The REPORTER

FILE

OFFICIAL PUBLICATION OF

PHI ALPHA DELTA

LAW FRATERNITY

MARCH - - - - 1935

Fraternity Calendar

October 1st.....Chapter audit due in Secretary's office

October 15th.....Form D due in Secretary's office

October 15th.....Order Chapter Forms and Supplies from Secretary's office

November 1st....Per Capita taxes due in Secretary's office

January 15th.....Chapter audit due in Secretary's office

March 15th.....Form E due in Secretary's office

April 1st.....Election of all chapter officers

May 30th.....Form J due in Secretary's office

Initiation fees must be paid immediately following initiation of any member.

Magazine Material

September 15th.....for October issue

November 15th .....for December issue

February 15th .....for March issue

April 15th.....for May issue

No material arriving after the 20th of the above mentioned months can be used in that particular issue.

THE REPORTER

Official Publication of the Phi Alpha Delta Law Fraternity

PUBLISHED QUARTERLY IN OCTOBER, DECEMBER, MARCH AND MAY

Supreme Secretary and Editor
FRANK M. LUDWICK

Published at 1248 Westchester Place, Los Angeles, California

VOL. XX MARCH, 1935 No. 3

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Office of Publication, 1248 Westchester Place, Los Angeles, California. Terms:—$2.00 a year, in advance; single copy, 50 cents. Advertising Rates: Professional cards, $2.00 per year. Rates for display advertising furnished on application. Entered as second class matter. January 16, 1932, at the postoffice at Los Angeles, California, under the Act of August 24, 1912. Accepted for mailing at special rate of postage of 1½ cents per pound or fraction thereof, provided for in the Act of February 28, 1925, embodied in paragraph 4, section 412, Postal Laws and Regulations, authorized January 16, 1932.

Directory of National Officers of Phi Alpha Delta Law Fraternity

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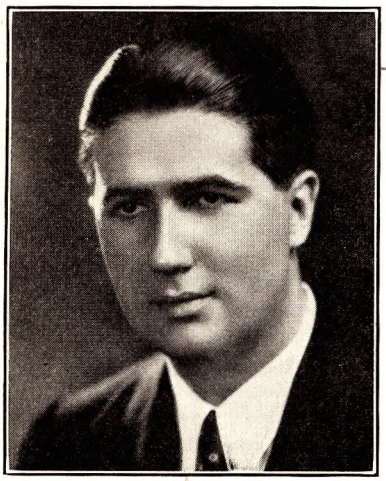
National PAD Night

By WILLIAM M. O'SHEA

Supreme Marshal



THE Second Annual National PAD Night was held on Saturday, February 16th, 1935.

This was our second attempt to have the Sixteen Thousand members of our Fraternity "sit down together" to review the splendid record of Phi Alpha Delta, to live once more the glorious days of Fraternal life, and to draw renewed inspiration from this meeting, to carry PAD on to greater heights of Brotherly love.

This was accomplished by having every Chapter in the Fraternity, both Collegiate and Alumni, hold an affair of some kind on this Night, and by broadcasting Fraternal greetings to all PADs who were unable to attend the Chapter Parties.

How well this was accomplished may be determined from a brief summary of the activities of the Fraternity on Saturday, February 16th. The description of the Chapter gatherings, must of necessity, be short, but the story will give an idea of the success of National PAD Night.

"THIS IS RADIO STATION WIBA, Madison, Wisconsin. The time is now 5:35 p.m. The next feature on our program will be a talk by a prominent member of the Wisconsin Bar, Mr. Ernest H. Pett, who will open what is to be a National Celebration of Phi Alpha Delta Law Fraternity."

TO ERNIE PETT FELL THE HONOR of being the first Radio speaker on National PAD Night and he did a fine job. Immediately following his talk, he had to do some fast driving to Milwaukee, Wisconsin, where the State wide celebration was to be held at the Town Club. There, members of Ryan, Madison Alumni and Milwaukee Alumni Chapters gathered to hear Ernest H. Pett, and Past Supreme Justices Waldemar C. Wehe and Frank L. Fawcett. Raymond Zillmar gave an illustrated lecture on his recent mountain climbing expedition. Dancing followed.

AT MINNEAPOLIS, MINNESOTA, Mitchell and the Twin City Alumni Chapters held a successful Joint Smoker at the University.

HAMMOND CHAPTER REPORTS a fine dinner and smoker at the great Hall of the Commons in Iowa City, attended by many Alumni.

DENVER, COLORADO, HAD A FULL DAY of PAD activities. Hughes and Gunter Chapters joined in an initiation in the State Supreme Court Chambers at 3:45 P.M. At 5:54 P.M., Brother Hamlet J. Barry, Dean of the Westminster Law School of Denver, spoke over Radio

Station KOA. This was followed by a banquet at the Blue Parrott Inn at 6:30 P.M. Brother Barry, acting as Toastmaster, introduced Brothers Haslett P. Burke, Justice of the Colorado Supreme Court—John T. Adams and S. Harrison White, Past Justices of the Colorado Supreme Court—Thomas J. Morrisey, U. S. District Attorney; William R. Arthur of the Faculty of the Colorado College of Law—and Julius C. Gunter, Founder of Gunter Chapter, former Judge, and former Governor of the State of Colorado.

AT NORMAN, OKLAHOMA, the boys of Harlan Chapter report fine radio reception. Following formal pledging, a smoker was held at the Law Building at 7:30 P.M. The Press of Norman gave National PAD Night great recognition.

DR. LAWRENCE VOLD and Lester B. Orfield of the Nebraska Law School were the speakers at the dinner in Reese Chapter House at Lincoln, Nebraska.

AT THE LAST MOMENT RADIO STATION KSL was forced to cancel the PAD program in Salt Lake City, Utah, but this did not dim the enthusiasm of the celebration of Sutherland and the Salt Lake City Alumni Chapters. The meeting at the Elks' Building was opened with the singing of "Phi Alpha Delta Sweetheart", followed by a short talk by the Justice of Sutherland Chapter, Brother Sterling Bossard. Musical numbers were enjoyed. The speakers of the evening included Brothers F. W. Cherry, former Chief Justice of the Supreme Court of Utah, and Parnell Black, Justice of the Salt Lake City Alumni Chapters. Cigars, apples and candy were on Sutherland.

6:30 P. M., AND RADIO STATION WBRC, Birmingham, Alabama, announced a Broadcast, sponsored by Morgan and Birmingham Alumni Chapters.

AT GAINESVILLE, FLORIDA, the boys of Fletcher Chapter had a keen disappointment. Radio Station WRUF had given them time at 5:45 P.M. to broadcast a talk by Past Supreme Justice Colonel John Doyle Carmody. Brother J. Edwin Larson, U. S. Collector of Internal Revenue was to have served as Toastmaster, and the guests were to have included Brothers David Sholtz, Governor of Florida—Carey V. Landis, Attorney General—and Justice Davis of the Supreme Court of Florida. Then Post Master General Farley decided to attend the dinner of the Young Democrats in Florida, and his speech on the radio used up the time assigned to the Fletcher Chapter Broadcast. This did not stop a fine initiation, and plans were perfected at this meeting to establish an Alumni Chapter in Florida.

AT 6:46 P.M., the Chicago Chapters came on the radio, over Station WENR. Past Supreme Justice, Allan T. Gilbert, extended Fraternal greetings to all who were listening in, and introduced Vice Supreme Justice, Dwight H. Green, U. S. District Attorney in Chicago, for the speech of the evening. He was followed by a Charter member of the Fraternity, Brother Arthur Kraft, who sang several numbers. Past Supreme Justice George E. Fink closed the program. In the evening, Blackstone, Fuller, Marshall, Story, Webster and the Chicago Alumni Chapters held their Annual Formal Ball at the Drake Hotel. It was the largest dance in their history, and undoubtedly the best. The floor show included Earl Rickard as Master of Ceremonies, the world renowned Abbott Dancers, the Hall Room Boys, and many other entertainers. Dancing lasted till three in the morning. At midnight all present stood and drank to the health of PADs everywhere. We will have to make that part of the ritual of National PAD Night next year.

IN ST. LOUIS, the celebration of Clark and the St. Louis Alumni Chapters was at the St. Louis Elks' Club.

PAD's IN TOPEKA, KANSAS, reported radio reception of four Phi Alpha Delta programs. Benson and the Topeka Alumni Chapters joined in a banquet in the Florentine Room of the Hotel Jayhawk, at 6:30 P.M. The speakers included Brothers Ralph T. O'Neil, of the American Legion, John S. Dawson, Justice of the Supreme Court of Kansas, and Harry K. Allen, Dean of the Washburn Law School.

7:05 P.M., and Radio Station WDAS in Philadelphia, Pennsylvania, turned over its facilities to the Fraternity. District Justice J. Harry La Brum introduced Dean Goodrich of the University of Pennsylvania Law School.

AT MORGANTOWN, WEST VIRGINIA, Willey Chapter held a dinner, and spent the evening tuning in various PAD programs.

THE MEMBERS OF THE FACULTY of the Law School at Washington and Lee University were the guests of Staples Chapter at their Smoker in the Alumni Building.

AT CINCINNATI, OHIO, Chase Chapter initiated new members at 4:30 P.M. Following the Initiation, a Joint Banquet of Chase and the Cincinnati Alumni Chapters was staged at the Hotel Metropole, with Past Supreme Justice August A. Rendigs, Jr., as Toastmaster. At 7:30 P.M., a Phi Alpha Delta program went on the air over Radio Station WKRC. The speakers included Brothers Howard L. Bevis, former Justice of the Supreme Court of Ohio; Francis M. Hamilton, Judge of Ohio State Court, and Francis Canny, U. S. District Attorney.

HAY AND THE CLEVELAND ALUMNI Chapters celebrated at the Hay Chapter House.

STATION WRR, cooperating with the Southwest Broadcasting Company, came on the air at 7:30 P.M., with a Fraternity program, sponsored by Taney and the Dallas Alumni Chapters, with Past Supreme Justice Samuel H. Roberts as the speaker. Preceding the Broadcast, the Anniversary Dinner was held at the Dallas Athletic Club at 7:00 P.M.

AT THE EL PRESIDIO HOTEL IN TUCSON, Arizona, Knox Chapter was gathered to listen to the broadcast from Dallas, Texas, to enjoy their own banquet, and to hear Brothers Ross and Lockwood, Judges of the Supreme Court of Arizona, speak to them.

IN PHOENIX, ARIZONA, an Alumni Chapter is being organized under the direction of District Justice Charles E. McDaniel. They report the reception of several PAD broadcasts.

FROM NEW YORK CITY comes a report of the "best and most enjoyable party in the history of the New York Alumni Chapter". To quote from the New York Herald-Tribune:

"THE NEW YORK ALUMNI CHAPTER of Phi Alpha Delta Law Fraternity held its thirty-fourth Annual Birthday Party last night at the Midston House, Thirty-eighth Street and Madison Avenue (formerly Fraternities Clubs Building). Similar dinners were held in the fifty-two cities throughout the country in which there are Chapters of the Fraternity. Attending the dinner at the Midston House were 100 members of the Alumni Chapter, the chairman of the Committee being Thomas W. Constable. Among those who made addresses were Justice William Harman Black of the Supreme Court; Justices George L. Genung, Keyes Winter and Daniel V. Sullivan of the Municipal Court, and Magistrate Bernard I. Kozicki. The Toastmaster was William P. McCool. Justice Ernest E. L. Hammer of the Supreme Court, through a National Broad-

cast over Station WOR, addressed all the Chapters of the Fraternity throughout the country between 8:30 and 9:00 P.M."

BROTHER EDWARD J. MORIARITY secured the time on Station WOR over a National hookup. Supreme Alumni Advisor, Frank E. Rutledge, addressed the meeting on the possibilities of reorganizing Rapallo Chapter at New York University, and Livingston Chapter at Columbia University. A delegation of students from each of these Law Schools were present. Election of officers of the Alumni Chapter was the last order of business.

AT ITHACA, N. Y., under the inspiring presence of Supreme Faculty Advisor, Lyman P. Wilson, Wilson Chapter held one of its historic meetings.

SAN FRANCISCO, CALIFORNIA. What a great PAD celebration they had out there on the Coast. In the afternoon Temple Chapter pledged several new men. In the evening, Temple, San Francisco Alumni and Field Chapters joined in a Stag Dinner at the William Taylor Hotel. At 8:30 P.M., Station KFRC, and Associated Radio Stations, presented Brother U. S. Webb, former District Attorney of Plumas County for fifteen years, and Attorney General of the State of California for the last thirty-four years, and recently re-elected for another term of four years. Brother Webb's talk was heard over a large section of the country, and was very well received. Following the broadcast, the banqueters were entertained for several hours by artists from local theaters and night clubs.

IN LOS ANGELES, CALIFORNIA, Ross and Los Angeles Alumni Chapters gathered at the Knickerbocker Hotel for a Supper Dance, and to hear the Broadcast of Brother Webb. Brother Douglas L. Edmonds, Judge of the Superior Court, was installed as Justice of the Los Angeles Alumni Chapter.

MEMBERS OF DUNBAR AND SEATTLE ALUMNI Chapters met at a Cocktail Party at the Wilsonian Hotel, preceding the Annual Law School Dance, at the University of Washington.

THE LAST BROADCAST OF THE NIGHT came on the air over Station KDKA, Pittsburgh, Pennsylvania, at 11:30 P.M. Brother Dale T. Lias introduced Brother Joseph W. Madden, Professor in the Pitt Law School. It had originally been planned to have Judge James Gray on the program, but unfortunately he was confined to his home on that night. Supreme Trustee Jim Gray was chairman of the Committee that had arranged a Joint Card Party and Dance, with buffet supper at the Harvard-Yale-Princeton Club. This was attended by members of Watson and Pittsburgh Alumni Chapters.

RENO, NEVADA, claims the honor of having the smallest meeting on National PAD Night. Five brothers gathered for the dinner, toasted the Fraternity, and adjourned to the home of Brother Joseph P. Haller to tune in the broadcast from San Francisco.

OF COURSE, in this short article, we can not mention the thousands of meetings that were held in the homes of PADs, where they and their families gathered to listen to radio programs of National PAD Night. We appreciate very much the many letters received from these Brothers, and want them to know that National PAD Night was conducted for the special benefit of those members who are out of touch with the Fraternity.

AND THEN TO CLOSE the program of National PAD Night, Washington, D. C., reported one of the greatest gatherings the Fraternity has even seen. Jay, Taft and the Washington Alumni Chapters cooperated in a banquet at the Carlton Hotel. They say that the banquet hall itself, the arrangement of

the table, the floral decorations, the atmosphere prevailing, were the best ever. Among the many distinguished Brothers present were Homer S. Cummings, U. S. Attorney General—Duncan U. Fletcher and F. Ryan Duffy, U. S. Senators — Albert E. Carter, Virgil Chapman, C. Jasper Bell and Orville Zimmerman, U. S. Representatives—Guy T. Helvering, U. S. Commissioner of Internal Revenue—Jesse C. Adkins, Associate Justice, Supreme Court, D. C.—Walter T. McCarthy, Circuit Judge, Virginia—Bolon B. Turner, Member Board of Tax Appeals—Richmond B. Keech, Member Public Utilities Commission—Hanson S. Ely, Major General U. S. Army—Irvine L. Lenroot, Justice U. S. Court Customs—James J. Meade, Colonel U. S. Marine Corps—A. O. Stanley, Member International Joint Commission—Frank J. Wideman, Assistant to the U. S. Attorney General—W. Brent Young, Lieutenant Commander U. S. Navy. J. Harry LaBrun, District Justice, came to the banquet in Washington immediately following his Broadcast in Philadelphia.

The Supreme Justice, William S. Culbertson, was the principal speaker. The seating arrangements were unique, with a "U" shaped table, and the guests of honor distributed around the entire room. The entertainment was under the direction of Brooke Johns, of Ziegfeld Follies, and included Maxim Lowe's Music—Evelyn Tyner, Talbor Hazlett, LaNelle Avery, Kitty Simons, Susan Hall, Walter Dow, George H. O'Connor and Matt Horne. A very clever program was made up, showing the names of all present, their Chapter, and the number of their chair for the banquet, a copy of which has been mailed to every Chapter. The Supreme Justice advises that ninety per cent of the credit of the evening must go to Brother Joseph A. Carey. Following the Banquet, Taft Chapter had a dance at the Pohaton Springs Club, Virginia.

In conclusion, I am very grateful to all whose kind cooperation made possible the Second Annual National PAD Night, and very proud of my Fraternity, that could stage such a successful National affair.

Supreme Justice's Letter

By WILLIAM S. CULBERTSON

Summary of Address Delivered "PAD Nite" February 16, 1935, at the Banquet of the Washington Alumni Chapter of Phi Alpha Delta

BROTHERS OF PHI ALPHA DELTA:

We may pause a moment in the merry-making of this evening to emphasize the significance of this occasion. I wish I had time to review the work of the leaders who throughout the years since the establishment of the Fraternity have made it what it is today. Some of these men, including Attorney General Cummings, are here, and others are present at the many other gatherings of Phi Alpha Delta tonight throughout the United States. These leaders of the Fraternity have been men of faith and the organization as it exists today is their reward for service well done.

Since the founding of the Fraternity, as convention has followed convention, we have recorded progress: progress in membership and in the number and wide distribution of chapters; progress in the interest which has been taken in the organization by distinguished men, including statesmen, such as President Taft; and progress in the application of the standards and ideals of the Fraternity.

Our leaders have made a constant effort to reinterpret and reapply the principles of the Fraternity to the practical affairs of life. They are achieving their ends both in the legal profession and in public life. The influence of our Fraternity always has been on the side of thorough technical training for the practice of the law, in support of the program of the American Bar Association and, above all, in insisting upon the moral character of its members.

A story is told of a shrewd New Englander who advised his son on the eve of his taking up the practice of the law as follows: "First get on, then get honor, then get honest."

The Fraternity of which we are members has reversed the order of this advice. We say to our initiates, "First get honest, then get honor, then get on." We believe that the real test of a successful lawyer is honesty. We believe that he may properly seek honor through the performance of efficient public service; and finally we believe that if he meets these two tests he is bound to "get on."

A more eloquent tribute to our Fraternity than any words which might be uttered is the series of the events that is taking place tonight throughout the United States. The many gatherings of the PADs are the best evidence of the standing of the organization to which we tonight offer our tribute and to which we reaffirm our loyalties. We are told by an ancient teacher that "Faith is the assurance of things hoped for." Continuing the figure of the ancient Book, "seeing that we are compassed about with so great a cloud of witnesses***"—the men of faith who have made and are making the Fraternity today—let us at the same time that we do honor to our successful past, resolve to carry on to a still more successful future.

THE LAWYER—Progressive Leader or Conservative Obstructionist

Address by Hon. Ernest E. L. Hammer, Justice of the Supreme Court of the State of New York, to Phi Alpha Delta, Alumni Chapter of New York, on National Phi Alpha Delta Day, February 16th, 1935
Broadcast by Columbia Broadcasting System, Station WOR

PHI Alpha Delta was organized on November 8, 1902, as the outgrowth of two prior organizations, the Law Students League, organized in the late nineties at the Chicago-Kent College of Law, and Lambda Epsilon, organized there about 1898.

Phi Alpha Delta is a National Law Fraternity of Law Students and Lawyers, the former the active members and the latter who have graduated into Alumni Members. There are Active Chapters in Law Schools throughout the country and Alumni Chapters in many of the leading cities. In addition to the bond sought to be formed between members, schools and graduates for social, cultural, practical and useful reasons, its purpose is to further the general welfare and to promote the highest standard of ethics in the profession in cooperation with the Bar Associations, and to accomplish improvement in jurisprudence and worthy governmental reform. These particularly are the objects of the New York Alumni Chapter.

This meeting is part of a nation-wide celebration of the organization of the Fraternity, the contemplation of ideals and objects, the revival of enthusiasm, a renewal of friendliness, fraternity and cooperation, and dedication anew to service of fellow members, and in a larger measure to country and humanity.

Phi Alpha Delta has reached its maturity. The Fraternity is to be congratulated on its record of service in peace and war. It has representative members in high official position. Its members are leaders in the legal profession throughout the United States. They are then at the moment in a position of advantage acting individually and in organization in furtherance of the objects of their Fraternity to render tremendous public service to our beloved country, to their fellow citizens, and to their own members, Alumni and those in and coming up from the Law Schools.

LAWYERS have done much for the institution, development and security of the states and nation. The value of their influence is so great that it is difficult of measurement with any degree of accuracy.

The lawyer's responsibility as advisor in industry and business, as well as his activity in government, gives him a unique position for advice and action to solve the problems of social and industrial security, as well as those of governmental cooperation and legal reform. That he appreciates his position and truly responds to the opportunity of service and the duties which are his is demonstrated by the interest and activity for social and legal reform of individual lawyers, organized groups, fraternities and associations. It is read in the liberal views expressed in the opinions of judges. It appears in the reports of committees and the action of larger bodies. It is seen in the reports, discussions and recommendations of reforms in law reviews, journals, magazines and books. It is stated in the

addresses of leaders of the bar. It is established by the advice and cooperation sought from bar associations by the executive, the Legislature, and the judiciary. The lawyer is indeed a recognized progressive leader, and the critic who levels at him the charge that he is a conservative obstructionist, is either misled through ignorance of the record, or disregards it and becomes a wilful and malicious purveyor of falsehood and scandal.

Lawyers had the principal part in the Statement of Grievances, the Declaration of Independence, the terms of peace, the drawing and adoption of the Constitution, the structure of the government, the laws, common and statutory, and with every change and amendment down to date. They furnished at least a fair share of those who bore the brunt of war and the establishment of peace. Lawyers have supplied more than a mere quota from among their members for the executive and legislative branches of government, and, of course, it may be assumed that the majority of the judiciary are lawyers. The lawyer who has the ability thoroughly to investigate, clearly to think and concisely to present, is the one who impresses his personality upon others and contributes most to the public welfare. Profound knowledge, a deep sense of moral responsibility, trustworthiness and the ability of logical expression in an interesting and pleasing manner are the attributes of the true lawyer, rather than smartness and the ability to confuse, evade and gain unfair advantage so often associated with lawyers in the public mind. Above all other qualities, the influence of lawyers has been greatest by reason of their ability for sane and orderly thinking.

WHILE all of us should learn that there is room for the replacement by the new of much that we hold dear, lawyers are slow to surrender principles and methods long in use for others which, if badly administered, may render individuals and unprotected minorities the prey to oppression by the powerful and the organized. Lawyers believe that orderly change is seldom hurriedly accomplished. Quick change often approximates revolution. What can be done in a small way without opposition, may be accomplished on a large scale by a sudden and unexpected manoeuver when the minds of the many are lulled into a false sense of security by propaganda for nostrum and panacea, or in times of stress or public emotion driven into panic by the sudden and oft-repeated cry of impending danger or ruin. It may be that sudden breakdown in a large way in the structure of a government cannot be accomplished unless the causes of weakness have previously come into the foundation or framework. Constant thought of rights obtained and vigilance in respect of proposed change, however, are the best safeguards against interference with fundamental and vested rights and the curtailment of reasonable privilege lawfully acquired. If change is necessary to remedy social, industrial or political evils or conditions and is not arbitrary or unreasonable, it is usually regarded as the proper exercise of police power.

There can be no legitimate objection to reasonable regulation. Cheerful cooperation renders compliance akin to voluntary action. Vigilance may, however, restrain regulation from overstepping the line of reason into the field of oppression. Individual lawyers may in the advocacy of clients oppose regulation, but when the reasonableness of the rule is established they seldom advise evasion. Organizations of lawyers investigate and consider, and when reasonableness is shown, become the advocates of reform.

IT has been pointed out that there is considerable difference in thought as to whether a business is in

and of itself property and as such entitled to the benefit of legal principles applicable to property, or is merely a course of conduct which, depending upon its form and modification at various times, may or may not be entitled to the remedies or legal protection claimed.

Upon grounds of public policy and social advantage, statutory aid formerly given by law to capital and industry for the purpose of protecting property rights is now extended to labor to protect the right of free competition for their work and service, at fair compensation under protective standards and conditions. The doctrine of public emergency has been held to warrant legislation for which, in ordinary times, it would be difficult to find constitutional justification.

Public welfare and convenience, together with reasonable necessity, have great influence in the enactment of statutes. Individuals, as well as classes, have divergent viewpoints by reason of personal interests. These viewpoints are ascertained from unrestricted speech and the news and comments of the press. The facts which give rise to the enactment are considered upon interpretation and construction.

Freedom of speech and of the press is fundamentally necessary for the preservation of the rights of a free democratic people. There may be risks to government incident to both. Knowing the grievances, real or fancied, presents the opportunity for remedy or exposition of fault. The difficulty is not usually with what is erroneously stated. It lies in the inability or refusal to discuss and answer, and stubborn resistance to the attainment of reasonable relief from an apparent disadvantage in the pursuit of social and industrial justice. The possessors of comfort and luxury often lack concern for the desires of the unfavored classes until startled by an insistent and threatening demand for the curtailment of privilege. Even then, instead of investigating the complaint and seeking the true remedy, safety is frequently sought by an attempt to obtain governmental repression. Repression is usually false security obtained through force. The proper solution is found not in repression, but in forebearance and tolerance, consideration of desires and cooperation in the readjustment of social and economic conditions.

In times of continued stress and economic insecurity, the masses wonder if the democratic form of government is not politically inadequate. Under the pressure of distress they may become more interested in the economic welfare of their families and their children than in the form of government and law which brought liberty and seeming security to their ancestors. Reforms are necessary in industry and economics. Business men should find the solution of the problems of business. Unless private enterprise provides the leaders and legions to conquer the forces that have devitalized our social structure, government must provide the remedies. There can be no fair criticism of officials or government for effecting necessary reform, when no workable plan of action is proposed by business and industry. We must have readjustment in terms of security for workers. Youth must be given opportunity for employment. The problems of economic security for the worker who has passed the peak of productivity and is at the period of greatest family responsibility, and those of the aged, must be solved.

The solution must be found for spreading buying power and providing markets so that our people will again enjoy goods, comforts and leisure. Lawyers are the advisers of industry and business, and the time has arrived when the progressive advice of lawyers must be accepted. If it is not followed, they must assume the leadership for industrial reform. The matters of law enforcement, law's delays, shortening

up litigations and simplifying practice, are nearer to the lawyers.

IT has been regarded in the past as a necessary check against possible judicial oppression that the courts should have limited power in the adoption of rules of pleading, practice and procedure. These were thought to be the proper subject of legislative enactment. Now it is regarded as progressive to endow the judiciary with practically unlimited power in respect thereof. In Wisconsin since 1929 statutes upon those subjects only have the force of Rules of Court, to remain until modified or superseded by rules promulgated by the highest court of the state. The purpose sought is simplification and speedy disposition of litigation. The legislature retains the right to enact, modify or repeal such rules. That is a desirable reform which might well be adopted in other states. If it is adopted, the responsibility for efficiency, including any necessary change, would be placed directly upon the judges and lawyers, who know the evils and the appropriate remedies. Very little change is required. With that and constant efficient service, the so-called law's delays and similar catch phrases will, I am sure, soon have little cause to be used.

The future of good government lies in the proper enforcement of law and order. The principles of law are well known. With them there is little complaint. Fault is found with the application of principle to fact. Methods are sought under which facts truly found will point the way to correct decision, without the danger of misapplied principle. The philosophy of the law, construed and expounded by the clear, well-trained mind of the cultured lawyer, is keeping pace with the trend and development of social conditions, so any change which may occur will come through the natural processes of law and order. Such are the matters with which lawyers are concerned.

Lawyers believe in cautious investigation and thorough consideration when serious change is proposed. To this extent they are conservative. Some erroneously regard their caution as obstruction. When convinced of the desirability and reasonableness of change, lawyers are powerful and persuasive advocates for adoption. The charge of obstruction is thus dispelled and the lawyer is recognized in his true character as a constructive and progressive leader.

I judge your membership through my knowledge of those of you with whom I am acquainted and from my observation of those whom I have met or seen on this occasion. I am confident, by reason of my acquaintance and observation, as well as my general knowledge of and experience with lawyers, that individually and in the pursuit of the objects of Phi Alpha Delta you will do your utmost to bring about improvement in jurisprudence, and through inspirational advice and action aid in the accomplishment of such industrial, social and governmental reform as is required to bring security, contentment and equal opportunity to all our citizens in the pursuit of wealth and happiness.

Equitable Decrees Ordering or Prohibiting Acts Abroad

By GEORGE STROUSE

Staples Chapter

George Strouse, winner of the second prize for articles submitted by active members of Phi Alpha Delta of high scholastic standing, received his A. B. degree from Lafayette College in 1927. After three years in business he entered Washington and Lee University School of Law. He was initiated into Staples Chapter of Phi Alpha Delta in 1931 and the following year was elected Justice of the Chapter. In his senior year he was appointed instructor of Political Science in the University and attained his LL.B. degree in June of last year. Recently he was admitted to the Connecticut Bar. He is a member of Theta Chi social fraternity and his home is in Bozrah, Connecticut.

■ It is a fundamental concept that before equity can act to give relief to those seeking her aid, the court must have jurisdiction. By jurisdiction is meant power to hear and determine the particular question in controversy. The underlying idea behind the steady development of equity is, that this branch of jurisprudence acts in personam and depends upon the control of the court over the parties, by reason of their presence or residence and not on the place where the property in regard to which relief is sought, may be located.[1] Chancery acts against the individual compelling him to do a particular thing or restraining him from committing what the court deems to be an injury to another or others. The court having the person before it, can order him to do certain acts, for the failure of which he will be held in contempt of court and put in jail.[2]

■ But while a decree in chancery is in personam only and does not execute itself so as to transfer personality or realty within a state, it is within the power of the legislature to confer upon chancery courts a jurisdiction, which shall, as to the property situate within the state, operate on it in some way other than by merely directing defendants to do or not to do some act concerning the property. The state has power to enact statutes under which the interests of persons in property within the state shall be affected so far as that property alone is concerned, even although such persons may not have been personally served with process within the state.[3]

■ The question is not what a court of equity, by virtue of its general powers and in the absence of a statute, might do, but it is, what jurisdiction has a state over titles to real estate within its limits, and what jurisdiction may it give by a statute to its own courts to determine the validity and extent of the claims of non-residents to such real estate. If a state had no power to bring a non-resident into its jurisdiction for any purposes by publication, it is impotent to protect the title to real property within its limits held by its own citizens; and unless the non-resident voluntarily surrendered himself, the cloud on the title would remain. No such imperfections attend the sovereignty of a state.

■ Hence the rule that jurisdiction in equity may be upheld whenever the parties, or the subject, or such a por-

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[1] *Hart v. Sansom, 110 U. S. 151, 3 S. Ct. 586; Pardee*
[2] *Harris v. Pullman, 84 Ill. 20, 25 Am. Rep. 416.*
[3] *Title & Document Rest. Co. v. Kerrigan, 150 Cal. 289, 88 Pac. 356.*

tion of the subject, are within the jurisdiction, that an effectual decree can be made and enforced so as to do justice between the parties. In Carroll v. Lee[4] it was held that property in controversy being within the state, chancery has jurisdiction though the claimant may reside abroad; also where defendant is within the state, but the land or other property claimed is without, the chancellor has jurisdiction, although the proceeding is in rem. The statutes giving this power—that of service by publication—must be strictly complied with to give the court jurisdiction, and this compliance must appear affirmatively in the proceedings. Chancery has no jurisdiction of persons of non-resident defendants, nor over their property within the state, unless given by statute when there has been no previous judgment at law within the state.

■ Although the court of chancery could not take jurisdiction of an action for the recovery of lands situated in another state, where the proceeding was in rem, yet by having jurisdiction of the parties, it may by its judgment or decree, compel defendant to make a conveyance of the land in another state.[6] When the defendant and the res are both within the state of the forum, there is no particular difficulty arising as to the power of the court to enforce its mandate or decree; there is no foreign law to block the enforcement of the court's order. But when the individual is commanded to do an act in another state, which act has to be done in accordance with the laws of the foreign government, a difficulty arises, the effects of which may work serious hardship on the complainant.

LANDS IN ANOTHER STATE

■ A court of chancery has no jurisdiction to make a decree which will direct-

[4] *22 Am. Dec. 350.*
[6] *Gardner v. Odgen, 22 N. Y. R. 327.*

title to lands situated in another state. Title to real property, and the validity or invalidity of a devise or conveyance,[7] thereof, depends upon the law of the situs. If defendant makes the conveyance before he leaves the jurisdiction of the court, the question is of relatively slight importance because he is still amenable to the dictates of the court. But suppose he vanishes without having obeyed the mandate of the tribunal, what can be done in such a case?

■ If the law involved is the same in both states, the courts of the situs treat that decree as settling finally the equitable rights of the parties, and enforce it by action thereon. It is a matter of comity between the states, not a matter of enforced recognition of the decree under constitutional mandate. That courts are not required to give recognition to the decrees of other states is illustrated in Clarke's Appeal[8] where the court said inter alia: "The courts of Connecticut are not required by comity to accept the interpretation of a will by a foreign court of competent jurisdiction, as to whether such will worked an equitable conversion of land situated in Connecticut, of which the testator died seised the question being one directly involving the mode of passing title to lands in the latter state." We see that it is entirely a matter of comity as to whether the court will recognize the foreign decree or not. In many cases they will recognize a judgment or decree of another state court—they do this, however, only in cases in which the law involved is the same in both jurisdictions.

■ In Hart v. Sansom[9], service of process was made on Hart by publication. The court held that this was insufficient service because no statute provided for jurisdiction in rem; it only provided for execution in rem. Therefore, said the

[7] *Hawley & King v. James, 32 Am. Dec. 623.*
[8] *70 Conn. 195, 39 Atl. 155.*
[9] *P. 1, supra.*

court, Hart would have to be brought before the tribunal before a decree could be issued as against him. Where the relation between the parties is simply one of contract, i. e., where one agrees to buy and the other to sell, there is, correctly speaking, no trust created, but merely a contract of sale and purchase. The statute giving in rem jurisdiction is not applicable to a person who has agreed to purchase; and the court has no power to compel him to accept a conveyance, where it cannot bind him personally by its decree.[10]

Foreign Decrees

■ The question of giving full faith and credit to a foreign judgment has been productive of many decisions, some of which we shall advert to. In Mallette v. Scheerer,[11] the court in Illinois gave a divorce decree in favor of plaintiff, and required defendant to convey to her land lying in Wisconsin. The husband did not convey the property to her, but did so to others. Plaintiff prayed the court in Wisconsin to set aside the conveyance as null and void, and that her former husband be directed to convey the land to her. The court granted the petitioner's prayer saying that the policy of Wisconsin is in accordance with that of Illinois respecting the power of the courts to award the wife relief in divorce judgments for the purpose of making a settlement of the property rights of the parties arising out of their marital relations, by making a final division and distribution of the husband's estate. This reasoning of the court would seem to indicate that if the law of Wisconsin on the subject of divorce had not coincided with that of Illinois,

■ Another case in point is Matson v. Matson.[12] The husband was ordered by the prayer would not have been granted. the Washington court to convey to his wife land lying in Iowa. He immediately left the state and conveyed the property to a resident of another state, who had knowledge of the divorce decree, for one dollar. Wife brought suit in Iowa to get the land; held that plaintiff should be granted the relief sought. The element of fraud was present, since the purchaser was not a B. E. P. The reasoning of the court would seem to indicate that if there had been no sale to one who had notice of the decree, the court would not have given aid to the wife. Equity delights to act where fraud is involved and this is perhaps the ratio dicendendi of the case.

■ A court in Kentucky[13] gave defendant land lying in Ohio. When defendant was sued in Ohio, he defended on the ground that he received the land by a master's deed. The Ohio court held this was a good defense, thereby giving full faith and credit to the Kentucky decree. The court elaborated by saying that the Ohio tribunals cannot enforce the performance of that decree, by compelling the conveyance through its process of attachment, but when pleaded in the courts as a cause of action, or as a ground of defense, it must be regarded as conclusive of all the rights and equities which were adjudicated and settled therein, unless it is impeached for fraud.

■ The Supreme Court in Fall v. Eastin took the opposite view.[14] W was granted a divorce in Washington and the court ordered the husband to convey land to W in Nebraska. He failing in this, a commissioner was appointed and he executed the deed to W. She sued in Nebraska to quiet title, H having conveyed the land to another. The court held that the Nebraska court did not need to recognize the Washington de-

[10] *Merrill v. Beckwith, 163 Mass. Rep. 503.*
[11] *144 Wis. 415, 160 N. W. 182.*
[12] *173 N. W. 127.*
[13] *Burnley v. Stevenson, 15 AR. 621.*
[14] *30 Sup. Ct. Rep. 3, 23 L. R. A. NS. 295.*

cree, under the full faith and credit clause of the Federal Constitution. The court does not explicitly deny the Washington decree could create a binding obligation on H. While the Burnley v. Stevenson case holds that full faith and credit shall be given judgments of sister states, it doesn't deny that no state can make a decree affecting title or interest to land in another state. States guard their respective rights jealously and resent any encroachment upon the proper exercise of their powers, especially in respect to land.

New Jersey refused to give effect to a New York decree ordering H to convey property in New Jersey to W. W claimed an equitable interest in the land by virtue of the decree and sought to have H execute a mortgage as ordered. The court dismissed the bill. H owed an obligation and duty to the court making the decree.[15]

■ In Dobson v. Pierce,[16] New York gave effect to the Connecticut injunction restraining defendant from carrying out the judgment which he had obtained in New York. This was regarded as an adjudication of a personal obligation and hence full faith and credit must be given to the decree.

A court of equity will not decree partition in another state because this would involve the appointment of commissioners who would have to go upon the land in the foreign state. They could not carry out the court's orders. Officers of a court of one state cannot go into another state or foreign country to carry out a decree of the former court.[17] If the same tract of land lies in two or more states, then the commissioners of one court will be permitted to make partition of the entire tract, if this was involved.

■ Summing up on this point, there are decisions for and against the view that a state should be the sole judge of whether it will give effect to a foreign decree, affecting land within its borders. One thing is certain—courts are not bound by the full faith and credit clause in this matter, for that clause applies only where the court has jurisdiction. If the court does not see that a defendant makes a conveyance in accordance with its mandate and defendant leaves the jurisdiction, it seems that the clause of the Constitution will not aid the tribunal or party plaintiff.

■ It is quite obvious that a court will not order an individual to do an act abroad which act would be in violation of a criminal law of another state; for to do this would be futile since the other jurisdiction manifestly would not give full faith and credit to the decree anyway. The full faith and credit clause has no application to criminal law. No state should be called upon to enforce a decree, which is against the public policy of its own state, though this is not the law. Public policy in itself is not a defense. It seems that basic public policy should be recognized; but just how far courts will go when policy of a general nature is involved, is a matter of speculation; as a defense, it would not be entitled to much weight, however.

Of course, in all we have been considering, the foreign court must act within reason or the other tribunal will not give, nor should it be required to give effect to that decree. And no foreign court can compel another government to set up machinery for the enforcement of its decrees. This would be carrying the idea too far in spite of the fact that this would not be exactly conceivable under our system of government. Equity acts with discretion and will not attempt to order an act to be done which cannot reasonably be performed in pursuance of the decree.

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[15] *52 N. J. Eq. 561, Bullock v. Bullock.*
[16] *Dobson v. Pierce.*
[17] *Carteret v. Petty.*

Concerning Acts of a Remedial Nature Abroad

■ Generally, a court of equity will order no act to be done outside the territory over which the court has power and this includes ministerial acts as well. A defendant within the control of the court may be enjoined from doing any act anywhere in the world, since he may obey the court without leaving the jurisdiction or in any way subjecting himself to the laws of others countries. In Phelps v. McDonald[18] it was said, "although a court of equity has not within its territorial jurisdiction the real or the personal property, which is the subject matter in controversy it may, having the necessary parties before it, compel by appropriate process, the performance of every act, which if done voluntarily by them according to the lex loci rei sitae, would give full effect to its decree in personam.

■ Will an equity court in one state order the abatement of a foreign nuisance? The answer given in People v. Central R. R. of N. J. is that it will not.[19] There the defendant company erected certain wharve bulkheads, piers railroad tracks, etc., in the harbor of New York and extending into the harbor and the Hudson River, about a mile from the Jersey shore. Plaintiff sought to abate this as a nuisance, claiming that said erections are within the jurisdiction of the New York court. The latter said that the courts of this state, i. e. New York, have no jurisdiction to restrain the erection, or the removal of structures extending into the bay or river from the Jersey shore, even although they are a public nuisance, as affecting injuriously the general and common use of those navigable waters.

[18] *99 U. S. 298.*
[19] *42 N. Y. 283.*

■ In a Georgia case[20] the railroad agreed to dig ditches, repair fences, etc., on complainants land situated in South Carolina. Not carrying out its agreement, Hammond sought to have this done. The lower court granted the prayer, but this was reversed on appeal to the higher court. That tribunal declared that the chancery court had no jurisdiction to compel a domestic corporation to go into a foreign state and specifically execute a contract, by opening ditches on complainant's land, keeping the same open to a certain depth, constructing and keeping in repair cattle guards thereon, and on its failure thus to perform, to enforce that decree by attachment and sequestration of its property in this state. The court went on to say that where the same corporation was chartered in two states, it could not be regarded as an entire entity for the object above specified. The agreement sought to be enforced must have been made with the South Carolina corporation, and specific performance should be decreed by the courts of that state.

■ It would appear from what has been said that equity will never decree performance of acts to be done abroad. However, some of the late cases appear to have departed from the first ones, or at least, to tend toward a broadening out of the jurisdiction of equity. Perhaps one of the most famous cases which holds contra to the earlier ones, and what is no doubt the generally accepted view on the question, is the Salton Sea Cases.[21] The facts briefly were as follows: Defendant corporation undertook to divert water from the Colorado river near the boundary line between California and New Mexico through canals for irrigation purposes. It constructed

[20] *Port Royal Railroad Co. v. Hammond.*
[21] *172 Fed. 792.*

three intakes from the river, two of which were on Mexican territory, but constructed by defendant. The intakes were so constructed without controlling gates that in a time of flood one of these in Mexico was so enlarged by washing, that a large part of the water poured through, and passing through canals of other companies overflowed and damaged and finally destroyed plaintiff's land. The court granted relief, saying that a court of equity having jurisdiction of the parties may enjoin a continuing injury to real property within its jurisdiction by flooding, etc., even though such works are across the boundary line within the Republic of Mexico. An injunction was issued against diverting water from the river except on certain conditions; among which were provisions regulating the flow. In order to obey the injunction defendant had to change his gates in Mexico; but this was held no objection. An injunction may always be granted against doing an act abroad. Here the land abroad injures land within the jurisdiction of the court, and the act is therefore tortious by our law.

If in such a case defendant has by his wrongful conduct put himself into a position where he cannot refrain from further tort, except by doing some act abroad, it is his own affair; the court merely enjoins the continuance of the tort.

■ Another case is practically analogous in its result.[22] Defendant wrongfully diverted in California waters naturally flowing down a river having its source in that state, and flowing into and through the state of Nevada, where complainant's land was situated, he being the lowest proprietor on the river. Plaintiff brought suit to enjoin dft. from wrongfully diverting the water; the injunction was granted. Here again, obedience to the injunction would have required doing an affirmative act abroad, in California; but defendant has put himself in such a position that he must continue to commit a tort in Nevada or else do the act in the other state; and he is enjoined from doing the former; ergo, he must do the latter.

■ It would seem to follow from these two decisions that when irreparable injury is and will continue to be done, when the value of land will be lessened greatly, this is sufficient reason for equity to step in and grant relief. That Federal courts will give aid more readily in such cases than would state courts, appears to be the fact. They probably do not have as much respect for state lines when irreparable loss or damage threatens the property of a petitioner. If they can get control of a wrongdoer, jurisdiction of the court to grant the injunction will not be defeated by the fact that it has reference to real property beyond the territorial jurisdiction. It is not a situation where the court is attempting to transfer or effect the title or interest in land under the jurisdiction of another state; this it could not do. It is merely forcing the defendant to do something in relation to his land or that which is under his control, which will prevent continuing damage to petitioner. The decree is in a negative form, but has a positive effect. Courts of chancery do not usually make a decree where supervision of the court is necessary to ascertain whether the decree is being followed out—especially is this so where the act or acts to be done are in another state. Equity gives the negative decree which, in order to carry it out, or else be in contempt of court, the defendant must act. Thus does equity dispense with supervision by such a decree. Nor does the negative decree in these cases imply that some personal service will have to be done by defendant—the acts to be done are not exactly those of personal

[22] *Miller & Lux v. Richey et al.*

services; simply acts which give effect to the injunction—for how can the injunction serve its purpose if no work at all is to be done on the part of defendant.

■ In 1907 a case was decided wherein the defendant company, located in Tennessee[23] was discharging noxious fumes over the state of Georgia, thereby causing and threatening damage to plant and animal life within ptf. state. The court granted the injunction, as prayed. But the decision intimates that the court would not follow the reasoning laid down in the Salton Sea Cases and the Miller v. Richey cases, if the suit were at the instance of a private individual or corporation, for the court says, "a suit brought by a state to enjoin a corporation . . . from discharging noxious fumes over its territory is not the same as one between private parties, and although the elements which would form the basis of relief between private parties are wanting, the state can maintain the suit for injury in a capacity as quasi-sovereign. . . ."

■ That the jurisdiction in equity by way of injunction is strictly in personam, was decided in Alexander v. Tolletson Club.[24] The owners of land leased to the club all their ground in a certain section. . . . The court declared, "A court of equity in this state has jurisdiction of a bill, the object of which is to obtain an injunction to prevent defendant from interfering with a right of way claimed by complainant over lands situate in another state, where defendants are personally served." It is well settled that courts of equity may decree specific performance of contracts respecting land situated beyond the jurisdiction of the state where the suit is brought. The ground of this jurisdiction as said by Story, is, that courts of equity have authority to act upon the person; and although they cannot bind the land itself by the decree, yet they can bind the conscience of the party in regard to the land, and compel him to perform his agreement, according to conscience and good faith.[25]

In the instant case the court is not really affecting the title or interest in land lying without the jurisdiction of the court. The order is of a restraining character which binds defendant not to interfere nor obstruct the right of way belonging to petitioners. Defendant needs to do no act, but only to remain passive. It is a personal order which binds defendant's conscience, but not the land.

In Re Enjoining Suits Abroad

■ Will equity aid a petitioner to have a suit impending in another state, stopped? In Portarlington v. Soulby the rule is laid down that a court of equity in England will rest in defendant over whom it has jurisdiction, from suing in Ireland on a contract founded upon alleged illegal consideration. This decision rests upon the idea that a court, once it has jurisdiction of the person, may, by its decree order him to do or not to do an act of this kind abroad.

There seems to be a recent tendency to exercise more freely the jurisdiction to enjoin legal proceedings abroad. Much of the difficulty[24] in such cases arises from the ambiguity of the term "jurisdiction" and from not distinguishing between the rules determining jurisdiction and the principles governing the exercise of jurisdiction. Three questions have to be asked. 1. Has the sovereign jurisdiction through any of its courts? that is, has he the power actually to coerce the person or act upon the res? 2. If he has, has the

[23] *Georgia v. Tenn. Copper Co., 206 U. S. 230.*

[24] *33 Harvard L. R. 426.*

[25] *76 So. 364.*

court of equity jurisdiction—that is, is plaintiff's right equitable only, or if it is legal, is the legal remedy adequate? 3. If equity has jurisdiction should that jurisdiction be exercised in the present case? It all comes down to this, what are the legal rights of plaintiff in equity, defendant abroad, and are the legal remedies which are open to him adequate to maintain those rights? Then we have to ask, is the injustice and hardship upon plaintiff such as to make it expedient for equity to act, in view of the delicate considerations involved in interference with legal proceedings in other states.

■ In a certain case[25] respondent sued complainant in Georgia for injuries resulting from a collision between its train and respondent's automobile in Alabama. In the latter state, if respondent failed to stop, look and listen immediately before crossing, or deliberately took the chances of clearing the crossing ahead of the train, he could not recover for the previous simple negligence of the railroad. In Georgia such conduct is merely evidence to be considered in determining whether the injured party has exercised ordinary care. Complainant brought a bill to restrain resp. from prosecuting further suit in Georgia—resp. and all witnesses resided in Alabama. It was held, that the difference between the laws of the two states would deprive complainant of a substantial right and that a temporary writ was properly granted.

The court went on to say that the courts of one state may take jurisdiction of a transitory cause of action originating in another state when dft. has been locally found and served, although both parties are at the same time domiciliary residents of the foreign state. Here the conflicting law as to the defense of contributory negligence, made the rule that the lex fori should control, inapplicable.

■ A complainant, residing in Indiana sought to enjoin defendant, also a resident of that state, from suing him in Illinois,[26] since he would have no defense to the action in the other state, but had a complete defense in Indiana. The court held that he would be liable to irreparable injury if compelled to defend such an action in the other state, and such action will be deemed to have been brought for the purpose of evading the law of defendant's own state—and this latter is sufficient ground for granting the injunction.

■ The application of the principle is narrowed in a Wisconsin case. The court refused an injunction[27] where the boom company, a consolidation of a Mich. and Wis. Corp., sued in Wis. for services and counterclaim was interposed for excessive charges paid, which was barred in Wis. restraining the Wis. suit in order to compel suit in Mich., where counterclaim was not barred. It was the opinion of the court that the only situation justifying the court of one state in enjoining prosecution of a case pending in a sister state is one wherein equitable considerations are compelling, and the aggrieved party through poverty, cannot present his equities to the foreign court. On the basis of this decision, it would appear to be the rule that a complainant would be denied relief from a suit in another state unless his financial condition was practically at the insolvency point or unless he happened to belong to that group of individuals whose rank in the economic scale, unfortunately, is quite low.

There was an attempt on the part of domestic creditors to reach exempt property of a domestic debtor by means of an action outside of the state.[28] The court held the creditors were enjoined

[26] *Culp v. Butler, 122 N. E. 684.*
[28] *Snook v. Snetzer, 25 Ohio St. 516.*
[27] *Wells Lumber Co. v. Menomonee River Boom Co.*

from prosecuting an attachment in another state against a citizen of Ohio, to subject to the payment of his claim the earnings of the debtor, which by the laws of Ohio are exempt, from being applied to the payment of such claim.

Perhaps effect could be given to complainant's prayer by not having a court of equity enjoin the suit abroad, but by the court where the suit is commenced, and that alone, refuse at the instance of the aggrieved party, to refuse to proceed further with the suit, where it appeared that the object of plaintiff was to evade the law of the state of his residence, and upon view of the facts and the law of the state of residence of both parties applicable thereto, the court is convinced the prosecution of the suit pending before it to judgment or decree would result in giving plaintiff an unconscionable advantage.

■ In the matter of divorce proceedings brought by one party in a foreign state some courts have enjoined a commencement of proceedings. New Jersey[29] enjoined H from suing for divorce in North Dakota. He was served by publication because the court considered him as still domiciled in New Jersey. If he were allowed to carry on the suit in N. D. the wife would be put to great hardship and expense to defend the action. Courts hold that if the divorce is obtained where the matrimonial status is not located, the full faith and credit clause does not apply.

■ A very important case concerning actions abroad is that of Harris v. Pullman.[30] The complainant sought to have defendants, non-residents of Illinois, declared to be trustees in possession of certain mines, mining property, etc. for complainants; that they be required to account for the rents, profits, etc. They were personally served with process; some had notice merely by publication, and they were in no wise personally before the court. The court in affirming the decree said, "There is no question as to the right to restrain a person, over whom the court has jurisdiction, so that he can be proceeded against by a personal judgment, from commencing suit within a foreign state; and the English practice was to allow the prosecution of suits already commenced to be thus enjoined; but it has been held in this country, that after suits are commenced in one of the states, it is inconsistent with interstate harmony that their prosecution should be controlled by the courts of another state."[31]

Foreclosure of Mortgages Or Other Liens

■ A noted case on the subject of giving full faith and credit to a foreign decree is presented in Cole v. Cunningham.[32] One Bird, a citizen and inhabitant of Mass., assigned his claim on Claflin & Co. to Butler Hayden & Co., who in turn executed an assignment of their claims to Fayerweather, a resident of New York. Two actions were commenced in New York in the name of Fayerweather on the claims of Butler, Hayden & Co. against Bird as dft., and Claflin & Co. as garnishees. Bird's property in New York was attached in conformity of the laws of N. Y. The assignees in insolvency of Bird brought a bill in Mass., praying that Butler, Hayden & Co. be enjoined and restrained from further continuing suit against Bird begun by them in the name of Fayerweather, and from attempting to collect from Claflin & Co. any money; and that they transfer to the assignees all their right, title and interest pretended to have been assigned to Fayerweather. The court held that it was no violation of the full faith and credit clause if the Mass. court enjoined a creditor of the insolvent from

[29] *Kempson v. Kempson, 58 N. J. Eq. 94.*
[30] *84 Ill. 20, 25 Am. Rep. 416.*
[31] *33 Harv. L. R. 426.*
[32] *133 U. S. 107.*

proceeding to judgment and execution in another state, begun by an attachment.

The court said nothing can be plainer, than that the act of Butler, Hayden & Co. in causing the property of the insolvent debtors to be attached in a foreign jurisdiction tended directly to defeat the operation of the insolvent law in its most essential features, and it is not easy to understand why such acts could not be restrained. There was nothing in the law or policy of the state in which the attachment is made opposed to those of the state of the creditor and of the insolvent debtor.[33]

■ A court of equity may entertain a suit for the strict foreclosure of a mortgage upon land in another state or country, since a decree in personam is entirely adequate for the purpose. A court of chauncery having jurisdiction of the person of defendant may entertain a bill to require him to redeem a mortgage upon land outside of England, or be foreclosed.[34]

While a decree of foreclosure in the form of a judicial sale in another state is void, and without effect so far as property beyond the territorial jurisdiction is concerned, the jurisdiction of a court of one state to decree a sale under a mortgage of property used as an entirety, lying in another state or states, and to direct the mortgagor or owner of the equity of redemption to execute a deed to the purchaser, has been upheld in a number of cases.

Thus, in a foreclosure of a mortgage upon a railroad lying partly in one state and partly in another, an equity court in one state may decree a sale of the entire road lying in both states, and direct a deed to the purchaser. The action was brought in a Federal court sitting in Iowa,[35] and the decree covered a part of the line in Missouri, as well as the part in Iowa. The decree directed a sale of the entire property covered by the mortgage, directed the master to execute a good and sufficient deed to the purchaser, declared that defendants be barred and foreclosed from all interest in the property and other acts.

■ The courts of Ohio have no jurisdiction to enforce the remedy of bondholders[36] by the foreclosure of a mortgage upon the part of the railroad lying in another state. The court said, that although the court of one state may act in personam upon an individual touching real property owned by him in another state, even to ordering him to sell it, yet if he refuses obedience to that order, the court cannot appoint a commissioner to make the sale in his stead, and is powerless to effect the sale.

■ As a matter of principle and so far as the absolute right to take jurisdiction is concerned, it would seem to make no difference whether all, or only part, of the property covered by the mortgage is beyond the territorial jurisdiction. When, however, the mortgaged property, which is used as an entirety, is partly within and partly without the jurisdiction, the inconvenience and disadvantage of selling it in parcels furnish a strong reason for the exercise of discretion in favor of the jurisdiction—a reason which is lacking when the entire mortgaged property is beyond the jurisdiction.

■ Courts of one state may give effect to the decrees of another on the ground of comity; but if they do not choose to do this, and the full faith and credit clause cannot be applied, this may pre-

[33] *Citing Dehan v. Foster, 4 Allen (Mass.) 545; Lawrence v. Batchelle, 131 Mass. 504; Green v. Van Buskirk, 5 Wall. 307, S. C. 7 Wall 139.*

[34] *Toller v. Carteret.*
[35] *Muller v. Dows, 94 U. S. 444.*
[36] *Eaton & H. R. v. Hunt, 20 Ind. 457.*

clude the party asserting a right from getting what he asks for—a situation arising from our concept of dual government wherein the states are sovereign in their particular sphere, and where encroachment and dictatorial mandates of a court in a sister state are not always looked upon with the utmost favor. Equity exercises discretion, and if it would always follow this maxim, there would probably be fewer decrees handed out by chancery courts which purport to affect acts and actions abroad.

Announcing District Justices Appointments

District No. 1—M. Allen Pomeroy, Securities Bldg., Seattle, Wash.

District No. 2—Folger Emerson, Court House, Oakland, Calif.

District No. 3—Charles McDaniel, Security Building, Phoenix, Ariz.

District No. 4—Calvin Behle, Walker Bank Bldg., Salt Lake City, Utah

District No. 5—To be appointed

District No. 6—Henry Chatroop, 11 South La Salle St., Chicago, Ill.

District No. 7—Albert E. Cunliff, Title Guaranty Bldg., St. Louis, Mo.

District No. 8—Samuel H. Roberts, Dalhart, Texas

District No. 9—Claude Parker, 309 Union Building, Cleveland, Ohio

District No. 10—Paul Parsons, Massey Bldg., Birmingham, Ala.

District No. 11—J. Harry LaBrum, Packard Building, Philadelphia, Pa.

Reporting of Court News Criticized

The following motion, proposed by one of our alumni chapters, is the first step in a nation wide campaign sponsored by our Fraternity. We recommend that all alumni chapters discuss this proposal for the purpose of developing methods of furthering this worthy endeavor.

The Los Angeles Alumni Chapter of Phi Alpha Delta, at its March 21 meeting, Judge Douglas L. Edmonds presiding, adopted a resolution demanding that court news be reported in more reserved style.

The resolution, addressed to the executive board of the fraternity, suggested that the matter be directed to the attention of the American Bar Association, the American Newspaper Publishers Association, and other organizations "for the purpose of demanding that news of the courts be presented to the American people in such manner as to command respect for the administration of justice."

The resolution followed an address by Harry Carr, famous news reporter, who assailed "sob-sister" reporting of court news, and was critical of the fact that judges, under the present elective system, must obtain publicity and publicize themselves in order to retain their positions on the bench.

The text of the resolution follows:

Whereas, for more than thirty-five years Phi Alpha Delta Law Fraternity has endeavored to lead the way in the establishment of the highest principles of professional conduct and good citizenship; and

Whereas, the effective and impartial administration of justice through courts is essential to the preservation of democratic principles and the continued stability of the United States of America; and

Whereas, respect for the judicial process is being seriously undermined by the manner in which some newspapers present news of the courts and the cases being tried before them.

Now, therefore, we call upon the Supreme Executive Board of Phi Alpha Delta Law Fraternity to bring this situation to the attention of the Supreme Chapter, Active Chapters, and Alumni Chapters of this fraternity, and of the American Bar Association, American Publishers Association, state and local bar associations, service clubs, women's organizations ,and other groups for the purpose of demanding that news of the courts be presented to the American people by newspapers in such manner as to command respect for the administration of justice.

Adaptability of the United States Constitution to Changing Conditions

Following are excerpts from an Address by U. S. Webb, (Temple), Attorney-General of California, to Phi Alpha Delta.

IT IS fitting that we turn our thoughts to the changing social and economic conditions, and to the legislative efforts to deal with these changes. We may, with propriety, consider the capacity of the Constitution to meet these changing conditions.

During the past several years our country, indeed, all countries, have been in a condition of subnormality in economic and industrial activities hitherto unexperienced in history.

During the early years of this adversity but slight effort was made to correct the conditions. Later governmental authorities realized that the conditions were more serious than at first they were believed to be and legislative effort was made to stay the downward trend, and to strengthen the faculties and facilities of recovery.

But if we are at liberty to assume that the regulation, direction and control of business attempted by the Congress and by State Legislatures indicates what will be the attitude of government toward business throughout the future, many lines of business must cease, for long existence under such control would not be possible.

Assuming the validity of such legislation, if such legislation were made permanent, business would be so straight-jacketed that only those industries could endure which by this same legislation have been erected into a law-protected monopoly.

To view such invasion of the field of business as a permanent governmental policy is unthinkable.

So long have we rested in the faith that this is a land of equal opportunity; a land where the advantage of capacity over mediocrity is recognized; a land where the power of the individual in business to accomplish is preserved; a land where legitimate effort has reasonable chance of reward; a land where personal liberty is protected by constitutional guarantees, it is not now to be contemplated that instantly, because of the existence of a temporary condition, we are to abandon the traditions of the past and enter a field uncontemplated by the founders of the government and unjustified at any time, except it be justified in the meeting of an unusual and not frequently occurring condition.

We may properly regard all of this legislation as temporary in character, and believe that upon the passing of the conditions which called it into being business will be relieved from the control and restrictions which have been imposed upon it.

It is not to be understood, however, that when these conditions pass, the regulatory arm of government will be withdrawn from business.

To secure the general welfare of the people who compose and support it is the dominant purpose of an enlightened government. In the achievement of this purpose, it is not unusual that the surrender of individual advantage is sometimes required.

If, unrestricted by law, every person or concern engaged in business would recognize the relative rights and inter-

ests of others so engaged, and all should conduct their business in due regard to public welfare, the law's restriction would be little needed.

Utopia is not here, men are still men, ambition still mounts, opportunity excites avarice, and the desire of man is little restrained by considerations of the evils that result from unchecked greed.

The occasion for the legislation arising, it usually happens that such legislation is pressed entirely beyond the reasons which called it into being, and it should not be denied that in many instances regulation and control have been extended far beyond the limits justified by actual condition.

During the early years of this period it was believed by government, and it was believed by business, that the depression would be brief, and that without serious governmental effort normalcy would speedily return.

At the beginning of the present administration it was realized that we were in an economic and industrial breakdown hitherto unexperienced, and that the exigencies were such that the efforts of government, national and state, must be exerted in aid of recovery. The condition not having theretofore been experienced, it naturally resulted that the methods adopted to meet such conditions had not theretofore been tried, and it is such legislation to which business has been subjected since the commencement of the present administration.

Immediately upon the inauguration of the present executive, through plain and positive expression, and through definite and direct action, the Congress was aroused into a somewhat feverish desire to do his bidding.

Local demands in the various states led legislatures to untried plans to stimulate better conditions. To a large degree these efforts have crowded constitutional guarantees, and ignored, to some extent, constitutional prohibitions.

Because of the structure of the Federal Constitution it may be expected that legislation of the Congress will very generally receive judicial support. The authority of the Federal Government mainly is exercised under a grant of power clothed in rather general language and capable of construction, from time to time, in such manner as to best subserve general welfare.

The constructions of Marshall were not made for an area lying closely along the Atlantic seaboard nor for only three millions of people. He envisioned a territory extending from ocean to ocean, and occupied by hundreds of millions of people, subjects of the government, the Constitution of which he construed. He attributed to that instrument the capacity of expansion. He attributed to its language the power to embrace not only the conditions of his day but also conditions of our day. Its flexibility he recognized. Under his construction that Constitution has survived for a century and a third with but twenty-two amendments, and some of them of doubtful advisability.

In the several states various enactments in an effort to meet existing conditions have been passed. Moratoriums, relinquishments of tax penalties, deference of tax payments, destruction of remedies stipulated in contracts and postponing the enforcement of contractural rights. These enactments must all be considered in relation to the Federal Constitution, as well as the respective State Constitutions.

I believe in the flexibility of constitutions and in the inherent power of government to furnish the remedy for any newly arising ill. I do not believe in the bondage of precedent. The blind adherence to precedent destroys originality, prevents the intelligent meeting of new conditions and denies to minds worth while, normal functioning.

Prometheus chained to the rock is not a sadder picture than that of courts and lawyers bound by ancient decisions, hoary with age, and having little else to commend them.

It is said that the eternal struggle in the law between constancy and change is largely a struggle between history and reason; or between past reason and present needs. Justice Holmes considered both, and regarded the law as a growing thing. He said:

"The law embodies the story of a nation's development through the centuries, and it cannot be dealt with as if it contained only the axioms and corrollaries of a book of mathematics. . . . You cannot carry a constitution out with mathematical nicety to logical extremes. . . . The life of the law has not been logic; it has been experience."

In the construction of the legislation with which our country is now dealing courts should not be too much led or restrained by precedent. The books may help, but the daily life about us furnishes the true guide.

A judge with vision recently said: "There are two sources of the law; one the books, the other the daily life about us."

That judge or lawyer who approaches the consideration of this recent legislation, seeking his light, his instruction and his guidance from the books alone will not today greatly help. Our help must come from the judge or lawyer who gives due regard to the books, but who draws his lessons, his instructions and his inspiration largely from the daily life about him.

Whether this legislation will furnish a cure for existing evils will be answered by history now in the making.

Be of good cheer: The Ship of State is not dragging its anchor. We have not departed from the faith of the fathers; relying upon the intelligence, the patriotism and the devotion of our citizenship, we may with confidence contemplate the future of the Republic. I bid you go forward with faith undimmed and courage undaunted.

Keep in your hearts Holland's inspiring prayer:

"God give us men: A time like this demands
Strong minds, great hearts, true faith, and ready hands;
Men whom the lust of office does not kill;
Men whom the spoils of office cannot buy;
Men who possess opinions and a will;
Men who have honor—Men who will not lie;
Men who can stand before a demagogue,
And damn his treacherous flatteries without winking;
Tall men, sun-crowned, who live above the fog
In public duty, and in private thinking;
For while the rabble, with their thumb-worn creeds,
Their large professions and their little deeds,
Mingle in selfish strife, lo: Freedom weeps,
Wrong rules the land, and waiting Justice sleeps."

Frank B. Murray

FRANK B. MURRAY, a member of Lambda Epsilon, and charter member of Phi Alpha Delta Law Fraternity, died at Chicago, Illinois, on February 18th, 1935.

Brother Murray was born on May 26th, 1872, at Philadelphia, Pennsylvania, and received his preliminary education in the parochial and public schools of that city, coming to Chicago at about the age of 21 years. He first engaged in the real estate business, but shortly took up the study of law at the Chicago-Kent College of Law, and became a member of Blackstone Chapter. He received his degree of LL.B., and was admitted to the Bar in 1899. His interest in and loyalty to the Fraternity never ceased, and he was a consistent attendant at the outings of the Fraternity, chapter initiations, alumni chapter meetings and other functions as well as many of the National Conventions of the Fraternity. Though often urged through the years, he always declined to be a candidate for any office in the Fraternity, though he served faithfully as delegate to conventions and on local committees when chosen. At the Twentieth Biennial Convention held at St. Louis in the winter of 1925, the Convention presented Brother Murray and Brother Harry G. Keats (now also deceased) with suitably engraved pocket knives, in recognition of these two brothers, both L. E., being the oldest members present.

He was an Assistant City Prosecutor during the administration of Mayor Edward F. Dunne in Chicago, and twice candidate for Associate Judge of the Municipal Court on the Democratic ticket. At one time he was associated with Judge John P. McGoorty (Blackstone) in the practice of the law, but during most of his professional career he practiced alone.

He was married in Chicago, on February 21st, 1899, to Winifred McCoy, who survives him.

His funeral was in charge of the Fraternity and a large number of the older and younger members attended.

The following alumni members were active pall bearers:

William M. O'Shea, Supreme Marshal; Harry A. Carlton, President of Chicago Alumni Chapter; William Nealon, Past President, Chicago Alumni Chapter; Clarence P. Wagner, Assistant Judge, Probate Court; Judge William E. Helander; George E. Fink, Past Supreme Justice.

He loved Phi Alpha Delta and Phi Alpha Delta loved him.

Divorce in Nevada

By CLEL GEORGETTA

(Dunbar '27)

"Is not marriage an open question when it is alleged, from the beginning of the world that such as are in the institution wish to get out and such as are out wish to get in." ***—Emerson.***

THROUGHOUT the United States, it seems to be common knowledge that Nevada has more liberal statutes than any other state in the Union. Several articles have been written about our laws. They have been praised by some and criticized by others.

It may be true that "a Nation stands or falls with the sanctity of its domestic relations." It cannot be denied that the "home founded upon wedlock is of great importance and any increase in divorce is an ill sign. We should not, however, overlook the welfare of the individuals who compose the "home," and in this state there predominates the belief that any statute which seeks to perpetuate an unsuccessful marriage is unsound public policy as it does not tend to promote "life, liberty, and pursuit of happiness."

Laws upon the subject of divorce should be of sufficient scope and elasticity to make it possible for the court, in each individual case, to change or regulate the status to the best advantage of the parties and the state.

In Nevada there are nine different grounds for divorce, which are briefly outlined as follows:

1. Impotency at the time of marriage and continuing to the time of divorce.
2. Adultery since the marriage, remaining unforgiven.
3. Wilful desertion at any time of either party by the other, for a period of one year.
4. Conviction of a felony or infamous crime.
5. Habitual gross drunkenness, contracted since marriage, of either party which shall incapacitate such party from contributing his or her share of the support of the family.
6. Extreme cruelty in either party (either mental or physical). (This ground is sometimes referred to as the elastic clause of the Nevada Divorce Law, and is the ground most often used, because the courts have construed it to cover almost any conduct on the part of either spouse, which results in injury to the health or happiness of the other. In fact this ground amounts to mere incompatibility of temperaments.)
7. Neglect of the husband, for a period of one year, to provide the common

necessaries of life, when such neglect is not the result of poverty on the part of the husband, which he could not avoid by ordinary industry.

8. Insanity existing for two years prior to the commencement of the action (corroborative evidence is required and the plaintiff must give bond for the support of the defendant.)
9. When the husband and wife have lived apart for five consecutive years without cohabitation the court may at its discretion grant an absolute decree of divorce at the suit of either party.

NEVADA has a relatively simple court system, which consists of only two sets of courts and one supreme court, classified as follows:

1. Justice Courts, having jurisdiction of minor crimes and civil actions.
2. District Courts, having appellate jurisdiction of appeals from the Justice Courts and original jurisdiction of all other criminal and civil actions and equity proceedings.
3. State Supreme Court, which is a court of appellate jurisdiction and the court of last resort.

A suit for divorce is an action in equity and the statute specifically provides that it must be brought before the District Court. The court, under fundamental principles of law, has the power to change or regulate the "status" only when it has jurisdiction of the "res." Our Statute on this subject reads as follows:

"Divorce from the bonds of matrimony may be obtained by complaint, under oath to the district court of any county in which the cause therefore shall have accrued or in which the defendant shall reside or be found, or in which the plaintiff shall reside, or in which the parties last cohabited . . . . . Unless the cause of action shall have accrued within the county while plaintiff and defendant were actually domiciled therein, no court shall have jurisdiction to grant a divorce unless either the plaintiff or defendant shall have been resident of the state for a period of not less than six weeks preceding the commencement of the action. . . . . ."

In 1862 the first Territorial legislature in Nevada enacted a statute making the residential period to establish a domicile for divorce, six months. In 1913 the Legislature changed the period to one year by passing the Barnes Act, which is sometimes called the "Morgue Act" because it made Reno almost a ghost city for two years. In 1915 the period was changed back to six months, later to three months and in 1931 to six weeks.

During the 1931 session of the Nevada Legislature many divorce bills were introduced and several amendments were made to the then existing statutes. Prior to that time Nevada had followed the doctrine of "Recrimination" and in almost every contested divorce action the defendant endeavored to show that the plaintiff had "unclean hands." If the evidence established the fact that the plaintiff was also at fault then a divorce was denied.

At the 1931 session there was a jovial fat man who had probably once sued for a divorce and failed to obtain his freedom because the wife testified that he drank "home brew" now and then. He introduced a bill which became a law and reads as follows:

"In any action for divorce, when it shall appear to the court that both husband and wife have been guilty of a wrong or wrongs which may constitute grounds for a divorce the court shall not for this reason deny a divorce, but in its discretion may grant a divorce to the party least in fault."

Now Nevada follows the doctrine of "Comparative Rectitude." In most of the contested divorce actions the husband is the plaintiff and under this sta-

tute many of our contested actions are concluded by the court granting the defendant wife the decree of divorce. Of course, this gives the plaintiff husband his freedom and his object has been accomplished even though apparently he lost his case. "A rose by any other name will smell as sweet."

It is common knowledge that no state is compelled to honor a default divorce decree of a sister state where the court did not acquire jurisdiction of the defendant. It happens that in many cases, at the time an action for divorce is brought, the defendant cannot be served by process within the jurisdiction and will not make an appearance either in person or by an attorney. In that event, of course, only a default decree can be obtained. In many such cases at some later date, the attitude of the defendant changes because of changed conditions or circumstances. Perhaps the defendant desires to contract a second marriage and now it would be advantageous to have the default decree previously obtained by the plaintiff held valid in all states.

A certain lawyer in the 1931 session of the Nevada Legislature had in his office at that time a case which involved a set of facts similar to those mentioned. Under existing law nothing could be done. In the state of the last matrimonial domicile the parties were not divorced; in Nevada they were divorced, and the court had lost jurisdiction to reopen the case or modify its decree. A new action would have been "res adjudicata." This particular lawyer introduced a bill which became a law and reads as follows:

"Whenever a default judgment or decree has been entered and the court has lost jurisdiction to set aside, modify, alter, or amend such judgment or decree, by reason of the expiration of time, the party or parties in default therein may at any time thereafter enter general appearance in said action and said general appearance so entered shall have the same force and effect as if entered at the proper time prior to the rendition of said judgment or decree. On such appearance being entered the court may make and enter a modified judgment or decree to the extent only of showing such general appearance on the part of said party or parties in default and shall be entered nunc pro tunc as of the date of the original judgment or decree."

Since the enacting of this statute, many Nevada default decrees have been amended into decrees that, as far as the jurisdiction of the defendant is concerned, will be given full faith and credit in all states. In this way many problems involving the validity of a second marriage and the legitimacy of children have been solved to the advantage of all parties concerned.

THE ninth ground for divorce was added to the list in 1931 and since then a divorce can be obtained in Nevada if the husband and wife have lived apart for five consecutive years without cohabitation. This is not new, as some other states have similar statutes, but it has been criticized in some parts of the country and in various articles written upon the subject. Before we had this statute, if a husband sued for a complete divorce ("avinculo matrimoni") and in that action, on a cross complaint, the defendant wife secured a decree of separate maintenance ("a mensa et thoro") the husband could not thereafter secure a divorce unless he sued on new grounds based on facts not relied upon in the first action. In many cases the only possible way to secure the necessary proof of a new ground was to have the wife shadowed by detectives to obtain evidence of misconduct; if the wife were virtuous probably the husband could never obtain his freedom.

This five year ground must look like the pot of gold at the foot of the rainbow to any disillusioned husband who is bearing the burden of a "separate maintenance decree." Under this statute after he has supported the wife in her separate home for five years, he then has a new ground for divorce. This ground is often used by the wife who has for one reason or another, lived separate and apart from her husband for five years. It has been said that this statute is not sound "public policy" because it simplifies or facilitates divorce. Serious consideration of the matter will reveal that little or no harm can come to the parties or the state by having this statute on the books. After five years of separation there is slight possibility of a reconciliation. On the other hand this law affords relief to many people. As a concrete example consider the case of a good and virtuous wife—a young woman—whose husband has contracted some incurable disease, possibly through no fault of his own. After she has lived apart from him for five years her freedom can be obtained under this statute without collusion or perjury.

Just because an honest mistake was made in selecting a mate, or because unforeseen events have made the normal married state impossible, why should any young man or woman be compelled to go through life tied to a phantom memory or go into court and perpetrate a fraud by false evidence as is done in many jurisdictions. It should be against "public policy" to perpetuate a childless, loveless, and vain matrimonial tie in which husband and wife live apart—probably in adultery.

A Nevada divorce decree when entered is immediately final. It carries no disability and either party may immediately remarry if that is desired. The trial may be held behind closed doors and the transcript of testimony and all exhibits can be sealed upon request of either counsel. This protects the litigants from the humiliation of unpleasant press stories.

In Nevada the domestic relation statues and court decisions have been based upon human experience and as a result we have laws which make it possible for people to correct many unavoidable mistakes in matrimony. At the same time these liberal laws have not developed any great evil. It is a noticeable fact that in Nevada among the native born people who have lived under our liberal laws all their lives the divorce rate is lower than it is in many parts of the country where adultery is the only ground and a large percentage of the divorce trials are collusion—just one-act plays.

THIS article would not be complete without mention of some of the most important points in divorce procedure as it is now practiced by reputable Reno attorneys.

The time required to obtain a divorce in this jurisdiction depends largely upon the attitude of the defendant. Ordinarily, in cases in which an attorney has not been employed in the jurisdiction of the matrimonial domicile, the Reno attorney will prepare a "Power of Attorney" after the client has resided in Nevada three or four weeks, and mail it to the defendent requesting that it be signed and mailed direct to any Reno attorney the defendant may select. If the defendant is not seriously opposed to the divorce and will place himself under the jurisdiction of the Nevada court by having a local attorney appear for him, it is then possible to obtain a divorce for the client within two or three days after the expiration of the six weeks' residential period.

It goes without saying that if the client also has an attorney in the jurisdiction of the original domicile, or where the defendant now resides, that attorney is the logical person to prepare the

Power of Attorney and obtain the signature of the defendant.

If the defendant will not cooperate by signing the "Power of Attorney," personal service upon him is necessary and he will then have a period of thirty days after such personal service in which to plead. If the defendant fails to plead within thirty days from service, a decree of default can then be entered. In the event that the present location of the defendant is unknown, then service by publication becomes necessary and this requires a period of sixty-one days from the filing of the complaint before a decree can be entered. If the action is contested two months or more may be required to dispose of the case.

When the action is not contested no corroborative evidence is required except as to residence and that is provided for by the Reno attorney. Usually the clients landlady testifies. In regard to the grounds for divorce, except insanity, the testimony of the plaintiff alone is sufficient. In the event of a contested case, however, it is advisable to produce all possible corroborative evidence and this may be taken by deposition wherever witnesses may be located.

With the mention of these facts there naturally comes to mind the question of costs. The usual court costs in an uncontested case are in the neighborhood of forty-five dollars. The Washoe County Bar Association has recommended as a minimum fee in an uncontested case, for a client of average means, the sum of two hundred fifty dollars plus the court costs. The usual fee for the attorney who represents the defendant ranges from twenty-five to one hundred dollars. Therefore, the usual cost to clients of average means is from three to four hundred dollars. Of course many clients pay a much larger fee ranging into thousands of dollars, depending upon the financial condition, the sum included in a property settlement, and the amount of work and responsibility involved.

It may be conservatively stated that nearly all the desirable divorce business comes to the Reno attorney through counsel in some other jurisdiction. It may also be said that many of the reputable attorneys in Reno prefer to handle a divorce action as an associate of the attorney who referred the case. In most cases it is decidedly advantageous to have an associate counsel in the jurisdiction of the last matrimonial domicile or where the defendant resides. He is familiar with the laws of that locality and should inspect all papers pertaining to property in that jurisdiction. He can also personally consult the defendant or the defendant's lawyer in regard to the signing of a power of attorney and other papers.

In this way the counsel who referred the case shares in the work and responsibility and is expected to receive part of the fee, usually one-third. His share of the fee, however, should always be based upon his share of the work and responsibility. Many Reno attorneys prefer to have the other counsel set one fee to cover the work of both attorneys and in his office collect as large a retainer as possible. This will usually eliminate the possibility of the client later falling into the hands of "runners" after this sort of business. The counsel in the jurisdiction of the original domicile is the logical person to set the fee because he is in a position to know, or can learn the financial condition of the client and the amount of work and responsibility that will be involved in the case. Experience has shown that the better class of divorce clients are referred by reputable lawyers whose judgment and integrity can be relied upon and therefore usually, Reno attorneys are entirely willing to have the other counsel decide what the fee should be and receive retainer for both lawyers. In most cases a Reno attorney is an asso-

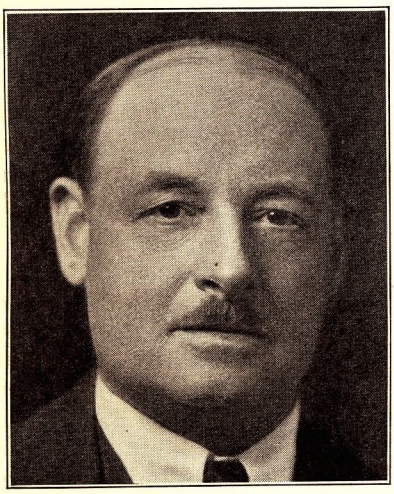
ciate counsel and in many ways is a "lawyer's lawyer."

There are many well-known corporation and departmental lawyers who cannot afford to handle a divorce case in their own jurisdictions because the local laws are such that most divorce decrees are obtained through collusion and perjury. In Nevada the condition is very different: we have considerable practice in livestock, range, and water litigation and also in the mining field, but divorce is by far the most lucrative field of legal practice in the city of Reno. Under our statutes divorce practice is not unpleasant or lacking in dignity, and all the leading lawyers spend much of their time in the divorce courts.

The liberal laws of Nevada have afforded relief to miserably unhappy people from every state in the Union. Enshrined in the memories of those people are vivid mental pictures of that white impressive "Palace of Freedom"—the Washoe County Court House in Reno. Thousands of men and women, who were once unhappily married, recall with appreciation the day they climbed the marble stairs to freedom and the beginning of a new life in which they might profit by the mistakes they had made.

Twenty-Five Years Ago

By GEORGE E. FINK
Past Supreme Justice



IT would seem that "Twenty-Five Years Ago" is just as far back from today, viz: a quarter of a century, as when I started these articles at the request of the Supreme Editor. Contributions from "old timers" sent to me will be gratefully received. As Harvey Woodruff says: "Help, Help."

●

ON FEBRUARY 6TH, 1910, the City Law Club, an organization of Chicago Phi Alpha Delts, staged an entrancing little musical comedy, "A Day in School," the performance being given for the benefit of the Joint-Chapter House at 353 La Salle Avenue. A neat sum was realized and turned over to the management of the House. Of the cast of thirty, all but sixteen were members of the Fraternity, the sixteen being beautiful young ladies. A reception and dance followed the affair. Brothers Thomas Lindskog (Fuller), later Supreme Financial Secretary of the Fraternity (1909-10), and Guy Shearer, were given credit for the successful production.

●

ON FEBRUARY 19TH, 1910, Webster, Blackstone and Story Chapters staged another joint initiation, taking in eleven candidates. The preliminary work was unusually strenuous and when the survivors lined up for the final charge, they resembled a blindfolded minstrel troupe that had gone through a labor riot. After the ceremony, the participants enjoyed a purity banquet at Vogelsang's, the principal article of purity being "Bock" beer.

●

THE MARCH 1910 Issue of "Phi Alpha Delta," as our national magazine was then called, contained an article on "Own Your Own Home," by Samuel H. Roberts, then Supreme Justice of the Fraternity. He stated that three-quarters of the Chapters had their own habitations, and deduced that the Fraternity had reached a high stage of development, the "brick and mortar stage." In more recent years, some of the Chapters have had considerable difficulty holding their brick and mortar together.

●

ON MARCH 17TH AND 18TH, 1910, the Phi Alpha Delts in Chicago, with other organizations, acted as hosts to President William Howard Taft, who had been taken into the Fraternity a year previous. Brothers Rutledge, Fink, Halley and Dolan served on the reception committee.

●

THE CHICAGO JOINT-CHAPTER HOUSE at 353 La Salle Avenue was surrendered to the Trustees of a Jewish Synagogue, and a new location for the Fraternity

House was chosen at 11 East Delaware Place. The new House was as large as the old, and in fact better equipped for the purpose.

●

R. MURRAY MORFORD, former Steward of the Chicago Joint-Chapter House, was married on March 1st, 1910, at Seattle, Washington. It was then believed, and Morford at this late date admits that his experience as Chapter House Steward has served him in good stead in conducting his own household.

●

BEN E. BUSH was initiated into Benton Chapter twenty-five years ago.

●

TWENTY TO THIRTY active and alumni Phi Alpha Delts were meeting for luncheon daily in "The Irish Village" at the Boston Oyster House.

Arthur Burke Koontz of West Virginia was Justice of Calhoun Chapter, Yale University, with Murray Ashbaugh as Vice Justice and Edward Earle Garlick of Connecticut as Treasurer.

●

FRANCIS B. KEENEY and Willard T. Barbour of Campbell Chapter were elected to membership in Phi Beta Kappa at the University of Michigan.

●

LITTLE ROCK, ARKANSAS: Douglas Heard, Justice of Garland Chapter, was elected Justice of the Peace. His Chapter felt that this election would be of practical benefit to them. Brother Heard was Supreme Financial Secretary of the Fraternity in 1907 and 1908, and a conspicuous figure at many of our later conventions. He has since passed to his reward.

●

ON MAY 27TH, 1909, Judge Stephen Simpson Ford, Judge of the Common Pleas Court at Cleveland, was initiated an honorary member of Hay Chapter at Western Reserve University.

●

HAY CHAPTER had just taken commodious quarters in Adelbert Hall.

CONGER G. ROADS had just been initiated into John Hay Chapter. He became Supreme Marshall in 1911; Supreme Treasurer in 1912; Supreme Recorder in 1913 to 1919; member Board of Tribunes, 1919. George S. Meyers (Hay Chapter) was President of the Third Year Class at Western Reserve University Law School and was Treasurer of his Chapter. Brother Meyers is now Secretary of State of the State of Ohio.

●

HAMMOND CHAPTER in the spring of 1910, took up a new chapter home at 128 North Clinton Street, Iowa City, within two blocks of the then fine new College of Law Building.

●

MAGRUDER CHAPTER had moved into a better and larger House at 408 E. Green Street, Champaign, Illinois. Brother Oscar W. Hoberg of this Chapter had been taken into the Honorary Law Fraternity of Theta Kappa Nu. Brother Hoberg later became Editor of our national magazine, and continued as such from 1910 until 1919. W. P. Halliday of Magruder Chapter was State Representative of the Twenty-second Illinois District. Harry C. Moran of Magruder Chapter, one time Supreme Marshal of the Fraternity (1908-9) was elected Judge of the City Court of Canton, Illinois, twenty-five years ago. He is now located in Chicago and served for a long period as one of its Municipal Court Judges. He is practicing law at 111 W. Washington Street, Chicago.

●

OCTOBER 1ST, 1909, John P. Friedland was initiated into Webster Chapter, Chicago, Illinois. Brother H. R. Saltmarsh (later Supreme Second Vice Justice of the Fraternity) was elected President of his senior class at University of Oregon Law School. John H. Payne and Malcolm H. Clark were respectively Vice Justice and Historian of Williams Chapter twenty-five years ago.

Supreme Secretary's Page

By FRANK M. LUDWICK

One of the most important of all our activities is the publishing of accurate directories at regular intervals. This must be done to keep our files up to date, to keep the men in the collegiate chapters advised and acquainted with the alumni of their chapters, to maintain social contact and to make possible the interchange of legal business.

Our last Directory, ably edited by Lawrence Lytle, was published by Martindale's Fraternity Directory Corporation, two years ago. It is now time to republish. Unfortunately similar arrangements cannot be made this year. Some time ago we were approached by a Detroit concern using the name of "Insurance Attorney's List," which concern expressed a desire to publish a Directory for us. While negotiations were pending and an investigation being made as to their reliability, without the authorization or consent of the Supreme Executive Board, or of any officer or member of the Fraternity, this concern representing itself to be entitled to be affiliated with The Phi Alpha Delta Law Fraternity, sent to many of our members a questionnaire and subscription blank. As soon as this action was discovered they were ordered to stop all activities and the matter was placed in the hands of one of our members in Detroit. The postal authorities are making an investigation at the present time. We immediately attempted to reach all of our members through our various alumni chapters so that none of our members would send in any money to them. It has been thought advisable to publish this explanation in our magazine as well so that if any members have not been reached they will be advised. We have not yet discovered any members who sent in their subscriptions. If any have they should immediately contact the office of the Supreme Secretary.

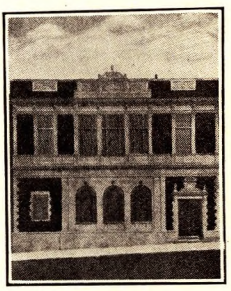
The suggestion of the Convention Directory Committee has been adopted and the May issue of the REPORTER will be used for the purpose of republishing the Chapter Manual and in addition there will be included the Geographical listing of all members. Subscribers of the magazine will receive this directory at no additional cost, and their names will be printed in black-faced type. (Better get in that check for subscriptions, brothers, Alumni Chapter officers please note.) Every effort possible is being made to bring this Directory up to date. Alumni and Active chapters, as well as individual members, are urged to forward any corrections in addresses to the Fraternity headquarters.

ACTIVE CHAPTER NEWS

BENTON

Kansas City School of Law

■ Benton Chapter held its Founder's Day Banquet in conjunction with National PAD night. The affair was an outstanding success both financially and socially. A number of visitors from Greene Chapter were present and the Greene Chapter justice spoke before the gathering.



At a recent meeting, Charles Carr, head of the Kansas City Public Service Company's legal department, was elected Justice of the Alumni Chapter. He pledged himself to an active alumni chapter which would at all times cooperate with the active chapter.

Brother Thurber Kelley continues Benton's proud record by being elected President of the Senior Class. A PAD has held this office for the past three years.

BLACKSTONE

Chicago-Kent College of Law

Blackstone Chapter held its February initiation at the Hamilton Club. Guests speakers were former Judge Brother William Helander and Brother William O'Shea. Brother O'Shea gave a very inspiring message to the new men.

The Chapter joined the four other active chapters in the Chicago area and the Alumni Chapter in the celebration of National PAD Night, at the Drake Hotel. Everyone had a wonderful time mingling with the 1000 PADs and their friends.

Brother John Hoag was elected to the Round Table Honorary Society at Kent as a result of his scholastic achievements during the past semester.

FLETCHER

University of Florida

■ Recent months have been full of activity for Fletcher Chapter. Immediately before the Christmas Holidays the Honorable Scott M. Loftin of Jacksonville, Florida, President of the American Bar Association, addressed the law school student body under the joint sponsorship of Phi Alpha Delta and Phi Delta Phi.

The local chapter journeyed to Jacksonville to attend the alumni banquet. It was an outstanding affair and was ably presided over by former chapter justice Ed Larson, who is now U. S. Collector of Internal Revenue.

Another interesting and informative event was a jointly sponsored meeting to hear the address of Claude Pepper, one of Florida's outstanding lawyers.

Brother Duncan Fletcher, U. S. Senator, and Brother J. Hardin Peterson, U. S. Congressman, have returned to Washington to take over their duties of state.

Brother John M. Brown was honored by election to the presidency of the Florida Blue Key Society. Brother Brown is an outstanding campus leader and besides his activity with PAD is a member of the Phi Delta Theta social fraternity.

Brother J. G. Horrell, who graduated last month, is returning to Orlando to engage in legal practise.

On March 8, Fletcher Chapter initiated one of the most promising pledge groups in its history. Included among the 12 initiates are the President of the University of Florida Student Body, the Secretary-Treasurer of the Student Body, the President and Vice-

President of the Freshman Law Class, and the Vice-President of the Senior Law Class.

James M. Carson of Miami, one of the State's most outstanding attorneys, spoke before the University Law School late in February. The largest crowd in the history of the Law School attended. His subject was "Experiences in the Criminal Law Field." The talk was excellent and most informative. Following the address a banquet was held in honor of Mr. Carson and the pledges.

On March 12, members of Fletcher Chapter journeyed to Tallahassee to be guests of the Florida Supreme Court and were given an opportunity to see the court in action as well as meeting many distinguished brothers. Justice William Ellis (Brewer), and Justice Fred Davis (Fletcher) are both members of the Supreme Court.

Brothers Wurm, Cohoe, Brown and Gardner were honored by being placed on the University Honor Roll for the first semester. Only eight out of the entire law school were so honored. It might be added that two of the initiates, William Sherrill and Alvin Hamilton, were also on the honor roll. Brother John Brown is now President of the University of Florida Blue Key, outstanding campus leadership society. This is considered an outstanding honor.

GREEN

University of Kansas

■ Thus far our chapter has had a very successful year. The annual fall party was held on Friday night, October 26, from nine until twelve. It was held in the Memorial Union Building, Louis Kuhn's orchestra furnishing the music. The Benton Chapter of the Kansas City School of Law and the Benson Chapter of Washburn College were invited. The latter chartered a bus and came in a body. Apparently everyone had a wonderful time.

We have been continuing the program of having one of the professors or a prominent lawyer of this territory speak on the practical side of law or any other matter which the particular speaker wished to express. These talks have proved very interesting and enlightening. The meetings are held once or twice a month and will be continued throughout the second semester.

Shortly before the Christmas holidays, the chapter held an initiation at the chapter house. Brothers Leonard Birzer, Thomas Mustard, and George A. Hulteen were initiated. A second initiation is being planned for those members of this year's freshmen class who are now eligible.

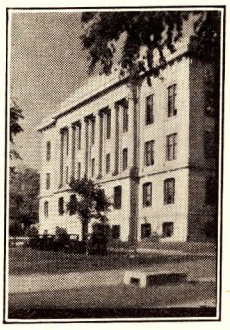
The Chapter entered a basketball team in the inter-mural sports competition and finished fairly successful. Plans are underway for an extensive sports program for the spring.

A semi-formal dance was held on March 22nd with Benton Chapter of Kansas City and Benson Chapter of Topeka as guests.

HAMMOND

University of Iowa

■ Hammond Chapter is nicely located this year in their comfortable quarters in the new Law Commons. Dean Gilmore, President of the University, and brother PAD, has finally realized his dream in the completion of the Commons where all the law students live together, and as a result are a better organized group.



The chapter has pledged sixteen new members so far this school year. Outstanding members of the Freshman Class, they assure PAD of a stronger chapter at Iowa.

The social events of the year so far have included two banquets and

smokers, held at the Memorial Union, at which active and pledge members gathered with members of the faculty as guests of honor. December nineteenth was the date of the annual "Barristers Ball", the Laws formal party. Brother Schauland, one of the five committee members, represented PAD.

The outstanding event of the Law School at Iowa is Supreme Court Day held in April of each year, at which time four seniors selected by a process of elimination since their Freshman year, argue a case before the complete Supreme Court of the state of Iowa, members of which are guests of the Law School on that day. This year PAD is proud to be represented by Brother Dale Missildine whom all feel certain will bring further honor to the fraternity. The Chapter is also represented on the various committees by Brothers Sternberg, Isensee, Sohns, and Pledge Brother Fred Morain.

HARLAN

University of Oklahoma

■ Harlan Chapter has been bustling with activity and carrying on a very successful pledging campaign. One pledge while awaiting initiation was elected to the Oklahoma State Legislature and withdrew for the year.

Plans are now underway to inaugurate an annual Chapter News Letter to be sent to all PAD in Oklahoma State.

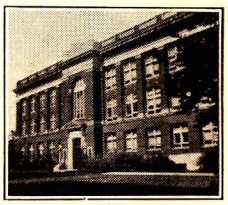
Weekly meetings are being held at the Union Building. Talks are given by PAD faculty members and visiting alumni.

Every law school prize given to men of the class of '35 or '36, with one exception, went to PADs.

REESE

University of Nebraska

■ Reese Chapter received marked distinction for scholastic standing in the first semester of this year. In the senior class Justice Wiltse stood in second place, only a fraction of a point below the man in first position. Brother Johnson placed fourth in the senior class. In the junior class Brothers John Landis, Claude Cumming and Walter Stedman ranked well up toward the top. The freshmen especially covered themselves with glory. Five of the top men in a class of 89 men were PAD pledges. Sawyer, Olsson and Struthers occupied second, third and fourth places respectively and were closely followed by Clemans and F. Landis. Justice Wiltse is also instructor in Legal Bibliography at the Law School.



The biggest and most successful formal dance ever held by the chapter took place on February 2, at the Lincoln Hotel. More than 650 persons attended the formal. Professors Orfield and Nutting acted as chaperons. Many members of the faculty, judges, alumni and prominent attorneys were guests. The formal was additionally honored by the presence of Nebraska's Governor, Roy L. Cochran and Mrs. Cochran. A splendid orchestra furnished music which was broadcasted over local radio stations. Reese Chapter members expressed their gratitude to Vice Justice Raymond Wicker, social chairman, for the success of this outstanding evening.

Brother John C. Landis was a member of the University of Nebraska debate team which tied for first place in the Rocky Mountain Conference Debates held in Denver in February. Teams from Colorado, South Dakota, New Mexico, Utah and Iowa participated. Brother Landis was also awarded Indi-

vidual honors tieing for first place in the oratorical contest.

Brother Weberg has been elected vice president of the Lancaster County Young Democrats Club in Lincoln, Nebraska. He is also a delegate to the State Convention. Brother Piper is the outgoing president of the club, while Brother Holtzendorff is prominent likewise in young democratic activities.

Reese Chapter's basketball team is fighting hard for a championship in the Intra-mural Basketball Tournament, at Nebraska University. Brothers Johnson (athletic manager), Keller, Stedman, Cumming and Paine, and Pledges Clemans and Everson are stellar performers.

Formal initiation was held by the chapter on the night of February 13, for Justice Bayard H. Paine of the Nebraska Supreme Court, who has been elected to Honorary Membership in Phi Alpha Delta. Justice Edward F. Carter, Professor Lawrence Vold, Professor Lester B. Orfield and other prominent Phi Alpha Delta Alumni honored the chapter with their presence on this occasion.

TEMPLE

Hastings College of Law

Simultaneous with the Founder's Day parties being held by our other chapters, Temple Chapter and its alumni gathered in the special banquet room of the Hotel William Taylor in San Francisco. A list of the names of those present would read like a who's who in the legal and political life of this city. The Honorable David Snodgrass, professor of law and counsel for the Associated Oil Company, presided as toastmaster. The program which started with the formal pledging of rushees and the initiation of the Honorable Louis H. Ward, Judge, as an honorary member, culminated with a series of short remarks from many of our prominent alumni, including our Past National Supreme Justice, George Stewart

Another interesting sidelight on the affair was the retirement of the Honorable Lionel B. Browne, Deputy Attorney General, as Western District Justice of Phi Alpha Delta, and his introduction of his successor in office, the Honorable Folger Emerson, Assistant District Attorney of Alameda County, California.

At 8:30 o'clock on that night of February 16, Temple Charter, for the first time, went "on the air". Through the courtesy of the Don Lee Columbia Broadcasting System the address of the Honorable U. S. Webb, Attorney General of the State of California, our principle speaker of the Founder's Day dinner party, was broadcast over KFRC and associated stations.

Within a fortnight Temple Chapter again participated in a not soon to be forgotten affair. Joined with Field Chapter we conducted a joint initiation of candidates. The ceremony was impressively executed in the new Egyptian type Chambers of the United States District Court for the Ninth District. The initiatory ceremony was followed by a very enjoyable formal dinner presided over by our new Western District Justice, our genial brother Folger Emerson. Our newest honorary member, Judge Louis H. Ward, spoke to us concerning proposed legislative measures effecting the judiciary now before the State Legislature. Among our honored guests at the dinner were the deans of the two law schools.

The coming week will witness in Temple Chapter one of its most important and spirited business meetings of the entire academic year. We are soon to have the nomination and election of officers for the coming year. For the last time in this year so filled with troubles and successes, the Temple boys will gather around a festive table before the first of the coming month to install in office those men in whom they have placed their trust to guide the destiny of their chapter for the coming year and to do honor and pay respect to their fellow brothers who are this year graduating.

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