

FOOTPRINTS OF JUSTICE

. . . In San Diego

and

PROFILES

of Senior Members of the Bench and Bar

By

LELAND G. STANFORD

With Pen Sketches and Portraits by

MARION HILL BRESSETTE

SAN DIEGO COUNTY LAW LIBRARY

1960

INTRODUCTION

By HON. PHIL D. SWING

As one who had read the articles found in this book as they appeared from time to time in The Daily Transcript, I felt they should not be lost to the profession or the community. They are the fruits of endless hours of research by Mr. Stanford and are told in a picturesque and highly entertaining manner. I accordingly suggested that they be published in book form and offered to help in every way possible.

I am happy that the suggestion has met such widespread and generous response from the Bench and Bar whose financial contributions have made a worthy project possible.

EXPLANATION

In the fall of 1959 the publishers of The Daily Transcript expressed interest in securing a series of biographical sketches of older members of the San Diego Bench and Bar. The result was "Profiles", as reprinted in the latter half of this volume.

A different series, called "Footprints of Justice in San Diego", soon began to be published concurrently with the biographies. These articles were illustrated with clever pen sketches by Mrs. Marion Hill Bressette of the county law library staff, and dealt with local courts and their associated problems, pleasantries and personnel during the century following statehood in 1850.

The idea of a published volume was little considered until a growing total of generous comments apparently induced some persons to think that they detected an unexpected cohesiveness in what originally started out as a group of wholly non-integrated separates.

Both Carlyle and Emerson — from different lands, and in somewhat different words — said that there really is no such thing as history; only biographies of our greatest men. Through processes of strained reasoning, based upon an equivalent of the Carlyle-Emerson expression, it might be claimed that these pages constitute a history of San Diego's bench and bar. But that conclusion is not justified.

Many of the greatest names in San Diego's roster of lawyers and judges suffer an inordinate slighting in these articles. The reason should be understood by every reader, and in particular by anyone about to be shocked by some complete omission or by some related inconsequencia amounting to little more than a damning with faint praise.

The biographical "Profiles" attempted to discuss only living and senior members of the bench and bar, and even some of these were not mentioned because of difficulties encountered in the search for data.

For "Footprints of Justice" the main objective was to secure information concerning, and photographs of, the early judges in San Diego. More than from any other portion of these present writings, perhaps the best contribution to the profession and community comes from the hundreds of hours of research given to this historical project. Commencing about 1900 the investigations naturally showed less of a dearth of biographical information, and therefore the judges who were discussed in the later "Footprints" were mentioned in an increasingly general and casual way.

In spite of the obvious historical inadequacies of any writing program such as the one that resulted in the publishing of this book, it is interesting* that there are ten lawyers in San Diego whose average years of practice is for a period longer than the current 60 years of the 20th century. The

ONE

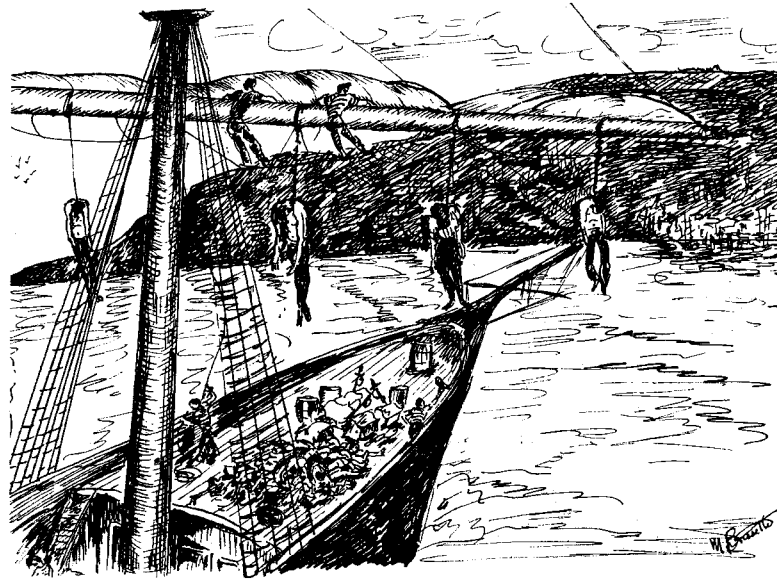


EXHIBIT A. (Also B.)

"A" stands for Arvaez. As exhibit A he was a pirate hanging by his neck from the yards of the "Grendo," a ship from New York docked at San Diego.

A couple of dozen fellow-freebooters also had their boots dangling free beside those of Jose Arvaez. Admiralty jurisdiction thus administered one of the earliest instances of justice in the American city by the silver gate.

The gold rush was on in northern California. Southbound ships from San Francisco carried fortunes in yellow metal, and their owners, toward the security of east-coast cities.

Arvaez gathered a pirate band, acquired an armed schooner in Mexico, and took over the Coronado islands as a base for raiding the coastal trade. After several lucrative hauls his troubles began when he captured the Chel-

biographical "Profiles" of such elder legal statesmen, and their contemporaries, have a tendency therefore to supplement the more thoroughly researched legal history of the county's first 50 years.

It is impossible to mention here the many scores of persons whose information and other aid has made possible the preparation and publishing of these articles. The omission of the following names, however, would constitute an inexcusable dereliction. The patience and cooperation of the publishers of *The Daily Transcript* has exceeded all possibilities for overcommendation. The Union Title Insurance Company, and Mrs. Marion F. Grant, its librarian, have given their customary generous assistance with pictures and data. Our fellow lawyer, Irvin J. Kahn, early agreed to underwrite the cost of publishing the book. The talents of Mrs. Marion Hill Bressette, both in research and in her outstanding pen sketches of people and events, deserve more praise and appreciation than is possible in a single sentence. The Hon. Clarence Harden, judge of the superior court and president of the county law library's board of trustees, has gone far beyond the call of duty in his thoughtful giving of aid and encouragement. Finally, certain very helpful business firms have requested that they remain anonymous.

The project of publishing this book "jelled" when superior court judge, the Hon. Dean Sherry, spoke to the Hon. Phil D. Swing, formerly superior court judge of Imperial County and subsequently nationally-famed congressman from this district (for the past many years a practicing attorney in San Diego), asking him to become trustee of funds to be contributed to make the book possible. Mr. Swing acceded, and mailed out many notices. Dozens of lawyers sent in personal checks, and the directors of the San Diego County Bar Association provided funds to have the volume include historical pictures of the local bench and bar. Judge Sherry was helpful at every stage of our endeavor.

The enterprise has been wholly non profit. The long-range interest has been to perpetuate information that should not be permitted to become forever lost; and the immediate purpose has been to have all financial returns delivered to the trustees of the county law library to buy new and better law books to aid the effective administration of justice in this community.

Thus did "Footprints" become available for the fingerprints of the present reader; thus did some of us, denied a full-faced view of yesterday's justice, become acquainted with her appearance,—in "Profiles."

FOOTPRINTS OF JUSTICE

. . . In San Diego

sea, of Liverpool, seized the booty, burned and sank the ship, and murdered all on board except a cabin boy named Tom Bolter.

Bolter bolted respectable shipping, and joined the pirates. Later he quarreled with Arvaez over shares of loot and, after being knocked down by the leader, started to spend five days under compulsory double guard while the balance of the cutthroats toured the blue sea in search of that associated California color—gold.

Treacherous Tom managed to kill his guards. Usurping the pirates' small fishing yawl, and all the gold that he and it could carry, he sailed across to La Playa (San Diego), where he reported the piratical operations to Captain Belleu of the Grendo.

It must be remembered that for over two centuries "San Diego" was naught else than the little maritime village of La Playa adjacent to Ballast Point near the bayside tip of Point Loma. Its streets and adobe houses now are completely obliterated and lie within the confines of Fort Rosecrans, the military reservation established in 1852. During the early nineteenth century, however, this same La Playa (not the later city subdivision bearing the name) was the largest hide loading port on the west coast, and for many years thereafter served as the only ship landing for the small community that was developing around the presidio at the entrance to Mission Valley—now known as Old Town.

After Tom Bolter's report Captain Belleu collected 150 vigilante-minded sailors and landsmen and sailed to the Coronado islands. Their ship was anchored on the east coast, out of sight from the pirate landing on the west.

When the unsuspecting buccaners returned they came ashore unarmed. A few were shot down, and the rest of them were surrounded and captured. Within minutes the universal sentence for piracy was given and executed.

The schooner of Arvaez, and his fantastic accumulation of literally shiploads of gold and other treasure, were returned to La Playa. The vessel was sold, and the total swag divided among the dispensers of justice.

Report has it that Arvaez died an irate pirate. He was so incensed with Bolter's treachery that he practically choked on his own string of oaths before choking from the other stringing.

Exhibit B—Bolter—became a wealthy and influential man, although some contemporary grumblers maintained that as a confessed pirate and traitor he should have been hanged higher than his erstwhile mates.

Justice in the 1850s was not spelled with a capital "J". More often it was spelled: capital punishment.

TWO



JAIL DELIVERY (With two meanings)

This is a story of events in 1850-51, but for purely personal reasons it will start 65 years later.

Just before World War I the City Council of San Diego, inspired probably by altogether proper historical influences, decided to change the name of the street on which we lived to "Haraszthy Street."

With deep spiritual restraint my mother pronounced the multi-consonant surname a few times, and then said of the Council, "Harass thee! Sure they can!"

With somewhat less restraint my father threatened—if such a misnomer were brought about—to kick each Council Member's physical equivalent of the center of "Haraszthy" clear to H (merely two letters away)!

Both parents joined dozens of other citizens in petitions and speeches. Today the street is not Haraszthy. It is Linwood. And perhaps there is a reason,—in addition to the stuttering difficulties of the Czechoslovakian name.

The first justice of the peace in San Diego, under the new State's laws of 1850, was an Hungarian immigrant named Charles Haraszthy. He was also President of the City Council, and he was the father of Agostin Haraszthy, the first local sheriff.

The elder Haraszthy's methods of doing business are reflected by reports of other citizens, such as Captain Israel who served as marshal of the justice court. Israel wrote that the J. P. gave judgment wherever the net result would bring fees to the court. Right and wrong apparently were side issues.

According to the marshal in one instance a "shudgment" was entered against Blount Coutts for the amount proved to be owed to Coutts by the other litigant who had started the suit, but who had no means for paying court costs. The "costs" were what paid the justice for his services.

"I'll be damned if I'll pay it!" said Coutts, stalking out of the courtroom. "Vell," says Haraszthy to me, "vat ve goin' to do, now?" "Well, enter judgment against this Mexican." "Vell, but dis man, he got no moneys. Ve must gif de shudgment to de man vhat gifs us de pizness."

About this same time it was decided that the J. P.'s son, Sheriff Agostin Haraszthy, should have a jail.

Bids were let. One firm offered to do the job for \$3000. But the elder Haraszthy, as President of the Council, engineered the letting of the contract to the Sheriff himself for \$5000. An added \$2000 was given for alleged damage by rain during construction. The largely unpaid balance owing to the Sheriff bore the somewhat immodest rate of interest of 8% per month!

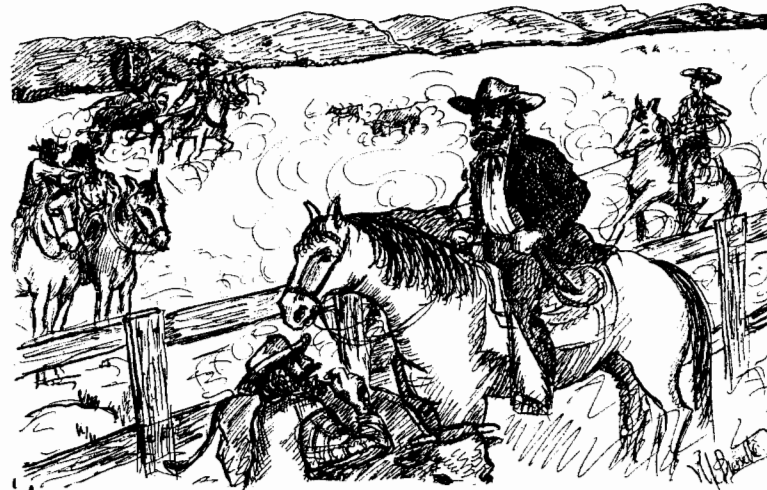
The construction of the calaboose, as officially delivered to the town, was cobblestones in mud walls without a trace of cement. The first prisoner promptly was delivered therefrom through a hole quickly carved in the main wall. The town trustees resigned in a body in order to prevent collection by Haraszthy of the amount allegedly due him. In the late 1860's the old building served as the first County hospital.

An iron cage replaced the cobblestone jail. It had a wooden floor, and roof, six by nine feet. The ceiling was seven feet high. It must have been effective, for as late as 1908 it had been transferred to Tent City for use as the Coronado jail.

Between the first jail delivery and the iron cage era there was no place to house prisoners. The walls of the old cobblestone jail occasionally were used for target practice, however, and coincidentally at such times the latest captured thief often accidentally collided with one of the bullets.

Life was raw in the period betwixt the old stone age and the iron age.

THREE



COWPEN COURTROOMS (Everyone had a brawl!)

California's legislature in 1851 enacted that in San Diego County, and also in others, "Every owner of a stock farm shall be obliged to give, yearly, one general Rodeo . . ."

Therein lies a story dealing intimately with the administration of justice!

During the quarter of a century before the United States took over California the most flourishing hide-droghing business in the nation was at the old La Playa de San Diego near the bayside tip of Point Loma. Ships from the east coast could carry from 25,000 to 50,000 hides. Vessels loaded millions of them for New England markets, and also millions of pounds of tallow for South American ports.

Furthermore, in the days of '49 the Southern Californians were less interested in searching for gold than in profitably furnishing meat to the searchers. From small beginnings, when seven beasts were brought to San Diego in 1769, the time came when the county's hills were black with cattle.

The extensive expansion of stock farming in an unfenced domain created complications that required the aid of the law.

In simplest terms the compulsory Rodeo (spelled in the statute with a capital R) was merely a gathering together of all the stock of one owner so that neighboring ranchmen could inspect with full propriety the collected herd, and separate animals belonging to them. After sufficient time for such an inspection had elapsed, the owner was permitted to proceed with his spring branding.

In actual social practice the annual roundups were a sort of frontier Mardi Gras with "horse racing, bull fights, cock fights, feasting and dancing." Most communities had numerous ranchers, and therefore a continuous Rodeo season from April until July.

There were of course, in some areas, squabbles concerning brands and ownership of stock. These problems and the enormity of the industry brought into being a group of judicial officers of utmost importance: Judges of the Plains (Jueces del Campo).

The courts of these Judges of the Plains, in the bawling, brawling pandemonium of the roundups, wherein was invested nine-tenths of the wealth of each Southern California county, meted out speedy justice in an area of the law diametrically opposite from, yet fully as important as, the law merchant courts of medieval Europe.

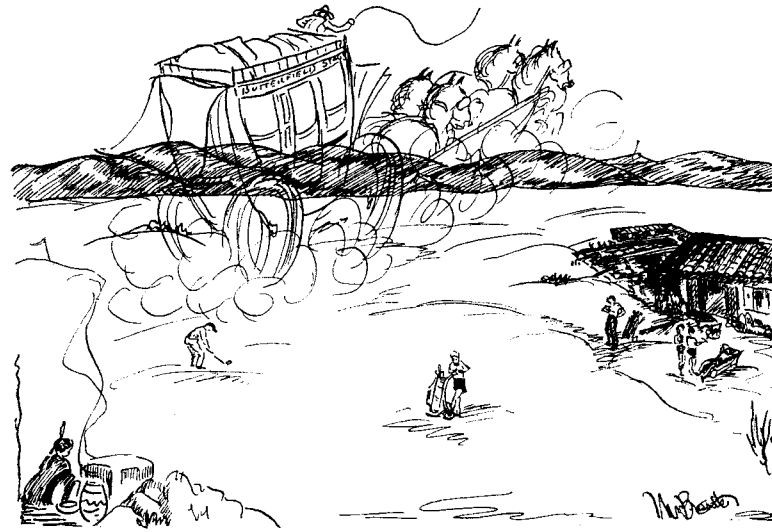
To be a Judge of the Plains was a high honor during the Mexican period in California. The respected office was transplanted into the American regime by a statute of 1851, and, strangely enough, as this is written in 1960 the California Penal Code, Section 23, provides that among enumerated statutes specifically continued in force are "5. All Acts in relation to Judges of the Plains."

In addition to seeing that Rodeos were held and managed as required by law, another important duty of Judges of the Plains was to protect their local stock owners from the intentional and accidental ravages of itinerant drovers of herds of sheep and cattle who frequently augmented the numbers of their flocks by a kind of agisterial avulsion from the littoral fringes of herds through which they passed. Seasonal movements of stock for pasture, and to shipping points, made such infringements of property rights a constantly grave community danger.

Drovers were compelled by law to carry certificated lists of their herd numbers, brands and breeds. Each Judge of the Plains was expected to meet such roving stock, inspect them, "and accompany them out of the precinct . . ."

The courtrooms of these men were cowpens and open ranges. Their woosack was a saddle. No appeal lay from their decisions unless taken within twenty-four hours. They only, of all American jurists, drew a portion of their judicial emolument for the specific purpose of watching the bull being thrown in court.

FOUR



WARNER'S RANCH. (In Hot Water!)

Our favorite resort is in the lovely and restful Valle de San Jose y Agua Caliente. Its ten square leagues, Mexican measure, are situated some 50 miles northeast of San Diego, as the crow flies, and amount to 45,000 acres. (The English square league would have a 30% greater area.) In this valley lie Lake Henshaw, the Boy Scouts' Camp Mataguay, and Warner's Guest Ranch and Hot Springs.

Somewhat over 100 years ago tranquility was as rare at Warner's as the occasional dusty jet stream from the old Butterfield Stage and mail line (operation commenced in 1858) whose coaches thundered in at five miles per hour and changed horses at the Valle de San Jose corral on the 25-day trek between San Francisco and St. Louis.

At that date the Warner Rancho had more than springs of hot water. It had caldrons of boiling passions, and volcanoes of seething hates. There they inflamed the "ice" out of the word justice, and branded with fire the initials UN as a prefix to the letters that remained.

This is the big whodunit question: who was the biggest cutthroat in the Valle de San Jose?

In 1840 one Jose Antonio Pico received a Mexican grant to four square leagues, including the hot springs. In 1844 John J. Warner received a similar grant to the other six leagues in the valley. Four years later Warner received a second Mexican grant to certain of the valley land. Incidentally, Warner was San Diego County's first state senator, serving from 1850 to 1852.

On May 31, 1852, Warner filed a petition to have his title confirmed under authority of the appropriate statute of the preceding year. Thereupon commenced 28 years of financial bleeding for attorney fees and other outrageous, seemingly endless, and ruinously expensive costs that continued far beyond the dates of death of Warner and his wife, through commission hearings, court trials, and appeals, until the final confirmation of title in 1880.

Four months after filing his petition Warner borrowed \$2500 and mortgaged the ranch for three months. The interest was 5% per month, compounded monthly! This is typical of the whole Rancho story in California. Men borrowed small amounts with interest rates that they did not understand would double or treble the obligation within one year.

Cruel costs and interest rates wiped out most of the rancheros the hard way. One Spanish owner, for instance, lost his 17,000 acres through foreclosure on a large debt compounded from a mere \$50 Christmas season loan. He committed suicide.

In 1854 Warner had to refinance with an \$11,000 loan at 3% per month. In 1856 \$21,710 was due, and foreclosure occurred.

Legal battles multiplied. Mrs. Warner claimed a homestead. This was met by answer that no one had lived on the place since 1851. The replication was that an Indian uprising in November, 1851, had caused the Warner ranch house to be burned, hundreds of head of stock to be stolen, and several persons to be murdered. The family was afraid to return.

The raid had been led by one Bill Marshall, a deserted American sailor who was living with the daughter of an Indian leader. He was caught, tried and hanged. Antonio Garra, one of the captured chiefs, died before a firing squad.

The very first case in the California Supreme Court Reports that has been noticed by this writer as having originated in San Diego's judicial district is entitled *Moss v. Warner*, 10 Cal. 296. It sustained the Warner claim of homestead to the extent of one square league. The other five leagues were sold to the mortgagee for \$500!

In 1858 the Warners had to mortgage the homestead. It was the beginning of the end. Foreclosure in 1860 apparently wiped them out.

For the following two decades, in the hundreds of pages of the official title search and report, many new names along with a few Warner heirs struggle in litigious frustration. The Warners died. Finally, 28 years after

the filing of the petition, the United States confirmed the title and issued its patent.

But for what?

One Francisco Pico immediately filed action alleging that Warner unwarrantedly had had his own claim confirmed, and that while he acted officially as the trusted agent and close friend of his neighbor, Jose A. Pico, the latter's claim, strangely, was denied; and that, equally strangely, the actual title confirmed in Warner covered most of the entire valley, including the hot springs on Pico's property!

Again the California Supreme Court rendered a decision, *Pico v. Warner*, 73 Cal. 17. Pico lost.

Hot sulphur water continues to flow at the Warner spa. There are those who detect about it an evil smell.

FIVE

**AS HIGH AS OHIO (and bigger!)**

On February 18, 1850, San Diego county was created by the first California legislature.

On that identical day the surviving remnants of the ill-fated William Lewis Manley emigrant party were crawling tortuously out of the alkali trap in San Diego county that they so appropriately had called "Death Valley."

For San Diego county—larger than the state of Ohio which furnished her first district judge,—included Death Valley when California became a state! Its area extended as far north as Monterey Bay—but on the side adjacent to Utah Territory. There was no Nevada and no Arizona. For nearly three hundred miles along the southeast the raging Colorado gnawed at the county's alluvial margin. There were no Imperial, Riverside, or San Bernardino counties.

Even poor little Los Angeles county, to which the legislature gave birth as second thought, looked like an after-thought. It wasn't much over one tenth the area of Brobdingnagian San Diego which hemmed it in.

Then the predecessor of the Los Angeles Chamber of Commerce must

have gotten busy. It went out for water, and it got it! In 1851 San Diego county was cut to less than half its original size, and the area of the county of Angels was increased by 60%, and its borders extended to include many miles of the Colorado river shoreline.

Two years later, however (1853), the larger eastern portion of Los Angeles county was divided off to form San Bernardino county. The area now known as Riverside county remained a part of the county of San Diego until it became a separate entity in 1893. Imperial county was created in 1907, leaving San Diego county with about 12% of its 1850 size.

On March 16, 1850, California was divided into nine judicial districts. The first of these was composed of the counties of San Diego and Los Angeles, an arrangement that continued for 13 years.

The judge selected for initial service in the vast jurisdiction delineated in 1850 was Oliver S. Witherby, a thirty-five year-old San Diegan who had been elected to represent his community at the 1850 meeting of the State's first assembly at Monterey. The same legislature appointed him judge.

For very substantial reasons this able man has been called the father of the bar in San Diego. For many years his picture hung in Department One of the superior court in the old court house. It now is in custody of the law library.

Judge Witherby was born near Cincinnati, Ohio, February 19, 1815. He was graduated from Miami University, studied law in Hamilton, Ohio, and entered practice in 1840. An officer in the Mexican War, he was injured and returned to Hamilton as a newspaper man and prosecuting attorney. He came to San Diego in February, 1849, as a member of the United States Boundary Commission.

The district court (roughly the equivalent of our present superior court) convened for the first time in Los Angeles on June 5, 1850, with Judge Witherby presiding. The district attorney, William C. Ferrell, also a San Diegan, was admitted to practice at the same session.

The "rough equivalent" of our Superior Court was really rough! It was common practice to throw inkwells in court, and gunfire always was imminent. Judges travelled the circuit with a cocked eye and a cocked gun.

In 1853 Judge Witherby left the bench and secured appointment as collector of customs for the San Diego area. After four years in that job he became public administrator for seven years. During this period the local court dockets show that the former judge appeared frequently as an attorney.

After completion of official duties Oliver S. Witherby became a successful rancher, banker, and property owner. At his death in 1896 he had been a member of the bar for 56 years, and missed by only two years from having been a San Diego lawyer for half a century.

Lawlessness in San Diego county was first withered by Witherby as he trekked from the Tijuana river to Furnace Creek—from the Santa Clara river to the Colorado—ladling the waters of justice in a hot and hot-headed land.

SIX

**VIGILANTE JUSTICE (Good, Bad, or Worse?)**

San Diego has had vigilantes, —as recently as 1912 when anti-government sympathizers were ridden from town on a rail, tarred and feathered, and almost hanged. Some of our best citizens maintain that, ergo, San Diego is a better place to live.

Vigilante justice provokes one of the bitterest arguments in philosophy and jurisprudence. Is an unlawful hanging any worse than the legal executions of a Socrates, or any other of millions of instances of society's "legal" revenge?

San Francisco's vigilantes, concerning whom much has been written, clearly influenced thinking in southern California and San Diego. In the Golden Gate area the community conscience expressed itself through the Committee of Vigilance which in 1851-2 seized and summarily tried 75 persons of whom 4 were hanged, one whipped, and 14 forcibly deported.

Many of the characters deported, discharged or threatened by San Francisco vigilantes left for Los Angeles and points south. The City of Angels became the social cesspool of the world until the Rangers, a vigi-

lance group formed there in 1853, quickly but unofficially executed a score of objectionables.

In San Diego of the 1850s a lawyer named Ephraim W. Morse, called "The Ideal Citizen" by historian Smythe, joined three other leading townsmen in dragging two Indians from jail and hanging them in an empty shack. The victims were suspected of the months-earlier murder of the town's tailor.

In 1851 there were two James Robinsons in San Diego. One was the former governor of Texas, and a southern sympathizer, as were most of San Diego's leaders in that day. The other Robinson, known as "Yankee Jim" shortly was accused of stealing a rowboat. His jury, with a Tennessee militarist (later a San Diego County Judge) as foreman, brought in this verdict: "Your jurors in the within case of James Robinson have the honor to return a verdict of 'guilty' and do therefore sentence him, James Robinson, to be hanged by the neck until dead. Cave J. Coutts, foreman of the jury." The poor defendant thought it all a grim joke, and an attempt to frighten him, up to the very moment that "the law" put him on a cart, with his neck roped to a limb, and majestically drove away.

San Diego and Los Angeles counties' district judge during the decade of vigilante activity throughout the state was Benjamin Hayes, a man (by the lights of his day) of unquestioned integrity and ability. After coming to Los Angeles from Missouri in 1850, Hayes started his legal practice, and soon was in partnership with one Jonathan R. Scott who also is reported as having "one special characteristic, a constant readiness to head a lynching party."

After serving as Los Angeles county attorney for a time, Hayes was elected to the important judgeship in 1852. Immediately thereafter, together with several other judges and lawyers, he joined the vigilante-minded Rangers of 1853. His administration of justice became both official and unofficial. There is record of several accuseds being taken from the Hayes courtroom and hanged by a mob.

Hayes was a frail person who travelled his district on horseback and by carriage, toting a double-barreled shotgun and a bowie knife for personal protection.

In 1863 this man who spent a decade as our county's second district judge was defeated for re-election as described in the Footprint entitled "War" following hereafter. He moved to San Diego in the middle 1860s and the old "Hayes Farm" became a landmark at the edge of the present Loma Portal subdivision, its tillable land extending down on the flatlands now occupied by portions of the marine base.

Judge Hayes represented San Diego in the state assembly in 1867-8, and also practiced here until about 1875, being an acknowledged authority on land titles.

Able though he was as a lawyer and judge, the man's strongest claim to fame, and to the gratitude of succeeding generations, is his extensive personal diary, and the scores of other books, scrapbooks and manuscripts about Southern California and its problems.

Los Angeles legal historians proudly have labeled Benjamin Hayes as being their own, and, strangely, the best commentators from San Diego have failed to expose the truth,—that the man lived in or officially served this community for 22 of his 27 years in the state. His family settled in Oceanside where the "Hayes" name has become commonplace in legal, business, real estate, and political circles.

The judge's son, J. Chauncey Hayes, was a lawyer, judge and city recorder in Oceanside for decades. J. Chauncey's grandson, Roby F. Hayes, is one of Oceanside's younger but most promising lawyers.

San Diego has more than ordinary cause to be proud of the Hayes dynasty, and of Judge Benjamin Hayes, its founder. His judgments molded the area's formative years and his voluminous writings answer in fascinating detail many of the questions concerning the way of life in California an even hundred years ago. But one of the questions left completely unanswered by the Judge's written opinions and observations is this:

What is "Justice", anyway?



WAR! (or spell it backward)

As the battle of Gettysburg (July 1-3, 1863) raged in Pennsylvania, a terrific political contest was being waged in Southern California—also involving Union and Confederate sympathizers. Here, too, the Union forces won by the narrowest of margins, and as a result the man on the San Diego district court bench was replaced.

Judge Benjamin Hayes, who had served as District Judge for ten years, was an admitted copperhead (Southern sympathizer) in an admittedly strong copperhead area. His judicial district covered all of what now is known as Southern California, and was one of the strategic areas in Civil War planning. The district judge, with his influence and compulsory travels, was a key political organizer.

The Confederacy had physical possession of most of New Mexico and Arizona. One of its big plans was to march an army to the Pacific Coast, seizing the pro-South Southern California, together with Baja California and some of the northern Mexican states.

It was no idle dream. In the presidential primary vote of 1860 in California, Lincoln's opponents received in toto over twice the number of votes cast for the Republican candidate.

Money and power-politics saved California for the Union. In 1861 the legislature pledged the state's loyalty to the Northern cause. In that year the 37-year-old Leland Stanford, with the blessing of the west's wealthiest and most influential men, became the "war governor" of California. In 1860 he had been a delegate to the convention that nominated Abraham Lincoln for the presidency, and as governor his political maneuvering in support of the North's leaders created obligations in his favor that influenced politics and industry for the succeeding fifty years.

In 1863 the Golden State enacted a statute requiring all lawyers and litigants in California courts to take loyalty oaths, and sign affidavits of allegiance to the Federal Government. This move caused some copperheads to leave the state. It also silenced much of the propaganda emanating from others, because a hundred years ago most community leaders were lawyers.

The next move cannot be understood without going back to Don Jose de la Guerra y Noriega. The man had been born in Spain, came to Mexico in 1788, and a few years later was appointed an ensign at Monterey, California, where he married into the prominent Carillo family.

For several years in 1806-7, and between 1811-1817, Captain de la Guerra was in charge of the Mexican troops stationed in San Diego. Thereafter he went to live permanently in Santa Barbara where for 40 years he held a position as one of the wealthiest and best loved Californios in the state. Reliable authorities say that when Don Jose died in 1858 he left millions in property to each of his children, and that his funeral cortege was the longest that Santa Barbara ever had known. His seven sons and three well-married daughters constituted a prominent, most influential, and very popular family.

The fourth son of Don Jose de la Guerra was Pablo. Well educated, he was one of the seven Hispano-Californian delegates to the Constitutional Convention of 1849. At different times he also served as surveyor of customs at Monterey, United States marshal for the Southern District of California, and Judge of the First Instance and mayor of the City of Santa Barbara. Official California statutes show that in 1860, only shortly after his popular father's death, Pablo was a state senator. In 1861 he was lieutenant governor. In the statutes of 1862 he is described as "the late president of the Senate". Although the Confederacy offered de la Guerra positions of place and power in exchange for the favorable influence of himself and his family, he remained a strong Union sympathizer, a friend of the state's political chief, and a likely candidate to unseat Judge Hayes, the copperhead, in the critical southern California area.

The chief trouble was that Pablo didn't live in the right district!

The first move of those in power was to get rid of as many southern votes as possible. Next, to get in many northern votes. Then to extend

the boundaries of the first judicial district to include Santa Barbara and San Luis Obispo counties.

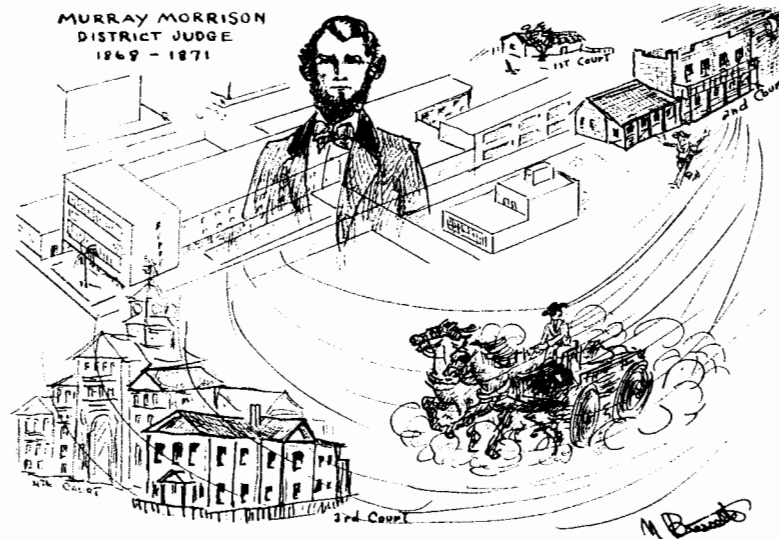
Thousands of southern Californians already had left to join Confederate armies. In 1861 northern California troops marched to Warner's Hot Springs, captured a party of Confederate sympathizers and impounded them at Ft. Yuma. In 1862 hundreds of volunteers in a group started sweeping southern sympathizers eastward and out of California and Arizona.

In the meantime substantial numbers of northern soldiers were being brought to Los Angeles and Ft. Yuma, and in April, 1863 the California legislature officially annexed Pablo's home county, along with San Luis Obispo county, to the first judicial district.

The election was in October, 1863—three months after Gettysburg. It was incumbent Hayes, who in the preceding election had won by a landslide, against de la Guerra, the scion of Santa Barbara. The outcome was in doubt until the last moment when the ballots received from the Union soldiers at Ft. Yuma swung the election in favor of the Union sympathizer by a mere 59 votes.

San Diego had a new district judge! And the ramifications included permanent influences upon the nation's politics, transportation, and facilities for collegiate education.

EIGHT

**BEATING THE BUSH (Great Scott, yes!)**

The ending of the Civil War, with the South prostrate, rendered unnecessary the continuation of the political expediency which had caused the pro-Union counties of Santa Barbara and San Luis Obispo to be joined to San Diego's judicial district for the sole purpose of defeating the Democratic incumbent, Judge Benjamin Hayes.

In March, 1868, therefore, the legislature redistricted the state, retaining the Honorable Pablo de la Guerra as judge of the first judicial district, but limiting the latter's area to the two northern coast counties mentioned above. The great Santa Barbaran retained the post until shortly before his death in February, 1874.

The judicial alterations of 1868 placed the counties of Los Angeles, San Diego and San Bernardino in a newly created seventeenth judicial district. On May 25th of that year the Governor appointed Murray Morrison of Los Angeles the district judge.

The San Diego of the Morrison 3½-year regime was like a baby ostrich pecking away inside its shell of geographical isolation—trying to be born. Railroad fever was in the air (also smallpox!), but Los Angeles still was two long days away. The stage left for the north three days a week at 5:00 a.m. Eastward, an occasional stage required four days for the trip to Ft. Yuma. The judge from Los Angeles usually came by steamer to hold his periodical terms of court.

The citizens of Old Town pecked away at improvements by starting to build a better county hospital to supercede the small cobblestone-mud structure that had begun as a jail fiasco and then had been graduated into the community's pest-house.

But the whole egg broke wide open from the reverberations down on the wasteland flatlands south of Old Town. There Alonzo E. Horton from San Francisco was pounding out a new city. Between 1868 and 1870 there were new streets, new hospitals, new business blocks, new residences and a new wharf. The little San Diego ostrich got out and started to walk around, but down in Old Town, one day, he stuck his head in the sand.

The county supervisors decided, after much controversy, to move the courthouse to Horton's Addition. Thereupon feathers flew. Colonel George A. Pendleton opposed the move. He not only was county clerk but had been a West Point classmate of such generals as Grant and Sherman, and was related by blood or marriage to other very important persons.

On July 9, 1870 the county Board ordered the records moved. Thereupon the Honorable Murray Morrison, district judge, gave opposition by requiring that all writs from his court be returnable in Old Town; and either Morrison, or someone sitting on his bench (in Los Angeles), ordered the San Diego supervisors removed from office. See *People v. Bush*, 40 Cal. 344.

County Judge Thomas H. Bush, who was not a lawyer (although he had served as local postmaster and as one of the city trustees who had sold Horton his property!), ordered the sheriff to use all necessary force to prevent the removal of courthouse records and furnishings. A cannon and a posse of citizens moved in front of the building to prevent tampering. Bush also appointed three new supervisors, an act which the state supreme court later held to be beyond his authority.

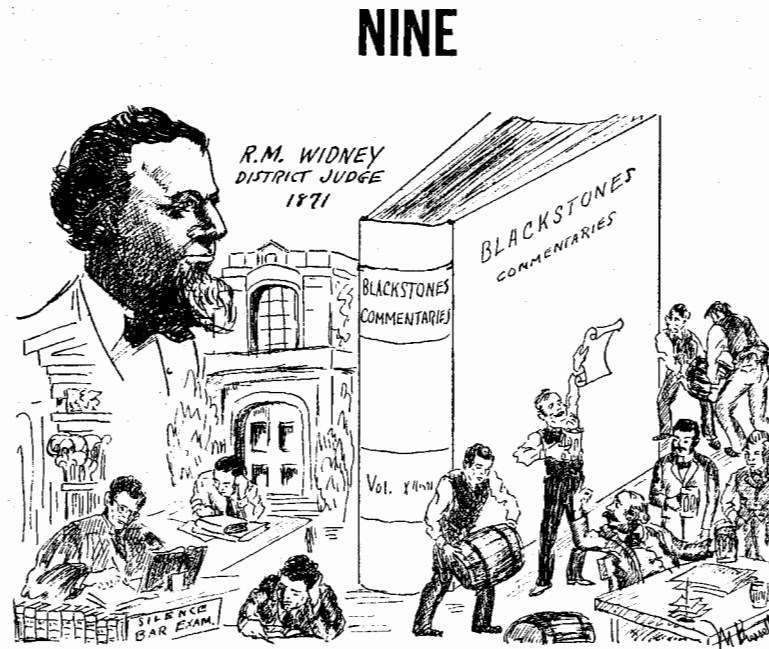
Then the ostrich pulled his head out of the sand. Actually, the thing that happened was that the sand was running out for County Clerk Pendleton and for District Judge Morrison. The former died in March, 1871, and Morrison, after suffering and being enfeebled for months with erysipelas, passed away in December of the same year.

Enter Chalmers Scott! The supervisors appointed him county clerk, and he knew his way around!

In addition to being a lawyer and a graduate of a New York University, Scott was an engineer who had done local watershed surveying, and railroad surveying in South America. He also had been the reporter in China for a New York newspaper. His wife was the daughter of Cave J. Coats, one of Southern California's wealthiest and most influential citizens. Incidentally, the daughter of Chalmers Scott and wife (1960) is Mrs. John Jerome Brennan, whose husband long has presided in San Diego municipal court number 5!

As the new county clerk, Scott took a few friends, a spring wagon, and horses with muffled hoofs, to Old Town in the dark of one night. Surreptitiously the county records were removed, and on April Fool's Day, 1871, San Diego County's courthouse was in full operation in a rented building at Sixth and G Streets in New Town. On April 4, Murray Morrison arrived by steamer to hold his April term of court. He had been outdone by citizens of the little city which, even if not an ostrich, was entitled to have a plume in its hat.

Murray Morrison was born in Kaskaskia, Illinois, on February 27, 1821. He came to California in 1849 where he settled in Sacramento, commenced the practice of law, and married Virginia White, the daughter of a physician. He moved to San Francisco in 1855 and to Los Angeles in 1857, where he resided the remainder of his life. A biography and eulogy concerning Morrison are available in issues of the San Francisco Alta California for December 27, 1871 and January 4, 1872. A brother, Robert F. Morrison, was San Francisco's district judge from 1869 until 1880, after which date he was appointed chief justice of the California supreme court and held the high honor for seven years until his death in March, 1887. The San Diego district court judgment book shows that R. F. Morrison sat in San Diego for his brother Murray during at least part of one of the 1870 terms.



LEARNED LEGAL DYNAMO (i.e., LL.D.)

For approximately three months San Diego had a district judge of such ability, and one who contributed so much to law and learning, that it seems amazing his name is not more heralded locally.

The biography of this judge, Robert Maclay Widney, will be used as a springboard for a brief discussion of legal education in our community.

The Hon. Murray Morrison, of the seventeenth judicial district which included the counties of San Diego, Los Angeles and San Bernardino, died in office on December 19, 1871. At the request of influential Los Angeles lawyers R. M. Widney was appointed to the unexpired term.

Three months later the state legislature divided the district, leaving Los Angeles the only county in the seventeenth district over which Judge Widney continued to preside. A new eighteenth district was created including San Diego and San Bernardino counties. Its newly appointed Judge, H. C. Rolfe, will be discussed in a later Footprint.

Judge Widney was born on an Ohio farm in 1838. Seeking adventure at age 19 he joined an emigrant train to California.

At 20 the future judge entered the University of the Pacific at Santa Clara. (Later this Methodist college became the College of the Pacific, moved to Santa Jose, and then to Stockton). He received degrees of A.B., A.M., and LL.D., and became a professor in the same school. While teaching he studied law and was admitted to the bar in 1865.

The man was an expert in minerology and engineering, and practiced those professions before moving to Los Angeles in 1868.

In the southern community Widney became a real estate promoter of such ability that he rated the judgeship two years after his arrival. With H. K. S. O'Melveny he made Los Angeles, instead of San Diego, the railway center of Southern California. He drew the plans for, and pressed to completion through Congressional enactment, the early development of San Pedro Harbor. He organized the first Los Angeles Chamber of Commerce, and through it publicized his community around the world. He built and operated the first street car system in southern California. He founded and named the City of Long Beach. He subdivided extensively, including Ontario and parts of the San Fernando Valley.

Above all, Judge Widney is the father and founder of, and a large donor to, the University of Southern California, which also became a Methodist institution for many years. The official founding date was July 29, 1879.

The first law school in Los Angeles began in 1896 and affiliated with U. S. C. in 1901. The California legislature had founded Hastings College of Law at San Francisco, as a part of the state university, in 1878.

Legal education for San Diegans has followed national patterns and trends. Not until 1918, following World War I, was serious attention given to the matter of regulating admissions to the bar. The earlier scandalous system permitted anyone to be admitted on "pull", or to be denied admission for unstated reasons.

At the start of the twentieth century a few law schools like Harvard and Michigan offered creditable professional training. Most prospective attorneys, however, studied in a lawyer's office. Some members of the bar made the training of students an activity for sideline income.

Many of San Diego's best, but older, lawyers were office-trained. The 1914 City Directory, however, carried prominent advertising of Mr. Ernest E. Kirk's "Kirk Law School, Two-Year Course, Day and Evening Classes, Tuition Fees \$150.00 Including Use of All Text Books. 501 Spreckels Theater Bldg., Fourth successful year."

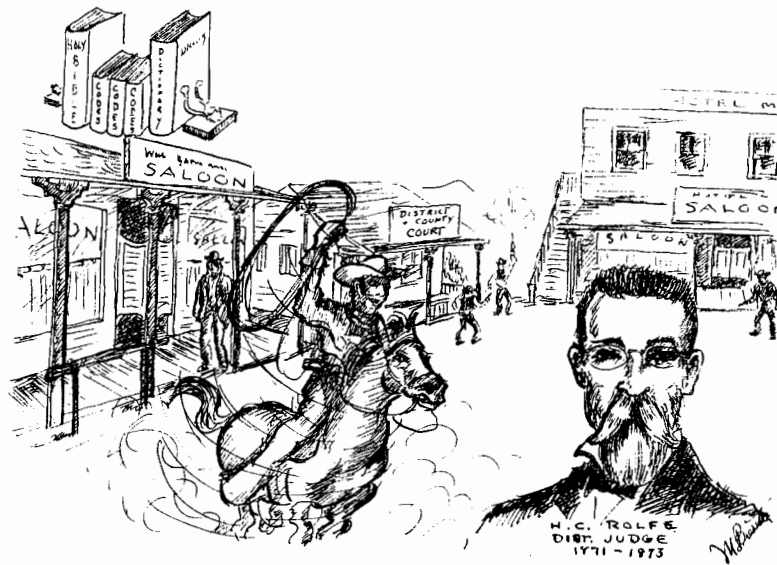
Probably Mr. Kirk's school did not have a fifth successful year. The 1916 directory gives his residence as Los Angeles. In the meantime the late Adam Thompson had started law classes which were attended by such men as the now Hon. Lloyd E. Griffin, Hon. Eugene Daney, Jr., and other notables.

The Hamilton and Lindley Law School was the community's largest from 1913 to 1918. In Mr. Lindley's recollection (1960), the peak enrollment at any one time was about 17 students. The school's graduates include judges and community leaders.

In September, 1927, Balboa Law College was started by the present writer, although such success as it may have had is much due to the work and vision of others. During its 25 years of continuous operation over 2500 law students were registered, although less than 10% completed the four-year course. The incorporation papers of this law school, secured in 1933, were voluntarily turned over in the early 1950s to those who wished to have the college affiliated with the Methodist Church. The name was changed to California Western University, and after a brief lapse the Law Department continued.

The University of San Diego started law classes in 1954. It could become a great institution. Recent rumors that our city may have a branch law school of the state university could mean that a new era in legal education soon may commence for San Diego.

TEN

**PONY CODES (and quarter horses)**

H. C. Rolfe, of San Bernardino, San Diego's district judge for about two years, called himself a frontier prosecutor and cow-county judge. His new eighteenth judicial district was created by the same legislature that adopted California's codes. Therefore he was the first interpreter here of the new legislation that started California out as a "code state."

Being a prosecutor or judge in the frontier days required courage. Every county in California has its historical instances of district attorneys and judges being attacked or killed in performing their duty. Even Stephen J. Field, prominent justice upon the supreme courts both of California and the United States, and who, with his brother, David Dudley Field, was considerably responsible for the adoption of the California codes, carried a gun for years as against specific threatened assassination.

About three months after Robert M. Widney had been appointed judge of the seventeenth judicial district, the legislature (Stats. 1871-2, p. 116)

again redistricted its boundaries so that it included only Los Angeles county.

The San Diego Union for December 17, 1871, reflected an interesting aspect of state and local politics when it said, "...we hope the bill will pass and we hope a fit man will be appointed judge. Of course, the appointee will be a Republican and we desire to say now, for the benefit of whom it may concern, that the people of San Diego know full well that there is not a Republican lawyer in the county fit for the office who is a candidate for it. A Los Angeles paper has referred to the Hon. Horace C. Rolfe of San Bernardino as a suitable person for the place in the event of the creation of the new district. We concur. Mr. Rolfe is an influential Republican, an estimable citizen, a sound lawyer, and an honest man. His appointment would be hailed with satisfaction by the people of both counties."

A further slant on San Diego politics as of 1870 lies in the quoted words of Alonzo E. Horton, as found in Black's History of San Diego. "A man came to me and said, 'Be careful how you talk politics, Horton. What you have already said here is as much as your life is worth. This is the worst copperhead hole in California.' I said, 'I will make it a republican hole before I have been here very long.' ...I would not employ a man unless he was a republican."

The 1872 legislation, which created the new eighteenth judicial district out of San Diego and San Bernardino counties, authorized the Republican governor to appoint the new judge. Rolfe, the appointee, lived in a Democratic district (in spite of Alonzo E. Horton's political impressions and activities) and didn't survive the succeeding popular election. Later he was elected as delegate to the constitutional convention of 1879 where, among other activities, he supported unsuccessfully a constitutional woman's suffrage movement.

The new constitution of 1879 provided for a superior court in each county, and abolished the previous system which included both district and county courts. Although Judge Rolfe lost the bench of the eighteenth judicial district two years after attaining it, his home constituency in 1879 honored him by electing him the first judge of the superior court in San Bernardino county.

Rolfe came to California in 1850. For seven years his activities included mining in Nevada county and Indian fighting in San Diego county. In 1858 he entered the law office of William Pickett of San Bernardino, was admitted to the bar, and elected district attorney of San Bernardino county from 1861 to 1865. The world's riffraff, and also troublemakers from Dixie, flowed through his county via the San Gorgonio and Cajon mountain passes. Rolfe sent many a desperado to prison in the era when all lawyers and litigants carried arms, and used the court recesses for persistent target practice to impress, or intimidate, their opponents, the prosecutor and the judge.

For six years Rolfe was in private practice in San Bernardino prior to his appointment as judge in 1872—the year of the codes.

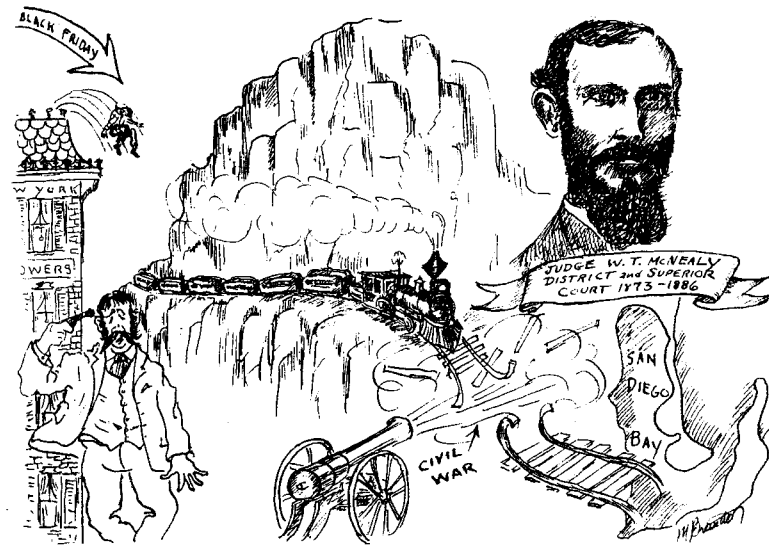
In New York the agitation for codified law reached a high point in the decade 1840-50 when David Dudley Field was urging legal reforms. When the younger brother, Stephen J. Field, was elected to the California legislature in 1851 he secured passage of separate acts to regulate civil and criminal procedure.

Pressure mounted annually to secure codification of the ordinary rules of substantive civil law. A commission was appointed, and eventually the civil, civil procedure, penal and political codes were enacted. The tiny first-published volumes often were called pony codes. Stephen J. Field appraised them as "perfect in their analysis, . . . admirable . . . complete."

Sir Frederick Pollock's contrary view: "About the worst job of codification ever produced"—has been the most widely accepted opinion. For most of a hundred years, legislatures, governors, supreme court justices, the integrated State Bar, the Judicial Council, Code Revision Commissions, and the California Law Review Commission have spent most of their official lifetimes in attempting to tinker with, alter, repeal and generally have a repudiatory Field-Day with the old Field codes of 1872.

It is easy to comprehend that cow-county judge Horace C. Rolfe probably was plagued not only by the lawless, but by the law itself!

ELEVEN



. . . 'ROUND THE MOUNTAIN (Toot! Toot!)

In San Diego's desperate decade the Hon. W. T. McNealy was the local judge—first of the San Diego-San Bernardino district from 1873-79, and thereafter as the first superior court judge of San Diego county (under the new constitution) until he voluntarily retired because of illness in 1886.

Early in 1873 McNealy was working on the railroad—as an attorney that is. Later in the same year he was elected judge, defeating the incumbent Horace C. Rolfe of San Bernardino. In the same year occurred "Black Friday", Wall Street debacles, and the start of the great panic of '73. Railroad building ceased, and San Diego's desperate decade began.

For twenty years the dreams of a transcontinental railroad, terminating at San Diego bay, alike had supported the city's hopes and the families of most of its lawyers.

The San Diego & Gila, Southern Pacific & Atlantic Railroad Company was a thriving blueprint in 1853-54 under the presidency, first, of

Col. J. Bankhead Magruder, local lawyer, and then of James W. Robinson, another San Diego attorney. Judge Oliver S. Witherby of the district bench until 1853, and district attorney William C. Ferrell were other company directors. These names constituted practically the whole list of the bench and bar of San Diego county in the first years of California's statehood. This corroborates the fact, often alleged, of early day community leadership of the legal profession.

Robinson, a former governor of Texas, and Magruder, subsequently a Confederate general, were supporting a virile and ambitious South in its drive to extend slavery to the Gulf of California by way of San Diego. If the civil war had started five years later it is quite likely the railroad tracks would have gone up Mission Valley to Santa Ysabel and thence along the 32nd parallel to Mississippi, Alabama and Georgia. Who knows where the metropolis of Southern California then would have been? Who knows whether the Blue or the Gray would have claimed the southwest? Who knows if San Diego's ultimate loss was not the nation's gain?

Three years after the close of the civil war another then-prominent San Diego lawyer, Col. Wm. Jeff. Gatewood, was president of the reorganizing San Diego & Gila (1868). Things looked promising until congressional non-cooperation brought about a financial fiasco.

The Texas & Pacific Railway Company started in 1871. So sure was the city of a direct line through Jacumba (route of the present San Diego & Arizona), that a boom started. By this time, however, Los Angeles was in the act. Judge Robert Widney, the Southern Pacific, and Collis P. Huntington outmaneuvered San Diego's champions. The game really was lost even before the "Black Friday" of 1873 threw a shroud over the remains of a happy dream.

W. T. McNealy was the lawyer hired for and entrusted with the winding up of the San Diego & Gila and the transferring of all local railroad interests to the Texas & Pacific.

After financial failures, lawsuits, and general disillusionment, San Diego did have a railroad to San Bernardino by 1883. (W. T. McNealy had been district and superior judge for exactly ten years). The new venture was organized as the California Southern Railroad and had Santa Fe connections. San Diego attorney Moses A. Luce was its vice president and attorney. This man's son and grandson followed him in the successful practice of law in this community.

In 1884 a violent flood through Temecula Canyon carried most of San Diego's momentary taste of glory as far as 100 miles to sea!

The Santa Fe built a branch line down the coast. The first through train arrived in San Diego in 1885. It was hardly a consequence (but still an interesting sequence) that Judge McNealy resigned the following year.

W. T. McNealy was a native of Georgia who spent his youth in Florida. He came to California in 1869 and in due course was tempo-

rarily employed by the district attorney in San Diego, also by former district judge Benjamin Hayes to copy certain court records.

In 1869 McNealy was elected district attorney, and two years later was elected for a second term in that office. He was so successful in his handling both of important criminal and civil litigation for the county that he was elected judge of the eighteenth judicial district in 1873 for the six year term.

Under the new state constitution of 1879, the district and county courts having been abolished by that instrument, McNealy was further honored by being elected the first superior court judge of the county of San Diego. His thirteen years on the bench was a record for the earlier years of San Diego. Historian Smythe also comments that McNealy was in the profession "longer than any other man now living in the city." For 22 years after his retirement from the bench his name appeared in the city directory as an attorney at law.

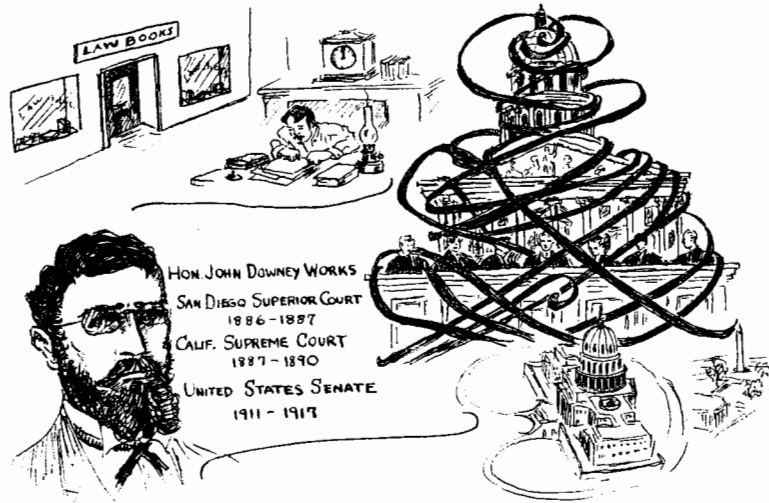
San Diegans had hoped to have a railroad that went through the mountain (not around it) probably by way of Warner's Ranch and the old Butterfield Stage route. Furthermore, as government contour maps readily show, a tunnel from the 1500 foot level of the San Diego River below Eagle Peak (Pine Hills area) would completely out-class the San Geronio route as a low level line of transcontinental transportation.

The political maneuvering of the combined Los Angeles-San Francisco railroad magnates, however, made it necessary for San Diegans to sing "She'll be comin' 'round the mountain when she comes." The mountain was San Jacinto,—miles to the north, and that's the way she came,—Toot Toot!

Trucks and cars are replacing railroads. The Eagle Peak tunnel route is still available to tap Borrego, Yuma, Blythe, Needles and Las Vegas:—all the routes funneling traffic and dollars into the greatly more distant Los Angeles smog-filled basin.

How long will she still be comin' 'round the mountain? Tut! Tut!

TWELVE



GIVING IT THE WORKS! (Supreme Court)

For about a year, following the voluntary retirement of Hon. W. T. McNealy in 1886, San Diego's superior bench was occupied by Hon. John Downey Works, a man of past prominence, of then-current community prestige, and of future fame.

Judge Works came to San Diego in 1883 from Indiana where he had practiced fourteen years, served in the state legislature, and written several law books for Indiana attorneys. His father was a lawyer, and John had studied in the office of his maternal uncle, Judge A. C. Downey who served eighteen years on the circuit bench, six years as an Indiana supreme court justice, and several years as dean of the law school of Asbury University, the predecessor of DePauw.

After only three years in San Diego, Works' ability caused his fellow lawyers to recommend him for the vacant judgeship. That tenure lasted only a year. He resigned to accept appointment to the California supreme court where in his 27 months in office, he wrote more opinions than did any other two justices combined. He declined re-election, and returned to his law office in San Diego.

When the Works family came to this community, included therein was the fourteen year old son, Lewis Reed Works, who later was to become judge both of the superior court and of the district court of appeal in Los Angeles. The younger Works attended high school and commercial college here, studied law, was admitted to the bar in 1891, and joined his father in practice. The San Diego office was maintained until 1900.

The father, and former San Diego and supreme court jurist, moved to Los Angeles in 1896 where, a few years later, he served as mayor. From 1911 to 1917, including the tense pre-war years in the administration of Woodrow Wilson, he was United States Senator from California.

Judge Works' literary accomplishments were many, including articles in, and editorship of, the multi-volume "Encyclopedia of Evidence."

Inasmuch as the two members of the San Diego law firm of Works & Works reached, respectively, the state supreme court and the district court of appeals, it is not inappropriate to inquire how and why these two appellate tribunals exist almost side by side in this state.

It is quite obvious that the state constitution was amended in 1904 to provide intermediate courts of appeal simply because the supreme court, even with the aid of commissioners, could not do justice to the ever increasing appellate load.

But it is less obvious why the present supreme court organization is worth its annual (budgeted and unbudgeted) cost to the people of the state of one million dollars per year for a somewhat challengeable record of accomplishment. Reference here is made only to the machinery, and not to the men who operate it.

Bases for the following summary of criticisms of the California supreme court functionings are to be found in hundreds of pages of published materials,—prepared by able and honorable lawyers, by justices on many high courts, and by scholarly students of government.

1. The present system wastes highly expensive judicial time in permitting two appeals instead of one. The state receives no benefit from such procedure. It is a truism that appeals are only for the well to do, anyway. Thus, double appeals also double "the cost of litigation in terms of human hardship," in addition to being tax-wise indefensible.

2. In refusing to grant hearings in far over 50% of what amount to second appellate applications, the supreme court is impaled on one or the other horns of a needless and costly dilemma:—either, annually it spends utterly wasted months in "deciding not to decide", or else it rejects hearings with improper consideration.

3. In one-third of granted hearings the supreme court sustains the district court of appeal. For answering complete false alarms, therefore, the public is paying approximately two million dollars per decade.

4. In another one-third of its hearings the upper court in effect reverses the district court of appeal, but under circumstances intolerable either to

a taxpayer or legal scholar. These are the split decision cases where—at the worst—four judges out-vote seven others (three of their colleagues, three justices on the district court of appeal, and the trial judge who saw and heard the witnesses).

5. In the final one-third of its hearings the supreme court merely replaces a decision, prepared by equally well-trained justices on the intermediate appellate bench, with one of its own that, on the average, is in no way superior. Unbiased and well-trained researchers have been comparing these junked decisions (whose preparation annually costs the state a half million dollars) with the substituted variety. The mounting consensus of opinion is: the supreme court's alleged monitoring of conflicting intermediate decisions is of illusory value, its preventions of miscarriage of justice are virtually nil, and its contribution to an enlightened jurisprudence costs too many hundreds of thousands of dollars per printed page.

San Diego's first addition to the personnel of the supreme court of California, Hon. John Downey Works, was the judicial equivalent of Plato's longed-for philosopher king. It would be interesting to know why this eminent leader refused to continue to serve on the bench of the highest court of his state.

THIRTEEN



BOOMTOWN (then Par-kerplop!)

The political fortunes of Judge Edwin Parker expanded and burst in the same sequence of early days that saw San Diego reach a population unequaled until World War I, and a giddiness surpassed only by its own boomtown tip-happy tipsiness of World War II—and then collapse like a frivolous demurrer, or a motion to tax costs against one who filed his action in forma pauperis.

San Diego's retired superior court judge, Charles C. Haines, who came to this city with his parents in the same boom year that Parker became judge, has reported in public print that his father always spoke of Judge Parker's legal attainments with great respect. Alfred Haines, the mentioned parent, was an outstanding lawyer, and Judge Haines is recognized as one of the most learned and candid of all local legal scholars. It would be difficult indeed for the Parker family to obtain a higher tribute to the man who brought them distinction in 1887 and 1888.

Even San Bernardino county had secured a second department of its superior court when Hon. Edwin Parker was serving this much larger community as the sole superior court judge during the most crowded times that the court has experienced in San Diego.

In 1886 there were 340 business and professional establishments in the city. In 1887 the number was 957. The valuation of city property followed an identical pattern, as did the values of imported materials, such as lumber.

From an 1886 population of 8,000, San Diego's number of people trebled in 1887, and at the early 1888 peak there were close to 50,000 persons in the city's near environs.

No court of original jurisdiction could have other than problems in such a period when gambling was open and flagrant, when painted women paraded the town in carriages or sent to men engraved invitations to "receptions" and "high teas", when theft, murder, incendiarism, fights, highway robberies and licentiousness were rampant, when thousands of professional "boomers" trickily were selling alike to the gullible and greedy lots at incredible prices in subdivisions that existed only under several feet of ocean water, or mayhap a full day's travel from town, or even only on the piece of paper waved by the frothing-mouthed auctioneer.

Edwin Parker was elected judge at such a time. After his death in 1900 eminent lawyers and judges took occasion to place in official court records that "Every duty of his office was ably and honorably discharged." Even as he left the bench at the close of 1888 the bar association asked to have spread upon the court records a resolution citing Parker's service as one of "credit to himself, and to the entire satisfaction of the bar and the citizens of this community."

The Hon. Edwin Parker was born in Canada in 1832. His paternal grandparents were of puritan Massachusetts stock. After education both in Canada and Vermont he practiced engineering, taught school in Illinois, and later was admitted there to the bar.

Early in the 1850's young Parker moved to Contra Costa county in California where he first served as deputy county clerk, and later was elected district attorney. He resigned from the latter position to engage in mining and ranching.

After coming to San Diego Edwin Parker served as undersheriff during the term of sheriff N. Hunsaker. He became a member of the local bar in 1876, and served the county as state assemblyman in 1883-84. The governor appointed him in 1887 to fill the unexpired term of superior court judge John Downey Works.

As explained in a later Footprint, Judge Parker's tenure upon the bench was not to be long. His political fortunes faded in the same months that the community's investment structure went into eclipse. After an additional dozen years of practice he was eulogized by Judge E. S. Torrance as one whose character and conduct were outstanding "as a husband and a father, as a citizen and a man, as a lawyer and a judge."

Judge Parker's son, a local attorney, recently passed away. The grandchildren and great grandchildren now reside in La Mesa.

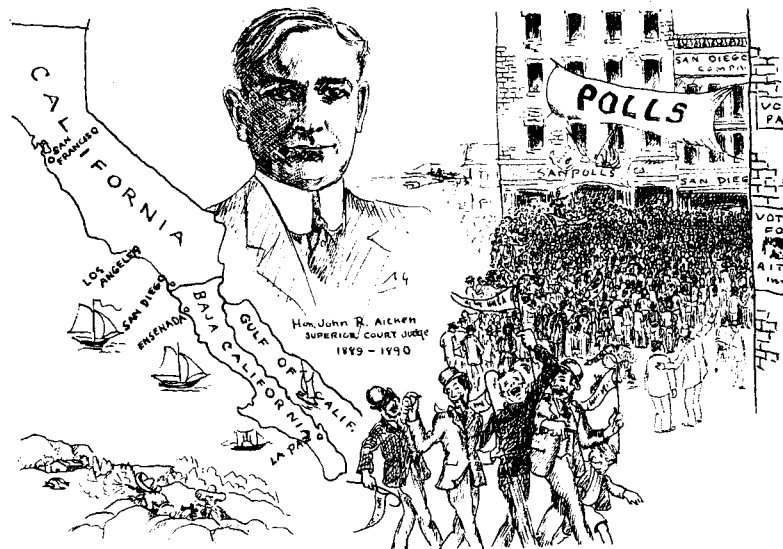
The San Diego of 1888 felt exactly like the San Diego of 1960 would feel if 350,000 of her citizens suddenly departed for good. Old timers say that 72 years ago every San Diegan who had money enough to leave town—left! From the high population count of one year earlier the number of citizens decreased to a mere one-third or one-fourth of the gala era!

Older members of the present bench and bar, who weathered the sickening depression of the 1930's, know what it is to have few clients—and those with no money. They know also about the pains of a legal practice heavily mired in bank failures, land foreclosures, liquidations, assignments for creditors, and a probate practice of estates once worth good parts of a million—now not worth the filing fee.

Court cases in the last months of the tenure of Judge Edwin Parker were even less happy than in the still remembered gloomy '30s. It was a day when the clients of the good firms couldn't buy shoes for their horses; clients of the less successful couldn't buy shoes—period.

'Creditably and even gloriously the Parker name and the city's name survived that same Boom! Trajectory! Kerplow!

FOURTEEN



FILIBUSTER PAINS (and Court Head Aitken)

In San Diego's mushroomed population of 1888 politics were thicker than cow ticks in Texas. Boomers, speculators and suckers so far outnumbered the hometown boys that bi-partisan politics became as inappropriate as most of the dissents in an appellate court. The "citizens" had to join forces against the "furriners"; but being greatly outnumbered they similarly were outvoted.

A group of alert carpetbaggers from San Francisco, called the "Gallaghers", moved into San Diego's populous pandemonium and, faster than Houston plucked Texas from Mexico, gained control of the local Republican party machinery, its newspaper and its vote. In 1888 a personable young sailor-turned-lawyer, scarcely two years out of Hastings Law College and an arrival within the year to San Diego, was boosted by the "Gallaghers" into the position of judge of the superior court.

Whether wonder-drug or nostrum, San Diego certainly got a dose of its own medicine. For a third of a century, both before and after John

R. Aitken of San Francisco replaced San Diego's Judge Edwin Parker on the local bench, filibusterers and carpetbaggers were in, through, from and about San Diego in the perennial pastime of trying to take Baja California away from Mexico.

By many persons the lovely peninsula of Lower California was regarded as an unfit locale for other than flea farms or the avoidance of arrest. Yet utmost candor requires the prophecy that future years will find this land of sea, mountain and unparalleled climate to be even more popular than the San Diego-Santa Barbara coastal plain. Conversion of sea water well could start the boom.

There was some effort by U. S. negotiators to acquire Sonora and Baja California through the 1848 treaty of Guadalupe Hidalgo which took California, Arizona and other territory from Mexico. The failure was criticized in national public print for years.

In 1853-54 one William Walker, a New Orleans medicine man and lawyer (who moved to the Golden Gate about 1850), tried to walk into the job of president of the Republic of Lower California. Aided by rough adventurers from San Francisco and San Diego he made more than a general nuisance of himself for eight months until his own forces were walked on and forced to flee into San Diego and surrender to federal authorities.

Forty years later the San Diegans of a newer generation started to generate other grandiose schemes. A local newspaper editor aspired to become "Governor General" of a proposed new republic below the border. His cabinet of somewhat substantial local citizens was selected, the constitution drafted, and the flag ready to fly. But the news leaked out! Pitiless publicity paled the physiognomies of the plotters!

People can't get Baja out of their blood. In 1911 another filibuster made Richard Ferris "provisional president of Lower California" for three days. After battles at Mexicali, Tecate, and Tijuana the adventurers again fled to San Diego and briefly were held at Fort Rosecrans.

San Franciscan infiltration of San Diego succeeded whereas the Lower California filibustering failed. The legal status of the somewhat mixed up McNealy-Works-Parker-Aitken tenures as superior court judge (and all within one term!) was as follows: Judge McNealy was re-elected in the fall of 1884 for a constitutional six-year term which would have kept him in office through 1890. He resigned for health reasons in October 1886. John D. Works was appointed to the vacancy on the bench.

The state constitution provided that in event of such a vacancy the governor should appoint some person to hold the office—not for the balance of the term—but until the next general election at which time the balance of the term would be completed by the then elected candidate.

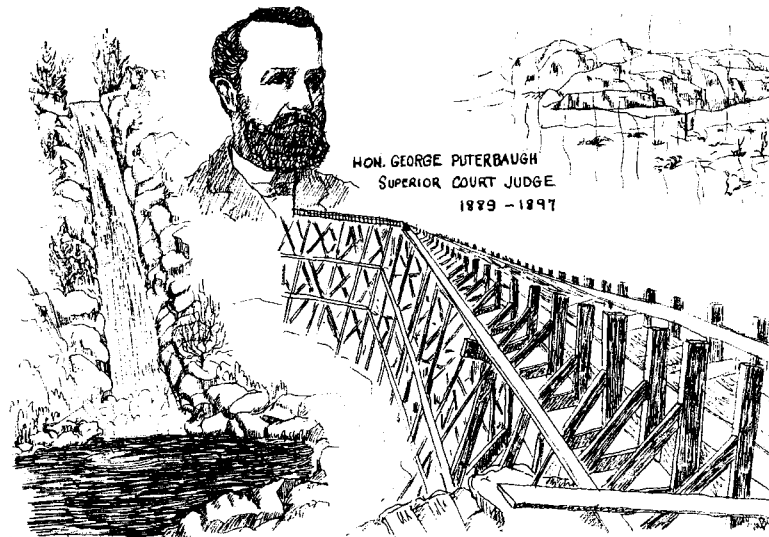
Works was appointed judge a few weeks before the biennial general election of 1886. Therefore he had to run for the office to keep it, but was unopposed and so won the judgeship for the unexpired term of four years.

When Judge Works resigned in September of '87 to go on the supreme court, Edwin Parker was appointed. But the same law compelled Judge Parker to run at the succeeding general election of '88. Aitken, the winner, thus held office for two years which was at once a completion of McNealy's unexpired six-year term and also of Works' unexpired four-year term.

John R. Aitken was born in San Francisco on March 31, 1854. One historian reports that he shipped before the mast for New York. After years of wandering and two trips around the world the young man returned home to study law. When he was elected to the bench the Aitkens lived at Second and A Streets in San Diego. His two children attended school here, and a third child was born in San Diego.

In the fall of 1890 Judge Aitken was replaced by E. S. Torrance. For two years he practiced here, and in 1893 returned to San Francisco, later practicing there with his son Frank W. Aitken. His granddaughter, Jane Aitken, is an assistant district attorney in San Francisco (1960). His sole surviving child, Mrs. Lillian Aitken Dir of Carmel, California, reports that he passed away in 1916.

FIFTEEN



WATERFALL (and fall-off)

In the upper reaches of San Diego county's largest water course a tributary called Cedar Creek flows through lush little valleys of the Cuyamaca mountains, loitering pensively at times near the feet of arboreal giants, closing its span of riparian distinctiveness with a gorgeous leap as the area's loveliest waterfall—but into an artistic mediocrity of chaparral, cactus and cobblestones.

George Puterbaugh, for eight years one of the judges of the local superior court, had no inconsequential connection with San Diego county's water and irrigation problems, and, like Cedar Creek, his own biographical course moved with a minor majesty near the feet of giants, only to tumble fortuitously into a cavernous commonplace.

Born in Mackinaw, Illinois in 1842, George later attended Antioch College in Ohio where world famous Horace Mann was president and teacher. Mann became prominent in legal circles before attaining international acclaim as an educator. He was state legislator, state senator,

and congressman from Massachusetts. He declined nomination for governor of his home state the same day he accepted the presidency of Antioch. His influence on young Puterbaugh could only have been considerable.

After a brilliant service in the civil war Puterbaugh twice was offered a captaincy in the regular army, but declined in order to study law under Col. Robert G. Ingersoll of Peoria—one of the most brilliant lawyer-orators in American history. Puterbaugh's own stature is measured by the fact that "The Plumed Knight" spellbinder took him as law partner. The firm of Ingersoll & Puterbaugh existed until 1880 when the junior partner was compelled by health to leave for the west. After four years in Colorado he came to San Diego in 1885.

Early in 1889, at the peak of the boom, the legislature created two new departments for the San Diego superior court. George Puterbaugh was one of the men appointed by the governor. In the fall of 1890 he was elected for the ensuing six-year term.

When the '96 election period arrived it was water—or the great lack of it—that sadly influenced the fortunes of San Diego, and of superior judge George Puterbaugh. Not only had the boom blown up and the banks broken down—the rains played out. Ten years of the worst drouth in local history were materializing. One of the largest watershed areas had absolutely no run-off for four years. Its total run-off for a combined seven years was insufficient to furnish the little San Diego community with enough water for three months. Even old timers left. Great lawyers like W. J. Hunsaker, E. W. Britt and John D. Works permanently moved to Los Angeles.

It was only natural that the legislature should reduce the number of superior court departments from three to two. It did.

The three incumbent judges were Republicans and each was a candidate for re-election to the two available positions. At that time judicial nominations were made on a party basis. Another aspirant for the Republican ticket was M. L. Ward who was the law partner of Alfred Haines and the parent of sons who later distinguished themselves in San Diego's legal fraternity.

Ward and incumbent judge Torrance were nominated by the Republicans. Some widespread dissatisfaction caused Judge Puterbaugh to become an independent candidate. The split in party voting permitted J. W. Hughes, a Democratic nominee, to win at the general election, along with Judge Torrance.

Hughes was not well, and died early in 1900. George Fuller was appointed to the bench for the balance of the year. In the 1900 election Norman H. Conklin, another Democrat, defeated Republican nominee Eugene Daney, Sr.

Judges Torrance and Conklin thus were the men who started the twentieth century on San Diego's superior court.

Following the loss of his judicial position in 1896 Judge Puterbaugh went into practice, and upon the side interested himself in the problems of irrigation for county lands. Historian Smythe, himself an ardent advocate of small acreage farming, wrote favorably of Judge Puterbaugh's "large irrigation plan on western slope, which, if carried out, would have brought enormous benefits to city and county."

Early day residents of Alonzo Horton's New Town depended for their waters, in sequence, upon wagons, wells and wooden conduits. Later the supply came from Mission Valley to a reservoir at what is now Fifth and Hawthorn.

At the peak of the boom in 1888 the wooden flume from the river and the dam on the Sweetwater were assisting county irrigation projects. Lower Otay dam, completed in 1897, lasted twenty years. In 1916, during San Diego's greatest flood period, it went out with a roar, filling the bay with drowned animals and demolished buildings. It was two years later that Judge Puterbaugh died.

The Judge had been elected city attorney in 1907, and later served as city justice for a number of years. Like Cedar Creek and Otay reservoir his early promise scarcely was fulfilled.

SIXTEEN



BOOKS IN TORRENTS (and E. S. Torrance)

When Elisha Swift Torrance was born in Pennsylvania in 1846 it generally was recognized that the Harvard law library of 12,000 volumes was the finest in the world. Torrance never became a Harvard man but he became known as a scholar—in the words of retired judge Charles C. Haines: “one of the most brilliant legal minds the county has ever known.”

Perhaps it is purely coincidental that the California legislature in 1891, the same year that E. S. Torrance assumed duties here as superior court judge, enacted the statute creating a law library in every county seat in the state.

The reports of his contemporaries—many of them great lawyers—are available concerning this man who at one time was nominated for justice of the California supreme court. The comments are that while Judge Torrance diligently studied the books his preeminence stood forth in a mind distinguished alike for depth of analysis and breadth of comprehension.

In view of the outstanding professional and community acclaim achieved by judges E. S. Torrance and C. N. Andrews (who is discussed in another Footprint)—and because their judicial strength is recognized as having been grounded on something far superior to mere pedantic perusals of law books—it is desirable to re-evaluate such commonplaces as legal publications and law libraries.

Two things concerning quantity and quality need to be said on this subject. In the first place if it is correct that earlier court decisions relative to given facts are persuasive and even authoritative then the present book tools of attorneys are still in the old stone age. If physicians were no better equipped they would be excavating tonsils with clam shells and making incisions for appendectomies with their teeth. Whether in law digest or legal encyclopedia there is not extant in the English language a standard concatenation of case law that seriously can be considered as superior to atrocious.

The second thing to be said involves a challenge of the whole present prevailing juridical theory (probably started at Harvard in 1870) which can be dignified as little more than a scavenger hunt for precedent through the judicial community-dumps of defunct and/or indefensible cultures. As anthropology it is admirable; as a pathway to justice—quagmirable.

In 1870 Christopher Columbus Langdell became dean of Harvard Law School. Like the earlier explorer, the namesake embarked on a career of seeking new ways; likewise he made an error in his landing.

Langdell began his reasoning with the premise (a weak half-truth) that the law is what the courts say it is. He pointed to the law library, and sicked his students on its stacks. Under such continuous unprecedented manhandling the volumes began to fall apart. The worried professors then selected, and had printed, the cases they wanted read. The casebook was born—as malignant an example of hearsay evidence thrice compounded as ever distorted truth.

And then the law library commenced to swell with the sickness of *ex libris* elephantiasis! And Langdell disciples indoctrinated the land with Langdell axioms and corollaries to the effect that law and justice only can be born after long pregnancies and labor pains in a kind of research whose groanings toward innate impossibility are exceeded in nonsense only by the system's inane misconception.

Forty years ago the organized state and national bar commenced to restrict the numbers of its members in order that the quality of the profession might be improved. Today the need is similarly urgent that the unfit in law books be permitted no professional standing.

Aided and abetted by many publishers whose marketed product, editorially and otherwise, smacks of wood pulp, the law librarians have become worshipers of the golden calf called *Size*. They buy a score of mediocre competing duplicating treatises on, say, estates and trusts. They do the same in many other areas. Perhaps the purchases are required

under existing practices, but those practices are turning law libraries into the Carlsbad Caverns and Mammoth Caves of jurisprudence—dark, unexplored and batty.

It serves no honest purpose to save shelf space by microfilming quantity. That merely is minimizing evil—which is indefensible! The organized bar must insist on editorial quality in its law books—perhaps with a skilled committee having powers of imprimatur, and limiting approved treatises to a few excellent volumes instead of a few rooms full of authors' nightmares.

When E. S. Torrance became superior court judge in 1891 the law library was well integrated with courthouse justice. The reports were few and the treatises fewer. But a sound thinking judge could stand for a few moments on the mountain peaks of insight beside one of the major legal prophets of the day—Greenleaf, Parsons, Marshall, Story or Kent, and then return to the mundane courtroom to dispense justice in a manner commensurate with the size of his own soul.

Today, as then, the need is not for big libraries but, as with Elisha Swift Torrance, for bigness of soul of the men who use them.

This judge, the son of a Presbyterian minister, was a civil war veteran, a graduate of Washington and Jefferson College, and in turn before he came to San Diego in 1887, a Kansas school teacher, county attorney and district judge. The last half of his life was spent here, with 18 years of service on the superior bench. He died in 1926.

A book is never as great as the life of a man that inspires its writing, but if a law book ever is written commensurate with the judicial ability of E. S. Torrance it will be that rare jewel of a volume so much needed in the book-surfeited legal profession today.

SEVENTEEN



DE BELLI (et Pacis)

Born in Pennsylvania in 1839, Norman H. Conklin served in the civil war both aboard ship and in land campaigns. He resigned his officer's commission for careers in law and journalism, and for a few years after coming to San Diego in 1874 was in newspaper work. He was elected district attorney in 1877 and thereafter devoted himself to the law. He was elected superior court judge in 1900—a position held until his death in 1908.

Judge Conklin's judicial tenure covered the exciting idealistic years of the two Hague peace conferences—1899 and 1907. During this same period one of his sons, Ralph L. Conklin who later became sheriff of San Diego county, was mounted customs inspector and mounted immigration patrol officer riding the border from the ocean to Dulzura to Yuma, en-

gaged in tracking smugglers and halting the crimes resulting from widespread international intrigue.

Upon this background of war, prosecution of crime, administration of justice and suppression of international malefactors rests the opportunity for discussion of one of the law's greatest enigmas—mounting into crescendo importance with each decade since 1625 when Grotius published "De Jure Belli et Pacis"—the problem of how to think sensibly about war and peace.

From one who has read two thousand books in a 40-year hobby of objective evaluation of this subject the following things need to be said (authorities available upon request):

1. The talk about perpetual peace is "the babble of dreamers." As with mothers in law and false teeth, men will just have to learn to live with war. International understanding is impossible where over half the world's population is illiterate, where a hundred million crackpots and medically-recognized dangerous mental fanatics are at large, and often in positions of leadership, and where most of the rest of us—if not actually linked by heredity to the odd-balls of earlier generations—are loaded with innumerable schizophrenic incompatible urges and with the unconscious hates of self and early associates which periodically we project upon others to assuage our feelings of guilt or to win approval of our companions. From such a repository of madmen the world will always be well supplied with Hitlers, Huey Longs and Khrushchevs to keep the pots of violence a-brew.

2. War has suffered intolerably from character assassins—its values have been deprecated and its evils monstrously magnified. Throughout the last 100 years, amid the bloodiest wars of history, more United States citizens have been murdered and maimed by sex fiends, manic depressives and drunk drivers than the total battle casualties of war. Preventable negligence and remediable disease, each, snuff out ten times more lives than are taken in battle. More Americans have been hideously burned alive in fires, alone, than have died in military conflict, and for that matter the whole world's property destruction because of war is completely insignificant when compared with commonplace civilian fire and casualty losses.

The cost and alleged waste of war have been lied about unblushingly. Simple arithmetic shows that for every billion dollar military contract let by the government it immediately withholds in taxation about 25%. The balance cannot be classed as spent for armaments. The whole of it goes to support the families whose breadwinners work for the innumerable companies benefited by the original contract. It buys the food, clothes, shelter, police and fire protection, and education of children for several thousand American families.

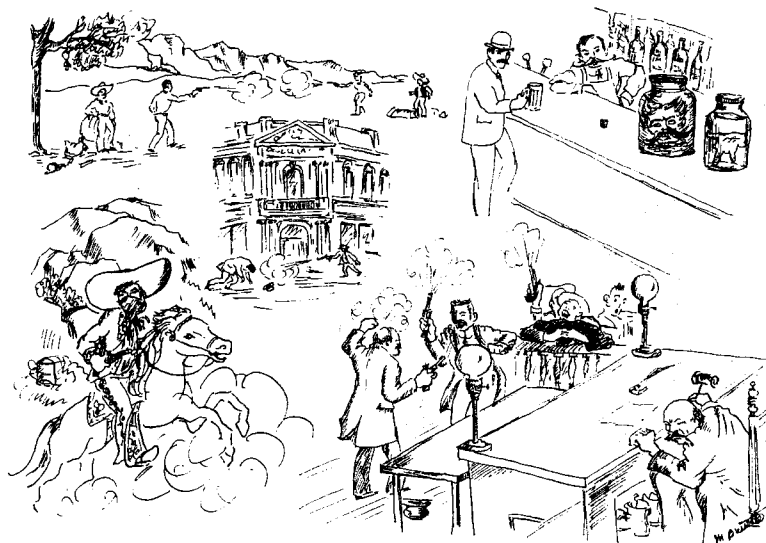
Furthermore, according to the most widely recognized religious leadership, honestly motivated war is no sin. The sin lies in quiescence while morality cries for aid.

3. War has values—both modest and magnificent. Its therapeutic aid to individuals and whole populations, its ecological desirability for the race, are scientifically known but little publicized. In the last 300 years the improvement of medical techniques solely through impetus of war has saved a thousand times more lives than have been lost in battle. War is responsible for "Braille" reading for the blind, and untold other social and scientific benefits for mankind. Its greatest good is as a muscle motivated by the consciences of men of good will to oppose the mass cruelties of madmen. Believers in the values of war say that it is a monstrous evil to be neutral between right and wrong, and that good men want armies (and want to use them) in the same way that upon occasion they call for the fast shooting arm of an FBI agent or of the desperado-threatened driver of a midnight police prowler car.

4. The real danger about war is a population's blind, cringing and ignorant fear concerning it. The greatest waste of this century has not been the military destruction of cities and human lives, it is the staggering billions of dollars, and man-hours, perennially being poured down the drain, with childish naivete in abortive programs dedicated to the immediate realization of an irrational dream-world for mystics, voluptuaries and oysters. Many persons gladly would sacrifice their lives to protect homo sapiens from such decadence, spiritual abdication and moral disarmament.

Sheriff R. L. Conklin gave his life in the course of duty as an officer sworn to uphold right and discourage wrong. His father, Hon. Norman H. Conklin, was the same kind of gentlemanly but righteously courageous man. To all of those who, like these, uphold justice through pangs of personal sacrifice, must go the tears—and the love—of the world.

EIGHTEEN



JUSTICE BY BLOOD (and Thunder!)

Assassinations, bandit-baiting, courtroom shooting, and duels—formal and informal:—these were the ABCDs of early justice in California. San Diego has had its share of these rudiments of law and order. One of the last local instances of *vi et armis* toward the courts was the abortive attempt to assassinate superior court judge W. L. Pierce in 1889—concerning which more will be told hereafter.

In 1960 San Diego's city manager (a good man) has the name Bean. This is just ditto from 110 years ago. The last alcalde and first mayor of this town (1850) was Joshua H. Bean. This last mentioned Big Boss moved north to become general of the state militia in which capacity he returned to San Diego in January, 1852, to preside at the court-martial of the Indian leader Antonio Garra. Ten months after the execution of Garra, General Bean, who then operated a store and saloon in San Gabriel, was assassinated by ruffians.

There were other Beans in the pod. The general's brother, a Los Angeles swashbuckler named Roy Bean, became a Confederate leader and after the Civil War settled in Texas near the Pecos River. There he became justice of the peace, held court in his own saloon, and made himself rich and famous dispensing "The Law West of the Pecos." His only law book was one of early California statutes which San Diego's judge Oliver S. Witherby had helped to write.

Concerning bandits: If Joaquin Murieta was not a funny one, the story about him is. This legendary "Robin Hood of El Dorado" was just a scared little Mexican who came through San Diego to find safety below the border. But his name remained: a catchword for adventurers and tellers of tales.

A San Francisco newspaper reported in 1853 that one Joaquin Murieta was suspected in connection with the murder of General Bean, but that he escaped. A certain Captain Harry S. Love somehow managed to secure special state legislation authorizing payment to him and his score of questionable assistants for pursuing and capturing any one of five different Joaquins (Stats. 1853, p. 194).

Western historian Joseph Henry Jackson has established beyond question that Love's men captured some Mexicans, took the head of one which they named Joaquin Murieta, and the hand of another whom they named Three-Fingered Jack, preserved these in spirits, collected their pay and other rewards and then climaxed the whole farce by persuading the state legislature to grant them an additional \$5000 (considerable money a century ago)!

The murder of San Diego's first mayor and last alcalde is still unavenged—gallons of blood and printers' ink to the contrary notwithstanding.

Early lawyers, far too crafty to spit tobacco juice to windward, had no compunctions about hurling a filled cuspidor at opposing counsel in court. And contentious counsel was lucky to stop a cuspidor instead of a bullet.

One county judge in San Diego's judicial district considered it appropriate to issue an order that attorneys should not spit tobacco juice on the courtroom's hot stove, but, according to historian W. W. Robinson, when lawyers in his court pulled pistols and commenced shooting at each other the same judge merely crouched in refuge behind his bench, and yelled "Shoot away, damn you! and to hell with all of you!"

Although the first California legislature enacted penalties for dueling, the practice brought involvement to some of this community's leading legal lights. Wm. Jeff Gatewood was the founder of the San Diego Union in 1868. Ten years before he had fought a duel in Calaveras county with a Dr. Goodwin and killed him.

Gatewood later became recognized as one of the best lawyers in San Diego. His sister married Philip Crosthwaite who earlier had shot it out in San Diego with one of the San Francisco terrorists called the "Hounds." Crosthwaite was badly wounded, and the "Hound" lost his leg.

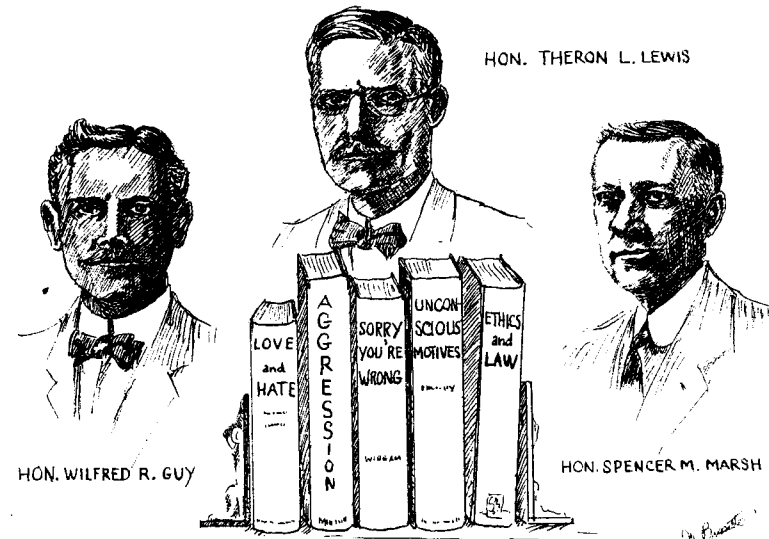
The Hounds of San Francisco had corrupted much of the state's judiciary with a criminal element. David S. Terry of the state supreme court was Hound-supported. He stabbed a member of the Vigilance Committee, killed Senator David C. Broderick in a duel, and for years followed Chief Justice Stephen J. Field around the state in an attempt to kill him. Field's bodyguard was too alert. The Vigilance Committee almost hanged Terry while he was on the high court. They compelled his resignation.

For 10 years after the Mexican War troops were quartered at the Old Mission under Col. (Bully) John Bankhead Magruder who also was an attorney, and on one occasion a duelist. When his adversary missed, and clutched Magruder's legs pleading for mercy, the report is that the soon-to-be Confederate general kicked him in the teeth—or a spot equally vulnerable.

San Diego's W. L. Pierce was appointed early in 1889 to a newly created superior judgeship. Hardly had he gotten his bench warm before the divorce suit of Clendenin vs. Clendenin brought matters to a boiling—even firing—point. Mr. Clendenin met the judge up town, and shot him. Fortunately Judge Pierce recovered. He was elected in 1890 for a new six year term, along with Judges Torrance and Puterbaugh. From 1899-1905 Pierce practiced in San Francisco.

Pre-trial discovery may be important in 1960, but it was more so a hundred years ago. Then it meant noticing an opponent's gun before, not after, he pulled the trigger.

NINETEEN



A BAPTIST, A METHODIST (and a CHRISTIAN!)

The outstanding Christian character of the three superior court judges herein mentioned has been the predominating comment about them by dozens of interrogated persons who knew them well. This presents opportunity for a long-needed consideration of certain currently popular ethical yardsticks called "love" and "the golden rule" as they relate to the administration of justice.

Detailed biographies of Judges Guy, Lewis and Marsh are available in the San Diego County Law Library. Wilfred R. Guy, from Ohio and a graduate of Michigan Law School, came to San Diego in the boom of 1887. In 1895-98 he was assemblyman, and instrumental in establishing the local State Normal School,—forerunner of San Diego State College. Judge Guy was a devoted Baptist. Perhaps the best of the many comments about him is that he was "a Christian gentleman." He was superior court judge from 1908 until his death in 1917.

Spencer M. Marsh, appointed to fill the vacancy, had been a district attorney and state senator and Grand Master of the Masonic Lodge in Wisconsin. After briefly serving here as district attorney he was superior judge for a dozen years. He was a confidant of the city's religious leaders, and widely known as a deeply conscientious citizen.

Theron L. Lewis was born in Pennsylvania and educated in Illinois, Iowa, and Nebraska. In the latter place he was a district attorney and state legislator. Coming to San Diego in 1888 he practiced briefly, served as deputy city attorney, deputy district attorney, four years as district attorney, and several years as partner of Eugene Daney, Sr., before appointment to the superior bench to replace Judge Conklin, deceased. Judge Lewis, who passed away in 1920, was a leading layman in the Methodist church which this writer has attended since 1906. By unanimous opinion of his peers Lewis was a great lawyer and judge.

Here were three men high in ideals and high in public favor. This writer long heard two of them publicly advocate more of brotherly love for mankind, and more use of the golden rule. By competent hearsay the third judge was of similar mind.

In as much as the greatest legal writers emphasize that ethical and moral considerations are inseparable from the administration of justice it may be suggested that the latter will not achieve maturity until it gains fuller comprehension of the following facts, long recognized by wise men and now made manifest by scientific investigation (authorities available upon request).

1. Love can play the unsuspected villain of the piece, as well as the hero; and, in fact, it always does!

An old Greek proverb said, "Who love too much hate in the same extreme." George Santayana philosophized, "The religion of love instigates crusades and lights faggots." Bertrand Russell concludes that most of the "people who believe that you should love your neighbors as yourself think it right to hate those who do not do so."

Emerson pointed out in "Compensation" that for every action there is an equal and opposite reaction. Modern research is proving it true concerning love. Even 19th century psychologist William James insisted that non-violence is the chief provoker of violence, and that non-resisters are the meat for sustaining the world's quota of human crocodiles and pythons. Modern psychologist agree.

Dr. Sorokin of Harvard, one of the greatest of modern social scientists and a stalwart for "Altruistic Love," admits that altruism and brotherly love breed hate and conflict. "This," he says, "is an eternal tragedy. . . . Jesus rightly said that he brought not only peace but a sword. So does every unselfish person or deed."

"Understanding,"—encompassing as it does love, intelligent justice, and scientific regeneration, possibly is a sounder goal for lawyers and judges of good will. As the wise man of Proverbs said, "With all thy getting get understanding."

2. The golden rule, a glamorous looking ethical yardstick, may be little more than low-carat tinsel.

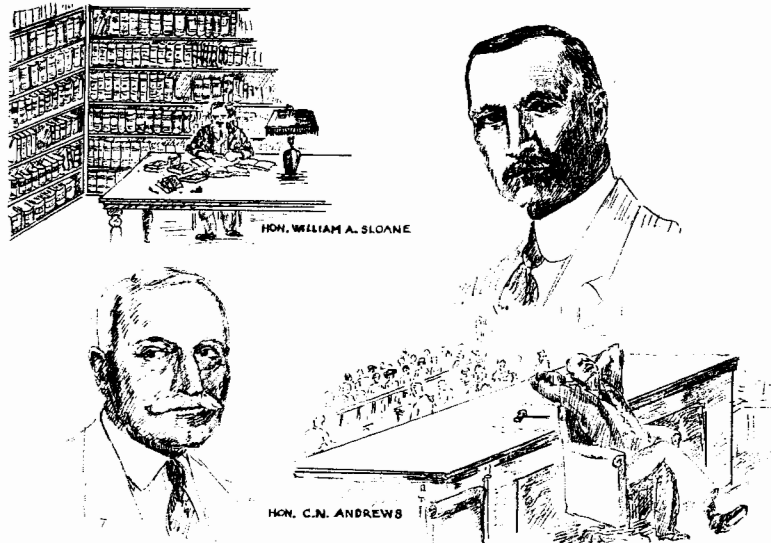
Acting toward others as one would desire if positions were reversed would mean selling all moral order down the creek. There is hardly a living saint but recognizes the lack of wisdom in giving a ride to every ratty hitchhiker on the road. Wise people do not invite every questionable applicant to join their professional fraternity. Generals are not expected to salute first when meeting new recruits merely because the latter would like it that way if roles were reversed.

The norm fits few of life's important relationships, for example, parents and children. It patently is absurd to ask the child who never has been a parent to treat parents as they should treat him—to measure his conduct by a yardstick he never has seen. To hold parents to the rule would reduce morality to the common denominator of the kindergarten. After being naughty the child would wish a lollipop and a ticket to the matinee. Do as you would have it done if the positions were reversed is an excellent rule for encouraging every kind of domestic and international wickedness.

The fallacy of the golden rule is that it suggests treating another as I should be treated, instead of treating him as he should be treated. Today, says Jung, doctors treat ill persons—not "diseases." The law, too, is weltering through the bogs of fixed rights and channeled duties to the firmer soil of giving justice, not on an actuarial basis, but in the light of the rights, duties and potentialities of the individuals before the court.

Judges Guy, Lewis and Marsh were good men. The two of them known to this writer were wonderful citizens and high caliber judges. Fumblingly at times, as do we all, they attempted to translate the moral heritage of the ages into current human action. It is not enough to mark their failures or triumphs. It only is enough if judicial administration makes constant reappraisals of itself, and of life's utmost values, realizing with Lowell that "humanity sweeps onward," and that even a judge "must upward still, and onward, who would keep abreast of truth."

TWENTY



COOLING BREEZES (or Hot Air?)

W. A. Sloane and C. N. Andrews were two of the great judges of San Diego's superior court, but for different reasons. The men were close personal friends, and each was appointed by governor Hiram Johnson, a political reformer who stood high in Teddy Roosevelt's Progressive party.

For 10 years before coming to San Diego in the boom of 1887 William Arthur Sloane was a crusading Missouri newspaperman. Even in San Diego he became known as a fighting reformer. In spite of his unequalled judicial accomplishments, capable acquaintances still maintain the Judge was a newspaper man first, and a lawyer second. He loved the proper turn of a sentence, and he married the daughter of a nationally known author.

Two years after arrival in San Diego Sloane was elected to a four-year term in the city justice court. Thereafter he practiced for some years

with A. H. Sweet and Lewis R. Kirby. From 1898 until 1911 he was a partner of M. A. Luce. After 1905, when Edgar A. Luce returned from law school, the firm became Luce, Sloane and Luce.

Judge Sloane served on the superior bench from 1911 until 1919 when he was appointed to a new division of the Los Angeles appellate court. Later he served on the state supreme court for three years. In 1929, shortly before his death, he was appointed presiding justice of the fourth district court of appeal. No San Diego man has had this breadth of judicial experience.

Of quite different pattern was Judge C. N. Andrews whose superior court tenure from 1912 to 1934 was the longest locally during a hundred years. This man—neither scholar nor zealot nor politician—was a jurist of finest judicial mind and temperament. He was no sheep, no follower of any legal bellwether. He didn't use precedents as authority, but as guides for his own thinking. When a legal argument was concluded he leaned back in his judicial chair, frequently with his back to the courtroom, and searched his own thoughts for the right answer. And usually he found it!

Sitting by appointment at times on the appellate bench Andrews wrote decisions without citing a single authority (frequently contradictory to others that had been based upon elaborate citation of earlier cases) and generally his decisions were accepted by the bench and the bar as the final correct analysis! The man was a genius in distinguishing propriety from pedantry.

Charles Nathaniel Andrews was born in Wisconsin in 1859. He studied law there, taught school in Tennessee, then practiced in Minnesota, and in California from 1907 until his appointment in 1912. He retired at the end of 1934 and passed away in 1937.

Here were two friends,—outstandingly good judges representing two conflicting schools of thought. Which of the following lines of thinking will become ascendant before the 20th century ends?

1. Anglo-American justice does not tolerate use of a mere judicial hunch, even though it is based upon the individual judge's best lifetime background in the legal, ethical and social mores. The classical repudiation of such ad hoc heterodoxy came centuries ago when wise men realized that Equity must be more than an expression of conscience—dispensed in variables as unpredictable as the length of a chancellor's foot.

A good courtroom judgment is not a personal decree, but rather an official spokesman's expression of the distilled experience-lessons of the race. Whether called stare decisis, common law, or following of precedent, it all sums up in society's realization that the crystalized wisdom from many minds is superior to even the best crystal-ball hunches of one.

Justice, therefore, requires historical research, and analyses of earlier conflicting theories and court decisions. A lucid expression of such findings and conclusions must be preserved in each case to assist all later travelers on the same pathway of research.

Then there is another view.

2. The real weight of our annual production of printed court decisions is less in verity and poise than in averdupois. Students of the behemoth appellate animal know that its end product is influenced by the kind of brain-food fed in by research attorneys. Top bracket lawyers win 85% of their cases; poor ones similarly lose.

Shocking it is that over half the official appellate decisions would be diametrically opposite holdings if counsel for the loser only had worked harder or had been of higher caliber than the successful attorneys! Yet, compounding error, these are the "authorities" cited to sustain newer authorities—ad absurdum, ad nauseam. The cost in money of such monstrous inanity amounts to billions of dollars per year. The cost of frustration and deprivation to wronged litigants is inestimably fantastic.

As in days of Hammurabi, Justinian, and Coke the time is here to burn the judicial rubbish of centuries—to begin anew with the comprehensible foundations of justice.

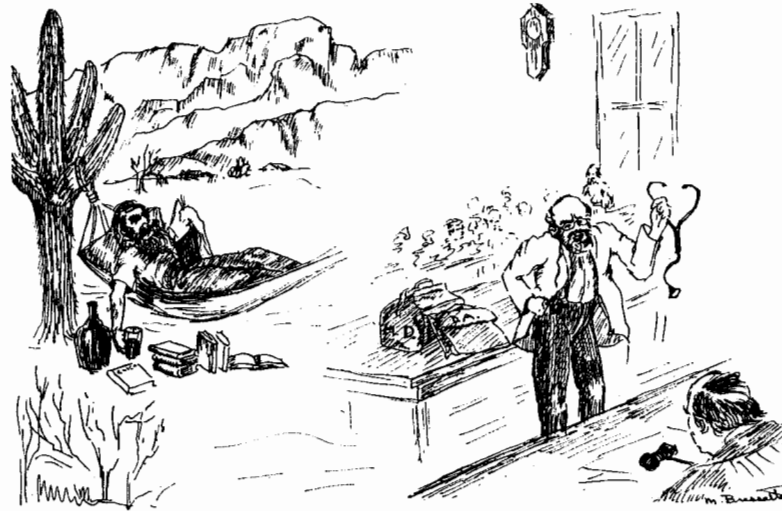
Only 25 brief legal maxims can solve most of the cases before our courts. They claim for us instinctively, says Broom, the recognition of having been "written with the finger of Almighty God upon the heart of man." How many of our judges could quote 10 of them?

One example: Where one of two innocent persons must suffer for the act of a third, it must be the one whose incautious conduct is the more responsible. Modern legal scholars recognize that this rule solves innumerable difficulties in bulk sales, agency and partnership, torts and negligence, joint ventures and joint liability.

Twenty five maxims, replacing twenty five times 25,000 pages of mix 'ems! "It is a consummation devoutly to be wished."

"The refreshing winds of Progressive politics," to which one writer has linked the 1911-12 era in California, elevated two fine men to the bench in San Diego. They illustrated different facets of the jewel of justice, and of a problem that demands both careful research and the ability just to lean back and think.

TWENTY-ONE



D.A.s' DAYS (and dazes)

San Diego's first district attorney was the only one in history to be actually what he was called, i. e., attorney for a judicial "district" comprised of more than one county. Two separate enactments of March, 1850, provided for a county attorney in each county and a district attorney for the judicial district.

William C. Ferrell, a San Diegan, thus was district attorney of Los Angeles county as well as of his own. No Angeleno ever enjoyed the reciprocating honor because, as of the first Monday in October, 1851, county attorneys were abolished and a "district attorney" was provided by state law for each county. The several-county district courts continued until 1879.

Laughable now is the story of Ferrell's bad breaks that caused him to shake American dust from his shoes and become a happy recluse in the nearby mountains of Mexico for almost a quarter of a century.

Ferrell's salary as first district attorney was \$2000 per year, plus cer-

tain fees (real good for those days). The law of October, 1851, reduced the salary to \$500. Ferrell quit. He became collector of the port, assessor, school commissioner, assemblyman—and district attorney again in 1859. Report has it that district judge Benjamin Hayes (who had been admitted to the California bar at the same court session as Ferrell in June, 1850) decided a case against the D. A. Ferrell banged his books on the table, stomped out, and never returned—although visited often by his friends in the "mountain fastness hideaway" at Reventadero, Lower California.

Thomas W. Sutherland, who succeeded Ferrell in 1851, probably was the first local American lawyer. Acting as alcalde on March 18, 1850, he conveyed land to William Heath Davis and others (one of whom was Ferrell) to start New San Diego—which failed to develop, however, until A. E. Horton arrived in 1867. Sutherland also was the first city attorney before becoming district attorney. He moved to San Francisco in 1852.

The third San Diego district attorney, James W. Robinson, although a native of Ohio, had been lieutenant-governor, governor, and district judge in Texas. His tenure in the local office, 1852-56, was the longest for over half a century. He died in 1857.

J. R. Gitchell served as D. A. in 1857-58, after which he moved to Los Angeles. While here he drew up the charter of the San Diego & Gila Railroad, and was its first attorney.

A second try at the job, as related above, was made by Ferrell in 1859. After his resignation things apparently looked so sick that a physician was appointed as district attorney, and was chosen again by the people at the next election!

Dr. David B. Hoffman, reported as being "a good physician," must have been as versatile as Leonardo da Vinci. In addition to being coroner, county physician, town trustee, school trustee, state assemblyman, collector of the port, official tidal gauger, and 1868 presidential elector for California, he was admitted to the bar in 1856 and for three years served as the county's chief legal officer, 1859-61.

During the century following the Hoffman regime four district attorneys were elevated to the district or superior bench: W. T. McNealy, Norman H. Conklin, Theron L. Lewis, and Spencer M. Marsh. For the past 45 years, however, seven successive occupants of the office of district attorney have found that travel to the job is on a dead-end political road.

Some of the district attorneys immediately before and after the turn of the century are remembered as lawyers of the highest bracket.

W. J. Hunsaker, although born in Contra Costa county in 1855, received his public schooling and legal education in San Diego. He studied in the law offices of Chase and Leach, and also under tutelage of A. C. Baker who subsequently became chief justice of the territory of Arizona. Hunsaker was admitted to the bar in 1876. He was district attorney in

1883-84. Major Levi Chase from Maine, and his Harvard-trained partner, Robert Wallace Leach from Illinois, were the preeminent leaders of the post-Civil War bar in San Diego. It was an honor to be trained in the Chase-Leach office. W. J. Hunsaker moved to Los Angeles in 1892 where, with another successful San Diego man, E. W. Britt (at one time a supreme court commissioner), he became recognized as one of California's top 1% in the legal field.

Martin Luther Ward, head of an outstanding local family, and district attorney 1893-96, was a direct descendant of the Aldens of "Mayflower" days. Born in Ohio and educated at Cornell College, Iowa, he came to San Diego with his family in 1887. At the close of his D. A. tenure Mr. Ward sought Republican nomination for a superior court judgeship against the three incumbents, Torrance, Puterbaugh and Pierce. He won the nomination along with Torrance, but in the party upheaval was defeated by Democrat nominee J. W. Hughes. Mr. Ward was state senator from 1903-1906, and practiced, until his death in 1930, with two of his sons, John and M. L., Jr.

Adelbert H. Sweet, who was D. A. in 1897-98, later was recognized as San Diego's greatest corporation lawyer. His firm of Sweet and Stearns, and then Sweet, Stearns and Forward, became the backbone of the present firm of Luce, Forward, Hamilton and Scripps.

Cassius Carter, from Virginia, married a Missouri girl, moved to Texas where he served as district attorney, and came to San Diego in 1887. During 1903-06 (following T. L. Lewis) he served as district attorney here. Carter was a scholar—classical, Shakespearean, legal. He passed away too soon, at the age of 52, but his exceptionally capable descendants here have made the Carter name admired and famous.

After Lewis R. Kirby served in 1907-08, Harry S. Utley, a naturalized Britisher, started the long tenures. He was district attorney from 1909 until 1922 with four World War I years excluded (Mahoney, Marsh, Schuermeyer). Chester C. Kempley and Stephen Connell served four years each, followed by Thomas A. Whelan, 1930-46, with 5 years of intermission ('37-'42, when James B. Abbey served by supervisory appointment after Whelan resigned, only to be succeeded by Whelan's supervisory reappointment upon Abbey's own resignation!). Currently (1960) James Don Keller has been district attorney since January 7, 1947—a record tenure in length and perhaps in administrative accomplishment.

TWENTY-TWO



THE SAN DIEGO BAR (1850-1905)

There have been six distinct generations of San Diego lawyers since 1850. This article deals with the first three.

The distinguished legal fraternity of San Diego's five formative years, 1850-55, soon thereafter deteriorated into a profession practiced by men who were, respectively, an erstwhile carpenter, teamster, storekeeper, minister and doctor.

Of the early "pedigreed" barristers, Sutherland, Gitchell and Ferrell moved away. Ira W. Bird disappeared, James W. Robinson died, John Bankhead Magruder joined the armies of the South, and former district judge Oliver S. Witherby became a successful stock raiser near Escondido. The high level of professional competence of these men was not regained by the community's bar until the decade of the '70s following the Civil War.

The first record of legal education in San Diego is to the effect that Daniel Brown Kurtz studied, or "read," law under Joseph R. Gitchell (later U. S. district attorney in Los Angeles). Kurtz, E. W. Morse and Dr. David

B. Hoffman were admitted to practice in April, 1856. The notes of district judge Benjamin Hayes relate that in 1856 he admitted "young lawyers, Mr. Nichols, the preacher, and Dr. E. Knight." It is likely that the preacher, and James Nichols, district attorney here 1862-63, were one and the same. A. S. Ensworth also was admitted in the '50s.

Kurtz, while a carpenter, was the town's second mayor (1851), a state senator (1853), member of the important court of sessions (1854-60), county judge (1855-59), assemblyman, president of town trustees, and brigadier-general of the state militia.

Ephraim W. Morse, who lived in San Diego 1850-1906, has almost nothing but good said about him and his business and professional abilities. Principally a merchant, he also served on the important court of sessions prior to admission to the bar.

"Squire" Ensworth was a government teamster. After terms as J. P. and assemblyman he practiced law in earnest — and successfully. His law library was the largest in town.

Dr. David B. Hoffman's three year stint as district attorney has been mentioned in another Footprint.

Professional lassitude was displaced by a powerful bar commencing three years after the close of the Civil War. Between 1867 and 1886 two dozen men left indelible entries upon the records of courts and of legal historians. It was the era of Horton's New San Diego.

Major Levi Chase came in 1868, and died in 1908. He had a voice like thunder, and a practice equally heavy. His partner was Robert Wallace Leach until the latter teamed up with Judge Edwin Parker in 1885. Leach died in '88.

Between '68 and his death in '88 Wm. Jeff Gatewood, for a short time part owner of the "Union," was a leading lawyer. In 1871 Chalmers Scott snatched the court trappings and delivered them to New Town. He practiced with G. A. Jones who defended the supervisors for permitting the official move.

W. T. McNealy (subsequently judge) arrived in '69, as did the brothers Daniel and Wm. H. Cleveland. The latter, sons of a New York lawyer, were identified with the highest type of legal practice, real estate development, and cultural activities.

Moses A. Luce came in '73, was elected county judge 1876-79, and lived to see his son, Edgar A. Luce, become state senator (1913-17) and superior court judge (1919-24). Judge Norman H. Conklin arrived in '74.

In 1865-75 former district judge Benjamin Hayes was in active practice here, and judge Oliver S. Witherby had returned from Escondido.

The '67-'86 generation of lawyers would not be complete without mention of Lewis Branson, a former Wisconsin judge; A. C. Baker, later chief justice of Arizona Territory; James Alexander Gibson of the subsequently great Los Angeles firm of Gibson, Dunn & Crucher; W. J. Hunsaker, one of the west's best; and Judge John Downey Works, later supreme court justice, and U. S. Senator. Also Harry L. Titus and Elijah W. Hendrick.

The third generation of San Diego lawyers started in 1887 (maybe '86, when Harry S. Utley, W. J. Mossholder, Linden L. Boone and J. E. Wadham arrived. The Colliers, D. C., Frank and William, came in '83; George Puterbaugh in '85).

Nothing like '87 has ever happened to San Diego or its legal profession. In that one year came Cassius Carter, Eugene Daney, the Forwards, William H. and Wirt Francis, W. R. Guy, the Haines, the Leovys (Ward Waddell and Tom Ackerman are grandsons, and nephews), William A. Sloane, Pattersons Sprigg, the Torrances and the Wards. These families have practically built San Diego.

But '87 also brought Clara Shortridge Foltz, California's first and outstanding woman lawyer, and sister of U. S. Senator Samuel M. Shortridge. Her son in '89 was clerk in Judge Puterbaugh's court. Also Paul John McCormick who was to become superior and federal district judge in Los Angeles; Col. Olin Welborn a former Texas congressman who left here to be appointed federal district judge in 1895; and D. L. Withington who served four years as state senator and moved in 1903 to leadership of the Hawaiian bar.

In '88 came judges John R. Aitken, T. L. Lewis and Victor E. Shaw. The latter practiced with Harry L. Titus until 1906 and accepted a justiceship on the second district court of appeal. Also the Hammacks; Christopher F. Holland, a partner of judges Aitken and Shaw; and John B. Mannix who became father-in-law and partner of Edward T. Lannon.

Sam Ferry Smith came in '89 (followed in practice by his son Lawrence); H. E. Doolittle in '95; and W. R. Andrews, in '97. Andrews lost by one vote the superior judgeship to W. R. Guy after a contested election in 1908.

By 1905 the dust from Culebra Cut was reaching the nostrils of young men like Gordon Gray, Clarence Harden, and Fred Lindley. It started the Panama Canal rush to San Diego; also another legal generation, and another story.

TWENTY-THREE



INTER-SEA, INTER-SEIZES (and Inter Se)

The fourth generation San Diego lawyers, inter alia, put on an exposition and a war. Prestige names of the period were holdovers from '87, but the go-getters were younger men.

U. S. Grant, Jr., one time assistant U. S. district attorney in New York, and builder of the U. S. Grant Hotel, was first president of the Panama-California Exposition, the extravaganza that changed San Diego from a village to a city.

D. C. Collier, the San Diego-reared lawyer-son of another local attorney, was "the creative genius of the Exposition." He travelled the world in its behalf, was its director general from 1909-1912, and its president for two years thereafter. Other lawyers in exposition directorship were Harry L. Titus and Lane D. Webber.

W. Jefferson Davis, trained both in law and diplomacy, travelled the western hemisphere for the exposition. He became a major in the air service in World War I, and subsequently a major writer on air law.

DeWitt C. Mitchell died of pneumonia in World War I while serving as confidential aide-de-camp to (later) General O'Neil. His will left money to the San Diego Bar Association to support a public attorney. This project developed into the now justly famous Legal Aid Society.

Three out-of-the-ordinary lawyers came to the little pre-Expo town. In 1911 Harry C. Clark, a trained civil engineer, arrived to practice engineering. He served in the great European war as a captain, studied for the bar, became San Diego's mayor 1927-31, and practiced law successfully. Ralph E. Jenney came in '12 after practicing six years in Portland, Oregon. This promotional genius in business, cultural and political areas closed a brilliant career as U. S. district judge in Los Angeles 1937-45. In 1912 James C. Byers came from Iowa where he practiced eight years and also served as state attorney general. After six years of practice here (one of them with Wade Garfield, father of the present judge of El Cajon municipal court) Byers was appointed sheriff in 1918, and for a decade was one of the most popular and efficient law enforcement officers the community has known.

The inter-bellum years 1920-40 brought forth the first large crop of wholly law-school trained attorneys. Many of these fledglings became intoxicated with their ability, and the ability to make money, only to suffer succeeding depression-frustrations through a sickening decade of impotence in paying office rent.

Even beneath a tarnished halo great hearts can beat, and fine minds function. This legal generation,—best trained of any in all American history,—dreamed and worked for a better profession, became the military heroes of World War II, and the mellowed and worthy leaders of the post-Pearl Harbor bar which is the sixth and current generation of San Diego attorneys.

But in the '20s and '30s leadership still was in men of the older school. So, after mentioning 7 superior judges of the inter-bellum fifth generation (not discussed in Profiles because they have passed away) another 11 fourth-generation names will be recalled,—men who definitely would rate among the top 50 lawyers and judges of San Diego in the first 50 years of the twentieth century.

Judge Edgar A. Luce, '19-'24, one-time city prosecutor, state senator, World War I first lieutenant, scion of a prominent family, was a thorough lawyer. National greatness actually was in him,—hampered by his non-association with grassroots philosophies.

Judge William P. Cary, '20-'26, commander of San Diego American Legion in '20 (also first vice commander for the state), co-founder in 1927 of the city's largest law firm, presiding justice fourth district court of appeal 1930, was more distinguished as a judge than as a lawyer.

Judge Lacy D. Jennings, '24-'31, was a justice of the peace who succeeded Luce on the superior bench and Cary on the court of appeal. He was a pleasing person with a tendency to indolence, possibly necessitated by a lack of physical sturdiness.

Judge Shelley J. Higgins, '27-'29, studied city attorneyship for 5 years under Terence Byrne Cosgrove, and was himself city attorney for 8 years prior to the judgeship. Had his looks equalled his legal ability, he would have gone far politically.

Judge Gordon Thompson, '36-'48, was appointed to the superior bench after 5 years as assistant district attorney. Gordon was aided by, and knew how to develop and use, the benign manifestations of political power. His early demise was a great shock and loss.

Judge Frank J. Macomber, '38-'39, an Iowa lawyer until 1915 (Stanford educated), son of an Iowa lawyer, uncle of William H.—of the present firm of Holt and Macomber, was a personable, talented, generous and courageous lawyer and judge. The community suffered much in his early passing.

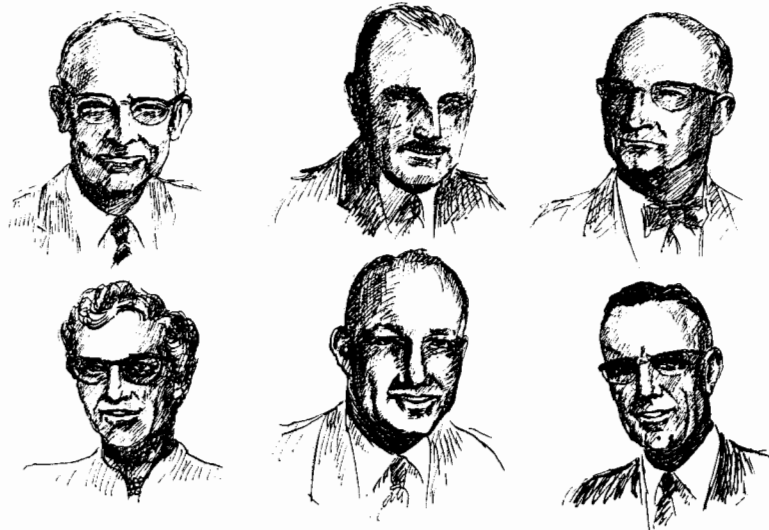
Judge Edward J. Kelly, '38-'45, was one of the first vice commanders of the local American Legion, a fervent, lovable Irishman in political and legal battles. When Captain Kelly became Judge Kelly the bench gained an honest, serious, dependable jurist.

Seven-come-eleven! In addition to others mentioned in Profiles, and hereinabove, eleven of the great lawyers of the exposition-World War I days are these: Henry J. Bischoff, superb businessman and lawyer in matters of interstate commerce; Charles C. Crouch, cane and cutaway coat, old school, fiery, effective; Robert R. Hamilton, uncle of Thomas M.—, associated with the best; Ray M. Harris, orator, successful attorney for heavy construction firms in the '20s; Curtis Hillyer, Bill's father, greatest law book writer of the century, son of a federal judge, unsurpassed in procedural contests; Howard C. Liggett, with son Ruel the county's runaway success in the field of small collections; Dempster McKee, shrewd, brilliant trial counsel; Frederick W. Stearns, terrific! taken to Chicago for 5 years as Byllesby counsel (Read his full biography); George Stone, office lawyer par excellence, community benefactor; Adam Thompson, the best plaintiffs' attorney in negligence cases that San Diego ever has known; Leroy A. Wright, once state senator, grandfather of Leroy II of Glenn and Wright, always head of a leading firm.

A thousand lawyers have practiced here in the city's first 100 years. The trifling criticisms directed against any or all of them are as ephemeral as buffalo breath on the boundless morning prairie. For these men saved a thousand times a thousand heartaches as they protected lives and possessions and sacred privileges. They gave countless thousands of benefactions to their community and nation. The ground on which they walked still bears their mark—the footprints of justice.

ILLUSTRATIONS

THIS BOOK PROJECT



Top row, left to right: Judge Phil D. Swing, Trustee; Judge Dean Sherry, Co-ordinator; Judge Clarence Harden, President Law Library Board.

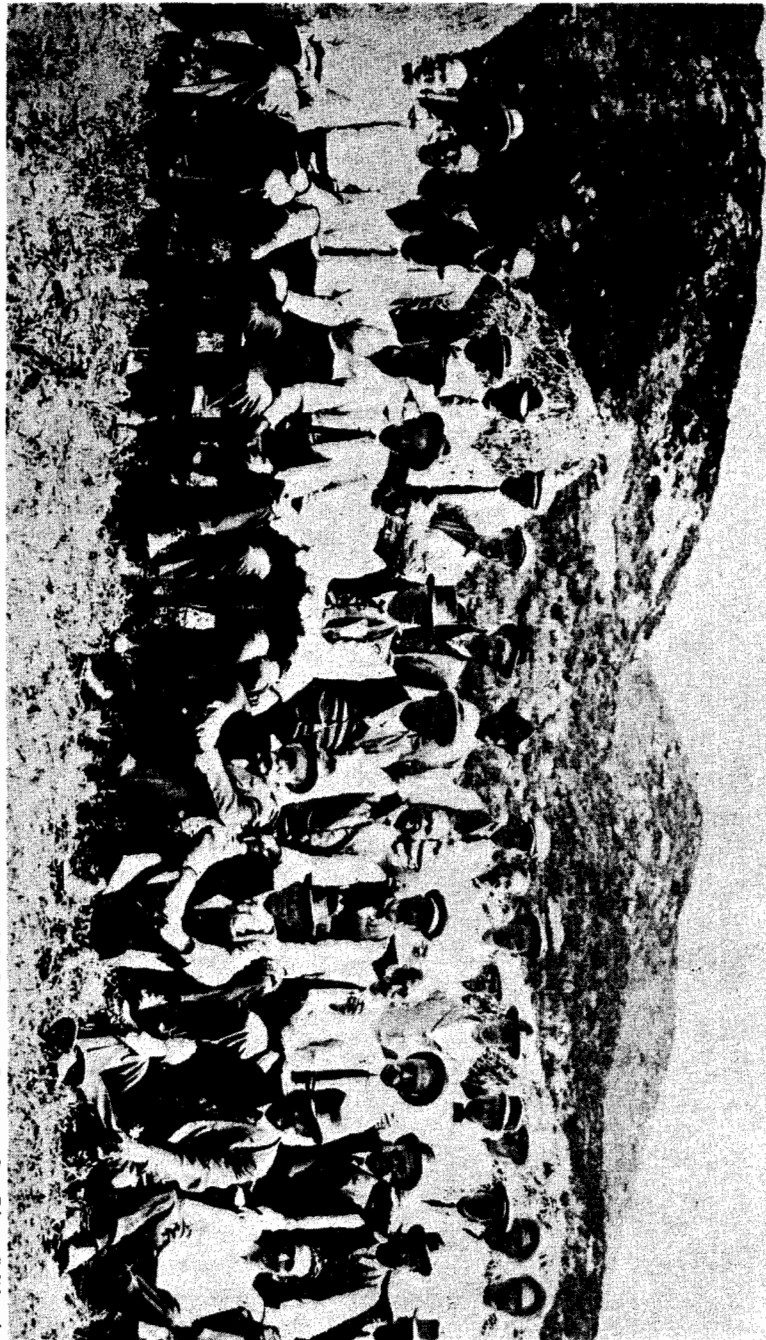
Lower row, left to right: Marion Hill Bressette, Illustrator; Thomas P. Golden, President San Diego County Bar Association; Leland G. Stanford, Author.



Table of names, where known, of lawyers in picture on opposite page. Seated on ground, left to right: Judge E. S. Torrance, A. H. Sweet, H. E. Doolittle, William G. Mirow.

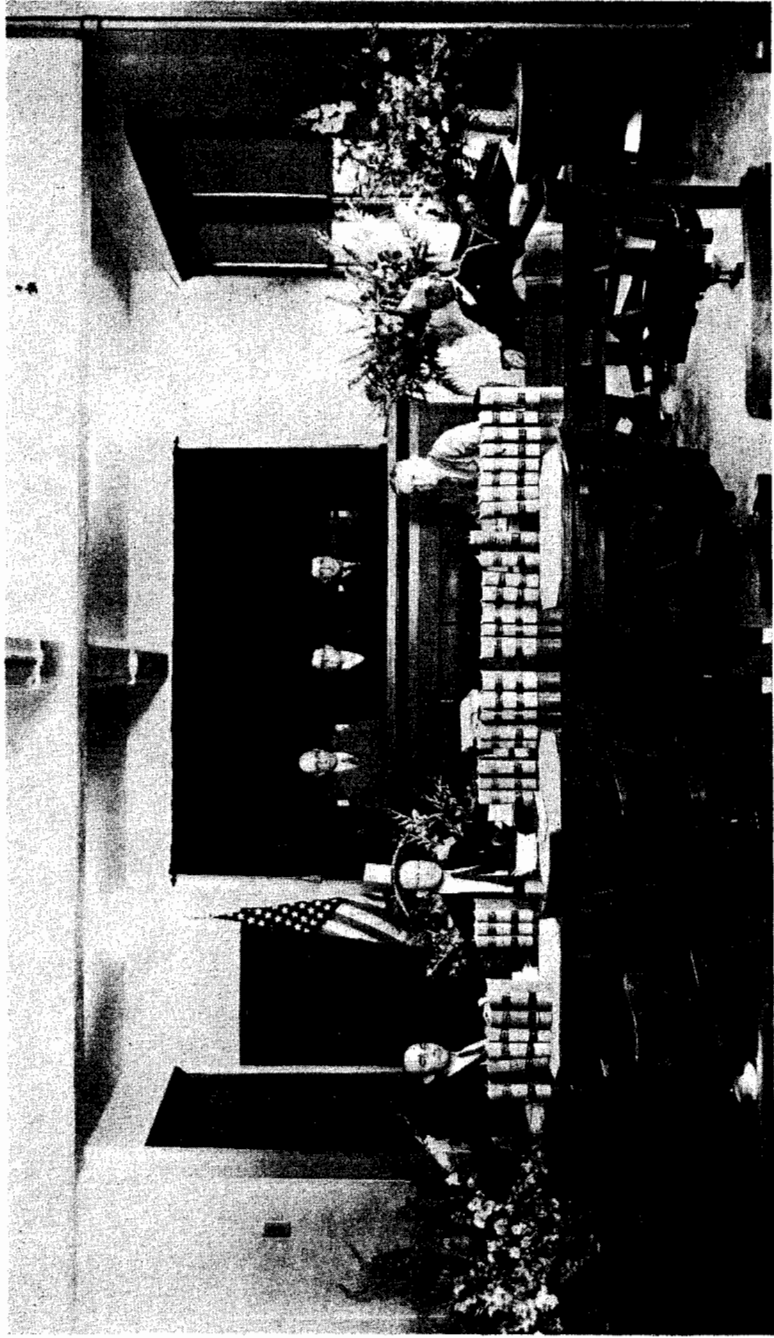
Seated on bench, left to right: 1. Eugene Ferry Smith, 2. J. C. Hizar, 3-5. Not known, 6. Judge Clarence Harden, 7. William Ginder, 8. Patterson Sprigg, 9. Adam Thompson, 10. Eugene Daney, 11. George Leovy, 12. Judge C. N. Andrews, 13. H. S. Utley, 14. Judge William A. Sloane, 15. Judge Claude L. Chambers.

Standing, left to right: 1-4. Not known, 5. Judge Edgar A. Luce, 6. William L. Morrison, 7. C. H. VanWinkle, 8. Johnson Puterbaugh, 9. Warren Libby, 10. Alfred Haines, 11. John Ward, 12. Not known, 13. Harrison G. Sloane, 14. Dwight Bell, 15. Edwin L. Johnson, 16. Dempster McKee, 17. D. F. Glidden, 18. C. Guy Selleck.

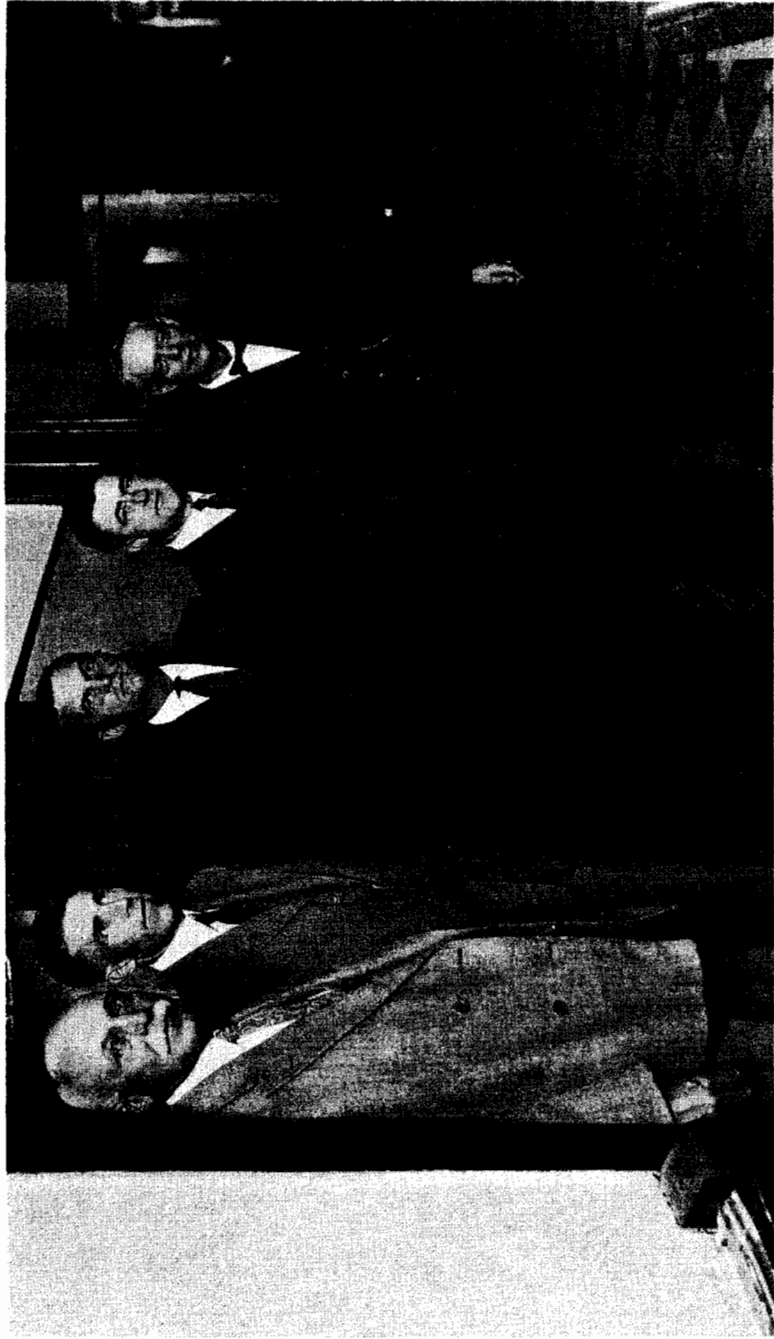


Bar picnic in 1913 at Flinn Springs. Names, where known, are listed on opposite page.

Courtesy: Historical Collection, Union Title Insurance Company, San Diego California



Courtesy: Historical Collection, Union Title Insurance Company, San Diego California
Fourth District Court of Appeal, May 12, 1931. Left to right: Justice Emerson, J. Marks; Presiding Justice Chas. R. Barnard; Justice Lacy D. Jennings. At table: Earl J. Verdeckberg, deputy clerk, San Diego (later, clerk); M. C. Van Allen, clerk; John J. Carr, court reporter; Frank Nutter, bailiff. Page 78



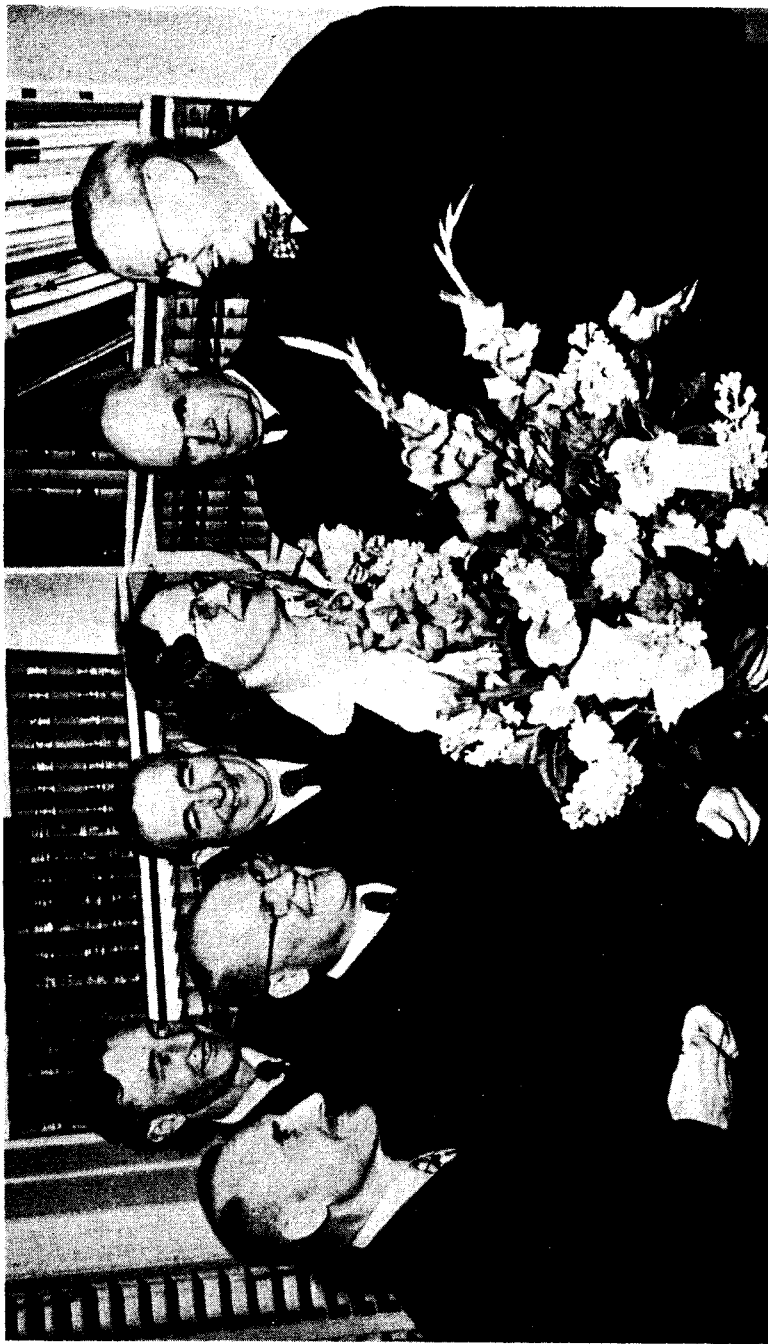
Superior Court, San Diego County, 1925. Left to right: Judge C. N. Andrews, District Attorney Chester C. Kempley, Judges Wm. P. Cary, Lacy D. Jennings, Spencer M. Marsb. Page 79



Superior Court, San Diego County, 1936. Left to right: Judges Laurence N. Turrentine, Lloyd E. Griffin, Charles C. Haines, Clarence Harden, Arthur L. Mundo.

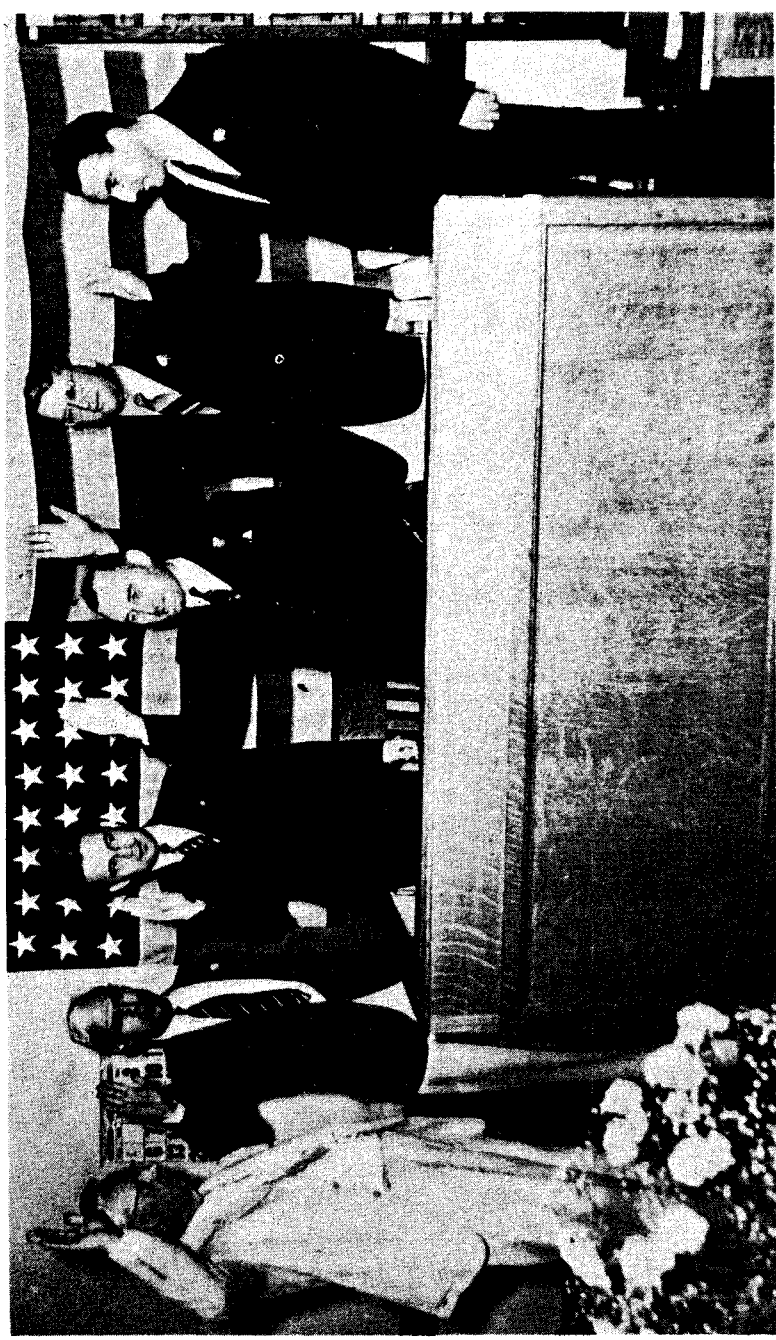


Judge Frank J. Macomber taking oath of office, January 14, 1938. Others, left to right: Judges Charles C. Haines, Lloyd E. Griffin, Gordon Thompson.



Photo, courtesy of Hon. Dean Sherry

Six Judges of Superior Court, San Diego County, January 28, 1949, on retirement of Kate Marcellus, local court reporter since October, 1913. Left to right: Judges Dean Sherry, Wm. A. Glen, Arthur L. Mundo, Cyrus M. Monroe, (Kate Marcellus), Charles C. Haines, Robert B. Burch. (Judges Turentine and Shell not present.)



Photo, courtesy of Hon. Dean Sherry

Municipal Court of San Diego, July 1, 1937, at the swearing in of its first judges. Left to right: James Bertram McLees, county clerk (also a member of the bar), Judges Eugene Danej, Jr., Philip Smith, Dean Sherry, presiding, Joe L. Shell, Clarence Terry.

 CLARENCE HADDEN 1924	 WM. L. MORRISON 1925	 EUGENE DANNEY JR. 1926	 HARRY C. CLARK 1927	 EDGAR A. LUCE 1928	 WM. B. CARY 1929	 BENWICK THOMPSON 1930	 J.A. ISAACSON 1937	
 WALTER AMES 1932	 GORDON THOMPSON 1933	 DAYTON L. AULT 1934	 JOHN A. HEWICKER 1935	 JOHN T. HOLT 1936	 JAMES S. AMEY 1937	 RALPH W. WALLACE 1938	 NICHOLAS J. MARTIN 1939	
 DWAYT A. HIGGS 1940	 FRED W. WALLACE 1941	 JEAN F. DUPAUL 1942	 STANLEY T. HOWE 1943	 LESTER J. PERRY 1944	 RICHARD F. MAHLE 1945	 EUGENE GLENN 1946	 ARTHUR A.F. WRIGHT 1947	
 HAROLD S. THIBAULT 1948	 THOMAS M. HAMILTON 1949	PRESIDENTS 1924-1951 BAR ASSOCIATION of SAN DIEGO			COMPILED & PUBLISHED BY CLAY HANCOCK, SAN DIEGO			 BONHALL MOON 1950
							 LEROY A. WHERRY II 1951	

Bar Association of San Diego, 1932

(on following page)

PROFILES

of Senior Members of the Bench and Bar

Harvey H. Atherton

Harvey Atherton is a man of prodigious energy and talent. Even as a senior citizen he is more than a match for any average lawyer, whether at careful draftsmanship, thorough research, or the smooth and forceful delivery of an advocate at the bar.

From the time he was valedictorian of his high school graduation class, until he decided to "half way retire" some three fifths of a century later, this man from the Land of Lincoln always has received a top rating—whether from professors at the Law School of the University of Michigan, or from those editors of the Martindale-Hubbell Legal Directory who evaluate professional competence, or from the lawyers and judges of his own community.

As an early graduate of the law school at Ann Arbor, Harvey Atherton is one of a number of extraordinarily capable and successful attorneys who have given international prestige to the school that knew professors like Floyd R. Mechem, master of the law of Agency.

Few men with Mr. Atherton's heavy professional duties have given so liberally of time and means to religious, fraternal, civic and character-building organizations. His work with the Boy Scouts—at local, regional and national levels—is particularly outstanding. He has received the Silver Beaver and the Silver Antelope awards of the Scouts, and also, in 1955, the Community Builders Award of the San Diego Kiwanis Club.

A portion of Harvey Atherton's autobiography, prepared at our request, is as follows:

I was born September 1, 1881, in a small house on the back portion of my grandfather's farm in Fulton County, Illinois. My father's name was Kester W. Atherton. My mother's name was Amelia Wise. Her parents came from Germany in 1847, when they were twenty-one years of age. Their name was Weiss, but they changed to Wise after coming here.

I was born and reared on a farm near the town of Vermont. I had three sisters and one brother. I attended a country school, walking one and one quarter miles. I received my high school education in the town of Ipava, and walked 3½ miles to school, two-thirds of the way along a railroad track. I had to stay out of school one month in the spring and one month in the fall to help my father with his farming.

I had not decided while in high school what I wanted to do. I took a teacher's examination and passed. I had a little difficulty getting a school, so decided I would be a lawyer. I taught school in country schools in the county for two years, while reading law. My highest salary was \$50 per month.

I was admitted to practice in Michigan and in Illinois in June 1905. I located in Lewistown, Illinois, July 5, 1905, and for 2½ years worked in the office of Lucien Gray for \$25.00 a month. It was good training and at the end of that time Mr. Gray wanted to go to California so I bought

him out and continued to practice law there until December 1924. I represented nine country banks for many years.

I never held any political office. I was offered the position of Judge of the Circuit Court (which is comparable to the Superior Court) without any opposition, but I declined, as I preferred to be free and independent, and continue in active practice.

The best and most interesting client I ever had was Ulysses G. Orendorff of Canton, Illinois. He was the president and manager of a large manufacturing company in the county where I practiced. I represented him for thirty-five years. He was a multi-millionaire. I represented him in one case where the property involved had a value in excess of one million dollars. The matter lasted eight years in the Illinois Courts and went to the Supreme Court twice. We won the case completely. He and his wife both died in Los Angeles in the same month a few years ago and I settled their estates and was the administrator in both estates in California. He owned property in twenty-one states at the time of his death.

I was active in all civic and community affairs in Illinois. I was president of the Board of Education and had charge of building the new high school building.

I married Edna V. Lingenfelter, a Fulton County girl, September 20, 1905, and three children were born, two boys and one girl, all now living in San Diego and vicinity. The oldest son, Lucien, has been a teacher in the Point Loma Senior High School for twenty-two years. My son Keith graduated from Law School at University of Michigan in 1937, and came into my office as a partner in 1938. We came to San Diego in December, 1924, and I was admitted to the California Bar in 1925 and have practiced here since that time.

I joined the various Masonic bodies and was president of Kiwanis Club in Lewistown, Illinois, when I left there, and have been a member of San Diego Kiwanis Club since 1925.

I have been active in Boy Scout work in San Diego County for more than thirty years and a member of the Executive Board during all that time.

I have been a member of the San Diego Chamber of Commerce for thirty-four years and served on various committees. I was chairman for two years of the Citizens Charter Committee that helped to establish the City Manager form of government for San Diego.

A. B. Bowman

For many years A. B. Bowman was San Diego's leading patent attorney. He took the California bar examination in 1905 with the late Judge Edgar A. Luce. Also taking the same examination was the late Adam Thompson who was San Diego's Melvin Belli of the nineteen twenties and thirties. Bowman started his practice in San Diego in the office of Cassius Carter, a district attorney here at the turn of the century, and father of several of this community's leading citizens at the present date.

Legal theory has produced both its Cahns and its Kants, but having grown up in Missouri Mr. Bowman always has adopted the less dogmatic middle attitude of "show me." Apparently more than a thousand people did show him their ideas during a half century of practice, for he has more than that number of patents to his credit as a lawyer-specialist.

On August 24, 1876, the subject of this sketch was born in a small log cabin in Carrol county, Iowa, where his father taught school. The parent later was a justice of the peace. Bert did not long remain a Hawkeye. In rapid succession, and in addition to his years in Missouri, he lived in the Buckeye, Hoosier, Prairie, Centennial and Golden states.

Mr. Bowman's early years gave him the customary three-R education, but in addition he grew to manhood through extensive experiences with farms and coal mines, and also with the early manufacturing of bicycles, pedal sewing machines, McCormick harvesters, and other mechanical businesses which at the close of the nineteenth century were tasting heavily of the heady wine of America's industrial revolution.

Mechanics became so important in young Bowman's early jobs that he enrolled in correspondence school courses in mathematics and mechanical drawing. Later in a Chicago institute he took night courses in mechanical and electrical engineering.

After Mr. Bowman's marriage to Edith Davenport in 1903 his mother in law agreed to assist him in securing further advanced education in Los Angeles. In the latter city the ambitious young student also helped meet educational and family expenses by operating a rooming house, currying horses, and selling tea and coffee by bicycle on a regularly operated route.

The Los Angeles branch of Cudahy Packing Co. employed student Bowman as a mechanical draftsman during construction of its new plant. He worked at this and similar jobs during the several years while attending law classes at the University of Southern California.

In 1906 Mr. Bowman was working for an engineering company in Los Angeles when he heard a speech about San Diego by O. W. Cotton, pioneer realty developer of this area.

The Bowmans had two daughters. Mary passed away some years ago. Maude is the wife of Dr. John Brose, San Diego educator.

During later years, extensive travels have occupied much of Mr. and Mrs. Bowman's time. In 1956, after a long sojourn in Hawaii, Mr. Bowman decided to sell out his practice and business interests. At eighty years of age,

and with sixty five years of business and professional experience behind him, the patent lawyer decided to take out a patent of his own under the trade name of "Fun 'n' Livin'!"

American state and Federal governments proverbially have opposed monopolies. The area of private invention is one of the exceptions. Patents are monopolies, and as such have been responsible for much of the spectacular industrial development of our nation.

The earliest American patent was granted by the Massachusetts Bay Colony in 1641 for a process of manufacturing salt. Most of the colonies granted an occasional patent right, and it was determined wisely by delegates to the constitutional convention that such matters should be within the exclusive jurisdiction of the Federal government. The first Federal patent was issued in 1790.

In each of the early years only a dozen or so patents were processed. Early in the nineteenth century the director of the patent office resigned for the reason that in his belief everything worth patenting already had come through his office.

During the twentieth century almost 50,000 patents a year have been processed and approved. Carefully kept records make it possible for patent attorneys to check millions of pages of drawings and specifications with the same type of accuracy (or inaccuracy) bestowed on statutes and court reports by researchers in the more customary channel of legal practice.

While Americans owe much to their great legal theorists, the guardians of personal and property rights, there is another debt of gratitude due the smaller contingent of very practical lawyers, like A. B. Bowman, without whose application to the laws of chemistry and physics the United States never could have developed those sinews of industry so necessary to the strongest nation in the world.

James J. Breckenridge

This is the story of a true-life Horatio Alger hero—at nine years of age an orphaned waif selling papers and sleeping on the streets of New York who, by the time he was 21 years of age, had risen by his own strength of character and effort to become the confidant of ambassadors and others of high status in the Federal government.

As if that were insufficient, this also is the story of one with a flair for factotem:—a sort of combined Bantam Ben Hogan, Willie Shoemaker, and Harry James; a frequent visitor in the home of Clarence Darrow; a railroad newsy and pie-butcher following in the steps of Thomas Edison; a mascot and bugle boy for Texas Volunteers in the Spanish-American war; an itinerant demonstrator in fairs of the British Isles; a student at The Sorbonne in Paris, and at the Lycee Condorcet; a Chicago lawyer in 1910; typist of many confidential letters and documents of international importance which still may be found in the official files of President Theodore Roosevelt.

James J. Breckenridge was born in the State of New York on July 4, 1885. At the age of six he was an orphan, and for the next ten years was shuttled from one family to another in New York, Florida and Texas.

In 1898 the unhappy lad tried to "Remember the Maine" by forgetting his age. His 88 pounds of fighting flesh, however, didn't exactly belie his thirteen years, so the military refused enlistment, but finding him sound they took him along to sound reveille.

Later, little Jimmy hawked papers, pie, peanuts and postcards on the passenger train runs between New Orleans and Houston, and later between Chicago and Omaha. In between jobs he served as race track stable-boy and apprentice jockey.

Business colleges then advertised training that would enable a good male secretary to earn an income as stupendous as \$15 per week. The average was about half that much. As later events proved, Breckenridge was extremely well coordinated physically. He took the course and became a fifteen-a-week typist.

The young man's typing was so very good that a few months later found him in England. He toured the fairs and exhibits as a blindfold touch typist for the Oliver Typewriter Company.

During part of a two-year sojourn in France Breckenridge served as private secretary to Robert S. McCormick, United States Ambassador to France. Tension existed in French relations both with Germany and America, requiring many letters between President Theodore Roosevelt and his ambassadors.

McCormick dictated to Breckenridge who took notes in shorthand and transcribed them on the typewriter. The initials J.J.B. are to be found today on many of the first Roosevelt's papers of state.

In 1907 the young jack of all trades returned to the United States and entered the John Marshall Law School in Chicago. Three years later he

was graduated with an LL.B. degree, and entered upon the practice of law.

During his later twenties the student and practitioner of law was a top-flight swimmer, featherweight wrestler, and fancy diver. He was a beach liftguard for two years. In subsequent years a smooth and beautiful golf swing was substituted for the more strenuous sports of youth.

From 1911 to 1913 Breckenridge was in the Naval Reserve, and spent several periods of time aboard U.S. warships.

In 1915 the young lawyer was married to Leonora Karr Brown in Chicago. Their daughter Ann now lives in Los Angeles.

The family came to San Diego in 1921. The breadwinner opened his law office here in October, 1923, after several months had been spent in traveling over and investigating the balance of the State.

Between 1932 and 1943 Mr. Breckenridge was a deputy city attorney in San Diego. Thereafter he re-entered private practice. In 1960 he expects to retire after being enamored for fifty years with his "jealous mistress"—the law.

Fraternal societies and luncheon clubs have taken up much of J.J.B.'s non-professional time. In two of the former organizations he has been active in the Drum and Bugle Corps, mature developments of his contributions in the war with Spain. As an officer of an American French society he was chosen to assist in greeting Marshal Foch of World War I fame when the great French leader visited the United States.

At the three-quarter century milestone Jim Breckenridge fairly bounces with energy and enthusiasm. His muscles have life and tone denied to many a man of half his age.

He beats the drums as well as he beats a typewriter; in fact, he beats the very dickens. Equally at home on Man-o'-War, the race horse, or man-o'-war the U.S.S. Montana; equally at home with golf tee or at diplomatic tea; equally at home with a swim suit, a dress suit, or lawsuit!

Jim Breckenridge is a real little man with a big smile, a bigger heart, a very big life-experience, and a tremendous number of friends.

Hon. John Jerome Brennan

Born in 1883 near Wilkes-Barre, Luzerne county, Pennsylvania, Judge Jack Brennan completed his education at Fordham University. His parents were John and Johanna (Britton) Brennan.

This handsome, well-bred college man of the Big City, and the somewhat sophisticated east coast, still smiles at thought of his first courthouse visit in the dusty little far-west town of San Diego. Two of the best, and best known, local lawyers of the early twentieth century, together with their respective associate counsel, were in litigation. Objection was made by one to certain evidence being elicited from a witness, and was sustained by the court. Whereupon the questioner, without attempting to lower his voice or conceal his emotions, turned to his associate counsel and asked, "Did you ever hear of such a (oath, oath) ruling in all your life?"

It was an appropriate introduction of a big city man who had just thrown his lot and his life, with more than ordinary intimacy, into a community not long out of the rifle-smoke, hanging-tree era of revolutions, cattle rustling, and Castilian rancheros.

In October, 1912, Mr. Brennan claimed as his bride the lovely Miss Arcadia Bandini Scott, a beautiful world-traveled daughter and relative of long prominent San Diego families. The couple had met in New York several months earlier.

It is not surprising that, as this is written in 1960, Mrs. Brennan is welcoming publication of her own book of San Diego history which, for over a century and a half, the members of her family have been helping to make. Her father, Chalmers Scott, was the attorney (and county clerk) who disregarded cannons, constables, and court orders in secretly removing courthouse records from Old Town to the newly rented court building in Horton's addition.

Mrs. Brennan's mother, before marriage, was Maria Antonia Coutts whose father, Cave Johnson Coutts, was a West Point graduate, a nephew of President Polk's Secretary of the Treasury, and for 25 years a leader of highest rank in San Diego's civic, political and financial life. In the elaborate Coutts home Helen Hunt Jackson was entertained while she collected materials for her book "Ramona."

The grandmother of Mrs. Brennan, Ysidora Bandini Coutts (and wife of Cave J.), was the daughter of Don Juan Bandini concerning whose exploits, abilities and civic contributions no history of San Diego or of California could be silent. The sister of this same grandmother was Arcadia Bandini who married the Massachusetts-born Abel Stearns, probably the largest, wealthiest owner of land and cattle in Southern California.

After Abel Stearns' death, the widow married Col. Robert L. Baker. Subsequently this grand-aunt became attached to the young girl later to become Mrs. Brennan, brought her from San Diego to her own palatial

residence in Los Angeles county, and over a period of several years gave her the finest of educational and social advantages.

It is further interesting that two of Mrs. Brennan's aunts at one time fashioned from their own skirts the first American flag flown in this section of California.

The young New York lawyer, John Jerome Brennan, even had professional connection in the family of his affinity. The Brennan-Scott nuptials of 1912 were celebrated from the home of Mr. and Mrs. Linden L. Boone of San Diego. Mrs. Boone, a sister of Mrs. Brennan, formerly was a Scott-Couts-Estudillo-Bandini. L. L. Boone had been a leading lawyer in the community for at least 25 years before the Brennan wedding. His name appears as an attorney at law in the San Diego city directory of 1889-90. After the marriage Mr. Brennan became associated with Boone in the practice of law, and followed closely in the guiding steps of the older practitioner whom he greatly admired.

Judge and Mrs. Brennan are the parents of two children. John Jerome Brennan, Jr., of San Diego, is a Lieutenant Colonel in the Army Reserve. A daughter, Marta Antonia, is the wife of Captain McLaren, an Annapolis graduate.

Jack Brennan was appointed to the municipal court bench on October 7, 1941,—two months before Pearl Harbor. He assumed the position of judge of the traffic court. With the immediate beginning of the war years, and San Diego's mushrooming, boom-town, service-swamped streets, the job became one of the most difficult in the United States. Brennan met the problems patiently, scientifically and effectively. At times the work-load was so heavy that the judge worked both night and day. He seldom took a vacation. Occasionally one of his municipal court brethren would spell him on a Saturday.

In this San Diego of 1960, as a century ago in 1860, the Bandinis, Coutts and Scotts march on with accomplishments and prominence,—linked as they are by blood and affinity to the Estudillos, Arguellos, De Bakers, and Abel Stearns. In no inconspicuous way these ultra-great of San Diego's exotic formative years march today under the name of Brennan—and toward new history-making heights in this adopted city of the young New York lawyer who became one of our community's socially-distinguished, professionally acute, and hardest working municipal court judges.

Hon. Robert B. Burch

Twenty years after his appointment in 1939 to the superior court bench in San Diego Hon. Robert B. Burch, in point of years of service, has become the county's senior superior judge.

Few men have had a background so rich for a judgeship training as this son of an Ohio lawyer who at various times has captained the Yale football team, served as a major in World War I, interrupted law practice to become a business executive, achieved success as a man of family, and eventually earned the reputation of being the finest example of judicial humanitarianism in the century-long history of our nation's southwesternmost county.

Between and amid the mentioned activities Bob Burch grew up with horses and cattle in a quasi-frontier area, toured Europe at age 14, alone except for the company of a brother two years older, became a chess expert, and, finally an avid reader and student of the world's finest scientific, philosophical and legal thought.

In 1911, the year of his admission to the Ohio bar, the judge of the future was married to Louise Whittaker. Their children were three: Robert, Jr., who practices law in San Diego, Richard, who was lost in World War II, and Frida (Mrs. Donald Hynes) of Bonita.

The first Mrs. Burch passed away in 1928. In 1929 the family moved to San Diego where the father resumed his practice of law. A few years later Mr. Burch married Beatrice Diffin. Their daughter Betsy is married to Eric Schopler, a psychiatric social worker in Rhode Island.

A scholarly and extremely readable biography of her husband recently has been completed by Mrs. Burch. It should reach the best-seller lists.

As a trial judge Robert Burch attained an almost phenomenal record for having his contested decisions sustained by the California supreme court. But it is in other areas that prominence, and even eminence, has been achieved.

In the first year of World War II the judge was assigned by his confreres of the bench to handle the criminal court. That selection still is debated vigorously by opposing schools of thought.

The pressures exerted by advocates of sterner criminal justice gained such momentum that Judge Burch was reassigned to civil trials in the following year. Not even his opponents, however, have dreamed to voice sentiment other than this: To that criminal court with its riff-raff, its weak, and its misunderstood, Burch brought compassion, objectivity, capable training in modern penology, intense interest, and tireless personal nighttime hours in the search for means to better society by re-creating sick human lives.

Perhaps that year on the criminal bench was the Judge's internship before entering the community service to which his life has been dedicated for more than a decade: the handling of juvenile court. Here he has attained statewide and national stature.

Juvenile hearings are not open to the public. There is no fan-fare. There are few headlines. But heartbroken mothers have been seen to emerge

from those sessions with a new hope in their eyes, and distraught fathers with facial tensions eased. A nationally prominent juvenile court authority has said, "When I see this man Burch in action it gives me a feeling of utmost humility." A state probation officer said of him, "He is respected as almost the very epitome of what a good juvenile judge should be."

Assuming (without admission) that throughout a century of judicial history in San Diego there has been an occasional judge more rounded in practical experience, or more popular with the multitudes, or perhaps more erudite, or conceivably more conscientious in judicial duty than he of whom these lines are written, never the less, the doubt remains substantial that any man upon the bench in this state, or many states, so admirably has blended these four qualities into one synthetic masterpiece of professional living.

As with Robert Browning's versatile poetic hero, "Cleon," (admittedly not as great as Homer, or Phidias, or two other Athenian masters of their fields) so Robert B. Burch, amid the quadruplex separates of the judicial art, "has entered into sympathy with these four, running those into one soul who, separate, ignored each other's art." Like a decathlon champion, his is the genius of versatility. Like the noblest of all those who get, his is the triumph of getting Understanding.

It is likely that, when the day for distributing human honors comes, others will receive costlier memorials and longer eulogies; but on that day from thousands of grateful parents' hearts—"too full for sound or foam," from moistened eyes of thousands of once-untrusting accuseds, from willing but unlearned tongues of thousands of now-grown kids whom once he helped to find themselves, will come concerning Robert B. Burch a sincerest semantic masterpiece of silent communication, exceeding the power of English words or even an album of pictures:

"Here is one of God's great noblemen!"

Joseph S. Campbell

In an interesting way the life of Joseph Smith Campbell has paralleled some of the outstanding events in the history of San Diego.

March 18, 1871, was Mr. Campbell's birthdate in Chariton, Iowa. That was the year when local county records surreptitiously were removed from Old Town to a newly rented court building at Sixth and G streets in Horton's New San Diego, in spite of an order of the county judge to the sheriff to prevent such removal.

The same year saw construction begin upon the courthouse on Broadway (then D Street) between Front and Union Streets. The building was small; but at a later date side wings, upper stories, a clock tower, and elaborate ornamental statues were added.

In 1888 when San Diego's first high school was organized, young Campbell started to teach in Iowa.

Between 1894 and 1897 when this city's first public school of collegiate grade was being developed (the State Normal School, which later became San Diego State College), Joseph Campbell was working his way through Drake University in Des Moines.

College financing was secured in a manner sufficiently out of the ordinary to be termed picturesque. The student under discussion sold the now old-fashioned stereoscopic pictures and viewers on a grand scale. He conducted groups of student salesmen through most of the large eastern cities during vacation periods.

In 1898 the Bar Association of San Diego was being organized, and in that year Mr. Campbell was admitted to the bar in Iowa.

Campbell's father, Robert, was born in Kentucky in 1815, four years after the birth of Abraham Lincoln. The grandfather, James Campbell, was born in Virginia in 1784. Thus the three men in toto lived under all of the Presidents of the United States up to this date.

Joseph Campbell was the youngest of 17 children. After working on farms, followed by teaching school, he entered Drake University where he earned degrees of Ph.B., M.A., and LL.B. When admitted to the bar his practice was in Des Moines for eight years. In 1906 he moved to Fort Morgan, Colorado, where he served as counsel and secretary of a multi-million dollar irrigation district, and in spare time acted officially on the city school board and in the organization of the Fort Morgan Christian Church.

In 1913 the Campbell family moved to San Diego where, says the present elder statesman of the bar, "the climate and friendliness of the people really warmed our hearts." The warmth idea probably is no overstatement: that was the year in this community of pre-Exposition fever, and of thermometers that climbed to an all-time high of 110 degrees.

Joseph S., and Ida (Lanier), Campbell had one daughter, Marguerite, who was scholastically outstanding at San Diego High School. She passed away at age nineteen.

For over 46 years Joseph Smith Campbell has been a member of the bar of San Diego, and he was a seasoned lawyer with 15 years of court experience when first he raised his hand in the vow to support the Constitution of the State of California.

In the year of Mr. Campbell's birth, say the historians, San Diego had 1796 voters of whom 6 were clergymen, 20 were saloon keepers, and 33 were lawyers. Those very people knew first hand of actual pirates hanged from the yards off the entrance to San Diego bay, of Indians flogged to death or shorn of their ears as punishment for uprisings, of public hangings, firing squads, and vigilante reprisals.

As the old courthouse of 1871 came down, so the methods of so-called law and order of that era have been replaced. It is to the everlasting credit of these pioneers, like Joseph S. Campbell, that Justice slowly has changed through their days from a caricature of one brandishing guns and a hangman's noose to the modern characterization of an unblindfolded, understanding, and mature student of life, ready to see both right and wrong and to deal with either as circumstances direct for the welfare—(and this is the twentieth century's finest contribution to justice!) — for the welfare not only of all, but of one and all.

Hon. Eugene Daney, Jr.

Still to be heard among older members of the local bar is an anecdote, always related with a resigned-type of good humor, concerning the court of Eugene Daney, Jr. As the story goes, certain opposing counsel in municipal court No. 2, fearful of possible judicial compromise, stipulated and urged in open court that the instant case was one in which the plaintiff must either win all or lose all; that there could be no middle ground.

After hearing the evidence the Court's judgment was for about half the amount for which petitioner had prayed.

This story is typical of Eugene Daney, Jr., just as the philosophy behind it is typical of such a great legal mind as that of Mr. Justice Oliver Wendell Holmes. Whether one is a piddler or a pundit depends wholly upon the instant frame of reference.

To a nineteenth century common lawyer, trained to the hurdles of procedures honeycombed with fictions, and rules of evidence so designed to barricade falsehood that truth itself seldom was able to enter, a legal answer was either yes or no. To a litigant seeking justice in municipal court No. 2 the answer more likely has been in terms of "maybe," "partially," or, if necessary, "split the difference."

In addition to his legal training, Judge Daney holds a collegiate degree in Letters. He has understood from his youth exactly what Oliver Wendell Holmes, Jr., meant when he said that law is no brooding omnipresence in the sky; no book of axioms or corollaries of mathematics; and no certainty—except as an illusion. He knows with Holmes, and others of his stature, that law is the experience of the race attempting to solve the riddles and ease the frictions of a couple of its members who think they've seen a bit too much of one another. And for practically 35 years that philosophy has filled (sometimes chilled, and sometimes thrilled!) the Daney courtroom.

Eugene Daney, Jr., born in San Diego, is the first child and only son of the man who for many years was recognized as the dean of San Diego lawyers, and who crowned his professional career during the first quarter of the twentieth century by being selected as president of the Bar Association of the whole State of California.

The junior Daney early became an enthusiastic participant in sports. Adept in boxing, handball, rowing and sailing, he also earned college varsity status in baseball and wrestling.

The Judge's early education was in San Diego's public schools. His was the first class (Feb., '09) to be graduated from the beautiful new San Diego High School that had replaced the old Russ High. (Joseph Russ, lumberman, in 1882 had donated to the city sufficient lumber to construct the older building.)

After receiving the Bachelor of Letters degree from the University of California at Berkeley, Eugene, Jr., took his theoretical law courses in the

same institution, and later continued his practical legal training as an associate in his father's busy office.

In 1913 the future judge was married to Stella Maud Carlyle. They have one daughter, Lucille, wife of superior court judge Robert W. Conyers.

After serving three years on the Board of Directors of the Bar Association of San Diego, young Daney was elected its president in 1926. Also in the same year he was elected justice of the peace of San Diego Township, and continued in that office until 1939 when he became a judge of the municipal court. The latter position he has held for 20 years. On several occasions during the past two decades he has been assigned to the superior court bench, and for the last 16 years has represented the municipal courts as one of the six Trustees of the San Diego County Law Library.

The name of Eugene Daney, Jr., long will be recalled in San Diego's legal circles by words that a century ago characterized Henry Clay: The Great Compromiser.

Judge Daney knows, with Mr. Justice Brandeis, that while a judge must decide a case as if he were 100% convinced, usually he is not more than 55% convinced. He knows with Korzybski, and modern scientists in the area of general semantics, that two-value orientation is complete delusion: life is not either black or white; it comes before a judge in innumerable intermediate shades of gray. He knows that of two litigants, generally neither is either wholly right or wholly wrong.

For centuries common law justice has been mired in one after another of bogs of two-value orientation. This is no place to attempt a list. But in the last 150 years (since *Butterfield v. Forrester*, 1809, 103 Eng. Rep. 926) perhaps the worst of the muck-holes has been "contributory negligence",—as indefensible a doctrine as ever caused juries to cheat, judges to be chagrined, and strong leaders of the bar to fight for its eradication. Thanks to brave judges these "all or nothing" dilemmas are being removed from many areas of the law.

Whatever his shortcomings (and he would be among the first to recognize the likelihood of their existence) Judge Eugene Daney, Jr., has faced up honestly to the struggle of every man on the bench who would be in truth a "Justice" and not a mere decider of cases. For a professional lifetime he has stood unassumingly, and often unrecognized, in the front phalanx of progress, battling in spirit beside acclaimed crusaders like Judge Jerome Frank and Professor William Prosser for a courthouse justice that would transcend trivia, inspire community confidence, and faithfully reflect to all the world the innate American zeal for open fairness instead of chimerical fictions.

Hon. Charles B. DeLong

Judge DeLong, with more than 60 years of San Diego background, reports hereinafter several incidents concerning colorful early trials. Other equally interesting, but longer, narratives must be omitted, such as the story of the three trials of a "firebug", and the fine of \$50 each for contempt levied by Judge Wilford R. Guy upon district attorney Harry S. Utley and former Judge E. S. Torrance (for the defense) after a heated verbal exchange during one of the hearings.

From personal knowledge this writer could make a number of highly commendatory remarks about Charley DeLong. He has taught in law college, and has tried to serve men instead of charge them. His written recollections of an old timer named Valenzuela, who devoted his life to assisting the poor and foreign born who were under arrest or on trial in San Diego, is reminiscent of Charles B. DeLong's own attitude toward life.

Here is the personally written story of a long-time San Diego lawyer and judge,—and of an able, honorable man.

I was born in the little town of Solomon, Kansas, on the 8th day of August, 1891, to Burton C. and Nettie (Brining) DeLong. I have a clear memory of long horned cattle being driven in for shipping from that little town where my father was agent for the Santa Fe Railroad.

In June, 1898, our family arrived in National City, and we lived in the old Santa Fe Station. I thought I would be a railroad man, and started riding the switch engines until I fell off one of them and lost my right arm.

I graduated from San Diego High in June 1911 and commenced studying law in the office of E. E. Kirk. I passed the Bar examination January 22nd, 1913.

At the time of my admission to the bar there was no facility available to assist the foreign born to become naturalized. Bert McLees, our county clerk, said he would provide a courtroom for our use if I would undertake to conduct classes. I conducted these classes as a volunteer for several years and when the night high school was organized the classes were moved there and I continued to teach until about 1924. I am very proud of the many fine citizens I was able to assist.

In my high school class of 1911 there was a dark haired Miss named Edith Wren. Ours was a high school romance that took, and we were married March 31st, 1918.

We have three children. The eldest Charles B. DeLong Jr., is connected with the General Motors Acceptance Corporation. The twins Barbara (Dow) and Beverly (Harmer) are nationally known as swimmers. They entertained one of the State Bar Conventions with an exhibition of rhythm swimming. We are blessed with seven grandchildren.

In 1922 I was elected justice of the peace of San Diego Township and served until January, 1927. In those days the two San Diego justices han-

dled practically all of the county traffic cases. I was also elected to the board of freeholders who drew up the county charter for San Diego County.

During the second world war and afterwards I was very active in Civil Defense and was for a time in charge of the Point Loma and Ocean Beach areas. I also have served on the County Central Committee, and in fraternal organizations.

In looking back over the nearly fifty years that I have been interested in the courts of our county quite a number of characters and happenings come to mind.

There was the one-eyed scissors grinder, charged with murder, who, when the jury brought in the verdict of guilty, stabbed Dempster McKee, the assistant district attorney who had prosecuted him, with a sharpened spoon. Dempster was not badly hurt. This defendant was the only person I ever saw who was gagged by the bailiff, at the time he was sentenced, to quiet him.

I was present when Archie Shreve hit A. J. Morganstern on the top of his bald head after a trial before Judge Guy.

This Judge Guy was quite a guy! To secure a default divorce before him was really an undertaking. He would set two defaults and spend an afternoon trying them. How well I remember my first such case. It involved desertion where the husband simply left and was never heard of afterwards. The plaintiff testified to these facts in answer to a few questions, but then the judge took over the examination and cross-examined her for forty-five minutes as to how she had treated him. Was she kind, did she cook his meals, did she nag him, etc? And accountings in probate matters were rarely approved until after the judge had taken the file to his chambers and had added and subtracted the figures.

Arguments between the District Attorney and the Judges are far from new. J. Edward Keating is an example. He was Justice and made a decision that the DA did not like. So for a year or more there were no cases filed with him. The DA took his business over to another Justice.

When I was Justice the DA had the traffic squad working out of his office. There was considerable fixing of tickets. One morning one of the officers said they had picked up a number of his citations. This aroused my curiosity and so as each officer came I asked how many of their tickets had been fixed. Out of 106 citations I got about 76 complaints. So I called the defendants before me and told them that they evidently were present because they did not have any political influence and I dismissed all of the complaints. That put an end to the fixing, but it did create quite a storm.

William Henry Evans

Occasionally some lawyer achieves attainments that are reserved for his fellows only in the realms of aspirations and dreams. It is likely that William Henry Evans is such a man. This conservative San Diego law practitioner of almost 50 years is as embarrassed about personality extravagances as he is critical of governmental deficit financing. He requested courteously that he be permitted to check upon this sketch prior to its being set in type, and it is likely that some difficulties may ensue as we insist on telling what his peers at the bar think of him.

Bill Evans hasn't had to practice law too hard, but no client ever had a more sincere and diligent counsel. And no leisurely earnest practitioner ever associated himself with a more capable series of top notch lawyers than he: Edward B. Partridge, Wm. L. Baxter, E. R. Baskerville, Richard Kew, Curtis Hillyer, Duane Carnes, Thomas Whelan, and for 25 years Judge Vincent Whelan prior to the latter's elevation to the bench in 1959.

Shortly after World War I young Evans, with a recent experience as a deputy district attorney, joined about ten of the city's leading lawyers to form what became known as The Law Club. This group, including men like Gordon Gray, John Ward, Dempster McKee, Charles Forward, Walter Ames and James G. Pfanstiel, met regularly for a time in the law library of the Union Building (now Land Title Building) at Third and Broadway. Later the meetings were held at luncheons at the University Club. The purpose of the group was to discuss current legal problems and by mutual helpfulness to achieve a result not un-akin to modern day benefits from lectures in the program for continuing education of the bar.

For almost 15 years, from the late twenties until the period of World War II, William H. Evans served as secretary of the Bar Association of San Diego. The presidents of the association during the same period included some of the greatest names at the Bar. This writer recalls instance after instance where Bill Evans—seeking no glory, and finding none—unobtrusively carried the load of mailing notices and serving generally as office manager of the corporation. No other man locally has given of his time in the same helpful capacity for so many years.

Unlike most of San Diego's older attorneys Mr. Evans is a native son, having been born in San Francisco November 21, 1884. His parents, Charles and Catherine (MacMillan) Evans, moved to Boston when young Bill was less than one year old.

In the culture of turn-of-the-century New England, augmented by journeys to countries on the continent, William Henry Evans was fortunate in having unsurpassed educational opportunities. After attending the public schools of Boston he took college preparatory work at the Phillips Academy in Andover. He also had the advantages offered by the Rock Ridge Hall School at Wellesley Hills. From Boston University he earned an A.B. degree in 1909, and his law degree of LL.B. in 1912.

Although Bill was admitted to the Massachusetts Bar in 1912 and practiced in Boston he continued his studies, and subsequently was awarded a Master of Laws degree from his alma mater.

In 1913 young Evans decided to return to his native state. That was the year when San Diego established its all-time hotter-than-pitchforks heat record. Bill decided it could be no worse at Needles—and it wasn't! He settled there.

After being admitted to the California bar in September, 1913, the young lawyer became the first city attorney of Needles and drafted the town's original ordinances and by-laws of governmental organization.

San Diego's pre-Exposition excitement due to the opening of the Panama Canal lured away the young town's young lawyer. In June of 1914 he opened offices in San Diego and started activities and associations heretofore narrated.

One hearty interest, that developed into an interest of the heart, is yet to be told. Along with lawyers Gordon Gray, Edgar A. Luce, Henry J. Bischoff and Luther Ward, young William H. Evans was interested in the University Club and its program for securing a permanent home.

In 1915 the club purchased a lot on Seventh Street between A and Ash. It cost \$15,000. The new clubhouse cost \$35,000 more. (What are they worth in 1960?) The dedication of the new home was in August, 1916, and there attorney Evans met the lovely Miss Geraldine McDonald, daughter of William and Christina (Clarke) McDonald who some years before had come with their family from North Dakota. The Evans-McDonald nuptials were in 1918.

Mr. and Mrs. Evans are happy with their two children and four grandchildren. Their daughter Lucy is Mrs. Russell W. Lamoreaux, and Bill Evans, Jr., is widely known for his local business successes. He operates the Bahia and has an extensive interest in the Catamaran—two of the finest motel-restaurant combinations on glorious Mission Bay.

The serious-minded organizers of the Lawyers Institute of San Diego included William H. Evans. That was 1919. Later the Institute broadened into the Bar Association of San Diego.

There is another side to Bill Evans. Although he has belonged to many organizations there have been few to hold more of his interest than the San Diego Rowing Club. The Evans family enjoys swimming. In fact, throughout most of the winter months the senior Evans go swimming in the bay almost every day—but the bay is Acapulco's Caletilla beach below the Evans' exquisite, exotic hillside villa.

Personally, I hope Bill lets this be printed. He is a fortunate, but a generous, intelligent, highly trained, democracy-loving citizen. His wife is as unassuming, genuine, gracious, and motherly-beautiful as any younger woman would picture in her dreams. It is folks like this that over the decades and centuries have given strong and silent stability to America—to her economic and social structure, and to her law.

Charles H. Forward

There is high authority for the statement that as a child is trained, when he is old he will not depart from it.

Just before the turn of the century Charles Hamilton Forward almost had the 25 square miles of clear, clean San Diego Bay as his private boat pond and swimming pool. With a few young cronies he practically grew up beside, in, and on the sunny waters.

If a lad wanted sophisticated swimming in that day he paid 5c and changed his clothing to a swimming suit in John C. Riecken's bathhouse at the foot of Fir Street. And he walked upon the same mud to swim in the same bay, but more elegantly, between two latticed fences extended from the shore into a few yards of water (at high tide).

It is not surprising that after graduation from San Diego High School in 1904, and after brief collegiate experience at the University of California in Berkeley, Charles Forward enrolled for two years in the U. S. Coast Guard Academy at Baltimore, Maryland.

On the East coast young Charley earned a mate's license in the Merchant Marine entitling him to serve in ocean or coastwise duty. In World War I he joined the United States Shipping Board and was ready to put to sea when the armistice was signed. During World War II Mr. Forward served another forty-six months, most of the time as Captain of the Port of San Diego. When recent repairs of rigging were undertaken on San Diego's famous sailing ship "Star of India," lawyer Charles Hamilton Forward was one of the few persons on the west coast capable of superintending reconstruction details.

Next to life on the salt water, young Forward liked to hunt. Bird hunting was his favorite sport,—first in the wild willow forests of Mission Valley, at what is now the foot of Sixth Avenue, and far off mesa lands just east of the present LaFayette Hotel,—and later in northern Mexico. It is understandable how the man became one of the best trap shooters in the area, and long ago decided to acquire a large ranch of hundreds of acres near Ramona where he still enjoys robust and outdoor living.

Mr. Forward was born at Pittsburg, Pennsylvania, March 19, 1886, the fourth son and fifth child of John F. Forward and Ella F. (Dillon) Forward. When Charley was one year old he came to San Diego with his parents. For many years his father was deputy county recorder, and then county recorder. While serving in the latter capacity he organized and founded the Union Title and Trust Company.

After his grammar school and high school training in San Diego, Charley took one year of law at Berkeley, followed by two years of general academic work. Thereafter came the Coast Guard training, and then return to the University of California for an additional two years of legal studies. In 1911 the young lawyer was admitted to the Bar and returned to San Diego. He commenced his practice with A. H. Sweet

who had been one of San Diego's outstanding lawyers for the preceding twenty-five years. In 1913 the firm of Sweet, Stearns and Forward was organized. In 1928 and after Mr. Sweet's death, a new firm of Stearns, Luce and Forward came into existence. Other leading names in subsequent developments of the same firm include those of Phil D. Swing, Fred Kunzel and Thomas Hamilton.

In June, 1914, Miss Zella E. Saint became Mrs. Forward. She was born and educated in Nashville, Tennessee. The Forwards have one child, Charles H. Forward, Jr., who is a respected rancher of Ramona.

From the earliest days of his practice Charles H. Forward has been in what is considered a top bracket law firm. In addition to broad general practice he and his legal associates have represented railroads, local public utility and financial institutions, and important corporations. Mr. Forward long has been financially interested in the Union Title and Trust Company and his firm acted as general counsel for that fast growing real estate title-clearing organization until the third decade of this century. After Mr. Rolland Springer became general counsel, the Forward firm continued in an advisory capacity.

Lawyers who know Charles Forward well say that his long academic training, and practical instruction under A. H. Sweet, eventually paid off in making him one of the finest legal analysts, realty experts, and draftsmen in the community. From a fairly capable trial lawyer he emerged as a "lawyer's lawyer" par excellence.

During the 1930s Charles Forward invested, and became involved, in oil developments in Kern county. Some of his acquaintances and friends believe that, if this dissipation of energy and interest of a great lawyer had not occurred, the Forward law firm would have attained the undisputed top rung of the legal profession in San Diego,—as to size, prestige, and volume of business.

In the past 75 years San Diego for somewhat temporary periods has known and been influenced by such distinguished names as Spreckels and U.S. Grant. The name Forward, however, is one of three fine family designations that prominently, consistently, and honorably have molded this community's political, business and cultural life for three quarters of a century,—and that, by all present indications, so will continue through many decades of the future.

Charles H. Forward, excellent lawyer, has contributed his full share of the great gifts made to a growing community by an outstanding family.

Gordon Gray

The organizer, and titular head, of San Diego's largest law firm is one of the few local attorneys who have biographical listings in *Who's Who in America*.

It is within his natural heritage that Gordon Gray should have demonstrated qualities of success and superior leadership: his mother was first cousin of Woodrow Wilson. There is a noticeable resemblance between Mr. Gray's picture and that of the twenty eighth President of the United States.

Born in Michigan and educated in Massachusetts, Gordon Gray nevertheless has spent fifty years in active practice in San Diego. His daughter, Barbara, is the wife of James W. Archer, a member of the firm of Gray, Cary, Ames & Frye. Another daughter, Virginia, is Mrs. Robert Torcheson of Belmont, California. A son, Gordon Larimore, Jr., a lieutenant commander in the navy, recently broke the world speed mark in an A4D.

Gordon Gray, Sr., while modestly avoiding publicity, has contributed generously to the legal, cultural and economic values of the west. In addition to items mentioned hereinafter he is a director of Transamerica Corporation, and has served officially on the La Jolla Town Council, the California State Board of Education, and various sponsoring organizations of artistic, literary and scientific pursuits.

A short autobiographical sketch, prepared at our request by Mr. Gray himself, adds humanity and warmth to an outstanding legal career. It is as follows:

A tax bill from the San Diego County Assessor's office changed the entire course of my professional career. When the irate owner of the land described in this tax bill came into my law office in Chicago in the spring of 1907 I had been practicing law there since my admission to the Illinois Bar in October 1903, following my graduation in June from the Harvard Law School. Prior to that I had graduated from Harvard College, so I had many friends among Harvard graduates in Chicago and expected to spend the remainder of my life there practicing law.

The recipient of the tax bill had owned the land for many years, but in this bill of 1907 the status of the land had been changed, without his knowledge or consent, from acreage to lots and blocks and the taxes had consequently been increased several hundred per cent. He had not been able to obtain any satisfaction by correspondence with San Diego and did not know any attorney there, so he employed me to spend part of my summer vacation in that city in connection with the assessment of this land.

The Supervisors by a unanimous vote restored the land to acreage and ordered the taxes paid by my client under protest to be refunded. Next day while I was standing at the window of the County Auditor's office for the purpose of obtaining such refund, the County Auditor, whom I had met three or four days earlier, asked me, if I had time, to step into his private office.

After I had seated myself in his office, he said to me:

"Young man, why don't you locate here? We need young men like you. And I think you'll do well in this city. It's going to start growing soon, now that the completion of the Panama Canal is assured—not a boom, but a long, steady growth. Your law practice would grow, too."

Those words, so earnestly spoken, and coming so soon after my very gratifying and refreshing experience before the Supervisors, had their effect, for in the autumn of the following year I left Chicago to become a resident of the city of San Diego.

En route here I spent almost a year in southeastern Utah looking after an investment there by a wealthy man in Chicago. An attorney in that Mormon land was such a rarity that I was offered the County Attorneyship of San Juan County if I would remain for two years but I declined the offer, for I was anxious to get started practicing law in San Diego.

On August 15, 1910, I became a California attorney merely by producing proof that I had been admitted to the Illinois Bar and was still in good standing there. About two months later I opened a small office on the fifth floor of the Union Building. The following year I moved into corner offices on the fourth floor where, just by chance, the San Diego Rotary Club was started. In 1914 I was president of it and also of the University Club and the San Diego Bar Association.

With the growth of my law practice I employed as an assistant a young lawyer by the name of Walter Ames and later an additional young lawyer by the name of J. G. Driscoll, Jr.

In 1926 Judge Wm. P. Cary, then on the Superior Court bench, and I discussed the formation of a partnership, and January 3, 1927, the firm of Gray, Cary, Ames & Driscoll was launched.

The advice in 1907 of that County Auditor was very sound and his words prophetic, except that what has actually happened has far exceeded the outer bounds of his imagination, as well as mine. The population of the city was then 32,000; today it is more than half a million. The space occupied by my first law office in San Diego was about 60 square feet. The firm of Gray, Cary, Ames & Frye (successor to Gray, Cary, Ames & Driscoll) now occupies most of the top floor of the large Bank of America Building on Broadway and a branch office building in La Jolla. There are now 20 attorneys in the organization (12 of them being members of the firm) and 22 secretaries, accountants and telephone operators. Such has been our attempt to keep pace with the growth and development of San Diego.

Hon. Lloyd Ellis Griffin

The Earl Warren of San Diego is Mr. Presiding Justice Lloyd E. Griffin of the fourth district court of appeal. There is little question in the mind of any of Lloyd's acquaintances but that he too could have become the governor of his state if his political ambitions had been in the administrative rather than judicial channels.

Like the Chief Justice of the United States Supreme Court, Lloyd Griffin is handsome and immensely popular—an outstanding vote getter. His step by step advancement from farm boy to high man on the court totem pole is one of this county's finest stories of political achievement.

It is coincidental that two days before this sketch was started the local law library received on loan for display purposes from the great historical Bancroft Library in Berkeley two volumes of the original scrapbooks of San Diego's judge Benjamin Hayes who presided on the district bench here and in Los Angeles an even hundred years ago.

For a century the Hayes family, like the Griffins, has had deep roots in northern San Diego county. Benjamin's son, Chauncey, long was a judge in Oceanside. One of the loaned scrapbooks of the famous father has hundreds of paper clippings, notes, and letters dealing with the Oceanside-San Luis Rey area in the 1870's. The Griffin name repeatedly appears therein.

In order to stir the interest and refresh the memory of the honorable presiding justice this writer took the Hayes scrapbook to the Griffin court chambers. That was yesterday. This morning the law library received delivery, as an out and out gift, of possibly the greatest accumulation of historical legal data within the confines of the county—the huge personal scrapbooks of Mr. Justice Lloyd Ellis Griffin, started by his mother many years ago and diligently kept up to the present date. This is a treasure of inestimable importance and value, although its very bulk creates added difficulties in the preparation of a mere profile.

In a political sense Lloyd Griffin was born to the purple. For 17 years spanning the turn of the century his father, John Griffin, was a San Diego county supervisor representing the Oceanside-Escondido San Luis Rey and eastward area. Col. (and Senator) Ed Fletcher in his Memoirs pays high tribute to the elder Griffin as "Honest John". In fact, when Fletcher was employed secretly by Vail and others to buy up all the land or riparian rights of the San Luis Rey River for 50 miles below Warner's Ranch he had to secure John Griffin to accompany him to each farm house and introduce him as a friend in order to allay rural suspicions.

After Supervisor Griffin's death Lloyd's mother and two sisters moved with him to San Diego where the other supervisors gave him a job as messenger boy around the court house. His mother became police matron and later married Arthur R. Hill who rose to be San Diego's Chief of Police.

Astute political know-how was in the very air Lloyd breathed as he moved from messenger boy to assistant law librarian and court commissioner under Harry J. Place, and then to deputy county clerk, deputy district at-

torney, and justice of the peace. This writer remembers, when Lloyd was making his move for the superior bench, of his personal letters addressed to official polling booth attendants—a gesture of more than routine significance. A member of a leading law firm that had opposed him vigorously, but switched to his ranks after his first superior court victory, met our raised-eyebrow expression with the 1928 version of "If you can't lick 'em, join 'em."

Judge Griffin's high school training was in Oceanside. In San Diego he attended Kelsey-Jenney Commercial College, as had young Lewis R. Works before him—another San Diegan who reached the benches of the superior court and district court of appeal.

Along with present Judge Eugene Dancy, Jr., and other leading elder members of the local legal fraternity, Lloyd Griffin studied law under tutelage of the dynamic and eminently successful Adam Thompson.

Who can separate a great man's political and social activities? Certain it is that the outstanding Griffin fraternal associations and contributions have brought him his greatest strength in the times when the "phone tree" had to get into operation to assure victory.

Lloyd Griffin was born February 2, 1895, on a farm across the road from the San Luis Rey Mission a few miles east of Oceanside. His grandparents had settled in San Luis Rey in 1862 after crossing the plains from Texas by ox team. In 1917 Lloyd married Miss Odille M. Boyd. Their two daughters are Lois, Mrs. Walter Moring of San Diego, and Barbara who is the wife of Rev. John Covey, of Topeka, Kansas. Some years after the death of the first Mrs. Griffin the judge was married to Mrs. Maidie B. Jopling. In earlier years the Griffins and Joplings had been a very close foursome.

From the superior bench Judge Griffin was appointed in 1938 to the fourth district court of appeal. He became presiding justice of the same court in 1958. His appointment to the supreme court of California would have been a "natural", but here Lloyd ran into the untoward circumstance that after World War II the personnel on the state's highest bench remained unchanged for a record period of eleven years. The second longest period for an unchanged group of justices was the seven years, 1880-1887. The judge has sat on the supreme court numerous times in a pro tem capacity.

No great man is without critics. Lloyd Griffin's say he never spent a day in private practice, which fact weakened his understanding both of law and of counsel in his court. It also is claimed that the political milieu of the judge's life robbed his decisions of proper objectivity.

From friends and opponents, however, comes this synthesis of character and accomplishment: Lloyd E. Griffin is a political genius—to most persons warm, willing and wonderful. A capable mind eventually compensated for his early professional inadequacies, and by the middle of his judicial career he had become a top-flight jurist. The time and talents given by him continuously throughout the better part of half a century to the judiciary of his city, county and state well could have him recorded in history as the leading and all-time "Mr. Justice" of San Diego county.

Hon. Charles C. Haines

In the life of Judge Charles C. Haines, retired, there is some of the genius that characterized the philosopher Schopenhauer and the poet Walt Whitman. There is even more in him of the legal superlatives recognized and honored in Mr. Justice Cardozo.

To Judge Haines, as to Cardozo, is applicable the descriptive touch of a former Chief Justice of the United States Supreme Court.

Concerning his shy and scholarly colleague, with heart of almost cloistered purity and mind of crusading boldness, Mr. Chief Justice Charles Evans Hughes reported of Cardozo that he shrank from promiscuous contacts, finding safe refuge in his books, and that he was singularly immune from either the enticements or the demands of activities foreign to strictly professional labors.

Like Plato, whom the Judge enjoys reading in the original Greek, Charles C. Haines probably has "loved philosophy more than he loved any woman or man." (Will Durant) He also refuses to drive an automobile, and has strong convictions about many other elements in the prevailing mores of a mankind motivated in mediocrity.

But no man's idiosyncrasies have been more loved by his professional contemporaries. For over thirty years prior to the writing of these lines there probably has not been a bar picnic or a bar dinner but whereat small groups of lawyers and judges have chuckled together almost reverentially, or shouted in high but unmalicious glee, at reminiscences of someone's experiences before "Charlie" Haines. (No one ever has seemed to dare to call him "Charlie" to his face!) More often than otherwise any reported jest is "on" the teller of the story.

A son who follows professionally in his father's footsteps is like the receiver of the baton in a relay race,—he gets a running start. Charles C. Haines, like Roscoe Pound and many another master of jurisprudence, is the son of an outstanding lawyer.

Charles was born at Vinton, Iowa, in 1880, the oldest child of Alfred and Flora (Conklin) Haines. Between 1884-1887 he was with his parents in the Dakota Territory where his father was active in bringing South Dakota into Statehood. The family moved to San Diego in 1887.

The schools of Chula Vista furnished earlier training for the future judge; Pomona College granted him an A.B. degree; and his formal legal instruction was secured at the University of California at Berkeley. His membership in Phi Beta Kappa, honorary scholastic fraternity, became a precursor of the reputation for erudition that later he was to wear as a crown of laurel through more than a generation of legal scholars, advocates and judges.

Admitted to the California bar in 1903, young Haines soon became associated with his father in the practice of law.

For two decades after the elder Haines settled in San Diego there was no such a county in the state as "Imperial County." The county of San

Diego stretched from the sea to the Colorado River. Imperial County was not carved from the larger unit until 1907.

Much of the legal business of the firm of Haines & Haines involved water problems in Imperial Valley and also in connection with the western watershed—both areas being in San Diego County. Among other clients Alfred Haines long served the Imperial Irrigation District as legal counsel.

As a result of his extraordinarily broad experience with, and grasp of, western water law, Charles C. Haines, the judge of subsequent years, was assigned to preside at the trial of some of California's most important riparian litigation. From 1930 to 1932 a water lawsuit involving millions of dollars in five San Joaquin Valley counties required his official judgment. The case never was appealed.

Important water litigation involving the Tijuana River also was directed to the courtroom of Judge Haines.

For nearly 21 years Haines served on the superior court bench of San Diego County. He was first elected in the latter part of 1926, and retired in November 1947. During this period he was assigned to the district court of appeal on numerous occasions. He also served for many years on the appellate branch of the superior court.

Since his retirement the Judge has been assigned to the superior court during parts of five different years, and even as this is written in 1959 he has just completed another assignment to the district court of appeal.

During most of his career on the bench the present dean of the San Diego judiciary was not provided with the services of a legal secretary. His long and carefully researched judgments were laboriously written in long-hand, and the required time for such effort generally kept him in the courthouse late at night, and brought him back to his desk shortly after dawn.

Many of the community's best lawyers long have felt that if the decisions of Charles C. Haines could be edited and printed, the State of California would have a ten volume set of reports more advantageous to lawyers and judges than similar sets carrying such prominent names as Myrick and Coffey.

St. Paul's Episcopal Church in San Diego has received a lifetime of untinted devotion from Charles Haines.

The Judge's principal diversion, particularly since retirement, has been travel. Europe has lured him 12 times; Hawaii twice. Other journeys have taken him to Alaska, Australia, New Zealand and South America. He also knows his own country at first hand.

Judge Charles C. Haines has merited all the public encomiums and tributes of three decades. If certain facets of his personality be deemed inadequately cut by experience, compensation nevertheless is achieved in a brilliance diffused from an innate sense of humility, a passion for justice, and a tireless search for wisdom.

If at times the Judge has erred, and such is human, it still is true that he—perhaps above all others—would be many a man's selection of one to sit in judgment upon him. Concerning few others can it be said as appropriately: He does justly, he loves mercy, and he walks humbly with his God.

Hon. Clarence Harden

Younger practitioners cannot be expected to remember the years between World Wars I and II when the words "Clarence Harden" were almost synonymous in San Diego with legal acumen, brilliant lecturing, and the many pleasant graces of personable citizenship.

The man who holds the distinction of twice having been appointed to the same superior court bench by state governors whose terms were more than a quarter of a century apart perhaps has maintained longer in his community a consistently high level of public favor and public service than any fellow member of his profession.

Clarence Harden, like Edwin Markham's Abraham Lincoln, has "the color of the ground in him, the red earth, the smack and tang of elemental things." Born on a homestead near North Platte, Nebraska, he witnessed in his first year the great blizzard of '88 that financially ruined many of the prairie's stock men. His later experiences involved cattle poachers, buffalo herds, gold mine stampedes, and silver-tongued speeches of Wm. Jennings Bryan, the orator of the Platte.

William Henry Harden, the father, had the deep rooted strength of the men who tame young horses — and young lands. As a railroad man for many years he also helped the iron horse tame the west.

The mother was Katherine Lorena (Bicknell) Harden, a devout woman, and one whose literary accomplishments far exceeded the average of her day.

About the turn of the century the Hardens moved to Colorado where the young Clarence finished high school, and thereafter worked for a time in railroad offices in Colorado and Wyoming.

When the family came to San Diego fifty years ago the Colorado law provided for admission to the bar to anyone of good character who had worked in a law office for two years. In California even the latter requirement was unnecessary. Applicants here could be admitted after a brief questioning in open court. Even the superior courts of California at one time were authorized to admit persons to practice within their own county limits.

Clarence Harden decided to do better. He studied in business college, which was the most popular source of post-high school training a half century ago, and became an expert at shorthand.

In 1909 the young Nebraskan, late from Colorado, was legal secretary and court reporter in San Diego's court house. He watched the best trial lawyers in action, took down their words verbatim as a part of his job—and studied them, and resolved to better the advocates at their own game.

The county law library became the shorthand reporter's study hall during every free hour of the day, and always far into every night. His deep interest in the law book collections of this county has never waned.

In 1913 Clarence Harden was admitted to the State Bar of California, but by that date a difficult written examination was a prerequisite. A meteoric

professional career followed. Within six years he was chief trial deputy in the office of the district attorney, and within ten years—although in private practice for himself—he nevertheless was being employed by many of the city's leading attorneys to try their most difficult cases.

After being president of the San Diego Bar Association in 1924 Harden was appointed to the superior court bench in 1930. He served eight years as a judge—during portions of several years as an associate judge pro tem of the district court of appeal—and voluntarily retired in order to return to private practice. In 1956 he again was appointed to the office of judge of the superior court.

The Harden family seemingly is dedicated overwhelmingly to the interests of the legal profession. The judge's brother, the late Col. Adel C. Harden, was an attorney in high posts of the Federal Government for many years. In 1918 Clarence Harden was married to Sarah Fitzpatrick, a lovely young lady of literary and artistic talents who also was, and is, a member of the California bar. Their daughter, Shirley, is an attorney and a graduate of California's Boalt Hall of Law where she met and later married, Crandall Condra, now one of this community's well-established young lawyers.

Clarence Harden has given much to the city's fraternal, political, social, cultural and civic life. He has been in constant demand as a public speaker or a master of ceremonies, and has merited the reputation of being one of the most astute and one of the hardest working judges on the bench.

Since his earliest San Diego days the Judge has devoted his time, his means, and his personal effort toward the development of San Diego County's law library. For the last thirty years — longer than has any other man — he has served conscientiously and with great vision on the board of law library trustees. He is now its president.

Fifty years after he came to San Diego the Judge's friends contributed a special fund to buy books for the local law library, and presented for the new library building a framed plaque that expressed its own purpose, and the merited place of its honoree in the hearts and minds of his contemporaries, in the following words:

"San Diego County Law Library became a
CIRCULATING LAW LIBRARY
Through generosity of the Friends of
JUDGE CLARENCE HARDEN
Honoring him in 1959 at the Completion
of fifty Years in San Diego wherein he
has been Law Student, Masterful Advocate,
Outstanding Judge, Citizen Extraordinary,
and EXEMPLAR of WISDOM AND JUSTICE"

Hon. DeWitt A. Higgs

This is the story of an organized bar in San Diego, and of the two men who have distinguished themselves, and brought honor to their community, in special service to the organized bar of all California.

* Hon. Eugene Daney, father of the present municipal court judge of the same name (1960), rightly was considered the dean of the legal profession in this county for many years. The elder Daney was one of the organizers, and the first president, of the unincorporated Bar Association of San Diego started April 22, 1899. He was the bar's president six times prior to 1902, and again so served from 1913 to 1915.

In statewide circles Mr. Daney was vice president of the California Bar Association in 1913 and 1914 and was chosen its president in 1915. An excellently written biography by Judge Daney, the son, is available in the county law library concerning this outstanding professional leader who twice was offered an appointment to the local superior bench and once an appointment to California's supreme court.

According to the biography of Fred E. Lindley, prepared by his thorough and capable daughter, Mrs. Laura Hardenbrook, the chief function of the early unincorporated San Diego Bar Association was to draft flowery resolutions to be read in court upon the death of a lawyer or judge.

At the end of World War I a group of local attorneys decided to start an organization dedicated to the ideal of improving the practice of law. Nine leaders incorporated the Lawyers Institute of San Diego in 1919. It was one of the first incorporated bar associations in the United States. The Los Angeles bar, by contrast, was not incorporated until 1953.

Eugene Daney was also the first president of the Lawyers Institute. In 1922 the unincorporated San Diego Bar Association amalgamated with the Institute under the changed name of Bar Association of San Diego, and an incorporated bar has existed here ever since. In 1954 the name was broadened to San Diego County Bar Association.

In 1927 a new legal era commenced with the beginning of the official State Bar of California. Here again the Hon. Eugene Daney served as local representative on the Board of Governors from 1927 to 1934. He was followed in turn in that capacity by seven other prominent lawyers prior to the services on the Board of DeWitt A. Higgs from 1952 to 1955.

"Dutch" Higgs is the only San Diegan ever to have been elected president of the State Bar of California—the statutory public corporation to which all the thousands of lawyers licensed in this state automatically belong. As with the elder Daney his outstanding contribution to his profession brought prestige to his community, and earned for his own name among all American contemporaries the merited title "Honorable". Only once in a generation can a community be expected to produce such leaders.

This writer has been privileged to know both the Hon. Eugene Daney, Sr., and the Hon. DeWitt A. Higgs. With both he has been associated at

different times in certain civil litigation. Under other circumstances, needless to recite, he has been intimately acquainted with each.

Eugene Daney, Sr., was the dapper Victorian to whom haberdashers and elocutionists alike could point with pride. Born in Bordeaux, France, his early training combined such complete opposites as life in the mining towns of early-day Nevada, cultural schools on the continent, and public schools of rough and tumble San Francisco. He studied law at Hastings and came to San Diego at the height of the boom, November 1887. For 53 years he was one of the brightest lights of the San Diego Bar.

DeWitt A. Higgs is a typical product of America's World Wars I and II and of their intervening depression of the late 1920s and the 1930s. Born to the home of an Idaho country doctor and his wife, Dutch got as far as the first year in the University of Idaho and had to drop out to support himself.

After marrying Florence Fuller in 1929 young Higgs moved to San Diego in 1931 and commenced legal studies at night in Balboa Law College. In 1934 he received his LL.B., took the bar examinations, and was admitted to practice. His earlier law associates included such prominent men as present judges Jacob Weinberger and William A. Glen. The present firm of Higgs, Fletcher and Mack is one of the city's three largest.

It is still within memory that the courthouse was buzzing with surprised praise after Higgs' first case. Appointed by the court, without pay, to perfunctorily represent an accused who was certain to land in the "pen", Dutch demanded a jury and delighted each of its twelve members—as well as his client—by persuading them to turn the fellow loose!

Such was the pattern: lithe, masculine friendliness and ability and deep sincerity. It put Dutch among the local bar directors in 1938, made him San Diego bar president in 1940. It helped in his commission as a Lieutenant Commander in 1945, after a brilliant service in World War II. It placed him on the Board of the State Bar, and helped elevate him to its presidency in 1955.

How will the 60s and 70s of our century benefit from the great talents of this able and personable man still in his prime? The past is his hopeful advocate, but the future must be the judge.

Edwin L. Johnson

Ed Johnson's life is a nostalgic and dynamic blending of the old and the new. After coming to San Diego in 1907 his first appearance by name in the city directory was as "Teamster, Coronado Beach Company." A few months later the young son of Norway was helping internationally famous Glen Curtiss build his first hydroplane on North Island.

The Johnsons (E. L. married Loretta Achenbach in San Diego on September 2, 1907) lived on South Island. Many legal titles to Coronado real estate still employ the terms "S.I.", or South Island, in official descriptions.

North Island and Coronado were connected by a very thin strip of sand. The inlet on the bay side, protected on north and south by the two larger "islands", and by the sand strip from the open sea on the west, was known as Spanish Bight. In its halcyon surface Curtiss experimented with the flying boats that later, in 1913-14, he was to introduce to Brazil, Russia, Austria, Italy and Germany.

Thus, the now-seasoned San Diego lawyer who smilingly expressed deep regret not too long ago when the last old hitching post was removed from the rear of the old courthouse, was himself an initial contributor to the space age.

When Ed was 15 years old he was through grammar school and was working in his home state of Minnesota as a printer's "devil." Supporting the old saying that one never can get printer's ink off his fingers, fifty years later, as a former deputy district attorney, Johnson was co-author of a very true detective story published in a national magazine.

There is something else about the career of this man that every younger American well may ponder. In an age when personality-crushing ideology "from the Elbe to Vladivostok" is preaching that the individual is complete inertia,—a function of social forces. There is nothing in a man. He will never extract anything out of himself, because there is nothing there . . ." (The Captive Mind, by C. Milosz)—it is as refreshing as a new sea breeze through a smoldering city dump to get one's eyes in clear focus upon the life of a man like Edwin Lewis Johnson whose whole history of self-expression shouts the living lie to dialectical materialism and nihilism of the individual esse.

Before E. L. J. came to San Diego, at the age of twenty two, he had just completed two years in the army. Before that, in addition to printing-office experiences, he had been a miner in the Black Hills and a farmer in the green valleys. But his parents, Charles H. and Marie (Bjertness) Johnson, started him out with the right ingredients of character when he was born on November 11, 1885, in Fergus Falls, Otter Tail County, Minnesota.

As a young teamster in San Diego, working for John D. Spreckels and others who were developing Coronado, Ed Johnson kept a copy of Blackstone's Commentaries under the seat of his wagon. He studied law while slowly lumbering along the dirt streets, or at noontime when the horses

munched oats from the large canvas bags strapped over their ears. Under tutelage of several of the leading local attorneys near the end of the first decade of the century he studied all materials recommended for young lawyers by the state supreme court. He also delved into great literature. As he helped build boats that would rise from the billows, he invisioned a life that could soar above commonality. He succeeded in this personal task equally as well as did Glen Curtiss, his aviator friend.

E. L. Johnson's life has had many rewards. His son and law associate, Ashley Johnson, has three promising youngsters: Edwin Ashley, who is in college, Rodney Allan, a high school student, and Jerelyn Ann of junior high age.

Law practice for the senior Johnson commenced in 1911. It included the successful defense for murder charged against one of his former bosses of the Coronado Beach days; also experiences as deputy district attorney from 1923 to 1926, during which time bootleg "hooch" was blowing up the local crime rate, and even occasionally blowing itself up while waiting in storage for presentation as evidence to the courts.

Ed's most interesting case was the one written up in "Master Detective" in 1950. The facts, which had occurred 27 years before, concerned a successful prosecution in San Diego of a first degree murder charge without the availability of a corpus delicti,—a rare legal happenstance. The victim had just disappeared—forever.

Edwin Lewis Johnson is one of life's successes, although it only can be said that his professional accomplishments have been successfully ordinary. There are two kinds of success: one lies in surpassing other men, which, under any competitive system necessarily becomes for someone or other a matter of foregone expectation; the other is far less frequent: the surpassing of expectation, itself. And here lies greatness!

As in Edward Rowland Sill's thought-provoking "Opportunity," it is the man with dimensions of a king's son, who, refusing to cringe before adversity, seizes upon the meager chances dispaired of and discarded by lesser souls, and parlays them into a saved cause and an heroic day.

E. L. Johnson has those dimensions. America is proud of such sons!

Herbert Kelly

The miners' courts of California were the principal arbiters of Rights in Land (now the name of a modern law school course) during the gold rush days. The Herbert Kelly family was well represented by ancestors in the diggin's of early Placer county, and undoubtedly saw many times the ad hoc boisterous adjudications of rights in land where the loser, deprived of his rights, was left hanging on the limb of the nearest oak tree. After four generations the Kelly family still successfully pursues a course of litigation and specialized practice in the above mentioned narrow area of today's law college curriculum.

Herbert Kelly was born June 4, 1888, near Vista in northern San Diego county on a ranch then being homesteaded by his parents, Charles K. and Lavinia (Irwin) Kelly. It is little short of amazing that proportionately so many of San Diego's present leaders of the bench and bar should have been born in the same area. Whereas Harrison G. Sloane and Hon. Eugene Daney, Jr., first greeted the sunshine near San Diego bay, the north county produced Hon. J. Chauncey Hayes. Hon. Lawrence N. Turrentine, Hon. Lloyd E. Griffin, and the realty expert of the present sketch, Herbert Kelly.

Three separate Argonaut trails converged into the life of the first born of the Vista Kellys:

Robert Kelly, the grandfather's brother, came to the lower Colorado River in 1850 and operated a ferry built by himself from hand-sawed cottonwood trees. In 1851 he helped build the Davis wharf during the first attempt to create a city on San Diego bay to the south of Old Town. He tried the mines with a partner named Hinton. He became part owner of the Jamacha grant, while Hinton was gaining possession of 20,000 acres of the finest coastal lands between Oceanside and Encinitas. Robert became Hinton's ranch manager, and upon the latter's death was given the whole property. Upon his own demise (unmarried) the great acreage went to Herbert's grandfather and near kin. Much of it is still in the family.

The paternal grandfather, Matthew Kelly, crossed the plains during the gold rush while his good, and sturdy, wife, Emily (Porter) Kelly, took their three children southward by ship, crossed Nicaragua on mule back, sailed northward by coastal packet, and joined the husband and father in the Placer county mines where Herbert's father, Charles, subsequently was born. Four or five years later Matthew brought his family to Old Town. In due course he built a 16x16 shack near Carlsbad (Robert's influence) for his family, and then the beautiful adobe home now owned by actor Leo Carrillo. In fact, Herbert's father and mother were married in what is now the Carrillo living room.

Herbert's grandparents on his mother's side were James Owen Irwin, whose wife was Mary (Sicot) Irwin. J. O. early came to California via Panama. His peculiar business mission completed, he returned to the east. The daughter Lavinia (Herbert's mother) was born in Illinois. Im-

mediately following the Promontory Point gold spike episode of 1869 the Irwins took one of the first through trains to San Francisco where the father worked in the Japanese consulate. He made two business trips to Japan. The daughter came to San Diego county to teach school. After serving a year at Campo she was lured away by the Hope School District near Carlsbad. When she was due to arrive on the old Concord stage, it was young Charles Kelly (Herbert's father) who was sent to meet her. Then he married her thus producing connection between this paragraph and the last sentence of the one preceeding, and also producing two sons and a daughter, of whom Herbert was the oldest. Herbert's mother lived to be over 91.

The oldest sister of Herbert's father, who had been one of the child mule riders across Nicaragua, married Chester Gunn, of a justly prominent pioneer San Diego family. Chester's brother, Douglas, was editor and owner of the San Diego Union for many years and was the city's first mayor under the charter of 1889. The three sisters of Chester and Douglas were Mrs. George W. Marston and Mrs. Charles S. Hamilton—each husband a leading merchant—and Mrs. Utt, mother of Lewis J. Utt, attorney and business man. Chester Gunn and Herbert's father, Charles, were partners for years in the real estate business, with offices near Fifth and Broadway.

When Herbert was about five years old his parents had moved to San Diego where the father at first operated livery stables—later serving on the chamber of commerce, the school board, and the city council. He also was a leading layman, as was attorney Ray M. Harris, at the Central Christian Church.

The oldest Kelly youngster was small but sturdy. After attending kindergarten at the old B Street School, and grades at the Middletown (later Washington) School, he delivered by bicycle all the morning papers east of 14th street, and in the afternoon all the Coronado evening papers.

After being graduated with the last class from the old wooden Russ High School, Herbert rode his bicycle to college in Berkeley! It required five weeks, including the many days of work en route by which he commenced the 5-year stint of supporting himself through college and law school.

Married to Thalia Graham in 1916 in Berkeley, Herbert Kelly is proud of his three children and 20 grandchildren. Herbert, Jr., is a local realty broker, Graham Kelly is a San Diego attorney who justly knows a whopping lot about realty law, and Thalia is the wife of C.P.A., Charles Ray Considine.

In 1935 Mr. Kelly married Helen G. Belshe. His eyes twinkle happily when he mentions his stepdaughter, Maxine T. Smith, and the fact that he is now a great grandfather.

Shrewdness tempered by friendliness; earnestness and hard work mel-
lowed by laughter and travel; brilliance diffused by humanness—that is Herbert Kelly, described by his friends, including retired superior court judge L. N. Turrentine, as one of San Diego county's greatest land title attorneys.

Edgar Irving Kendall

On April 11, 1868, the Civil War was only three years closed, and Alonzo Erastus Horton—a Connecticut Yankee come west—was just starting to lay out his new town of San Diego on the quail and cottontail lands some four miles south of the old and quaint Mexican-type San Diego now known as Old Town.

On the same day another Yankee was born on the Kendall farm near Mount Vernon, New Hampshire. They named him Edgar Irving. Today he is in fine spirited health after more than ninety one years, and probably is the oldest lawyer in San Diego both in age and in years of admission to the bar. Youthful in spirit, however, he is one of the most regular attendants at the luncheon meetings of the Bar Association of San Diego.

Mr. Kendall was admitted to practice law in New England in 1893, and in 1901 served for a term in the New Hampshire state legislature. He joined the California bar in 1907, and has been in San Diego more than fifty years.

As legal adviser of the local board of supervisors for the fifteen years following 1932 the subject of this vignette chartered the county's legal course through the most tempestuous seas in the first half of the twentieth century. The great depression of the thirties, and then World War II, with their stupendous problems of human welfare and exploding community growth—infused as they were with state, national and international complications—presented myriads of knotty problems for the customary careful research of Ed Kendall.

In 1947, on the threshold of becoming an octogenarian, Mr. Kendall officially retired. But unofficially he remained in the harness to carry one of the heaviest legal loads of decades. He read and sorted thousands of uncorrelated county ordinances, recommended to the supervisors that hundreds of them be eliminated, and crowned his public career many months later as the re-compiler of the large new official volumes of county ordinances that are likely to be regulating the conduct of citizens of this area in the year 2008 — centennial of the occasion when Edgar Irving Kendall first moved into San Diego County.

Mr. Kendall's autobiographical sketch of his own life contains the following items of interest.

I, Edgar Irving Kendall, was born in the old Kendall farm in the east part of Mount Vernon, New Hampshire on April 11, 1868. I was the third son of Simon Flint Kendall and Mary Clark. I first went to school in the old "Tater" Street District School in the east part of Mount Vernon at the age of six.

At the age of twelve, I entered McCollom Institute in the village of Mt. Vernon. I rode the two and a half miles to and from school on horseback most of the time. This was one of the old New England academies. At this time there were forty or fifty students enrolled.

My brother Charles suggested that I study law with a lawyer in Milford named Robert Wallace. At the suggestion of Mr. Wallace I started to go to the Boston University Law School, going back and forth on the train. For the fifty mile round trip a student's ticket cost about \$13.00 a month. Mr. Wallace at that time had an office in Nashua as well as in Milford and I used to stop off the train at Nashua and keep the Nashua office open.

While I was in the Law School, out of a clear sky Mr. Wallace was appointed Judge of the Supreme Court. This made an opening for me and I took over the Milford office and began plugging for the Bar Examination. I passed the Bar examination and was admitted to the Bar in 1893.

In 1901 I served a term in the New Hampshire Legislature. I practiced law in Milford until 1907 when my health broke down and we came to California. I was admitted to the California Bar on motion in 1907. In 1908 we came to San Diego.

I was never a business getter and struggled along in private practice until 1927 when I was appointed a Deputy District Attorney by Stephen Connell. For about four years my work consisted principally of attending Coroner's Inquests — in all about 400, I think.

About 1932 Thomas Whelan was elected District Attorney and he transferred me to the Supervisors' office as Advisor to the Board of Supervisors. I held this job under Whelan and James Abbey until I was forced to retire in 1947 at the age of 79. I guess I was fairly successful as Advisor to the Board as we had very few lawsuits against the County during those years.

A little time after I retired Jim Abbey took a contract to revise and compile the County Ordinances with the understanding that I would do the work. With the assistance of Lucille McLees and Martha Marquardt I went over the San Diego County Ordinances. I recommended the repeal of about 600 obsolete and outmoded ordinances. This was done by the Board of Supervisors. The remaining ordinances were arranged in such a way that they could be kept up to date by the clerks in the Supervisors' Office.

Since retiring I have lived quietly at 4218 Stephens Street in Mission Hills in the home we built in 1913. My wife, Susan H. Kendall, whom I married in 1896 died February 4, 1959. My daughter, Mary Louise Jannoch, a teacher in the San Diego Junior College, now lives with me at 4218 Stephens Street.

Hon. Edward T. Lannon

At this centennial of the first great Republican triumph, and of Abraham Lincoln's election to the Presidency, it is not inappropriate to note a few of the major contributions made to San Diego's legal and judicial history by Democrats from below the Mason and Dixon line.

One of the South's substantial gifts to this area is in the person of Edward T. Lannon, long a local referee in bankruptcy, and for a considerable time the city judge of Coronado. There also were illustrious fore-runners.

In 1850, the first year of California's admission to statehood, some outstanding southern lawyers were laying foundations here for a system of judicial administration that has retained high caliber for over a century.

James W. Robinson was a former governor of Texas. In Black's History of San Diego Robinson is said to have been the best equipped "in experience, learning and personal character" of all local members of the legal profession.

Colonel J. Bankhead Magruder, however, was no second-rater. In addition to being a lawyer he was in command of the army post in San Diego. A decade later he became a general in the Confederate army.

In 1869 W. T. McNealy came to San Diego. He was a Georgian, reared in Florida, who had served at age 17 with Confederate troops. Twice he was elected district attorney of San Diego County, and in 1873 was elected judge of the state's district court which had jurisdiction over an area now divided into five counties.

Other great Southerners could be mentioned (and, of course, there were equally able and prominent lawyers from the North), but this story is about a young man who was born in Virginia in 1881, later coming to the West Coast.

The Old Dominion (Va.) had experienced earlier difficulties in keeping its attorneys. In 1658 its Assembly voted to eject all lawyers. After the Governor had questioned the constitutionality of such action it was temporarily reconsidered and then reaffirmed in these words:

"... enacted by the authority of this present and grand assembly, that no person shall plead any cause, or give legal advice for a fee, or any kind of reward under the penalty of five thousand pounds of tobacco for every offence; . . ." (The New York Legal Observer, Vol. V, p. 204).

In full justice to all Virginians it must be stated that neither could one in Massachusetts practice law for a fee or a reward at the even earlier date of 1641. (Beard, The Rise of Am. Civ., pp. 100-101).

It was personal matters, however, that directed Mr. Lannon away from the practice of law in his native state. His older brother was an attorney in Virginia, and later in New York, and young Ed appeared to be all set for an easy start. (The next older brother, James P., was nom-

inated to the Naval Academy in 1898, and was an admiral when he passed away in 1953).

Illness on the part of another in the family necessitated Ed Lannon's leaving the University of Virginia and enrolling in the University of Colorado. There he became closely acquainted with Jacob Weinberger who now is Senior Judge of the local U. S. District Court.

After receiving his LL.B. from Colorado in 1907 young Lannon moved immediately to Oklahoma and was admitted to practice there for two years before coming to California. Portions of his experiences in the Sooner State were as deputy clerk of the state district court.

Oklahoma, itself, was admitted into the Union as a state in November, 1907, and the tales of frontier justice in the lusty community, as witnessed at first hand by the young lawyer, should be reduced to print by Judge Lannon as a permanent contribution to Western Americana.

In 1909 Lannon was admitted to the California bar, and in 1910 he opened his San Diego office. Shortly thereafter an association commenced with the family of John B. Mannix that has extended over 50 years. In succession E. T. Lannon became the law partner of John B., and the life partner of the latter's daughter, Alice M. Mannix.

In the formative years of the University Club of San Diego Mr. Lannon was the Assistant Secretary-Treasurer, and played a prominent role in securing financial stability and a permanent home for the organization. He also has been an ardent worker for many Catholic projects in the community, such as the restoration of San Diego Mission de Alcalá. He is a member of Phi Beta Theta, Elks, and is a director of the Coronado Hospital.

From 1914 until 1926, and again from 1945 until retirement in 1959, Edward T. Lannon served as referee in bankruptcy. He was city judge of Coronado during the thirties. Except for the last four years he maintained a private practice concurrently with his official duties.

Throughout more than half of a century, from the days when he served as a court clerk in Oklahoma, this man has had occasion to administer the oath for truth to thousands of witnesses. This is remindful of the too-oft forgotten words of eternal wisdom enunciated by Aeschylus, the Greek dramatist, about 500 B.C., "It is not the oath that makes us believe the man, but the man the oath."

Another short sentence of eternal wisdom: Edward T. Lannon is that kind of a man!

Fred E. Lindley

Of the 1000 lawyers who have practiced their profession in San Diego since 1850 Fred E. Lindley is rated among the top 10% by most of his older lawyer-brethren who, like himself, carry an "a v" in Martindale-Hubbell.

A splendidly written 30-page story of this outstanding citizen has been prepared by his daughter, Mrs. Dalice E. Hardenbrook. The work will be valuable for many years to seekers of information about the beginnings of law schools, and bar associations in San Diego county.

When Mr. Lindley first arrived in San Diego in January, 1912, he was 35 years old, a recent graduate (cum laude) of the University of Chicago Law School, and one who had taught in, and been principal of, Kansas grammar and high schools for 15 years.

The most obvious point of fallibility in the man, according to many of his interviewed acquaintances, is that he never outgrew his schoolroom conditioning. In response to the question: What are his weaknesses?—the answers were: a tendency to lecture others; a piddling over-emphasis on correction of detail; a mixture of pedantry, paternalism, and aloofness.

A summary of answers concerning his strong points: intellect high, industry higher, integrity highest.

Fred Lindley's San Diego activities have been kaleidoscopic, and in some instances almost paradoxical. With partner, Robert R. Hamilton (a University of Chicago classmate), Fred operated the Hamilton and Lindley Law School for 5 years until the service demands of World War I depleted its student body.

A more lucrative income, however, already was being developed by the firm in connection with legal services for the Public Administrator,—a sympathy-invoking invalid who almost held a sinecure in the political post for 15 years. County Counsel now handles the legal problems of this "gravy-train" practice.

The year 1919 found Fred Lindley, elected to the state assembly, falling in line with a legislative trend begun at Sacramento two years earlier and which aimed eventually to do away with part-time night law schools! At the same time his interests were in the organization of the Lawyers Institute of San Diego, one of the first incorporated bar associations in the country. The integrated State Bar of California was organized in 1927, with Lindley playing important committee roles. Twenty years later he was the district's representative on the Board of Governors.

In 1933 Fred became a member of the local Probation Committee and assisted in laying firm foundations for development of Rancho del Campo and a new Juvenile Hall. In 1939 he commenced a 5-year term on the State Board of Bar Examiners, and, in 1941, a 10-year stint on the San Diego Board of Education.

Other Lindley community services were directed to organization of the San Diego Open Forum (1919), the presidency of the San Diego County Farm Bureau (1939), and organization of Sharp Memorial Hospital in the 1950s.

Throughout these same years the man busied himself with raising a fine family, operating a ranch in Escondido, engaging in travel, assisting church projects, and playing at such hobbies as book collecting and reading, and semi-professional home-made mechanical repairing at home and ranch.

Did he practice law? Definitely! Extensively! Profitably! and Admirably!

When the pillars of probate practice grew wobbly in the late 1920s Hamilton and Lindley took shelter in the banking structure of the community. From 1927 Fred served as director of the Security Trust & Savings Bank of San Diego, and as Chairman of the Board from 1945 to 1957. He and members of his family became substantial shareholders, and the Lindley firm served as the bank's legal counsel. The connection naturally attracted many other desirable clients.

Cooperative farming problems were important features of the firm's practice before World War II. After Judge Shelley J. Higgins joined the firm much advising was done for cities and various governmental districts. Higgins was a former San Diego city attorney.

After Mr. Hamilton left the firm its name shortly became Lindley, Lazar & Scales.

Fred Ephraim Lindley was born in Portis, Kansas, in 1876. He was the oldest of the four sons of Joseph A. and Lavina (Laman) Lindley. Reared on the farm, trained in country and state normal schools, he met Alma Ise, a neighboring homesteader's daughter, at a teachers' institute. They were married in 1909 while Fred was pursuing his legal degree.

The Lindleys have four children: (Laura Margery) Mrs. Dalice E. Hardenbrook, a San Diego junior high school vice principal; Edward Ise Lindley, a building and loan executive in Escondido; (Mary Lucille) Mrs. Leroy A. Wright II whose husband is a leading San Diego lawyer; and (Ruth Estelle) Mrs. Clifford H. Muller, Jr., whose husband is a major in the Air Force. There are now eight grandchildren and five great-grandchildren.

Perhaps this versatile, shrewd, straight-laced, and exacting man never has reached the complete heights of anything—except to make a whale of a success out of all aspects of personal, financial and professional living! In addition to the teacher and the lawyer in him, there is some of the missionary and a bit of the doctor. He has laid his hand upon many phases of San Diego's legal and community life, and whatever he has touched has been better because Fred Lindley was there.

William G. Mirow

When one thinks of William G. Mirow it is easy to think of Edward Coke, Esquire—perhaps with emphasis on “Esquire.” Mr. Mirow personally possesses all the punctiliousness of a fashion plate from the popular magazine for men, and on the legal side his meticulousness is as amazing as that of the old master who digested so carefully the law, then to be found in two long centuries of English Year Books, that thereafter the profession was willing to take his word for it.

One of Mr. Mirow’s interviewed clients reported of him: “He is so terribly careful that it almost gets on my nerves.” Another representative client said, “He is our best help for keeping the business ship afloat; he not only plugs all the legal holes, but stands long watches on the bowsprit to give warnings of floating logs and hidden sand.”

The true perspective on this septuagenarian scholar, who admits to no hobby but the law, is secured by noticing him in the front row of local continuing legal education courses listening intently, and perhaps writing feverishly for hours, in an attempt to glimpse new vistas of legal truth. His relaxation from an important and exacting practice is to hurry to the law library for several hours to see if he can find new law on some old case—now moot—which he placed in his “closed file” two or three years before.

This writer remembers a well-deserved and highly profitable lecture hurled upon him individually in the roaring twenties by W.G.M. At that earlier date the mentioned initials, at least in San Diego, did not stand for William Gibbs McAdoo. They meant “Won’t Go for Muddlers,” and referred to the attitude of erudite counsel Mirow of the First National Trust and Savings Bank of San Diego toward anyone attempting to draft a pleading, contract, will or trust. Like Michelangelo, Mirow believes that trifles make perfection—and perfection is no trifle.

The wife and two married daughters of this study in “Profiles” have written a delightful sketch about some of the entertaining incidents in the life experiences of their respective husband and father. His long-time friends and business associates have been induced to contribute various other dotes and anecdotes. These stories help to shape up a man of mild, and styled, personal eccentricity, with a legal mind like the finest precision instrument, and a community reputation as solid as Point Loma.

One of Noel Coward’s characters says that clergymen ought not to have senses of humor. It can be suspected that Bill Mirow feels the same way about lawyers, and that, with William Dean Howells, humor seems to him something not perfectly well bred. He has a serious mien even when he doesn’t mean to be serious.

William G. Mirow was born, reared, and educated in New York City. He was graduated in law from St. Lawrence University in 1910, and earned a master’s degree from New York University in 1911—the year of his admission to the bar. His birth date was June 29, 1889.

After a year of practice in New York the young attorney left for California by way of boat to New Orleans. The prospective opening of the Panama Canal, and probable subsequent rapid development of the west coast ports, lured him to San Diego—the first port of call.

Furniture hardly had been moved into his office in the American National Bank Building (now First National) before the new arrival made formal calls upon the three superior court judges, the county clerk, and the district attorney.

In fact, formal calls are a characteristic of this exceptionally well-posted, Emily Post-ed lawyer. His first call upon his wife-to-be was in full evening dress. She welcomed him in middy blouse and skirt—the then regulation uniform at San Diego High School.

One of the man’s loyal friends of the years almost verges upon hysteria when he alleges how shocked the older Mirow daughter was—although already married for some years—when she beheld for the first time in her life her father in his shirt sleeves.

Here, then, is one who came to a small town alone and young, commenced his practice modestly, and deservedly watched it become one of the finest in the State—including representation of the First National Bank as counsel and director.

Here is one who married a lovely young woman, Ruth Irwin, from a prominent San Diego family, and together with her reared two charming daughters—now Phyllis Stone and Vivian Showley—who married into families of high community prestige and leadership.

Here is one who has known, and earned, the finer things of life; one who knows the art of Europe at first hand, the art of careful legal scholarship, the art of selecting exactly the proper necktie, and the art of winning a friend with honest handshake and smile.

Here is one who would make a happy portrait, and also the portrait of one who should be happy.

Here is William G. Mirow.

Hon. Cyrus M. Monroe

Cy Monroe has been the Will Rogers of the San Diego bench and bar. His walk is with an indifferent slouch, his speech is one of studied grass roots English, his humor is droll and ebullient. Withal, his education exceeds the average for his age, and his conversation touches many disciplines. If his witticism-criticism of others could have known no venom, and his conclusions about life could have contained less of the bizarre, C. M. Monroe could have become a national celebrity. Locally his prominence is secure.

Early in the 1940s Earl Warren, then governor of California, and now (1960) Chief Justice of the United States Supreme Court, said while addressing the assembly of the State bar: "I want to say a word about the appointment of the judiciary. I am of the opinion that no man should aspire to the bench unless he can run the gauntlet of his own profession. Every man who is appointed in these next years will have to do precisely that."

On January 3, 1949, C. M. Monroe was appointed to the Superior court bench by Governor Warren. No man better could have run the gauntlet of his profession at that time. Over a period of 25 years in San Diego, as trial and appellate counsel for a continuous stream of some of the county's most important litigation, Monroe built a record stronger than the record in his strongest case, and a reputation that caused all serious opposing counsel to take weeks of mental legal calisthenics before wrestling with him in court.

As a trial lawyer Monroe was a joy to every judge. He was prepared. If the supreme court of California had decided, discussed or denied a proposition of law, Cy knew about it; and woe to any opposing counsel who relied on mere hot theories or hot air.

Between World Wars I and II this man was as good a lawyer for civil litigation as ever hog-called a jury or Einstein'd legal mathematics with a judge. In physical attitude, slow, steady, earthy, imperturbable, almost farmerish, he was a natural for jury work. In clarity of mind and speech, wit in repartee, exactness in preparation, and with a personal leaning for logarithms, slide rules and higher mathematics, he presented the law with scientific accuracy.

Perhaps it was pseudo-scientific! Actually, while being the ne plus ultra of commendability in the twenties, the method was an Achilles' heel in the fifties. But by then Monroe had stormed Troy, and attained full victory with the laurel wreath of judgeship.

Many of the man's admirers nevertheless consider him somewhat of a Philistine, maintaining that he has refused to use and recognize the newer tools of his profession. The best articles in the best law reviews are anathema to him. Although assigned to pre-trial hearings he gives little credence or aid to the proceedings. To him the contributions of modern scholars are somewhat suspect,—whether in texts, looseleaf services, or speciality Institutes.

An heretical concept, in opposition to which the judge probably willingly would give his last castigating breath, is the new oracular proclamation of jurisprudence that law today never is restricted to what it seems to be, but always is what it should be; and that truly great lawyers are planting the banners of justice on that plateau.

C. M. Monroe was born in Kansas in 1890, the only son of Lee and Lila Day (Moore) Monroe. He received undergraduate and legal training at Washburn University, Topeka, Kansas, joined his father in a Topeka practice in 1912, and for 10 years picked up the know-how on the western legal circuits of that state.

The judge has three sisters, all now of Topeka, one of whom long served on the faculty of Cornell University, and later in a federal administrative capacity in Washington, D. C.

Mary Sawyer of McPherson, Kansas, became Mrs. Monroe in 1913. Their son is Dr. Lee S. Monroe, a member of the medical staff of Scripps Clinic and Research Foundation in La Jolla.

In 1922 the Monroes came to San Diego, and C. M. became associated with the leading firm of Wright & McKee. His name was added later. In time the top names were Monroe, Harden and Thomas (all three men are on the superior bench today!)

Immediately prior to World War II Cy, and John W. McInnis who was associated with the firm, separated therefrom and commenced to practice together. John served as a naval officer from 1942 until 1946, and after that date the two men were together again until the Warren appointment in early 1949.

Although a trial man, Monroe was equally apt on appeal. He wrote briefs like Walt Mason turned out syndicated poetry,—not the best, but excellent considering the almost daily schedule of production.

The judge's hobbies have been guns, golf, and driving snappy little cars. His life is somewhat of an enigma to those who know and like him best. A careful dresser,—over a Will Rogers demeanor; a tender-hearted, child loving, helpful, cooperative and very human man,—enveloped in a cloak tinted with introversion, smugness, deep grudges, and resentment of opposition.

Many centuries ago a wise Greek said: "Criticism is easier than craftsmanship." Cyrus Moore Monroe is a legal craftsman. When the blurring haze of pettiness has dissipated, his name will stand unchallenged as that of one of the two or three greatest trial lawyer and trial judge combinations ever to grace the legal profession in this county.

John H. Moore

There is beauty and a blessing in living an ordinary kind of life. Two centuries ago Thomas Gray used such inspiration for his immortal *Elegy*, and today the increasingly important science of psychology confirms old truths and throws disillusioning and almost frightening illumination upon heretofore sacrosanct areas of living that intimately concern lawyers.

John H. Moore's life has been exhilaratingly commonplace. After almost 50 years of practice, his letter to this writer said. "I have never had . . . outstanding achievements." John has done almost all of his own typing and secretarial work because "I can't think as well when I dictate."

But for one fact of pure coincidence, the present approach to the biography of this handsome, well-dressed, friendly man would not have occurred. Mr. Moore officed for several years with a professional psychologist, —an author of numerous books on the subject. The appraisal by this man of his long-time lawyer friend was this: "steady, conscientious, and well adjusted."

In this year 1960 dozens of bar associations and learned societies are weighing the words "well adjusted" in connection with a concerted international effort to improve judicial selection and court administration.

As Lord Goddard, former Chief Justice of England, has remarked, a trial judge need not be a consummate lawyer. It is the other qualities summed up in the concept "well adjusted" that count most: evenness of temper, constant courtesy, a smile that knows no cruelty, in short—being a gentleman always.

Nationally prominent persons have pointed out that it is no disloyalty to the judicial bench to have it said that less scientific know-how is used today in selecting judges than modern industry gives to its choice of janitors. If the government selected its policemen, to watch a junk pile, in the same haphazard pattern of sangfroid naivete used to choose judicial guardians of life's dearest possessions—even illiterates would write their Congressman!

Psychology knows that the well adjusted person carries a minimum of the subconscious hates, deprivations and ambivalences that drive seemingly normal adults into the patterns known to contemporaries as "the greatest orator at the bar," "the hanging judge," "the leader in reform,"—or even "the writer of legal Profiles!"

Most persons don't know about the often questionable motivations for their surgings of genius, fighting faiths, or plain eccentric obsessions. Walt Whitman, as only one example, didn't realize until late in life that his *Leaves of Grass* (Calamus poems) were the sublimations of a homosexual.

It is fairly well established that some of the more poorly adjusted people have a tendency to "project" their own weaknesses to others, and thus transfer feelings of guilt or hate of self into the hatred of some disliked or envied person. Also, a strong conscious protest against anything is often a cover for unconscious approval of it, and desire for it. And the repressed

early hatreds for parents or nurses too easily by adults can be displaced upon an unfortunate prisoner or litigant.

Members of the National Conference on Judicial Selection are emphasizing "well adjusted." And this Profile is a tribute to John H. Moore, —so well adjusted and devoid of abnormal emotional itches that he needs no bragging about "outstanding achievements."

All that this man did was to be born of good parents, John and Hettie (Gould) Moore, in Pennsylvania in 1877; acquire a good college education; happily marry Miss Edna Mathews of Colorado, and raise a fine son; gladly serve his fellowmen as a citizen, and lawyer for 50 years; enjoy his friends; love his country; and revere his God.

Not a prosaic life; poetical! As Gray's *Elegy* says:

Far from the madding crowd's ignoble strife;
His sober wishes never learned to stray;
Along the cool sequester'd vale of life
He kept the noiseless tenor of his way.

Large was his bounty, and his soul sincere;
Heaven did a recompense as largely send:
He gave to misery (all he had) a tear.
He gain'd from Heaven ('twas all he wished) a friend.

William L. Morrison

It is probable that William L. Morrison, very successful in the practice of law, would be equally successful in the game of Twenty-one (prohibited, however, by penal code Sec. 330).

Mr. Morrison was born in St. Louis, Missouri, 21 years after the First Annual world-renowned St. Louis Fair. He commenced the study of law at age 21, and was admitted to practice 21 years after the admission of Mr. Chief Justice William Howard Taft.

Twenty-one years after the arrival in San Diego of the boom-town crowds of the middle eighties, Mr. Morrison came. He was married to Mary E. Bowler in Coronado just 21 years after the opening of the fabulous Hotel Del Coronado, and 21 years following the first posting here of his shingle for legal practice he was a member of one of this community's highest caliber law firms for an office-type of practice, viz., Springer, Green & Morrison.

After twice 21 years of practice Mr. Morrison became associated with his son, Philip J. Morrison, who, admitted in 1938, now has practiced exactly 21 years.

The office of this kindly, unassuming, careful, and highly esteemed patriarch of San Diego practitioners of law has furnished the following biographical sketch:

William L. Morrison, who has practiced law in San Diego for more than fifty years, was born in St. Louis, Missouri, December 14, 1876, and lived there until his coming to San Diego in 1907.

His father was a native of Scotland, his mother a native of Ireland. In his early manhood the father journeyed to Canada, and served in the Canadian Army; he later came to the United States, lived for a time in the South, and was a member of the Texas Rangers during its early history.

William's mother was Mary Tansey. She was seven years of age when she arrived in New Orleans with her mother, a widow.

This was during the eighteen forties when thousands left Ireland to seek refuge in the United States, and escape privation and starvation which then prevailed in Ireland owing to years of famine. The years of her childhood and girlhood were lived in New Orleans. It was there that she met and married William's father. The family later moved to St. Louis.

The father continued to follow his trade as a skilled artisan in stone and masonry construction, a trade which he had learned in Scotland through years of arduous apprenticeship and training in the period of boyhood and youth.

William's father was a British subject during the Civil War and did not engage in this conflict; however, he did serve as a non-combatant by assisting in the training of Union troops. He afterwards became a naturalized citizen of the United States and was ever grateful for this privilege.

A large single volume containing the history and the Constitution of the United States was kept on the parlor table, and it was his frequently expressed and earnest wish, according to family history, that all of his children should read and study this volume "from beginning to end."

William L. Morrison, not unlike many young men of his time and in his circumstances, was not privileged to receive a formal education.

In his youth he entered a law office in his native City of St. Louis, and followed a course which was not unusual at the time, first as "office boy", then stenographer, law clerk, law student, and finally admission to the Missouri Bar in 1902.

Mr. Morrison came to San Diego in 1907, and was admitted to the California Bar in 1908.

During his long professional career in San Diego, extending over fifty years, he has been honored by being chosen as president of the Bar Association of San Diego County. In his professional life he has, at various times, been associated with Herbert E. Doolittle, a former City Attorney of San Diego, and with Rolland C. Springer and Phil B. Green, all now deceased, and all able and esteemed members of their profession.

For the past fifteen years he has been associated in practice with his son, Phil J. Morrison. In his professional work Mr. Morrison has been engaged chiefly in Civil branches of law, including probate administration proceedings, real estate, corporate and business transactions.

Mr. Morrison was married in 1909, at Coronado, to Mary E. Bowler, also a native of St. Louis. They have two children. Their daughter, Catherine, is married to Robert W. Eisele, a Battalion Chief with the San Diego Fire Department. Mr. and Mrs. Eisele have three children, Robert, John and Kathleen Mary. Mr. and Mrs. Morrison's son, Phil, is married to Mabel Garbani, a member of an esteemed pioneer family of San Diego County. Phil and Mabel have four children, William, Joanne, Virginia and Philip, Jr.

During his life in St. Louis, Mr. Morrison indulged avidly in amateur baseball, and he and Mrs. Morrison continue their interest in all sports and athletic activities that make up a part of our American way of life.

A St. Louis lawyer, who was an alumnus of Cornell University, and who had majored in English and in classical literature, was one of Mr. Morrison's first employers. He inculcated in the mind of his "office boy" a love of good literature, which love, Mr. Morrison says, has never waned or faded.

Hon. Arthur L. Mundo

An old framed photograph from the early 1930s stands today (1960) on a side table in one of the rooms of the new courthouse. It is of San Diego's five-member superior court, then sitting in bank. Judge Charles C. Haines was at center, Judges Griffin and Harden in guard positions, (there were no tackles!), and Judges Turrentine and Mundo were flankmen.

If the governor who appointed Mundo to the superior bench on January 5, 1932, was attempting to maintain intact the mold of the local judiciary he couldn't have been wiser in his decision. The appointee was a potpourri of his predecessor-confreres.

Could some super-Merlin shake together in a paper bag an imaginative set of Griffin, Haines, Harden and Turrentine, and pour one quarter of the composite into human mold, the result of such polygenesis would be a judge politically keen, of pontifical mien, polemical lean, and professional sheen.

Arthur Lufkin Mundo called his shots the very day he arrived in San Diego. As a youthful, untried lawyer newly arrived in southern California he walked up Broadway from the depot. As he passed the old courthouse he is quoted as having said to his companion, "I believe I shall make mine a judicial career."

One who knows Arthur, in several ways other than having practiced law against and before him, knows that if such a statement was made there was no humor in it. If the speaker smiled at the time, it was because he was satisfied with his own decision.

By the opinions of many who knew him well, this man's greatest weakness was the unalloyed seriousness with which he considered Arthur L. Mundo. But, paradoxically, this great weakness was his saving strength. It was the humus in which his life roots were embedded, and by which he was enabled to grow.

And growth was Judge Mundo's greatest achievement: intellectual growth, financial, social, political and judicial growth!

The man studied prodigiously. He lectured to college law classes. He taught law to the military. In the thirties he wrote a law book entitled "The Expert Witness." Such labors unquestionably benefited Mundo far more than they did the hearers and readers. After twenty-five years on the bench,—even if not a scholar,—he was widely respected for a very dependable type of learning.

The number of times the Mundos horse-traded houses and properties, and played gypsy with their own living quarters, brings smiles to the faces of all their contemporaries. But the folks with that worldly-sounding name earned the right to have the last laugh! It is common knowledge that the Judge eventually swapped himself onto "easy street."

Arthur published a book of verses. The title: "More Gravel than Pearls." Candor requires the statement that either a jug of wine or a loaf

of bread would provide happier companionship beneath almost any bough! But the rimes were about people the Mundos knew. Arthur had come to love instead of to tolerate them. As they loved him in return he lost some of the gravelly edge, and won for himself the pearl of great price.

The possessor of one of the best legal minds in San Diego, and no close friend of the Judge, made this eminently fair appraisal: "In his early days on the bench Arthur was no great shakes as a judge; but before he left it he was being assigned the toughest cases, and most of us liked the way he handled them."

The man of this pen sketch was born in Boston on February 1, 1895, to John J. and Alberta Tuttle (Smith) Mundo. After his public school education he attended Emerson Institute at Washington, D.C. He enlisted in the United States Navy as an apprentice seaman, served for nine years including the period of World War I, and because of an injury was retired as a lieutenant. He then studied law at George Washington University which granted him degrees of LL.B. and LL.M.

The year 1920, when Miss Clara E. Jacob became Mrs. Mundo, marked the date of Arthur's wisest non-judicial judgment. The outstanding assistance given to the young lawyer by his winsome wife definitely is no matter for minimization. Their daughter, Barbara, is the wife of Roy L. Bouque who is consultant to a large accounting firm in Los Angeles.

The Mundos came to San Diego in 1924. Arthur served briefly as a deputy in the offices of city attorney and of district attorney, and then became a justice of the peace for three years before the appointment to the superior bench. By special assignment he also has served several times on the district court of appeal.

For fifteen years the Mundos maintained an exhausting schedule of service to cultural, religious, social, fraternal and veteran organizations. In World War II the husband left judicial duties to become legal aid to the Commandant of the 14th Naval District. Before returning to the bench he was a lieutenant commander.

Although enjoying good health, Judge Mundo retired in January, 1958.

Merely to list the dozens of laughably-different circumstances under which our paths have crossed could well cause the non-humorous author Mundo to challenge this writer's qualifications as an "Expert Witness",—at least as concerning him and his family. So the over-all estimate has been left to a score of others. They say:

Arthur L. Mundo started unostentatiously. He labored at his profession. But as he labored he grew; "he increased in wisdom and in stature, and in favor with God and man."

Fred Noon

A partner in one of Mexico City's largest law firms recently said to an American lawyer visiting in the land of Montezuma, "Fred Noon,—Oh yes, of Nogales—well, now of San Diego—one of the best authorities on Mexican law in the States."

A Zane Gray type of hero—this man Noon! As lithe, as rugged, as good looking as pictures in Arizona Highways! Tall as a saguaro, sharp as a jumping cholla, humble as the button cactus micromeris! In younger days he was equally adept at bulldogging a steer, standing toe to toe against ruffian outlaws, conversing with royalty, or singing lullabies to his children. This writer first met him years ago—in church on a Mother's Day!

Fred Noon's father was a British doctor who did some pioneering in South Africa almost a century ago, and later, with his brother came to America and headed west. Fred's uncle stayed in Utah where the Noon family has many representatives today. The father came to the coast where Fred was born in San Jose in 1879.

The Noons, with 5 sons and a daughter, moved to Arizona Territory where young Fred helped to build, and was brought up on, a big typical early-day western cattle ranch. The great drouth of 1897 wiped them out, however, and just before the turn of the century the family moved to Nogales where the elder Noon resumed the practice of medicine—the only doctor between Tucson and Guaymas, Sonora.

As a young man in Nogales, Fred Noon served for a time as assistant postmaster, and later as U.S. vice-consul in the Sonora portion of the border town. He became clerk of the Arizona district court of his area, and was admitted to practice there in 1902. Two years later he had been admitted in all district courts of the territory.

For three terms Fred was district attorney in Nogales. He also gave two terms to the work of the board of supervisors.

At Bloomington, Indiana, in 1901 the Arizonan from California had married Natalie Bonsall. The family moved to San Diego in 1925. Mrs. Noon passed away in 1946.

His son and three daughters are Fred's greatest joy. Judge Bonsall Noon, presiding judge of the local superior court, practiced here for many years with his father. The daughters are Mrs. William Elser and Mrs. Charles Wilson of San Diego, and Mrs. Arnold Pinson of Orange.

There is much in this wholesome family—long experienced in older legal cultures as well as in modern judicial administration—to challenge some of the pet shibboleths of current Anglo-Saxon jurisprudence.

In the potpourri of Spanish-Mexican-American traditions that formed California's legal milieu of 1850, no one knew what the law was. And in truth that fact was of little importance. It was the same in Nogales in 1900. But justice was done!

An article in 3 Calif. L. R. 359 points out the fact of a dearth of law books in early California, and that judges admitted they didn't know the law. One judge approached the governor for instructions, and was told, "Administer it in harmony with the fundamental principles of the law of nature and of justice!"

That last quoted sentence of instruction well could be engraved on every judicial bench. Judges, wise from long experience, follow the admonition, but the legal profession generally is elaborately trained in formulas as unrelated to justice as was medieval law before the advent of chancery.

A federal judge, using rare candor, recently wrote in his opinion for the court that he didn't know for sure about the "authorities" but that he would decide what he thought was right, and then cite the authorities to substantiate the decision! Actually, every top notch judge does the same thing without admitting it, but most attorneys shudder at the thought.

Another historical study in 8 Calif. L. R. 67 explains how the crude customs of miners in California's mother lode period effectively handled the many billion dollar mining and riparian interests of that time.

So sensible were the edicts of the speedy, informal mountain tribunals that the state and national governments deliberately closed their eyes to the real "law", and subsequently officially adopted as "common law" the common sense rules of right as wrought from experience in the practical but often non-literate miners' courts.

Except within a few restricted patterns of modern law the "authorities" or precedents actually only are used as historical aids to help the judge envision all facets of his case so that he can decide what is "right."

What law school today is emphasizing "right"? What law school trains toward "values"? What law school instructs in "the things that matter"?

One of the old English petitions contained the words: "Let Right be Done." If that is the goal of courts, then presumably the law schools' aims are similar. But if an understanding of "right" is a law student's goal, three-quarters of his compulsory study is in the wrong kind of books.

As one studies the serene face, and the interesting background, of Fred Noon there emerges a sense of the dramatic—the contribution to jurisprudence made by men of the earlier multi-lingual pioneer areas where law books almost were non-existent, but where the enforced precepts for living were those of another rugged pioneer of almost three thousands years ago: "Let justice roll down as the waters, and righteousness as a mighty stream."

Clifford C. Pease

Very few lawyers who are octogenarians in 1960 can match the Law Directory's educational report on Clifford Coleman Pease: "C. 996 A.B. L. 112 J.D. 966 LL.B."

All four of the children of Carlos C. and Eudora (Coleman) Pease were similarly gifted in their ability to receive (and to grasp) exceptional educations. Clifford's brother, Raymond B. Pease, held his doctorate (Ph.D.) and spent his active years as Professor of English in large universities. Immediately before retirement he concluded a twenty-one year tenure at the University of Akron. The brother and two sisters now have retired near Sierra Madre, in the foothills east of Pasadena.

Before becoming interested in the law, over a half century ago, Clifford Pease was a high school principal, first in Wisconsin, and later at Antioch, California. In both places he also was coach of the football team.

In fact, C.C.P. (not meaning code of civil procedure!) always has been an outstanding example of the Latin phrase "Mens sana in corpore sano"—a sound mind in a sound body. His learning has shunned pedantry. He has been known for years as an outdoor man.

Among numerous interesting hobbies, Mr. Pease is a member of the Sierra Club. In connection with that activity he has given years of thought and service to proper conservation, and development, of California's natural resources. Mission Bay and Borrego State Park are widely separated instances of such interest.

Crown Point in San Diego received its name from Clifford Pease. During its development he was half owner, and the manager, of that beautiful bayside subdivision.

For two decades this lawyer, who readily admits to really enjoying living, has owned and toyed with one of the biggest gold mines in San Diego County. Back in the days when great debates flared as to whether San Diego, or the boisterous wealthy little mining town of Julian, should be the county seat (the county then extended eastward to the Arizona line), the "Golden Chariot" mine in Banner canyon was a bonanza of ore d'oro.

Pease says that the mine now is not to be considered a second Fort Knox. It is not producing, but is being mapped for the day of advance in the price of gold. The owner uses it to give himself a semi-monthly workout,—to breathe deeply of a winey tanged air, to camp at times almost within shouting distance of friendly stars that urbanites deem so far removed as to require a space ship for intercommunication.

As the unneeded yellow-veined ore courses between his fingers, Clifford C. Pease has mellowed into knowing that gold in the hand can't buy silver from one's hair; that good health is rather to be chosen than great riches, and lasting friendships rather than capital gains.

It was not always exactly so. As a young lawyer in Wisconsin, Pease was a tenacious fire-eater. He had won in seven-state oratorical contests

in college, and he employed the same personal dynamics to carry "impossible" cases to victory before the Wisconsin Supreme Court.

In 1913 Pease entered into practice in San Diego,—very shortly thereafter with Spencer M. Marsh who later was to become district attorney and judge of the superior court. At that time this writer was milk-delivery boy for the Marsh family, and as a high school youngster had occasion to hear Attorney Pease at speaking assignments—both in court and out. At the age of 35 and 40 the man definitely had "what it takes."

In the 1920s and 1930s Mr. Pease represented large development projects, such as La Jolla Shores, in addition to customary legal practice. In this period he also practiced extensively in Los Angeles, although officing in San Diego. He traveled by train, and kept an automobile at each end of the line to facilitate his court appearances and meetings with clients.

In Los Angeles superior court, among numerous other instances of litigation, he conducted two trials of three weeks each by means of which he succeeded in annulling a will and also a deed to large realty holdings. His opposition was the expensive and tested legal talent of California's probably most prominent woman, Aimee Semple McPherson.

One probate matter required three separate pieces of litigation in Los Angeles, and two in Colorado. Upon appeal the first decision of its kind was obtained in California to the effect that a testamentary trustee who fails to sell property as directed by the will, must, when the property finally is sold, pay to the life beneficiaries the income which they would have received if the sale had been made as directed.

Born in St. Louis, Mr. Pease says that he quit that community as quickly as he was able to get away. (At the approximate age of one month!) He was reared near Madison, Wisconsin, and, as the hieroglyphics at the beginning of this sketch have indicated, from that state's university he received an A. B. degree.

There followed in steady succession: some months of teaching, the pursuit and winning of an LL.B. from the University of Wisconsin, the high school principalships both in Wisconsin and California, the earning at University of California of the degree of Doctor of Jurisprudence (in summers he canvassed western mining camps selling stereoscopic slides and viewers), the return to Wisconsin for three years of legal practice, and, finally, the commencement in San Diego of one of this city's most successful examples of outstanding half-century practice of the law.

There are numerous and famous peas, including "sweet", "green" and "split." These are not properly descriptive of Clifford Coleman Pease. The many P's suggested by his non-singular name are these: preceptor, pleader and promotor; pleasant, platonic, practical; progressive, prosperous, and palpably pre-eminent.

Hon. Joe L. Shell

Indians played an early and important role both in the history of San Diego County and in the life of retired superior court judge Joseph Lieb Shell. When Joe was 3 his father became a U. S. Indian agent and for the first 5 years of his own married life the younger Shell held the same kind of job in Washington state.

The California legislature has battled the Indian's problem from its first session through its last (1959). In April 1850 was enacted an innocuous sounding law "for the Government and Protection of Indians." The 20 sections of this act could provide a volume of annotations in lurid, lucid word pictures.

The third section of Chapter 133 permitted "any person" to take "a minor Indian, male or female" into his custody (until a girl was 15 and a boy 18) by summary procedure before a justice of the peace. The official early docket book of the justice of the peace for San Diego County shows how the law operated. One Charles Gerson, for example, had Loreta Wona certified to him by the San Diego J. P. in 1855.

Section 20 of the same act provided that any Indian vagrant could be arrested and hired out "within twenty-four hours to the best bidder" for a term not exceeding four months. Of course, in 1850 almost every Indian in San Diego County was a legal vagrant. In a community of citizens predominantly from the slave-holding South it is not difficult to conjecture why Indians were unhappy and went on a rampage.

In the California statutes of 1853, is an act appropriating \$23,000 "for the payment of the Fitzgerald volunteers, serving under Major Fitzgerald, in the County of San Diego . . . and afterwards by Col. Cave J. Coats." (sic., Coats) This was the aftermath of the famous Garra uprising.

San Diego's first sheriff, Agostin Haraszthy, decided it would be profitable for the county, or someone, if he started to collect taxes on the livestock owned by the Indians. Antonio Garra, a fairly well educated San Luis Rey Indian, attempted to rally his 10,000 fellow natives into opposition. Things got out of hand. Murder, arson and pillage, particularly at Warner's Ranch, put the fear of God into every white person in the county. Volunteers assembled under leadership of major G. B. Fitzgerald. Cave J. Coats was captain, and Agostin Haraszthy, first lieutenant.

Some forty unmarried volunteers made a sortie of two weeks hunting Garra. It also was sort of garish. Far more than half of the carried muskets couldn't even be fired. They were condemned army assets loaned out for show by Colonel, and lawyer, J. Bankhead Magruder who was in command of troops at the Mission.

Los Angeles authorities eventually got Garra and turned him over to San Diego. There were enough sufficiently good muskets to have an official execution by shooting. The courageous Garra gained the admiration of those who saw him die, but the others gained the \$23,000 appropriated by the legislature.

It was to alleviate such hapless lot of Indians that members of the Shell family devoted many years of their lives.

Joe Shell was born on a farm near Chapman, Kansas, February 18, 1892. Three years later his father, who earlier had been a school teacher, joined the Indian service. The family traveled much. Joe attended San Diego high school in 1905 when his father was agent at the Pala Reservation. He finished high school in Oklahoma, and was graduated from the University of California in 1913.

On his birthday in 1915 Shell married Nell Schunemann of Escondido, and soon accepted a job as an Indian agent in northwestern Washington. He read law on the side, and in 1920 came to San Diego where his brother Claude was in practice. Joe became an assistant county probation officer, and then clerk for the late Judge C. N. Andrews of the superior court. He passed the bar examinations in 1922, served for a while as city prosecutor, then as deputy district attorney, practiced with his brother Claude, and was elected justice of the peace as of January, 1935. He became a municipal court judge when the state legislature elevated the city justice courts.

Joe was elected to the superior court bench in 1945 and voluntarily retired at the end of 1959 in order to devote his time to the work of grand master of the Masonic Grand Lodge of California, to which position he was elected a few weeks before.

Judge and Mrs. Shell have a daughter, Mrs. Harold J. Cook of this area, and a son Joseph L., Jr., of Los Angeles, who has aided the family name as a football star of Hoover high school and U. S. C., and as a prominent political leader of the California legislature.

Joseph Lieb Shell has no cause to apologize for the kind of captaincy he has given to his own life. Altruism toward the underprivileged was a family heritage. Friendliness (perhaps at times a wee bit synthetic) has rested well on his massive shoulders and round, kindly face.

One of the tenets of cultural anthropology has been of no disservice: prominent and popular children are the greatest of aids to advancement in status. It does no harm either for one to be large, masculinely handsome, and a devoted worker for the group.

Joe Shell was a better judge than lawyer. Many of the greatest judges are of identical pattern. Perhaps a temperament less prone to flash irritation, and the subjectivity of obviously ruffled feelings, would have improved a judicial career otherwise outstandingly commendable for clear thinking, human understanding, and integrity beyond cavil.

History, however, doubtless will enshrine this man's name on pages unconnected with the law. He is one who rose above mediocrity, and into a coveted zenith, like the cinematized migrating methodist minister who maintained "One Foot in Heaven" while giving a life of virile service to his fellowmen.

Hon. Dean Sherry

In valleys of dispute, and upon high plateaus of friendly affection, our paths have crossed these three and thirty years. But another has written the Judge's biography so well that to him we entrust the story of this delightful, desirerate, disputative, and dedicated man of the law. Only this: Few men better than Dean Sherry exemplify Wordsworth's immortal lines about one . . .

Who, not content that former worth stand fast,
Looks forward, persevering to the last
From well to better, daily self-surpast;

Who, though endued as with a sense
And faculty for storm and turbulence,
Is yet a Soul whose master-bias leans
To homefelt pleasures and to gentle scenes;

Who, doomed to go in company with Pain,
And Fear, and Bloodshed, miserable train!
Turns his necessity to glorious gain;
With comfort in himself and in his cause,
And, while the mortal mist is gathering, draws
His breath in confidence of Heaven's applause.

A WORD-SKETCH OF JUDGE DEAN SHERRY

By EDWARD W. GIBBONS, Ph.D.,

Chief Audiology Service, Veterans Administration, Los Angeles

Dean Sherry, Judge of the Superior Court in San Diego, was born on July 24, 1888 in Kansas City, Missouri. In 1960 he celebrates the centennial of his family's representation in the legal profession. His father, Byron Sherry, was admitted to the bar in Atchison, Kansas, May 18, 1860 and was a city attorney in Leavenworth, and later a judge of the district court there, and a member of the state legislature and a state senator. His father served in the Civil War as a brigadier-general in the Kansas State Militia in the Battle of Westport Landing (now Kansas City), and in the field against Price, the raider.

Helen Pinaire Sherry, Dean Sherry's mother, was noted as an authoress, lecturer and educator. Although born in Albany, Indiana, she spent her early life in Leavenworth, Kansas. Active in civic affairs, she was a strong advocate of women's suffrage and was a contemporary and acquaintance of Susan B. Anthony.

Following completion of his early schooling in Chicago, he travelled, at one point going to Europe on a cattle boat. At the age of 21 he went to work in his father's law office as a student clerk. In 1913 he was admitted to the bar in Santa Fe, New Mexico, where he remained for 10 years with

time out for World War I service. He served first in the Cavalry and later in the Infantry as a Lieutenant. In 1915 he married Nina Scipio in Alamo-gordo. Following the war, he went to Cisco, Texas, where he first had a general law practice, and specialized later in oil and gas law. He has one child, Sally Helen. In 1924 he went to live in Berkeley and maintained an office in San Francisco. During this time he specialized in automobile injury cases.

Judge Sherry came to San Diego in 1927, and had a general law practice. In 1931 he was appointed Justice of the Peace and served as a municipal judge when this office was converted into a municipal court from 1936-1941. Governor Warren appointed him to his present position in January of 1946.

In August 1941, as an Army Reserve Officer, Judge Sherry requested active duty as a major of Infantry and was assigned to Headquarters, Philippine Islands, Manila. After the Japanese attacked, he commanded Cab-caben Dock, where critical supplies were shipped in, was assigned in January, 1942 to the First Philippine Constabulary on Bataan and fought at Quino-wan Point in the Battle of Agla Loma Bay.

Judge Sherry was on the famed "Bataan Death March." He was transferred to a number of Japanese camps, the worst being Camp O'Donnell, where 200 to 300 Americans died per day at the end of the death march.

Dean Sherry was imprisoned for 1282 days, and during this time his weight dropped from 165 to 110 pounds. He suffered beri-beri, malaria, chronic diarrhea, malnutrition, and hearing loss. Returning to this country, following medical observation and evaluation, he was discharged to full duty.

He is now a retired Colonel of Infantry, and among his most treasured possessions is a documentary proof of his death sentence for having fought the Japs in the Philippines.

Dean Sherry, a rugged individualist, has fought vigorously for law reform during his career on the bench. He pioneered pre-trial in California, and has found it particularly useful in divorce actions. He believes that law should grow with the times. He has argued for more efficient handling of congestion in the courts, and believes that all domestic relation actions should be combined into a Family Court; also that our jury system needs drastic over-hauling.

It is Judge Sherry's opinion that patriotism is commendable. He opens each court session with a ceremony showing respect for the flag of the United States.

Harrison G. Sloane

The person hereinafter described refused to tolerate any "puffing" statements made on his behalf, and consented to the preparation of this biography only if he would be permitted to write it himself.

Harry was told that if he would donate another twenty-five dollars to the law library to assist in the founding of a memorial collection of books in honor of the late Judge C. N. Andrews (once his close friend) that he would be permitted to see his own manuscript in print.

The check was made out forthwith to the library trustees. About all that now can be done is to carry out the other side of the agreement. The trouble is that the subject of the autobiography short-changed himself on words as well as on compliments. It is necessary to write a few more lines in order to fill the reserved space.

Lest he ask for a refund, it will not be said that H. G. is a bright light in the ranks of San Diego lawyers. It should be told, however, that some of the brilliance associated with his name is the direct result of his wisdom in choice of parents, wife, children, and "in laws."

It comes from persons we've known over 50 years that his mother was a wonderful woman. His father, a local superior court judge, was the second man from this county to be a regular justice on the supreme court of California. He also was presiding judge of the fourth district court of appeal.

To the lovely Mrs. Harrison Sloane the whole local bar owes a debt of gratitude. Had she not stepped in at the right moment it is likely that the recent wonderful expansion of the law library never would have occurred.

Harry's son-in-law, Hugo Fisher, is state senator from this area, and a young man of great promise.

The following Sloane article is so good that we almost admit shame for having charged him to print it:

Harry Sloane achieved his chief distinction early in life by being born in the little city of San Diego, California, on September 7, 1888. He was promptly christened Harrison Grandgirard in honor of his French grandmother on his father's side. His ancestors on the mother's side, being simple New England folk, were passed by without mention.

The proud father was William A. Sloane, a Missouri newspaper editor and lawyer lately arrived in the Golden State with his wife, Annie Bristol Sloane. The family, later increased by arrival of another son, Paul, and a daughter, Hazel, settled on the outskirts of town near the new Russ High School site which later became known as San Diego High School.

The young Sloanes did not immediately enter high school but were compelled, for an appropriate period, to walk across lots to the "B Street," kindergarten and grammar school on 6th Street, at the edge of San Diego's business district. Outside of school hours the boys roamed through the ad-

jacent wilds of Balboa Park where they could engage in trapping and hunting. In the other direction the shallow waters of San Diego Bay afforded opportunities for swimming, boating and fishing. A favorite spot for "tromping" crawfish for bait was later ruined by dredging and filling for erection of San Diego's Civic Center building.

By the time Harrison G. was graduated from the local high school the growing city had become too populated for comfort. So the Sloane tribe pulled up stakes, and with the family cow, chickens, and horse and buggy, struck out for the wilds of Mission Hills on the south bank of Mission Valley. There the boys cleared away the native brush and cactus and a new family home was erected. While this was no log cabin, the family did utilize the summer for a covered wagon trip over dirt roads from San Diego to Yosemite valley and back, camping where hay and water for the horses could be found and sometimes covering as much as 30 miles a day.

The next four years were devoted to Harry's pre-legal education at Pomona College, at Claremont, California. There, by diligent application to intercollegiate track activities and some cursory study, he acquired sundry medals and a Phi Beta Kappa key, and in 1910, achieved an A.B. degree, Magna Cum Laude.

The father, William A. Sloane, during this period of his son's career, was engaged in the practice of law in San Diego as a partner of M. A. Luce, and the latter's newly admitted son, Edgar A. Luce. Harry enlisted with these gentlemen as an office roustabout and at odd moments read the prescribed minimum of law books for something over a year. Thanks to the rather casual system of examination then employed by the Los Angeles Justices of the Appellate Court, young Sloane was admitted to the Bar and in 1911 returned to the Luce-Sloane firm to begin his real legal education. His father forthwith took refuge in a judicial career which he followed for most of the remainder of his life.

Soon after his admission, Harry, with rare foresight, induced a college friend, Elizabeth Allen, into marriage with him. In due course three daughters were born to them: Elizabeth (Bretz), Barbara (Jaqua) and Lucia (Fisher). Grandchildren are five in number.

Never much of a joiner, his affiliations were mainly confined to Mission Hills Congregational Church (founder and backslider), San Diego Yacht Club (off-shore sailor), University Club of San Diego (one-time president), Lawyers Institute of San Diego, a precursor of the California self-governing Bar organization (counsel), and San Diego Bar Association (director). He never held public office. His practice of the law, confined to the civil side, was carried on actively for close to half a century from three office locations in San Diego—rent all paid—no evictions.

During his earlier years he found time for hunting, boating and fishing but in later years devoted his weekends to hard labor on his mountain ranch, do-it-yourself horticulture, reforestation and engineering, excellent for health and satisfaction, and perhaps providing a loafing place for eventual old age.

Hon. Philip Smith

During the tourist-influx year of the 1915 Panama-California Exposition a dark haired lad of eighteen arrived in San Diego. There was something about this pleasing son of Lithuanian immigrants that attracted the attention of John F. Forward, Sr., President of the Union Title and Trust Company. Perhaps it was the fact that the boy had been born in Pennsylvania, as had Mr. Forward, himself, some forty five years before the birthday of the future judge.

Mr. Forward employed Philip Smith as an office boy in his title company. The part that these two exceptional men have played in connection with the legal profession in San Diego cannot be grasped without a preliminary statement.

The San Diego City Directory for 1890 lists over 100 attorneys. The big boom had collapsed in 1888 and many lawyers already had left town. If lawyers in San Diego were proportionately as numerous in 1960 as they were in 1887 this city today would have over 2000 attorneys, and those in the whole county would be five times the number listed in any legal directory.

One of the biggest reasons for a diminishing list of lawyers has been the development of the business of title companies.

Many nineteenth century members of the bar were "conveyancers". They looked over courthouse records, and gave clients an opinion as to the validity of land titles. With the increase in population and in real estate transactions it became common to rely upon a summary of the legal papers in a chain of title—known as an abstract of title. The preparation of abstracts was the principal work of the legal profession during the Southern California boom of the 1880s.

Even the abstracts became too bulky. They were replaced more and more frequently by a "certificate" which was merely a one page opinion of an attorney, based on prior abstracts. Obviously where transfers or turn-overs of title came almost daily it was unnecessary in each case to have a full search and history from the very beginning.

In Los Angeles the county recorder, himself, became a member of the largest certificate issuing firm. In 1887 when John Forward came to San Diego from Pennsylvania and entered the local county recorder's office as a deputy, the first title company in Los Angeles had just been incorporated. In 1892 Forward himself was elected the San Diego county recorder. A year later the Title Insurance and Trust Company was formed in Los Angeles, consolidating certain other similar companies. Forward became the local title expert. In 1903 he organized Union Title & Trust Company in San Diego, although he did not quit the official recorder's job until three years later. A half century thereafter Union Title became a subsidiary of the huge Los Angeles Title Insurance and Trust Company which antedated the local firm by ten years.

Into this picture in 1915 Phil Smith stepped as a title company office boy. Under tutelage of Rolland C. Springer, excellent lawyer and title company counsel, Phil studied law while progressing rapidly from office boy to title searcher, to chief examiner, to assistant counsel. He passed the bar in 1927 and entered private practice with a retainer as chief counsel for the company that had trained him.

If Union Title & Trust Company of San Diego relieved local lawyers of much legal business, it merely was part of a national trend. Furthermore, in today's world title companies can give faster and more reliable property information at much less expense than is possible from any one lawyer or firm.

In the Phil Smith era he and his company achieved a contribution to the cause of justice in this county that has received less than reasonable recognition. Working under Phil, and receiving legal tips from him and from the Union Title general counsel, were several non-lawyers: Madge Bradley, Vincent Whelan, Thomas Whelan, Elwood Merrill and David Schurch. Of the named persons, all now are lawyers, three are on the bench, one was district attorney for many years, the fifth is vice president, trust officer and trust counsel of the local branch of Title Insurance and Trust Company, and the last named is general counsel for the same company (March, 1960).

Phil Smith was County Counsel for most of the year 1931. In November, 1931 he was appointed as judge of the Class A justice court, sitting thereon with Judges Eugene Daney, Jr., Arthur Mundo and Dean Sherry.

He became judge of the municipal court in the late 1930s when such courts were inaugurated here.

The judge of municipal court No. 3 is as sensitive as an artist. And an artist he is! Professional offers were made to him as a violinist before he studied law. His personal life has been occupied with a succession of periods of devotion wherein he has cared first for his father, then for his mother, and finally for his sister. He has four brothers, successful in business, and a nephew who is an attorney but engaged in a wholesale distributorship. Phil did not marry until late in life.

This shy, retiring man's legal decisions are as clear and sweet as his finest music. Had he had the earlier consistent aid of some practical man of politics, and of a wife whose social interests were all for his advancement, who knows what Stradivarian strings his delicate hands might have caused to vibrate, what now Lost Chord of justice might have sung again through his gifted pen?

Hon. Phil D. Swing

Phil D. Swing brought rivers, roads, and rainbows to the southwest.

Rainbows are non-existent without water. The pots of gold on the Las Vegas strip, and in Imperial's winter garden-land, and Arizona's desert paradise, are the rich footings of permanent rainbows that Phil D. Swing shouldered into the sky.

Ten thousand passengers a day who breeze across the sand dunes west of Yuma, on U.S. Highway 80, little dream that once a man had to carry the legal timbers to bridge the Colorado, and inspire the crews that laid the first ribbon of planks for vehicular travel across the shifting sands. That man was Phil D. Swing.

Laudatory words lose luster when based on hearsay evidence thrice compounded. Perhaps, therefore, it should be said that in 1908 this writer lived on a ranch in Imperial County where Swing was district attorney, and that twenty years later he had the fortunate experience of being associated in Congressman Swing's law firm in San Diego.

Since 1908 there has been a big change from the day when muddy slop, laddled from an open canal, served for household water in Holtville. In that era the mud was allowed one day to settle in a barrel of water, after which the top liquid slowly was siphoned off and through a filter of porous clay. The residue was patiently boiled, cooled, and placed in an olla on the shady side of the house where, in temperatures of 115 degrees and higher, it was consumed faster than diligence could produce it. The distillation of sea water, even in that day, would have been cheaper—except that there was no sea.

Phil D. Swing changed all of that.

In 1928 San Diego, with a population only 25 per cent of what it is today, had drunk its wells dry. Its mountain reservoirs were almost as empty as cash registers during the great depression. Its sunset clouds were filled with lots of color—and little rain.

Phil D. Swing brought that era to a close.

The dynamic young man who later would do so much for the southwest was born in San Bernardino in 1884. His parents were James Wesley, and Mary Frances (Garner), Swing. His older brother, Ralph, was a California state senator for years.

After graduation from Stanford in 1905, Phil worked in his brother's law office in San Bernardino, and was admitted to the bar in January, 1907. It was in that year that Imperial County was created by the California legislature.

An offer to commence practice in Los Angeles was rejected, and in 1908 Phil D. Swing was acting district attorney of Imperial County. Soon he was district attorney, and later was appointed judge of the superior court in 1919, after taking out time for service in World War I.

In earlier years the district attorneys of small counties were permitted to engage in private practice. The law firm of Eshleman & Swing was

organizer of, and attorneys for, the Imperial Irrigation District, the largest in the United States.

As the need both for taming and harnessing the Colorado River became apparent the people of San Diego and Imperial counties resolved to elect Imperial Valley's superior court judge to the Congress of the United States. No one was better equipped to sponsor and bring to pass the needed Federal legislation.

Judge Swing served as congressman from 1921 to 1933. The famous Swing-Johnson bill brought Boulder Dam into being. For the past forty years every important water and power project of the southwestern desert in some way has hinged—one should say swung—upon the efforts of Swing.

All American Canal, Metropolitan Water District of Southern California, San Diego County Water Authority, interstate compacts, international treaties, tri-state litigation before the Supreme Court of the United States, State Water Resources Board, President Roosevelt's Committee to Study the Military Water Problems of San Diego—to all of these the ex-judge and ex-congressman has made major contributions. He has served as special counsel for an almost endless list of boards, committees, communities, cities, counties, districts and states.

It was into San Diego County that the Colorado River poured through broken levees in 1905 and again in November and December, 1906. A few months later a cattleman-uncle sent his neophyte nephew, Philip David, on the young lawyer's first visit to the Salton Sink to look for winter pasture for stock.

It was prophetic!

The man in search of green pastures found only sand and salt and the thousands of acres of mud left by a raging river. But like a Mormon leader who came through the Wasatch mountains to view another Great Salt Lake some two generations earlier, Phil D. Swing said, "This is it; this can become green pastures."

The professional life of Hon. Phil D. Swing parallels the existence of the new county and the new gardenland of America which he helped to build. For over 50 years he has towered in the area in the benign and giant stature of one described by the prophet Isaiah:

"A man shall be as rivers of water in a dry place; as the shadow of a great rock in a weary land."

Robert M. Switzler

Grandson of a Union Civil War general on his mother's side, and, paternally, of a lawyer-newspaperman who founded the School of Journalism (and had Switzler Hall named in his honor) on the campus of the University of Missouri, Robert M. Switzler was born in Omaha in 1885 to Warren and Mary (Wilson) Switzler.

Bob received his A. B. and LL.B. from the University of Nebraska, and in 1912 entered practice with his father and Charles A. Goss. Mr. Goss later became chief justice of the supreme court of the Cornhusker State.

In 1918 the successful young lawyer was married to Miss Amy G. Gilmore, daughter of an Omaha physician. Their daughter, Sara, now is Mrs. Donald G. Contois of Escondido.

The Switzlers moved to San Diego in 1931 where Bob practiced for a time with the late Dwight D. Bell, and subsequently for 13 years with the late Harry C. Clark who was San Diego's mayor in the years 1927-31.

During his San Diego years the Switzler abilities have been directed toward lay leadership in the First Presbyterian Church, chairmanship of the local chapter of the Red Cross 1934-5, chairmanship of the advisory board of the Salvation Army 1948-9, and leadership in the Cuyamaca and San Diego Country clubs.

One of Bob's most noteworthy achievements and contributions has been as president of Toastmasters International. The story of this latter organization's exploding power across the world is so fundamentally a San Diego story, and so intimately known to this present writer, that it deserves explanation to members of the bar. One reason is that speaking abilities of many lawyers have been aided by Toastmaster clubs. Another reason is that the whole organizing mastermindedness behind Toastmasters International is the genius of one dynamic man—a prominent, but humble and reticent San Diegan—J. Clark Chamberlain.

Here's how it went. In 1930 Chamberlain, a youngish business man newly arrived with his family in San Diego, approached Mr. Herbert Holmes, then general secretary of the local Y.M.C.A., asking if he could help the "Y," or vice versa, start a Toastmasters Club to aid young men develop poise and ability in speaking.

Clark's report to Herbert was that another "Y" secretary, Ralph Smedley, a quarter of a century earlier had started a "speaking class" in his Illinois Y.M.C.A., and in 1924 brought the same idea with him to Santa Ana where the newer term Toastmasters Club was used. Clark's home was in Anaheim. About 1924 he visited the Santa Ana Toastmasters meeting and was so impressed that he secured Smedley's permission to start such a club in Anaheim. A few other groups came into being, but no general organization ever had been attempted.

Herbert Holmes enlisted support for the newcomer's venture. A couple of the "Y" directors spoke favorably to acquaintances, and introduced Chamberlain to possible interested parties. Wilbur A. Hamman, at that time since 1918, the leading public speaking instructor of the San Diego area, gave the idea his blessing and brief personal attendance. (Hamman, a law-trained man from the University of Chicago, was speech instructor at San Diego High School, and instructor for many private classes. His benefactions to San Diego leadership never have received deserved acclaim).

The Toastmasters Club No. 7, in San Diego, was born. Others may have acted as midwives, but Clark Chamberlain was the parent. Interested members came and went, but the organizer's pleasing dynamic enthusiasm was as tireless as it was unselfish. Almost 30 years later he still meets with No. 7, calling together annual meetings of the "oldtimers," and making each young neophyte member of the active group think of him as "the most."

One club became organized in Canada, and that started Clark into the activity of creating an international organization. He accomplished the job in three months. On October 4, 1930, Toastmasters International was formally organized with Chamberlain its first president. In 1931 he was re-elected.

Depression nor war could stop the unprecedented growth of this vital organization. It never has had a field organizer. Its own members, moving elsewhere, have carried the fire of new spontaneous growth. In 1960 there are over 3000 such Toastmaster Clubs having 80,000 members in 40 countries of the world. There never has been a pause in the explosive development. From one who was "in" on the earliest 1930 contacts: San Diegans one day will stand up by the thousands in tribute to J. Clark Chamberlain, the creator and constant inspiration of Toastmasters International,—one of the most intensive, and least expensive, of the world's programs for training men to think out loud while standing before their fellowmen.

Lawyers who long have defended freedom of speech have known that ease of speech is another matter. Many San Diego lawyers have found, and given, aid in Toastmasters Clubs. Bob Switzler is one of four attorneys in the United States who have gone to the very top. In 1944-45 he was honored by being selected the 14th president of Toastmasters International.

"Suit the action to the word, the word to the action." Robert M. Switzler has followed the great bard's advice. In speech and in deed his life has followed successfully the admonition, "but use all gently: for in the very torrent, tempest, and as I may say the whirlwind of passion, you must acquire and beget a temperance that may give it smoothness." In ruggedness and vitality the Switzler demeanor yet has remained gentle, temperate and smooth.

Hon. L. N. Turrentine

Like Mr. Chief Justice Arthur T. Vanderbilt, late of New Jersey's supreme court, Honorable Lawrence Neil Turrentine, recently retired from San Diego's superior bench, will be remembered for his contributions to expeditious judicial administration.

Although Larry Turrentine never has been thought of as the military man of the local bench, nevertheless the military disposition has been his heritage and his hallmark. His great-great grandfathers on both sides and many of their numerous descendants, distinguished themselves as officers in the Revolution, the War of 1812, and the Civil War.

The maternal great-great grandparent, John Harris, was the founder of Harrisburg, the capital of Pennsylvania. The great grandfather, Major Samuel Turrentine, after serving in the Revolution and the War of 1812, moved to Tennessee.

The Rev. Wilson Turrentine was Major Samuel's son, and the grandson was the Rev. John N. Turrentine who struggled through to Escondido on an old Concord stage coach in 1887 to serve the community as minister of the Methodist Episcopal Church.

For almost 75 years "Turrentine" has been a household name (also business and political) in Escondido. Judge L. N. has given it prominence throughout the State.

Although Rev. John N. Turrentine continued to preach on occasion for many years, his major contributions to his community were as city recorder, three terms as city clerk, president of the school board, justice of the peace, and three terms as postmaster under McKinley and Theodore Roosevelt. He was a substantial stockholder in the Mutual Water Company, owner and editor of the Times-Advocate, Escondido's early newspaper, a successful business man, and, with Mary E. (Robinson) Turrentine, the parent of four outstanding children of whom Lawrence Neil was the youngest.

The Judge's brother, Edgar, long was an Escondido banker. The latter's son, Lloyd, is now (1960) the city's mayor. Another brother, Howard B., was the town's leading lumber, hay and grain merchant. Howard B. Turrentine (Jr.), the Judge's nephew, is past-president of the San Diego County Bar Association, and is one of San Diego's leading attorneys.

Lucy, the Rev. Turrentine's only daughter, was public librarian and also long active in her father's publishing and business enterprises. As Larry's older and unmarried sister she bestowed a lifetime of interest and action on behalf of him and his career.

Lawrence Neil Turrentine was born in Escondido in 1892. He took his collegiate and legal training at the University of Southern California, and practiced briefly in his home town before moving his office to San Diego.

During World War I the young lawyer was commissioned an ensign, and served upon a mine sweeper. In 1919 he married Carrie May Orton. They have two children, Lawrence Neil, Jr., a dentist who practices in Pomona, and James Cornell Turrentine, who is in business in Oakland.

In November, 1930, Turrentine was appointed to the superior court bench in San Diego. He retired therefrom in 1959.

Two dozen long-time acquaintances of Judge Turrentine have been asked to describe his strengths and weaknesses. The composite picture is of a man with exceptionally brilliant mind, and with ambition and ability for assuming administrative leadership.

During World War II, when personnel in government offices was sadly depleted through losses to the armed forces, this judge, practically single-handedly, ran several of the county agencies closely connected to the courts,—such as the probation department, juvenile hall, and several others. It was an outstanding contribution of effort and administrative knack.

Strangely, the Judge has a mechanical flair. At one time he wired Camp Marston (electrically) for the local Y.M.C.A. He can do upholstering, and almost any household repair job, flawlessly.

Other comments: A string saver; a corner cutter; one less concerned with the law than with his own concept of justice in the instant case; one of widely fluctuating judicial temperament.

A third of a century ago L.N.T. wrote a personal letter to the present writer, and signed it "Larry." Ten years later he would have been "shook" if this person had called him by the same sobriquet.

Indiscriminate justice requires this appraisal:

It is true that he is no legal pharisee; but that is good. Even the great Jeremy Bentham was a confirmed pragmatist and utilitarian.

It is true that he refused to follow fictions; but that is good. David Dudley Field also urged wholesale junking of old procedural mouse-mazes. Furthermore, like D. D. Field, the Honorable Lawrence Turrentine not only had a highly capable minister for a father, but also two successful business men for brothers. "Blood tells!"

If this man has not won wide acclaim as a judge, neither did Arthur T. Vanderbilt. (Of many writers, in dozens of pages of tribute to the late New Jersey Chief Justice, not a single person even intimated that the man was a good judge) But like Vanderbilt (using the words of Hon. William J. Brennan, Jr.) who achieved fame as a practitioner, a law school executive, and a reformer of judicial administration, Lawrence Neil Turrentine of San Diego County deserves to have it said of him:

"His honored place is assured among the small company of the giants of the law. He brought to his passion for bettering justice unmatched abilities to achieve great ends."

Hon. Jacob Weinberger

In 1882 an American poet, Emma Lazarus, wrote words of "world-wide welcome" that were engraved in bronze on the pedestal of the Statue of Liberty in New York harbor:

Give me your tired, your poor,
Your huddled masses yearning to breathe free.
Send these, the homeless, tempest-tost to me,
I lift my lamp beside the golden door!

Coincidentally, also in 1882 Jacob Weinberger was born in Austria-Hungary, in the area now known as Czechoslovakia.

At the age of seven Jake Weinberger with his mother, brothers and sisters, passed close beside Bartholdi's "Lady" en route to Denver whence his father, in search of work, had preceded the family.

In the year 1901, when young Jake was being graduated from Denver High School, another immigrant boy with the same first name of Jacob, published a best-selling autobiography entitled "The Making of an American." (Jacob Riis). The Honorable Jacob Weinberger, Senior Judge of the United States District Court, similarly could write a Book-of-the-Month masterpiece about this amazing America whose men, if only they will, can make themselves into stature to match her mountains.

Fifteen years after arrival in the United States Jacob Weinberger was graduated from the University of Colorado Law School with an LL.B. degree. During that period his father was struggling to establish a merchandising business in Denver, and "young Jake" helped secure expenses for his high school and college education by selling newspapers, shining shoes, and later by waiting table, doing janitor work, clerking in stores, and expending muscle in a steel foundry.

In 1904-5 the future judge practiced law in Denver. Then, with \$30 in his pocket, he moved to Globe, Arizona. In the mountain mining town he practiced in territorial courts, served as deputy district attorney, and was elected to the constitutional convention which prepared Arizona for statehood. As this is written (1960) Judge Weinberger is the only surviving member of the original signers of Arizona's first constitution.

Almost 50 years after the Weinberger contribution to the Grand Canyon State, the University of Arizona at its 64th annual commencement exercises awarded the state's only surviving Founding Father with the degree of Doctor of Laws. At this honoring ceremony the recipient's long and distinguished career was fittingly eulogized.

On June 11, 1907, Jacob Weinberger was married to Blanche Ruth Solomon, daughter of an Arizona pioneer and founder of the town bearing his name. Their children are Adrienne (Mrs. Herbert Hafter) and Richard Weinberger, both of San Diego. There are six grandchildren.

After coming to San Diego in 1911 Weinberger continued legal practice and his career of dedication to the public good. He served for 21

years on the city's Board of Education, for several terms as its president. He devoted time and strength to civic, fraternal and religious organizations, was city attorney from 1941 to 1943, superior court judge from 1943-1945, and was appointed Judge of the United States District Court for the Southern District of California on March 18, 1946. After several years on the bench in Los Angeles he returned to San Diego as this area's first resident Federal district judge.

Since his official retirement a year ago Judge Weinberger has continued to serve regularly and effectively upon the local Federal bench, but now as a "Senior Judge."

The wavy haired lad who sailed by the Statue of Liberty in 1889, proceeding to the heart of America and into the hearts of her people, was the sixth of twelve children of Herman and Nettie (Flaster) Weinberger. Numerous members of the family, including the parents, eventually settled in San Diego. Brothers Maurice and Henry became prominent business and cultural leaders here, and Joseph a leading Physician.

A sister, Mrs. David Levy, is the mother of Dr. Edward Levy who was president of the San Diego County Medical Society in 1958. Another brother, Arnold (and his son), are prominent lawyers in Denver. Other sisters are in Denver and Los Angeles. Many third generation Weinbergers have gained high respect in business, politics, and the professions.

On January 31, 1959, a testimonial dinner in honor of Judge Jacob Weinberger was attended by hundreds of his friends, relatives, well-wishers, and professional brethren. A brief synthesis of their happy spontaneous words of praise might go in this wise:

No lawyer reaches these pinnacles of his profession without more than average intellect and sagacity. While this man's life edifice may never have displayed the high and delicate spires of genius, there has been compensation in his architecture of character significant for its beauty of substantial simplicity.

Rooted in two worlds, his has been Job's patience, and Lincoln's charity for all; his is Gandhi's *satyagraha*, St. Francis' self-abnegation, and Abou Ben Adhem's love for his fellowmen.

Insofar as the Judge's contemporaries are concerned, (as with Leigh Hunt's "Abou"), when the angel of dreams writes in a book of gold, showing names whom love of God has blessed, lo! it well could be that the name of this kindly man will lead all the rest.

Arthur F. H. Wright

The two initials in the middle of the name of Arthur F. H. Wright actually are family designations, with a hint of his English ancestry, but for all practical purposes they could stand for "Fun-Having."

In addition to being a first class lawyer, with excellent training and cultural backgrounds, Art is one of those rare individuals found once in a hundred times (what happenstance of chromosomes is responsible?) who can be designated as both a man's man and a woman's man.

Arthur Wright was born in Waukegan, Illinois, in 1885, the only child of Arthur O. and Eliza Jane (Fleming) Wright. His father, who had come to this country from England in very early manhood, became a physician. He met Miss Fleming in Waukegan. She had been in Cleveland, Ohio, and at about the time of her marriage to the British-born Wright was the first woman pharmacist in the state of Illinois.

The elder Wrights gave their son an exceptionally good education for latter-day Victorians. Arthur was in the law school of the University of Michigan in the same class with Shelley J. Higgins who later was to be city attorney and a superior court judge in San Diego. These two men were law school beginners when San Diego lawyer Harvey Atherton was receiving his Michigan law degree.

After being admitted to practice in Illinois in 1910 Arthur did some legal work in law firms specializing in railroad litigation. His report is that those were the days when the rail moguls sat in the driver's seat. Every case and claim was contested to the limit to "teach people not to sue the railroad."

In 1911 the young man from Illinois was admitted to the California bar and came to San Diego. For two years he was associated with W. R. Andrews who earlier had been a deputy for district attorney Cassius Carter, and then a phenomenally successful city attorney. Andrews almost single-handedly had battled to sustain the validity of the city's municipal bond issue of 1907, and gained victory in the state supreme court for his contentions although opposed by counsel for the leading bond experts of Southern California.

Most of Mr. Wright's law office associations have been of a mere friendly nature, and for purposes of convenience, with numerous prominent and popular lawyers, including such men as Dayton L. Ault, former city attorney, and judges Clarence Terry and E. S. Wattawa.

In spite of business interests and general financial success that could have tempted many a man of his years to lock the office door and throw away the key, Arthur F. H. Wright has been devoted to his profession for what is now (1960) exactly half a century. His practice has been "general", which is the only thing expected of a lawyer in a small community.

As San Diego's population began to double with almost every decade there was a noticeable tendency for Wright's practice to fit into fewer and

fewer groves. He became financially interested in, and counsel for, a number of business enterprises. Probate matters and legal advice to investors became more and more a part of his practice.

In the 1920s and 30s Arthur was an advocate of stock market investments, and one who frowned upon investments in real estate. Even to this day he is an avid reader of the financial pages, and knows most of the ropes of market buying. The steadily rising values of California real estate finally convinced the man of their advantages for diversified investment.

During World War II Mr. Wright invested seriously in a local pipe company, and hit the proverbial jackpot. Later some of his funds went into a shrimp packing factory in Guaymas, Mexico, and when the Mexican government decided to take over the plant he again came out of the transaction in a manner reminiscent of the musical girl of Mexicali—smelling like a Rose.

In connection with business travels to Gulf of California ports, and side trips to comparatively adjacent resorts of Guadalajara and Acapulco, Arthur learned the meaning of manana and the reality of relaxation. For fifteen years, although business interests there have ceased, travels to Mexico have been a constant and regular delight to the Wright family.

It cannot be said that Art's only hobby is travel. Far more accurate is the assertion that golf was his first love (and his handicap was very, very low), and that his present foremost interest and greatest hobby is watching the reports from the pro golf circuit of the triumphs of his only child,—Mickey Wright, the sensational young San Diego professional.

Mary Kathryn (contracted and condensed to Mickey, for short) was born in San Diego, attended Hoover high school, was admitted to Stanford University, and became such a terrific girl golfer that she dropped out of college, and turned professional, and won her first tournament at the age of nineteen. For the past six years she has been one of the world's leading women golfers. Papa Arthur almost can be excused for showing a trace of one of the deadly sins—Pride!

Arthur Wright has given much of himself to his chosen profession. In the local area he has served on numerous bar committees, and was selected as President of the San Diego Bar Association in 1947.

When William A. Glen, local representative on the board of governors of the State Bar of California, was elevated to the superior court bench in 1947, Arthur F. H. Wright was selected to complete the additional two years on that important state-wide body.

This interesting lawyer frequently puts on a sour-puss expression as bleak as the waste lands of eastern New Mexico—where fortunes in oil are being pumped from just below the surface. And one has only to tap Art Wright at the proper spot to find a heart as big as a diesel, pumping friendliness, self-sacrifice, and professional cooperation. His life has been the law, and his law has been: living!

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