chief Justice Marshall said that the Constitution was "designed to approach immortality as nearly as human institutions can approach it." The Eighteenth Amendment, however, is now being subjected to attacks designed to effect its ultimate demise, not the least of which is the enactment by Congress of the bill sanctioning the manufacture and sale of beer and wines containing 3.2 per cent of alcohol by weight.

This highly controversial amendment was a departure from the constitutional scheme which provided merely a framework for government. Whereas the other articles are declaratory or interpretative of the powers of the various branches of the Federal and local governments, it is a police regulation in itself. It provides:

"Section 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited."

### "Intoxicating" Liquors Defined

The amendment does not itself define "intoxicating liquors." In the absence of statutory definition, this term includes any liquor intended for use as a beverage which contains such a proportion of alcohol that it will produce intoxication when imbibed in such quantities as it is practically possible for a man to drink.

Much of the debate in Congress on the Beer Bill has been devoted to the question of whether the human stomach has the capacity to contain a sufficient quantity of 3.2 per cent beer as to inebriate the consumer. From the testimony taken by the Senate Judiciary Committee it appears that reputable scientists can readily be produced to testify on either side of this proposition. The issue has therefore arisen as to whether the bill is constitutional.

Generally, when the term "intoxicating" is defined by statute, the Courts are bound by that definition and they can neither enlarge nor restrict its significance. (*Marks v. State*, 159 Ala. 71; *People v. Nordine*, 201 Ill. App. 70; *Brown v. State*, 17 Ariz. 314.) The contention of the drys is that the force of the Eighteenth Amendment is so great as to compel the Supreme Court to disregard the Congressional definition. Some support for this position is to be found in the celebrated *National Prohibition Cases*, (253 U. S. 350). Judge Van Devanter, there declared:

"The first section of the Amendment—the one embodying the prohibition—is operative throughout the entire territorial limits of the United States, binds all legislative bodies, courts, public officers, and individuals within those limits, and by its own force invalidates every legislative act—whether by Congress, by a State legislature, or by a territorial assembly—which authorizes or sanctions what the section prohibits."

### Control Remains Legislative

Nevertheless, the power to declare general rules with reference to rights of persons and property, to create and regulate obligations and liabilities, to declare what acts shall constitute crimes and fix penalties therefor, is legislative and not judicial. Congress itself, cannot delegate to the courts, or to any other tribunal, powers which are strictly and exclusively legislative. (*Wayman v. Southard*, 10 Wheat. 1, 42.)

The Amendment, despite its prohibitory language is not entirely self-operative. As stated in *Cunard Steamship Co. v. Mellon*, 262 U. S. 100:

"In itself the Amendment does not prescribe any penalties, forfeitures or mode of enforcement, but by its 2nd section, leaves these to legislative action."

A crime is an offense affecting the public, the commission of which has been made punishable in a specified manner by the proper legislative body. The Federal Court has recognized that in the absence of language making the acts therein specified a crime, and prescribing the punishment, the violation of Section 35 of the National Prohibition Act, is not an indictable offense. (*U. S. v. Seibert*, 2 Fed. [2d] 80.) Yet the acts which this statute seeks to restrain are apparently violations of the Eighteenth Amendment.

The right and duty, in the first instance to define "intoxicating liquors" devolves upon Congress. In *Rose v. U. S.*, (274 Fed. 245, certiorari denied 257 U. S. 655), the court held:

"The power conferred on Congress by section 2 of the Eighteenth Amendment is plenary in its nature, and commits to Congress the discretion to determine the legislation necessary and appropriate to enforce the provisions of section 1 of this constitutional amendment. Unless the enactment has no substantial relation to the enforcement of the constitutional prohibition of the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from, the United States and all territories subject to the jurisdiction thereof, for beverage purposes, a court has no power to determine the wisdom of the enactment or challenge the manner of the exercise by Congress of the authority and discretion conferred to it by the second section of this constitutional amendment. *Purity Extract & Tonic Co. v. Lynch*, 226 U. S. 192, 33 Sup. Ct. 44, 57 L. ed. 184."

The Supreme Court has not attempted to determine for itself the maximum alcoholic content at which beer is non-intoxicating. In upholding the constitutionality of the War Time Prohibition Act and the Volstead Act, restricting the sale of malt liquors with an alcoholic content of more than ½ % by volume, it did not find as a fact that such liquors were intoxicating. The court merely held that the power of Congress to prevent the sale of intoxicating liquors extended to the prohibition of non-intoxicating liquors, where such prohibition was necessary to effective enforcement. (*Ruppert v. Caffey*, 251 U. S. 264.)

There appears to be little solace for those who seek to void the Beer Bill, in the light of these principles, for a statute must be construed, if fairly possible, so as to avoid the conclusion that it is unconstitutional. Much of the force of Judge Van Devanter's opinion in the *National Prohibition Cases*, supra, is lost by reason of the fact that it did not represent the majority of the court, for two judges who concurred in result did not concur in this opinion. The decision is also unique, in that it appears to be the only time in history that the Supreme Court gave its conclusions on a point of constitutionality, without expressing the reasons for the decision. We may therefore expect the Beer Bill to receive judicial, as well as legislative and executive approval.



## Business Corp. May Not Be A Trust Beneficiary-Foley

Whether a business corporation may be the beneficiary of a trust was the novel question which confronted Surrogate Foley recently. Answering the question in the negative the Surrogate pointed out to a Justinian Reporter the reasons for such holding.

By the second and fourth codicils to his will De Forest gave to his executors, in trust, the sum of \$100,000, with certain directions to pay the income or principals, in whole or in part, to the "Adirondack Mountain Reserve." The "Adirondack Mountain Reserve" is a business corporation authorized, among other things, to buy and sell real estate, to cut timber, manufacture lumber and sell the same, and to mine and sell ores. In connection with the holding of the real estate, owned by the corporation in Keene Valley in this state, its stockholders, and others associated with them, have conducted a club of restricted membership in the nature of a country club and known as the "Ausable Club." The stockholders, members and subscribers enjoy the privileges of the club and the use of the real estate owned by the corporation. Certain purposes of this corporation are stated to be the protection of forests and lakes from commercial development. These purposes, though commendable, confer no direct benefit on the public in general. The testator set forth in the codicil that his "purpose is to preserve the forests, lakes and mountains of the Upper Ausable Valley in their wild and natural condition under the policy set forth in the present bylaws of the reserve, or as these bylaws may be hereafter amended." He expressed the wish that the fund be not used "for current expenses," but provided that it be utilized "for the maintenance and improvement of the reserve." The terms of the trust further provided that it shall continue, unless sooner terminated, during the lives of the testator's two sons. A power to terminate, but not absolute in form, is given to the executors. If the power be exercised the testator directs that the balance of the fund shall become part of the residuary estate. In the event that the trust is continued during the full period of two lives, there is no disposition of the remainder, but under the usual rule of construction it would pass to the residue as undisposed property. The residuary estate was placed in trust for the life of the widow, with contingent remainders to his children or issue. It will be seen that whether the trust be terminated under the terms of the will or the fund passes at the death of the survivor of the two sons, it will in either event become part of the residue. Thereby it will have passed through an illegal period of three lives.

### Questions of Construction

Surrogate Foley showed that certain questions of construction arose out of this situation.

(a) Is the trust a charitable trust which may be sustained regardless of the unlawful trust period provided in the scheme of the testator? (b) Is it void because a business corporation was named as cestui? (c) If it is not void for the latter reason, may the trust be sustained in part, the third life eliminated and the trust permitted to continue for the lawful term of two lives? In other words, may the valid portions, if any, of the plan be saved and the illegal ones excised?

Holding that this trust is not a valid charitable trust, the Surrogate stated that the "Adirondack Mountain Reserve, the corporation named as cestui here, is essentially a business corporation, privately operated for private enjoyment. The very form of the corporation emphasizes its non-charitable character."

### Charitable Trusts Lawful

"Of course," Judge Foley continued, "a simple trust with separate trustees

and a direction to pay income to a true charitable corporation is valid either for the lawful period of suspension or in perpetuity under the Tilden Act. But a search of the reported cases in this state fails to reveal, so far as ascertainable, any decision supporting the validity of a trust for the benefit of a strictly business corporation."

The Surrogate explained that certain text writers appear to indicate that without express statutory authority to create such a trust, or express statutory capacity on the part of the corporation to take as a beneficiary, such a trust would be void. Other text writers state that a corporation may be a beneficiary, but either furnish no authorities to sustain their view or else cite cases involving charitable corporations. The Real Property Law, and particularly section 96, seem to indicate that both the measuring lives of a trust and the beneficiaries must be human beings. It would seem, therefore, that under the decisions and statutes of the state that a business corporation may not be the beneficiary of a trust even where the trust period does not exceed the statutory period of limitation.

### Foley Points Conclusion

Surrogate Foley stated that under this conclusion the trust is wholly void. "If however, the corporation had the capacity to take as beneficiary, can the trust be saved in part? It is argued that the primary provision which fixes its possible duration for the lives of the two sons of the testator should be preserved and the executors permitted to apply the income or part of the principal during that period. The courts, in their discretion, have at times resorted to the principle of judicial surgery. They have severed the invalid portions of a will and saved the valid. That policy is directed to the accomplishments of the intention of the testator and the effectuation of the plan of distribution so far as legally possible. Equality of division among the natural objects of the testator's bounty typifies the motive for the application of the rule. In the pending estate there is no appealing reason to salvage any part of the trust for the benefit of a business corporation. Due to the depreciation of the assets of the estate, the general legacies to the widow and children have been greatly diminished. A determination that the trust is void in its entirety will help make up the present deficit in the legacies for the benefit of these nearer relatives. The testator himself indicates in his language a doubt as to the validity of his plan, and apparently to avoid illegality vested his executors with the power to terminate the trust and to turn the balance of it into the residuary trust created for the benefit of his widow, his children and his issue."

### Cannot Uphold Illegality

"Where the maker of the will indicates so strongly his own belief in its unlawfulness," said the Surrogate, "the court should not be asked to strain to support it. In the scheme of the trust, validity and invalidity are closely interwoven. The fund cannot escape from suspension for the possible unlawful period of three lives. Thus invalidity dominates and vitiates the scheme in its entirety. Unlawful accumulations of income are authorized by this will, and while they may be excised in the ordinary case, they constitute an essential addition here to the other illegalities in the trust plan. The remainder of the trust upon the death of the widow is contingent. Vesting with respect to this fund, therefore, following through three lives, occurs at an illegal date—the death of the third life tenant. The remainder therefore cannot be accelerated."

Accordingly he held that no part of the trust could be saved, but that it was void in its entirety.

## The Justinian, Vol. 1933/1933, Iss. 3, Art. 1 Eliminate Law's Delay

By A. S. CUTLER

"Justice delayed is Justice denied."

No one disputes this truism. What are we doing to remove the many layers of delay now superimposed upon the body of Justice? Strip our procedure of its interminable delays and you have taken a long stride forward in the administration of the law.

Some will say that in these days of great commercial activity it is impossible to keep up date. Statistics will be cited to prove that so many new cases are being daily initiated that no series of courts could keep up with the mass of work. Too many lawyers hide behind that generality and therefore do nothing about ameliorating the Law's delays.

Perhaps if they knew that delay was a rope around the neck of Justice, which is slowly choking it to death, the lawyers would stir themselves into activity. How many active practitioners are aware of the fact that in the City Court, Kings County, for instance, it takes 4 years to reach a case on the general jury calendar. How many clients have the temerity to institute suit when the best a lawyer can promise them is trial 4 years hence? No wonder litigants are abandoning the expense and trouble of law suit and lawyers fee and adopting any other method in preference. Arbitration, conciliation, settlement directly with the debtor, any expedient seems by contrast the more practical thing for the businessman to do.

### Crowded Conditions of Courts Listed

This table may give some idea of the delays in which the litigant is enmeshed:

The Supreme Court, New York County, is more than 2 years behind in its jury trials.

The Kings County Supreme Court is 3½ years behind, while Queens County is more than 2 years behind and Bronx County is about 1 year and 4 months behind.

The City Court, New York County, is 3 years behind in its regular calendar and about 14 months behind in its commercial calendar.

The City Court, Kings County is 4 years behind in its general calendar, though only 2 months behind in its commercial calendar.

The City Court, Bronx County is 3½ years behind in its regular calendar, though up to date in its commercial calendar.

Our Central Jury Part in Manhattan is 1½ years behind in its tort calendar and 9 months behind in its commercial calendar.

The non-jury calendars of the various Parts vary from 10 days behind to about 4 months.

In the Municipal Courts of the Bronx the jury calendar averages about 1½ years behind.

In the Municipal Courts in Brooklyn the jury calendars are from 1½ to 2½ years behind, the average being more than 2 years.

### Layman Afraid to Engage in Law Suit

It is a brave litigant, who, in face of the foregoing, visits a lawyer, pays the disbursements and the lawyer's fee and waits for trial until everybody connected with the matter has long since forgotten the nature of the controversy.

"Frozen assets" was once an economic term familiar only to bankers and investment executives. The developments of the last few weeks have made the phrase "frozen assets" familiar to everyone, including our school children. If banks and large commercial enterprises are choked to death by frozen assets, how much longer can Justice keep from being choked to death by its frozen assets of litigation?

A simple practical instance may help: On a burglary policy a small store-keeper has actually lost \$3400. There is no breach of warranty. It was immediately reported to the police. There was indisputable evidence of the burglary and the inventory checks within a couple of hundred dollars as the insurance company's accountants have ascertained. Nevertheless, defendant, with no defense or pretense of a defense, has the temerity to offer \$1500. If the case could be reached for trial next week, this businessman would collect \$3400 beyond the shadow of a doubt. In fact, the insurance company would never go to court. Under present conditions, however, the insurance company takes legal, if not moral and ethical, advantage of a calendar situation.

### Many Forced to Settle Below True Value

Nor would it be surprising if in these days a poor litigant, who sorely needs the money, is forced to settle for less than half a bona fide, meritorious claim. He figures \$1500, now is worth more to him to preserve his business than \$3400, 2 years from now. Thus he swallows his wrath, pockets his loss and forever afterwards mocks the judges and the lawyers who have permitted such a situation.

So I say, first and foremost, we must eliminate delay, or we, as a profession, will be eliminated by our clients who will not brook delay.

Now, how are we going to do it?

One remedy proposed was a Judicial Council composed of lawyers and laymen. That is about as useful as transferring a dollar bill from your right hand trousers' pocket to your left hand trousers' pocket in the hope that in the expedition from one pocket to the other the bill will become one hundred dollars instead of one dollar.

To pile delay on delay is no remedy. It will take years before a Judicial Council reports. More years before anything is done about their report and in the meantime the litigant will seek other means than a law office for relief. We must get our calendars up to date. The talk about appointing more judges is viewed with suspicion by the layman. As the World Telegram says, "It would be heaven for lawyers if they could, each Legislative session, grind out more judgeships for lawyers to step into."

We must grind out the legal grist that is already in the mill without adding more judges to the pay roll, and yet, the present number of judges apparently cannot move the calendar.

Here is an opportunity for us lawyers. Let us show the layman that we not only appreciate the reason for his complaint, but that we, in our way, are doing everything we can to eliminate it.

### Offers Three-Point Program

Let us come to the fore with this 3 point program:

1. Make trial by jury a matter of discretion and not of right.
2. A system of Masters whereby, as in England all the preliminary practice and pleading motions are concentrated in one Master's hands.
3. Organize under the supervision of the Appellate Division a body of 100 or more prominent members of the Bar, who will voluntarily in this emergency serve as judges 1 or 2 days a week without compensation and with their only hope of reward getting and keeping the calendars up to date.

1. Though the Supreme Court, New York County jury calendar is more than 2 years behind, the non-jury calendar is practically up to date.

Similarly, though in our Municipal Courts the jury calendars average from 1½ to 2½ years delay, the non-jury cases are disposed of in periods varying from 10 days to about 4 months.

The juxtaposition of jury and non-jury calendars is not without significance.

(Continued on Page 7)

## Supreme Court Authorizes Coal Producers To Combine

In a significant decision, regarded as the first step in scrapping previous rigid interpretations of the Sherman Act and ultimate liberalization of the whole concept of anti-trust statutes, the Supreme Court authorized bituminous coal producers to combine to stabilize their industry against the disordered conditions now threatening its collapse.

The decision, in the case of the Appalachian Coals, Inc., . . . . ., in which the opinion was written by Charles Evans Hughes, reversed the judgment of the Federal District Court of West Virginia, and held that the organization and its plan did not violate the Sherman Act. Subscribed to by all the members of the high court except Associate Justice James C. McReynolds, the findings of the court were viewed as amounting to a test of the anti-trust law and its application to the immediate business situation.

### Plan Reduces Competition

Another immediate effect of the decision, which technically remanded the case to the District Court with instructions to enter a decree to allow operation of the plan, was to place on the court future determination of the question whether the plan actually operates to reduce competition in the production of coal and to raise prices against the public interest.

"So far as the actual purposes concerned," the Hughes opinion read, "the conclusion of the court below was amply supported that the defendants were engaged in a fair and open endeavor to aid the industry in a measurable recovery from its plight."

"The fact that correction of abuses may tend to stabilize a business, or produce fairer price levels, does not mean that the abuses should go uncorrected or that the cooperative endeavor to correct them necessarily constitutes an unreasonable restraint of trade."

### Action Justifies Rise

Referring to the rigid ruling of the West Virginia court that the combination must be enjoined because it had reason to believe that its operation would tend to increase prices, the Supreme Court held that even were prices to be raised, such action might be justified "if the advance was designed to put an end to ruinous practices."

The court also disposed of the contention that combinations not in violation of the anti-trust act must take place through merging of corporation interest. Here the Supreme Court said:

"We know of no public policy, and none suggested by the terms of the Sherman Anti-trust Act, that in order to comply with the law, those engaged in industry should be driven to unify their properties and business in order to correct abuses which may be corrected by less drastic measures. Public policy might indeed be deemed to point in a different direction."

### Relief Not Denied

Specifically, the court held that the fact that the suit of the government was brought under the Sherman Act does not change the principles which govern the granting of equitable relief.

Recognizing that the case had been tried in advance of any effort to test the plan in practice, the court provided for supervision to determine whether unfair competition resulted.

The Appalachian Coals, Inc., the evidence showed, controlled 58,011,367 tons or 11.96% of the bituminous coal mined east of the Mississippi, which in 1929 amounted to 484,786,000 tons of coal. The fact also showed that the corporation's plan contemplated operation of companies mining 73% of the coal in the so-called Appalachian territory.

### Three Conclusions Reached

The eighteen page opinion of the

chief justice said that the evidence in the case required three major conclusions, as follows:

"(1). With respect to defendant's purposes, we find no warrant for determining that they were other than those they declared. Good intentions will not save a plan otherwise objectionable, but knowledge of actual intent is an aid in the interpretation of facts and predictions of consequences. The evidence leaves no doubt of the existence of the evils at which defendants' plan was aimed. The industry was in distress. It suffered from over-expansion and from a serious relative decline through the growing use of substitute fuels. It was afflicted by injurious practices within itself—practices which demanded correction. If evil conditions could not be entirely cured, they at least might be alleviated. The unfortunate state of the industry would not justify any attempt unduly to restrain competition or to monopolize, but the existing situation prompted defendants to make, and the statute did not preclude them from making an honest effort to remove abuses, to make competition fairer, and thus to promote the essential interests of commerce.

### No Monopoly Control

"(2). The question thus presented chiefly concerns the effect upon prices. The ultimate finding of the District Court is that the defendants 'will not have monopoly control of any market, nor the power to fix monopoly prices'; and in its opinion the court stated that 'the selling agency will not be able, we think, to fix the market price of coal.'

"The contention is, and the court below found, that while defendants could not fix market prices, the concerted action would 'affect' them—that is, that it would have a tendency to stabilize market prices and to raise them to a higher level than would otherwise obtain. But the facts found do not establish, and the evidence fails to show, that any effect will be produced which in the circumstances of this industry will be detrimental to fair competition.

### Plan Eliminates Competition

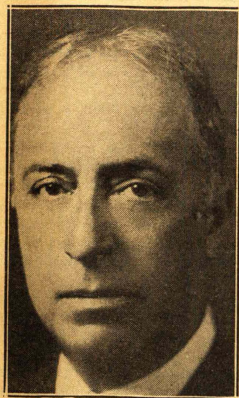
"(3) The question remains whether, despite the foregoing conclusions, the fact that the defendant's plan eliminates competition between themselves is alone sufficient to condemn it. Emphasis is placed upon defendants' control of about 73% of the commercial production in Appalachian territory. But only a small percentage of that production is sold in that territory. The finding of the court below is that 'these coals are mined in a region where there is very little consumption.' Defendants must go elsewhere to dispose of their products, and the extent of their production is to be considered in the light of the market conditions already described.

### No Ground for Illegality

"We agree that there is no ground for holding defendants' plan illegal merely because they have not integrated their properties and have chosen to maintain their independent plants, seeking not to limit but rather facilitate production. We know of no public policy and none is suggested by the terms of the Sherman Act, that in order to comply with the law those engaged in industry should be driven to unify their properties and businesses in order to correct abuses which may be corrected by less drastic measures. Public policy might indeed be deemed to point in a different direction. If the mere size of a single, embracing entity is not enough to bring a combination in corporate form within the statutory inhibition, the mere number and extent of the production of those engaged in a cooperative endeavor to remedy evils which may exist in an industry, and to improve competitive conditions, should not be regarded as producing illegality."

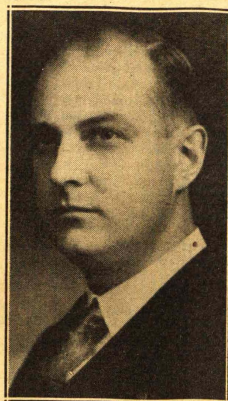


# Prominent Alumni Who Will be Present at Testimonial Dinner



**WILLIAM BROWN CARSWELL**

William Brown Carswell, a member of the class of 1908, is a Justice of the Supreme Court. He was formerly a State Senator for several terms. He has also been an Assistant Corporation Counsel of the City of New York.



**JOHN J. BENNETT, JR.**

John J. Bennett, Jr., a member of the class of 1926, is Attorney General of the State of New York. During the late war he was a Lieutenant of Aviation and now is a Captain of Infantry in the Officers Reserve Corps. He was also State Commander of the American Legion.



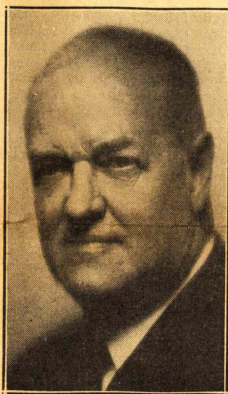
**FRANK FRED ADEL**

Frank Fred Adel, a member of the class of 1903, is a Justice of the Supreme Court. Besides being Vice-President of the Ridgewood Savings Bank, he is a director of the Bank of Manhattan Trust Co., and also of the Empire Title and Guarantee Co.



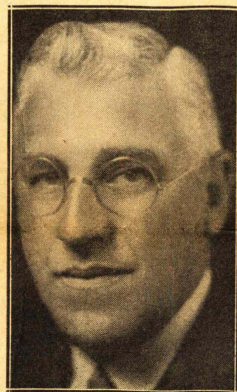
**GEORGE HENRY BOYCE**

George Henry Boyce, a member of the class of 1907, is a Justice of the Municipal Court of the City of New York.



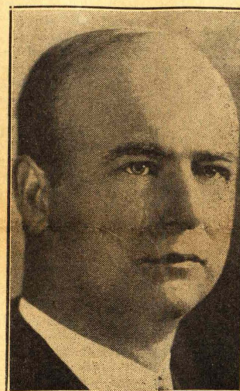
**ALVAH WATERMAN BURLINGAME**

Alvah Waterman Burlingame, a member of the class of 1904, has been in the New York Senate for several years. He is also Vice-President and Secretary of George Allison and Co.



**MANASSEH MILLER**

Manasseh Miller, a member of the class of 1902, is President of the Prudential Savings Bank and was President of the National Title Guarantee Co. He is also President of the National Exchange Bank and Trust Co. He serves on the board of directors of several corporations.



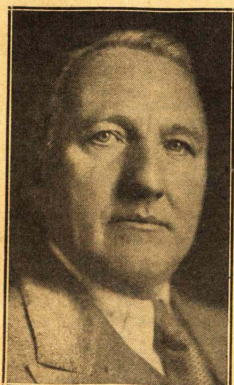
**HENRY GEORGE WENZEL, JR.**

Henry George Wenzel, Jr., a member of the class of 1911, is a Justice of the Supreme Court. Formerly he was a Justice of the Municipal Court of the City of New York.



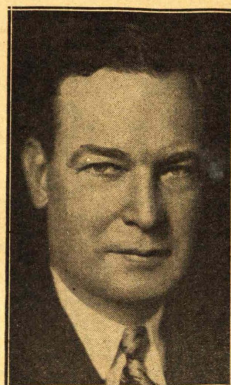
**GEORGE V. McLAUGHLIN**

George V. McLaughlin, a member of the class of 1915, is President of the Brooklyn Trust Co. He was formerly Police Commissioner of the City of New York. He is a Director of several corporations, among which are: International Trust Co., and Brooklyn Chamber of Commerce, Inc.



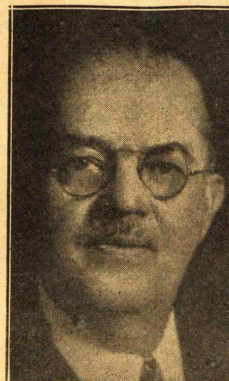
**JOHN JOSEPH CURTIN**

John Joseph Curtin, a member of the class of 1906, is the Special Counsel to the New York State Transit Commission. He was formerly Counsel to Governor Smith. In 1928 Brooklyn Law School conferred the Doctor of Laws degree upon him.



**LEON G. GODLEY**

Leon G. Godley, a member of the class of 1908, is one of the New York State Transit Commission. He has been a Deputy Police Commissioner, an Assistant Corporation Counsel and a Magistrate. Mr. Godley is also a Professor of Law at Brooklyn Law School.



**HARRISON G. GLORE**

Harrison G. Glore, a member of the class of 1903, was formerly a Justice of the Municipal Court of the City of New York. He is the author of "Functions the Judiciary Have Performed in Our Government." He also served several terms in the Assembly.



**LOUIS CHARLES WILLIS**

Louis Charles Willis, a member of the class of 1905, is President of Greater New York and Suffolk Title and Guarantee Co. One of the Advisory Board of Manufacturers Trust Co., he is also Vice-President of the Schomaker Holding Corp.



## Fraternities and Sororities

### PHI DELTA PHI

On April 1, Everts Inn held an initiation dinner at Keen's Chop House. Hon. John MacCrate of the Supreme Court of New York, Second District, was the principal speaker. Other speakers included Hon. Walter G. C. Otto, formerly a County Judge and now Mayor of New Rochelle, and Prof. Edwin Cady. Edwin G. O'Neill acted as toastmaster and was in his best form. Professors Markley Frankham and Donald F. Seely were also present. The men who were initiated into the fraternity are: Arthur Delany, Feodor Harms, Edward Hancock, John Conroy and James Finegan.

The ten Inns comprising the first province of this fraternity are holding their annual dance at the Waldorf-Astoria on April 8. Ferdinand V. S. Parr and John Scott are the chairmen in charge of this affair.

### IOTA THETA

The Iota Theta Law Fraternity tendered its most recent affair, a bridge and dance, at the Plaza Hotel, in New York City, on February 26, 1933, in cooperation with the Iota Alpha Pi Sorority. The social committee in charge consisted of George Weisbard, Murray Nathan and Theodore Leader. The "sisters" of Iota Alpha Pi united their untiring efforts to help make the event the success that it was.

In conformity with its established custom, Iota Theta held its regular seminar and smoker on Friday, March 24, 1933. Brother Rotwein, in an informal discussion unfolded the mysteries and fine points of the Legal Profession. Beer (legal) and pretzels were served after the forum.

### PHI KAPPA DELTA

Final arrangements have been completed for a Spring Dance which will take place on Saturday evening, April 29, 1933, at the Ritz Carlton Hotel, Grand Ballroom. The committee in charge of the dance is headed by Harold Olian, who is assisted by Milton Siegel and Maurice J. Fleiselman, alumni fraters.

Review classes, which will consist of a general review of all subjects studied at the law school, are being conducted. These reviews are being tutored by Abraham Olian, Edward Cirius, and Sam Saltz.

### ALPHA GAMMA

On March 10, 1933, Gamma Chapter of the Alpha Gamma Law Fraternity tendered a gala smoker in the Men's Lounge of the Brooklyn Law School. David Richardson, assistant to the Dean, gave an interesting talk "on the possibilities of young attorneys in the legal field of Public Utilities." Harry Herman, affiliated with the Bureau of Public Welfare was present and in an informal manner acquainted the fraters with the workings of that department.

Preparations are being completed for an annual spring dance which will be held some time in the near future at a prominent New York hotel.

The present roster of the fraternity contains the following men as pledges: Ben Wisniewitz, Harry Herman, Walter Seiden, Sam Appleman, Paul Barkal and Murray Sherman.

### KAPPA PHI SIGMA

On March 3, 1933, the fraternity held a smoker in its fraternity rooms at 58 Court Street, Brooklyn, New York, which was followed by refreshments and entertainment.

A dinner-dance will be held some time in the near future, as soon as the arrangements have been completed, which will take place at one of the Greenwich Village Inns.

The officers who were elected to conduct the affairs of the fraternity for the ensuing semester are: Joseph J. Newman, Rexusus; Abraham M. Reider, Vice-Rexusus; Harry N. Newman, Scribe; Leonard S. Ring, Chancellor; Julius Berzinsky and Morris M. Hertz, Scribes.

Among the brother alumni who are practicing Law, are as follows: Isi-

dore Bierman, formerly connected with the United States Attorney's office; Jesse Kraus, who is located in the Transfer Tax Department of the Surrogate's Court in Kings County; Miles J. Goldberg; Daniel Polansky; Milton Meyers, valedictorian in '28, and assistant to Dr. Cady in the Practice Court; Harvey Diamond, formerly in the Workmen's Compensation Bureau; Bert Friedman and Philip J. Mason. Professor Jay Leo Rothschild is an honorary member of the Fraternity.

### IOTA ALPHA PI

Iota Alpha Pi will tender its Annual Spring Dance on April 22, 1933, at the Hotel Plaza in New York. The proceeds of the affair will go to the Students Room Fund.

Preparations are being made by Gamma Chapter of Brooklyn Law School to entertain their "sisters" of Iota Chapter of Long Island University.

The Brooklyn Club, composed of up-town alumni of the Brooklyn Law School, held a regular meeting at the Y.M.H.A., at Fulton Avenue and 171st St., Bronx, N. Y., on March 28, 1933, at 8:00 P.M.

The Alpha Tau Alpha Legal Fraternity, Alpha Chapter of Brooklyn Law School, will hold a club steak dinner and reunion meeting on Tuesday evening, April 4, 1933, at 6:30 o'clock, at Rosoff's Restaurant, Nos. 147-151 West 43rd St., New York. All fraternity members are requested to attend. Reservations at \$5.00 a person may be made with Phillip Isaacs, No. 152 West 42nd St., New York.

## N.Y.U. Club Holds Dance and Trial

The New York University Club of Brooklyn Law School consisting of former students of New York University formed recently in the law school, has shown considerable activity. Meetings are being held bi-monthly in the College Club Room. Professor Rotwein is the faculty member.

Several professors of the school, as well as such notable figures in the legal world as Clarence M. Lewis, who is recognized as an authority on leases, have been guest speakers at the meetings.

### To Hold Mock Trial

The social events planned for the year include a dinner-dance at some hotel in Brooklyn or Manhattan. In addition to this the organization will hold a mock trial with the cooperation of the City College Club. It will be a murder trial—The People v. Hannibal Barnacle. The trial may be held at the Elks Club in Brooklyn, and will be directed by Professor Cady, who is director of the well-known Brooklyn Law School Practice Court.

A scholarship committee has also been formed to select some worthy student of New York University who contemplates studying law, and to award him a scholarship to the Law School.

The officers of the club are: Irving Kramer, President; Sidney Newman, Vice-President; Eleanor Schact, Secretary, and David Seid, Treasurer.

### CAMPAIGN IS BEGUN

The Brooklyn Bar Association recently laid plans for an extensive campaign against banks, trust companies, insurance agencies and other organizations which, it is alleged, encroach on the practice of law. A survey will be made of the situation in Kings County and steps taken to prosecute the offenders, it was reported.

## The Medical Witness

By IRWIN L. ALPER, M.D.

When the law comes to grips with the mysteries of Medicine, the situation becomes analogous to the anomaly in the chain of evolution. The resulting decision often becomes like the off-spring who resembles everyone except his parents.

The basis for such disparity is the present scheme of things, whereby he who pays the doctor can himself wield the knife under the skillful guidance of the surgeon. Medical testimony is beginning to sway like a delicate weed propelled by the breeze. The surgeon for the plaintiff makes a permanently disabled martyr out of the very slightly injured man, while the defense makes him out a scarcely scratched imposter, and the Judge and Jury must decide between the two. That is how the ponderous wheels of justice creak and groan and carry on.

This is true in the criminal branch as well as in the civil law. Eminent psychiatrists for the prosecution, of course, decide on wild, incorrigibility fostered by lack of ambition and by criminal propensities for easy gain, at the same time that equally prominent neurologists for the defense create a psychopathic personality; while the poor judge and the befuddled jury remain to decide which of the eminent medicos are to be believed. And thus is society protected!

### Physicians Deceptions Are Not Intentional

Both sides of the case are represented by honest, well-meaning physicians. Few doctors, if any, commit the crime of perjury. The intent to deceive the court is totally lacking. It is not done wilfully and knowingly. The science of medicine is not yet exact. There is so much of it that is left to information and belief, based on experience of some kind. What then is one to expect when a scientifically reasoning mind is let loose amongst a host of laymen, particularly when in the mind's eye he is traversing a desert with an oasis of plenty on the opposite side. One can so rightfully begin with a major premise at large and arrive at a conclusion with his employer receiving all the benefits of the doubt. That is honest logic, and that is what the medical witness is paid for under the present scheme of things.

### Adequate Remedies Always Forthcoming

Are there any remedies? Society is seldom left aggrieved very long without a complete and adequate remedy. The time is coming when this evil will become relegated to the past. It is futile to appeal to the honor and civic pride of the professional. He is honest; he is a fine citizen; and he does no wrong. His reasoning is simply at variance with the reasoning of others, and he cannot remedy this situation by himself if he would. It is up to the Municipality or to the State to remedy this evil. The physician witness should not have to depend upon the interested parties of a law suit for his stipend. His scientific mind should function no matter what the conclusion should be. The details of the scheme can readily be ironed out with a little thought on the subject. The following methods of procedure would tend greatly to eliminate this abuse:

(1) In state prosecutions for criminal offenses, the alienist should be a competent official, whose exhaustive study and report on the mental state of the defendant should be final.

### Only Medical Officers Allowed to Testify

(2) In civil actions the only medical witness to be allowed to present evidence to the court and jury should be a medical officer of the court. He can obtain his knowledge of the facts in a consultation before trial, at his office, with the physician for the plaintiff and the doctor for the defendant. The plaintiff's physician can then relate the facts, the condition, treatment, result, and perhaps the reasonable value of his services. The physician for the defense can then state his findings of the examination of plaintiff. The medical examiner then examines the plaintiff and decides upon the prognosis and all the other factors involved. His testimony shall be the only medical testimony allowed, of course subject to the cross examination of the attorneys and the judge.

### Personal Rights Not Taken without Due Process

In this there is no taking of personal rights without due process of law. A court of equity may send involved accounts to a referee to assist the court in its decision. An indigent defendant is assigned counsel. He cannot choose counsel at the expense of the state. No personal rights are sacrificed in the above instances. There are ample authorities and citations to support these views. A court and jury should not be compelled to wade through volumes of conflicting "scientific" testimony, and yet be depended upon to arrive at an equitable decision.

The medical witness should in all future cases be a man who is not under the slightest obligation to either party. In a criminal case the question of a defendant's mental condition should be passed upon and determined before his criminal trial actually begins. If the state decides that he is sane his trial should proceed. If the state decides that he is insane, no criminal proceeding should follow, but he should be officially confined to an asylum for treatment.

## Testimonial Dinner to Dean Richardson

(Continued from Page 1)

after moved to the Eagle Building where it was located for twenty-five years.

In 1903, through Dean Richardson's efforts, the school became affiliated with St. Lawrence University. In 1928, the present building, Richardson Hall was opened and dedicated to the study and teaching of law; a striking contrast to the former buildings which housed the classrooms and a monument to Dean Richardson.

### Graduate Maryland U.

Coming to Brooklyn from the University of Maryland, where he received the degree of LL.B. in 1894, having formerly attended the University of Wooster in his native state of Ohio, the Dean practiced law here after being admitted to the Bar in 1901. He has devoted a major portion of his life to the fulfillment of a desire born of the early years of studying and teaching the law—the desire to establish in Brooklyn what he terms "a good law school." The loyalty and devotion of students and the cooperation and support of associates and trustees, have, the Dean says, contributed to the ultimate result of success. All have worked "with me" and not "for me," he says.

### Judges Among Alumni

That there are more than seven

thousand alumni of the Brooklyn Law School, among whom are judges sitting on the benches of all the courts of New York City, attorneys prominent in the legal profession and noted for their contributions to the progress of the law, and leaders of civic and political life attest to the Dean's successful career as an educator and moulder of men.

The Dean has written many outstanding books on various phases of the law. His "Commercial Law," "Outline of Contracts," "Outline of Bills and Notes," "Outline of Guaranty and Suretyship," "Outline of Bailments," "Selected Cases in Evidence," and "The Law of Evidence," are all used by law schools and lawyers throughout the country. "The Law of Evidence" is accepted as one of the standard authorities on that subject among students and teachers of law, as well as among those practicing and compiling the law and is often quoted and relied upon as an authoritative expression of the N. Y. law of evidence by the courts of this state.

### Improves Legal Teaching

His activities in connection with the Bar Associations of which he is an active member, have brought him wide recognition. Recently the problem of developing and perfecting the New

## PRACTICE COURT

The final session of the Practice Court, directed by Prof. Edwin W. Cady, and for which Brooklyn Law School has become justly noted, was held Saturday, April 1st. This marks the close of another successful period of work by the students.

The purpose of the Practice Court is to enable the students to gain as thorough a knowledge of practice and procedure as can be had in a law school. It gives the Senior student a preliminary knowledge of the preparation and conduct of a case. This training has proven to be of invaluable service, since the courts are conducted in all ways precisely as are regular courts of Law and Equity. Several prominent members of the bench and bar have served as guest judges, and they have always strictly applied the rules of Pleading and Practice.

David L. Podell, eminent attorney, made some very interesting comments when he presided at the last session. He condemned the habit of petty bickering which so many lawyers indulge in. Many attorneys in court, he said, are constantly engaged in picaresque arguments that are of no real value to their cause. On the contrary, a suave and gentlemanly attitude at all times will surely pay good dividends in the nature of the favorable impression it is bound to create, claims Mr. Podell. Another matter he mentioned was the stigma attached to Criminal practice. The lay public, he insists, looks at the whole proposition from the wrong angle. They should regard the lawyer with a criminal practice in the same light as a surgeon, who does his utmost to save a human life, regardless of whether or not the individual is worth saving.

## Fenster Addresses Union College Club

Joseph G. Fenster, New York attorney and Union graduate of the Class of 1903, addressed the Union College Club of Brooklyn Law School at its monthly dinner held March 2, at the Hotel Granada.

Mr. Fenster told of his experiences in serving, among other clients, Rear Admiral Richard Byrd, retired, and Hubert Wilkins. He discussed the methods employed and the safeguards necessary to protect the expedition leader who must exercise autocratic powers in polar areas. The source and origin of the criminal mind furnished a topic for a lively discussion.

### Dinner in April

The next dinner of the Club will be held in the early part of April. Frank Bailey, Treasurer of Union College, is expected to be the guest speaker. At that time the award of the Club scholarship to a Union graduate of the Class of '33 will be taken up among other matters.

The officers of the Club, which was the first college organization to be founded at Brooklyn Law School, are: Professor Edwin W. Cady, Honorary President; Ralph J. Stark, President; Cortland Poe, Vice-President, and Herman Shierloh, Secretary-Treasurer. Among its Honorary members are Federal Judge Patterson, and Hiram C. Todd, prominent New York prosecutor.

Milton E. Canter, Director of Publications at the Law School, and Charles Alonge, now practicing law in Hudson, N. Y., are the Brooklyn Law School graduates who are alumni of the Club.

York State Bar Examinations has engaged his attention and study. As a member of many committees on Legal Education, he is devoting the results of his past experiences and findings to the improvement and progress of the teaching of law.

ing. He praised the counsels and litigants who tried their cases before him, and commended their excellent preparation and conduct of their actions.

The cases over which he presided were:

Before: Mr. Justice David R. Podell  
Fred Brown v. Irving Pearlman—Leon Pobersky for the plaintiff; Clement C. Eicks for the defendant.  
Morris Hertz v. Charles Goldstein as Executor—Morris Goldstein for the plaintiff; Gerald FitzGerald for the defendant.

Leon Palevsky v. Alfred Weinstein—Harry Newman for the plaintiff; Stanford H. Waite for the defendant.

Elias Jacobs v. The Brooklyn Savings Bank, et al.—Peter Blasi for the plaintiff; Robert Morris for the defendant.

Irwin Tannenbaum v. Max Goldblatt—Joseph Newman for the plaintiff; Milton Gershenson for the defendant.

Joseph G. Fenster, Esq., made his initial visit to the Practice Court when he presided over Part II. The cases over which he presided were:

Before: Mr. Justice Joseph G. Fenster.  
Mervin Pallister v. Saul Kies—William Campbell for the landlord; Morris L. Cohen for the tenant.  
Robert Feiman v. Leonard Thorne—Marvin Kalfus for the plaintiff; Leon Weinstein for the defendant.  
Milton Gershenson v. Paul Levine—Irving Reiman for the plaintiff; Louis Levinger for the defendant.  
Petition of Paul Levine to prove last will and testament—Harold W. Cohen for the petitioner; Isidore Freedman for the contestant.

P. Fairchild v. Carl McClain—John McDonald for the plaintiff; William L. Moses for the defendant McClain; Charles E. Schiffmacher for the railroad.

Aaron S. Cutler, Esq., and Dr. Samuel G. Coler, graduates of Brooklyn Law School, also sat at this session.

Saturday, March 4, 1933.  
Before: Mr. Justice James C. Crosey, Justice, Supreme Court, Second Judicial Department

Part I  
Prodigal Bank v. John Klinker—Samuel Starobin for the plaintiff; Chester Koppel for the defendant.

Ruth L. Weiss v. Louis Meyer—Maxwell T. Cohen for the plaintiff; William Campbell for the defendant.  
Helen Henis v. Falcon Insurance Company—Jerome Prince for the plaintiff; Noah Rotwein for the defendant.

Before: Mr. Justice Charles J. McDermott, LL.D., Brooklyn Law School, 1930; former County Judge.

Saturday, March 4, 1933.

Part II  
Della Heller v. Julius Karger—Louis Meyer for the plaintiff; Leon Pobersky for the defendant.

In the Matter of the Petition of Kuhn Testi to Prove the Last Will and Testament of Eliza Howard—Solomon Diamond for the proponent; Hyman Sommer for the contestant.

SPECIAL TERM (MORTGAGES)  
Philip Hoffer v. Joseph A. Fiori—Samuel L. Rockmore for the motion; Joseph H. Cohen in opposition.

John J. Langdon v. Joseph H. Cohen and Harold Jones—Martin A. Jaffe for the motion; Isidore Cohen in opposition.

Irving Rivkin v. Samuel Andewelt—Arthur Shea for the plaintiff; Milton Stroll for the defendant.

Saturday, March 18, 1933.  
Before: Hon. Charles J. McDermott, former County Court Judge, LL.D., Brooklyn Law School, 1930.

Hanswag, Inc. and John Hanswag v. Excelsior Hardware Company and Hammer & Anvil Press—Robert Gruskin for the plaintiff; Gilbert Rabinowitz for the defendant.

(Continued on Page 7)



## PRACTICE COURT

(Continued from Page 6)

Matter of Petition of Kuhn Testi, &c.  
—Hyman Sommer for the propo-  
nent; Solomon Diamond for the con-  
testant.

Before: Mr. Justice William D. Reed.  
Samuel Joseph v. Thurlow Stewart—

Philip Hoffer for the plaintiff; Stan-  
ford Waite for the defendant.  
People v. Harry Newman & Oscar  
Miller—Leon Palevsky for the peo-  
ple; Alfred Weisstein for the de-  
fense.

Before Mr. Justice Herman S.  
Bachrach.

People v. Arthur Silverstone—Irv-  
ing Reiman for the People; Irving  
Brody for the Defense.

Maxwell T. Cohen v. J. Walker, Inc.  
& Richard North—Harold Schwartz  
for the plaintiff; Leonard Thorne  
for the defendant.

Before: Mr. Justice Abraham  
Benedict.

Harry Sylvester v. Ralph Weinstein—  
Douglas Amann for the plaintiff;  
Leonard S. Ring for the defendant.  
Marvin Kalfus v. Jacob Weinstein—  
Harry Koblewsky for the plaintiff;  
Morris Weiner for the defendant.

Before: Hon. Meier Steinbrink, Jus-  
tice of Supreme Court, Second  
Judicial District.

Saturday, March 25, 1933.

Trial Term, Part I.  
Martin Hanson v. Frank Smith—  
Lieut. Solomon Isquith for the  
plaintiff; Irving Figowitz for the  
defendant.

Irving Brody v. Milton Gershenson—  
David Klibanow for the plaintiff;  
I. Belfer for the defendant.

Before: Hon. Albert Conway, Justice  
of Supreme Court, Second  
Judicial District.

Trial Term, Part I.  
Milton Stroll v. Town of Morristown  
—S. Forrest Andewelt for the  
plaintiff; Gerald Feit for the de-  
fendant.

Morris L. Cohen v. Herman Edels-  
berg—Samuel Chermiack for the  
plaintiff; William Schneller for the  
defendant.

Before: Mr. Justice Charles L. Gold-  
man, Brooklyn Law School.

Samuel Boris v. West Shore Railway  
—Jacob Bartfield for the plaintiff;  
John Scott for the defendant.

People v. John H. Easterday—Joseph  
Spano for the People; Louis Mos-  
cato for the Defense.

Before: Mr. Justice Morris L. Fried,  
Brooklyn Law School, LL.B.

Milton Gershenson v. Richard Carlin-  
sky—Irwin Tannenbaum for the  
plaintiff; Alex Rubin for the de-  
fendant.

People of the State of New York v.  
J. Scott—Morris Hertz for the Peo-  
ple; Max Goldblatt for the Defense.

Before: Mr. Justice Harry Sand,  
Brooklyn Law School, LL.B.

Thomas Dunn v. Jacob R. Levy—Paul  
R. Carr for the plaintiff; Nathan  
Michlin for the defendant.

Irving Friedman v. Martin Friedman  
—I. Clayman for the plaintiff;  
Samuel Boris for the defendant.

Ralph Weinstein v. Harold Cohen—  
Julius Weinstein for the plaintiff;  
Irving Rifkin for the defendant.

Before: Mr. Justice Aaron S. Cutler.  
In the Matter of John Blossom, Peti-  
tioner—Benjamin Busch for the  
petitioner; Samuel Davidson for the  
contestant.

John J. Langdon v. Joseph H. Cohen  
and Harold Jones—Isidore Cohen  
for the plaintiff; Martin A. Jaffe  
for the defendant.

Michael F. Lauro v. West Shore R.R.  
—Howard J. Gibbs for the plain-  
tiff; Philip Hoffer for the defend-  
ant.

Before: Mr. Justice Samuel G. Coler.  
Anthony De May v. Robert Gruskin—  
Kurt Widder for the plaintiff; Al-  
fred Weisstein for the defendant.

Bernard Brandt v. John McDonald—  
Oscar Miller for the plaintiff; Leon  
Zaretski for the defendant.

Jack Siegal v. Solomon Isquith—Miss  
Elsie Pototzky for the plaintiff;  
Murray Blumenfeld for the de-  
fendant.

The Calendar from March 4th to  
March 25th was as follows: No Trials  
on February 25th and March 11th.

The members of the bench and bar  
who have presided over sessions of

the Practice Court are numbered  
among the most highly esteemed and  
capable in the profession. The com-  
plete list is as follows:

Hon. James C. Cropsey, Justice of  
the Supreme Court; Hon. Meier Stein-  
brink, Justice of the Supreme Court;  
Hon. Albert Conway, Justice of the  
Supreme Court; Hon. Charles J. Mc-  
Dermott, LL.D., Brooklyn Law School;  
Fred L. Gross, Esq., President of the  
Brooklyn Bar Association; Hon. Mur-  
ray Hearn, Justice of the Municipal  
Court; Edward J. Connelly, Esq.,  
Counsel for the Chase National Bank;  
Arthur Joseph, Esq., LL.B., Brooklyn  
Law School; Harold R. Medina, Esq.,  
Associate Professor, Columbia Law  
School; William D. Reed, Esq.; Her-  
man S. Bachrach, Esq.

Abraham Benedict, Esq., Trial  
Counsel for Jenks & Rogers; Charles  
L. Goldman, Esq., LL.B., Brooklyn  
Law School; Morris L. Fried, Esq.,  
LL.B., Brooklyn Law School; Harry  
Sand, Esq., LL.B., Brooklyn Law  
School; Samuel G. Coler, Esq., LL.B.,  
Brooklyn Law School; Aaron S. Cut-  
ler, Esq., LL.B., Brooklyn Law  
School; Joseph G. Fenster, Esq., Coun-  
sel for Sir Hubert Wilkins; David L.  
Podell, Esq.

Those who served as clerks and  
officers of the court are to be high-  
ly commended, with a special word  
of praise for Miss Schurmer and Isaac  
Figowitz, who have done their work  
in a highly efficient and thorough  
manner. The names of these men are:

Commissioner of Jurors—Isaac  
Figowitz.  
Assistant Commissioner—Irving M.  
Reiman.

Clerks—Harold W. Cohen, Milton  
Gershenson, William Campbell, Ber-  
nard Brandt, Irving Kramer, Solomon  
Diamond, Thomas V. Dunne, Edward  
J. Storck.

Proctors—Judah Braunstein, LL.B.,  
'29, LL.M. '30; Joseph Eckhaus, LL.B.,  
'30; Stanley Leonard Gluck, '32; My-  
ron Magge, '32; Moses Shapiro, '32;  
Max Ehrlich, LL.B., '29, LL.M. '30;  
Martin J. Forgang, LL.B., '29, LL.M.  
'30; Jesse Stanley Sunshine, '31; Felix  
Pincus Bertisch, '32; Herbert Fenster,  
'32; Robert M. Grogan, '31; Arthur  
Lincoln Milligan, '32; Benson Sidney  
Telsey, '32; Abraham Apat, LL.B., '28,  
LL.M. '31.

Louis Sohmer, '31; Irving Hoffman,  
'32; Milton Jacobson, '32; Alfred S.  
Julian, '31; Plate Vandewater Ket-  
chum, '32; Rene Loeb, '32; Louis  
Albert Marchisio, '32; Abraham Olan,  
'32; Murray Nathan, '32; Isidore  
Herzhaf Wachtel, '32; Simon Klein,  
'32.

As has been the custom in the  
past, students from other schools have  
been asked to sit on the juries in the  
Practice Court, and many have ac-  
cepted the invitation. The schools  
represented were Adelphi, Hunter  
College, Long Island University and  
City College. The names of those  
who attended, over a hundred in num-  
ber are:

Adelphi  
Elin Abramson, Helen B. Adelmann,  
Sylvia Block, Doris Blattmachr, Claire  
Brown, Hilda Brenner, Amy Bern-  
stein, Myriam Blumberg, Marie Buser,  
Helen Brill, Gertrude Day, Helen  
Denton, Miriam Franklin, Norma  
Ginsburg, Elsa Happel.

Rita Helder, Katherine Hamlet,  
Beulah Hoskwith, Lillian Klein, Helen  
Klein, Muriel Kappel, Edith Kerbs,  
Lucille Leitzer, Helen S. Morris, Jean-  
ette Mortimer, Frances Minstretta,  
Marjorie Pearl, Kathleen Phillips,  
Julia Pinks, Bertha M. Powell, Flo-  
rence Rivkin, Katherine Rostron, Flo-  
rence Schurmer, Mildred Senkbeil, Mari-  
etta Waldron.

Hunter College

Helen Archibald, Florence Berman,  
Stella Eberlin, Ellen E. Hoover, Ruth  
King, Fannie Lipschitz, Pearl Pone-  
man, Gladys Roud, Ida Rubenstein,  
Ann Rosegarten, Ester Taubman.

City College

William Alton, R. Brown, Max I.  
Basner, William Bernstein, Leonard  
Berkstein, Abraham Bitter, Abraham  
Bonick, George Balamut, Charles R.  
Beaton, Roger Burdon, Louis Eisen-

(Continued on Page 8)

## Eliminate the Legal Delays

(Continued from Page 4)

cance. Jury trials on the average take about twice as much time as non-jury trials. The selection of a jury, the opening of both counsel, the summations and charge and in general the greater care taken in sustaining objections so that incompetent evidence will not be heard by a jury—all these factors contribute.

Nor is the certainty of the result of jury trial, as compared with the result of a non-jury trial, in favor of the jury trial. The oldest clerks in the courthouse repeat "you can't gamble on a jury's verdict."

Therefore, since trial by jury has not proved to be an unmixed blessing, a limitation and restriction thereof should not prove onerous.

### Method for Limiting Trial Juries

A simple constitutional method of limiting jury trials is: A party desiring a jury trial must make a preliminary motion (akin to our motion for summary judgment) obtaining the leave of the court for a trial by jury. The motion papers should contain an abstract of the evidence, an itemization of the precise issues of fact and the reasons why on such issues of fact a jury trial is essential. In the absence of such motion made within a certain period the right to jury trial is irrevocably waived as it is now under the Civil Practice Act, if jury is not demanded within a certain period. The judge hearing the motion might in his opinion dispose of it by holding that there is only a question of law involved. He might hold that there is no real substantial question of fact and deny the jury trial on that ground. Only where there is a real issue of fact would a jury trial be granted.

It will be argued that to eliminate the right of jury trial is eliminating the most precious bulwark of our judicial institutions. That same argument might apply to the present waiver of jury trial in the Civil Practice Act. Our courts have consistently held the litigants to strict compliance with this provision and failure once to comply, even by inadvertence, has been fatal to the right of jury trial.

Furthermore, in equity cases jury trial has been eliminated as a matter of right. If suit is brought on a mortgage, it is an equity suit and the right to jury trial is a matter of discretion for the court and not absolute. If suit is brought on the bond accompanying the mortgage, it is a common law trial and jury trial within the Code provisions is saved as a matter of right. Thus on practically the same instruments (bond and mortgage) have frequently been construed necessarily to be read together as one, the right to jury trial in one case is a matter of right and in the other case on the same controversy across the hall is a matter of discretion.

### Jury Trial Not Always Matter of Right

Likewise in insurance and interpleader cases. If a beneficiary sues the insurance company on a policy, that is ordinarily a common law action and jury trial within the Code is a matter of right. If the insurance company brings an interpleader, or if plaintiff must have an equity aid like reformation, the suit becomes one automatically at Special Term and the right to jury trial is a matter of discretion only and not absolute.

These artificial distinctions recognized in our law even in this modern day show clearly that the courts have had no difficulty in eliminating the right to jury trial without constitutional infringement.

If all these safeguards were thrown around a jury trial most of the jury trial calendar would disappear. Our large jury calendar would quickly be dissolved by the foregoing expedient. Our non-jury calendar would be kept up to date, as it now is, by the third point of this program.

2. No student of English court work can fail to be impressed by their system of Masters. All the preliminaries to the actual trial are in the hands of Masters to whom the case was first delegated. Instead of the American system whereby one judge at Special Term hears a motion for judgment on the pleadings, another judge a few months later re-studies the whole case and hears a motion for a bill of particulars, a third judge a few months later re-studies the whole case and hears a motion for examination before trial and so on infinitum, we have much to learn from our brethren abroad.

### Masters Will Serve As Judges

There the Master, who first gets the case, keeps it in his hands until the eve of trial. Therefore all motions concerning the pleadings, examinations, bill of particulars, etc., are familiar to him. Each time a motion comes up in Smith v. Jones he does not find it necessary to re-study the papers. He is familiar with the law suit and with all of its ramifications. Thus much of the dead wood is knocked off the main branch of the tree. The issues in the case are narrowed down so that by the time it comes to trial the trial court has a simple, understandable question of fact and law to decide.

These Masters could be chosen from the list suggested in the following point of our 3 point program.

3. In this emergency, under supervision of the Appellate Division a list of 100 or more prominent members of the Bar should be selected. These men are to serve as judges or assistant judges 1 or 2 days a week, if not longer, without compensation and with their only hope of reward getting the calendars up to date and once having attained that paradise, keeping it up to date.

Thousands of objections can be made to this idea. Hundreds of better ideas could perhaps be enunciated. But the important thing is that something be done, if only to show the public that the lawyer is not complacent and satisfied with present conditions. Some drastic step must be taken.

### Objections Are Easily Met

If the objection is made that there are not enough court rooms or enough juries, all the present judges, in the emergency, could devote themselves to jury trials and leave equity, motion parts and all other work to the volunteer judges.

If the objection is raised that there are not enough court rooms, every volunteer judge could hear the trial in his office.

In similar manner, every objection could be answered for out of them all some plan may be devised.

The important thing is to do something and stop finding objections to every possible solution.

### Lawyers Should Develop Leadership

If we lawyers would become the leaders in such a movement, it would be casting bread upon the waters. But somehow life demonstrates that every unselfish act brings untold, unlooked for rewards. It is an opportunity for us lawyers to assume the leadership in a movement now, at a time when a long suffering public is growing more impatient daily of the anachronisms in our legal system and will take the power in its own hands if we don't move quickly.

The immediate results of this plan would not be insignificant in the legal profession. In the outside world the results, by way of by-products, would be even more tremendous. Have you any conception of the amount of money that is now tied up in litigation? These dollars are not only frozen, but dead. They are useless for the next 2 or 3 years, whereas the ordinary businessman has pressing need for them now. If the calendars were brought up to date, hundreds of millions of dollars that are now stagnant in the lazy river of litigation wending its way slowly down to trial, would become active, spendable dollars. All that money thrown into circulation would have its inevitable effect upon this depression. It should be the aim of every lawyer to thaw out money now frozen in litigation. Thus will not only our profession be the gainer, but the whole business world will be grateful. Let it be known that the lawyers, too, have their hand on the pulse of the times and that we are doing our bit to make the depression past tense.

## Justice Cuff Suggests Change

(Continued from Page 1)

procedure has been a swing in favor of the court and litigants and away from the attorney. This condition, he holds, should be changed, and he mentioned several changes that would facilitate the practice, and therefore serve as an indirect means of enhancing a lawyer's income.

As our courts are now conducted, the presiding judge is the central figure, and the lawyer is subordinate to him. This, according to Justice Cuff, is all wrong. The counsels are the two men in the court room who know more about the case than any other, and they should be the central figures, not the judge. The judge, he also insists, has an unfair advantage over the attorney in the arguing of points that come up during the trial. The court has the final say, and the attorney can do nothing about it. "The lawyer is thus often humiliated, which," he pointed out, "makes an unfavorable impression on the client and general public present."

### Furniture Brings Protest

Another situation that brought forth a protest from the Justice was the arrangement of the furniture within the court room. As it now is, there is no adequate provision made for facilitating trial counsels' conduct of the case. Justice Cuff proposes a room that would provide a full and convenient place for each counsel to put his papers and exhibits, and a

chair for his exclusive use. He told of the "mysterious disappearance" of the minutes of a Magistrates Court that he intended to use in his questioning of a witness. The papers were laid upon a table near the witness stand, but when looked for they were gone. A proper arrangement of the tables and chairs would make such an occurrence impossible, he contended. Phone service in the court room was also suggested for the lawyer who is practically cut off from his office all day when he has a case on trial.

### Sup. Pro. Wastes Time

Supplementary proceedings are also a waste of time and effort, said the speaker. The present system practically makes the judgment debtor the successful litigant instead of the judgment creditor. The Justice insisted that the judgment debtor should be put on the stand immediately after the verdict and made to tell just "what he intends to do about the matter." This method, he feels, would do away with the present farce of supplementary proceedings, and make a judgment something more than a joke. If an appeal is contemplated, the loser of the case should be made to post a bond, just as is a person who puts up bail. The lawyer's fee, he pointed out, depends upon the satisfying of the judgment, and his suggestion would guarantee the fee.

## Court Addition Is Suggested

(Continued from Page 1)

lation of certiorari proceedings.

### Many Reductions Sought

After the tax books are opened on October 1, disclosing the property assessments for the coming year, owners who feel their assessments are too high have until November 15 to file an appeal with the Board of Taxes and Assessments. Last fall there was an unprecedented number of such appeals, about 165,000. On February 1, the final tax assessments were revealed, and now such owners who either received no reduction on appeal or obtained reduction and feel it isn't enough are beginning to obtain writs of certiorari calling for court review of the assessment they must pay taxes on.

On June 30 last year, after a steady inflow of writs of certiorari for many weeks, the County Clerk's office looked like a department store on bargain day. It was jammed with the representatives of property owners seeking to get the appeals in before the time limit came. Tired clerks handled the applications. There were about 6,100 in all the boroughs, most representing Manhattan. During the same period of 1931, 2,200 had been filed.

### Cases Cause Congestion

It is the congestion caused in the Supreme Court by all these cases that Mr. Elliman feels should be given immediate, serious attention. Obviously, he said, neither the Corporation Counsel's office, which represents the city on the trial of each issue, nor the courts can, under present conditions give each case the consideration it deserves. In the meantime, he added, the property owner must pay a tax based upon the assessment against which he is appealing.

The court may or may not decide, after hearing the facts, to reduce an assessment. Only after it has, can the property owner obtain the return of the excess tax paid. It is only by conducting special hearings as suggested, said Mr. Elliman that this problem can be solved without burdensome delay.

Mr. Elliman indicated that steps to lay the situation before the Governor would probably be taken.

## Legal Drafts Topic of Talk

(Continued from Page 1)

fact which the client himself does not quite know. Likewise, there are the clients who come to the attorney with plans to be carried out, plans, which, if carried out would have results ranging from the indifferent to the disastrous. "The duty of the attorney is to avoid these pitfalls and detours." "The knowledge and practical working of legal draftsmanship," it was stated, "is at least half the battle."

### Simple Sentences Best

"As a rule, sentences as well as paragraphs," he continued, "should be short and simple. Each paragraph should cover a separate subject. Every paragraph should be numbered and, if possible, should have a marginal note indicating its subject matter. The documents should be drafted and triple spaced and should be checked by at least one man other than the draftsman. The attorney," declared Mr. Lewis, "will find it very helpful and also valuable, to properly use general and special form books, not, however, those concerned with pleading or practice for the purpose of this branch of work. The completed draft should be compared by the attorney, with the similar form in the form book, any excess matter can be removed and any essentials omitted can then be inserted. The attorney who faithfully and explicitly follows this program, will," the speaker declared, "be as close to perfection in the form of his legal documents as his capabilities can bring him."

## Prof. M. Frankham Aids New York Commission

Professor Markley Frankham of the Brooklyn Law School Faculty was one of the group of lawyers and law school professors who assisted in the researches conducted under the direction of the Commission on the Administration of Justice in New York State.

The Act by which the Commission was created provides for the submission of its report at this session of the Legislature. From November 1931 until the recent appointment by President Roosevelt of Professor Raymond Moley as Assistant Secretary of State, Professor Frankham assisted Professor Moley in his duties as Director of Research of the Commission.



## Current Legal Decisions

(Continued from Page 1)

money to support a wife. The defendant suggested that if it was merely a matter of sufficient money to establish him in a business of his own, she had \$8,000 and would supply the money if an opportunity arose.

Subsequently, such an opportunity presented itself. The defendant reiterated her willingness to furnish the money required, but demanded an immediate marriage. There was a civil marriage. It was never consummated, the parties returning to their respective homes. On the following day the plaintiff called upon the defendant for the money. He discovered that she did not have the money nor any means of getting it.

### Appellate Division Reversed

Reversing the Appellate Division, the court held that an annulment should be granted. Marriage, so far as its validity in law is concerned, continues to be a civil contract to which the consent of parties, capable in law of making contract, is essential.

While not all frauds are adequate for annulment, any fraud which is "material to that degree that, had it not been practised, the party deceived would not have consented, is adequate."

The misrepresentations of the defendant were not mere exaggerations or misstatements of her means or prospects. They were definite statements of existing facts, without which, as the defendant clearly understood, no marriage was presently practicable.

Judge Crane dissenting in a scathing opinion in which he characterized the marriage as a mere matter of "bargain and sale in which the woman bought the man for \$8,000, and because she failed to have the money the man seeks an annulment."

### Reasoning of Court Given

He said that the law makes no adjustments of those marital difficulties brought about by a person's own indifference to, and disregard of, his own welfare. The plaintiff had known the defendant for seven years. To rely solely on the representations made by the defendant, in the circumstances, was blind folly. "Love is blind, but in this case there was no love." It was a purely commercial transaction in which the plaintiff failed to exercise any care or caution, and has only himself to blame for his predicament.

He continued that not every representation leading up to marriage is material. "The fact that a brunette turned to a blond over night, or the rugged complexion suddenly gave way to pallor, or that the beautiful teeth were discovered to be false would lead no court to annul the marriage." The fraud which dissolves a marriage must relate to something vital. It must be proven by clear and convincing evidence to have been a dominant and vital element in entering into the contract. "What induces a man to marry a woman? Who can tell? Are judges wiser than other men?" The false representations must be so weighty and material that the courts can say that they would have influenced the consent of a man of average intelligence and prudence. The representations in this case, said Judge Crane, do not attain that importance. He also pointed out that in an annulment plaintiff was free to testify concerning the matter, whereas in an action for a divorce the plaintiff could not do so without limitation.

**Stocks — Corporations — Merger — Appraisal**  
In the Matter of Eddie Cantor, 261 N. Y. 6, January 10, 1933.

The petitioner had not voted for but had made timely objection to an agreement of consolidation and merger between the Manufacturers Trust Co. and the Chatham and Phoenix National Bank. The consent of two-thirds of the stockholders had been obtained as required by section 490 of the Banking Law. The petitioner demanded payment for his stock in the Manufacturers Trust Co. Upon the refusal of the corporation, he brings

## Summer Classes will begin in June; Four Courses, Two Sessions, to be Given

The summer session of Brooklyn Law School will begin Monday, June 19th, and will conclude Friday, September 1st. The courses offered this session are Torts, Contracts, Agency, and Domestic Relations. Classes will be divided into two sessions; the first from 9 to 11 A.M. and the second from 7 to 9 P.M.

The courses to be offered are the same in content and character as those given in the regular sessions and carry full credit toward the Bachelor of Laws degree thereby enabling students to shorten the three year period ordinarily necessary for the courses leading to a degree.

### Three Summer Sessions

Three summer sessions of eleven weeks each constitute a full year of law school work. Students entering the study of the law in June, 1933,

and continuing through two school years and three summer sessions may thus complete the law course by September, 1935, and qualify for the bar examination given in October, 1935.

Requirements for admission to the summer session of the law school are: 1. Applicants, both men and women, must be at least 18 years of age and must possess either:

(a) A diploma or certificate of graduation from a College or University recognized by the Regents of the University of the State of New York; or

(b) A Law Student Qualifying Certificate issued by the University of the State of New York under the rules of the Court of Appeals upon evidence of the completion of two years of academic college work.

## Noted Group To Honor Dean

(Continued from Page 1)

Esq., John A. Bowen, Esq., Hon. George H. Boyce, George R. Brennan, Esq., William A. Brooks, Esq., F. Matthew Buermann, Esq., Wm. H. Brunjes, Esq., Dr. Samuel B. Burk, Hon. Stephen F. Burkard, Hon. Alvah W. Burlingame, Dr. Edwin W. Cady.

Julian V. Carrabba, Esq., Louis J. Castellano, Esq., Hon. John D. Clarke, Charles N. Cohen, Esq., Samuel G. Coler, Esq., Charles D. Cordis, Esq., Mrs. Jane S. Cramer, Dr. Edward T. Curran, Hon. John J. Curtin, Royal A. Curtis, Esq., Aaron S. Cutler, Esq., David J. Daly, Esq., Robt. Daru, Esq., Rev. Wm. T. Dillon, James E. Doherty, Esq., Hon. Joseph M. Donovan, Hon. Abraham L. Doris, H. Francis Dyruff, Esq., David S. Edgar, Esq., John A. Eubank, Esq., James M. Fawcett, Esq., Abraham Feit, Esq., Jacob A. Freedman, Esq., John W. Frost, Esq., Hon. Edwin L. Garvin, Hon. Harrison C. Glone, Hon. Leon G. Godley, James M. Golding, Esq., Benjamin P. Goldman, Esq., M. Preston Goodfellow, Esq., William J. Grange, Esq., Hon. Fred L. Gross, Albert E. Gunn, Esq., Raymond M. Gunnison, Esq., William V. Hagedorn, Esq., John W. Hanon, Esq., Hon. Edgar F. Hasleton, Adrian Hegeman, Esq., Samuel Hendel, Esq., Thomas F. Hickey, Esq., Thomas A. Hill, Esq., Denis W. Hyland, Esq., Charles Jaffa, Esq., Edward L. Johnson, Esq., Joseph Katz, Esq., Edgar M. Keator, Esq., Frederick A. Keck, Esq., Harold M. Kennedy, Esq., Frederick W. Kiendl, Esq., Henry H. Klein, Esq., Emil P. Korkus, Esq., John N. Kraeger, Esq., Edwin L. LaCrosse, Frank E. Lammers, Esq., Mrs. Horstense Lersner, Henry Logan, Esq., Harry S. Lucia, Esq., Philip V. Manning, Esq., George A. Marshall, Esq., Dean George W. Matheson, Edward C. McDonald, Esq., Hon. George V. McLaughlin, James L. Medler, Esq., Manasse Miller, Esq., Hon. Fred G. Milligan, Edwin C. Morsch, Esq., Louis J. Moss, Esq., Nelson L. North, Esq., Michael C. O'Brien, Esq., Samuel M. Ostroff, Esq., William J. Pape, Esq., Thomas P. Peters, Esq., Milton E. Pickman, Esq., Louis H. Pink, Esq., Hon. Raymond G. Pollard, Lester Rabbino, Esq., Benjamin C. Ribman, Esq., Henry A. Robinson, Esq., John J. Robinson, Esq., Nelson L. Robinson, Esq., Harry Sand, Esq., Jacob Schapiro, Esq., Henry Scheibel, Esq., Benjamin F. Schreiber, Esq., Charles E. Schweitzer, Esq., Simon M. Seley, Esq., Leon J. Shapiro, Esq., Hon. Nathan D. Shapiro, James E. Smyth, Esq., Miss Sarah Stephenson, Max D. Steuer, Esq., Theodore M. Stitt, Esq., Herbert D. Stone, Esq., Abner C. Surples, Esq., Abraham Sussman, Esq., Sidney Szeerlip, Esq., Thomas J. Towers, Esq., Michael F. Walsh, Esq., Archibald R. Watson, Esq., Samuel Widder, Esq., Marinus Willett, Esq., Howard O. Wood, Esq., Miss Ida L. Woolworth, L. Maurice Wormser, Esq., Miss Amy Wren, Judge Edward J. McGoldrick.

## O'Brien Offers New Action Bill

Family and Children's Courts Combine As Court of Domestic Relations

### MAYOR TO NAME JUSTICES

A bill advocating the consolidation of the Family Court and the Children's Court into a single Court of Domestic Relations has just been introduced in the Legislature. Except for divorce, separation and paternity actions, this new court would have jurisdiction over all actions affecting parents and children. Special Sessions would continue jurisdiction over paternity actions.

Mayor John P. O'Brien, one of the sponsors of this bill, stated in an interview with a Justinian reporter, that this consolidation would "end the shuffling of litigants back and forth between the Children's Court and the Family Court." He also pointed out that it would put a stop to the delays which "work hardships on the poor people who make up the majority of the litigants."

As the new court will be able to use the existing buildings of the children's courts in Richmond, the Bronx and Queens and those of the Family Courts in Brooklyn and Manhattan, Mayor O'Brien expects the consolidation will result in substantial economies.

Although providing for no additional justices, this bill permits the Mayor to appoint as many justices as are needed, upon the petition of two-thirds of the justices. The responsibility will rest upon the presiding justice, who will have extensive administrative powers.

## Practice Court

(Continued from Page 7)

stein, Henry Fishman, Irving M. Gersten, William Gibson, Sidney S. Goldberg, Hyman Klibanoff.

Morris Krauthamer, Robert S. Kolker, Sidney Kraft, R. L. Haskell, William Krauss, Edward H. Lyman, Alexander Leventhal, Lester B. Lipkind, Benjamin D. Lipschitz, Murray Lipsky, Noah Lifshitz, Sam Lavinsky, Eugene Leiman, Benjamin Mendick, Arthur Margulis, Herman Marcus, Irving Meyer, Max Meltzer, Martin Meitner, Louis Perlman, Samuel Pletelsky, Lawrence Rabinowitz.

Murray Radvicovitz, Irving Rothberg, Rudolph Rubin, Edwin F. Rains, Bernard Redisch, Harry Roffman, Bernard Rolnick, George Scheps, Hatley K. Sternberg, Abraham Shafsky, Benjamin Shenkin, Seymour Siegal, Joseph Taperman, Theodore H. Unterman, Harry Weiser, Robert Zimler, Robert A. Van Doenhoff.

## Cited For Contempt

(Continued from Page 3)

on his breath," Judge Moscovitz instructed a bailiff. When the bailiff got within several feet of McNeal he stepped back and gave a low whistle. "There is an odor, your Honor," said the bailiff, making a wry face.

"Did you have anything to drink this morning?" asked the court of McNeal.

"I did not" replied McNeal.

"Where does the alcoholic odor come from?" persisted the court.

"I guess it must be there from last night" said McNeal.

McNeal said he had no explanation to make and nothing to say when the court asked him if he knew of any reason why he should not be declared guilty of contempt of court.

"Can you pay a fine?" asked the court.

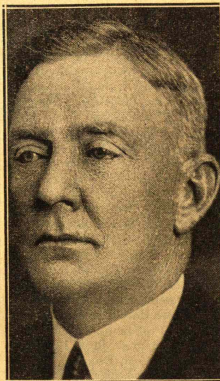
"I can if I can make a deal," said McNeal.

"What do you mean by a deal," asked the court in surprise.

"You know I am a real estate salesman," replied McNeal. "If I could put over a business deal I could make some money."

"Well, I will sentence you to serve five days in prison," said the judge.

## AGAINST "HANDLING BILL"



Edward P. Mulrooney

## Senior Year Book To Appear in May

Will Be Published Annually Hereafter Under New Plan

### STAFF IS NOW COMPLETE

Embodiment many departures and new features this year's Chancellor, Senior year book of the Law School, will be headed by the four senior class presidents, Bernard Brandt, Jerome Prince, Samuel Josephs and Nathan Skolnick, members of the student council who will act in an advisory capacity.

The staff has been chosen and is now engaged in collecting and preparing material.

It consists of: Israel Belfer, Editor; Addison B. Ciochese, Business Manager; Maurice S. Bogart, Associate Editor; Irving Kramer and Eugene S. Levy, Assistant Editors; J. Joel Levy, Feature Editor; Milton G. Gershenson, Activities Editor; Irving Reiman, Photography Editor. The remainder of the board is comprised of Andrew E. Tonkonogy, Kermit D. Ballin, Andrew Nieporent, Morris Diamond, Hilbard Schulberg, Miss Esther Goldman, Miss Rose Goldner, Miss Frieda Miller, Martin R. Friedman, Joseph Deutsch, Max Fefferman, N. Kenneth Gross, Samuel Link, Philip Partnow, Joseph J. Glaser, M. Moldofsky, Jack Rosen and D. Seid.

Features will include individual photographs, short biographies, informal data concerning faculty and students, a senior questionnaire, extra-curricular activities, feature stories, caricatures and other items of interest to the students.

At present the board is endeavoring to have group and individual pictures ready as soon as possible, so that final distribution of the year book will be possible by the middle of May.

## Urges Defeat of Handling Bill

Police Commissioner Mulrooney Insists That Sullivan Law Be Continued

### WEAPONS AID HOLDUPS

Strongly opposing any modification of the Sullivan Act, Police Commissioner Edward P. Mulrooney recently went to Albany to appear before a Senate Committee urging the defeat of the "Handling Bill."

When interviewed by a Justinian Reporter concerning this change in the Sullivan Act, Commissioner Mulrooney was firm in his opinion that "any modification of the present rules would hinder the police in the suppression of crime."

### Sullivan Law

The Sullivan Law, passed in 1896, requires permits for, and the photographing and fingerprinting of, all persons entitled to possess dangerous weapons. This law has been materially helpful in the apprehension of criminals, since all that was necessary for their detention was the mere fact that they were in possession of the weapon. Also, they could be identified positively by their photographs and fingerprints.

The proposed "handling bill" would relax the requirements of photographing and fingerprinting, except in the boroughs of Greater New York. Commissioner Mulrooney said, "If this bill were passed, it would mean that all those persons whom we arrest on suspicion in New York, after a crime and possessing out-of-town permits, would have to be released without any method of identification for future reference. Also, the criminally inclined would simply go out-of-town to secure permits, where it would be unnecessary to secure photographs and fingerprints."

Many Policemen Killed  
"No boy would dare to hold up a store were it not for the possession of a weapon. Every year, eight or nine policemen are killed by these desperados, and thirty or more wounded," the Commissioner claimed. "It is interesting to note that most of these gunmen are under twenty-five years of age, and a large percentage of these under twenty-one."

All of the District Attorneys join with Commissioner Mulrooney in his stand since they feel that, without this very helpful law requiring photographing and fingerprinting, their work in the prosecution of criminals would be impeded to an extent which is not at all justified by "fair play to criminals."

Commissioner Mulrooney cited a few figures concerning the actual number of unlicensed weapons in use. Last year alone, 400 were confiscated in New York County. There were 351 arrests for assault and robbery, of which easily 95% were armed and 14 charged with homicide.

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