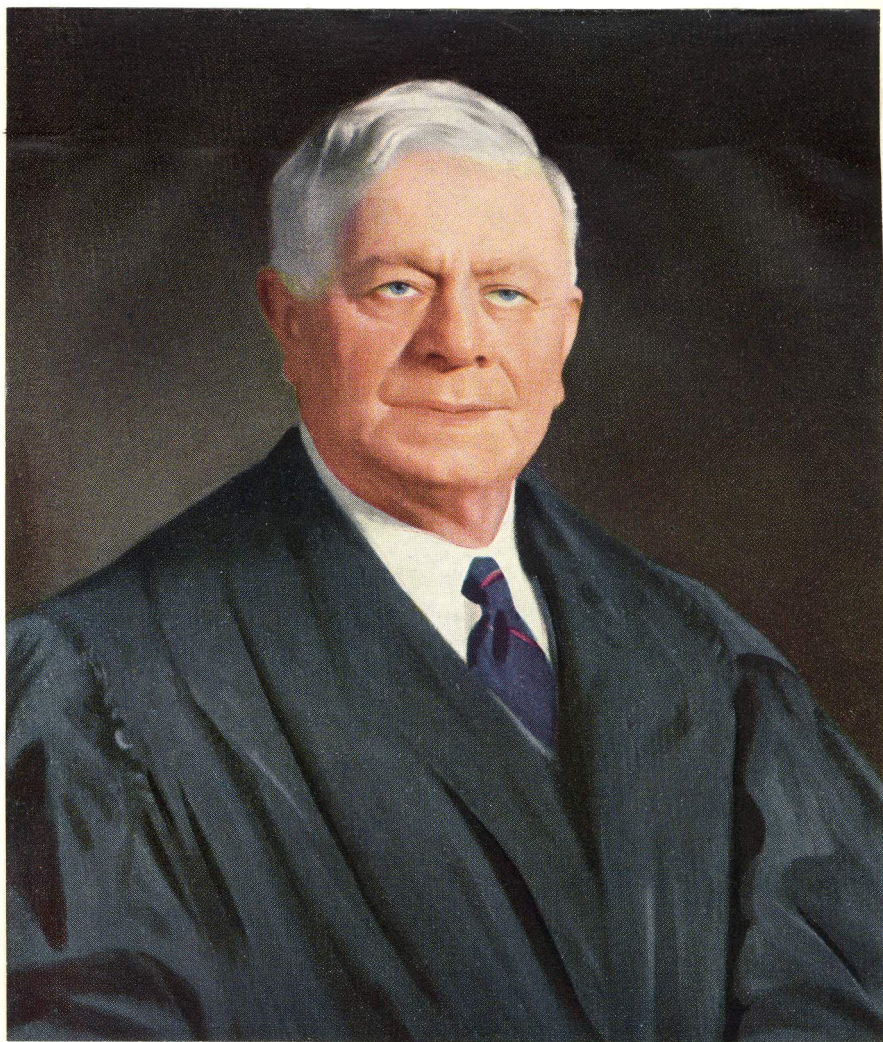


The Honorable
Samuel Alschuler

In Respect to the Memory
of
The Honorable
Samuel Alschuler



Proceedings had on the Fourteenth Day of October
One Thousand Nine Hundred and Forty
Before the
United States Circuit Court of Appeals
for the Seventh Circuit



Hon. Samuel Alschuler

Painted by Leopold Seyffert



At a regular term of the United States Circuit Court of Appeals for the Seventh Circuit, held in the City of Chicago, and begun on the First Day of October, in the Year of our Lord One Thousand Nine Hundred and Forty, and of the Independence of The United States of America the One Hundred and Sixty-Fifth.

On Monday, October 14, 1940, the Court met pursuant to adjournment, and was opened by proclamation.

Present:

Hon. Evan A. Evans, Circuit Judge, Presiding;
Hon. William M. Sparks, Circuit Judge;
Hon. J. Earl Major, Circuit Judge;
Hon. Walter E. Treanor, Circuit Judge;
Hon. Otto Kerner, Circuit Judge;
Kenneth J. Carrick, Clerk;
William H. McDonnell, Marshal.

There were also present and sitting with the Court:

Hon. Walter C. Lindley, District Judge;
Hon. Thomas W. Slick, District Judge;
Hon. Charles E. Woodward, District Judge;
Hon. John P. Barnes, District Judge;
Hon. Philip L. Sullivan, District Judge;
Hon. Michael L. Igoe, District Judge.

Memorial Resolution

Mr. George I. Haight, of Chicago, Illinois, on behalf of the members of the Bar of this Court, addressed the Court as follows:

The Bar of this Court asks leave to present the following:

RESOLVED, That the members of the Bar of the United States Circuit Court of Appeals for the Seventh Circuit desire to express their regret at the death of Samuel Alschuler, late Judge of this Court, and to record their appreciation of his high character and of his outstanding service to his State, his Country and his Fellow Men.

Judge Alschuler was the eldest son of Jacob and Caroline Stiefel Alschuler. He visited their birth-place in 1889. It was the little village of Gruenstadt in the Rhenish Palatinate, not far distant from Munich.

Samuel Alschuler was born in Chicago, Illinois, on the 20th of November, 1859. In 1861 (the year the Civil War began), the father, mother, Sam and his sister Clara moved to Aurora, Illinois. In Aurora three sons, Edward, George and Benjamin, were born unto his parents. Of these, Benjamin and Clara survive.

During Judge Alschuler's childhood, his father operated a cotton batting mill at Montgomery, on the Fox River. While attending the primary grade school, among young Sam's jobs was the delivery of these "batts" to local customers. During all of

his school days he worked at various tasks outside of school hours.

His entire formal education was obtained in the grades and in the Aurora High School. He was not only a bright pupil in curricular subjects, but he was also one of the outstanding high school debaters. He learned to think on his feet. There was much of educational value in the customary Friday afternoon recitations of inspiring literature and the debates on timely subjects.

At the age of sixteen, he left High School. This was before his senior year. He then took the employment of driving a grocery wagon. Following this he clerked in clothing and other stores. When eighteen years of age, he became a bookkeeper. Though he did his work well, neither clerking nor bookkeeping appealed to him. He entered upon the study of law in the office of Capt. A. C. Little. Prior to the Civil War, Captain Little had successfully practiced medicine. He enlisted in the Union Army in 1861. At the war's close, he took up the legal profession and became an outstanding lawyer. He married Bonnie Snow, one of Samuel Alschuler's High School teachers. Through the youthful Sam's fine impression upon Captain Little, and the favorable assurances of Mrs. Little respecting his high qualities as a student and debater, he gained a place in Captain Little's law office in Aurora. After a period of study, he was admitted to the Illinois Bar in 1881, at the age of twenty-two. For twenty years thereafter he followed his profession in Aurora. His practice was general and varied. He represented none of the railroads and none of the larger Aurora

industries. He was frequently a plaintiff's lawyer—and established a high reputation as a trial lawyer.

From 1893 to 1896 he was a member of the State Commission of Claims, performing this public service without serious interference with his professional work.

From 1896 to 1900 he was a member of the Illinois House of Representatives. There he was a leader in opposition to the Allen Bill and to the Humphries Bill.

In 1900, he was the Democratic nominee for Governor of the State of Illinois. Many are now living who can recall his candor, his persuasiveness and his ability as an orator in that campaign. Until he became a Judge, he was much in demand for occasional addresses and as an after-dinner speaker. This he largely discontinued when he entered upon judicial office. Then, and always, the people of Aurora, and their newspapers, called him "Our Sam". It is significant that he was always known to everyone of any measure of personal acquaintance as "Sam".

While in Aurora, he was a leader in all civic undertakings. He was then, and throughout his life, in all things, trusted.

About 1881, Samuel Alschuler was joined by John C. Murphy under the firm name of Alschuler and Murphy.

In 1901, he became a member of the Chicago law firm of Kraus, Alschuler and Holden. It was made up of Adolph Kraus, Samuel Alschuler and Charles

R. Holden. In their large, broad and successful practice he took a very important part. Always he had been a hard worker, keenly observant, highly intelligent, and fair in his undertakings.

A consideration of his personal charm, his intellectual and his moral qualities, his industry, his instinctively good judgment, his tolerance, his courtesy, his natural sense of justice, and his breadth and depth of experience, suggests why he was appointed by President Wilson to this Court on August 16, 1915. In 1925, he became the Presiding Justice, and so remained until December 1, 1934, when, because of ill health, he turned over his duties to Judge Evan A. Evans.

The first case in which he wrote the opinion for the Court was *In re Footville Condensed Milk Co.*, 229 Fed. 698, decided January 4, 1916. During his service, he wrote over 500 opinions, of which 18 were dissents. These opinions relate to all fields of the law. In them his humanity and his practical understanding of affairs plainly appear. An outstanding service performed by him, not as a Federal Judge, but as an arbitrator, related to the Packing House Labor dispute in 1918. For this he was selected by the U. S. Secretary of Labor. His good work in this was highly commended—not only by the public, but by all of the parties.

In this resolution we do not analyze any of his many important opinions. They show definiteness of understanding of the issues. They evidence a knowledge of the facts, gained by searching study and attention. They disclose a true, practical

knowledge of principles. These are applied with clarity and without the pedant's strain of fitting. They are expressed with that simplicity which usually has the greatest inherencies of richness. When a metaphor or a simile is used, it is quick and apt.

The qualities revealed by his opinions were those of the man. His robe was an insignia. He who wore it gave it no mar and received none from it. The public servant was the same Samuel Alschuler whom jurists, lawyers, citizens, kin, friends and the little children knew.

He had a real sense of humor. He was modest. He never shirked responsibilities. He possessed high courage. Press of work never interfered with his care of contemplation and of determination. To him doubts gave their serious caution—they were not apostles of fear.

He was fond of children, though he had none of his own. For years, while his brother Ben's children were growing up, it was Sam Alschuler who had them in charge on Sundays and at other available times. Partly through this, and through his wide interests, he could ever look upon the world through the eyes of youth.

He was always close to his mother. Until her death in July, 1933, and while he lived in Chicago (as he did the last fifteen years of her life), he spent his Sundays at her home in Aurora.

He liked humans. One of those closest to him from his early years has said of him: "I don't know of any man anywhere who went through life with more

friends and well-wishers and fewer enemies than Sam."

In 1923, he was married to Ella Kahn, a highly cultured lady of an old honored Chicago family. Their home revealed their appreciation of art and of genuine comforts, as well as their close mutual understanding of the priceless intangibles of life.

On May 15, 1936, he retired from this Bench, but continued to serve until illness forbade. He died on November 9, 1939. At his funeral, held in his brother's home in Aurora, sound tributes, stripped of extravagances (as he would have wished them to be) were paid him in the hearing of "all sorts and conditions of men", whose presence in itself was a silent testimonial to his memory.

BE IT FURTHER RESOLVED, That a copy of this resolution be presented to the Circuit Court of Appeals for the Seventh Judicial Circuit, with the request that it be appropriately spread upon the Court's Records, and that the Chairman of the Bar's Committee provide the family of Judge Alschuler with a copy thereof.

Submitted by the Committee on Resolutions:

GEORGE I. HAIGHT, *Chairman*

FRANCIS X. BUSCH

EDWARD R. JOHNSTON

SILAS H. STRAWN

GEORGE L. WILKINSON



Presentation of Portrait



PROCEEDINGS upon the presentation of a portrait of The Honorable Samuel Alschuler, United States Circuit Judge, by the members of the Bar of the United States Circuit Court of Appeals for the Seventh Circuit, on Monday, October 14, 1940.

Mr. George I. Haight, of Chicago, Illinois, addressed the Court as follows:

Today, representative members of the Bar of this Court are here to express their gratitude to, and their admiration and affectionate regard for, one whose faithful service endeared him to all who came within his influence.

There has been arranged on this easel now before you, an oil painting of Judge Alschuler. It is the work of the distinguished portrait painter Leopold Seyffert of New York City. It was done with much skill from photographs and from minute descriptions of Judge Alschuler afforded the artist by Mrs. Alschuler. It is thought to be an excellent likeness. Certainly it is fine example of the portrait painter's art and is unusual in its life-like qualities since the artist never met Judge Alschuler. It is simple and strong. It is boldly done. It is believed to be an example of art worthy of presentation by the Bar to this Honorable Court.

Therefore it is requested that it may be placed among the portraits of the Judges who have served here, as an inspirational example to those who knew him and to those who shall follow.

Judges and lawyers pass on. The Court remains. Its opinions are preserved upon printed pages. They tell of what has been. They furnish guides for what is and for what is to be. This service is aided by knowledge of the men who uttered them. That knowledge contributes in vitalizing their words. Thus these portraits speak. Thus will the countenance of Judge Alschuler be in a measure a revelation of his work. And so it is that men may come here when all of us now present have departed and find in this portrait not only art to be studied and admired but in the sense of which we have reminded it will speak to them.

Mr. Haight then introduced Mr. Meyer and Mr. Burnham:

MAY IT PLEASE YOUR HONORS:

I present to the Court—Mr. Carl Meyer, of Chicago, long an outstanding leader of this Bar and for over forty years a close friend of Judge Alschuler. I also present Mr. Meyer's distinguished partner, Mr. Frederic Burnham, who, with the Court's leave, will read Mr. Meyer's address for him.

Mr. Frederic Burnham, of Chicago, Illinois, thereupon read Mr. Meyer's address, as follows:

I appreciate the opportunity that has been accorded me to assist in paying tribute to Judge

Alschuler and to give expression to the esteem and high regard in which he was held by all who knew him.

I have always regarded the custom of presenting portraits of its retiring or deceased members to this Court as most commendable, and I hold it to be a high honor to have been asked to represent the Bar on the occasion of the presentation of this portrait of Judge Alschuler to the Court.

It is fitting at this time to refer to some of those traits and qualities of character of our departed friend which were so marked and outstanding in him as to make him the distinguished and great judge we all knew him to be.

I should say unquestionably that one of these was the exceptional conscientiousness of his approach to all questions. His conscience not only guided him at all times, but was a very vital force and influence in all the judgments and decisions he made. Then, there was his humanitarianism, his tenderness and his kindness toward his fellow men. There was no venom in his makeup, and I believe he never did say, and in fact never could have said or written anything of a vitriolic or vindictive character. As an advocate at the Bar and a protagonist in public life he had been very able and forceful; but when he donned the judicial robes and mounted the judgment seat he embarked upon the career to which, in my opinion, he was best suited. He possessed judicial temperament to a degree rarely found in any man. He brought to his office a calmness and serenity of mien that inspired confidence in lawyer and litigant and a dignity that was truly patriarchal.

I first met him shortly after he came from Aurora to Chicago to practice law—some forty years ago. During the years of the last war, when he acted as administrator of the packing industry, it was my privilege to see and meet with him frequently. The welfare of the packinghouse workers all over the United States was placed under his control. His duties in that regard took practically all of his time for nearly two years. The responsibility of his office weighed heavily upon him. I remember his telling me at one time that this task, which necessitated determining from time to time the wages to be paid to the workers, was a more difficult one and touched him more deeply than any duties that he had ever been called upon to perform on the bench. It is worthy of note that because of the manner in which his administration of this industry was conducted, a Republican president of the United States saw fit thereafter to appoint Judge Alschuler (although a Democrat) a member of a commission to settle the controversies which had arisen in the coal industry.

There may have been, and I doubt not that there have been, other judges as fair and as learned in the law, but I doubt whether any judge on any bench in any land surpassed Judge Alschuler in the indefatigability, conscientiousness, humanity and kindness which he brought to his work.

I like to think of the dedication of this memorial portrait of Judge Alschuler, not merely as the bestowal of a deserved honor upon the memory of a good and noble man, but as a means by which those whom he has left behind may revivify the recollection of the example and precepts and traits

of character which he radiated when he was a living force among us. It is my sincere and fervent hope that you who knew the Judge so well, will find that the artist who painted this portrait has succeeded in bringing out those qualities to which I have referred, so that this likeness, hanging on the walls of this courtroom, may prove an inspiration, not only to the members of this Court, present and future, but also to all who enter these halls, whether as practitioners or litigants.

Mr. Haight then introduced Mr. John S. Sears:

May I now present Mr. John S. Sears, of Aurora, Illinois, a widely admired and respected lawyer, who has practiced his profession for forty-five years. Mr. Sears knew Judge Alschuler over all of the years beginning with 1896. Mr. Sears' address will conclude the Bar's Memorial Presentation.

Mr. John S. Sears of Aurora, Illinois, addressed the Court as follows:

Sam Alschuler was born November 20, 1859 in a house situated on the lot where the old Marshall Field Wholesale House was afterwards built, at the corner of Wells and Adams Streets, in this City, and within a mile of the spot where he attained his greatest triumphs, and within two miles of this very spot.

He was born of poor but industrious parents, and was raised amid the hardships incident to poverty and his chief inheritance was his honored Jewish ancestry.

While an infant his parents moved to Aurora, and in due time he entered the public schools and worked

his way through two years of High School. At this point, imbued with the idea of self support he entered the law office of Captain A. C. Little and here began that career that ended so gloriously.

When Sam Alschuler left High School his education was very limited, but when the profession of the law opened before him he began the study of the classics. He read books and he read law. He studied the lives of the men who have made the legal profession supreme. The life of Marshall, Jay and Story contributed to his store of learning. He delved deeply into the principles that underlie all law. He learned how the Greeks built their state, how the Romans cemented the empire with laws that were to be the cornerstone of the world's Jurisprudence. He learned how American Jurisprudence traced its origin through the English common law, through the Anglo Saxon period, through Roman law, and through the Jewish codes of Egypt. He learned the secrets of Hamilton and Madison and Jefferson. He knew the whys and wherefores, and how the democracies and republics of the ages had faded out. He learned why the founders of this republic had woven into its constitution all that was good in all the governments of all the ages, and it was always Sam Alschuler's concern to preserve inviolate that immortal document as the bulwark of freedom for all the generations to come.

He was highly educated. He was a profound thinker, and a quick student, and it was a pleasure for students and graduates and postgraduates and teachers and educators to listen to him in discussions and reviews, and they all wondered at his array of

facts and his knowledge of history. He loved the works of Elbert Hubbard, and his analysis of men and their achievements. He loved nature, and he always stayed close to her. He always had his feet on the ground. As an orator he had few equals. The simplicity of his diction was the secret of his power.

When he read books he assimilated them. Others read more books than he, but none took more out.

When he was admitted to the Bar in 1881 he formed a partnership with J. C. Murphy, and this continued until 1901 when he came to this city and entered the law firm of Kraus, Alschuler and Holden. From the time of his admission he ranked high as a lawyer, and he soon became a leader of the Bar. His forensic efforts were measured by the scale of Judge Gary, George W. Brown and the Honorable A. J. Hopkins, all of whom practiced at this Bar and were known to many of you, and Mr. Alschuler soon became known far and wide as one of the most astute lawyers the State of Illinois ever produced. He had a judicial mind and he reasoned with the accuracy and precision of Choate and Webster.

With a jury he was an artist. I have seen him at the close of a long trial, tired and worn, stumble along in the closing argument, as if lost in the maze of evidence until the jury would wonder if he knew what it was all about. But Sam Alschuler was only working himself down to the level of the men in the Box. Silently as the wind changes he would become master of the situation. His thoughts synchronized with the thoughts of the jury, and they moved along

with him toward the final goal, and the forensic battle was won.

He had a high and noble character and was known far and wide throughout the State and the Nation and his services were sought on many of the great issues that have from time to time arisen politically and in the industrial field. He was a great Judge. I have seen him on occasions poring over stacks of evidence pertaining to great inventions, or involving great fortunes, and he had the happy faculty of separating truth from error, and his conclusions were generally correct, and no real lawyer ever questioned his motives. His word never called for a stipulation. He lived in an atmosphere where only great men have lived, and he never descended to a level to impugn the character of another lawyer.

His habits of life were simple. His talks were always with a simplicity that was understood by all. Afraid of nothing, and the honesty of his decisions was never questioned. A noble man, a true friend, a profound lawyer and a just judge. In a lawyer's faith he lived and died, and we believe he has joined the Bar of the ages and the Court of No Appeal.

It is my great pleasure to take part in these services and contribute in a small way in placing this splendid portrait in the circle along with the distinguished Jurists who have for many years adorned this High Court.



On behalf of the Court, Honorable Evan A. Evans, the Senior Circuit Judge of the Seventh Circuit, responded as follows:

MEMBERS OF THE BAR AND FRIENDS OF JUDGE
SAMUEL ALSCHULER:

We are pleased to receive and to accept this painting of our deceased friend and associate, Samuel Alschuler. We appreciate it the more because it is the gracious and generous gift of the Bar of this circuit, with whom Judge Alschuler was associated, and of which he was a member, for nearly sixty years.

The occasion not only awakens tender memories of him, but it is the more solemn because of the death of the chairman of your committee, George Buckingham, since the final arrangements for this presentation were made. A true and devoted friend of this court, of long standing, was Mr. Buckingham. A knightly gentleman, a gifted spokesman, an able lawyer, and a public-spirited citizen was lost in the death of your, and our friend, Col. Buckingham.

Equally saddening is the thought that another friend, and one who helped to make this presentation possible, has since passed away. Fred Campbell, our clerk, the intimate friend of each member of this court, died last spring. For over forty-one years, he served this court as deputy clerk or as clerk. A truer friend, a finer character, a more trustworthy public servant never lived than Fred Campbell. Samuel Alschuler and Fred Campbell were congenial souls. Each found in the other much that he admired, respected, and loved.

The painting before us recalls vividly one who was dear to all of *you*, touchingly close to *us*, his surviving associates on the District and Appellate Courts.

The traits which were so characteristic of him seem to speak to us now from this oil painting. Eliminating the personal and emotional reactions as best I can, it strikes me the artist has admirably expressed the character,—Samuel Alschuler, the Judge.

Years have deeply written on his countenance the outstanding qualities of his judicial career,—patience, sympathy, poise,—judgment. It is indeed a most kindly,—a confidence-inspiring face. You know at once that he was a judge who would hear you—also your opponent—and until you had both completed your arguments. And it may be added, he would hear you to the extent of overtaxing his own strength.

To the lawyers of the future who may pause to gaze on this portrait, what will it speak? Will they, as we do now, read the story of a self-sacrificing, self-educated member of our profession, a man whose varied experiences gave him a keen insight of both persons and of law? Will they see a character noble and serene,—a judge unvexed by prejudice,—one, conscientious in the extreme, ever aware of his judicial authority, yet always striving to avoid an unnecessary hurt,—one who never sought an honor, yet who never evaded or avoided a responsibility?

Will the portrait tell of the simplicity of his conduct, of the humility of his nature, of the genuineness, the honesty, the deep human understanding, and the broad sympathy of the man?

This is the story which this portrait speaks to us, his associates. I trust and believe it will reveal the same inspiring story to those who take our places.

Elaboration of our personal and official relations with him is hardly in place.

You, Mr. Meyer, and you, Mr. Sears, and you, Mr. Haight, have truly and well related the important milestones in his distinguished career. You have appropriately told the story of his life. This is as it should be, for this is your gift—the tribute of the Bar to Samuel Alschuler, fellow lawyer and judge.

We are most grateful to you for it. We accept it gladly, and with a pride which a devoted son feels in the recognition of his father's merited honors. It will be hung on the walls with those who have gone before him—an ever-silent reminder of one who served faithfully and well and who enjoyed the confidence, the esteem, and the affection of all.

To many of you, as it is to us, the adjoining room with its walls covered with portraits has become a hall of memories. It might well be called "Inspirational Hall."

And now the portrait of my most intimate companion of the last quarter of a century takes its place in that hall. The fragrance of his memory is sweet and grows more so as the shadows lengthen.

Judge Samuel Alschuler's life is like unto the lily that rises above the pond—It opened its waxen cup and drank in the sunlight by day and the starlight

by night. It gave its fragrance first to its own place and now bequeaths its imperishable perfumes to immortalize the constancy, and the devotion of lasting friendships.

The vast unknown which lies beyond this mortal life seems less awesome since he has journeyed "there."

The court will now recess.



Judge Alschuler Portrait Committee

George I. Haight, *Chairman*

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George T. Buckingham	C. C. LeForgee
Kenneth F. Burgess	John E. MacLeish
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The Judge Alschuler Portrait Fund



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McTurnan, Clair
Mecklenburger, Albert F.
Megan, Charles P.
Merriam, Charles J.
Meyer, Carl
Miller, Amos C.
Miller, Frank T.
Miller, John S.
Miller, Milton T.
Miller, Sidney S.
Minne, F. Allan
Morrow, William A.
Morton, Meyer
Mueller, Foorman L.
Murray, Sidney C.
Myerson, Harry J.

Nath, Bernard
Neeves, Leland K.
Nelson, Arthur Wm.
Nelson, Murry
Nicholson, John R.
Noble, Glenn S.
Noel, James W.

O'Callaghan, James A.
Olsen, Harold
Olson, Arthur A.
O'Neal, Perry E.
Ooms, Casper William
Oppenheim, William S.

Parker, C. Paul
Peden, Thomas J.
Pefferle, Leslie G.

Perlman, I. B.
Pflaum, A. J.
Pitzner, Alwin F.
Pope, Herbert
Poppenhusen, Conrad H.
Poss, Benjamin
Potter, Ralph F.
Provine, Walter M.
Putnam, Ralph C.

Quarles, Louis

Rall, Owen
Reichmann, Alexander F.
Reid, Frank R.
Rice, Kenneth E.
Richberg, Donald R.
Rieser, Leonard M.
Robertson, Egbert
Robin, Sidney L.
Rogers, Edward S.
Roemler, Charles O.
Rosenthal, David F.
Rosenthal, James
Rosenthal, Lessing
Ross, Ward
Roth, Claude A.
Rubin, W. B.
Rummler, Eugene A.
Rundall, Charles O.

Sawyer, H. A.
Schley, George B.
Schmidt, Theodore
Schoen, Edgar Jules
Schroeder, Bernard A.
Schupp, Robert W.
Sears, John S.
Seebirt, Eli F.
Shallberg, G. A.

Shaw, Ralph M.
Sheean, James M.
Sheridan, Thomas H.
Sherwood, Lyman W.
Shorey, Clyde E.
Sidley, William P.
Skolnik, A. L.
Slaymaker, Burke G.
Smith, Glen E.
Smith, June C.
Snyder, Ralph Monroe
Sonnenschein, Hugo
Spray, Charles Cranston
Sprowl, James A.
Stephens, R. Allan
Stern, Morris
Stone, Hal M.
Stuart, Allison E.
Stransky, Franklin J.
Strawn, Silas H.
Sweet, Donald H.

Taylor, Orville J.
Tenney, Henry F.
Thiess, J. Bernhard
Thomas, Herbert H.
Thompson, Floyd E.
Thompson, William H.
Thomson, Charles M.
Tinkham, C. B.
Tolman, Edgar B.

Trask, Verne
Truman, Percival H.

Vedder, Beverly B.
Veeder, Henry

Wade, Walter A.
Wallace, George H.
Warden, Franklin M.
Warfield, William S. III
Waugh, William F.
Wells, Greek
West, Roy O.
Wetten, Emil C.
Wham, Benjamin
Wheeler, Leverett C.
Wheeler, S. L.
Wheeler, Warren G.
Whitman, Russell
Wiles, Russell
Wilkinson, George L.
Williams, Harris F.
Williams, Lynn A.
Wilson, Ira J.
Wilson, John P.
Winston, James H.
Woodson, William T.

Zabel, Max W.
Zollars, Fred E.

