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LOYOLA DIGEST

Vol. 1 — No. 2

LOYOLA UNIVERSITY SCHOOL OF LAW

December, 1959

GOV. BROWN NAMES THREE LOYOLA GRADUATES TO BENCH

Loyola School of Law was recently honored when three of her favorite sons were appointed to the Bench of the Superior Court of the State of California.

Nominated from Riverside County was Judge Leo Deegan, a 1939 graduate from Loyola Law School.

Judge Deegan has brought to the Bench a distinguished career in public service. He has served in Riverside County as a Public Defender and City Attorney.

Another Superior Court appointee is Municipal Court Judge Mervyn Aggeler. Judge Aggeler is the son of the late Superior Court Judge William Tell Aggeler and is the brother of Municipal Court Judge Leo Aggeler. A native of San Jose, Calif., Judge Aggeler graduated from Loyola Law School in 1931. He was a Deputy District Attorney from 1946 to 1954, when he was appointed to the Municipal Court Bench.

Judge Julian Beck graduated from Loyola Law School as a night student. During his law studies, Judge Beck taught school in the Los Angeles City School District. Politics eventually attracted Judge Beck, and he was elected to serve as an Assemblyman from the Burbank area. He received his A.B. from UCLA in 1929, his LL.B. from Loyola in 1935.

On September 17, 1937, Phi Alpha Delta Law Fraternity granted a charter to a local law fraternity at Loyola Law School known as Rho Alpha Delta. This local fraternity had been in existence at Loyola since 1925. Members of the new branch of Phi Alpha Delta first named their chapter the Hannibal Hamlin chapter, in later years this name was changed to the Ford chapter, after the eminent Dean Ford.

Attend The Dance!

The Loyola Law School Student Board of Bar Governors extends a cordial invitation to the Alumni of Loyola to attend the annual school dance to be held on February 20, 1960.

The festivities will take place at the Los Angeles Breakfast Club, commencing at 9:00 p.m. There will be dancing and entertainment for all, with the added incentive of the opportunity of mingling with former classmates.

The Alumni, Faculty, Administration and Students of Loyola School of Law are urged to attend.



JUDGE J. BECK
JUDGE M. AGGELER
JUDGE L. DEEGAN



Premier Mock Trial To Be Held Dec. 18

The Mock Trial of a Personal Injury action, sponsored by the Loyola Law School Student Association, will be held Friday, December 18, 1959. A new competition, the Trial is designed to give students at Loyola Law school experience in preparing and handling a legal action in a Code Pleading jurisdiction. The time and place of the competition will be announced shortly.

The first case on the docket is a personal injury action presided over by Superior Court Judge Jesse Frampton. The action will be brought by Owen Fiore and Jim Mountain for Plaintiff Lauralea Trisler against Defendant Gene Leyval, who will be represented by Ed Masry and Norm Hanover.

Other students participating in the Trial will be Bill Schad who will act as bailiff, Tom Mantheos, as clerk, and Mike Collins and Frank Rivera, as witnesses.

A jury, consisting of first year students, will be impanelled at the time of the trial. Two practicing physicians will act as expert witnesses.

Sponsored by the Loyola Student Bar, the Mock Trial was planned to give students an opportunity to participate in and view proceedings similar to those of an actual trial. This is the first attempt at such a competition at Loyola, and will be conducted bi-annually. This year's trial is organized by third year students Les Hartley and Ed Carney, and second year students

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EDITORIAL:

A Law School Newspaper

Perhaps it is well at this time to discuss, in a general way, a few functions of a student newspaper in a law school. In the same vein, a few words should be said about the role of such a newspaper in the legal community of students, faculty and alumni, and the relationship of the students to their newspaper.

Needless to say, the primary function of a newspaper is to communicate. A newspaper is a communication medium, and like all such media, it has reasons for communicating. To name but a few, a newspaper should inform, entertain and stimulate its readers.

A newspaper fulfills its informative function in two ways: actively, by publicizing upcoming activities and events; passively, by objectively reporting activities as they happen. Metropolitan newspapers are concerned primarily with this informative function.

On the other hand, a law school is primarily concerned with legal concepts, events and personalities. Necessarily, the scope of a law school newspaper is narrower than that of a metropolitan newspaper. News reporting, because of this, has a limited value in a law school. But of course, certain news reporting plays an important role in a law school.

For example, events, as we have seen this past month, such as lectures by prominent attorney Raoul Magana on Personal Injuries, and noted scholar, Dr. Frank Sullivan, of Loyola University, on St. Thomas More, point this out clearly. Here publicity and reporting play an instrumental role.

Likewise, such school activities as the Scott Competition, the Moot Court, and the Mock Trial must be publicized and reported. Such organizations as the St. Thomas More Law Society, which sponsors, throughout the academic year, a series of lectures by prominent judges and members of the bar, and the school fraternities—Phi Delta Phi and Phi Alpha Delta—which host men such as Professor William Prosser and United States Senator Thomas Kuchel at their conclaves, come within the informative function of a law school newspaper.

There remains, finally, the function best described as the stimulation of thinking and ideas. This function is expressed in expository or critical writing. Expository writing transcends the individual student and law school. Because of this, a law school newspaper becomes of interest, not only to the law student, his school, alumni and faculty, but to other schools and the legal profession as well. In this kind of writing, it may be said, lies the stature of a law school newspaper. Such writing tests the writer, measures the newspaper, and, indirectly, reflects the law school itself.

Expository writing is best seen in law reviews. For the

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COMEDY OF ERROR

By RABERN B. PRANTE

The Konigsberg case is a living legal example of what happens when the cart is put before the horse. Because the California State Bar Committee did not state its real reasons for first refusing to certify Konigsberg to practice law, I think they will be precluded from doing so now.

The controversy began in 1953 when, during a Committee hearing, Konigsberg refused to answer questions as to his Communist Party membership. As a result of that hearing, though Konigsberg did offer into evidence many documents attesting to his good moral character and affirming his contention that he was loyal, the Committee found that he had not carried the burden of proving these qualifications. A showing of good moral character and of loyalty is required by California Business and Prof. Code, sections 6061(c) and 6064.1. The Committee's only reason for refusing to certify Konigsberg was his alleged failure of proof. The Committee did not say that they refused to certify him because he would not answer the questions, though this was patently their basic reason.

When the U. S. Supreme Court first reviewed this case in 1957, *Konigsberg v. State Bar* (353 U.S. 252), they found that the Committee acted in violation of the due process required by the 14th Amendment because Konigsberg did, as a matter of law, sustain the burden of proof. He proved, on all the evidence then and now available, that he was loyal. The majority of the court specifically refused to face the real issue of the case, i.e., could the Committee refuse to certify Konigsberg simply because he declined to answer questions about his Communist Party membership. In refusing to consider this issue, the U. S. Supreme Court said that he had not been properly advised that such refusal to answer would be a basis for denying him certification.

Upon the rehearing that led to the present case, the Committee, without introducing **any** new evidence, advised Konigsberg that he would be denied certification if he refused to answer material questions, and that they deemed questions as to his Communist Party membership material. Still claiming that the area of political affiliation was protected from such questions, he again refused to answer. The Committee refused to certify him.

It has often been held that the area of political belief is one in which the State cannot inquire without **very good** reason. "If there is any fixed star in our Constitutional constellation it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or

other matters of opinion, or force citizens to confess by word or act their faith therein." This succinct statement of policy was made in *W. Virginia Bd. of Educ. v. Barnette* (319 U.S. 624, 642). When we have a conflict between the right of a state to police its Bar and the protected interests of an individual to refrain from revealing his political associations we must carefully balance the interests of each. Let us examine this case.

The California Supreme Court, *Konigsberg v. State Bar* (52 A.C. 26), in upholding the Committee's decision not to certify Konigsberg, found that the State's interest in his Communist Party membership was vital because the Communist Party advocates the unlawful overthrow of the government. And because the Committee must affirmatively certify Konigsberg's loyalty they could not in good faith do so when he refused to answer questions about his affiliation in a subversive organization. What the State Bar Committee and the California Supreme Court failed to recognize was that Konigsberg had been found to be loyal by the U. S. Supreme Court upon consideration of **all the evidence then and now before the court**. The highest court in the land had **already decided** that he had proved his loyalty. Because of this previous finding of loyalty the State's interest in his Communist affiliation had been removed.

The crime of communism is in its active advocacy of violent overthrow of the government. There is no crime in communism as a belief in an abstract doctrine, *Yates v. U. S.* (354 U.S. 298). That which the law considers "bad" about communism, i.e., disloyalty, has been removed from this case. The Communist Party has been reduced to the relatively harmless status of the other political parties or associations, and therefore is as protected as they are from inquiry. The California Court's **sole** legal interest in Konigsberg's political affiliation was in determining his loyalty.

Because the California Bar Committee failed to honestly state their real reason for refusing to certify Konigsberg at the conclusion of their first hearing (their real reason being his failure to answer the questions), they should not be able to state it now. Because the State Committee hid behind the subterfuge of claiming a failure of proof in their first hearing, we now have the peculiar result of a person already proven loyal being denied the privilege of practicing law because he refused to answer questions which could **only** be pertinent to the issue of loyalty. And Konigsberg

EDITORIAL

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most part, the writing is critical. It consists of an evaluation of, say, a legal concept or a case. Much like the medical expert's diagnosis and prognosis, the critical writer discusses the cause and effect of the concept, and weighs its merits in the light of legal principles, present and past. Needless to say, such writing is intellectual toil, and allows little room for mediocrity. Because of this, the more gifted student is usually selected for the task.

Though critical writing may be said to lend stature to a law school newspaper, yet there is a place for still other less exhausting exposition such as topical commentaries of legal and non-legal personalities, and reviews of current books. And, of course, every paper needs the light touch of humor and entertainment.

A brief word remains to be said of the relationship of the students to their law school newspaper. It goes without saying that, since the *Digest* is a student publication, the students, by and large, must do the writing—that is, the news reporting, the critical discussion, and the humor. The *Digest* has a small staff which is charged with the responsibility of publishing quarterly throughout the academic year. The staff, however, cannot do the job alone. It must rely on students and organizations to contribute occasional news items of current interest.

Although the critical writing will be mainly solicited, an invitation is extended to students, faculty, alumni and members of the legal profession to submit material. Such writings may touch on matters outside the subject of law as long as they evidence imagination and good taste. In the same vein, letters to the editors expressing fair comment on articles appearing in the *Digest* are welcome.

LIBRARIAN'S CORNER

By MYRON FINK

It is pleasant to be able to report a considerable response to my call for reading supplemental to casebook study. Several dozen students have since sampled our collection of biography, history and philosophy. The index to legal periodicals has come in for heavier use. Many more students are discovering that convenient window on our legal world, the legal newspaper. This effervescence is evidence, I believe, of a sizable intellectual undercurrent at Loyola. How it will be harnessed remains to be seen. For the moment, it might be of some value to remind those of intellectual leanings not to succumb to the common disease of denying their interests because they are not widely shared by others.

The sad neglect of intellect in American society has been brilliantly documented in a recent work by Jacques Barzun called "The House of Intellect." Intellect is defined as "...the capitalized and communal form of live intelligence; it is intelligence stored up and made into habits of discipline, signs and symbols of meaning, chains of reasoning and spurs to emotion — a shorthand and a wireless by which the mind can skip connectives, recognize ability and communicate truth." In describing the forces threatening intellect today, Dean Barzun reserves his most telling thrusts for the majority of today's educated who cannot or will not nerve themselves to perform the

has already, as a matter of law, successfully borne the burden of proving that he is loyal.

hard task of thinking and judging.

Both a symptom and a cause of the present debility of intellect is our widespread indifference to language. Dictionaries are not consulted when words are imperfectly understood; language is used loosely without regard to syntax. The result is an unfitness for the tight reason, skillful over-tone and rapid pace of scholarly literature.

We initiate in the law should be bonded together through reading books and being articulate. Our discipline is unavoidably intellectual because it presupposes literacy of a high order. I'm reminded here of the words of the noted author, Catherine Drinker Bowen, who, in a recent address, described her questioning of young law students to why they liked the law. "Some gave me practical answers: in ten years' time they would be making \$10,000 a year, or they would be judge, or a man had to do something, didn't he, to make a living? But I was not looking for practical answers. Finally, a student said to me: 'I'll tell you what holds us. It's a respect for the written word.'"

LOYOLA DIGEST

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Blackstone's Commentaries

Ever since time started on its march to eternity, man, who is created for happiness, has been trying to find this commodity, pure and unalloyed, some place along the route, not unlike the alchemist of an elder day, in his search for the philosopher's stone which was to transmute all metals into gold . . . Some thought they had found such a spot . . . But the Utopias and Arcadias didn't fill the bill . . . In fact they never got beyond the word stage to which responded no objective reality . . . And while time continues on the march the quest continues apace . . . However, LEO DEEGAN, '39, didn't do too badly when he left Spring Canyon to find his place in the sun amid the golden groves of Riverside . . . After going through the chairs in government service—he was Public Defender and City Attorney—and establishing a record of notable service . . . the Bench was the next plateau on this progress chart . . . This was reached a couple of weeks ago when the Chief Executive of the Sovereign State of California made the Court the beneficiary of his superior qualifications . . . Confirming the old chunk of wisdom—"all good things come in threes"—His Excellency didn't stop here . . . Looking out Santa Monica way, he recognized the rich competence and judicial mien of the youngest scion of the "HOUSE OF AGGELER," a name honorably interwoven into the fabric of California jurisprudence . . . and the Superior Court of this State is the richer this day because of his elevation to it . . . JULIAN BECK was the third of the trio to get the emerald light to higher things . . . a skilled practitioner, a leader in the halls of legislation, a splendid record in the Municipal Court, a wise counsellor in the affairs of state . . . these are but a few of the highlights that glitter on his achievement scroll and make him a natural to rule with equanimity in man's struggle with the law and the facts . . . To find agreement among a group of lawyers is the ultimate in something or other, but when this phenomenon is experienced among judges, whose opinions are weighty and decisive, then something out of this world has come about . . . Well, that's what happened when the Judges of the Superior Court in solemn conclave assembled to elect a Presiding Judge . . . All agreed, no dissents, that LOUIS H. BURKE should be retained . . . and this for the third consecutive year and for an all-time record . . . But Judge Burke's stock in trade is breaking records, what with his Conciliation Court to save the family—the bulwark of the state—his expediting the administration of justice, for well he understands that "Justice delayed is Justice denied," and for his impetus to pre-trial procedure . . . It all adds up to a job well done and confirms the wisdom of those who placed him in it . . . At this same conclave four court commissioners were named out of a hundred-odd applicants . . . two are products of the Grand Avenue Maison in the lush '45-'50 era . . . RAY ROBERTS, '49, he of the agile mind legal know-how was a likely choice . . . And apparently is conditioned for the sacrifice, for it takes no little fortitude and carloads of courage to give up the enticements of suburban practice for the smog and maelstrom of the Civic Center . . . JIM TANTE, '49, is a distinct acquisition to the court what with his invaluable experience on administrative tribunals . . . Since his admission to the Bar, he has been associated with quasi-judicial offices, notably with the Adult Authority and only recently a Referee of the Juvenile Court . . . The growing boy and the grown man have profited immeasurably by his penetrating insight into human nature and his fine sense of sympathetic understanding . . . And, by the way, the Chief Justice of the Supreme Court was casting about recently to assign a justice pro-tem for the District Court of Appeal here . . . His scrutinizing gaze lit upon serene JOHN J. SHEA, who was pursuing the even tenor of his tranquil life as Superior Judge of Orange County . . . "Go up higher, sir," he said, "at least temporarily." And now Mr. Justice Shea is taking his phone calls on the 10th Floor of the State Building, MA 6-1515, Ext. 523 . . . With a vacancy coming up in the Fourth Appellate District . . . of which Orange County is no small part, this temporary assignment could well take on the character of permanence and finality . . . or mayhap it may be even a case of coming events casting their shadow before . . . It is a gross exaggeration . . . false would be a better label with not the slightest semblance of truth to the rumors that MIKE CLEMENS, '52, USN (ret), of the contagious laugh and professional charm is going back to his first love . . . Interviewed recently in his luxurious suite in the upper reaches of Beverly Hills, he was obviously adjusted to his new career without the aid of tranquilizers . . . Said Mike, "The law is definitely for me and I love it. I'm through with mine-sweeping . . . I'm interested only in mines that have depth and opulence . . . the kind of stuff the "Forty-niners" came out here to get and, of course, my interest is purely and simply to see that justice is done." . . . JIM CUNNINGHAM, '39, is one of the many who filed a memorandum opinion on the "Loyola Digest", they were all praise—no



MOOT COURT TEAM AND COACH:—The Loyola School Moot Court team that defeated U.S.C. before dropping a close match to U.S.F. includes, from left to right, Richard Smith, Jo Ann Mares, shown with Professor Otto Kaus.

Moot Court Team Wins, Loses

On November 13th and 20th, the Loyola Law School Moot Court Team engaged in competition to decide the national Moot Court regional championship. The Loyola team defeated the University of Southern California and was defeated by the University of San Francisco. The San Francisco team will represent California in the national competition.

The victory over the U.S.C. School of Law was a true team victory, with Loyola defeating U.S.C. in both the brief and oral aspects of the competition. The oral argument was conducted by Peter Smith and Jo Ann Mares. Richard Smith performed the major portions of the writing.

Both P. Smith and J. Mares performed well under intensive questioning by Judges Roberts, Barnes and Ziemann. The Loyolans proved themselves adept at answering questions designed to test their mettle, particularly in the field of Constitutional Law.

The following week, the locals met the visiting U.S.F. team and were defeated. Judges Wheatcroft, Weisman and Brockhurst awarded the decision to U.S.F. and the outstanding speaker award to J. Harrison of the visiting team.

The Scott competition will soon commence to decide who shall represent Loyola in 1960 Moot Court Competition.

dissents . . . Jim romped through the executive brand of Government as Mayor of San Bernardino . . . hurdled the obstacles in the Halls of Legislation as Senator from the County in California with more acreage than Rhode Island and is climaxing his career by attaining judicial eminence—and all with the ease and elegance of a gazelle . . . A dropper-inner a few days ago was TONY RUFFOLO, '58, fresh from his indoctrination in JAG at Lackland, Texas . . . He's getting into the right atmosphere for Christmas—a sort of deep freeze assignment at Goose Bay, Labrador.

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PRESIDENT SPEAKS

By LES HARTLEY

President, Board of Bar Governors

With the fall semester approaching the half-way mark, it is incumbent on me to present a quarterly accounting of our stewardship of your Student Bar Association.

We have recently conducted several activities, all of which have been favorably received. Therefore, I believe it is appropriate to express congratulations, on behalf of the board of bar governors, to those students who are deserving of recognition. These include Larry Crispo, for his fine accomplishment in preparing the student directory and organizing the first speaker's program; Jerry Benoit, Owen Fiore, Norm Hanover and John Gallagher, for their commendable efforts regarding the first year smoker and orientation panels; and Ed Masry and the staff of the Loyola Digest, for their outstanding achievement.

I would also like to congratulate the members of the first year class for their enthusiastic participation in the election of representatives to the board of bar governors. The newly elected representatives are John Cochran and Barry Kenealy in day school, Frank Buck and Jim Parker at night.

Our current activities, such as the mock trial, Scott competition, annual dance, etc. are now in the formative stages, and will continue to develop in the months to come. Apart from these activities, there is a particular area in which your student bar is capable of making a worthwhile contribution. This is in the field of public services.

In the past it has been a traditional practice for the student bar to allocate a portion of its annual budget as a donation to charitable organizations. While this has been undoubtedly appreciated, it would be much more significant in bringing the nature of the public duty of the lawyer to the attention of the students if the bar were to devote some time and energy to a phase of community service.

That the student bar should always be a constructive force is beyond question. It should work closely with the administration, faculty and alumni to promote the best interest of the students and the law school itself. Also it should further professional training and unite the students in the pursuit of objectives which are beneficial to the individual, the legal profession and the public.

Currently, a committee of bar governors is engaged in the proc-

Dr. Sullivan Talks On St. Thomas More

The St. Thomas More Law Society recently sponsored a lecture heralding its namesake as "A Patron and Patron for Today's Lawyer."

Dr. Frank Sullivan, noted professor of English at Loyola for the past 13 years, delivered the lecture on Wednesday, Oct. 21.

A nationally recognized authority on St. Thomas More, Dr. Sullivan was made an honorary member of the law society in 1953, joining such eminent legal personalities as Justice Thomas White of the California Supreme Court and Los Angeles County Presiding Superior Judge Louis H. Burke and Superior Judge and Loyola Professor J. Howard Ziemann as well as the late attorney, Joseph Scott.

Dr. Sullivan has made several trips to Europe pursuing his studies and brought to the lecture not only the scholarly results of these investigations, but also a warm feeling and admiration for the person of the man who is regarded by all as the perfect lawyer.

Mock Trial . . .

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Al Holt, Pat McCormick and Larry Crispo.

A friendly rivalry, the mock litigation will be pleaded by night students Fiore and Mountain, and defended by day students Masry and Hanover.

Selected by Loyola law professors Richard Henigson and James Maupin, the trial counsel were selected on the basis of answers to model complaints.

Counsel will conduct voir dire examinations of jurors, direct and cross examination of witnesses, opening and closing arguments and will prepare jury instructions.

Superior Court Judge Frampton, presiding over the litigation, will conclude the proceedings with a constructive critique of the conduct of the trial.

Students, alumni and friends of the law school are invited to attend the competition.

ess of surveying the material aspects of this problem and preparing alternative recommendations to the board for approval. In order to accomplish an undertaking of this nature, it is essential to enlist your support and cooperation. An initial step in this respect is to encourage you to discuss the various ways in which this program can be effectuated with your class representatives.

Our purpose is to sponsor a program of public service which is consistent with the character of the law student, and which will be of benefit to the community, reflect favorably upon the law school and be rewarding to the individual.

FRATERNITY ROW

Phi Alpha Delta

Ford Chapter, Phi Alpha Delta, recently concluded its rushing program for the year with sixty-five pledges being added to the chapter roster. The active members of Ford express their sincerest congratulations to the new members.

The social program started with a cocktail party at the home of Gary Cooper. Approximately three hundred actives and guests enjoyed the afternoon. Thank you, Mr. and Mrs. Cooper.

The annual "smoker" was held two weeks later. Thank goodness, it is only "annual." (Ed. note.) Brother professors Cook, Tevis and Tucker provided an intellectual aurora to the otherwise profligate assemblage.

Formal pinning of the pledges was held at a party in the Elks "99" Club in Los Angeles. The social and educational program of P.A.D. has been quite successful this year.

In conjunction with Ross chapter of U.S.C., four very successful lunches have been held. The speakers at the lunches included Attorney Paul Ziffren (Democratic national committeeman), U. S. Senator Thomas Kuchel (Rep., Calif.), Attorney Murray Chotiner, and Attorney Mel Belli.

Practice examinations were given to all first year pledges in contracts, torts and personal property. These examinations were graded and commented upon by the active members. Seminars are also being given by the fraternity.

Coming events include the annual Christmas party, which will be held at the home of Justice Ed. Masry. And the Padettes, continuing their service to the community, will be providing needy families with food and gifts over the holiday season.

Phi Delta Phi

As Phi Delta Phi draws to a close its rushing program, it is with pleasure that we gaze back down the social road. The members of Phi Delta Phi and their guests first gathered at the Playa del Rey campus to engage in an open discussion with members of the Loyola law school faculty. Here we would like to pause a moment to express our thanks to Mrs. Smith, Mr. Dibble and Mr. Henigson for making the 2nd Annual Faculty Round Table so successful.

We next bid our guests welcome at the Santa Ynez Inn where we all engaged in general social mixing and generous sipping of various liquid refreshments. From the surf kissed shores of Pacific Palisades we trekked to the confines of Westwood, where we capped our social journey with an informal gathering augmented with an occasional number from the stringed quartet, while the wassail bowl ran full.

In an attempt to bring in the Christmas season with a jolly ring, a small party has been planned for the members of Phi Delta Phi and their guests. All present will have an opportunity to meet Santa Claus. The usual whistle-wetters will be on hand and the halls will be heavy with mistletoe and holly, so plan now to be on hand for a good time is assured all.

On Saturday, April 10, 1943, Madame Chiang Kai-shek, Nationalist China's first lady, accepted an honorary degree of doctor of laws from Loyola Law School. The honor was conferred at the Ambassador Hotel, with Atty. Joseph Scott reading the citation and Rev. Joseph Donovan, S.J., regent of Loyola Law School, giving the presentation address.

LOYOLA DIGEST

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