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LEGAL FRATERNITIES*

Kenneth H. York†

NO exact computation of the number of practicing attorneys who are members of legal fraternities is available. However, well over 120,000 law students have in the past 82 years affiliated with a legal fraternity—no account being taken of the numbers belonging to purely local societies. Since the great majority of these individuals have entered into the practice, it is apparent that the Survey of the Legal Profession would not be exhaustive without some reference to such organizations. Professional Greek-letter fraternities now exist in practically all conceivable fields from Animal Husbandry to Textile Arts. Their legal counterpart furnished the model.

The history of that peculiarly American undergraduate social phenomenon, the Greek-letter society, is readily accessible and requires no general review. By 1869 such associations were no longer particularly novel. In that year a group of students at the University of Michigan Law School formed a secret society along the lines of the conventional undergraduate organization for the purpose, it was asserted—with a rather engaging candor—of controlling “politics.” Once formed, the society wrote several schools in the East in search of some national organization of similar bent which it might join, only to learn that there was none. Hence, by accident of default, the first professional fraternity, Phi Delta Phi, was formed and for 30 years or so remained alone in the field, in the meantime extending to 30 schools.

Around the turn of the century, the notion suddenly became widespread leading to a veritable epidemic of such associations. It is a little difficult to trace accurately the histories of all of them, since, like universities and law schools, there is a tendency for purposes of antiquity (and hence respectability) to ascribe origins to older local groups. Besides the records of the same organization are not infrequently in con-

* This article is a report prepared for the Survey of the Legal Profession. The Survey is securing much of its material by asking competent persons to write reports in connection with various parts and aspects of the whole study. Reports are released for publication in legal periodicals, law reviews, magazines and other media as soon as they have been approved by the Survey Council's Committee on Publications. Thus the information contained in Survey reports is given promptly to the Bar and to the public. Such publication also affords opportunities for criticisms, corrections, and suggestions. When this Survey has been completed, the Council plans to issue a final comprehensive report containing its findings, conclusions, and recommendations.

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flict.¹ At any rate, it appears that Gamma Eta Gamma was formed at the University of Maine in February 1901. In the same year, Delta Phi Delta came into existence at Cleveland Law School at Baldwin University.² In 1913 this fraternity merged with Alpha Kappa Phi (1902) and Theta Lambda Phi (1903) to form the present Delta Theta Phi, which *nunc pro tunc* includes as members all those associated with any of the original groups.

In 1902 Phi Alpha Delta was formed at the University of Chicago although it traces its origin back to 1897 as Lambda Epsilon. Likewise in 1902 Sigma Nu Phi was founded at National University in Washington.

Thereafter followed Sigma Delta Kappa in 1914 at the University of Michigan; Nu Beta Epsilon which was founded in 1919 at Northwestern and merged in 1939 with Alpha Kappa Sigma which had been founded in 1918 at the University of Maryland; Tau Epsilon Rho in 1921, formed by a merger of Lambda Eta Chi (Western Reserve 1919) and Phi Epsilon Rho (Ohio State 1920); and Phi Beta Gamma in 1922 at Georgetown University.

While retaining the Greek-letter designations and much of the essentially social characteristics of undergraduate societies, the legal fraternities, aiming at such professional decorum as might be possible on the part of an American law student, dropped the horseplay and secrecy trappings of the latter organizations.

Each, by constitutional preamble or otherwise, has adopted a statement of purpose toward the promotion of ethical standards of personal conduct and the furtherance of justice and its administration which is well above reproach.³ It is usually required as a condition of affiliation that the neophyte overtly state his adherence to such principles. In this respect the fraternities deserve commendation. At a time when the delineation of "good" and "bad" has become obscure, and when many societal groups have declined any responsibility for the inculcation of moral standards, it is very refreshing to witness a performance by any

¹ Varying sources are available. Baird's *Manual of American College Fraternities* is the origin of most of this summary.

² This is the information embodied in the 1948 Directory of Delta Theta Phi. On another page of the same volume the date is given as 1900 which also appears in the publication of the Professional Inter-fraternity Conference. Baird's *Manual of College Fraternities* states the date as 1901.

³ For example the statement of purpose of Gamma Eta Gamma reads: "The objectives of this fraternity shall be to establish in schools of law, as well as the general practice of the legal profession, an elevated standard of personal deportment, a high code of professional ethics and a broad and catholic development of mental culture and moral character."

organization demanding a reaffirmation of basic tenets it has found good. From a psychological standpoint it is likely that socially and ethically desirable conduct may be promoted more readily by fraternal societies, with their unobtrusive but highly effective methods of group approval or disapproval, than by most other means.

Membership

The following table represents the latest available membership figure of legal fraternities and sororities.⁴

| <i>Fraternities</i> | <i>Number of Active Chapters</i> | <i>Total Initiated Membership</i> |
|--------------------------------|--------------------------------------|---------------------------------------|
| Delta Theta Phi (1900 or 1901) | 81 | 29,256 |
| Gamma Eta Gamma (1901) | 23 | 7,240 |
| Nu Beta Epsilon (1919) | 24 | — |
| Phi Alpha Delta (1897) | 72 | 22,614 |
| Phi Beta Gamma (1922) | 6 | 1,600 |
| Phi Delta Phi (1869) | 72 | 42,000 |
| Sigma Delta Kappa (1914) | 16 | 14,500 |
| Sigma Nu Phi (1902) | 7 | 4,356 |
| Tau Epsilon Rho (1921) | 11 | 2,500 |
| <i>Sororities</i> | | |
| Iota Tau Tau (1925) | 13 | 1,025 |
| Kappa Beta Pi (1908) | 33 | 3,300 |
| Phi Delta Delta (1911) | 44 | 2,760 |

The bulk of the membership comprises the regularly initiated students although most fraternities induct honorary members. The latter are relatively insignificant in numbers although naturally high in quality. Since the practice of approving law schools has been adopted by the American Bar Association and the Association of American Law Schools, the national societies have for the most part refrained from installing chapters at schools at least not tentatively approved. The result is the desirable one of limiting membership to the better educational institutions.⁵

The legal fraternities are in no wise reticent in calling attention to their prominent members, nor indeed is there any particular reason why they should be. In the political field, Phi Alpha Delta lists the President and Vice-President of the United States, 4 Supreme Court justices, 10 Senators and 17 Congressmen. Delta Theta Phi lists a former

⁴ Sources for this tabulation include Baird's *Manual of College Fraternities* (1949); Publications of the Professional Inter-fraternity Conference; fraternity publications and other direct sources; and, alas, even the *World Almanac*. The variation among the sources is so great that the precise accuracy of some of the above figures is in doubt.

⁵ Legal fraternities are represented in about 86% of the schools which are members of the A.A.L.A. [Rae, "Extracurricular Activities and the Legal Fraternities," 3 J. LEGAL ED. 564 (1951)]. There are, of course, exceptions. The sorority, Iota Tau Tau, apparently exists primarily in unapproved schools.

President (Coolidge) and a former Chief Justice of the United States (White). Phi Delta Phi lists three past presidents of the United States; all presidential nominees of the Republican party since 1932, two members of the present Supreme Court, 16 of the present Senators, 31 of the present Congressmen, 10 of the present state Governors. The other fraternities are doubtless equally well represented in proportion to the size of membership.

There is little point in carrying such listings through the state and lower federal political and judicial planes in a summary such as this except to observe the number of fraternity members appears relatively proportionate throughout. It may be concluded that by far the greater majority of lawyers in political and judicial positions have a fraternity affiliation. It is improper to suggest that such affiliation is a highroad to political position. Politicians are notorious joiners from the cradle on. However, a group of law students have a peculiar perspicuity in noting a comer and future leaders are sought out—indeed tending to become the leaders of such groups.

To dwell upon the fraternities' political luminaries is a gross error in emphasis (made both by the fraternities and their detractors), for in so doing the solid core of highly successful practicing attorneys comprising the bulk of the fraternities' membership is overlooked. Whether lawyers with fraternity affiliation are evenly distributed along the scale of success in the practice of law or tend to gravitate toward either end is a question which defies answer, because no one is foolhardy enough to attempt to make a list of the control group.

A sample of the lawyers listed in the Biographical Section of the 1949 edition of the Martindale-Hubbell Law Directory shows that well over 40% include a notation of legal fraternity affiliation.⁶ Any conclusion that the reader may wish to draw from such a figure should be tempered by two considerations: (a) that many of the senior firm members and older attorneys are the product of an era when admission to

⁶ This was done by examining the first 255 pages of biographical listings. By states the following information was compiled:

| State | No. of Biographies | Fraternity Listings | Percentage |
|------------|--------------------|---------------------|------------|
| Alabama | 257 | 103 | 40% |
| Arizona | 158 | 66 | 42% |
| Arkansas | 188 | 57 | 30% |
| California | 1048 | 426 | 41% |
| Colorado | 233 | 137 | 59% |

All percentages are rounded. The listings in the Biographical Section of the *Martindale-Hubbell Law Directory* are paid listings.

the bar was possible on law office study and when fraternities were not widespread; (b) not every attorney lists fraternity affiliation.⁷

Programs and Activities

As noted, the main activities of the fraternities are probably social, but all maintain a variety of professional activities some of which rise to a quite commendable level. An outline:

a. *Speakers.* This is a universal chapter activity. There is an ineradicable impression on the part of the law student that the "practical aspects" of the practice of law can be revealed only by practicing attorneys. Perhaps it is so. Certainly the legal fraternities go a long way toward satisfying the insatiable and recurring demand for contacts with lawyers outside the school. Their readily available supply of willing alumni members makes them peculiarly fit for such activity. On occasion this type of program is of the highest order, as for example the annual Frank J. Irvine Lectureship at Cornell University.⁸

b. *Orientation Programs for New Students.* This may be a case of the blind leading the blind, but the prevalence of such activities indicates a felt need for something of the type.

c. *Scholarship Stimulation.* Frequently this takes the form of awards by local chapters either to their own members or to outstanding scholars in the school. Some of the national chapters (e.g., Delta Theta Phi, Sigma Delta Kappa, Gamma Eta Gamma) award a special scholarship key to a small percentage of graduates or grant suitable awards to the chapter maintaining the highest average throughout the organization.

The maintenance of a respectable group average scholastically is of primary concern to local chapters. A consistently low average invites

⁷ In lines of legal activity other than the actual practice of law, the following information has been obtained. In law teaching, Phi Delta Phi lists 47 deans of A.A.L.A. schools or about 65% of the schools in which it has organizations. This single fraternity lists 27.6% or 531 out of 1925 total teachers (excluding separately listed librarians, women and the faculty of the University of the Philippines) listed by the West Publishing Company's compilation of A.A.L.A. schools in 1950-51. Even the most conservative extension of such figures would show that the bulk of the law school professors have a fraternal affiliation.

⁸ Sponsored by Conkling Inn of Phi Delta Phi since 1913. Lecturers have included such men as Benjamin Cardozo, Harlan Stone, Roscoe Pound, Samuel Williston, and, in recent years, Wayne Morse, General Wm. J. Donovan, Leverett Saltonstall, Arthur T. Vanderbilt, etc.

the criticism of outsiders and the national organization, and is self-destructive. As to the success of the common practice of intra-fraternity tutoring, one can afford to be noncommittal. More positive results are being obtained by the increasing practice of deferred pledging and the adoption of a scholastic requirement for initiation a cut above that required to stay in school. No national organization (excluding of course the Order of the Coif) has as yet adopted a scholastic qualification for membership other than that the initiate be a student in good standing at the school, but the practice is not uncommon among the local groups.⁹

d. *Placement.* Nothing preoccupies the mind of the law student more than the problem of getting started and it is hardly surprising that an attempt to employ the facilities of a nationwide organization should be made. Phi Alpha Delta national chapter maintains a placement bureau. Others offer the service on a more localized basis—usually through a placement committee of the alumni chapters. The amount of effort expended in these formalized endeavors to obtain work for graduating students (or individuals in search of other positions) varies in proportion to the actual supply and demand for attorneys. Of course it is impossible to give any definite figures concerning the informal efforts at placement which fraternity members expend on each other's behalf. But it is a factor which should not be ignored as is frequently done.¹⁰

e. *Student Loan Funds.* Phi Delta Phi sets apart a portion of each initiation fee for an endowment fund from which loans are made to individual students or chapters. Sigma Nu Phi also maintains an endowment fund.

f. *Housing.* Fraternity owned or leased houses are comparatively rare although by no means unknown. Gamma Eta Gamma maintains an endowment fund for chapter housing.

g. *Veterans' Assistance.* Delta Theta Phi in 1943 incorporated a Foundation "to give direct personal advice and consultation" to veterans.

⁹ At least one-half of the "Inns" of Phi Delta Phi have scholastic requirements above the minimum required for graduation.

¹⁰ For example, the Survey of the Legal Profession's Report on Lawyer Placement [37 A.B.A.J. 497 (1951)] fails to mention the existence of the placement services of the fraternities. This is an understandable and not too serious omission. More puzzling, however, is the fact that, whereas the report notes that "Personal Contact" is the overwhelming medium of placement, the main avenue thus opened remains unexplored. It would seem that if "personal contacts" are the principal means of legal placement then the factors, such as fraternities, which lead to such contacts are of greater importance than the formalized efforts of law schools or Bar Associations insofar as effective legal placement is concerned.

h. *Legal Aid.* In 1950 Phi Alpha Delta in general convention passed a resolution to lend its assistance to the Legal Aid Program. Its members and chapters have been encouraged to become members of the National Legal Aid Association and considerable sums of money have been expended in its support.

i. *Publications.* The standard fraternity publication is a quarterly magazine catering to items of interest to membership only, although some publish material of general interest.¹¹ Phi Alpha Delta substitutes a quarterly newspaper. The circulation of the publications of the larger organizations considerably exceed that of any law review.¹² In addition most of the associations publish directories of membership.

j. *Miscellaneous Activities.* These are limited only by the ingenuity of law students which is considerable and their enthusiasm which fluctuates frightfully. In addition to speakers and prizes for scholarship, local chapters award a variety of plaques, gavels, cups, sets of books, etc. to case club winners, law review note competitions and general achievements. Many of the currently popular "law day" programs are of fraternity origin although now adopted by the schools themselves. In at least one school the law review was of fraternity origin.¹³ Likewise the various chapters perform such services as the publication of law school handbooks, directories, etc.; establish lending libraries and book exchanges; put on "dramatic" performances; assist in experimentation in visual teaching methods and wire recordings; and many other enterprises which have not obtained to the antiquity, popularity, and regularity of the Friday gathering at the local pub.

Alumni Chapters

Each fraternity lists a number of alumni chapters, statistics concerning which are purposely omitted in this report because the mere recital of the number of such chartered groups fails to show the number of actually participating members, which is unknown. It is true that in the largest cities, and many smaller communities there exist strong, well-organized and financed alumni chapters of the major fraternities. Apart from these, the alumni chapters may tend to have ups and downs depending upon the verve of the leadership. A national convention in

¹¹ *The Brief*, the Phi Delta Phi quarterly is typical of this group.

¹² The circulation of the Phi Alpha Delta newspaper is over 19,000 copies.

¹³ The *Utah Law Review*, published originally by Johnson Inn of Phi Delta Phi.

any given area has occasionally left a wake of alumni chapters which in due course of time tend to subside.

Besides the strongly established alumni chapters there are receptions, luncheons, etc., at Bar Association conventions, University Homecomings and Law Days, which are generally well attended. Local alumni support to college chapters has been freely offered in instances too numerous to mention. To the extent—and it is a considerable extent—that alumni afford an opportunity for social contact between members of the bar and the student of law, they perform a function well-known in England but unfortunately lacking in the United States scheme of legal education.

General Comment

Any further comments as to legal fraternities must be somewhat on the subjective side. The motives inducing a student to join any fraternity, let alone a particular one, are varied, personal and quite likely no one else's business: Since few people have ever been dragooned into such affiliation, it is to be assumed that they have simply wanted to join. In every social environment, law schools certainly not excluded, the natural gregariousness of man results in the precipitation of a number of more closely-knit groups within the whole, whether characterized by Greek letters or not. The fraternities have no more than sensed and taken advantage of this phenomenon. They have become nationwide or broader in scope for no reason other than recognition of certain obvious advantages in expansion. Denial of the existence of such advantages has on the whole been contradicted by experience, and the judgment of the most successful groups has been emphatically otherwise.

Apart from the not inconsiderable pleasures of association with others of like background, training and inclination, the greatest advantage attributable to membership in a national legal fraternity is generally supposed to be the professional one of wider contacts and possibility of exchange of business. It is fair to observe that the exchange and referral of legal business rarely depends on the sole criterion that the other man is a member of this or that fraternity. On the basis of "other things being equal," however, the fact of fraternity membership has on occasion been most advantageous. There would be no difficulty whatsoever in compiling a quantity of testimonials rivaling a Hadacol handbill as to the desirable contacts, jobs obtained, and business referred as a result of a fraternal affiliation. Suffice it to observe that nearly all

lawyers who are members of a fraternity consider it a matter of pride or value to list the fact in *Martindale-Hubbell* and *Who's Who*, and that fraternity directories have a large sale.

As to the future of such societies there seems no reason to believe that there will be much change. Because of their expansion since the war—at least 50 new chapters have been installed—a greater proportion of the practicing attorneys will in time consist of fraternity members. And, as in the past, the more gregarious and active individuals who lead student groups will tend to continue as leaders of the bar.

At the same time, the fraternities over the course of years have been subjected to a volume of criticism too great to be ignored. Much of this has been general and to the point that they perform no useful function and that local facilities exist which obviate the necessity for national organization in a particular law school. These objections, where true, mean no fraternities will long remain, since they exist only in response to a demand; nor do the fraternities propose to continue in schools in the face of administrative opposition and discouragement.

More specific criticisms, sometimes virulent and sometimes mild, have been levelled at the fraternities: that they are discriminatory, snobbish, diverting of attention from study, sophomoric, etc. The point of discrimination arising out of the existence of constitutional clauses restricting membership to individuals of a certain color, race or faith has been a particularly touchy one of late. Most of the fraternities have eliminated such clauses on the ground that such qualifications are irrelevant to any professedly professional organization. The others contend that the issue is a basic one of personal freedom and that it is the grossest of arrogance for anybody to assume to dictate with whom others will associate.

On a very few campuses, legal fraternities after being subjected to a volley of charges (difficult to characterize succinctly except perhaps by the general epithet "undemocratic") have been proscribed or threatened with exclusion. The reaction to date has been one of passivity rather than belligerence and a genuine self-examination to remove such of the basis of criticism as may be justified. The line of the fraternities' remonstrance in such cases has been to point out that the temper of the campuses on which such treatment has been received is usually such that a similar handling of professional "hate" and "reform" groups (quite the rage historically in centers of undergraduate learning) would lead to newspaper headlines and charges of suppression. The fraternities, so their argument seems to run, can perceive no reason why the

sin of "clannishness" of an amicable, social-professional group of close friends (which has never made an attorney-general's list) should merit violently personal attacks including picketing and exclusion, when societies of actually vicious aims are tolerated in the name of freedom and "civil rights."

As for the other criticisms such as snobbery, diversion of students from their studies, student politics, etc., it is fair to point out that the absence of fraternities would in no way affect the existence of such problems in any case. Snobbery, whatever that may be, is hardly the invention of a legal fraternity in the past 80 years, and the student who is seduced from his studies by such an organization, is but a part-time and amateur sinner who can hardly survive the more tempting blandishments that will line his path.¹⁴

Despite such criticisms, which have been purposely overstated, the legal fraternities will continue to be an adjunct to the present system of legal education and a sideline of the legal profession. On the whole they have performed well a function which they do not pretend to be monumental. If any truly valid criticism is theirs it is that they have, perhaps imperceptibly and unintentionally, created organizational facilities for greater good to the legal profession than they are at present exercising. A realization of such a possibility has induced the numerically largest of the societies to seek the service of a committee of a legal educator, jurist and lawyer¹⁵ to examine anew its scope and purpose. This is the mark of a healthy movement. Indeed it may be reported that, generally speaking, the legal fraternities are in quite as good a condition as the other institutional phases of the legal profession within the ken of the Survey.

¹⁴ Another objection to legal fraternities is to the point that they are expensive. This is hardly borne out by the facts, e.g., total fee of the national chapter of Phi Alpha Delta is but \$20; of Phi Delta Phi \$30; of Delta Theta Phi slightly more. Phi Alpha Delta has alumni dues of \$2.50 per year; Delta Theta Phi of \$3.50. (But failure to pay does not result in loss of membership). Phi Delta Phi charges no dues whatsoever. Thus for a total amounting to less than the tab for an evening in any second-rate night club, the initiate receives such tangible return as jewelry, certificates of membership, publications and a lifetime directory listing, as well as the intangible privileges of membership. Local dues are within the control of the members of the local chapters.

¹⁵ A committee composed of Dean Bernard Gavit of the Indiana School of Law; James M. Douglas, former Chief Justice of the Missouri Supreme Court, and Howard L. Barkdull, President of the American Bar Association.