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Current Legal Decisions

Bankruptcy—Insurance—Cor-
porations—Wills—Plead-
ing—Negligence

Bankruptcy—Insurance—Statute of
Limitations. *Devoy v. Superior Fire
Insurance Co.*, 239 App. Div. 28,
June 16, 1933.

In an action by the trustee in bank-
ruptcy upon a policy of fire insurance
issued to the insolvent Model Mattress
Co., it was proved that the action
had not been commenced within one
year after the same had accrued. The
policy contained the usual provision
that any action thereon must be com-
menced within one year.

The one year limitation, though a
contractual provision, is not a volun-
tary contract, but perforce a state
statute. (*Hamilton v. Royal Insur-
ance Co.*, 156 N. Y. 327.) The limita-
tion within the policy is but the in-
corporation of a state statute within
the contract.

Under the Constitution, the Federal
provisions for the uniform treatment
of bankrupt estates must prevail over
state statutes. Since subdivision "d"
of section 541 of the Bankruptcy Act
gives the trustee in bankruptcy the right
to sue for the benefit of the estate, the
surviving spouse shall be entitled to the whole thereof;
but if there be a brother or sister, nephew or niece, and no descendant or
parent, the surviving spouse shall take \$10,000 and one half of the residue,
and the balance shall descend and be distributed to the brothers and sisters
and representatives." The descendant died leaving a wife who is the admin-
istratrix and two grandnephews and a grandniece, who were the petitioners
in the proceeding. This was an application to compel the administratrix to
file an additional bond. The application was denied on the ground that
under the section of the Decedent Estate Law, *supra*, the petitioners are not
the persons interested in the estate. The decedent left no "parent, descendant,
brother or sister, nephew or niece," and the Surrogate explained his
stand by stating that in order for the grandnephews and the grandniece to
participate in the estate, there must survive the decedent, besides the widow,
a brother or sister, or a nephew or niece. Where none of these survive there
is no further representation.

The Canadian Bar Review (11 Can. Bar Rev. 406) relates Bacon's
seventeenth century views on the intellectual requirements of a judge for
his judicial position. Bacon states that all a judge need know is how to
"direct the evidence; to moderate length, repetition or impertinency of
speech; to recapitulate, select and collate the material points of that which
hath been said; and to give the rule of sentence."

An attorney recently learned that it was costly to doubt, outwardly, the
quality of a verdict rendered by a jury. One Tanner was engaged by plain-
tiff in a civil action for damages and the jury returned a verdict in favor
of plaintiff in the sum of \$12,000.00. Tanner, after the jury had been dis-
charged, accosted one of the jurors on the street and assailed him for not
having returned a large money verdict. The enraged counsel exclaimed, "it
was a rotten verdict," and that because this man was a banker, "money
meant more to you than human suffering. You are responsible for this
verdict." Tanner followed the juror along street substantially repeating
these statements. Upon the complaint of the juror the court adjudged
Tanner guilty of contempt, fined him \$100 and suspended his right to practice
until such fine was paid. In justifying its position the court stated that
all courts have the right to protect one officer of the court from an attack
by another officer (*Tanner v. United States*), 62 Fed. (2d 601; reviewed in
11 Tenn. L. Rev. 288).

To state that a barge was in "port" while it was in a temporary asylum
behind a breakwater is a misrepresentation of a material fact, according to
the case of *Nathan et al. v. Public Fire Ins. Co.* (61 F. [2d] 962), reviewed in
the Georgetown Law Journal (21 George. L. Jour. 504). While plaintiffs
barges were at sea a storm arose, forcing them to withdraw to the Delaware
breakwater. On learning of their position, plaintiffs ordered their broker to
place insurance on the barges, stating to him that the craft was "safe in
port". Defendant's agent was offered the risk and he inquired as to the
position of the boats, to which inquiry the broker replied, "they are in
port". Relying on the statement, the agent of the insurer issued a binder
covering the barges and within an hour one of them was totally demolished
as a result of the storm. The court avoided the policy on the ground that
the statement was a material misrepresentation.

Third Volume Of Law Review Out This Week

Dean Pays Tribute To John
Howard Easterday In
October Issue

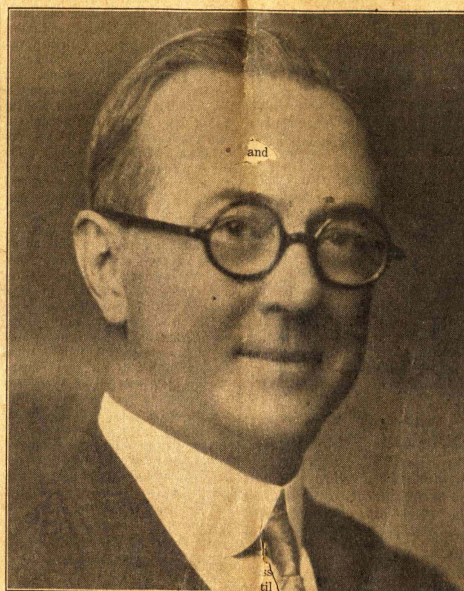
HAS NEW DEPARTMENT

Section on Recent Legislation is
Introduced by Hon. Albert
Martin Cohen

Vol. 3, No. 1, of the Brooklyn Law
Review, which will appear this
week, pays tribute to the memory of
Prof. John Howard Easterday. The
issue contains a photograph of the
late vice dean and an article, contrib-
uted by Dean William Payson Rich-
ardson, on the life and work of Dr.
Easterday.

The remainder of the Review is de-
voted to a discussion of legal prob-
lems, to an analysis of recent cases
and of current legislation and to the
review of several recently published
books on legal subjects. Prof. John
F. X. Finn of Fordham Law School
has written "The Forging of Good
Unilaterals Out of Bad Bilaterals";
Irving I. Goldsmith, former Justice of
the Supreme Court of New York, has
contributed an article entitled "Legal
Fictions." The surviving spouse shall be entitled to the whole thereof;
but if there be a brother or sister, nephew or niece, and no descendant or
parent, the surviving spouse shall take \$10,000 and one half of the residue,
and the balance shall descend and be distributed to the brothers and sisters
and representatives." The descendant died leaving a wife who is the admin-
istratrix and two grandnephews and a grandniece, who were the petitioners
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the persons interested in the estate. The decedent left no "parent, descendant,
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stand by stating that in order for the grandnephews and the grandniece to
participate in the estate, there must survive the decedent, besides the widow,
a brother or sister, or a nephew or niece. Where none of these survive there
is no further representation.

Capable Teacher
As an alumnus of the class of 1911,
Supreme Court Justice Henry G.
Wenzel, representing the Bench, said
that there was not a member of the
class who had not a deep and warm
affection for Professor Easterday.
"Aside from being a great lawyer



John Howard Easterday

In opening the services, Mr. Keck
said, "We have gathered here today to
present this little service in recogni-
tion of that which Professor Easter-
day has done for us. Mere words
could hardly be found to describe ade-
quately his life work and those things
which he did. No monument would
be fitting and all-sufficient if erected
in his memory. His work and his
memory is the finest monument that
could be erected to any man."

Cady Represents Faculty
Dr. Edwin Welling Cady, professor
of law representing the faculty, saw
the place left vacant by Professor
Easterday as one that "can not be
filled." He recalled Professor Easter-
day's "pleasant jocularity" in meet-
ing problems as vice dean.

The services, simple and impres-
sive, were brief. Members of the
faculty sat in a body in the right wing
of the auditorium, gathered to pay fit-
ting tribute to their deceased col-
league.

Mr. Keck, at the conclusion of the
services, announced that a bronze
tablet would be erected by the alumni
association in the Law School to
the memory of Professor Easterday.

A LAWYER'S LONDON

By HERMAN EDELSBERG

(Herman Edelsberg, a former mem-
ber of the staff of the Brooklyn Law
Review, was graduated cum laude
last June. After the bar examination,
Mr. Edelsberg and George L. Weis-
bard, '34, spent the summer traveling
through England and France. Fol-
lowing are some impressions which
Mr. Edelsberg reduced to writing
while in London, the great center of
the English legal tradition.—Editor's
Note.)

The cure for too much law is, of
course, more law; and perhaps the
most pleasant way to take the reme-
dial "more law" is in the form of
a trip through the lawyer's London.
Even the lawyer who goes abroad de-
termined to avoid any suggestion of
the legendary letter-carrier who went
hiking on his day off, will, when he
gets to London, find himself, along
with many sightseeing laymen, under
the spell of the most fascinating of
London's charms—the world of the
London lawyer, which revolves around

the courts and the Inns of Court.

The visitor to London generally
comes to the Law Courts on the third
day of his visit in the regular course
of the guide-book routine. He reads
that the building was erected in
eighteen-something and that it cost
so many thousands of pounds. At
this point, and with no offense to Mr.
Baedeker intended, the visitor who is
also a lawyer will close his guide-
book, and conduct his own tour. Af-
ter all, this is his province, and it
is a pardonable arrogance which con-
cludes that a lay guide, even one so
worthy as Mr. Baedeker, can be dis-
pensed with.

British Court Interesting
Unless he makes use of his mem-
bership in the American Bar to gain
admittance to the main floor of one
of the courtrooms, he will take a
place in the gallery with the lay spec-
tators. In any event, he is present
at an intriguing spectacle, and with
his background of American court
procedure as a basis of comparison,
he is in the fortunate position of be-
(Continued on Page 5)

Owen D. Young Eulogizes Late John Howard Easterday At School Memorial Service

Late Vice Dean and Faculty Member
Was Inspirational Teacher and
Leader; Many Mourn Passing

John Howard Easterday
1873—1933

John Howard Easterday, for many
years a member of the faculty and
vice dean of the Brooklyn Law
School, died shortly before midnight
August 6, in the Brooklyn Hospital.
He was 59 years old, and lived at
1048 East Second Street, Brooklyn.

Professor Easterday suffered a
physical breakdown late in February
of this year, and went to Maine to
recover. Feeling the need of fur-
ther medical attention, he returned in
July, dying shortly thereafter from
heart disease.

Professor Easterday, who was a
member of the law firm of Otto &
Easterday of 60 Broad Street, Man-
hattan, became vice dean in 1915. He
was a member of the faculty for 29
years, having come to the staff
in 1898. He was a man of great
character and of high moral stand-
ing. He was a man of great
character and of high moral stand-
ing. He was a man of great
character and of high moral stand-
ing.

Generally speaking, this system has worked successfully for more than
one hundred years, but as an equitable system it has finally been knocked
into a cocked hat by the advent of our present crisis. No longer can equity
be accomplished by a foreclosure terminating in a judicial sale. Such a sale
now provides no realization of the value of the property. As many of our
courts have judicially admitted, the system has completely broken down.
Equity is that part of our judicial system which was invented to mitigate
the harshness of the inflexible common law and to do justice where the
latter could not accomplish it. Its rules, like the rules of its elder sister,
the common law, have been built up by the progressive adoption of principles
having but one aim, the accomplishment of justice. Equity is inherently
flexible, in its very nature it must be able to move with the times and be
prepared to say that the rule that was just yesterday is unjust today.

Equity Mitigates Burden of Foreclosures
It might therefore have been reasonably expected that courts of equity
would find in their wide powers some means of mitigating the burden of
our broken-down foreclosure system and, indeed, in some jurisdictions they
have readily done so. In cases in Wisconsin and New Jersey (Note 1) the
courts have boldly declared that they cannot fail to note existing economic
conditions, and in both states they have refused to permit deficiency judg-
ments until after the fair and reasonable value of the property has been
credited upon the mortgage debt, without regard to the ridiculous prices
which are nowadays obtained at judicial sales.

Unfortunately, the courts of New York have been unable to follow this
lead, and with one exception (Note 2) they have, in a number of cases
(Note 3), refused to deviate a hair's breadth from the strict procedure of
foreclosure, and have with one voice declared that this would require legisla-
tive sanction.

The eyes of the distressed home owner therefore turn to the legislature,
and its recent special session afforded an opportunity for action.
At the opening of the session the Governor sent a message recommending
legislative relief for distressed home owners, and advised the enactment of a
short moratorium on foreclosures, providing interest and taxes were kept up.
Before this the Governor had appointed a commission to study the subjects,
but the commission had not reported at the time of the Governor's message.

The relief proposed by the Governor amounted to very little, and it may
be doubted whether any particular benefit would result. Those home owners
who have been able to keep up interest and taxes are really not in distress
at all, as mortgages generally are only too glad to extend their mortgages
under the circumstances rather than adopt the dubious remedy of fore-
closure. The people who really need relief are the home owners who, as a
result of unemployment or other loss of income during the depression, have
been unable to keep up with interest and tax payments. For this class the
Governor proposed no relief.

Governor's Commission Formerly Presented Report

Before any legislation was enacted, the Governor's commission presented
its report. It did not agree with the Governor, but strongly recommended
a moratorium in all cases, including those where interest and taxes were
in default.

Bills following this recommendation were introduced, but the legislature
wholly disregarded the report of the commission and passed two bills, one
for a moratorium until July 1st, 1934, on the enforcement of mortgages for
(Continued on Page 5)

Prominent Attorneys, Eminent
Jurists and Educational
Leaders Present

HIGHLY ESTEEMED BY ALL

Frederick A. Keck Presides At
Meeting In Law School Audi-
torium September 19

Owen D. Young, president of the
board of trustees of St. Lawrence
University, speaking on behalf of the
board at a memorial service held for
the late Dr. John Howard Easterday,
Tuesday, September 19, in the Law
School auditorium, Richardson Hall,
eulogized the beloved Brooklyn edu-
cator, saying that "he was a fine man
and a great teacher, the kind that
St. Lawrence is proud to have and to
have had."

Eminent figures representing the
board of trustees of St. Lawrence
University, speaking on behalf of the
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JOHN HOWARD EASTERDAY

The passing of John Howard Easterday, vice dean and member of the faculty of the Brooklyn Law School, leaves a void in the personnel of the institution impossible to fill. His kindness, his painstaking loyalty to pedagogical and administrative tasks, his keen insight in, and devotion to, the law, and his sincere and profound interest in the welfare of his students, were qualities which distinguished him as an administrator and educator.

For the many years of his connection with the Law School, Dr. Easterday merited and enjoyed the admiration, affection and respect of those who knew him. As legal educator and author he won for himself an enviable reputation.

Vice dean since 1915 and for 29 years member

crimes are controlled by federal courts. As citizens of a state, they should come under state law; but as they do not contribute to the support of the state or county, neither wants the expense; then there is a Court of Indian Offenses with an Indian Judge, who knows very little law—this condition has the effect of a legal hedge-podge, resulting in much injustice to the Indian plaintiff or defendant. As John Collier, the new Commissioner of Indian Affairs is one of the greatest friends the Indians have ever had, a new day has dawned for them and legal and other abuses will, no doubt, be gradually remedied.

Divisions Cause Trouble

A new trouble brewing in the Pueblos is division into factions—conservatives and progressives. The former do not desire changes in the tribal life and customs; the latter want to adopt white standards of living. The progressives consist mainly of the young people who have been educated away from the Pueblos in the Indian schools at Albuquerque, Santa Fe and elsewhere. One can readily understand how difficult life with their people must be after the experience of white standards. They are even in a worse position than the college graduates in our own section who return to a poor and illiterate environment.

Entirely different from the Pueblo Indians are the Navajos of Arizona. They number about 45,000 and have a territory of approximately 25,000 miles. Their hogans are scattered here and there in the midst of the most magnificent scenery. Unlike the Pueblo Indians, they are non-agricultural, their main occupation being sheep raising and other herding. Weaving and rug making naturally follow as the home industries.

Community Organization

The Community organization of the Navajos is well-worthy of imitation. The northern, southern, eastern and western jurisdictions are divided into chapters which are districted. The southern jurisdiction has thirty-three

and enterprising student an excellent training and an opportunity to form lasting friendships.

Upon you rests the duty of perpetuating the tradition of scholarship and character for which this School has long been known.

EFFECTIVE YESTERDAY

The Twentieth Amendment to the Constitution of the United States became effective October 15th. The President and Vice-President, hereafter, will take office on the twentieth of January instead of on the fourth of March. Thus the inauguration date will be a fortnight after the Congress convenes and reviews the vote for both President and Vice-President.

Members of Congress, by virtue of the Amendment, will enter upon their duties at the regular session on the third day of January following their election, instead of thirteen months thereafter. As a result of this, the spectacle presented by the Lame Duck sessions will be no more.

Section three of the Amendment, which states: "If, at the time fixed for the beginning of the term of the President, the President-elect shall have died, the Vice-President-elect shall become President . . .", provides the answer to the proposition which formerly troubled many people. The Amendment now prescribes the requisite procedure should a President-elect die or resign before his inauguration.

Furthermore, it removes from the shoulders of Congress the possible burden of having to meet a situation hitherto not provided for in our Constitution.

LAW CLERKS AND THE PRA

Is a law clerk, within the purview of a state law requiring a clerkship, subject to the salutary provision of the President's Reemployment Agreement? Whether he is or not, is a question of great interest to the law student as well as to the practicing attorney. THE JUSTINIAN, in an effort to be informative, presents the following summary of the effect of the President's Reemployment Agreement upon law clerks and

TAKE A

E. A. Eubank Will Teach New Course; Havens to Give Jurisprudence

The courses of study listed for graduate students, which has long been of a character commensurate with industrial and civic progress, has been further enriched by the addition of a course in Aeronautical Law.

Will Include History

This course, to be given by Prof. John Augustine Eubank, will include a history of aeronautics; international law with relation to air space; government control of aeronautics; uniform State laws; insurance; navigation; patents; licenses; and international agreements.

Professor Eubank is a member of the National Aeronautical Association, the Aeronautical Chamber of Commerce of America, and the American Glider Association. He is chairman of the committee on air law for the Federal Bar Association and a member of the committee on aeronautical law for the New York County Lawyers' Association.

Is Aeronautical Authority

Professor Eubank is also a member of the Committee on Air Wave and Right of Air Space, the New York State Bar Association and the American Bar Association. He is an authority on aeronautical jurisprudence and a contributor to several magazines in the United States, Canada and Europe. A course in Jurisprudence will be given to graduate students this year. It will be conducted by Prof. Valentino Britton Havens, who for many years has given the course in Taxation in the Graduate School. The study of Jurisprudence will include the nature and sources of law; theories of punishment; the nature and essential functions of the state; the function of judges and juries; theories of sovereignty and procedural law.

In his memorandum upon the hearings of the sub-committee on racketeering, Professor Russell, as Vice-chairman, discussed a provisional definition of racketeering. It is, briefly, "a conspiracy to extort money from others under threats of violence, or coercing persons to join some organization under similar threats." In most cases it constitutes the crimes of extortion and coercion as defined in the New York Penal Law. A so-called "Federal Scotland Yard" was proposed, and the suggestion was made that it include a Bureau of investigation with nationwide authority on operations. Police remedies and a more universal system of fingerprinting were also advocated, and changes in the criminal laws and code of criminal procedure, both state and federal, were made.

Proposes Amendment
In an effort to paralyze racketeer—
(Continued on page 7)

Mexico Vies With Reno for Divorces; 'Painless' Process in Only Nine Days

Latin America has become completely divorce conscious. Acquiring a certain awareness to the pecuniary potentialities of liberal divorce legislation, many states in Mexico have enacted a convenient solution for the marital difficulties suffered the world over. Special advertisement advises the addressee that he can squelch his irate and disgruntled spouse "within nine days by special power of attorney without personal appearance of either party." The process is guaranteed to be painless.

Common Laxness in Law

Each state of Mexico has its own laws, but they all enjoy a common laxity, facilitating and expediting the entire proceedings. The grounds are sufficiently numerous to cover anything from eating biscuits in bed to perennial housemaid's knee. Among the too-numerous-to-mention causes one may find cruelty or serious threats rendering life intolerable, incorrigible drunkenness, unjustifiable abandonment of the domicile and mutual con-

INDIAN JUDGES, Biographical and Critical Sketches with Portraits, with a foreword by The Hon. Sir Brojendra Mitter, K.C.S.I. Published by G. A. Natesan & Co., Madras. Rs. Three. Pages 509.
REVIEWED BY PROF. FRANKLIN F. RUSSELL

This is a collection of brief biographical sketches of 21 outstanding native Indian judges who have sat on the High Courts of India during the past half century. The book should be of great value to any one interested in political, racial and other problems arising out of British rule in India. The name of the author is not given, curiously enough. The book gives an interesting account of the evolution of Hindu and Mohammedan law under British administration. It shows the excellent and far-reaching effect of the British policy of having native judges, in some cases Hindus and in others Mohammedans, sitting on the same bench with English judges. Their knowledge of Hindu and Mohammedan law was naturally of great value in the decision of cases arising out of family law, including domestic relations and succession, which, as in other cases of primitive societies, are closely tied up with religion, as Sir Henry Maine points out in his various works. On the whole the 21 judges whose biographies are given were remarkable men. Almost all of them came from humble homes and worked their way up to posts of power and influence. Most of them did not confine themselves to their judicial duties, but lectured and wrote on legal subjects and took an active part in public affairs. Many of them did not hesitate to adopt the unpopular side of fundamental questions of policy involving British rule in India.

The legal problems presented for determination by these judges were many and varied. They included the attempt to impose the jury system upon a country which perhaps was not ripe for it (p. 45), the question of whether the English law applied to Hindu religious endowments (p. 56), the rules of descent in Hindu and Mohammedan law, whether Indian or English law applies in the question of title to real estate (p. 126), questions of lawful assembly in connection with religious ceremonies on a highway (p. 130), the doctrine of *res ipsa loquitur* (p. 170), insanity as affecting criminal responsibility (p. 171), land tenures in Bengal (p. 206), the combination in one officer of police and judicial functions (p. 213), the Mohammedan and Hindu law of religious trusts (p. 231), the Moslem law of marriage, including polygamy (p. 243), etc.

Interesting Excerpts

The book gives an excellent idea of the progress of legal education in India during the past 75 years, during which time law courses were opened for native students in various places in India. The progress in legal education is shown by the sketch of the present Chief Justice of the Punjab, Sir Shadi Lal, who, after completing a legal education in India, went to England, studied law at Oxford, and won honors both at that institution and in the bar examinations and the Inns of Court.

Throughout the book various excerpts from the addresses of the subjects of the sketches are given, some of which are of great interest to New York lawyers and professors. "I am afraid that the majority of the so-called lectures (in Indian universi-

ties) are as monotonous and unimpressive as is the charging of a jury in most of our Indian courts" (p. 135). The question as to what a university graduate is to do if he does not enter public service or one of the learned professions was apparently a serious one in India many years ago (p. 136). One of the judges expressed his views of the rapidly growing law reports as follows: "These law reports are becoming a cumbrous affair, and I sometimes wish we could manage to get on without them" (p. 151). One of the judges suggested that law students should "carefully study the lives of those great lawyers who have shed lustre on their profession" and particularly recommended Campbell's "Lives of the Chancellors" and "Lives of the Chief Justices of England" (p. 176). The same judge also "suggested some practical ways by which one could push himself forward in the profession without breach of professional etiquette" (pp. 176-177). A familiar tone is struck in an address on the subject of "restrictions on admissions to the legal profession to avoid over-crowding" (p. 178). The speaker was entirely opposed to such views. "You may in this way keep back many men from the profession, but they may be some of your best men. Poverty is not necessarily a disqualification in a junior practitioner. On the contrary, from the poorer classes, have come some of the ornaments of the profession. . . . The only legitimate method of reducing competition and preventing unnecessary disappointment is to raise the standard of intellectual and moral qualifications for admission." The book is well written, and will give the reader many interesting and profitable hours.



PRESS BOX

For Auto Claims

Scheme Will Relieve Congested Court Calendars, Declares Dr. P. H. French

The adoption of a plan of compensation for automobile claims is the suggestion of Dr. Patterson H. French, fellow of Columbia University, in a study of the situation recently published by the Columbia University Press. This plan, he says, would help to eliminate the large number of automobile claims that are now cluttering the calendars of the courts, and thus, in a large measure relieve the present congestion.

Auto Claims in Majority

He declared that "one-third to two-thirds of the cases in our over-worked civil courts deal with claims arising out of automobile mishaps," and outlined a plan to remedy this condition. The plan involves sweeping changes in insurance and compensation, as well as in the judicial machinery. He based his results on a study of 8,849 cases, and from them evolved the following principles: automobile personal injury claims to be handled by an administrative commission; the abandonment of common-law rules of damages and contributory negligence, placing full responsibility on the owner of the vehicle; damages to be assessed as accurately as possible according to the medical expense and the actual financial loss; the inauguration of a system of compulsory financial responsibility by requiring insurance or posting a bond.

Would Relieve Hardships
Dr. French feels that motor vehicle accidents bring misfortune not only to the victim, but also to the family, and often present serious problems. His system, he states, would make it possible to have precise and expeditious settlement of this type of case, and help to alleviate the hardships so often attendant upon them.

John James Bennett, Jr.

Attorney General John J. Bennett, Jr., an alumnus of the Brooklyn Law School, also received the Matheson Prize. He is a member of the faculty, absent on leave, of the Law School. In 1927, Attorney General Bennett was secretary of the New York Citizens' Committee on Transit and Housing. He served for two years with J. P. Morgan & Company as assistant to the late Edward R. Stettinius and then entered private law practice in the firm of Baar, Bennett & Fullen. Mr. Bennett was elected Attorney General of the State of New York in 1930.

He has been active in the American Legion of Brooklyn, since its inception, and has held the offices of Commander of the Gilbert Boyle Post, Kings County Commander, Chairman of the State Americanists Committee, and State Judge Advocate. In 1929, Mr. Bennett was elected State Commander of the American Legion. He is a member of the following organizations: the Brooklyn Bar Association, the Brooklyn Chamber of Commerce, the 77th Division Association, the United States Army Athletic Association and Phi Delta Phi legal fraternity.

Samuel B. Burk

Dr. Samuel B. Burk, Matheson Prize winner in 1927, loomed large as a leader in his first year at Brooklyn Law School when his class-mates elected him as class president. He served so well that in the next two years he held the same office. In his senior year he was further distinguished by election to the presidency of the Student Council. His high scholarship admitted him to the Phi Kappa Council.

While at school Dr. Burk was at—
(Continued on page 7)

LEGAL PERIODICALS

By MORRIS DIAMOND

The Bombay Law Journal describes a strange procedure utilized by a local police court in a case tried therein. The judge presided over a jury and a number of witnesses in a large hole in the bowels of the earth. The reason for holding the trial in this secluded spot was that since the crime was concerned with a mining incident, the magistrate believed that by having all the evidence in "court" the case could be tried with better ease and exactness (11 Bombay L. Jour. 29). The Journal also discusses two cases involving "Will Contests". In one case, a French lawyer left a large amount to a lunatic asylum, stating that many of his clients should have been inmates; in the other, an old bachelor left all his property to aged ladies who had refused his offer of marriage, explaining that he had made the gift because "to them I owe all my earthly happiness" (at p. 82).

A testamentary trust established for the benefit, and limited on the lives, of five household pets and one human being was declared invalid in the case of *In re Howell's Estate* (260 N. Y. S. 598), cited in the Yale Law Journal (42 Yale L. Jour. 1290). The court stated that such a trust violated the New York statute forbidding the suspension of the power of alienation of personal property for a period longer than two lives in being at the creation thereof. It is interesting to note that Prof. Franklin F. Russell of the Brooklyn Law School was counsel for the executor in this case.

The highest Texas law tribunal, in the case of *Texas & Pacific Railway Company v. Pottorff* (69 F. [3d] 1) as revealed in the Michigan Law Review (81 Mich. L. Rev. 1154) has held that a bank has no power to pledge its assets for the purpose of securing private deposits. The plaintiff railway company deposited funds in the national bank of the defendant receiver. The plaintiff being dissatisfied with the guaranty of its deposits by surety bonds demanded and obtained from the bank Liberty Loan bonds, which were to be held by the bank as security for the repayment, on demand of the deposits. Upon the insolvency of the bank, the receiver refused to turn over the bonds, whereupon the plaintiff brought an action on the contract of pledge. The court granted judgment in favor of the defendant, holding that the said pledge was *ultra vires* and thereby invalid and unenforceable.

A dog, according to the supreme court of Washington, quoted in the United States Law Review (67 U. S. L. Rev. 439), chained on the unfenced property of his owner, is as much at large on the premises of the owner within the arc of his chain, as an unchained dog permitted to run at large on the top of the fence of the owner (*Brewer v. Furtwangler*, 18 Pac. [2d] 887).

A strict interpretation of section 83, subd. 4, of the Decedent Estate Law is given in the case of *Re Marshall's Estate* (262 N. Y. S. 528), reported in *B'klyn L. Rev.*—The section provides as follows: "If the deceased leaves a surviving spouse, and no descendant, parent, brother, or sister, his five dollars a week, he pays published in 1924 and 1925 "Cases on Persons and Domestic Relations," and "Cases on the Law of Real Property." He published his text on the law of real property in 1932.

Married Miss Gible

He married in 1896 Miss Susie Gible of North Carolina, whom he met in Baltimore. Surviving Professor Easterday are Mrs. Easterday, his four daughters, Mrs. Peggy E. Grismer, Mrs. Warner R. Moore, Mrs. Thomas B. Rothenberger and Miss Helen Easterday; a son, John Howard Easterday, Jr., who was graduated from the Brooklyn Law School last June; two brothers, David A. and Charles Easterday, and a sister, Mrs. John R. Hunter.

Inspirational Teacher

Dean William Payson Richardson said of him: "He was one of the greatest inspirational and beloved teachers of his day and a devoted associate. He was a school builder and much of the success this school has attained is due to his loyalty and fidelity." Professor Easterday was a member of the Crescent Athletic-Hamilton Club and Phi Delta Phi fraternity. Services were held in the Fairchild Chapel and in St. John the Baptist Protestant Episcopal Church, Brooklyn, and burial was in Cypress Hills Abbey.

Carberry, '06, Dies

Francis E. Carberry, class of 1906, died Monday, October 2. He was 47 years old and had his law offices in Brooklyn. Burial was in Holy Cross Cemetery, following a requiem mass in St. Saviour's Church. He lived at 612 Second Street and leaves a widow, Alice G. Carberry, and two sons, Francis and Vincent.

Owen D. Young Eulogizes Late John Howard Easterday

(Continued from page 1)

brain, and once there, could not be dislodged. That test was whether months after on review or in examination those sentences came back to the student in the language put. If so, they served as anchorages for all their learning. "Professor Easterday always seemed to me to have something of that distinguished quality. It is fitting for us to hold these services and make a record of these things."

Dean Deeply Moved

Dean William Payson Richardson was too moved by the occasion to speak. Later, deeply affected by the loss of his friend and associate for more than 40 years, in a statement following the close of the Memorial services, he said, "Not yet have we a realization of Professor Easterday's passing."

Stating that he knew Professor Easterday as a student and associate teacher in Baltimore for ten years, Dean Richardson recalled that "in the summer of 1904, he accepted our invitation to come to Brooklyn, and for 29 years following we devoted night and day to the upbuilding of the Law School. Whatever success the Law School has attained," he continued, "is in a great measure due to his devotion, loyalty, and cooperation."

Created Interest

"Because of their love for Professor Easterday, as well as for the interest he created in their studies, students did their work more diligently," Dean Richardson declared. "Of the many thousands of students he has had in his classes, covering a period of 40 years, I have yet to hear the first criticism of his work," he said.

"He was the embodiment of happiness and good cheer; his smile was infectious," asserted the Dean, "and even during the long period of his suffering there were always manifestations of cheer, good will, and good fellowship." The Advocate-General's department, which functions in a supervisory capacity and as a reviewing authority. Justice is administered by the Military personnel themselves as part of their routine duties. Whenever an unlawful act is committed by a person subject to military jurisdiction a complaint must be filed in writing with the commanding officer of the station where the accused is stationed. This officer appoints a junior officer to investigate the charges. If this investigation reveals the commission of a crime the accused is placed under arrest. (AW69). Charges and specifications are now drawn up as follows:—

Charge:—VIOLATION OF THE 96TH ARTICLE OF WAR.

Specification 1:—In that Private John Doe, Company A, 2nd Infantry did at the post canteen on or about April 10, 1933, wrongfully attempt to strike Corporal Richard Roe with a pistol.

Specification 2:—In that Private John Doe, Co. A, 2nd Inf., was at the post canteen on or about April 10, 1933, drunk and disorderly.

These charges are now served on the defendant in the presence of the witnesses to the acts complained of. The witnesses are then questioned and their depositions taken in the presence of the defendant. The accused is given an opportunity to cross-examine them or to summon additional witnesses if he pleases.

Commanding Officer Consults Judge Advocate

The commanding officer now consults with his staff Judge Advocate and if they decide that the facts warrant the holding of a trial the Commander must proceed without delay. He appoints various officers to sit as a court-martial. If the offense is such that a maximum penalty of death, life imprisonment, and or dishonorable discharge is mandatory, a general court-martial consisting of at least five officers of his command must be appointed. They act as judge and jury. A trial judge advocate is appointed to prosecute. He is one of the officers of the station and not usually a lawyer. An officer is appointed defense counsel, but the accused has the right to choose any officer he wishes to defend him, or if he prefer he may have civil counsel. In the latter instance the court usually appoints an officer to assist the civil attorney. A law member is appointed to assist the court in the interpretation of the statutes. He is, if available, a member of the judge advocate-general's department, and if not, he may be any other officer.

If the offense is not capital and the punishment is not more than 6 months confinement or forfeiture of more than two-thirds pay per month for six months, a special court-martial consisting of three or more officers is appointed. Defense and prosecuting attorneys are also appointed but no law member.

If the offense is one that is not capital and the punishment for which is not more than one month's confinement, restriction to limits of not more than three months, or forfeiture of not more than two-thirds of one month's pay, a summary court of one officer is appointed. He is judge, jury, and executioner. There is no prosecuting or defense counsel or law member to a summary court.

Trial Judge Discloses Grounds of Challenge

After announcing the names of the members of the court, the trial judge advocate discloses every ground of challenge existing in that case either against himself or against the other members of the court. If it appears that any member of the court should not sit in that case for reasons enumerated in the statute he is excused forthwith. Any member of the court may be challenged for cause by either side and the court determines the relevancy or the validity of the challenge. Each side is entitled to one peremptory challenge.

(Continued on Page 6)

MORTGAGES AND THE DEPRESSION

By JAMES N. MACLEAN, Esq.

Among the many problems arising from our present distressed economic condition, none has been more extensive in effect nor difficult of solution than the real estate mortgage question.

This depression is more or less unique in the fact that the real estate market has practically vanished and the value of land, though for all practical purposes as great as ever, cannot for the time being be realized by sale.

Investments in real estate mortgages have also been rendered precarious by the present inability of owners to keep up taxes and interest payments on their mortgages, giving rise, particularly in the case of home owners, to an unparalleled prospect of loss of invested savings during the next few years.

The problem is both humanitarian and economic. Not only is the individual owner destined to suffering, but the national wealth is being daily depleted by foreclosures destroying the accumulated savings of years with no corresponding gain to anyone.

Home Mortgage Foreclosures Result in Sale

For sometime past the regular progress of a home mortgage foreclosure has resulted in a sale at which the mortgagee performs becomes the purchaser because no one else will bid up to the amount of the mortgage and costs. The mortgagee need bid only a nominal amount, and naturally does so, the bid rarely exceeding the costs of the action, thus leaving the entire mortgage unpaid, and the result to the unfortunate home owner is that not only has he lost his home and the savings invested in it, but he goes out into the world with a deficiency judgment against him for the whole of the mortgage, which can be collected out of his future earnings when economic conditions restore his earning powers.

This is placing an unfair share of the burden of the depression upon one class, and the almost insoluble problem has been one of equalizing this burden so that it shall be borne more evenly and not fall with such crushing force upon the man who, by industry and economy, has attained the economic status of a home owner.

Losses to investors through the depression have been inevitable. All have suffered, and all must endure these losses, and there can be no more important part in any program of governmental intervention to aid recovery than the adoption of measures which will tend to distribute losses evenly and fairly, and prevent any one class from becoming hopeless victims with no possible chance of ultimate recovery.

Such would undoubtedly be the fate of the present generation of home owners if the current progress of events should not be checked.

Anglo-Saxon Mortgage Enforcement Briefly Summarized

The history of real estate mortgages and their enforcement under Anglo-Saxon jurisprudence may be briefly summarized. The original mortgage was a flat conveyance as security. If the borrower did not pay by the specified time the lender became the owner. As the aid of the courts to enforce the rights of the parties became necessary, the first form of foreclosure was devised, known as strict foreclosure, the result of which simply was that the lender became the owner of the property.

As this eventually was recognized as a proceeding incapable of accomplishing justice and equity in all cases to both parties, the present system of foreclosure was developed. It consisted of a crime amounting to a felony under the rulings of the Supreme Court of the United States. Under the laws of this State, such a conviction automatically terminated the lawyer's status as a lawyer and warranted his disbarment by the Appellate Division, merely upon a certified copy of the conviction. Nevertheless, no action has been taken and the lawyer continues to practice in our State courts.

Should Amend Laws

"Such a condition should not be permitted to continue," stated Mr. Spence. "It would seem to me that the laws of this State should be amended to authorize the Appellate Division to disbar a lawyer who has been disbarred in the Federal Court upon proof of such disbarment. The disbarment itself is sufficient evidence of the lawyer's unfitness to continue at the Bar. The test of fitness to practice law is not merely the lawyer's professional skill, but his integrity and his reputation. Disbarment destroys a lawyer's reputation."

The Grievance Committee, according to Mr. Spence, intends to devote every effort to effect such legislation as will insure a uniform method of discipline. It recognizes the extreme necessity in these times of financial stress, for raising and maintaining the ethical prestige of the legal profession. Too many lapses in the prosecution and disbarment of lawyers guilty of infractions of the rules of ethics have caused the reputations of lawyers generally to suffer.

Papp Opens Office

George L. Papp, alumnus of Brooklyn Law School, class of '26, and graduate of St. Lawrence University, has opened a law office in Brooklyn.

While at college, Mr. Papp was distinguished as a three letter man, playing baseball three years, football and basketball four years, and was captain of the basketball team during his senior year. He was chosen to the Kixioe student honorary society and is a member of the Beta Theta Pi fraternity.

Mortgages Depreciated

Mortgages as a class seem to have failed to realize that their mortgages have depreciated in value like all other investments. They feel outraged at any suggestion that these investments are not worth one hundred cents on the dollar. Practically all other investors have had to take enormous losses already, and if the mortgagee would take the trouble to calculate what his income would now be if his capital had been invested in excellent stocks and bonds, he would realize that by offering to exchange his home mortgage for bonds of the Home Owners Loan Corporation, the government has placed him in a preferred class above all other investors, and has acted to preserve his income at a far higher rate than could have been accomplished with any other kind of investment.

Foreclosures Fruitless

Those mortgagees who think that by foreclosing home mortgages and taking over the property they will eventually realize one hundred cents on the dollar and 6% interest to date of payment are, in ninety-nine cases out of a hundred, deluding themselves. The government offers them full payment of principal and better than 4%, without any of the

(Continued on page 7)

AMERICAN INDIAN SYSTEMS

By Sister ROSE di LIMA BRIODY

(Sister Rose di Lima Briody was graduated from the Brooklyn Law School in 1909. She is now head of the department of social and political science at the College of St. Elizabeth. She was one of a party making a survey of the Pueblo Indians and also of the Navajos of the Southern Jurisdiction this summer. This article was written by her while in Albuquerque, New Mexico.—Editor's Note.)

The gentle, kindly Pueblo Indian had an advanced civilization of his own when Coronado arrived in New Mexico in 1540; notwithstanding the influence of the white civilization, they live their old communal life and cling tenaciously to their tribal customs. Although all of them are nominally Christian, mainly Catholic, they retain many of their pagan customs. Their Pagan priest, the Cacique, is the most influential person in the Pueblo. Their form of government is republican, consisting of a Governor and a council. Although the Governor is presumably and ostensibly elected by popular vote, in reality, he is selected by the Cacique—so you see Bossism existed among them before the United States came into being. A Council made up of the Principales, or ex-Governors (usually) assists the Governor. This body has jurisdiction over tribal affairs of all kinds, even domestic relations.

Treated As Nation

That legal aspect and the remoteness of the Pueblos and also of the Reservations, caused the United States in the beginning to treat these peoples as nations, making treaties with them, etc. But when the whites encroached on Indian lands and formed settlements near them, the legal system was necessarily changed, with the result that the law governing the Indians is full of complexities. As federal territory, they come directly

under chapters. Each of its voting districts has an opportunity to elect a delegate; a number of chapters unite to vote; twelve delegates and twelve alternates are elected; these form the tribal council which meets annually at a place designated by the Commissioner of Indian Affairs. At the monthly meeting of the various chapters, the chairman presides, but there is always one of the government officials present. The chapters not only take care of the economic affairs of the reservation, but act as arbitration courts in settling differences.

The economic and social conditions are most interesting, especially the position of women who are highly respected among the Pueblos and Navajos, with the exception, possibly, of the mother-in-law among the Navajos. Her son-in-law must never look in her face lest a dire misfortune befall him. This attitude is gradually changing.

Zunis Mainly Agricultural

The Zunis, who, although they are Pueblo Indians, are somewhat different from the other Pueblos. They are agricultural mainly, but do a great deal of stock raising and herding. One of their most interesting ceremonies is the Shaleko. Stone houses, so far as could be learned, are replacing the old type and six are built every year. The Shaleko is the household god and he is invoked when the six families, selected by the caciques, it is believed, take possession. There are eight caciques at Zuni; at most Pueblos, there is only one. Every fourth year the leading one must fast a day, walk back and forth to the Sacred Lake, 30 miles, and pray a day, mainly for rain.

Graduates May Take A...

E. A. Eubank Will Teach New Course; Havens to Give Jurisprudence

The courses of study listed for graduate students, which has long been of a character commensurate with industrial and civic progress, has been further enriched by the addition of a course in Aeronautical Law.

Will Include History

This course, to be given by Prof. John Augustine Eubank, will include a history of aeronautics; international law with relation to air space; government control of aeronautics; uniform State laws; insurance; navigation; patents; licenses; and international agreements.

Professor Eubank is a member of the National Aeronautical Association, the Aeronautical Chamber of Commerce of America, and the American Glider Association. He is chairman of the committee on air law for the Federal Bar Association and a member of the committee on aeronautical law for the New York County Lawyers' Association.

Is Aeronautical Authority

Professor Eubank is also a member of the Committee on Air Wave and Right of Air Space, the New York State Bar Association and the American Bar Association. He is an authority on aeronautical jurisprudence and a contributor to several magazines in the United States, Canada and Europe. A course in Jurisprudence will be given to graduate students this year. It will be conducted by Prof. Valentino Britton Havens, who for many years has given the course in Taxation in the Graduate School. The study of Jurisprudence will include the nature and sources of law; theories of punishment; the nature and essential functions of the state; the function of judges and juries; theories of sovereignty and procedural law.

The community organization of the Navajos is well-worthy of imitation. The northern, southern, eastern and western jurisdictions are divided into chapters which are districted. The southern jurisdiction has thirty-three

Russell Active Spence Urges In Anti-Racket Uniform Plan

Drive of Senate For Disbarment

Law School Professor Aids Copeland in Recent Committee Hearings

PROPOSES MANY CHANGES

Franklin F. Russell, professor of Roman Law and Legal History at the Brooklyn Law School, and Vice-Chairman of the Committee for the Repression of Racketeering of the Federal Bar Association of New York, Jersey and Connecticut, assisted Senator Royal S. Copeland of New York, Chairman of the United States Senate Sub-Committee of Racketeering at the official hearings held recently to determine "to what extent can the federal government, either directly or by co-operation with state authorities, assist in stamping out kidnapping and racketeering either under the present laws or under new laws?" Professor Russell submitted a schedule of proposed changes in criminal laws and procedure and recommended certain constitutional changes. Robert A. Darr, Chairman of the Committee for the Repression of Racketeering of the Federal Bar Association, is an alumnus of the Brooklyn Law School.

Officials Discuss Problems

The hearings were held in the Bar Association building in New York. The first day was devoted to hearing police officials and others discuss the problem of racketeering and suggest various remedies of a practical nature. The second day of the hearings was employed in airing proposed legal remedies and hearing the opinions of federal and state judges, district attorneys and others. Outstanding figures of the Bench and Bar, internationally known criminologists and men prominent in the business world were present at these

New York Bar Committee Waging Vigorous Campaign to Improve Method

CITES STRIKING EXAMPLE

Setting forth the prevailing defect in our system of disbarment, Kenneth M. Spence, chairman of the Grievance Committee of the New York Bar Association, in an interview, explained the proposed plan for eliminating legal misfeasance. The keynote of the plan adopted and urged by the bar committee is uniformity and it seeks a universal acknowledgment of the present defect by the profession at large.

According to Mr. Spence, the committee is waging a vigorous campaign to improve our present method for the disbarment of lawyers. Their main purpose is to effect the inauguration of a procedure whereby any lawyer who is disbarred in a Federal Court will be excluded from practice in all courts.

Sponsors Amendment

The amendment sponsored by the committee will require that a Federal judge who presides at a trial resulting in the conviction of a lawyer, or before whom a lawyer pleads guilty to the commission of a crime, or who presides at a trial resulting in the disbarment of an attorney, shall report such conviction, plea of guilty, or disbarment to the highest court of the State in which the lawyer practices. Reciprocally, any judge in the State of New York presiding at such a trial, or before whom such plea is made would be required to report to the Senior Circuit Judge of the circuit in which that lawyer practices, such conviction, plea or disbarment. The purpose of this amendment would be to place a moral responsibility upon

the judges of the higher courts to see that disbarment proceedings are uniformly instituted against lawyers in every jurisdiction.

Universal Disbarment

"It seems to me," said Mr. Spence, "that any lawyer disbarred in the State Courts should also be disbarred in the Federal Courts and vice versa. A lawyer excluded from practice in any court should not be permitted to practice law in another. Such a practitioner is no longer entitled to the confidence either of the court or of the community. The primary aim in disbarment proceedings is not to punish the individual lawyer who is guilty of professional misconduct but to rid the Bar of an undesirable member. In the public interest it is necessary that the Bar be purged of the unfit and only by faithful devotion to the highest standards of professional conduct can the Bar hope to maintain its (Continued on Page 5)

Mexico Vies With Reno for Divorces; 'Painless' Process in Only Nine Days

Latin America has become completely divorce conscious. Acquiring a certain awareness to the pecuniary potentialities of liberal divorce legislation, many states in Mexico have enacted a convenient solution for the marital difficulties suffered the world over. Special advertisement advises the addressee that he can squelch his irate and disgruntled spouse "within nine days by special power of attorney without personal appearance of either party." The process is guaranteed to be painless.

Common Laxness in Law

Each state of Mexico has its own laws, but they all enjoy a common laxity, facilitating and expediting the entire proceedings. The grounds are sufficiently numerous to cover anything from eating biscuits in bed to perennal housemaid's knee. Among the too-numerous-to-mention causes one may find cruelty or serious threats rendering life intolerable, incorrigible drunkenness, unjustifiable abandonment of the domicile and mutual con-

sent. All enjoy equal popularity and efficacy, with a slight edge in favor of the last in the cases of foreign petitioners.

The printed circular received by this department and referred to above is directed by two attorneys from Toluca. They would have us apprised of the reasonableness and simplicity of their service, along with an implication that satisfaction is guaranteed or the fee will be refunded. They further note that the New York Supreme Court has completely recognized the validity of the Mexican Divorce by mutual consent in many adjudicated cases; and still further, that the powers of attorney, which make personal appearance unnecessary, have equally complete recognition.

Another interesting aspect of the jurisdiction is that the court may grant the husband alimony against his wife in the event that he has given no cause for divorce, that he leads an honest life and that he is unable to work.

MATHESON PRIZE WINNERS

Edward Joseph O'Toole

Since 1920, 14 students most distinguished from the viewpoint of scholarship and character have been recipients of the Matheson Memorial Prize, awarded annually at the commencement exercises of the Brooklyn Law School, and have begun careers as attorneys. A survey of these men, in so far as has been possible, has been completed by THE JUSTINIAN, and a brief summary of their work since leaving school has been made.

The Matheson Memorial Prize of \$100 was endowed to the memory of Donald W. Matheson, '14, by Dr. George W. Matheson. It is conferred upon that member of the graduating class who, in character, scholarship and attainments, evinces the highest degree of legal capacity.

In 1927, two men having qualified for the prize, a duplicate award was made.

Albert Martin Cohen

Albert Martin Cohen was graduated from the Brooklyn Law School in 1921, magna cum laude, and was the first student to receive the Donald Matheson Memorial Prize. Mr. Cohen, who has been a member of the Assembly for the past six years, was admitted to the Bar in 1922. Since then he has been actively engaged in practicing law. He has written for several legal periodicals, and his "Comments on the Mechanics of Legislation in New York" appears in the current issue of the Brooklyn Law Review.

Mr. Cohen is a member of many fraternal, civic, charitable and social organizations, among which are the Brooklyn Bar Association, the Unity Club of Brooklyn, Fortitude Lodge, No. 19 F. & A. M., the Brooklyn Chamber of Commerce, Conqueror Lodge 559 K. & P. and B. P. O. E. Lodge No. 22.

Advances Plan

For Auto Claims

Scheme Will Relieve Congested Court Calendars, Declares Dr. P. H. French

The adoption of a plan of compensation for automobile claims is the suggestion of Dr. Patterson H. French, fellow of Columbia University, in a study of the situation recently published by the Columbia University Press. This plan, he says, would help to eliminate the large number of automobile claims that are now cluttering the calendars of the courts, and thus, in a large measure relieve the present congestion.

Auto Claims in Majority

He declared that "one-third to two-thirds of the cases in our over-worked civil courts deal with claims arising out of automobile mishaps," and outlined a plan to remedy this condition. The plan involves sweeping changes in insurance and compensation, as well as in the judicial machinery. He based his results on a study of 8,849 cases, and from them evolved the following principles: automobile personal injury claims to be handled by an administrative commission; the abandonment of common-law rules of damages and contributory negligence, placing full responsibility on the owner of the vehicle; damages to be assessed as accurately as possible according to the medical expense and the actual financial loss; the inauguration of a system of compulsory financial responsibility by requiring insurance or posting a bond.

Would Relieve Hardships

Dr. French feels that motor vehicle accidents bring misfortune not only to the victim, but also to the family, and often present serious problems. His system, he states, would make it possible to have precise and expeditious settlement of this type of case, and help to alleviate the hardships so often attendant upon them.

Edward Joseph O'Toole was awarded the Matheson Prize in 1922. Since graduation from the Law School he has applied himself to the academic side of the law. At present he is Professor of Law and Suretyship at St. John's Law School. He has written several textbooks among which are a text dealing with the Law of Trusts, a casebook in Trusts and one in Suretyship.

He is a member of the American Bar Association and the Brooklyn Lawyer's Club. While at school he was affiliated with Phi Delta Phi.

Clinton Morris

Clinton Morris was awarded the Matheson prize in 1923.

David Stewart Edgar, Jr.

Now Associate Professor of Law at St. John's Law School, David Stewart Edgar, Jr., was awarded the Matheson Prize in 1924. He collaborated with his father, Professor David Stewart Edgar, on "The Law of Torts," and is also the author of "Some Aspects of Unilateral Mistake," which was published in St. John's Law Review, Vol. 4, No. 2.

He is affiliated with many fraternal, civic and charitable organizations. Among these are Phi Delta Phi fraternity, Brooklyn Lawyers' Club, Brooklyn University Club, Maine and Field Club, Storm King Kennel Club and similar organizations in Salt Lake City and Long Island.

Eugene Thomas McQuade

Admitted three years ago to partnership in the law firm of Lewis, Garvin & Kelly, and later a member of the Committee on State Legislation, Eugene Thomas McQuade, who was graduated from the Brooklyn Law School in 1925, was awarded the Matheson Prize for that year.

Mr. McQuade has a formula for success which, he claims, has never

known him. "Know the law and win at it; cultivate business judgment and endeavor to develop a personality which will reach the confidence of clients." Advising against "experimenting" with various firms, Mr. McQuade believes that "working with a good firm, and staying with it, is half the battle for the graduating law student."

John James Bennett, Jr.

Attorney General John J. Bennett, Jr., an alumnus of the Brooklyn Law School, also received the Matheson Prize. He is a member of the faculty, absent on leave, of the Law School. In 1927, Attorney General Bennett was secretary of the New York Citizen's Committee on Transit and Housing. He served for two years with J. P. Morgan & Company as assistant to the late Edward R. Stettinius and then entered private law practice in the firm of Baar, Bennett & Fullen. Mr. Bennett was elected Attorney General of the State of New York in 1930.

He has been active in the American Legion of Brooklyn, since its inception, and has held the offices of Commander of the Gilbert Boyle Post, Kings County Commander, Chairman of the State Americanists Committee, and State Judge Advocate. In 1929, Mr. Bennett was elected State Commander of the American Legion. He is a member of the following organizations: the Brooklyn Bar Association, the Brooklyn Chamber of Commerce, the 77th Division Association, the United States Army Athletic Association and Phi Delta Phi legal fraternity.

Samuel B. Burk

Dr. Samuel B. Burk, Matheson Prize winner in 1927, loomed large as a leader in his first year at Brooklyn Law School when his class-mates elected him as class president. He served so well that in the next two years he held the same office. In his senior year he was further distinguished by election to the presidency of the Student Council. His high scholarship admitted him to the Philomonic Council.

While at school Dr. Burk was af-

(Continued on Page 7)

(Continued from Page 8)

ing able to enjoy points of similarity as well as points of difference. Yet somehow, even the "same old things" seem "different" viewed three thousand miles from home, and expressed in speech marked by broad "a's" or dropped "aitches." He notes with a pleasant sense of recognition the various attitudes of apathy in the jury box, and concludes that the twelve good men and true who are the bulwark of Anglo-Saxon rights and liberties are much the same on both sides of the water, at least in the matter of the enthusiasm with which they undertake the performance of their lofty duty. He finds that the English witness literally "takes the stand," for he testifies on his feet. And when his testimony is done, he "stands down!" The bench, appropriately enough, is ennobled on his witness in an arm chair, but the bar is seated on a bench. The black-robed figure under the seventeenth century wig sums up to the jury about such twentieth century matters as speeds of 40 miles an hour and damages to fender and bumper.

Courtroom Spectacular

The courtroom is, of course, the spectacular half of the barrister's world, yet in interest it is overshadowed by the quiet charm of the Inns of Court, where the barrister lives and has his chambers. There are four Inns: Middle Temple, Inner Temple, Lincoln's, and Gray's. Each represents both an association of barristers and the enclosed blocks of homes, chambers, and halls which the Inn owns and governs. Membership in some of these is compulsory, and control of admission to the bar is vested jointly in them. The would-be lawyer enrolls in the school of one of the Inns, and apprentices himself to a barrister. For the latter privilege, he may add for the special benefit of an American law clerk who grumbles

at his five dollars a week, he pays one hundred pounds a year.

Inns Have Charm

Each of the Inns has its special charm, but perhaps the flavor of all can be indicated by a brief description of Inner Temple. The swarms of people who sweep down Fleet St. (our Park Row) pass without noticing the narrow Wren gateway which stands across the street from the Law Courts. That gateway leads to the maze of narrow streets, of quaint courtyards and lovely gardens which are Inner Temple. In a few steps one is transported to an island of quiet, redolent with the romance of bygone ages, set in the very center of the turbulent sea of London's business life. The streets are lined with century-old houses, and some are so narrow that sun reflectors are frequently used to catch the vagrant sunbeams and direct them into the dark, low-ceilinged rooms. On the gray plaster walls in the halls of these buildings are painted in plain black letters the names of the greatest barristers of the day, as they have been for hundreds of years. In one of the rooms, with its bare floors, its massive desk whose edges have been grooved by the elbows of generations of barristers; undisturbed save for the wig and robe hanging on a hook in a corner, and the rows of reports in the original ancient bindings (reprints are rare in England), the barrister has his office. In one or two others he may be living with his family. The not infrequently encountered badge of success, a Rolls Royce standing near the doorway, seems a jarring anachronism.

Tenements Shabby

Undoubtedly, an enterprising business man would disdain to live in such a shabby tenement. But it is not hard to believe that an American lawyer with a suite of offices done in the Hollywood manner, and the rest of the trappings attendant upon success at the American bar, grows a little envious in the presence of his English cousin's home and office. For him, these shabby tenements achieve a strange beauty and dignity by virtue

of the six hundred year old tradition which surrounds them; by the memory of that courtyard with its ancient tree, and the bench by the side of the pool, just around the corner.

Books have been written about the traditions and history of each of the Inns; and the scenes of picturesque beauty in which they abound have been the inspiration of countless artists. Closely intertwined with the Inns is the history of English literature. In Inner Temple, for example, dwelt Goldsmith, Johnson, and Lamb; and in the halls and courtyards many Elizabethan dramas had their first performance. Temple Inn boasts of the fact that it is the heir of the tradition of the Knights Templar. In point of fact, however, the association is one of privacy of estate, for when in the fourteenth century the Templar order was dissolved by the king, the rising guild of lawyers moved into its quarters.

Spirit of Fellowship

A spirit of fellowship, which has been absent from American legal life since Lincoln's day when lawyers and judge went around the circuit together, still prevails in the Inns of Court. Evening brings judge, silk (King's Counsel), and student together in the great Elizabethan hall for dinner. Here the youngest and humblest barrister greets the senior judge as "Bob" or "Dick" True, in the courtroom they take their positions on opposite sides of the bar. But what counts, you see, is that it is the same bar.

Easterday's Death Ends Active Career

(Continued from Page 1)

books dealing with the subjects which he taught, Professor Easterday had

published in 1924 and 1925 "Cases on Persons and Domestic Relations," and "Cases on the Law of Real Property." He published his text on the law of real property in 1932.

Married Miss Gible

He married in 1896 Miss Susie Gible of North Carolina, whom he met in Baltimore. Surviving Professor Easterday are Mrs. Easterday, his four daughters, Mrs. Peggy E. Grismer, Mrs. Warner R. Moore, Mrs. Thomas B. Rothenberger and Miss Helen Easterday; a son, John Howard Easterday, Jr., who was graduated from the Brooklyn Law School last June; two brothers, David A. and Charles Easterday, and a sister, Mrs. John R. Hunter.

Inspirational Teacher

Dean William Payson Richardson said of him:

"He was one of the greatest inspirational and beloved teachers of his day and a devoted associate. He was a school builder and much of the success this school has attained is due to his loyalty and fidelity."

Professor Easterday was a member of the Crescent Athletic-Hamilton Club and Phi Delta Phi fraternity.

Services were held in the Fairchild Chapel and in St. John the Baptist Protestant Episcopal Church, Brooklyn, and burial was in Cypress Hills Abbey.

Carberry, '06, Dies

Francis E. Carberry, class of 1906, died Monday, October 2. He was 47 years old and had his law offices in Brooklyn. Burial was in Holy Cross Cemetery, following a requiem mass in St. Saviour's Church.

He lived at 612 Second Street and leaves a widow, Alice G. Carberry, and two sons, Francis and Vincent.

et al. The Justitia M.D., M.R.C.

The Constitution of the United States in the Fifth Amendment provides for a "presentment and indictment by grand jury" in all Federal prosecutions, with the exception of cases arising in the land and naval forces. That is the authority for the system of jurisprudence now prevalent in our military establishment. The sources of this law are the Federal Constitution, international law, the military law of other nations, Federal penal statutes, and the common law to a slight degree. All these have been used by Congress in the formation of the 121 Articles of War (Sec. 1, ch. II, act of June 4, 1920, 41 Stat. 787) which at all times and in all places govern the armies of the United States.

The jurisdiction of military courts-martial is entirely penal and disciplinary. They have no right to adjudicate the payment of damages or to collect private debts. Civil tribunals cannot interfere with the operation of military courts except that the Federal Courts have the right to review the proceedings at a military court for the purpose of ascertaining whether the military court had jurisdiction of the person and subject matter, and, whether having such jurisdiction it had exceeded its powers in the sentence pronounced. (Grafton v. United States, 206 U. S. 333). This provides one situation, therefore, where civilian attorneys may be called upon to argue subject matter under military jurisdiction.

Articles of War Govern Personnel

The 121 Articles of War define military law, and govern all personnel of the armed forces. Articles 1 and 2 are preliminary, and deal with jurisdiction. Articles 3-53 deal with the appointment, jurisdiction, and operation of the Courts-martial. Articles 54-96 are the punitive articles relating to the various crimes and punishments and to the evidence required to convict under each. Articles 97-103 relate to courts of inquiry convened for investigations into the acts and conduct of officers and enlisted men. Articles 104-121 are miscellaneous provisions relating mainly to certain procedures. These sections comprise the entire statute law of the military service.

Military law has jurisdiction over the entire military establishment including civilian employees and retainers of the armed forces. This includes nurses, doctors, patients in military hospitals, and inmates of the Regular Army Soldiers Home at Washington, D. C. The municipal and the military law may have concurrent jurisdiction over persons subject to military law and if by one act or omission he violates the Articles of War and the local criminal law, as committing larceny in the town where his station is situated, such act or omission may be the basis of a prosecution before a court-martial or before a civil tribunal, the jurisdiction which first attaches in any case being first entitled to proceed. The preference of charges in one court bars action in the other for the same crime, but not for other crimes involved, as being tried for the larceny in the civil court, and then for being A.V.O.L. and for using a government weapon without permission, in the military court. The additional charges can be preferred after the person has served the sentence imposed by the civil court.

Civil and Military Courts Differ

The military courts are not the same as civil courts. There is no permanently designated place called a court where litigants can apply for justice. There are no professional judges appointed to act as such at all times. There are no prosecuting and defense attorneys whose duty it is solely to practice military law. The only permanently established legal organization is the

Advocate-General's department, which functions in a supervisory capacity and as a reviewing authority. Justice is administered by the Military personnel themselves as part of their routine duties. Whenever an unlawful act is committed by a person subject to military jurisdiction a complaint must be filed in writing with the commanding officer of the station where the accused is stationed. This officer appoints a junior officer to investigate the charges. If this investigation reveals the commission of a crime the accused is placed under arrest. (AW69). Charges and specifications are now drawn up as follows:—

Charge—VIOLATION OF THE 96TH ARTICLE OF WAR.

Specification 1:—In that Private John Doe, Company A, 2nd Infantry did at the post canteen on or about April 10, 1933, wrongfully attempt to strike Corporal Richard Roe with a pistol.

Specification 2:—In that Private John Doe, Co. A, 2nd Inf., was at the post canteen on or about April 10, 1933, drunk and disorderly.

These charges are now served on the defendant in the presence of the witnesses to the acts complained of. The witnesses are then questioned and their depositions taken in the presence of the defendant. The accused is given an opportunity to cross-examine them or to summon additional witnesses if he pleases.

Commanding Officer Consults Judge Advocate

The commanding officer now consults with his staff Judge Advocate and if they decide that the facts warrant the holding of a trial the Commander must proceed without delay. He appoints various officers to sit as a court-martial. If the offense is such that a maximum penalty of death, life imprisonment, and or dishonorable discharge is mandatory, a general court-martial consisting of at least five officers of his command must be appointed. They act as judge and jury. A trial judge advocate is appointed to prosecute. He is one of the officers of the station and not usually a lawyer. An officer is appointed defense counsel, but the accused has the right to choose any officer he wishes to defend him, or if he prefers he may have civil counsel. In the latter instance the court usually appoints an officer to assist the civil attorney. A law member is appointed to assist the court in the interpretation of the statutes. He is, if available, a member of the judge advocate-general's department, and if not, he may be any other officer.

If the offense is not capital and the punishment is not more than 6 months confinement or forfeiture of more than two-thirds pay per month for six months, a special court-martial consisting of three or more officers is appointed. Defense and prosecuting attorneys are also appointed but no law member.

If the offense is one that is not capital and the punishment for which is not more than one month's confinement, restriction to limits of not more than three months, or forfeiture of not more than two-thirds of one month's pay, a summary court of one officer is appointed. He is Judge, jury, and executioner. There is no prosecuting or defense counsel or law member to a summary court.

Trial Judge Discloses Grounds of Challenge

After announcing the names of the members of the court, the trial judge advocate discloses every ground of challenge existing in that case either against himself or against the other members of the court. If it appears that any member of the court should not sit in that case for reasons enumerated in the statute he is excused forthwith. Any member of the court may be challenged for cause by either side and the court determines the relevancy or the validity of the challenge. Each side is entitled to one peremptory challenge.

(Continued on Page 6)

(Continued from Page 3)

defaults in principal. This act merely extends all existing mortgages until the above date, providing interest and taxes are kept up. It differs from the Governor's recommendation in that it extends to all mortgages, whereas the recommendation was for a moratorium as to home mortgages only. This bill was signed by the Governor on August 26, 1933, and is Section 1077 a to g of the Civil Practice Act.

The other bill, which became a law on the same date, and is section 1083 a and b of the Civil Practice Act, provides that during the same emergency period no deficiency judgment shall be granted in any foreclosure case until the court has fixed the fair and reasonable market value of the property, and that the same shall be deducted from the mortgage debt in determining the amount of the deficiency.

Legislative Permission

This latter act amounts to legislative permission to the courts to do exactly the same thing which the courts of Wisconsin and New Jersey have assumed power to do without any legislation (Note 1) declaring it within the general equitable powers.

In considering the value of this act, it is to be noted that it requires the court to fix the fair market value of the property, and not the fair value alone. If the law should be strictly construed it is not impossible

that this phrase would completely nullify it. What can be the fair market value when, as all admit, there is no existing market at all? However, we shall hope that the courts in applying the act will follow the legislative intention and interpret fair market value to mean fair value.

New York Mortgage Aid

The foregoing statement covers all that the State of New York has done to aid the distressed mortgagor, and such relief as the legislature has given is not specially for the home owner but for all mortgagors alike.

For the mortgagor who is unable to pay interest or taxes the State of New York has done nothing at all, except, perhaps, to save him from too large a deficiency judgment.

On the other hand, the federal government has been as liberal as the state has been niggardly with relief for the home owner. The federal Home Owners Loan Act signed by the President on June 13th, 1933, probably represents the utmost that the federal government can do to aid the home owner, having regard to constitutional limitations. Congress, of course, cannot pass any law altering or suspending state laws relating to foreclosures, and all it has to offer is the national credit. This it has done to the fullest possible extent, and if the act and its operation shall come to be fully understood and appreciated, it will be welcomed by both mortgagor and mortgagee as furnishing to both a satisfactory and complete method of exit from their present difficulties.

Helps Home Owner

To the home owner it offers the transfer of his mortgage to a holder who will give him every possible chance to work out of his difficulties, and also a reduction in the rate of interest to 5%, and to the mortgagee it offers an opportunity to exchange his defaulted security for another on which the interest is certain.

The law establishes the Home Owners Loan Corporation, which is authorized to take over home mortgages and to issue in exchange its bonds up to 80% of the value of the property as fixed by an appraisal made by the corporation. The interest on these bonds is guaranteed by the United States, and, although the principal is not so guaranteed, the corporation is designated as an instrumentality of the United States, and a default in principal is unthinkable. The real effect of the transfer is that the mortgagee can exchange his defaulted mortgage for government bonds and, although the interest rate of 4% is perhaps lower, this is compensated for by the fact that the bonds are exempt from income taxation and are, in these days, a far better security than any real estate mortgage.

Should Amend Laws

"Such a condition should not be permitted to continue," stated Mr. Spence. "It would seem to me that the laws of this State should be amended to authorize the Appellate Division to disbar a lawyer who has been disbarred in the Federal Court upon proof of such disbarment. The disbarment itself is sufficient evidence of the lawyer's unfitness to continue at the Bar. The test of fitness to practice law is not merely the lawyer's professional skill, but his integrity and his reputation. Disbarment destroys a lawyer's reputation."

The Grievance Committee, according to Mr. Spence, intends to devote every effort to effect such legislation as will insure a uniform method of discipline. It recognizes the extreme necessity in these times of financial stress, for raising and maintaining the ethical prestige of the legal profession. Too many lapses in the prosecution and disbarment of lawyers guilty of infractions of the rules of ethics have caused the reputations of lawyers generally to suffer.

Papp Opens Office

George L. Papp, alumnus of Brooklyn Law School, class of '26, and graduate of St. Lawrence University, has opened a law office in Brooklyn.

While at college, Mr. Papp was distinguished as a three letter man, playing baseball three years, football and basketball four years, and was captain of the basketball team during his senior year. He was chosen to the Kixie student honorary society and is a member of the Beta Theta Pi fraternity.

Foreclosures Fruitless

Those mortgagors who think that by foreclosing home mortgages and taking over the property they will eventually realize one hundred cents on the dollar and 6% interest to date of payment are, in ninety-nine cases out of a hundred, deluding themselves. The government offers them full payment of principal and better than 4%, without any of the

(Continued on page 7)

Fraternities and Sororities

PHI DELTA PHI

Tuesday and Friday evenings, September 26 and 29, Everts Inn held its first informal smokers of the school term. Professors Murphy, Frankham and O'Neill were among those who attended Friday evening. Another smoker will be held at the Inn next Friday evening, October 6. David A. Richardson, assistant to the dean, is the chairman of the committee in charge of these affairs.

Everts Inn was represented at the national convention of the fraternity by Joseph L. Delaney, delegate, and John R. Appleton, alternate. The convention this year was held at Grand Beach, Mich., during the early part of September.

At the first meeting of the year William W. Bailey and Harvey M. Bagg, transferees from Story Inn at Columbia Law School, were voted regular members of Everts Inn.

IOTA THETA

Iota Theta inducted the following new officers for 1933-1934 at an Annual Stag Banquet held at Rosoff's Restaurant on June 15, 1933:

Praetor, Henry A. Robinson; Vice-Praetor, Milton G. Gershenson; Undergraduate Praetor, Joseph H. Burns; Custodian, Isidore Wachtel; Undergraduate Custodian, Samuel Korb; Scriptor, Max Fefferman.

With the commencement of the school year, Iota Theta will offer a program which will include forums, parties, and social functions. Arrangements are being completed to have several prominent members of the Bar address the fraters. Plans are also in readiness for the installation of a praetor system to facilitate the study and application of the law by Iota Thetians.

Another program feature for this year will be the class reunions to be held at each meeting. The first reorganization meeting, to be held on Sunday, October 1st, will be given over to a reunion of the fraters in the Classes of 1933 and 1932.

ALPHA GAMMA

An informal smoker, under the auspices of the Alpha Gamma fraternity, was held in the Men's Lounge during the summer session. Professor William Hagendorn, the guest speaker, addressed the group. He praised the new students for their desire to plunge without delay into a study of legal theories.

Jack Grossman, chancellor of the fraternity, expressed his gratification at the attendance. The entire morning session had been invited.

DELTA THETA PHI

The scholastic year opened with a well attended smoker held in honor of the Freshman Class. Various members of the alumni spoke among them Prof. Richard Joseph Maloney. A detailed schedule of review sessions of the various major subjects was announced.

Plans for a series of moot court trials have been formulated. These will be presided over by expert trial lawyers chosen from the alumni body.

As a result of rushing activities an unusually large number of men have been accorded probationary membership.

The officers for the year are: Dean—Bernard Butler; Vice-Dean—Charles Blodgett; Tribune—Richard Graham; Clerk of Exchequer—Anthony Forbes; Clerk of Rolls—Merwin Ashley; Bailiff—Frank Crawford.

PHI KAPPA DELTA

At a regular meeting of Iota chapter held at the Law School, Louis B. Chipkin and Ralph B. Weinstein were elected to serve as delegates to the Grand Council. Abraham Olian, alumnus, was designated to act as representative of the Alumni body.

On Friday evening, October 27, 1933 in the Men's Lounge, at Brooklyn Law School, the fraternity will tender its initial smoker of the current semester. Abraham Briethart, Class of June,

1933, was admitted to the Bar on Wednesday, October 11, 1933.

N. Kenneth Gross, Henry Diener, David Klibanow, Murray Gluck, graduating fraters of the June 1933 class, together with the remainder of the fraternity elected the following for the current year—Harold Olian, Rextimus, Louis B. Chipkin, Vice-Rextimus; Bernard M. Singer, Keeper of the Archives and Morris Udoff, Scribe.

OMEGA PHI

In Richardson Hall, Tuesday, September 26, the Delta Chapter of Omega Phi Sorority held its first meeting of the year. At this time the following officers were chosen: President, Miss E. Sydelle Dickman, '31, new Secretary of Pan-Hellenic; Treasurer, Miss Ruth Spreiregen of Class of '32; Secretary, Miss Genevieve Finn, and Vice-President, Miss Vivian Dreyer, both of second year class.

TAU ALPHA PI

Zeta Chapter of Tau Alpha Pi sorority held its first meeting of the year at the sorority house recently for the purpose of selection of officers.

Officers for the year 1933-34, included: Rose Leinwand, Chancellor; Miss Fanny Seigaltel, Vice-Chancellor; Miss Mildred Satter, Secretary; and Miss Belle Korones, Treasurer.

Miss Miriam Feinberg was chosen to head the entertainment committee, with Miss Florence Greenwald and Miss Sylvia Rothman as aids. Miss Fanny Seigaltel and Miss Mildred Satter will act as Pan-Hellenic representatives.

Miss Rose Weiss and Miss Miriam Feinberg were chosen to represent the sorority at the Grand Council.

The Chapter announced the marriage of Miss Hazel Albert, '30, to Joseph Greenspan, alumnus of the school, and Miss Florence Greenwald, '32, to Louis L. Chiswick, graduate of New York University Law School.

Miss Rose Leinwand, chancellor of the chapter, was admitted recently to the Federal Bar.

PAN HELLENIC COUNCIL

Representatives of six sororities, who comprise the Pan Hellenic Council, recently assembled at the Brooklyn Law School and held their annual elections. Frieda Miller, of the Third Year, 7-9 Session, was elected president and E. Sydelle Dickman, '31, secretary-treasurer for the coming year.

To Omega Phi sorority was awarded the Pan Hellenic Scholastic Cup in recognition of its scholastic standing, highest among the sororities.

Ushered in by the Pan Hellenic Tea held on Sunday afternoon, October 8th, and a bridge party in the Law School Lounge, the October rushing season officially opened. Incoming students were invited to the Tea to make the acquaintance of the individual members of the sororities.

First Indictment For Gold Hoarding

Characterizing the charge as one which "affects the financial and economic policy of all the people" United States Attorney George Z. Medalie secured the first indictment under the gold hoarding act and Executive order. Frederick B. Campbell, an attorney, becomes therefore, the first defendant in such a prosecution.

Two counts are contained in the indictment which relate to the failure to report possession of the gold and its retention without a license. He is required by the Act of Congress and the Executive order to file a report concerning the gold with the Secretary of the Treasury, and to surrender it.

Mr. Campbell holds 27 bars of gold bullion valued at \$200,574.34 in the Chase National Bank. He has begun a civil action to sue the bank for the return of the gold and has asked for an injunction restraining it from surrendering the bullion to the Federal Reserve Bank.

Alumna Cites Schools Offer Women in Law Radio Law Study

Miss Wren, '08, Maintains That Women Make Efficient, Capable Lawyers

Amey Wren, alumna of the Brooklyn Law School, class of '08, stated in an interview that she believes that women make as good lawyers as men because they enter the legal field of their own inclination, whereas men practice law through necessity or sheer indecision as to a profession.

Miss Wren is serving her fifth term as president of the Brooklyn Women's Bar Association. In 1928 she was elected third vice-president of the Alumni Association of Brooklyn Law School. After being appointed United States Commissioner of this district several years ago, she resigned shortly thereafter, refusing, as she stated, to work with "corrupt bondsmen, lawyers, and fixers."

Recalls Student Days

Reminiscing, Miss Wren recalled her student days at Brooklyn Law School. "Professor Easterday—he was a great teacher," she said. "He always enlivened his lectures with a quip. And as for the Dean," she continued, referring to Dean Richardson, "he was the peer of them all. You couldn't help knowing your work when you had him. It was as if you were an empty cup, a reservoir into which he poured all the information."

Amplifying her statement in regard to the abilities and opportunities of women lawyers, Miss Wren said: "I think there is a large field for women in the legal profession. Most women who have become lawyers have been successful. They may not make fortunes, get \$100,000 cases, but they do earn a decent living."

Dean's Address Opens Sessions

(Continued from page 1)

tegrity will provide the lawyer-leaders that the times demand, the Dean said. Changing social and economic conditions are placing a greater premium on responsible leaders. Because of the close ties between legal training and statesmanship, he concluded, better qualified lawyers are needed.

School Gives Opportunity

The school, Dean Richardson maintained, has always provided an opportunity for those who have ambitions in the legal field, unless they lacked the intelligence. The law school, averred Dean Richardson, must not deny a qualified person his opportunity nor should it graduate an untrained student.

In closing, the Dean said that he looked forward to the time when lawyers would be sufficiently distinguished to attend their duties in gowns, indicative of their high office.

Prof. Clarence G. Bachrach, who also addressed the students, voiced his agreement as to the need for better qualified lawyers. After commenting on several current matters of legal interest, such as the gold clauses, he predicted that administration of the NRA codes will furnish an opportunity for distinguished public service to the better lawyers.

New Legal Fields

Discussing the Century of Progress which he attended during the summer, Professor Bachrach pointed out that there is a new development in the field of law as contrasted to progress in the material fields. The lawyer, he said, must do his share in the new social order, since it is more responsive to the social needs of the people. The law school should not be regarded as an obstacle, he stated, but as a fully-equipped institution to make the attainment of legal principles easier.

Professors Wrigley and Cady, who were also on the program, spoke of personal experiences during the summer and new developments in law.

Present Complexities of Statutes Will Be Eliminated, Is Belief

According to a recent report in the Journal of the American Bar Association five universities in the United States are offering courses in radio law. Three of the five universities—National University School of Law, Catholic University of America, and the Columbia University School of Law are located in Washington, D. C. The other two schools are Marquette University and the University of Southern California, located in Milwaukee, Wisconsin, and Los Angeles, California, respectively.

Radio Law Intricate

Although a casual thought would seem to indicate that a study of this branch of the law is a well-defined proposition, consisting merely of the laws promulgated by the Federal Radio Commission and the cases which have come under its jurisdiction, in reality it presents a great number of ramifications and demands close attention. The truth of this readily can be determined from an examination of the following topics usually considered in the radio law courses: Basic treaties and statutes; the development of legal regulations of wireless telegraphy and telephony; the Radio Act of 1927 and its amendments; a study of the Federal Radio Commission as an example of the application of administrative law to scientific and social problems; practice and procedure before the Federal Radio Commission; the law of crimes, torts and contract applicable to radio; radio and the copyright; rights and liabilities of wireless operators and Government regulation of their activities; rights and liabilities of other persons affected by such activities.

Important Branch of Law

That radio law will become increasingly important in the near future is almost a foregone conclusion. This

prediction is based on the advent of television which, scientifically possible, is only awaiting commercial development. It is believed that television will herald the commencement of litigation between the existing broadcasting systems and the promoters of television chains. It is also thought that the entire field of entertainment, including the stage and the moving picture industry, will become embroiled in legal conflict inter se.

The method of instruction usually followed in teaching the aforementioned courses in radio law does not differ from existing methods and includes lectures, case assignments and seminar discussions.

Military Law

(Continued from Page 5)

longer. The law member however, cannot be challenged except for cause. Thus the accused has a certain amount of choice in the selection of his judges.

The procedure in the general and special courts is similar to that of the civil courts with few exceptions. The prosecution presents its case. Any objections of counsel are decided by a vote of the court. One more than half is required to sustain an objection. If the court consists of an even number of officers an evenly divided vote on a question is the same as a majority vote denying an objection.

At the end of the prosecution's case defense counsel may move to dismiss, or he may plead insanity, statute of limitations, former jeopardy, pardon, or promised immunity in bar of trial. The court votes on these the same as it does on objections. Failing to have its request for dismissal granted, the defense proceeds to put in its case. The rules of evidence are not as strict as in civil trials but are nevertheless ample to protect the interest of the accused and of the Government. The court may recall witnesses and question them itself if it is not satisfied that all the evidence the witness can produce has been brought out. The court in its discretion may

(Continued on Page 8)

College Club Scholarships

A notable result of the activities of college and university clubs in the Law School has been the inauguration of scholarships awarded to graduating students of the represented colleges and universities. These scholarships are awarded on a competitive basis; previous high ranking in studies and an adaptability for the law are required. A scholarship entitles the recipient to one year's free tuition at the Brooklyn Law School.

The club movement, given extensive co-operation by the Law School, has gone far in the revival of interests and friendships, as well as in the stimulation of activity in legal debates and forums. It has become the custom of these clubs to invite prominent members of the Bar and Bench to address the members on legal topics of timely interest.

The list of scholarships awarded for the coming school year has been announced by the clubs representing the following institutions: College of the City of New York, Lafayette College, Lehigh University, Long Island University, New York University, and Union College.

College of the City of New York

Frank S. Sacks, recipient of one of the two scholarships awarded by the City College Club, received his B.S. in S.S. degree cum laude last February. A member of Phi Beta Kappa, Sacks was also chairman of the Student Alcoe Committee, and was a member of the History and Education Club, the Government Social Research Bureau, and the Personnel Bureau.

Asked why he was going to study law, Sacks answered:

"The important role which the law plays in society is sufficient reason for making a special study of it. No business, trade, or profession escapes its influence. Indeed, no phase of our daily life is unaffected by it. This practical side is not its only attribute, however. The cultural benefits de-

of social science, of the philosopher, and in a wider sense, of every educated man. Offering advantages both cultural and practical, the study of law is most interesting, and the practice subsequent to this training, the most attractive to me of all professions."

Richard Greenblatt, the other designee of the City College Club, received his A.B. degree last June. Among his activities, Greenblatt lists: football manager, sports editor and associate editor of the college paper, and member of the faculty student discipline committee.

Lafayette College

Emil Von Arx, Jr., awarded the Lafayette College Club scholarship, received his B.S. degree last June. At college he was a member of the Kirby Government and Law Society and secretary of Kappa Phi Kappa. In 1932 Von Arx was appointed delegate to the Princeton convention on Political Issues. He was also a member of the Glee Club and freshman baseball team.

Lehigh University

A. E. Grudin, who received the Lehigh University Club Scholarship, was awarded his B.A. degree cum laude last June. Grudin was elected to Phi Beta Kappa, and was awarded the senior year scholarship by the university. He received freshman and sophomore honors, First Prize Sophomore English, Second Prize Junior English, Williams Senior Prize in Psychology, and special honors in psychology. He was also president and secretary of the Robert W. Blake Philosophy Society, and a member of the board of editors of the Lehigh Review. An article written by Grudin, "Difference in Values Betwixt Various Schools—Engineering, Business and Arts at Lehigh," was published in the American Psychological Bulletin and reported at the National Meeting held at Yale University.

Long Island University

The Long Island University Club awarded its scholarship to Jules A. Holub, who received his B.A. degree last June. While at college Holub was awarded first prize in Education. He was president of the Dramatic Society, captain of the Debating Team, member of the Student Council and of the Literary Club.

New York University

Jack J. Siegel, awarded a scholarship by the New York University Club, completed his pre-law course last June. Siegel was awarded the Griffith Oratorical Medal in 1933. He was a member of the Debating Team. Siegel, as his reason for studying law, said:

"I am undertaking the study of law in order to make my life as full and serviceable as possible. Law concerns itself with men and the governments of men. Thus, being intensely human, law is to me most interesting. I would thus serve my fellow men and my government by the study and application of Law."

Union College

The Union College Club awarded its scholarship to William R. La Flure who received his degree cum laude last June. While at college he was vice-president of the French Club and secretary of Pi Gamma Mu. He was also a member of the Debating Team and a delegate to the Model League of Nations at Lehigh.

To the question, "Why have you decided to study law?" La Flure answered:

"I have always been strongly attracted by the position which the lawyer holds in the community and in society in general. The lawyer in my eyes has represented the ultimate in social and business wisdom. Lawyers have held the highest offices in government and business and by their conduct have molded the lives of the other citizens about them. These men have been citizens of the highest calibre, serving as counselors in their professional roles and as leaders in every activity in which they engage. It has long been my ambition to emulate them."

Mortgages and The Depression

(Continued from Page 5)

headaches they are bound to suffer through attempting to carry real property and extort an income from it for the next few years.

It has been suggested that in the operation of the Home Owners Loan Act many mortgages could not be taken over because 80% of the appraised present value would not equal the amount of the mortgage. However, in actual operation the appraisals are being made on the real intrinsic value of the property and are liberal. If 80% does not reach the amount of the mortgage, this is simply because the mortgage has made a bad investment and has loaned too much on the property. In such instances the mortgagee, by taking whatever bonds can be obtained, and accepting a loss amounting to the difference, will only be writing off a loss which he has already suffered by reason of the inevitable operation of the depression upon a poor investment.

Should Consider Future

Before leaving the subject it is necessary to give some consideration to the future. The pressure of the mortgage question upon home owners is progressive. At the last regular session of the legislature a bill for mortgage relief, similar to the one passed at the recent special session, was introduced and defeated. At that time the pressure was not so great as it later became when the special session was called. The laws now in effect have disappointed many organizations of home owners and their advocates. There are indications that the strength of these organizations is increasing and that the fight will be renewed with heavier guns at the next legislative session. The writer has advocated, and considers necessary to stop the apalling loss through foreclosure, a law which would compel the owners of home mortgages which had defaulted in interest or tax payments, to choose between the alternatives of carrying the mortgage during the emergency period or of accepting whatever bonds of the Home Owners Loan Corporation could be obtained in exchange for their mortgages. A general moratorium should not be considered for a moment, as there should be no interference with collection of interest in cases where mortgagors are able to pay. The law suggested would be to the effect that no mortgage could be enforced by foreclosure or otherwise during the emergency period unless it could be shown that the mortgagor was financially able to pay interest and taxes and had refused to do so, or that the mortgagee was willing to accept whatever cash or bonds could be secured from the Home Owners Loan Corporation and the mortgagor had refused to apply for such a loan.

Law Would Relieve

This law would give the real relief which is imperative. Thousands upon thousands of home owners have been rendered unable to pay interest and taxes through the economic crisis. If these people are permitted to be foreclosed out of their homes they will be equally unable to pay rent elsewhere, and an enormous pauperized class will be created out of the best of our citizens, those who have worked and saved and have epitomized in themselves the qualities of industry and economy upon which the greatness of our nation has been built.

If any class is deserving of all that governmental power can accomplish to mitigate the burden of the depression, if any class should be carried through the emergency and given a fair chance of economic progress after better times have come, it is the home owner.

Note 1.—Suring State Bank vs. Gleason (Wisconsin) 246 N. W. 556, Federal Title Co. vs. Lowenstein, 115 N. D. Realty 200.

Note 2.—Decision by Mr. Justice Peter Schumck in Bank vs. Elda Corp. 147 Misc. 374.

Note 3.—Typical cases are: City Bank vs. Prustyn, New York Law Journal June 10th, 1933; Loma Holding Corp. vs. Cripple Bush Realty Co., 147 Misc. 655.

News Can Aid Or Deter Crime

Inspector John J. Sullivan Disagrees With Reporter's Opinion

Although a veteran newspaper reporter contends that publicity does not affect crime, Assistant Chief Inspector Sullivan lists at least three ways in which the newspapers can help or hurt the criminal.

Frederick G. O'Connor of the New York World-Telegram, who has been reporting for over 20 years, says that newspapers can not influence crime for better or worse. A witness of over a dozen electrocutions, he states that capital punishment and long sentences are no deterrent. The reason, said Mr. O'Connor, is that criminals do not realize the consequences of their antisocial behavior, the majority of them being mentally deficient.

Publicity Hurts Criminal

John J. Sullivan of Police Headquarters maintains, however, that the criminal is hurt by the newspapers when public indignation is aroused over some particularly brutal offense. He believes that a valuable service is rendered by the daily newspapers in broadcasting the descriptions of suspicious characters seen in the locale of a crime. Through such service one degenerate criminal was caught within a few hours after he had criminally assaulted and murdered a Brooklyn woman.

One of the most harmful of newspaper practices, according to the inspector, is the publication of names of witnesses, thus giving the criminal ring an opportunity to exert pressure on the testimony to be given. Inspector Sullivan suggests that to help discourage crime all newspapers publish daily a box prominently placed on the front page listing sentences pronounced on the previous day in all vicinity courts.

Notoriety Sometimes Helpful

Citing the recent McCormick case in Brooklyn, the police official cited such publicity is helpful, because it will prevent similar mistakes being made in the future. Mrs. McCormick, acting in good faith, had brought a revolver to her husband, then jailed in a Raymond Street cell. Her act resulted in the murder of two people and indirectly in the suicides of two others.

Asked whether crime news tends to incite young men to become criminals, Inspector Sullivan replied in the negative. He further stated that crime news does not brutalize the general public.

Still another aspect of the relationship between crime and news was presented by Gordon K. Bell, president of the House of Refuge on Raridall's Island and a former member of Eltham Rook's committee on prisons and crimes, in a recent letter to a prominent New York daily. He states that reports of crimes are "a terrible incentive to young boys . . ." Mr. Bell favored the English system where reporting of crime news is minimized.

Radio Forums

(Continued from page 1)

have attracted wide attention and received much praise from members of the Bar. Among those who have spoken in these series are:

Topics Discussed

Magistrate George H. Folwell whose topic was "Crime and Criminals." Harold R. Medina, associate professor of Columbia Law School, discussed "The Human Element in the Law." District Attorney William F. X. Geoghan spoke on "Criminal Law." "The Ways and Wherefores of Automobile Accident Cases" were explained by Justice Henry G. Wenzel, Jr. Professor Edwin W. Cady presented his views on the question, "Should the Rules of Evidence Be Abolished?"

"The Element of Religion in the Administration of the Law" was discussed by Magistrate Frederick E. Hughes. Henry Ward Beer, president of the Federal Bar Association, spoke about "The Danger of Justice Incorporated in the Courts."

Matheson Prize Winners

(Continued from Page 4)

affiliated with the Iota Theta legal fraternity.

He is a recognized expert on medico-legal jurisprudence and holds the degrees of M.D., F.A.C.S., and LL.M. He is a lecturer, consultant and author in his field as well as the chairman of the Committee of Federal Medical Jurisprudence of the Federal Bar Association of New York, New Jersey and Connecticut.

He was a member of the dedication committee for the Customs Court, Port of New York, and Chairman of the program committee.

As an alumnus Dr. Burk has served as a member of the Advisory Council of the Alumni Association.

Richard Joseph Maloney

Richard Joseph Maloney also won the Matheson Prize in 1927. He was graduated from the Law School summa cum laude. His undergraduate work at St. Francis College was interrupted by the outbreak of the war, in which he served as a naval officer for two and one-half years. Now professor of law at the Brooklyn Law School, Professor Maloney teaches Wills and Real Estate Practice.

Professor Maloney is on the advisory committee of the New York Title & Mortgage Co., and is a member of the Board of Directors of the Brooklyn Mortgage & Title Co. He is a member of the law firm of Maloney & Doyle. Professor Maloney is a member of Delta Theta Phi fraternity, Knights of Columbus, Rotary Club, Marine and Field Club and the American Legion.

George N. Edson

Dr. George N. Edson won the Matheson Prize in 1928. In 1932 he received his LL.M. degree, summa cum laude, from the Brooklyn Law School. He is a physician, and since graduation has devoted himself entirely to medical jurisprudence.

Dr. Edson has delivered radio addresses, has spoken at the Academy of Medicine on "Medico-Legal Aspects of Workmen's Compensation," and has published a paper on the same subject in the Long Island Medical Jour-

nal. At present he is Medical Examiner in the Workmen's Compensation Division of the New York State Labor Department.

He is a member of the Iota Theta Law fraternity, the Society of Medical Jurisprudence, the New York County Medical Society, the Caduceus Society of the American Legion, the New York State Bar Association and the International Association of Industrial Surgeons, of which he is president.

Walter S. Beck

Graduated in 1929, Walter S. Beck became associated with the law firm of J. Leo Rothschild. To date, his sole contribution to legal literature is contained in the Brooklyn Law Review, in which the case of Canadian v. Dunbar, which went up to the Court of Appeals, and in which he was retained, was discussed.

He claims, from his experience, that "No single element plays so large a role in the development of a lawyer in the practice of law, as the factor of having mastered the fundamentals while at law school."

Chester Arthur Allen

Chester Arthur Allen was the 1930 recipient of the Matheson Prize. He was admitted to the Bar in the same year and became associated with the law firm of Browne, Browne & Browne. He has risen to high standing in banking circles, and at present is third vice-president of the Kings County Trust Company, in charge of the Trust Department.

Robert Michael Grogan

Robert Michael Grogan was awarded the Matheson Prize in 1931. He was admitted to the Bar in December, 1932, and is now associated with the New York Telephone Company. He also maintains a private practice.

While at the Brooklyn Law School he was a member of the Phi Delta Phi fraternity and the Harvard Club.

Patrick J. Mahoney

Patrick J. Mahoney was awarded the Matheson prize in 1932. He was salutatorian at the Commencement Exercises last June, at which time he discussed the history of the develop-

(Continued on page 8)

Courtroom Manner of Young Attorneys

(This is the second and last article to be published in THE JUSTINIAN summarizing the letters received in reply to an invitation sent to 48 judges in the city asking for their comment on the "Courtroom Manner of Young Attorneys.")

"The young attorney's court room manner" was praised by City Court Justice Alexander Geismar. Municipal Court Judges Benjamin Shalleck, and Nathan Sweedler in letters received by The Justinian in answer to an inquiry sent to them in connection with the survey being conducted with the Justices of the Courts of the City.

Justice Geismar wrote in that he perceived "very little difference between the young attorneys of today and of the time when I was admitted to the Bar about 35 years ago." He deplored, however, the failure of legal neophytes to avail themselves of the opportunity to attend trials conducted by well-known attorneys in order to study their superior technique.

Courtroom Study Stressed

Justice Geismar said, "In my early days as a student and young practitioner, great stress was laid upon such study. I know that I seized every occasion to attend in Court whenever I could listen to such leaders of the bar as James C. Carter, Joseph Choate, Sr., and others like them. To my mind the gains from such attendance are invaluable. I doubt if a young surgeon neglects any opportunity to attend upon a great operation performed by some leader in his profession in order to improve his own technique. The failure of our younger men today to do this seems to me a distinct loss."

Justice Benjamin Shalleck of the Municipal Court, recalling his experiences as a jurist with young attorneys

at the Bar, found them on the argument of motions "conversant with their subject and having faith in their cause and more brief and to the point than the older practitioner."

Young Attorneys Not Direct

At the trial of actions, Judge Shalleck finds the opposite: "the young lawyer is not direct and 'gets lost in a maze of collateral matters.' Commenting further, Justice Shalleck declared that "in his direct case, the inexperienced attorney 'attempts to anticipate the defense and becomes too convincing. He tries to devastate his opponent with one withering blast instead of withholding his fire for rebuttal.' Before a jury, Judge Shalleck sees the young lawyer as an amateur actor. 'He is thinking so hard and is so anxious to please the jury that when a juror becomes uneasy in his chair for some personal reason or seems to be paying no attention, or looks at him with an expressionless face, he loses heart.' Judge Shalleck gives a word of encouragement to the young attorney when he says that his lack of confidence in himself is remedied by experience.

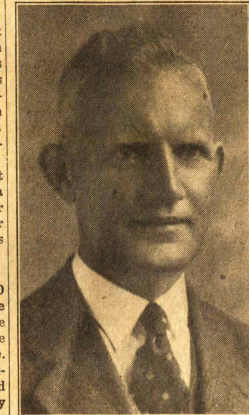
Sweedler's Observation

Justice Nathan Sweedler of the Brooklyn Municipal Court says "with reference to the court room manner of young attorneys, my personal observation is that as a class the young men are earnest, sincere, courteous and gentlemanly. If I were speaking to graduates of law school, I would tell them to prepare a trial brief in every case they have occasion to appear in, regardless of the simplicity of the suit. Doing this the first five years of that legal life will give them an excellent training and result in their commanding the respect of courts."

Dodd to Teach Russell Aids Next Semester Senate Group

New Professor to Give Course In Executors and Administrators

Edward V. Dodd, head of the legal department in which he is Law Assistant to Surrogate George Albert Wingate, and a specialist in Surrogate's Practice, has been added to the Faculty of the Brooklyn Law



EDWARD V. DODD

School. He will teach Executors and Administrators next semester.

Professor Dodd, who is a brother of Supreme Court Justice Charles J. Dodd, formerly taught at St. John's Law School. He was at one time associated with the legal department of the Adams Express Co., the law firm of Bergen & Prendergast, and with James P. Judge, prominent Brooklyn attorney.

During the war, Professor Dodd saw active service with the artillery division in France. He is a member of Delta Theta Phi fraternity, the Elks, the Cathedral Club, the Brooklyn Bar Association, the Knights of Columbus, and the American Legion.

Professor Dodd received his Bachelor of Arts degree from St. John's College in 1911, and his Bachelor of Laws degree from Fordham Law School in 1914. He has been with Surrogate Wingate for six years.

B'klyn Law Review Out This Week

(Continued from Page 1)

Prof. Roy F. Wrigley of the Law School; Prof. Margaret Spahr of Hunter College; Prof. Franklin F. Russell of the Law School; Prof. Rinehart J. Swenson, administrative chairman of the department of government, New York University; Prof. Edward A. Vossler of the Law School; and by James M. Coker.

The editorial notes include a comprehensive review and criticism of section 59 of the Vehicle and Traffic Law; an examination of the law governing the running of interest on legacies; an analysis of the nature of corporate dividends; a discussion of the power of the receiver in foreclosure to demand reasonable rent; a consideration of the judicial interpretation given to sections 352 and 354 of the Civil Practice Act; and an analysis of the legal right of a corporation to repurchase its own stock, with emphasis on the apparently conflicting decisions of Topken's Loring Schwartz v. Schwartz and Cross v. Begun.

Variety of Decisions

The editorial decisions cover a wide variety of subjects. They include decisions on bills and notes, the jurisdiction of the Children's Court, constitutional law, decedent estate law, fixtures (real property), fraud (and election of remedies), landlord and tenant, stockholder's liability to creditors for illegally paid dividends, subrogation and trusts.

(Continued from Page 4)

ing activities, Professor Russell has proposed an amendment to the Federal Constitution. He has suggested that Congress be given concurrent jurisdiction with that of the various states wherein the racketeering acts were committed, and that the act be not triable in the federal courts unless it were also a crime under the laws of the state where committed. The chief argument against such an amendment, it is said, is that it would tend to make the states less active and "pass the buck" to the federal government. A draft of the proposed amendment follows:

Section 1. The judicial power of the United States shall extend to such crimes, felonies, misdemeanors and high misdemeanors as Congress shall from time to time determine, concurrently with the jurisdiction of the several states; provided, however, that no person shall be subject for an offense which is triable both by the United States and by any state thereof to be put twice in jeopardy of life or limb.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

"One must not be so naive," Professor Russell said, "as to believe that the mere passage of such federal amendment would immediately cure the racketeering problem. The co-operation of state authorities and state legislatures will always be essential. Various amendments," he continued, "to the penal laws and the codes of criminal procedure of the different states should be made."

Statutory Changes Submitted

Proposed statutory changes submitted by the committee for consideration by the different state legislatures are herein listed in the order of their submission:

1. Majority jury verdicts except in capital cases.
2. Alternated jurors in case of illness or death of one of the regular members of the jury.
3. Limitation of peremptory challenges.
4. Examination of the jurors by the judge as in the Federal Court.
5. Permission of the judge to comment upon the facts.
6. Permission of the judge or prosecutor or both to comment upon the failure of defendant to take the stand.
7. Permission of the prosecutor to put the character and reputation of the defendant in evidence.
8. Requiring defendant, if the defense is an alibi, to give the district attorney a bill of particulars a reasonable time before the trial.
9. Elimination of the requirement of proof of a prima facie case before the magistrate.
10. Proceeding by information instead of indictment in most cases.
11. Eliminating frequent adjournments resulting in discouraging effects upon complainants and witnesses.
12. Abolishing the requiring of an overt act in conspiracies for extortion, coercion and kidnapping.
13. Making perjury a misdemeanor, triable by a judge or judges, instead of a felony or creating a new crime of false swearing.
14. Permitting conviction upon the uncorroborated testimony of accomplices, leaving the weight and credibility of such testimony to the jury.
15. Permitting the extradition of witnesses from other states.
16. Permitting the district attorney to impeach his own witnesses.
17. Eliminating the abuse of habeas corpus.
18. Eliminating the abuse of parole.
19. Compelling advance notice of defense of insanity.
20. Forbidding judges to fix or accept payment without due notice to the prosecutor.
21. Preventing police court magistrates from dismissing serious offenses when intimidated witnesses fail to appear.

Current Legal Decisions

(Continued from page 1)

The bank did not know the check was for a personal obligation and the defendant was not aware that a corporate check had been used. One of the essential elements to constitute notice being unknown to the principal and the other unknown to the agent, their knowledge cannot be combined to impute knowledge of the whole transaction to either of them.

WILLS—Probate—Petition. Matter of Jones, 147 Misc. 899, May 19, 1933.

Petitioner seeks to have vacated the decree admitting the will to probate on the ground that she is one of the cousins named in the will as distributees. She had not been cited nor had she waived citation.

A petition must be denied unless it discloses a meritorious basis for attack on the will and establishes a reasonable probability of success. It must set forth the proposed objections or furnish something which warrants an assumption of success in a contest.

Pleading — Counterclaim. Blog v. Burden & Co., 238 App. Div. 634, June 9, 1933.

In an action for money due the plaintiff's assignor upon a contract with the defendant, the latter set up a counterclaim arising out of the same contract, but maturing after he had received notice of the assignment to the plaintiff.

The court permitted the counterclaim. A counterclaim arising out of a contract sued upon is not required to be in existence at the time of the commencement of the action in order to be available to the defendant. C. P. A. 266 subd. 1.

The limitation in subd. 1 of sec. 267, C. P. A., to the effect that the cause of action invoked shall be in existence before notice of the assignment of the claim, does not apply to a set-off or counterclaim arising out of the contract which is the basis of the plaintiff's claim.

Negligence — Master and Servant. St. Andrassy v. Mooney, 262 N. Y. 368, July 11, 1933.

The plaintiff sustained personal injuries in a collision between a taxi cab in which he was riding and an auto driven by the chauffeur of the defendant.

While Sec. 59 of the Vehicle Law makes the owner of a motor vehicle presumptively responsible for the manner in which it is driven, even though it appears that it was not driven in his service or for his business, the presumption is rebutted where it is shown that no permission to drive the car was granted.

Here the jury found from the uncontradicted evidence that the use of the auto by the chauffeur was unlawful, without permission and for his own account.

Examination Before Trial—C.P.A. 288. Manufacturer's and Trader's Trust Co. v. Commercial Casualty Ins. Co., 148 Misc. 604, July 25, 1933.

A motion to examine Mrs. F. Ramsdell, co-plaintiff, before trial was denied. Mrs. Ramsdell, as co-trustee, brought the action upon a policy of accident insurance issued by the defendant to Charles Ramsdell. Policy was payable only where death arose through accidental means. The answer set up a separate defense as well as a general denial.

It is settled that an examination of a party before trial pursuant to C.P.A. 288 rests in the sound discretion of the court. It may be allowed irrespective of whether it is essential to the proof of the claim of the plaintiff or necessary to the establishment of the affirmative defense, or to a defendant who interposes merely a general denial.

But the plaintiff, Mrs. Ramsdell, cannot be examined as an individual where she is suing as a trustee, or as to facts beyond the scope of her trusteeship.

Bar Association to Give \$1,000 Prize For Essay on Administrative Agencies

Announcement was made by the American Bar Association of a \$1000 prize to be offered for the best discussion on the subject "Administrative Agencies in Government and Effect Thereon of Constitutional Limitations."

This action comes as a result of the determination by the Association to put into operation a bequest made by the late Judge Erskine M. Ross who in his will provided as follows: "I give, devise and bequeath out of my estate to the American Bar Association the sum of One Hundred Thousand Dollars to be by it safely invested, the annual income of which to be offered and paid as a prize for

the best discussion of a subject to be by it suggested for discussion, at its preceding annual meeting."

The competition is open to all members of the Association, and the discussion must be in writing and contain not more than five thousand words; all papers are required to be in the hands of the Executive Secretary by March 1, 1934.

Plans have been made by the Executive Committee to select the winner of the prize at its May meeting in 1934 and the winner will be expected to read his paper at the next Annual Meeting of the American Bar Association.

Military Law

(Continued from Page 6)

direct that a document, although excluded as not admissible in evidence, be marked for identification and appended to the record for the consideration of the reviewing authority. The usual rules of evidence generally recognized in the trial of criminal cases in the United States District Courts are applied by courts-martial. Relaxation of the rules of evidence at the discretion of the court and for good cause is not reversible error.

Court Considers Facts

After all the evidence is in and the summations are completed the court retires to consider the facts. It must determine whether the accused is guilty or not, and if guilty it must decide upon the sentence to be passed. In order to convict, the court must be satisfied beyond a reasonable doubt that the accused is guilty. If the accused is found guilty of an offense against which it appears that the statute of limitations has run, but the statute has not been pleaded, the court may reconvene and advise the accused of his right to plead the statute in bar of punishment if he so desires. Findings are made separately on each charge and specification.

Court in Closed Session

The court sits in closed session during deliberation. Voting is by secret ballot, beginning with the junior officer of the court and ending with the senior. Having decided that the defendant is guilty the court examines the defendant's record for previous convictions, length of service, and other extenuating or aggravating circumstances. The 43rd Article of War requires a unanimous vote of the court to impose the sentence of death, three-fourths vote for a sentence of life imprisonment or confinement for more than ten years. All other convictions and sentences may be determined by two-thirds vote of those present at the time the vote is taken. A majority vote decides all other questions. Before any sentence is carried out it must be approved by the officer appointing the court or by the commanding officer at that time. Death sentences must have the approval of the President of the United States before they are carried out, unless the exigencies of an army in the field make it impracticable, in which case the commanding general may approve or disapprove such sentence. Sentences of life imprisonment, dismissal from the service, dishonorably discharged, or confinement in a penitentiary must be reviewed by the reviewing board of the Adjutant General's department. This board may affirm the sentence, vacate it, or recommend a different sentence, sending its recommendations to the Secretary of War for the President's approval.

Practice Court

(Continued from page 1)

ing and practice obtain. Prominent judges and attorneys preside, and the Supreme Court is the basis for courtroom procedure.

The graduate proctors and Dr. Cady supervise all cases to insure both correctness of procedure and an evenly balanced and triable case. During the past school year fifty cases were litigated.

Football Stars

In First Year

Should Dean William Payson Richardson decide that he would like the law school to be represented by a football team, he will find the nucleus of a bone-crushing backfield in the 6-8 session of the first year.

Among those who have just begun their study of law are Walter L. Terry, who, while at Colgate was picked as first team halfback on Collier's 1930 all-American football team, and Richard Fischel, former Syracuse back, who is now playing with the Brooklyn Dodgers.

Terry went to Colgate from Walton (N. Y.) High School in 1927. He received his baccalaureate degree in 1931 after winning letters in baseball and basketball, as well as in football. At present Terry is employed by the Title Guarantee and Trust Co.

Fischel was graduated from Syracuse last June. In his three years as a varsity back he excelled as a passer and plunger.

Appeal is Luxury

Supreme Court Justice Graham Witschick in White Plains recently refused an application for alimony and counsel fees to defray the cost of a second appeal from a separation decree awarded to James P. McDonough, last March, characterizing an appeal to the highest court in the State as a "luxury." Mrs. McDonough had filed another appeal at Albany after the Appellate Division upheld her husband's separation decree.

"One appeal is reasonable and proper," was the court's decision, "but two appeals are only for those who can afford them. A further appeal to the Court of Appeals is a luxury which neither she nor her husband can afford."

Levy, '34, Sells Play

J. Joel Levy, third year student at The Brooklyn Law School, has recently sold his first play, "Physically Impossible," a comedy drama in three acts, to Paul K. Karrakis. The production, originally scheduled to open at The Broad Street Theatre in Newark on October 9, has been indefinitely postponed due to the success of other current attractions at that theatre which are holding over. It will probably be presented during the first week in November.

Levy, a member of THE JUSTINIAN staff and Feature Editor of the 1933 Chancellor, is a graduate of Lehigh University. He lives at Long Beach, Long Island.

"Under our benignant system of government, . . . correspondence is nearly as cheap as talk." Charge to Grand Jury, Chase's Dec. 263, per Chase, C. J.

[1933], Iss. 4, Art. 1

First Year Men From 60 Schools

Leading Colleges From More Than Twenty States Represented

More than 60 of the nation's leading colleges, universities and technical schools are represented by the members of the present first year class, according to registration data released by the Brooklyn Law School office. Higher institutions of learning from more than a score of states have contributed their graduates to this year's entering group.

Greater New York and its environs supply the majority of the new students, with a large percentage residing in the Metropolitan area. Colleges of the City of New York, New York University, Brooklyn College, Columbia, Fordham, Hunter, Long Island University, Manhattan College, Seth Low, St. Francis, St. John's and Yeshiva College are among the local institutions represented. Other Eastern institutions which have sent first year students include Cornell, Dartmouth, Princeton, Union, Hamilton, Rutgers, Skidmore, Syracuse and St. Lawrence University.

Technical Schools Represented

The technical schools comprise Rensselaer Polytechnic Institute, Massachusetts Institute of Technology, Antioch College and the United States Naval Academy. The state universities of Ohio, Alabama and Virginia also provide some students. Pennsylvania institutions, including University of Pennsylvania, Lehigh University, Lafayette College, University of Pittsburgh and Juniata College and many widely scattered colleges as Ohio Wesleyan, Susquehanna and the University of Wisconsin complete the group that makes up the class of 1936.

The wide geographical distribution is evidenced in figures which show students who hail from Oklahoma, Virginia, Arkansas, and such up-state colonies as Union and Albright. Brown, Bucknell, Johns Hopkins, Georgetown, Northwestern, Princeton, Skidmore, Iowa, Yale, Cincinnati, North Carolina and Washington & Lee also are represented in this year's class.

Eilperin on Board

George Eilperin, alumnus of Brooklyn Law School, of the class of 1917, was appointed by Mayor John P. O'Brien, on July 6th, last, to fill the position in the Board of Taxes and Assessments left vacant by the resignation of John R. Crews. Since his graduation from Brooklyn Law School Mr. Eilperin has specialized in the study of taxation law.

For several years he was the chief field officer, and at times acting Collector of Internal Revenue for the district comprising the Counties of Nassau, Suffolk, Queens and Richmond. He was in the Federal service under Presidents Wilson, Harding and Coolidge but resigned his position to practice law, particularly Income Tax Law.

Mr. Eilperin is a veteran of the World War and is active in fraternal and charitable movements.

The appointment of Mr. Eilperin to this position has been endorsed by leading members of the bench and bar.

Another Forgotten Man

Norman Holmes was charged with stealing an ambulance after the machine had crashed into a parked car. Police said he had stolen the car from in front of St. Vincent's Hospital.

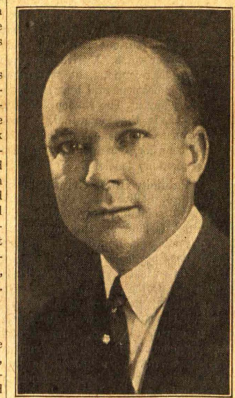
"I didn't steal the ambulance," said Holmes, "I merely borrowed it so I could bring a sick friend to the hospital."

When asked where they might find his sick friend, he answered:—"Well, I've forgotten."

F.A. Keck, '08, Alumni Head

Recently Appointed to Fill Vacancy on Character Committee

Frederick A. Keck, class of '08 and president of the Brooklyn Law School Alumni Association, recently was appointed by the justices of the Appel-



FREDERICK A. KECK

late Division to the committee on character and fitness for the second department. Mr. Keck fills the vacancy left by Peter B. Smith who has been appointed to the Supreme Court by Governor Lehman.

Mr. Keck is a member of the law firm of Gross & Keck. Fred L. Gross, senior member of the firm, is president of the Brooklyn Bar Association.

Mr. Keck is a past county commander of the American Legion and is a member of its legal committee. He is also a member of the Brooklyn, State and American Bar Associations.

Interested in the Boy Scouts, he has done much for that movement in Brooklyn. Mr. Keck is a member of the Brooklyn Lawyers' Club and was admitted to practice in the United States Supreme Court in 1932.

Field-McNally Appointed

Francis M. Field-McNally, who was graduated from the Brooklyn Law School in 1925, was named Rockland County director of the Divisional Board of the Home Loan Owners Corporation last month by the head of the Federal Home Loan Board in New York State.

The appointment had been expected for some time but was only recently confirmed. It is anticipated that Mr. Field-McNally will be made secretary of the divisional board. He has practiced law in New York City and since 1928 in Rockland County, where he was connected with the Hudson Valley Title Mortgage Company.

Golding Legion Commander

James M. Golding, alumnus of the Brooklyn Law School, of the class of 1927, at the annual convention of the Kings County American Legion, held recently in Brooklyn, was unanimously elected Commander. Mr. Golding, who had been Vice-Commander of the County Legion for the past two years, has long been an active Legion worker. He was formerly Commander of the Brooklyn Post.

In 1914 and 1916 Mr. Golding was a candidate for Assemblyman. He is a member of the Brooklyn Bar Association, the Holy Club, the Knights of Columbus and various other organizations.

Annual Report Lists Proposals

Attorney General Discusses Revisions and Cites 300 Cases

While reports of the cases of the various courts in our state are read habitually by members of the Bar and students of the law, only a small minority, it is believed, scan the "Annual Report" of the Attorney General.

The Report, divided into two sections, contains in the first part statistical facts of the cases recorded. Some notion of the actual work performed by the staff of the Attorney General in the Court of Claims in accumulating these data may be gleaned from the following: Of the 2,840 claims made for the aggregate sum of \$38,000,000, only 223 recoveries were gained against the State to the extent of \$408,000. However, claims totaling \$6,500,000 are still pending.

Many Publicized Cases

Many of the more publicized cases are recorded, among which are: The application of James Walker for an alternative order of prohibition directing Governor Roosevelt to refrain from conducting a hearing on charges against the Mayor; the habeas corpus proceeding of Ownie Madden; the investigation of the bond selling practices of S. W. Strauss & Co. and other litigation of equal notoriety.

In the second section of the Report, there are proposed revisions of the statutes intended to aid in the consummation of litigation and create in the law-making department of our State a more effective agency for the protection of the public. In general, the report of more than 800 cases and the recommendations of the Attorney General supplies a vast source of information for the general practitioner and the law student.

Matheson Prize Winners

(Continued from Page 7)

ment of the legal profession. He is a member of the Philomonic Council and of the Phi Delta Phi Fraternity.

Jerome Prince

Jerome Prince, Matheson Prize winner in 1933, received his degree of Bachelor of Laws, summa cum laude. He received his degree of Bachelor of Science in Social Science, cum laude, from the College of the City of New York in 1930. Prince is a member of Phi Beta Kappa and of the Philomonic Council. He is at present engaged in graduate work, and is the editor-in-chief of the Brooklyn Law Review.

Costs of Litigation

A recent survey of the costs of litigation in New York City, made by Stuart Chase and Ida Klaus, and sponsored by Johns Hopkins, reveals the fact that each resident pays eight cents a year to help litigants get justice in the municipal courts, whereas he pays fifty cents a year for litigations in the higher courts.

"Noose" Events

Old Supreme Court records in New Jersey show that burglaries and horse rustling were decidedly "noose" events there 200 years ago. Blaspheemy on the Sabbath brought whip (not tongue) lashings to the offender and violations of the Sabbath resulted in prompt incarceration.

Now We Ask You

Recently one of the students, while reciting a case, said, "The plaintiff was left holding the bag." After the uproar subsided, the professor in charge observed, "Well expressed, in the best English of THE JUSTINIAN."