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was immaterial whether it meant "after a verdict of guilty" or "after judgment and sentence," and that in either event the act in question was an exercise of legislative clemency "after conviction." The N. Y. Const. Art. 2, Sec. 2, provides that a "person convicted" of an infamous crime shall forfeit the privilege of suffrage. The court, considering the proposition in People v. Fabian, 192 N. Y. 443, 85 N. E. 672 (1908), declared that the term "convicted" did not apply in a case where there had been a verdict of guilty, but sentence had been suspended without judgment. The instant case was still pending on appeal when Chap. 134 of the Laws of 1939 was enacted.

There is a difference of opinion as to the authority of a legislative body to grant pardons. The matter is ably discussed pro and con in "Legislative Pardons" (1939), 27 Cal. L. R. 371. In that article, while differing on the subject of legislative pardons, the exponents of either view indicated that the legislature is empowered to grant amnesties. The point was not raised in the Chambers case. Is it possible that Chap. 134, Laws of 1939, was in the nature of an amnesty? An amnesty has been defined as "a general pardon, an act pertaining to a multitude without consideration of the special circumstances of individual cases." Generally, a pardon remits punishment to a specific person, whereas an amnesty remits punishment for a specific crime. N. D. Const., Art. 76, as amended by Art. 3, vests the power to pardon after conviction in the Governor and the Board of Pardons, but the Constitution is silent on the subject of amnesty. A sovereign state has all powers not delegated to the Federal Government, or expressly prohibited by its own Constitution or the Federal Constitution. North Dakota is a sovereign state. The power to grant an amnesty for violation of a state law has not been delegated to the Federal Government. Neither is it expressly prohibited by the Federal Constitution or the State Constitution. Therefore, does the power to grant an amnesty not lie in the sovereign State of North Dakota? If it does, in the absence of mention of the subject in the State Constitution, may the legislature exercise that power?

There was a social reason back of the enactment of Chap. 134, Laws of 1939. What had formerly been the crime of "engaging in the liquor traffic" was now a legitimate commercial enterprise. It was generally understood that numerous persons had engaged in the liquor traffic. Might not the legislature have deemed it socially inexpedient to impose imprisonment for acts no longer generally considered to involve moral turpitude or statutory infringement? If such were the intent of the legislature, is there a difference under the Constitution of North Dakota between a pardon to a specific person and an act which releases all persons within a designated group from imprisonment?

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LAW SCHOOL NOTES

The School of Law of the University of North Dakota began its forty-first year September 19, 1939. The enrollment for the first semester of this year is 71 and the enrollment for the first

semester of last year was 69. There are now 33 first year students; 18 second year students; and 20 third year students. During the academic year 1938-39, the total enrollment was as follows: First year, 35; second year, 20; third year, 17. It will be noted from the figures that only those who have a personal and professional interest in the study of law remain for three years and secure their law degree.

The personnel of the faculty has not changed. It is as follows: Mr. Philip R. Bangs; Mr. Carroll E. Day; Professor Hubert E. Nelson; Associate Professor John W. Kehoe; Associate Professor Ross C. Tisdale; Mr. S. Theodore Rex; and Dean O. H. Thormodsgard.

The part-time teachers continue to teach their special courses. Mr. Bangs has charge of the courses in Criminal Procedure and Office Practice; Mr. Day the courses in Real Practice and Practice Court (Moot Trials); and Mr. Rex the courses in Municipal Corporations and Domestic Relations. The regular members of the faculty continue to teach the subjects originally assigned to them.

OUR SUPREME COURT HOLDS

In the Matter of the Estate of Mary Maher Smith, Deceased. J. Wallace Maher, Pltf. and Applt., vs. Clinton Smith, et al, Defts. and Respdts.

That trial courts are clothed with a wide discretion in the matter of granting and denying motions for continuance, and it is only where there is an abuse of that discretion that an order denying such a motion will be disturbed on appeal.

That in passing upon a motion for continuance, the trial court must not only pass upon the grounds urged in support of the motion but also on the question as to whether the moving party has acted with diligence and good faith, and the court's determination as to these matters is presumed to be correct.

That the record in the instant case is examined and it is held, for reasons stated in the opinion, that there was no abuse of discretion on the part of the trial court in denying appellant's motion for a continuance.

Appeal from the District Court of Ramsey County, Hon. George M. McKenna, Judge. Proceeding in the nature of a will contest. From a judgment sustaining the proffered will and from an order denying his motion for a new trial, the contestant appeals.

AFFIRMED. Opinion of the Court by Nuessle, Ch. J.

In Carrol D. King and all persons similarly situated, Pltfs. and Applts., vs. Berta Baker, State Auditor in and for the State of North Dakota, Deft. and Respt.

That in order to maintain an action to enjoin the enforcement of a statute upon the ground that the statute is unconstitutional, plaintiff must show that he has been directly injured or is immediately threatened with direct injury by such enforcement.

That plaintiff as a user of motor vehicle fuel is not subject to the payment of the tax imposed upon dealers in motor vehicle fuel by Chapter 170, Laws of North Dakota, 1939, and whatever injury he may suffer indirectly by the imposition of the tax is too remote to entitle him to maintain an action to enjoin its collection.

That the constitutionality of a statute may not be determined in an action which may be disposed of upon other grounds.

Appeal from the District Court of Burleigh County, Hon. Fred Jansonius, Judge.

AFFIRMED. Opinion of the Court by Burke, J.