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Lt. Col. Robert D. Charlton, Denver, and Lt. Stuart B. St. Germain, Denver, are among the officers of the 168th Field Artillery battalion now being deactivated. The 168th Field Artillery was first established as a field artillery unit of the Colorado National Guard. It was called to federal service in February, 1941, and served with the Sixth Army in the Pacific. It was stationed in Australia, then moved to New Guinea and landed on Luzon on D day. It rendered distinguished service.

Among the practicing attorneys of Denver who will serve as part-time faculty members of Denver University Law School this year are: R. Hickman Walker, Frederick P. Cranston, Louis A. Hellerstein, Edwin Sears, Golding Fairfield, Benjamin Griffith, L. Ward Bannister, Cecil M. Draper and Edward H. Sherman. Judge J. Foster Symes will also be a part-time instructor.

James N. Sabin has resigned as Assistant Attorney General and has been appointed Deputy District Attorney by District Attorney James T. Burke, to fill a vacancy created by the illness of Frank Wachob.

The Jealous Mistress†

BY M. EUGENE CULVER*

In West Publishing Company's "Docket" of October, 1926, under the title, "The Law Is a Jealous Mistress," appeared the statement that a Colorado bar association had issued a publication called "The Jealous Mistress" and had asked for the origin of the phrase. The editor said he could not tell the author and, having nothing better to do, I started to hunt for it.

I found that in Case and Comment published by the Lawyers Cooperative Publishing Company in November and December, 1925, there was an address given by the Hon. Homer Cummings before the Kentucky State Bar Association, July 1, 1925, entitled "Contact with Life Through the Law." In this address Mr. Cummings said, "The law," as Blackstone long ago said, 'is a jealous mistress.'" Another lawyer, addressing a bar association in St. Louis, said, "An obscure lawyer on a forgotten occasion said, 'The law is a jealous mistress'."

I commenced to search and found that Sharswood, in a memoir of Sir William Blackstone, published in his edition of Blackstone's Commentaries in 1860, said: "It is not uncommon to hear the expression, 'The law is a jealous mistress'." That seemed to dispose of the idea that Blackstone himself originated the expression. I therefore looked in Coke and in Broome's Legal Maxims, but did not find it. I suddenly had what

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in modern language is called a "hunch" that I had seen the expression in Story's Miscellaneous Writings; and in a discourse pronounced by Joseph Story at his inauguration on August 15, 1829, as Dane Professor of Law in Harvard University, on the "Value and Importance of Legal Studies," I found these statements on page 523:

"I will not say with Lord Hale that the law will admit of no rival and nothing to go with it, but I will say that it is a jealous mistress and requires a long and constant courtship. It is not to be won by trifling favors, but by lavish homage." As Justice Story is careful to give Lord Hale credit for what he quotes from him and follows it with his own statement, "I will say," I think it is fair to assume that he thought he originated it. And if he did, over one hundred years ago, was not the gentleman from St. Louis slightly in error in calling the author of the expression an obscure lawyer, and the incident of his being elected Dane Professor of Law in Harvard University a forgotten occasion?

I should probably have let the matter drop but for the fact that Judge Haines, when I talked with him about it and told him I thought I had found the author of the expression, said to me: "I wish you would write my brother Charles, as he has been trying to find it." I wrote to Judge Charles Haines in Colorado Springs, and he replied that he had tried to find the author and had asked the Yale Law School about it. He felt that I had found the author.

The next I heard about it was in a letter from Chief Justice Maltbie on February 11, 1929, who said that Judge Haines had told him I could tell where the quotation "The Law Is a Jealous Mistress" came from. He said the Cornell University School of Law had asked the Connecticut State Library and that the Library had asked him.

I next heard from Hon. John H. Wigmore, who had been told I knew something about it. On March 25, 1929, he wrote me this letter:

"My friend Woodruff at Ithaca tells me that you can tell me the author and citation of the expression 'The Law Is a Jealous Mistress.'

"I was first asked last year by the secretary of the Harvard Club of New York and since that time have received the query in many quarters but in vain."

I answered his letter and told him what I had found and where I found it. He answered my letter and said he wished to have what I had written and that he would have it published in the Illinois Law Journal. In order that he might see what kind of publications we got out in Connecticut, I sent him a copy of the Connecticut Bar Journal in which there was an article I had written entitled "What Is Law?" He answered this letter and was good enough to say: "That was a timely article of yours, full of good doctrine. I wish it could be drummed into the people's minds." Chief Justice Maltbie wrote me on March 12, 1929, that he had turned my letter over to the Connecticut State Library and that they

had made a copy of it and sent it to the Cornell School Library of Law and had also kept a copy on file for future reference.

As my friend the Honorable Homer Cummings had stated that Blackstone had said long ago that the law is a jealous mistress, I wrote him, stating why I thought Blackstone did not say it or originate it. He wrote me from Washington on July 24, 1933, and his reply justifies quotation:

"I notice with interest what you have to say about the famous phrase 'The law is a jealous mistress.' It is quite true that I used that phrase in one of my addresses a good many years ago and attributed it to Blackstone. Nobody seemed to rise to challenge the statement until I received a letter from Judge Charles Haines of Colorado Springs, who maintained stoutly that Blackstone never said it. With some degree of confidence I maintained that Blackstone had said it on two theories: first, if he had not said it he ought to have said it, and second, no one can point out who had first said it and, therefore, I was determined to stick to Blackstone until someone could show I was wrong.

"Now you come along and point out that Chief Justice Story said it in 1829. Being of a tenacious disposition, at least at times, I still cling to the Blackstone theory. It does not seem to be conclusive that because Story said it Blackstone had not said it first. I think, however, I ought to pin a medal on you for your capacity for industrious research."

I also wrote to the lawyer who said that "an obscure lawyer on a forgotten occasion said 'the law is a jealous mistress'," and asked him if he thought Mr. Justice Story was an obscure lawyer and if he thought the inauguration of Mr. Justice Story as Dane Professor of Law in Harvard University on August 15, 1829, was a forgotten occasion. He replied simply that he did not know who made the statement.

Trusting that this history of my research and the letters of the distinguished gentlemen who were interested will be of interest to the bar, I submit it for approval.

In closing, I cannot forbear wondering why, if I am right in thinking the expression was first used by Mr. Justice Story in August, 1829, and has been constantly quoted, no one thought to hunt for the author of it before this time, but when the inquiry got started almost simultaneously in various parts of the United States sometimes in 1925-6, the search by Bar libraries and others did not meet with success, and it is possible that, like Banquo's ghost, it will not stay down, it appears that I have started something. If I have, my hat is in the ring and I will be glad to search further if occasion demands.

[ED. NOTE: In Bartlett's Familiar Quotations (11th ed.), the following is attributed to Sharswood: "It is not uncommon to hear the expression 'The law is a jealous mistress.'" In a footnote thereto, the following appears (quoting William Dean Howells, "The Years of My

Youth," Vol. 2, page 11): "I have never regretted reading a first volume of Blackstone through or not going on to the second. His frank declaration that the law is a jealous mistress and would brook no divided love was, upon reflection, right enough for one whose heart was given to a different muse." The editors will be happy to forward to Mr. Culver any further authorities supplied by our readers, who may, however, be too much under her jealous command to take time to look them up.]

Westminster Alumni Association Elects

At its annual meeting on November 8, 1945, the Westminster Alumni Association elected the following officers:

- President Gerald E. Cress
- Vice-president Ralph E. Crandell
- Secretary Margaret R. Bates
- Treasurer James J. Delaney

The association elected as its representative on the Board of Trustees of the school, Charles A. Baer.

Refresher Courses

The School of Law of the University of Denver is presenting a series of refresher courses designed to bring up to date in the law the students and lawyers whose course of study or legal career was interrupted by the war. The series runs from October 23, 1945, to June 13, 1946, and covers all phases of the law. The courses consist of two-hour lectures in the late afternoon hours, to be given at the Civic Center Campus of Denver University, 211 15th St. Lecturers are members of the staff of the school, practicing attorneys and judges. Complete information can be obtained from the law school. The courses are sponsored by the Colorado and Denver Bar Associations.

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