FEATURES

6 THE OCEAN SPACE ISSUE: TO FILL A LEGAL VACUUM
United States Senator Claiborne Pell

8 THE TRIAL LAWYER-ARE LAW SCHOOLS DOING THEIR JOB?
Walter E. Steele, County Prosecutor for Dukes County.

9 INFORMATION FOR BAR CANDIDATES

19 ADVERTISING AND THE CAPTIVE CONSUMER

DEPARTMENTS

3 DEAN'S MESSAGE

4 EDITORIAL

14 JUDICIAL REVIEW
Interview with Judge Francis P. Cullen

16 VIEWPOINT-ATTORNEYS GENERAL
Department of Justice - A concept of a Single State-wide Prosecution Agency
Rhode Island Attorney General Herbert F. DeSimone

22 FACULTY INTERVIEW
Editor's Interview with Professor John E. Fenton, Jr.

24 ALUMNI NEWS

28 NEWS BRIEFS

EDITORIAL BOARD

EDITOR-IN-CHIEF
Kenneth J. Rampino

MANAGING EDITOR
Joseph E. Sollitto, Jr.

ASSOCIATE EDITORS
Robert E. Connors, Jr.
Steven A. Kressler

FEATURE ARTICLE EDITOR
Brian M. Gildea

ALUMNI EDITOR
David W. Shuckra

BUSINESS MANAGERS
John P. Cyr
Delphis R. Jones

CIRCULATION EDITOR
Anthony D. Toscano

STAFF MEMBERS

FACULTY ADVISOR
Richard G. Pizzano

FACULTY ADVOCATE COMMITTEE
Charles P. Kindregan
Doris R. Pote
David J. Sargent
Richard Vacco

SPECIAL APPRECIATION:
United States Senator Claiborne Pell
Rhode Island Attorney General Herbert F. DeSimone
Walter E. Steele, Esq.
Judge Francis P. Cullen
Dean Donald R. Simpson
Professor John E. Fenton, Jr.

POLICY STATEMENT
The objectives of THE ADVOCATE are to publicize the activities and outstanding achievements of the Law School and to present articles by students and guest writers on timely subjects pertaining to the law.

© copyright 1969. All rights reserved. Reprint rights may be arranged.

THE ADVOCATE is circulated in the fall to all freshman of Suffolk Law School, twice in the winter and once in the spring to students, faculty, and alumni of Suffolk Law School, trustees of Suffolk University, all accredited law schools throughout the nation, the Attorneys General of New England and the Justices of the Supreme Courts of the New England States.
It seems appropriate in this time of protest and demonstrations to make certain observations which are particularly relevant to law students.

To state that the Law School Faculty is in favor of constructive dissent and peaceful protest is to state the obvious. Our society has developed, for good or evil, by virtue of constant interaction of protest and change. However, law students, especially, ought to keep in mind that there are members of our society who are not protesters and who wish to go on about the business of everyday life and learning without interference. These people have the right to have the University available to them on a continuing basis without the constant threat of interruption. It is at the point when protesters interfere with the rights of others, that the legal fraternity which includes lawyers, law faculties and law students should cry "halt".

Law students are held to a different standard than undergraduate students. You are being trained to enter a profession which concerns itself with preservation of the rule of law and procedures for change within the law. In order to accomplish orderly change, it is necessary that you become members of the legal profession. This can be withheld from you if there is a record of unlawful activity on your part. I think this is especially true if such activity takes place during your law school career. Such activity would seem to be in contradiction to the training you are presently receiving.

The foregoing is intended as an admonition that active protest that interferes with the rights of others, and therefore may be illegal, may result in your inability to practice your chosen profession. It is incumbent upon me as Dean of the Law School to make you aware of this danger.

[Signature]

Dean Suffolk University Law School

3 The Advocate Winter 1969
The legal profession, i.e., the continuing emanation of laws and creation of lawyers, is hardly notorious for its susceptibility to prompt effectual change. Witness the study of conveyancing principles many of which are the durable vestiges of what have come to be purposeless laws. An understanding of the Statute of Uses, for example, necessitates a familiarity with the fiscal policy of one 16th century king, Henry VIII. The Statute was enacted for the sole purpose of revenue-making. Its enactment gave rise to expenditures of energy and legal talent directed at devising techniques for evading the "taxing" features of the law. Yet actual abridgments or nullifications of the Statute and its American derivations were not affected even centuries after the purposes for the law went out of existence. The legal profession very often has been inclined to remain within the framework of anachronistic laws, rather than to nullify or modify the laws themselves.

In attempting to answer why this is so, writers often attribute much of the blame to the stare decisis method of deciding cases. Resorting to precedents to resolve contemporary issues, rather than to the use of foresight based upon sensitivity to trends, is the legal method of problem solving. The thinking of lawyers and judges, as a result, becomes grounded in a tendency to preserve the status quo, while efforts at sweeping reform give way to satisfaction with token progress.

The institutions whose task it is to train students in the art of being attorneys in today's world, and today's problems, similarly, have been permeated by this aura of neophobia. In fact, the Curriculum Committee of the Association of American Law Schools has conceded an "...embarrassing similarity of the first year curricula at almost all schools today and their disconcerting resemblance to the curriculum outlined by Beale in 1902."

There is no doubt that we live in an era of questioning. In many cases, tenets of societal institutions, which have gone virtually unquestioned for centuries, are now undergoing relentless scrutiny. Those tenets which withstand the test of the penetrating probes of a restless evolving society in light of scientific and technological sophistication are being retained, while those which do not are being abandoned.

The legal profession, likewise, has become the subject of a great deal of inquiry, from within as well as from without. The validity and relevancy of some time honored fundamentals of both legal education and the laws themselves are being challenged vigorously.

With respect to the direction which legal education is taking, two notable trends seem to be developing. The evolving of these two trends are part of a somewhat concerted effort to correct two inadequacies of modern law schools - the impracticality and irrelevancy of the traditional law school curriculum. The adequacy or inadequacy of a legal education has been the subject of a continuing debate published by the American Bar Association Journal. Among the more vociferous critics of the traditional approach to legal education are Northeastern University Law School Dean Thomas J. O'Toole, Professor Myers S. McJougal of Yale Law School, and former Dean of the University of Michigan Law School, E. Blythe Stason.

Comparative studies of recent changes in the curricula of many law schools (indeed in all six law schools in Boston) reflect a tendency towards a more practical, relevant legal education. However, for the most part, only meagre changes are being made.

The lawyer, at one time, learned his trade by serving as an apprentice. With the advent of reading appellate decisions as a means of learning law, legal theory became increasingly voluminous. So onerous had become the burden of learning the quantity of the law, that law schools began to flourish and the apprentice system was almost entirely supplanted. As a result, neophyte lawyers, while adequately trained in theory, were woefully inept in the practical knowledge of their profession. This, because of the wholesale abandon-

ment of the apprentice system, is postponed until a post-graduation floundering period.

The current trend in legal education appears to be a partial return to the apprentice system. Advocates of this "return" realize, however, that there must be a blending of legal theory with a feel for the practice of law, so that neither is accented to the detriment of the other. Many law schools are now complementing substantive courses with a diversified list of voluntary clinical programs such as Legal Aid, Corporate Counsel, Law Clerk, Legal Intern, and Indigent Defenders. Some law schools, such as New England Law School of Boston, actually require participation in a legal aid program during a student's final year.

The recent re-opening of Northeastern University Law School, with a four year co-operative plan is based upon an attempted reconciliation of the theoretical and practical components of a legal education. In the first year, the entire class studies pure theory and has the first summer free. The first semester of the second year finds one-half of the students working in the "field" (and getting paid!) and the other half studying courses in the classroom. In the second semester including summers, the two groups exchange places. This is repeated during the third year and the first semester of the fourth year. The last semester is spent by all students in the classroom and is dedicated to the discussion of problems which students encountered while in the "field". The purpose of the eighth semester is to maximize vicarious learning. Every Juris Doctor candidate will have had fifteen months of actual experience under school supervision to insure that the jobs did, in fact, provide valuable experience.

Just as it is important to a newly graduated lawyer that he be acclimated to his profession, it is important to society that a young lawyer be dedicated to its improvement. For this reason, relevant as well as practical courses are essential to legal education.

Because the legal profession is composed of legislators, judges, and members of executive departments, it is potentially the most influential profession in this Country. The extent of reform which could be spearheaded by the law profession is vast. The most critical problems today arise primarily from urbanization, poverty, technological advancement, and political disenfranchisement of certain ethnic groups within our society. Despite this, conventional law schools continue to stress business oriented curricula. Dean O'Toole of Northeastern Law School, was quoted by The National Observer as commenting that "The assumption is that all students are going to practice on Wall Street or State Street." The outlets for "activist" students, who have a genuine desire to participate in change and to become involved with people as well as legal problems, have been minimal.

This too is beginning to change, as law schools throughout the country are restructuring the format of the courses to be offered. Again, Northeastern has deviated most substantially. Among the required courses offered are Taxation and Economic Justice in the first year; "City and Its Suburbs and Law Office Problems in the second year; Law, Family and Population and Environmental Control in the third year; and Urban Redevelopment, Law and Violence in the fourth year.

Just as there is change within the law schools, members of the law profession, in greater numbers than ever before, are joining in an effort to effectuate change within a society saddled with complex and deeply rooted problems.

VISTA Acting Director, Padriac Kennedy, commenting on the five-hundred lawyers who have entered VISTA training as of September 8, 1969, said "this was the largest enrollment to enter VISTA at one time although we're the worst paying 'law firm' in America". He stated that, in the year 1969, one out of every seventeen law graduates applied to VISTA. The VISTA lawyer, after six weeks of training, will be aiding the poor in the legal aspects of economic development programs such as co-ops, ghetto-owned businesses and self-help housing projects. They will also counsel the poor in tenant, welfare and consumer rights.

Besides advising the poverty-stricken as to their rights under existing conditions, laws must be implemented which will provide the poor with a means for its edification as a class. As a practical matter, it has been difficult to effectively represent a group as amorphous as the poor. The poor as a class are not limited to any one age group, race, ethnic background, or geographical locale. Further, to change an imbalanced power structure means the necessity of expensive litigation. Governmental agencies and private corporations whose goals are to test certain decisional law and/or draft reforming legislation are now subsidizing both the costs of litigation and research paving the way for legislative enactment. Primarily what is sought are inroads into legal precedents which favor landlords over tenants, retailers over consumers, and credit agencies over debtors.

A federally subsidized project, the Community Counsel Demonstration Project, has attended six hundred twenty-seven meetings for the poor and has represented them in six hundred sixty-nine matters in the ghettos of Detroit and Chicago alone. As a result of this representation, there have been changes in the areas of landlord-tenant, urban renewal, and housing development.

In Massachusetts, the Mass. Law Reform Institute, a non-profit corporation, states its purposes as "drafting legislation, bringing cases to test out issues of law reform and negotiating

Continued on page 13
THE OCEAN SPACE ISSUE: TO FILL A LEGAL VACUUM

by United States Senator Claiborne Pell (D-R.I.)

Claiborne Pell, United States Senator from Rhode Island, was born in New York City and received his high school education in Newport, Rhode Island. He earned his Bachelor of Arts degree from Princeton and his Master of Arts from Columbia.

During World War II, he served in the United States Coast Guard on North Atlantic Convoy Duty. At the termination of the War, he attained the rank of Lieutenant. He is presently a Captain in the United States Coast Guard Reserve.

The Senator has been active in foreign affairs for twenty-five years. In 1945, he was appointed Special Assistant at the San Francisco United Nations Conference. He has since served as a State Department and Career American Foreign Service Officer and as Secretary of the American Embassy in Prague. In 1959, Senator Pell was appointed by President Eisenhower as United States Delegate to the Intergovernmental Maritime Consultative Organization in London.

Mr. Pell was elected to the United States Senate from the State of Rhode Island in 1960. He is presently serving on the Senate Foreign Relations, Labor and Public Welfare, and Rules and Administration Committees. He is Chairman of the Subcommittees on Railroad Retirement and Arts and Humanities.

The Senator has authored the Pell-Rogers Sea Grant College Act which is designed to involve our universities and colleges in developing more effective techniques for exploring, harvesting, and exploiting the oceans.

Recognizing the state of confusion which could develop as more and more countries become involved in oceanographic research and harvesting of the ocean's natural resources, Senator Pell is the principal proponent of an Ocean Space Treaty. The purpose of the Treaty is to insure that the resources of the oceans may be harvested and exploited in an orderly manner.

As the Glomar Challenger proceeds on its protracted voyage, it should serve as a constant reminder that man has begun a systematic probe of the earth's last frontier. As the exploration of the ocean depths gathers momentum, technology will advance accordingly and man will seek to exploit, if not occupy, the deep ocean floor. But, as science and technology conquer greater and greater segments of the marine environment, major political issues will loom larger and larger on the international horizon, and man will have to decide to what political ends his scientific and technological achievements shall carry him.

The World Ocean covers seventy-one percent of the earth, and it encompasses eighty percent of all animal life. Its 330 million cubic miles of water, using even the most conservative estimates, contain literally billions of dollars of mineral resources alone. For example, a recent account of the lode discovery in the Red Sea, notes, "an unprecedented profusion of base metals, silver, and gold". This report goes on to state, "Recent estimates put the value of the cache at 1.5 billion, but most scientists say that's far too low".

Turning to the field of fossil fuels, at the present time sixteen percent of the world's petroleum and six percent of its natural gas originate from offshore wells; with an eventual investment of $55 billion, it is estimated that by 1980, one-third of the free World's petroleum will be produced from the subsoil of the ocean floor.

On the eleventh of August of this year, the oceanographic research vessel Glomar Challenger began a scientific expedition aimed at enhancing man's scanty knowledge of the origin and structure of the deep ocean floor. Even though the expedition has completed only the second leg of its scheduled eighteen-month, forty-thousand-mile journey, the scientific community already has judged the expedition to be of such value that the National Science Foundation, the Glomar Challenger's benefactor, has added two fifteen-month cruises to the vessel's original schedule.

While the Glomar Challenger expedition will undoubtedly rival the voyage of its namesake the H. M. S. Challenger in terms of solving many of the mysteries of the ocean environment, the expedition is also serving to focus attention on a myriad of complex political issues and a host of legal problems. For example, the scientific information collected during the expedition tends to substantiate fully the continental drift theory, and to lay to rest a great deal of speculation about the origin of the World Ocean. On the other hand, the expedition's discovery of oil and gas in the deep ocean floor of the Gulf of Mexico tends to cast further mystery over the total wealth of the marine environment and to increase speculation about the disposition and utilization of this wealth. Prior to this discovery, marine geologists had held there was little likelihood of deep-sea oil and gas deposits.
In regard to fisheries, the world catch last year totalled fifty-five million tons; while under present circumstances, experts agree that this amount could be increased fourfold, some authoritative estimates indicate that this year's catch could be increased by a factor of eighty, assuming appropriate aquaculture techniques were utilized.

Similar staggering prospects are envisioned in the fields of medicine and the extraction of new miracle drugs from the sea, desalination, weather control, and a host of recreational opportunities.

Although all of these prospects and potentialities will not be fully appreciated for several decades, a variety of efforts are already underway in each of the areas I have mentioned.

In regard to the activities that are now taking place in Ocean Space, and with a view to those planned for the immediate future, the point must be made that many of these activities are taking place and will continue to take place in a legal vacuum. For example, serious plans for the exploitation of the Red Sea discovery, mentioned above, are being held up because of the existing legal void. The lode itself lies in 7,000 feet of water, between the coasts of Saudi Arabia and Sudan. Within the past several months, both of these countries have issued Continental Shelf proclamations each claiming jurisdiction over this discovery. The potential for conflict is obvious, and such a possibility simply points up how dangerously outdated our existing legal framework is with respect to the development of seabed resources.

In a similar vein, and with reference to the Glomar Challenger's deep-sea drilling activities, it should be emphasized that these activities dramatically raise the question of the legal status of the seabed and subsoil of the deep ocean floor; such activities raise this question not only in terms of scientific investigation, but also in terms of resources discovered. Moreover, there is the further question, does exploration carry a preferential right to exploitation? Do the classical rules of acquisition of territory through occupation apply to the ocean floor? If the answer is yes, what constitutes occupation and does occupation carry sovereign rights with it? If the answer is no, then what rules do apply to this new environment?

In view of all of the uncertainty which now engulfs the exploitation of the resources of the seabed and subsoil of the deep ocean floor, I have taken the rather unprecedented course of action of introducing a draft treaty in the form of a Senate resolution.

In the first instance, I might point out that the treaty which I am proposing defines ocean space as the waters of the high seas, beyond the limits of the territorial sea, and the seabed and subsoil of those waters, seaward of the continental shelf. In turn, the treaty defines the continental shelf as the seabed and subsoil of the submarine area adjacent to the coast, but outside the territorial sea to a depth of 550 meters, or to a distance of fifty nautical miles from the baselines used to measure the breadth of the territorial sea.

Given these precise boundaries, and the self-imposed task of structuring a legal regime for the vast area so encompassed, I was guided by the principle that this frontier region should be recognized as the legacy of all mankind. This principle was first enunciated more than two years ago by former President Johnson when he stated, "We must ensure that the deep seas and ocean bottoms are, and remain, the legacy of all human beings".

In pursuance of the objective set forth by this principle, the treaty I propose seeks to guarantee that ocean space will be explored and exploited in the interests of all mankind, that it will be free from national appropriation, that it will be open to scientific investigation, that it will be exempt from atomic wastes and other polluting matters, and that it will be developed in accordance with and respect for existing international law and the Charter of the United Nations. To give added meaning to these principles, I suggested in my draft treaty the establishment of an international authority to license all exploration and exploitation of the ocean space environment; in addition, I suggested the creation of an International Sea Guard to ensure compliance with these principles and to work in concert with the licensing authority.

The Sea Guard would be modeled along the lines of our own excellent Coast Guard, and it would be placed under the jurisdiction of the Security Council of the United Nations.

The licensing authority would be embodied in an independent, specialized agency established by the United Nations. While the decision to create such an agency would, of course, be a political one, I cannot stress too strongly that, in order to attract potential investors, the mark of the agency would have to be its technical competence. In this connection, I believe that the operations of the World Bank offer some sound precedents.

In the granting of individual licenses, this treaty seeks to provide for those factors which are vital to the making of profitable investments, while at the same time establishing certain safeguards. For example, the treaty stipulates that each license shall cover an area of such size and dimension as to provide for a satisfactory return on the investment; a license shall not be granted for more than fifty years, but with the option of renewal. A fee or royalty shall be required for each license issued, and any license granted, but not utilized during a ten-year period, shall be forfeited, a concept very equivalent to our own early Homestead Act.

In addition, provision is made for the settlement of disputes, by setting up a standing review panel appointed by the International Court of Justice, with appellate authority given to the International Court.

Finally, each nation agrees that it shall exercise jurisdiction over its citizens in ocean space, pending international agreement on a code of criminal justice.

Here, I should point out that in formulating this treaty proposal, I have been roundly criticized by those who maintain that our present knowledge of ocean space is inadequate in terms of drafting sound legal principles for the establishment of an effective international regime. In response to these critics, I would note only that knowledge cannot be substituted for the will to develop this last frontier in an orderly and peaceful manner--one which would give full consideration to the responsibilities, the needs, the aspirations, and the limitations of all the nations of the world. Accordingly, as we ponder the vast potential of this last frontier, we would do well to remind ourselves that unless our will is proportionate to our knowledge, international cooperation and understanding shall continue to be burdened with suspicion and mistrust.

With this point in mind, I would like to draw attention to the recent reports out of the Geneva disarmament negotiations, which indicate that a meaningful seabed arms control agreement is now very much in the offing. This is an area in which our diplomatic endeavors are ahead of the "state of the art", and I do believe that in all likelihood, this year's General Assembly will give its approval to the basic agreement which has now been worked out in Geneva.

The initiative taken at Geneva dramatically makes the point that science and technology cannot be divorced from the international political considerations to which they give rise. Accordingly, it seems to me that as the major power in undersea technology, the United States has a special responsibility, one which demands that its diplomatic posture be as achievement-oriented as that of its military-industrial complex. Such a posture requires an unrelenting desire to establish an international framework which will guarantee the peaceful and orderly development of Inner Space.
THE TRIAL LAWYER - ARE LAW SCHOOLS DOING THEIR JOB?

by Walter E. Steele, Class of '54
County Prosecutor for Dukes County

Mr. Steele was educated at Suffolk University and Suffolk University Law School. Upon graduation from law school in 1954 he was admitted to the Massachusetts Bar and appointed a research assistant to the Suffolk County District Attorney. Two years later he was appointed as an Assistant District Attorney for Suffolk County. Mr. Steele was an Instructor at Boston University Law School in their Program for Prosecutors; a member of the Massachusetts Trial Lawyers Association; and the former Commander for the Suffolk County American Veterans. At present, Mr. Steele is a partner in the Boston law firm of Steele and Franzese, and in May of 1969 he was appointed as County Prosecutor for Dukes County Massachusetts.

The modern American trial lawyer is engaged, mainly in two types of litigation, automobile negligence cases and/or criminal cases. His apprenticeship is long, arduous and for several (sometimes many) years, financially unrewarding. Recent economic studies published by the Boston Bar Association indicate that the income of the trial lawyer compares unfavorably with many other legal specialists. I set forth these facts not to discourage or to depress those students who feel strongly motivated to enter trial practice, but I would be less than candid if I failed to touch upon these realities at the outset of this article.

There is, of course, a brighter side. The Warren Court in its decisions, aided trial lawyers as well as criminal defendants. I have reference to Gideon v. Wainwright, 372 U. S. 335 (1963) and related cases on the state level which have materially expanded the Fourteenth Amendment-Sixth Amendment right to counsel. These decisions have had the effect of providing more work for trial attorneys, especially on the district court level. More work has meant a demand for competent trial lawyers in criminal cases. Other important decisions have revolutionized almost every significant area of the criminal law. This revolution has created a place for the criminal trial counsel who is knowledgeable and capable of handling the subtle and sophisticated problems involved in criminal cases—problems which never existed ten years ago. In a word, the criminal lawyer has become respectable.

As you have probably gathered from the foregoing, my legal experience has been for the most part, limited to the trial of criminal cases. For this reason, I was invited recently by the Editorial Staff of The Advocate to write "on the subject of law students and their preparation for criminal trial work". Since the opinion of many educators is that trial work cannot be taught by way of the lecture method in a classroom, my first comment on this subject is simplistic: work long and diligently to acquire a thorough knowledge of the law of evidence and the criminal law; and, if possible, take one of Professor Charles Garabedian's excellent courses on trial techniques.

Mr. Justice Arthur T. Vanderbilt, the former Dean of New York University Law School, said in this connection, "Advocacy is not a gift of the gods... it involves several distinct arts each of which must be studied and mastered. Yet no law school in the country so far as I know pays the slightest attention to them. It is blithely assumed with disastrous results that every student is a born Webster or Choate". This statement was made by Justice Vanderbilt in 1953; since then few major changes have occurred in law school curricula. Law schools still offer a potpourri of lecture courses conducted in traditional classroom settings. Consequently, most law students are no more familiar with the Superior Court House than the Museum of Fine Arts.

Recently, however, certain courses have been established which are designed a) to aid indigent defendants and b) to provide realistic training in the trial of criminal cases in district courts. The Boston University School of Law is a pioneer in this kind of legal education. At Boston University two courses of instruction in trial work are offered to its students which are not merely extra-curricular activities but rise to the dignity of credit courses. The Roxbury Defender Projects is supervised and taught in the Roxbury District Court by Professor James Bailey, a former assistant attorney general and Edward Muldoon, Esq., a practicing attorney. The students, under supervision, actually prepare and try cases on behalf of criminal defendants. They are required to interview persons accused of crime, ascertain the facts, prepare the applicable law and motions (if necessary) and ultimately conduct the defense of the accused in court. The experience and training gained in these circumstances is both rewarding and enormously valuable to the student who is to become a trial lawyer. This course is in its sixth year and has attracted favorable attention of legal educators across the country.

The success and the popularity of this course among the students and the faculty at B. U. resulted, in 1967, in the establishment of another clinical course in advocacy, called the Student Prosecutor Program. This course was fostered and in part financed by the United States Department of Justice. It is conducted in the West Roxbury District Court by two former Suffolk County, Assistant District Attorneys, Frank Brennan and Joseph Mulhern, Jr. These men have years of trial experience and training in the criminal law and are eminently qualified to instruct students in the trial craft. The students are supervised and coached by them in the preparation and presentation of cases for the prosecution. The student learns very quickly by doing. The instructor is present in court during the trial of the case, but the student presents the case. He examines and cross-examines witnesses, makes the summation and even participates in the disposition of cases in which the finding is guilty. The classes are small, around thirty students, and therefore, the student has the benefit of intensive personal instruction within the live atmosphere of the court house. Each court appearance is evaluated and criticized by the instructor and a general discussion in which other students
As a service to the students of Suffolk who intend to practice in one of the New England States, New York or New Jersey, we have sought to provide information regarding the attainment of bar membership in these eight states. We are particularly hopeful that first and second year students will take note of the section, "Subject Matter Which Applicant Should Be Familiar With". The third year courses should be elected with a sensitivity towards the requirements of your state in this area.

CONNECTICUT

REQUIREMENTS FOR TAKING BAR EXAM

Applicant must have earned a college degree from an American Bar Association accredited law school, and must intend to be a resident of Connecticut. Applicant must have registered with the Superior Court upon entering law school.

SUBJECT MATTER WHICH APPLICANT SHOULD BE FAMILIAR WITH


TIME AND LOCATION OF EXAM

Friday after Christmas and following Saturday at 9:30 A. M. fourth Thursday in June and following Friday at 9:30 A.M. Place-Yale Law School

APPLICABLE STATUTE

Connecticut General Statute 51-81 to 51-93

ADDITIONAL INQUIRY SHOULD BE ADDRESSED TO:

State Bar Examining Committee
Secretary's Office
22 Shetucket Street
Norwich, Connecticut 06360

POPOPULATION PER ATTORNEY*

595 (national average-625)

PROJECTED POPULATION GROWTH BETWEEN 1965 & 1985*

approximately 43%

STATISTICAL BREAKDOWN*

<table>
<thead>
<tr>
<th>Category</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>total number of lawyers</td>
<td>4,828</td>
</tr>
<tr>
<td>individual practitioners</td>
<td>38%</td>
</tr>
<tr>
<td>associates</td>
<td>7%</td>
</tr>
<tr>
<td>partners</td>
<td>31%</td>
</tr>
<tr>
<td>government service</td>
<td>10%</td>
</tr>
<tr>
<td>private concerns</td>
<td>13%</td>
</tr>
<tr>
<td>miscellaneous</td>
<td>1%</td>
</tr>
</tbody>
</table>

REQUIREMENT FOR ADMISSION UPON MOTION

Applicant must have practiced a minimum of 5 years in another state and must have been a resident of Connecticut for at least 6 months prior to application. If the applicant, at one time, failed the State's bar exam, he must have practiced at least 10 years in another state.

BAR REVIEW COURSES OFFERED:
Clark-Whitman Bar Review Course
97 Pilgrim Road
West Hartford, Connecticut 06117

Connecticut Bar Review Course
41 Lewis Street
Hartford, Connecticut 06103

MAINE

REQUIREMENTS FOR TAKING BAR EXAM

Applicant must have a minimum of 2 years of a Board approved college and a degree from a law school likewise approved by the Board of Bar Examiners. The residency requirement is 6 months prior to the date of the examination.

SUBJECT MATTER WHICH APPLICANT SHOULD BE FAMILIAR WITH


TIME AND LOCATION OF EXAM

First Wednesday and following Thursday of February in Orono, Maine.
First Wednesday and following Thursday of August in Portland, Maine.
APPLICABLE STATUTE
Chapter 17 of Title 4, Maine Revised Statutes Annotated.

ADDITIONAL INQUIRY SHOULD BE ADDRESSED TO:
Board of Bar Examiners
Office of the Secretary
6-State Street
Bangor, Maine 04402

POPULATION PER ATTORNEY*
963

PROJECTED POPULATION GROWTH BETWEEN 1965 & 1985*
approximately 13%

STATISTICAL BREAKDOWN*
| Total number of lawyers | 1,020 |
| individual practitioners | 43% |
| associates | 5% |
| partners | 30% |
| government service | 14% |
| private concerns | 5% |
| miscellaneous | 3% |

REQUIREMENT FOR ADMISSION UPON MOTION
Applicant must have practiced a minimum of 3 years in another state and must have been a resident of Maine for at least 6 months prior to application.

BAR REVIEW COURSES OFFERED:
None

MASSACHUSETTS

REQUIREMENTS FOR TAKING BAR EXAM
Applicant must have earned a college degree and must have successfully completed a three year full time or four year part time course at a law school. The applicant must be a resident or domiciliary at the time of application.

SUBJECT MATTER WHICH APPLICANT SHOULD BE FAMILIAR WITH
Administration of Estates, Agency, Business Organizations, Conflict of Laws, Constitutional Law, Contracts, Criminal Law, Domestic Relations, Equity, Evidence, Massachusetts Pleading and Practice, Real Property (including Mortgages), Torts, Trusts, Uniform Commercial Code (Articles 1-9), and Wills.

TIME AND LOCATION OF EXAM
Time and location designated annually by the Board of Bar Examiners. This year, exam administered December 30 and 31, 1969. Exam commences at 9:00 A.M. at Boston College Law School.

APPLICABLE RULES
Rule 3:01 of Massachusetts Supreme Judicial Court and the Rules of the Board of Bar Examiners.

ADDITIONAL INQUIRY SHOULD BE ADDRESSED TO:
Board of Bar Examiners
Executive Secretary
77 Franklin Street
Boston, Massachusetts 02110

BAR REVIEW COURSE OFFERED:
George C. Keady, Jr., Director
Western New England College
Bar Review
31 Elm Street
Springfield, Massachusetts 01103

Massachusetts Nord Bar Review Course, Inc.
16500 North Park Drive
Suite 1102
Southfield, Michigan 48075

Robinson Bar Review
Parker House Hotel
60 School Street
Boston, Massachusetts 02108

Nolan Bar Review
18 Tremont Street
Boston, Massachusetts

Ryan Bar Review
73 Tremont Street
Boston, Massachusetts 02108

Smith, McLaughlin Hart
Bar Review
44 School Street
Boston, Massachusetts 02114

NEW HAMPSHIRE

REQUIREMENT FOR TAKING BAR EXAM
Applicant must have studied a minimum of three years at a college, and must show that he graduated or has a degree from a law school approved by the American Bar Association.
SUBJECT MATTER WHICH APPLICANT SHOULD BE FAMILIAR WITH

There are three general areas:

I. Torts, Evidence, and Criminal Law
   (Procedure, Agency, Conflict of Laws, and Constitutional Law)

II. Contract and Business Relationships

III. Property and Equity
    (Agency, Wills and Intestacy, Trust, Domestic Relations, Estate and Gift Taxation, Conflict of Laws, and Constitutional Law)

TIME AND LOCATION OF EXAM
9:00 A.M., Wednesday before the last Saturday in June, at the State Library Building in Concord

APPLICABLE RULES
13-20 of the New Hampshire Supreme Court Rules

ADDITIONAL INQUIRY SHOULD BE ADDRESSED TO:
New Hampshire Bar Association
77 Market Street
Manchester, New Hampshire 03101

POPULATION PER ATTORNEY*
970

PROJECTED POPULATION GROWTH BETWEEN 1965 & 1985*
approximately 25%

STATISTICAL BREAKDOWN*

<table>
<thead>
<tr>
<th>Group</th>
<th>Number</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total number of lawyers</td>
<td>700</td>
<td></td>
</tr>
<tr>
<td>Individual practitioners</td>
<td>27%</td>
<td></td>
</tr>
<tr>
<td>Associates</td>
<td>10%</td>
<td></td>
</tr>
<tr>
<td>Partners</td>
<td>41%</td>
<td></td>
</tr>
<tr>
<td>Government service</td>
<td>18%</td>
<td></td>
</tr>
<tr>
<td>Private concerns</td>
<td>4%</td>
<td></td>
</tr>
</tbody>
</table>

REQUIREMENT FOR ADMISSION UPON MOTION
Applicant must have practiced a minimum of five years in another state. Applicant must be a resident of New Hampshire upon application.

BAR REVIEW COURSE OFFERED:
New Hampshire Law Institute
40 Stark Street
Manchester, New Hampshire 03101

SUBJECT MATTER WHICH APPLICANT SHOULD BE FAMILIAR WITH


Some questions may relate to one or more of the following courses: Anti-Trust Law, Collective Bargaining, Comparative Law, Corporate Finance, Estate Planning, Insurance, International Law, Labor Law, Legislation, Public Utilities, Real Estate Planning, Securities Regulation, Social Legislation, State and Local Taxation, Trade Regulations, and Unfair Trade Practices.

TIME OF BAR EXAM
February 4, 5, and 6 of 1970

APPLICABLE RULES
Rules of the New Jersey Supreme Court, Part IV and Rules of the Board of Bar Examiners

ADDITIONAL INQUIRY SHOULD BE ADDRESSED TO:
Board of Bar Examiners
State House Annex
Trenton, New Jersey 08608

POPULATION PER ATTORNEY*
657

PROJECTED POPULATION GROWTH BETWEEN 1965 & 1985*
approximately 39%

STATISTICAL BREAKDOWN*

<table>
<thead>
<tr>
<th>Group</th>
<th>Number</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total number of attorneys</td>
<td>10,498</td>
<td></td>
</tr>
<tr>
<td>Individual practitioners</td>
<td>49%</td>
<td></td>
</tr>
<tr>
<td>Associates</td>
<td>6%</td>
<td></td>
</tr>
<tr>
<td>Partners</td>
<td>25%</td>
<td></td>
</tr>
<tr>
<td>Government service</td>
<td>9%</td>
<td></td>
</tr>
<tr>
<td>Private concerns</td>
<td>9%</td>
<td></td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>2%</td>
<td></td>
</tr>
</tbody>
</table>

REQUIREMENT FOR ADMISSION UPON MOTION
New Jersey Bar Exam required

BAR REVIEW COURSES OFFERED:
Brigadier Bar Review Course
40 Journal Square
Jersey City, New Jersey 07306

Eli Jarmel, Director
Institute for Continuing Legal Education
32 Warren Place
Newark, New Jersey 07102
NEW YORK

REQUIREMENTS FOR TAKING BAR EXAM
Three years of college, and graduate of a law school approved by the Board of Bar Examiners. The applicant must have been a resident at least six months.

SUBJECT MATTER WHICH APPLICANT SHOULD BE FAMILIAR WITH

INFORMATION ON BAR REVIEW COURSES OFFERED:
New York Bar Review Course
Foundation for Continuing Legal Education
36 West 44th Street
New York, New York 10036

Practicing Law Institute
1133 Avenue of the Americas
New York, New York 10036

Sparacio Bar Review Course
66 Court Street
Brooklyn, New York 11201

RCIDE ISLAND

REQUIREMENT FOR TAKING BAR EXAM
Applicant must be a graduate of a law school approved by the American Bar Association and the Board of Bar Examiners and must have resided in Rhode Island at least three months prior to admission. Applicant must either serve a six-month clerkship or complete satisfactorily a training course sponsored by the Rhode Island Bar Association.

SUBJECT MATTER WHICH APPLICANT SHOULD BE FAMILIAR WITH
Agency, Bankruptcy and Creditor's Rights, Civil Practice and Procedure, Constitutional Law, Contracts, Corporations, Criminal Law, Domestic Relations, Equity, Evidence, Labor Law, Legal Ethics, Partnerships, Probate Law and Wills, Real Property, Taxation, Torts, Trusts, Uniform Commercial Code (Arts. 1, 2, 3, 9), Workmen's Compensation, Zoning, and such other subjects as the Board may from time to time see fit to include.

APPLICABLE RULES
Rules of the Board of Bar Examiners and the Rhode Island Supreme Court.

ADDITIONAL INQUIRY SHOULD BE ADDRESSED TO:
Clerk of Supreme Court
Providence County Courthouse
250 Benefit Street
Providence, Rhode Island 02903

STATISTICAL BREAKDOWN*

<table>
<thead>
<tr>
<th>Category</th>
<th>Number</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>total number of lawyers</td>
<td>52,195</td>
<td>47%</td>
</tr>
<tr>
<td>individual practitioners</td>
<td>24,011</td>
<td>46%</td>
</tr>
<tr>
<td>associates</td>
<td>2,539</td>
<td>7%</td>
</tr>
<tr>
<td>partners</td>
<td>1,231</td>
<td>7%</td>
</tr>
<tr>
<td>government service</td>
<td>3,680</td>
<td>7%</td>
</tr>
<tr>
<td>private concerns</td>
<td>7,072</td>
<td>13%</td>
</tr>
<tr>
<td>miscellaneous</td>
<td>513</td>
<td>1%</td>
</tr>
</tbody>
</table>

NEW YORK

REQUIREMENTS FOR TAKING BAR EXAM
Three years of college, and graduate of a law school approved by the Board of Bar Examiners. The applicant must have been a resident at least six months.

SUBJECT MATTER WHICH APPLICANT SHOULD BE FAMILIAR WITH

INFORMATION ON BAR REVIEW COURSES OFFERED:
New York Bar Review Course
Foundation for Continuing Legal Education
36 West 44th Street
New York, New York 10036

Practicing Law Institute
1133 Avenue of the Americas
New York, New York 10036

Sparacio Bar Review Course
66 Court Street
Brooklyn, New York 11201

RHODE ISLAND

REQUIREMENT FOR TAKING BAR EXAM
Applicant must be a graduate of a law school approved by the American Bar Association and the Board of Bar Examiners and must have resided in Rhode Island at least three months prior to admission. Applicant must either serve a six-month clerkship or complete satisfactorily a training course sponsored by the Rhode Island Bar Association.

SUBJECT MATTER WHICH APPLICANT SHOULD BE FAMILIAR WITH
Agency, Bankruptcy and Creditor's Rights, Civil Practice and Procedure, Constitutional Law, Contracts, Corporations, Criminal Law, Domestic Relations, Equity, Evidence, Labor Law, Legal Ethics, Partnerships, Probate Law and Wills, Real Property, Taxation, Torts, Trusts, Uniform Commercial Code (Arts. 1, 2, 3, 9), Workmen's Compensation, Zoning, and such other subjects as the Board may from time to time see fit to include.

APPLICABLE RULES
Rules of the Board of Bar Examiners and the Rhode Island Supreme Court.

ADDITIONAL INQUIRY SHOULD BE ADDRESSED TO:
Clerk of Supreme Court
Providence County Courthouse
250 Benefit Street
Providence, Rhode Island 02903

STATISTICAL BREAKDOWN*

<table>
<thead>
<tr>
<th>Category</th>
<th>Number</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>total number of lawyers</td>
<td>1,211</td>
<td>46%</td>
</tr>
<tr>
<td>individual practitioners</td>
<td>575</td>
<td>46%</td>
</tr>
<tr>
<td>associates</td>
<td>72</td>
<td>7%</td>
</tr>
<tr>
<td>partners</td>
<td>41</td>
<td>3%</td>
</tr>
<tr>
<td>government service</td>
<td>168</td>
<td>13%</td>
</tr>
<tr>
<td>private concerns</td>
<td>10</td>
<td>8%</td>
</tr>
<tr>
<td>miscellaneous</td>
<td>4</td>
<td>1%</td>
</tr>
</tbody>
</table>
REQUIREMENT FOR ADMISSION UPON MOTION
Applicant must have practiced law in another state for at least five years and he must have resided in Rhode Island at least three months prior to admission.

BAR REVIEW COURSES OFFERED:
Theodore Miller
Bar Review Lectures
630 Industrial Bank Building
Providence, Rhode Island

VERMONT

REQUIREMENTS FOR TAKING BAR EXAM
Applicant must have attended college for at least three years, must have graduated from a law school approved by the Vermont Supreme Court, must have been a resident of Vermont at least six months prior to admission, and must have pursued the study of law in an office and under the supervision of an attorney of the court for a period of not less than six months.

SUBJECT MATTER WHICH APPLICANT SHOULD BE FAMILIAR WITH:

TIME OF EXAM
One of the three consecutive days in the months of September, October, and November as the Board of Bar Examiners may designate.
Place is designated annually.

APPLICABLE RULES
State of Vermont Supreme Court Rules IV (1 and 3)

ADDITIONAL INQUIRY SHOULD BE ADDRESSED TO:
Board of Bar Examiners
Supreme Court Clerk
Montpelier, Vermont 05602

POPULATION PER ATTORNEY*
788

PROJECTED POPULATION GROWTH BETWEEN 1965 & 1985*
approximately 8%

STATISTICAL BREAKDOWN*
total number of lawyers ............ 513
individual practitioners ............. 41%
associates .......................... 7%
partners ............................ 26%
government service .................. 18%
private concerns ..................... 7%
.miscellaneous ....................... 1%

REQUIREMENT FOR ADMISSION UPON MOTION
Applicant must have practiced in another state for a minimum of three years, must have been a resident at least six months prior to application "and must study in a law office of an attorney of this court for not less than six months".

BAR REVIEW COURSES OFFERED:
None

EDITORIAL continued from page 5

with public officials and private persons to persuade them to make changes benefiting the poor".

The Institute, which has been in existence since June of 1968, has drafted fifty-eight pieces of legislation and has twenty-seven cases pending before the Massachusetts District, Superior, and the Supreme Judicial Courts. The bulk of reform is aimed at the law of landlord-tenant and rights of consumers.

Due to experiments such as VISTA, Community Counsel Demonstration Project, and the Massachusetts Law Reform Institute, the poor, as a class, are just beginning to receive effective legal representation.

These projects, and many others with similar goals, are providing the poor with: (1) the financial resources to establish precedents which will eventually help to foster their economic developments, (2) a sense of solidarity, and (3) more permissible avenues of legal expression.

The third contribution is vital to the prevention of civil disorder, for it is the unavailability of legal channels for accomplishing desirable results which is the source of civil disorder. Violence and self-help become inevitable.[11] Conduct of this nature is harmful to its victims, reprehensible to those who are threatened by it, and often damaging to its exponents. It is this type of discord which tears at the fabric of society.

Eighteenth Century political philosopher, Edmund Burke, noted that, "People crushed by law have no hopes but from power. If laws are their enemies they will be enemies to laws, and those who have much to hope and nothing to lose will always be dangerous more or less."

The legal profession has the ability to provide the poor with more effective means for their improvement as a group. This cannot be done unless there is an intelligent application of the talent developed by legal education that of analyzing complex problems and counseling as to solutions. The extent to which the law profession will be utilizing this valuable talent to remedy injustices which effect significant segments of our society relates to the present training of lawyers. This places the burden on each law school to adopt more practical and relevant policies for the training of its students.

*"Population per Attorney" is a compilation of THE 1967 LAWYER STATISTICAL REPORT, 1967 published by the American Bar Foundation. The number of attorneys include all members of the bar, including those in industry, educational institutions, private firms, etc., and those inactive or retired. The general population is based upon Bureau of the Census estimates of resident population including Armed Forces stationed in the area as of July 1, 1966.

*"Statistical Breakdown" is also a compilation of THE 1967 LAWYER STATISTICAL REPORT.

JUDICIAL REVIEW *

SUMMARY OF AN INTERVIEW WITH JUDGE FRANCIS P. CULLEN,
CLASS OF '52

Judge Cullen was born and raised in the Town of Woburn, Massachusetts, and upon graduation from high school, he enlisted in the United States Marine Corps, serving with distinction during the Second World War.

After his discharge from the Marines, Judge Cullen attended Suffolk University, and Suffolk University Law School. He was graduated from the Law School in 1950.

While a student at Suffolk Law School, he was elected to the Town Council of Woburn, a position which he held until 1955 when he was appointed City Solicitor for the Town of Woburn. He served in his capacity as City Solicitor until 1960. Judge Cullen has also served as a master and auditor for the Middlesex Superior Court. In 1964, he was appointed Presiding Justice of the Fourth District Court of Eastern Middlesex by the then Governor, Endicott Peabody.

The court over which Judge Cullen presides encompasses seven communities in Middlesex County with a combined population of 185,000 citizens. Of the Commonwealth's seventy-two district courts, his court ranks eleventh in population.

Judge Cullen, who is married and the father of four children, resides with his family in the Town of Winchester, Massachusetts.

QUESTION: What is the situation at the present time with regard to the backlog of civil cases at the district court level?

ANSWER: There is no backlog of civil cases at the district court level. The backlog is occurring at the superior court level. Any lawyer who wishes to try his case at the district court level may do so without any delay.

It is the pending cases which make it appear that there is a significant backlog on the docket. One must keep in mind that the pending cases also include those cases which are on remand from the Superior Court. In 1968, there were only forty-two remands in my court and many of these cannot be tried since they are covered by military affidavits.

What really exists is a "paper backlog" which arises from the fact that too many lawyers are not ready or able to try their cases. They will bring suit at the district court level, and if they do not get a satisfactory monetary offer from the defendant, then they hold off in an attempt to settle. If they find that they can't settle, then they will bring in trial lawyers to try the case.

There is also the situation where the lawyer brings suit, propounds his interrogatories to the defendant, and discovers upon receiving the defendant's answers, that there is no liability on the defendant's part. The problem arises when he fails to make a motion to discontinue the case, or the defendant's counsel fails to motion for a dismissal. The cases consequently remain on the docket.

Then, again, there is the situation where the parties to the action reach a settlement, and fail to file the agreement with the court. This again means that the case will remain on the docket.

The district courts have the power, under rule 39, to dismiss or discontinue cases which have been pending without any action on the part of the parties for a period of more than two years. We have been exercising this power in cases that have been on the docket since 1960 and 1961.

QUESTION: On the criminal side, would there be any advantage in setting up special traffic courts for the purpose of relieving the burden on the court in general?

ANSWER: No, because most of the traffic violations are taken care of by the use of a waiver. When the motorist receives his summons, he also receives a waiver of trial. If he has not been convicted of a similar offense in the past year, he is allowed to fill out the waiver, enclose a check

* "Judicial Review" will be a permanent feature designed to familiarize readers with certain members of the judiciary and to publish, in a candid manner, their attitudes concerning certain topics.

14 The Advocate Winter 1969
covering the fine which is imposed, and mail them both back to the court. I expect that soon the Legislature will extend the proviso that there be no convictions in the past year to no convictions within the past two years. This method of disposing of traffic violations alleviates both the inconvenience to the public and the burden on the court.

The establishment of separate traffic courts would merely be a duplication of effort as well as additional financial cost without rendering any considerable service.

QUESTION: In your opinion, are the public defenders doing an adequate job?

ANSWER: No. The public defender does not come into the court adequately prepared. There are several reasons for this state of affairs, one of which is that the public defender handles a great number of cases. For example, yesterday in my court alone, the public defender had three cases before the court in the morning, and a like number in the afternoon. Further, the public defender's office is located in Boston. Those who have to avail themselves of the services of this office must therefore travel into Boston. Usually you will find that either the indigent cannot afford the trip to the office, or that there is no public or private transportation available to him.

As a result, the public defender gets to confer with his client in the corridor for a few minutes before the case goes to trial. The defender will let everything go into the record, and if he does not prevail, he will take the case up on appeal. Under such circumstances, the defendant does not get fair treatment.

The solution to this problem might be to assign regular attorneys in the area to the indigent's case, and pay these attorneys set fees for the various services which they may be called upon to render.

QUESTION: What advice would you give the freshman attorney which would aid him in his first few cases before the district courts?

ANSWER: Try to be friendly to the people who work in the court, the assistant clerks, the secretaries, etc. They, in the long run, can do a lot for you especially when there is some form of procedure which you are not familiar with, and need to know.

If you start out with a pompous attitude, you will only be hurting yourself. Their opinion of you is conveyed to the clerk of courts as well as to the judge.

Remember, you don't know everything, and if there is something which you do not know, ask for help. You will find that these people are more than ready and willing to help you. Finally, don't be afraid to tell them that it's your first case in the court, because no one wants to make a man a loser on his first case.

QUESTION: What advice would you give to the veteran attorney?

ANSWER: To the experienced attorney, I would say, prepare and try your case as thoroughly in the district courts as you would in the superior court. This means that you bring in all of your evidence, your witnesses, your medical records, etc.

Most attorneys seem to have the idea that the district courts are in some manner inferior to the superior courts, and therefore, they only half-try their cases. As a result, they find that they only get half of what the case is worth.

Prepare and try your case fully, and you will find that, where there is liability on the opposing party, the amount of damages awarded will be greatly increased.

QUESTION: In what respects is the freshman attorney lacking in background when he first steps into the courtroom, and what can the law schools do by way of courses or programs, to remedy these deficiencies?

ANSWER: What the freshman attorney lacks when he first enters a courtroom is experience, and there is nothing which can substitute for being thrown into the "pit". A law school cannot, by way of a course or moot court program, give the student experience in the process of a point by point examination or cross examination of a witness. Neither can they give to the freshman attorney the knowledge which the attorney gains through trial and error under the rigors and pressure of a court of law.

My advice to those who entertain the ambition of entering trial work as a career is to get into an insurance firm in their trial division, or into a private practice where you will be thrown into the courtroom daily. This is the only way an attorney can gain this vital knowledge and experience.

15 The Advocate Winter 1969
A CONCEPT OF A SINGLE STATE-WIDE PROSECUTION AGENCY

by Herbert F. DeSimone, Attorney General of the State of Rhode Island

Herbert DeSimone has been Rhode Island's Attorney General since January, 1967. In November, 1968 he was re-elected to a second term and was the only Republican elected to a State General Office.

Since becoming Attorney General, he has distinguished himself in several areas. He initiated and was elected first chairman of the New England Compact of Attorneys General to fight organized crime on a regional basis. He established a Youth Education Program and the Attorney General's Narcotics Panel to help prevent juvenile crime and point out the effects of drug abuse. He is chairman of the Governor's blue-ribbon Committee on Crime, Juvenile Delinquency and Criminal Administration which is conducting exhaustive studies of these problems on a state-wide level.

He has reorganized the Attorney General's Department to include an Organized Crime Division, a special Division of Youth and Narcotics and a Civil Division with a unique Consumer Fraud Section.

Mr. DeSimone has placed particular emphasis in fighting organized crime in Rhode Island. He directed several grand jury investigations of the crime syndicate in the State -- the first in the history of Rhode Island -- which resulted in public reports and a number of indictments for such crimes as murder, loan sharking and gambling. He also introduced the first comprehensive package of anti-crime legislation in the General Assembly in the State's history.

A member of the Rhode Island and American Bar Associations, Mr. DeSimone was engaged in the private practice of law prior to being elected Attorney General on November 8, 1966. He was general counsel to the Department of Business Regulation in 1959-60 and was a member of the Executive Committee of the Republican State Central Committee from 1958-62.

Born in Providence, Mr. DeSimone is a graduate of LaSalle Academy in Providence, Brown University and Columbia University Law School.

Society in the United States has sought to control many aspects of the behavior of its members by the application of criminal sanctions. Practically every title of the Rhode Island Laws from Aeronautics to Weights and Measures contains at least one section providing for the imposition of punishment for proscribed conduct. In addition to the Criminal Code, Title 11, which describes the traditional and well-known crimes, many serious crimes are described in the portions of our General Laws dealing with Taxes, Motor Vehicles, Drugs and Firearms, to suggest a few of the many areas in which criminal sanctions are now imposed for misconduct. As a consequence, many more citizens are now finding themselves before the courts of this State, charged with a crime. Police-men and prosecutors are more increasingly involved in the enforcement of an enormous diversity of criminal laws.

A broad over-view of the criminal procedure leading up to a final conviction is necessary to understand the purposes of any proposed reform. The process starts with some person violating one of the countless criminal sections of our law. If this act is not discovered or revealed, of course, ordinarily nothing happens. Only in a limited number of fields - principally taxation, drugs and organized crime, with its wide-range of criminal activity - do the agencies involved actively look for undiscovered or unreported crimes. A criminal act may be a felony or a misdemeanor. Misdemeanors...
may be violations of the laws of the State punishable by a year or less. In the Adult Correctional Institution or a fine of $500 or less, or both; or they may be violations of city or town ordinances, punishable by up to ten days in the Adult Correctional Institution or a fine of $20 or less, or both. All other crimes are felonies. Initially, in a vast majority of cases the criminal law enforcement system begins in the same way. A policeman, or a lawyer-prosecutor, makes a decision to investigate or to impose investigative restraint on one or more suspects. After an investigation, the length of which may vary from fractions of a second to many years, a suspect will be arrested and charged. As soon as the investigation begins to focus on a particular suspect, constitutional rights begin to become very important to that suspect and to the State. The charging or accusing process takes a somewhat different course according to whether the misconduct charged is considered a felony or a misdemeanor. In a misdemeanor case a policeman makes a formal written complaint to a judge of the district court who will usually issue a warrant to arrest the suspect. The district court, recently unified by law into a single court, has seven statutory geographic divisions within which it may act in criminal matters. Ordinarily, the suspect is arrested in this county, but sometimes he is not, principally when he has fled the jurisdiction, and the police intend to initiate fugitive proceedings in another state. At this point it is well to keep in mind that complaints may be brought by the police of thirty-nine cities and towns, by the state police and by many other state agencies having law enforcement powers in special fields, such as drugs and conservation.

If a defendant pleads not guilty to a misdemeanor, the district court must set bail for his release, and set a date for trial. Trial will be held before the district court, and the court, if it finds the accused guilty, may impose any sentence authorized by law up to the maximum. Misdemeanor trials are conducted on behalf of the prosecution by the city or town solicitor of the cases, the case being originated with the most state agencies, by the Attorney General's Department. Of course, at any stage, the defendant may plead guilty or no lo and the court may then impose sentence without trial. The defendant may appeal from the district court to the superior court, or in certain cases to the family court, where he is entitled to a complete new trial by jury. In the Superior court and family court, the prosecution is conducted by the Attorney General's Department.

If the offense charged is a felony, the proceeding in the usual case may be much the same as in the case of a misdemeanor, except that the district court after hearing conducted on behalf of the State, in the great majority of the cases by one of the county's or city's or town's solicitors, may not impose sentence nor may it acquit the defendant. It may only decide whether or not an accused should be held for the Grand Jury.

The Grand Jury is a body of citizens drawn at random, who authorize the bringing of an indictment, without which no one can be tried for a felony. Police charges or any other criminal information may be brought directly to a Grand Jury by the Attorney General, without going to the district court, in which case, if the Grand Jury sees fit to bring out an indictment, the superior court will order the accused arrested. The Attorney General and his assistants present all cases to the Grand Jury. He is obligated to present all cases bound over by the district court, and he alone decides whether or not to present any other matter to the Grand Jury. After an indictment is returned by a Grand Jury, the Attorney General presents all defendants for arraignment on the indictments and thereafter, for pleas or trial. The Attorney General has the power to "nol pross" or dismiss any indictment without prejudice. All felonies are tried in superior court, or in some special cases, in family court by the Attorney General. After conviction every defendant has a right to appeal to the Supreme Court of Rhode Island if he feels that the trial court erred as a matter of law, and to the United States Supreme Court if he feels that the laws of the United States were not followed during his trial. In both instances the Attorney General represents the State. After conviction the defendant has available to him numerous forms of post conviction relief in our State and Federal Courts. In all such cases arising after trial the State is represented by the Attorney General.

With respect to a person under eighteen years of age, the situation is quite different. The misconduct of a juvenile may be identical with that of an adult but the procedure is not. A juvenile who engages in conduct prohibited by the criminal law may be taken into custody by a police officer. He may thereafter be referred to family court by that police department; after which the family court decides whether or not a petition should be brought. If a petition is brought, the juvenile and his parents will be summoned before the court and a hearing held. The court may also, upon application by the arresting police department and after hearing, turn children above the age of 16 years over to the adult court system. If after hearing in the family court the child is adjudged delinquent, that is, guilty of felonious misconduct; or wayward, that is, guilty of misconduct equivalent to a misdemeanor, the court may then apply the corrective measures available to it. The trial of family court juvenile petitions is prosecuted by city or town solicitors, or the Attorney General's Department according to whether the initial referral was made by one of the thirty-nine local police departments or by the State Police. Of course, a juvenile has the same rights of appeal after trial as does an adult, and the State is represented on these appeals by the Attorney General.

From the foregoing abbreviated summary of the criminal process it is obvious that there are a number of critical stages where important decisions must be made. They may be identified as (1) the decision to investigate, (2) the decision to take a suspect into custody, (3) the decision to charge a suspect, (4) the decision to request bail at arraignment, (5) the decision to present a defendant for trial, and (6) the decision to use a particular prosecution strategy during and after trial. There are a number of important occasions when the prosecution must be represented before the court. Briefly, the prosecution comes before the court (1) for permission to charge, (2) for permission to detain an accused defendant, (3) for arraignment and bail, (4) for trial, (5) for review of the trial proceedings, and (6) for disposition without a trial upon a plea of the accused.

It is also obvious that in any given case each decision will depend on earlier decisions and, to a certain extent, on the planning for future action in the case. In other words, from the prosecution point of view, each crime or series of connected crimes represents a unit of prosecution, from the beginning of the investigation until the last appeal is decided. The State always has a single objective in view, to protect its society by identifying and rehabilitating offenders. The prosecution performs its duty of identifying offenders through the criminal justice system. Criminal offenders are identified for rehabilitation by their arrest and subsequent conviction in court, after which the Department of Social Welfare undertakes the process of rehabilitation. Under the present system, in spite of the single State objective, the prosecution is represented by a number of different agencies at various stages of the process.

The decision to investigate crime and detain suspects is almost invariably made by policemen at varying levels of rank in the several departments. Rarely is the advice of a prosecutor-lawyer sought or readily available at this level of prosecution activity. This is so in spite of the fact that it is this very level on which the Supreme Court has been concentrating in recent years. The decision whether or not to charge and for what offense, or offenses, is usually made by superior officers of police departments. The advice of a lawyer is sometimes sought in difficult cases,
or cases which present serious legal problems. In these cases the police have usually decided to make some charge, and may seek legal help in deciding what charge to bring and the language to use in the complaint. The almost invariable custom is for district court judges to rely on the assertions of the policeman and to issue a warrant for the arrest of the accused. In a misdemeanor case, no further charging is in order, and the case is ready for trial. In a felony case, after a complaint has been filed and a warrant issued, the police have two alternatives if they desire to continue prosecution. They may proceed to a preliminary hearing in district court, at which the police department will be represented by the local legal advisor, the city or town solicitor; or, the department may seek to have the matter presented to the Probation Department, arranged for in the police station, and the police take this step, they will necessarily have to confer with the Attorney General. In the family court situation, generally, the decision to detain a juvenile will be made by a policeman. The decision whether or not to refer a juvenile offender to family court is usually made by a special juvenile officer in larger departments, or a superior officer in other departments. Whether or not a petition is to be filed is a judicial decision made by the court alone in the absence of any prosecuting agency.

The decision whether or not to put to trial any particular person who has been charged with a crime is made by the prosecutor. In this decision he will, of course, be influenced to some degree by the wishes of the agency which brought the original charges, but he should make this decision independently. He must, however, have due regard for the right of an accused to a speedy trial. As a result, at the district and family court level, at least forty different and unrelated agencies have the power to decline to prosecute cases. In the superior court the Attorney General, and only the Attorney General, may discontinue prosecution on behalf of the State. A number of decisions are thus made by prosecuting agencies during the pre-trial stages concerning arrest, charge, bail, preliminary hearings, and so forth, which may vitally affect the rights of an individual accused and which may have decisive impact on the eventual trial of the accused. The decision to avoid preliminary hearing in district court and to go directly to the Grand Jury can be made only by the Attorney General, but the cases which come to his attention and the manner of his decision are those selected by the police or local prosecutors in thirty-nine cities and towns. In short, the whole charging and pre-trial process in felony cases is fraught with diversity and disparity of philosophy and practice. The prosecution of juveniles in family court varies in practice and technique from city to city and town to town where different standards are applied by the several cities and towns either because of manpower or different philosophy.

I have long felt that the rights of the individuals and the rights of the public are too important for these critical stages of prosecution to continue to be administered by diverse agencies without centralized supervision and guidance. Without practice, an unstructured process such as the one I have proposed for the State of Rhode Island a unitary prosecution system under a Department of Justice concept, whereby the Attorney General would undertake all felony and family court prosecutions.

In the investigative stage of felony prosecutions, which may last for years, it may be necessary to obtain search warrants, or wire-tap warrants, to grant witness immunity from prosecution or to prepare and preserve evidence for an ultimate trial. For a wire-tap warrant only the Attorney General may make application under existing law and only the Attorney General may apply for a grant of immunity to a witness. The conduct of the interrogation of a suspect, or the making of a search, affected as they are to a substantial degree by constitutional and legal requirements and principles, may vitally affect the outcome of a felony prosecution. This activity, normally carried on by police, with the counsel of the city or town solicitor, should be conducted by them with the counsel of the Attorney General, who has the ultimate responsibility for prosecution at trial.

The decision to charge in the felony case involves many factors, as I have already pointed out, not the least of which is the charging process involves many steps: arrest, station-house booking, district court complaint and warrant, arraignment, preliminary hearing, and Grand Jury investigation. Any step but the last may be omitted. The success of the ultimate prosecution may involve tactical decisions at every step of the charging process. The decision to skip any one of all the steps prior to Grand Jury should be made by the district court having ultimate responsibility for prosecution, the Attorney General. The conduct of a preliminary hearing is so closely connected with the ultimate trial that, if the decision to have such a hearing is made, the prosecution in district court should be represented by the same agency which will try the case, the Attorney General. The decision whether or not to stop prosecution short of the Grand Jury, and at what stage, should be in the hands of the agency empowered to control all prosecution, again the Attorney General.

A defendant who appears before a district court at a preliminary hearing may be a probation violator or may have other charges pending in district or superior court. With a single prosecution system all of the criminal matters involving a single defendant in all the courts of the State may be disposed of at one time. The saving to the State and the benefit to the defendant would be considerable. Of course, the application of uniform standards throughout the State can only be accomplished under a single prosecutor system.

Further considerations demanding unitary prosecution at all levels in felony proceedings and family court are the new rules of pre-trial discovery being developed by the General Assembly and by the court in the exercise of its rule-making power. A recently enacted statute requires that "the prosecuting authorities" produce "tangible" evidence for inspection, examination and copying by the defendant. Since local city and town solicitors are "prosecuting authorities", under the statute, there is a strong likelihood of disagreement as to what to produce and what to withhold unless a single agency is, or controls the "prosecuting authority". There is a danger that a city solicitor may decline to produce a piece of evidence in district court and the Attorney General may have need to introduce the evidence later at trial. Or, in all good faith, a city or town solicitor may produce or disclose information, not required to be produced or disclosed by law, which might prejudice the ultimate prosecution of the case. It also appears that from the point of view of the defendant, while it may be a slight advantage to "shop" among varying prosecutors during the progress of the case for an advantage in disclosure, the ultimate result will be that all agencies will be reluctant to make voluntary discretionary disclosures. A unitary prosecution can apply uniform standards for disclosure, and exercise discretionary disclosure at the earliest productive time in the course of the case.

Under the Constitution and statutes of the State of Rhode Island bail must be set for almost every defendant within twenty-four hours of the time he is taken in custody. In most cases, this period is much shorter. The rare exceptions are defendants, who are accused of murder and who may be denied bail where the "proof of guilt is evident or the presumption great." The prosecutor has a role in assisting the Court in deciding the amount of bail to be set, whether or not there should be surety, and whether or not the surety offered, or the bondsman, should be approved by the court. A centralized prosecution can best identify the bail prospects of a given defendant before the court. The status of bondsman
will be better known by the statewide prosecutor, who knows how successful the surety has been in producing defendants before all the courts of the State. A single prosecution system can assure the people of the State that adequate or proper bail will be required and it can also assure the defendant that uniform bail standards will be applied to him irrespective of where in the State he is taken into custody. In cases involving felonies punishable by life imprisonment the anomalous situation is presented by the city or town solicitor conducting preliminary proceedings in district court, the Attorney General’s Department presenting prosecution evidence in superior court at a ball hearing which is mandatory, and the cause thereafter being pursued in district court by the local prosecutor at a blind-over hearing—and still later, the Attorney General presenting the case to a Grand Jury and then for trial in the superior court.

There is intense and overriding state-wide interest in the application of uniform standards of presentation of juveniles for family court disposition. While the decision to detain and refer a particular juvenile, as a practical matter, must remain with local police departments, the decision of what classes of juvenile offenders will be referred and the standards for preparation of a juvenile case must be made uniform throughout the State. The standards of referral should not be different in Providence from those in Newport or West Greenwich, depending on the experience and disposition of juvenile officers in the different communities.

The decision to order a petition to be filed and a summons issued is a family court decision analogous to the decision of the district or superior courts to issue a warrant for an arrest or search or wire-tap, within their respective powers. By having a single prosecuting agency a rapport can be established with the court so that the type and nature of referrals may be controlled to provide the most economic use of the court’s resources, either by petition or through the use of other social service agencies available to the court. The Supreme Court of the United States in recent years has begun to vest the juvenile in the family court with many of the constitutional rights of an adult in the criminal justice system. The total enforcement of these rights requires a mutual effort on the part of prosecutors, defenders and the courts. A unified prosecution system in the family court, as in the other courts of the State, will assure a more uniform application of these safeguards throughout the State at all stages of prosecution.

The organization of the Department of Attorney General of the State of Rhode Island into a Department of Justice to assume the expanded role I have set forth above involves an expansion of the Criminal Division already in existence. It does not require a change in the law. The Attorney General is a constitutional officer of the State who holds the same powers as he held at the time of the adoption of the Constitution and such as have been added by law since then. Our Supreme Court in the case of Oracona v. Linscott, 49 R.I. 443, 455 said, “Under the Constitution and by long established practice great power and responsibilities for the enforcement of the criminal laws are lodged in the attorney general of Section 42-9-4 of the General Laws of the State require of him that, ‘He shall draw and present all information and indictments, or other legal or equitable process, against any offenders, as by law required, and diligently, by a due course of law or equity, prosecute the same to final judgment and execution.’” Furthermore, under the provisions of Section 12-1-9 of the General Laws, “The Attorney General shall have and may exercise in any part of the state with regard to the enforcement of the criminal laws, all powers of sheriffs, deputy sheriffs, town sergeants, chiefs of police, members of the division of state police, police officers and constables.”

As a matter of custom and practice down through the years, town and city solicitors have represented the police departments of the several cities and towns before the district courts and before the juvenile and family courts. However, the power of the local prosecutor has always been subject, and is subject, to the general plenary power of the Attorney General in the field of criminal prosecution. Section 5360 of the Charter of the City of Providence (P. L. 1940, c. 832 §57 (e) ) provides: that the City Solicitor shall: “Prosecute and control all complaints brought by the police of the city on behalf of the state; provided, however, that nothing herein contained shall be deemed to affect or limit the powers and duties of the attorney general.”

It is my firm conviction that a reshaping of the Department of Attorney General to provide sufficient manpower to assume all felony prosecutions before the district court and all other prosecutions before the family court, will repay itself many times over in increased service to the public.

In summary, some of the many benefits I can foresee from a unified prosecution system as discussed above are these: Uniformity in the preservation of individual constitutional rights during investigations and at the time of arrest; uniform bail standards; standardization of discovery procedures; a uniform policy on referral of juveniles to the family court; a uniform policy and practice before the family court and district court; total familiarity with a particular case by the agency having final responsibility for the trial of that case; a single agency to establish policy on sentence recommendations in the event of guilty pleas; and a single agency to pursue the State’s objective in prosecution.

ADVERTISING AND THE CAPTIVE CONSUMER

“Advertising... by and large reflects the morals, manners, customs, habits, desires, and economic conditions of the community and generation which it serves.”

If the above premise is accepted as true the United States has evolved into an age of mendacity. Daily, the public is exposed to a deluge of unsolicited advertisements wrought upon them by a rapidly expanding industry which has as its primary goal an increased sales quota.

The deceit which is practiced upon the general public through today’s advertising media differs from the blatant falsities which appeared in advertising thirty years ago. Due to the higher educational level of the public, prevalent use of the hyperbole in modern advertising is generally considered by the public to be mere “sales puffing”. The vague nature of the term “sales puffing” has made it extremely difficult to arrive at rules of law to govern the diverse fact patterns which can arise.

Some authorities have devoted considerable energies to seeking definitive answers to two perennial questions: 1) to what extent may the advertiser legitimately utilize superlatives to extoll the merits of his product? 2) what is reasonable “sales puffing”? The answers to the foregoing questions are dependent upon whose interests are being annullated.

To the seller, a statement may be merely a sales opinion whereas to the consumer it is a misrepresentation of a material, existing fact. Very often, the determination of which party is correct hinges on the meaning of a single word.

The ever-increasing sophistication of the public and the resourcefulness of the pace-setting advertiser has produced

a refinement of the methods of misrepresentation. Modern advertising attempts to disguise methods of misrepresentation by use of the innuendo and the misleading statement. As a result, selling points are often intentionally couched in language that requires a thorough knowledge of semantics to interpret. Thus the problems surrounding false and misleading statements in connection with the sale of a product has increased with the growth of the advertising industry.

There have been attempts to curb some of the abuses in advertising but the business sector has demonstrated that it is singularly interested in protecting only its members from unfair or deceptive trade practices.

In 1911, a publishers journal, "Printers Ink Magazine", urged adoption of a model statute which would prohibit any person from asserting, representing or making a statement of fact which is untrue, deceptive or misleading. Violation of the statute, as proposed, results in a misdemeanor. The statute was adopted by twenty-seven states, although the majority of these states inserted the added requirement of knowingly issuing false, deceptive or misleading statements.

Despite organizations such as the Advertising Association of America and the National Better Business Bureau, the business sector has failed to successfully police its own members through self-imposed ethical standards and regulations. The few regulations in existence have been enacted to protect only members of the respective organizations from unfair trade practices. Since the organizations are not empowered to issue sanctions to violators, mere persuasion to desist from questionable actions is the only form of restraint used.

The Federal Government has for a considerable time been cognizant of the American consumer's plight. With the adoption of the Wheeler-Lea amendment to the Federal Trade Commission Act of 1914, Congress for the first time granted some protection to the consumer from false and deceptive advertising. However, limitations upon the Commission's power under the act in addition to powerful lobbies of the business sector have severely restricted the amendment's application to the low income consumer.

The act does not provide for compensatory remedies to the injured consumer. In addition, a broad delegation power granted by Congress has been limited by the Commission's reluctance to extend its jurisdiction beyond violations of the Act. An investigation of an alleged violation of the Act, under Section 5 of the Act, "public interest" must be specifically and a substantial portion of the public must have been misled by the advertisement. "The mere fact that it is in interest of the community that private rights shall be is not enough to support a finding of public interest." Thus, the Federal Trade Commission has shown an insensitivity to the consumer's interest in the decision process. The consumer as a class has no effective power as does the business sector, and the Commission careful not to offend those groups possessing political representation.

As an illustration of the Trade Commission's failure to protect the low income consumer, the Commission has declined to extend its jurisdiction to local violations. It dismissed a hearing and to rule on whether dissemination of interstate extended the coverage of the Federal Trade Commission to local sales practices.

STATE AND LOCAL REMED

At common law there exists causes of action for misrepresentation and breach of warranty. These have been fortified by the Uniform Commercial Code sections 2-314, and 2-318, all of which pertain to warranties. However, section 2-316 provides that express and implied warranties be excluded or modified by appropriate and conspicuous language in the sales agreements.

In order to provide more adequate recourse to the low income consumer because of his inability to afford competent legal counsel, seven states have adopted the Uniform Deceptive Trade Practices Act. The Act establishes a Consumer Commission to administer its provision. Basically, the Act, resembles the Federal Trade Commission Act in that it prohibits deceptive representations in the advertisement of goods, and empowers the Commission to seek an injunction against any person who violates the Act. Fines may also be levied by the Commission of not less than $25.00 and not more than $100.00 for each offense. In addition, the Act provides that the agency may take independent action without the issuance of a consumer's complaint to investigate and conduct hearings of suspected violators. Merchants are also protected under the Act, especially from such devices as contiguous "going out of business sales" and "bait advertising". The ability of the Consumer Commission to investigate and conduct hearings on a single complaint affords the low income consumer greater protection than does the Federal Trade Commission Act which refuses to interject itself into local actions.

The Act is limited in its application. by three factors. First, it cannot provide direct monetary relief to the consumer bearer's loss, although in some instances the Commissioner may award attorney's fees to the petitioner where there was an intentional deceptive act employed by the accused. Second, it may not compete directly with the jurisdiction of the Federal Trade Commission Act. Finally, it is subject to revision and modification by each adopting state. In Connecticut, for example, the Commission is not empowered to levy fines.

On the municipal level, a consumer who has sustained a minor monetary loss resulting from the manufacturer's, supplier's, or seller's liability may enter small claims court, and if successful, recover the purchase price of the misrepresented item. However, this type of action is not the answer in most cases since the court may work more of an injustice on the party seeking relief, especially when the plaintiff is obligated to appear in court several times.


4. The Wheeler-Lea Act was enacted in 1938 by Congress primarily to prohibit unscrupulous trade practices in methods of advertising.


7. Trade Regulation Reports (Transfer Binder 1961-63), p. 20573, arit. 15752, February 23, 1962. In 1966, the F. T. C. recommended state adoption of an "Unfair Trade Practices and Consumer Protection Law". This Model Law proposal was copied after Section 5 of the F. T. C. Act. The 1968 draft of the Model Law added provisions which would grant restitution of money or property to anyone suffering damages from unlawful acts or practices. The proposals were adopted by the National Consumer Protection Hearing in December 1968. The Council of State Governments endorsed the act with a few exceptions.


because the accused's lawyer is able to obtain a number of continuances. The cost of the remedy then begins to outweigh the loss sustained.

With respect to the remedies already presented, it is apparent there is still no substantial legislation which extends protection to the low income consumer. Legislation is needed, uniform through national application and administration is needed, uniform through national application and administered at the state or local level.

In the search for a law which might replace inadequate legislation and eliminate duplication of federal/state functions, a recent English parliamentary act deserves some attention.

On May 30, 1968, Parliament enacted the Trade Descriptions Act 1968. Generally, the Act prohibits the application of a false trade description to any goods, and provides that for each violation a fine and/or imprisonment for a term not to exceed two years will be imposed. The Act further provides that the Board of Trade in conjunction with all local departments of weights and measures will be the administrative authorities responsible for the enforcement of all provisions. In addition to the Board of Trade's directive authority over the local designated agency, the Board has the legislative authority to assign a meaning to any ambiguous phrase or expression used in the advertisement of a product.

Section one of the Trade Descriptions Act states: "Any person who in the course of a trade or business, (a) applies a false trade description to any goods; or (b) supplies or offers to supply any goods to which a false trade description is applied; shall, subject to the provisions of this Act, be guilty of an offense." By its very terms the Act extends its application to every individual or legal entity engaged in any trade or business. A person becomes absolutely liable when either applying a false trade description or selling a product to which has been applied, with his knowledge, a false description.

Section two of the Act lists under twelve subtopics, the exact meaning of the term "trade description". It is defined as any "direct or indirect indication by whatever means given of such information as dimensions, method of manufacture, origin, composition, merchantability and fitness for a particular purpose". Sections two and three indicate that any misleading statement related to the product is a false trade description. The explicatory notes following section three indicate that an offense may be committed by acts of omission where concealment amounts to a withholding of information.

The power of the Board of Trade to assign meaning to terms used in a sale, without any reference to a particular standard, under section 7, will eliminate most of the ambiguity created by the use of terms such as "showerproof", "ovenproof", and "lifetime". The Board may also require that certain information accompany the commodity when sold. This information might include warnings, limitation of product use, or even instructions on the use of the merchandise.

In addition, there are the defenses of mistake and reliance on information supplied by another. In establishing these defenses, the accused has the burden of proving that he took all reasonable precautions and exercised due care to avoid any offense by him or his agent.

If the essential features of the Trade Descriptions Act were incorporated into Federal legislation similar to the Uniform Deceptive Trade Practices Act, it could be said that effective protection for all American consumers is closer to realization. In addition to the levying of penalties, imposing jail sentences, or granting injunctive relief, any act which is adopted federally should include a provision to enforce the replacement of defective merchandise by the manufacturer or a return of the full purchase price paid. Such a provision would give a remedy to the aggrieved party and would deter abuses by those manufacturers who operate on a one time purchase basis.

There is some hope for a uniform consumer protection act arising out of the increased pressure being applied by consumer oriented organizations and lobby groups. In 1967 Congress created a National Commission on Product Safety to investigate the consumer crisis. To date there has been little progress realized from this Commission.

There is now pending in Congress a bill which would, if enacted, create a permanent office of Consumer Affairs, which would draft necessary legislative proposals. Additional remedies to the low income consumer will be available under the proposed Class Action Jurisdiction Act. The Act would permit the bringing of class actions in Federal Courts regardless of the domicile of the parties involved in the litigation.

A national uniform consumers act is absolutely essential to cope with consumers problems today. In this modern era where the greatest percentage of merchandising is conducted on an interstate level, the need for a uniform law is apparent. Advertising of a product, be it in the form of a flyer, newspaper advertisement or television and radio commercial, reaches thousands of consumer in a large geographical area. Without a national consumer law, a manufacturer or another who engages in advertising, must conform to the individual legal requirements of each state, and if in violation of its laws be subject to numerous prosecutions. Industry per se should encourage a national consumer law, to protect their interests as well as the consumer's. A national agency similar to the Department of Welfare, with its local offices handling regional problems, would protect every consumer and merchant within that locale from deceptive trade practices. The days of the local merchant are rapidly vanishing. We are now in the age of long range buying, chain stores, national credit, and large scale soliciting by telephone and mail. It is time that our laws reflected this change in the economy and grant greater protection to a consumer held captive in a seller's market.

Brian M. Gildea Class of '70

The recently passed Truth in Lending Act and Regulation Z mandates on advertising of credit terms are intended to be minimal. Creditors subject to the advertising requirements may go beyond what is called for but, if they do so, they must in no way mislead the customer.

Generally, an advertisement of credit terms may not state that credit can be arranged unless the creditor usually and customarily arranges such credit. The same holds true for acceptance of down payments.

Regulation Z includes within the meaning of advertisement any commercial messages in newspapers, magazines, catalogs, leaflets or flyers. Commercial messages beam over the air waves via radio, television, or public address systems are advertisements. Direct mail literature is advertising subject to disclosure requirements. Any printed material that may appear on any interior or exterior sign or display, even a window display, is advertisement. Any point-of-sale literature or price tag that is delivered or made available to the customer or to a prospective customer, in any manner whatsoever, is also advertising.

There are special requirements for catalog and multiple-page advertisements. Open end credit and advertising of credit and advertising of credit in other than open end transactions also are subject to special requirements.

1 C. C. H. Consumer Credit Guide 3003.
11. Compare this to exemptions of the F. T. C. A. F. T. C. ed.
Editors' Interview

With Professor John E. Fenton, Jr.

Suffolk Law School is now the nation's third largest law school. Its growth and development has necessarily created certain problems, some of which are peculiar to Suffolk and others of a more general nature. The task of pursuing the most effective course directed at resolving these problems is borne by the Administration. However, a growing concern over these very problems has arisen among both students and faculty. Hence the Editors of THE ADVOCATE have adopted a policy of conducting and publishing interviews with various faculty members. The policy is designed to solidify some of the more pressing problems facing the Law School and to offer, through the vehicle of the interview, proposed solutions which may in turn provoke debate and in some instances remedial action.

Feature Article Editor, Brian Gildea, interviewed Professor John E. Fenton, Jr. raising several questions; the answers to which are vital to the future of Suffolk Law School.

Professor Fenton received his A.B. from the College of the Holy Cross in 1951; his L.L.B. from Boston College in 1954; and his L.L.M. from Harvard Law School in 1955. The Professor has been extremely active in his role as a faculty member since he joined the faculty in 1957. In addition to advising the Law Review, he chairs the Faculty Law Review Committee, Committee on Graduate Studies, Committee on First Year Moot Court Program, and the Faculty Loan Committee. He is also a member of the Joint Faculty-Student Committee and the Committee on Clinical Programs.

Question: Through your experience at other law schools, can you point out some much needed changes which would be of benefit to both the students and faculty of Suffolk Law School?

Answer: Most of the problems which we are now experiencing here at Suffolk University Law School stem from one source, the overcrowding of our physical facilities. There is just not enough space allocated to the Law School to affect the changes necessary to solve the problems inherent in the overcrowded facilities. The limitation of available space forces the Law School Administration to adopt such a rigid schedule of course offerings, class time, and room assignment that there cannot be any substantial revisions or alterations of this schedule.

Moreover, the same basic problem of lack of space relates directly to the size of a class section, the proper administration of student clinical programs, student organization offices, faculty and secretarial offices, and most importantly to available library and study areas. There is just so much that we can do with the present facilities and nothing more. All of us are striving to provide high quality legal education under rather difficult circumstances; and there is so much more that could be done in the proper environment.

If we are to maintain the same level of student enrollment that we now have, the only reasonable solution to these problems is a new separate physical plant which would provide the Law School with the space it so desperately needs to improve the quality of its education. A separate law school building is absolutely essential because the problem of the lack of adequate space has reached the critical stage.

A new physical plant would permit the Law School Administration to solve the problems mentioned, and leave room for any future changes which might be necessary. Within such a new building, I would hope to see a significant change in both the size and number of classrooms. We definitely need many smaller classrooms to create a seminar type of atmosphere which would increase the effectiveness of the discussion and problem solving method of law study. Smaller classes also create an environment for a good rapport between the professor and the students through more frequent and detailed discussion of the subject matter.

In addition to these changes in the facilities, I would welcome certain changes in the current curriculum. I would like to see more emphasis placed on legal writing and drafting in the core curriculum of the first and second year. I believe that it is absolutely essential for the complete education of law students to attempt to develop creative legal writing ability. Law students today ought to be compelled to do more high quality legal writing. After all, a great deal of a lawyer's time is spent in drafting legal documents. Clear and concise expression of ideas arranged in legal context is a requirement of the legal profession. Actually, this type of change could be integrated immediately into existing course materials without any great disruption of the curriculum and would be a valuable benefit to the law students. I also believe that there should be a study made of restructuring the core curriculum and a rearrangement of course offerings throughout the residency requirements.
QUESTION: What problems are involved in relocating the Law School?

ANSWER: The primary problem in relocation of the Law School is finding a suitable site within this immediate area. I emphasize within this area because I find several distinct advantages in remaining within the general Beacon Hill area. There are very few law schools within these United States which can boast of a similar proximity to Federal, State, and Municipal Courts.

Once we find a suitable site within the general area, there remains the problem of financing construction costs. All of these matters are being carefully evaluated by law faculty committees and committees of the Board of Trustees of the University. We all are hopeful that constructive decisions on these matters will soon be made.

QUESTION: A proposal has been introduced before the American Bar Association to create a uniform student-faculty ratio of 30:1 in all member law schools. If this proposal is passed, what effect will it have on this Law School?

ANSWER: If such a proposal is adopted by the American Bar Association, Suffolk would obviously have to comply within a reasonable time to maintain its standing as an accredited law school. There are only two alternatives in such a case: either increase the number of faculty and classrooms or reduce the size of the student body. We would undoubtedly have to show evidence of compliance within a prescribed time period. With new facilities this problem could easily be solved. If we are compelled to comply with a low faculty-student ratio in the present circumstances, the Law School must reduce the size of its student body. This is a decision which I hope the Law School is never forced to make because of the obvious hardships that would be caused to so many worthy candidates who seek a legal education. Although I generally agree with the desirability of a reasonably low faculty-student ratio, I hope that any change is delayed until we have made a decision on enlarged facilities.

QUESTION: Recently, several law schools have embarked upon a program designed to bring more students from minority segments of the American Society into law school. Through tutorial programs, students are introduced to the legal profession and are given awareness of the various study methods and skills required to succeed in law school.

Keeping in mind the high fatality rate of law students at the end of the first year of law school, do you think there are any programs which a law school could implement to prepare college students for the study of law?

ANSWER: No one law school could ever adequately prepare college students coming to it from so many schools in the nation. It would be impossible for any single law school to project itself into a great number of colleges nationwide to offer any kind of preparatory program prior to the time college students take the Law School Admission Test.

Preparation of a student for graduate or professional school is primarily the responsibility of the particular undergraduate institution and can only be accomplished by programs initiated at that level. Colleges could offer an introductory course in the study of law which could emphasize case analysis and brief writing, or these objectives could be realized in a "case method" treatment of Business and Constitutional Law courses.

Furthermore, prelegal clubs could arrange seminars or a lecture series in which law professors and students discuss the study of law and methods of law school instruction. In consulting with interested students, emphasis should be placed on the high degree of professionalism demanded in law school. These are just a few possibilities to encourage and prepare students who manifest interest in the study of law. Proper introduction of the study of law at the college level might negate the mistaken notion of potential law students that their law studies will be full of the intrigue and excitement demonstrated by movie and television portrayals of the legal profession.

QUESTION: Besides the adoption of the Juris Doctor degree, the latest trend in law school seems to be the conversion of the lettered marking system to a pass or fail basis. Do you favor such a system?

ANSWER: I personally am not in favor of such a system for several reasons. First of all, to remove grade requirements and evaluate students on a pass or fail basis prejudices the good student who strives for high accomplishment and unjustly benefits the poor student who is often satisfied with mediocrity. How would you then determine the level of accomplishment achieved by either student? Under a simple pass-fail system there could be a substantive difference between two students passing, but each would be treated equally because he passed the course.

I am also opposed to such a system of grading because it removes or reduces the sense of competition among law students. This is a serious defect because a sense of competition is valuable in the successful study and practice of law as well as in most endeavors in life. Without a sense of competition what would be the initiative for the student to master his course or for a lawyer to prevail over his adversary? Many students under a strict pass-fail system would be seriously tempted to do only that amount of work necessary to secure a passing grade in each of their courses.

The above arguments are directed at the adoption of a system which has only two classifications for grading. There are other systems being employed which are very similar to the letter grade system in that they establish various categories of passing grades. These indicators might read: pass, low pass, high pass, pass with distinction, etc. Bearing in mind the similarities, I am not convinced of any great advantage in such a system of grading. I can't see converting to this system merely because some law schools have adopted it. I can, however, see the merit of the pass-fail system in a few elective or practice courses in the law school. As long as potential employers and graduate law schools continue to maintain an interest in individual course grades and relative class rankings, I favor the retention of the present system.

QUESTION: If a professor can lower a student's grade for not attending class or for failing to respond when called upon, then what value is the number system used in examinations?

ANSWER: As far as I am aware, the exam number system is still effective in fully protecting the anonymity of the student writing the exam. No information about the student's exam number is available to the course professor prior to the time that exams are graded. After the grading of exams, a list is submitted to the Registrar containing the exam number and its numerical grade. At this time the professor may submit a list of student's names requesting that marks be either raised or lowered a certain number of points based upon class response, or other factors relevant to the grading process. As a result of these procedures the grading system still maintains the desired safeguards, to preserve anonymity in the exam grading process.

QUESTION: Is there any particular area of law in which you foresee substantial changes?

ANSWER: Yes I do. The area of law which I feel is undergoing the most rapid development pertains to the problems of the poor and the disadvantaged. This area of law en-
Class of 1917

GEORGE F. HEDERSON retired, effective October 15th, as City Treasurer for the City of Chelsea, Massachusetts. Active in numerous civic affairs, Hederson had held this post for the past 46 years, which made him the oldest employee in point of service in the City's history. Mr. Hederson resides at 39 Crescent Avenue, Chelsea, Massachusetts.

Class of 1932


Class of 1933

HENRY KIGGEN, Executive Vice-President of the Niles Company, Inc., of Hyde Park, Massachusetts, has been elected to the board of directors of Morgan Memorial, Inc., of Boston. An expert in his field, Mr. Kiggen is the author of articles which have appeared in professional journals, including the JOURNAL OF PROPERTY MANAGEMENT AND APARTMENT EXPERIENCE EXCHANGE ANNUAL REPORTS. He is also a former Vice-President of the Greater Boston Real Estate Board, currently a member of its board of directors, and is a member of the board of the Rental Housing Association.

Class of 1936

EDWARD T. MARTIN of Lexington, Massachusetts, has been appointed by Governor Francis W. Sargent as Judge of the Middlesex Probate Court. Judge Martin, who has been a member of the bar since 1936, had been a Special Justice of the West Roxbury District Court since January, 1969.

Prior to his appointment to the bench, Judge Martin had served as Deputy Attorney General under the then Attorney General, Edward W. Brooke, and as Acting Attorney General in the interim between Brook's resignation to assume the post of United States Senator and the term beginning with Elliot Richardson's election to the post. In addition, Judge Martin had also served as Chief Secretary to then Governor John A. Volpe, until his appointment to the bench in January of 1969.

Class of 1937

J. RUSSELL HARPER of 48 Whittier Drive, Scituate, Massachusetts, has been promoted to director of Group Reinsurance Services in the Group Actuarial and Underwriting Department of the John Hancock Mutual Life Insurance Company. Harper will be responsible for coordinating all group reinsurance functions, including the preparation and acceptance of all domestic and international group reinsurance, treaties, evaluation and acceptance of cases, and analysis of financial results.
Class of 1939
CLEO F. JAILLET of Newton, State Commissioner of Corporations and Taxation, has been appointed a member of the corporation of the Nazareth Child Care Center in Jamaica Plain. Jaillet was selected for the post by Richard Cardinal Cushing. Mr. and Mrs. Jaillet reside at 95 Glenn Avenue, Newton Centre, Massachusetts.

JOHN P. LARKIN, a former agent of the Federal Bureau of Investigation, was named Chief of the Organized Crime Section in the Office of the Attorney General of Massachusetts. Since leaving the FBI in 1967 after twenty-six years of service, Larkin has been supervising counsel for the Massachusetts Claims Investigation Bureau, an organization supported by the insurance industry to investigate fraudulent auto claims.

Class of 1940
FRANCIS J. SAWYER, of Woburn, Massachusetts, has been elected a member of the Board of Trustees of Franklin Pierce College. In recent years, Sawyer has served as Vice-President and Director of the Avis Rent-A-Car System, and Avis Transport of Canada. In addition, he has also served as a deputy commissioner in the Commonwealth of Massachusetts, Department of Commerce.

Class of 1942
HENRY H. TUFTS, a career officer in the United States Army, has been named to head the Army's newly-created Criminal Investigation Division. Colonel Tufts has had long experience in the Provost Marshall's branch of the Army, and this experience will aid him immensely in his new post.

Creation of this agency is the culmination of a five year plan for centralizing the professional command of the Army's world-wide network of criminal investigation units.

Tufts' prior assignments saw him named Provost Marshall of the Pacific in 1963, and during the next five years building a large network of investigators and military policemen. Later he served as Commandant of the Military Police School at Fort Gordon, Georgia, where he taught a weekly course in riot control to National Guardsmen and civilian law officers.

Class of 1951
THOMAS M. SULLIVAN has been elected attorney for the First Federal Savings and Loan Association in New Bedford, Massachusetts. Mr. Sullivan and his family reside at 35 Willis Street, New Bedford, Massachusetts.

Class of 1954
WALTER E. STEELE, has been appointed County Prosecutor for Dukes County by the County Commissioners. Dukes County encompasses the islands of Cutty Hunk and Martha's Vineyard which lie off the coast of Cape Cod. In addition, Mr. Steele is also a partner in the law firm of Steele and Franzese, located at 11 Beacon Street, Boston, Massachusetts. Mr. Steele, his wife and four children reside at 6 Cedarwood Road, Jamaica Plain, Massachusetts.

Class of 1955
ARTHUR P. RODGERS of Granby, Connecticut, has been named Corporate Labor Relations Counsel at the Combustion Engine Ring Corporation. He joined the firm last year as the manager of the Utility Division's labor relations staff.

Class of 1956
THOMAS F. MCGRIMLEY of West Roxbury, Massachusetts, has been re-elected by the employees of the City of Boston, Suffolk County, to an unprecedented third term as the elected member of the Boston Retirement Board. McGrimley will represent all of the city and county employees and is the only elected member on the board. In addition, he is also a member of the Greater Boston Central Labor Council, as well as a practicing attorney with offices in Jamaica Plain, Massachusetts.

DONALD J. HOWARD was appointed by the Worcester School Committee to the post of Director of Professional Personnel for the Worcester Public School System. In his new post, Howard will handle employee recruitment, plan in-service training, and devise and implement new programs and policies for personnel. Mr. Howard resides at 11 Calumet Avenue, Worcester, Massachusetts.
Class of 1957
THOMAS McMANUS of Norwood, Massachusetts, has been appointed by Attorney General Robert Quinn to the Attorney General's Advisory Council on the Massachusetts Conflict-of-Interest Law. The Committee was formed to assist the Attorney General in the interpretation of the Conflict's Law which was enacted in 1963. The Law establishes the legal guidelines for the conduct of state, county, and local governmental employees.

Class of 1959
GEORGE H. SLACK has been elected as second Vice-President and Claims Manager of the Covenant Insurance Company of Hartford, Connecticut. Mr. Slack, who holds the same position with the Mutual of Hartford Insurance Company, was formerly Branch Claims Manager with the American States Insurance Company and an Assistant Claims Secretary for the Reinsurance Corporation of New York. In addition, he is a member of the Federation of Insurance Counsel and the Combined Claim Executive Council.

Class of 1961
HERMAN HEMINGWAY has been appointed by Mayor Kevin White to the newly-created post of Deputy Administrator of the Boston Housing Authority. The authority has control over 36 federal and state-aided projects which house about 55,000 persons. Hemingway's office assists minority groups in obtaining housing and jobs, as well as maintaining lines of communication between the City and the minority groups. Hemingway was, until this most recent appointment, the Director of the Office of Human Rights for the City of Boston.

Class of 1963
PATRICK E. MURPHY was re-elected chairman of the Franklin Democratic Party at a recent meeting. Murphy, who is a trial lawyer in the law firm of Simler and Murphy, has served as Town Counsel for Franklin, Massachusetts for the past four years; is a member of the American Trial Lawyers Association; the Massachusetts Trial Lawyers Association; and as well as the Massachusetts and Norfolk County Bar Associations. Murphy presently resides with his wife and eleven children at 13 Flynn Road, Franklin, Massachusetts.

CHARLES M. MacPHEE of West Roxbury, has been appointed an Assistant Attorney General in the department's administrative division by Attorney General Robert Quinn. Prior to this most recent appointment, MacPhee served as Assistant Corporation Counsel for the City of Boston during 1967-1968.

Class of 1964
RICHARD J. UNDERWOOD has been appointed as the new Director of the Boston Redevelopment Authority's Community Relations Department. Having served for the past year and a half as chairman of the Boston Election Committee, Underwood's new duties will include working with local groups and generally improving the lines of communication between the various neighborhoods and the planning and renewal agency. In addition, he will serve as Executive Director of the soon-to-be-formed Boston Urban Affairs Committee.

Class of 1966
DAVID J. NAGEL of Hanover, Massachusetts, was recently appointed by Attorney General Robert Quinn to the Criminal Division of the Attorney General's Office. Nagel had worked as a trial lawyer with the Boston law firm of Nixon, Gray and King before accepting his new position as Deputy Assistant Attorney General.

Class of 1967
THOMAS LILLY has taken up the practice of law in the Town of Ayer, Massachusetts, with offices at 34 East Main Street. Lilly passed the bar in June 1967, and in June of 1968, he opened his law office. Mr. Lilly, his wife and three children make their home on Sunset Road, Groton, Massachusetts.

KEVIN J. MULVEY was sworn in at the State House by Secretary of State John F. X. Davoren, on September 22, as Assistant District Attorney for Middlesex County. Mulvey, his wife Frances, and their son Kevin, Jr., make their home at 36 Gilvert Road, Belmont, Massachusetts.

DAVID S. TOBIN of Needham, Massachusetts, has been appointed by Attorney General Robert Quinn as an Assistant Attorney General assigned to the Eminent Domain Division of the Attorney General's Office. Tobin served as Representative from the eighth Suffolk District in the Legislature from 1965 to 1968, during which time he served on the Natural Resources, Federal Finance Assistance, and Commerce and Labor committees.

Prior to his recent appointment, Tobin was an associate with the law firm of Badger, Parish, Sullivan, and Frederick as a trial counsel.

He and his wife reside at 106 Market Tree Road, Needham, Massachusetts.

Class of 1968
LAWRENCE H. NORRIS has been appointed by Attorney General Robert Quinn as an Assistant Attorney General in the Administrative Division of the Attorney General's Office. Prior to his appointment, Norris was active in trial practice with the Boston law firm of Crane, Inker and Oteri.

JOSEPH T. MORIARITY has announced the opening of his law office at 27 Monument Square, Leominster, Massachusetts. A member of the Massachusetts Bar, Mr. Moriarity has also been admitted to practice before the United States District Court as well as the United States District Court of Appeals for the First Circuit at Boston. He, his wife, and four children make their home at 237 Union Street, Leominster, Massachusetts.

ROBERT P. LARAMEE is now associated in the general practice of law with the firm of Sandler and Sandler, which maintains law offices in the Maritime Building, 63 Rodgers Street, Gloucester Massachusetts. Laramee who was previously employed by General Dynamics in Groton, Connecticut, has taught accounting and business law in Boston. He is a former Claims Representative for the Maryland Casualty Insurance company in Boston, Massachusetts.

WILLIAM J. NAJAM, JR., of Danbury, Connecticut, has joined with three other attorneys in forming the law firm of Yanakakis, Jowdy, Najam and Velis with offices in Boston and Westfield, Massachusetts. Najam has served both as an intern under former Massachusetts Attorney General Elliot Richardson in the Consumer Protection Division, and as a research assistant to a special commission created by the Massachusetts Legislature to study the grand jury system. In addition, Najam is a member of the American, Massachusetts, and Boston Bar Associations.

MICHAEL L. ROBBINS, of 22 Evergreen Avenue, Hartford, Connecticut, has joined the law firm of DiLorenzo and Galligan, 750 Main Street, Hartford, Connecticut. As a student, he was employed as an intern of the Voluntary Defenders Committee of Boston, and prior to his admission to the bar in February, he was employed as a clerk by the law firm of Ribicoff and Kotkin. He is also a member of the American, Connecticut, and Hartford County Bar Associations.

WILLIAM WALSH, former Assistant Corporation Counsel for the City of Boston, was recently appointed Deputy Commissioner of Housing for the City of Boston, by Mayor Kevin...
ANDREW E. PIERCE has joined the Hooker Chemical Corporation as a patent attorney in the Company's Corporate Patents and Licensing Department located at the Grand Islands Complex in New York. Pierce, whose family now resides at 15 Windsor Lane, Salem, Massachusetts, plans to move to the Niagara area in the near future.

FREDERICK T. GOLDER received his Master's Degree in Labor Law from New York University Law School this past June. Golder, who has practiced in the Boston area, now plans to specialize in the practice of Labor Law.

Lt. CARL RICHARD ANDERSON recently completed the Adjutant General Officer Basic Course at Fort Benjamin Harrison, Indiana. He has been assigned to the Pentagon as Assistant Personnel Officer of the Army's Special Security Group in the Office of the Assistant Chief-of-Staff for Intelligence.

DAVID JOHN HALLINAN, a former co-Editor-in-Chief of The Advocate, was elected on November 4th to a special two year term on the Peabody School Committee. Mr. Hallinan, who passed the Massachusetts Bar exam last June, resides with his wife Brenda, at 13 Palmer Road, Peabody, Massachusetts.

FREDERICK T. GOLDER received his Master's Degree in Labor Law from New York University Law School this past June. Golder, who has practiced in the Boston area, now plans to specialize in the practice of Labor Law.

H. TERRANCE SAMWAY of North Andover, Massachusetts, has been named Alumni Director at Merrimack College by Merrimack President, the Reverend John R. Ahern, O. S. A. While at Merrimack, Samway was President of Sigma Beta Kappa Fraternity and Editor-in-Chief of the weekly college newspaper.

JOSEPH J. TRANTOLO, JR., has joined the law firm of Trantolo and Lach, 750 Main Street, Hartford, Connecticut. A June graduate, he was recently admitted to the Connecticut Bar. Mr. Trantolo now resides in Farmington, Connecticut.

We are saddened to report the death of the following alumni:

<table>
<thead>
<tr>
<th>Name</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dr. Philip L. Murray</td>
<td>1915</td>
</tr>
<tr>
<td>James H. Duffin</td>
<td>1923</td>
</tr>
<tr>
<td>William C. Hyland</td>
<td>1924</td>
</tr>
<tr>
<td>Alfred C. Sheehy</td>
<td>1925</td>
</tr>
<tr>
<td>Mio Maurice Davis</td>
<td>1927</td>
</tr>
<tr>
<td>Edward P. Hughes</td>
<td>1927</td>
</tr>
<tr>
<td>Joseph Coyne</td>
<td>1928</td>
</tr>
<tr>
<td>Cornelius P. Donovan</td>
<td>1928</td>
</tr>
<tr>
<td>John T. Coan, Sr.</td>
<td>1929</td>
</tr>
<tr>
<td>Leroy C. Murch</td>
<td>1929</td>
</tr>
<tr>
<td>Charles L. Callanan</td>
<td>1929</td>
</tr>
<tr>
<td>Abraham Gamerman</td>
<td>1930</td>
</tr>
<tr>
<td>John F. Sullivan</td>
<td>1930</td>
</tr>
<tr>
<td>Lawrence G. Haley</td>
<td>1933</td>
</tr>
<tr>
<td>Charles Anderson</td>
<td>1942</td>
</tr>
<tr>
<td>Edmund C. Buckley</td>
<td>1942</td>
</tr>
</tbody>
</table>

If you wish to exchange your LL.B for the J. D. degree and to receive a diploma to that effect, an application may be obtained from the Alumni Office. It will be necessary to surrender your old diploma. The new diploma will carry a contemporary date and will be sent to you as soon as processing has been accomplished. It will take time to print the diploma, make the necessary record changes and mail the diploma to you, so please be patient, knowing that we will make the exchange as quickly as possible.

Dorothy S. McNamara, Secretary of General Alumni Affairs

THE TRIAL LAWYER continued from page 8

participate is held after court. The subjects of these discussions are usually practical problems of proof within the rules of evidence. This course provides exceptionally valuable experience in the art of eliciting from your own witnesses in court all the elements of your direct case.

These courses illustrate what can be done to effectively prepare law students for criminal trial work. Unfortunately, courses of this quality are not offered in other law schools. They were not available when I was a student some fifteen years ago. Hopefully, training of this kind will soon be offered by other law schools throughout the country. Unhappily, the deep seated indifference to the teaching of the trial skill still exists in most law school faculties.

The third-year student should therefore plan to obtain employment in situations where he will be permitted to acquire experience and skill in trial work. The situations open to the recent law graduate are unfortunately not numerous.

The Massachusetts Defenders Committee, an organization which employs lawyers to defend indigent defendants, presents an excellent opportunity to learn the criminal trial skills. After serving a relatively short apprenticeship in a district court, a new man soon finds himself defending criminal causes in the superior court jury sessions. In a few years, the experience gained through constant trial work qualifies him as a trained advocate capable of handling major felonies.

Many of the outstanding criminal lawyers in Boston are former members of the Massachusetts Defenders Committee; Thomas Dwyer, Joseph Balliro, and Ronald Chisholm are all former defenders.

Whatever small skills I possess, I acquired as an Assistant District Attorney for Suffolk County. I was fortunate in being appointed to this job when I was newly admitted to practice and served for more than twelve years until I resigned in May of this year. During these years I had the opportunity of trying to juries all types of criminal cases from malum prohibitum misdemeanors to rape and murder. I became a specialist in white collar larceny and embezzlement cases. It was my privilege to have served as trial assistant for the late Edward M. Sullivan, one of the ablest prosecutors in the country at that time. Other outstanding criminal lawyers, under whom I served and observed, were Frederick T. Doyle, who was the prosecutor in the famous Brink's Case, and the late Frank Hickey, who was, for many years, a specialist in the trial of homicides. All of these men were generous and patient teachers willing to give their mature advice and encouragement to younger men in the office. Suffolk County District Attorney, Garret H. Byrne, also encouraged younger members of his staff to assume heavier responsibilities in terms of permitting them to try important and complex cases. It is impossible to imagine a finer training ground for the beginner. I consider myself the most fortunate of men to have been provided this opportunity for training and growth in the criminal law practice.

I strongly advise young men disposed to enter this field to earnestly seek this kind of employment. Similar employment should be sought in the several district attorneys' offices in the Commonwealth, the United States Attorney's office and the office of Attorney General, Robert Quinn. Although I cannot be specific, it is suggested that students communicate with the United States Department of Justice in Washington for the many positions within this office which provide trial experience.

I am hopeful that these suggestions will be helpful to future members of the trial bar.

Winter 1969
Some progress has been made toward these objectives but we cannot and should not be satisfied until this Law School is functioning at its fullest capability. The following is an outline of what has been done and is being done to achieve these goals.

The Board of Trustees are to be congratulated for acting favorably on the Student Bar's request for a full-time Law School Placement Director. It must be noted that the Faculty-Student Committee, the Faculty as a whole, and the administrations of the Law School and the University, all favorably endorsed this proposal. I don't believe that it is possible to have a fully operational Placement Office this year. But it certainly should be possible to obtain the services of a qualified individual and to have the placement office in operation by next year.

The University has purchased the Stop and Shop building on the corner of Cambridge Street and Ridgeway Lane with the intention of erecting a 5-story building on the site. A zoning variance was obtained and many of our problems in the areas of space and adequate facilities might well have been resolved by now except for legal action taken by a local group to test the validity of the variance. The result of this case is not expected until the Spring of next year.

Until new quarters can be found either for the Law School or the Undergraduate Schools, the facilities will not be satisfactory to the Students, Faculty or Administration of the Law School. But this probably cannot be accomplished for several years and some immediate steps must be taken to relieve the present conditions. Toward this end the S, B, A, has been meeting with members of the Faculty, Law School Administrators and the President of the University. Due to a Student Bar request, a special committee of the Board of Trustees has been established to meet with members of the student body and to discuss and investigate the conditions at the Law School.

Committees are currently working on problems involving the library, bookstore, cafeteria and other areas in need of immediate attention.

In answer to innumerable requests, I am appointing a committee to investigate student complaints in regard to certain faculty members. This committee will be advised to proceed with: this matter in an intelligent and responsive manner. The results of this committee's findings will be forwarded to the proper Administrative Officers for consideration and such action as may be deemed appropriate.

Student Bar committees are also working in the areas of curriculum and expansion of clinical legal programs.

Frank Lafayette has been placed in charge of organizing Law Day and has assured me that this will be the most successful Law Day Activity ever held at this school. A Christmas dance is being held at the Blue Hills Country Club on December 18, 1969.

This has been a brief summary of the activity of the S, B, A. to date, a further and more detailed report will be made to the students by their representatives at a class meeting.

PROFESSOR KINDREGAN APPOINTED TO ATTORNEY GENERAL'S ADVISORY COMMITTEE

Charles P. Kindregan, a member of the Law Faculty, has been appointed to the newly formed Advisory Committee on Conflict of Interest by Attorney General Robert H. Quinn. The function of the Committee is to advise the Attorney General on state, county, and town conflict of interest problems involving employees and officials.

The Committee is chaired by former Attorney General Edward McCormack; the other members include the Chairman of the Massachusetts Mayor's Association, the President of the Massachusetts Selectman's Association, three law school deans, and several members of the Great and General Court.
JUDGE JAMES R. BAKKER SCHOLARSHIP INSTITUTED AT SUFFOLK

Kevin W. Sullivan (center) of Webster, Mass., a third-year student at Suffolk University Law School, is the recipient of the first annual Judge James R. Bakker Scholarship, established by the Suffolk Law School Class of 1949 in memory of one of its members. Sullivan was selected on the basis of academic excellence for the $750 scholarship. The late Judge Bakker was special justice of the First District Court, Northern Middlesex, in Ayer. Shown with Sullivan at the presentation are Mrs. Frances M. Bakker of Littleton, widow of Judge Bakker, and Quincy Attorney Stephen T. Keefe Jr., a member of the Suffolk Law Class of 1949, who spearheaded the scholarship plan.

PROFESSOR MOSS NAMED TO FACULTY

The Advocate is pleased to welcome to Suffolk Guy B. Moss who has recently joined the faculty. Professor Moss was graduated from New Rochelle High School in New Rochelle, New York where he was admitted to membership of the National Honor Society. He earned his Bachelor of Arts degree in 1966 from Yale University where he majored in Economics, graduating Magna Cum Laude and Phi Beta Kappa. Professor Moss received his Juris Doctor from Harvard Law School in 1969. While at Harvard, he co-authored "A Divorce Reform Act" in the Harvard Journal on Legislation 563 (May, 1968), a publication of which he was Secretary-Treasurer.

In the summer of 1967, Professor Moss served an internship with the Agency for International Development in Washington, D.C. During the summer of 1969, he served with the firm of Dewey, Ballantine, Bushby, Palmer and Wood of New York.

Professor Moss is now teaching courses in Legal Methods and Contracts to evening sections and Remedies to a day section.

INTERVIEW WITH PROFESSOR FENTON continued from page 23

comespse all the problems concerning citizens who have been unfairly relegated to a second class status because of race, age, ethnic background, or financial standing. The recent efforts to solve the problems and curb the abuses to these people have developed new dimensions in all of the areas of Urban Law.

Suffolk University Law School has recognized the need for familiarity with developments in these areas of law, and has recently begun offering courses covering the various problems within the fields of Urban Law, Problems of the Poor, and Consumer Protection. These are the emerging areas and we have kept pace with the times.

SUFFOLK ALUMNUS WINNER OF A.S.C.A.P. AWARD

Joseph J. Beard, a member of the class of 1969, has been awarded a Nathan Burkan Memorial prize in recognition of his contribution to furthering an interest in copyright law.

The prize was awarded by the American Society of Composers, Authors and Publishers to Mr. Beard for his treatise, "Cybera: The Age of Information". Beard’s treatment of the impact of computerization upon the copyright laws is now eligible for an A.S.C.A.P. national award.

While at Suffolk Law School, Beard was an Editor of the Suffolk University Law Review and Chairman of the Student Bar Association. He is presently working towards a master’s degree in business administration at Babson Institute.

THE FORUM: VOICES FOR CHANGE

The Student Bar Association of Suffolk University Law School sponsored an open forum for the Student Body on Wednesday, November 19, 1969. The main purposes of the forum were to present Faculty, Administration and Trustee plans to resolve the current problems facing the Law School, and to establish the basis for a direct line of communication between the Student Body and the Faculty, Administration and Trustees of the Law School.

In a prepared speech, Terrence McCarthy, President of the S.B.A. and Chairman of the forum, reported that the Trustees had approved the establishment of a full-time Law School Placement Director. He added that the future expansion of the physical plant of the Law School is under consideration by a Joint Trustee-Faculty Committee.

Following the forum Mr. McCarthy stated to THE ADVOCATE that "It has been a basic assumption at this Law School that the student body has been pervaded with an attitude of apathy. This concept was emphatically laid to rest by the attendance of more than 500 students at the forum, held specifically to answer the question, 'Are you satisfied with the current policies of the Law School?' The students' answer to the question was an overwhelming, resounding 'No!'

Until this time the S.B.A. has failed to adequately represent the student body, its ideas and feelings, to the Faculty, Administration and Trustees of the Law School."

STUDENT ADVISORY BOARD ON SELECTIVE SERVICE LAW

As the impact of the war in Viet Nam and the resultant draft calls continue to affect most immediately the young men of our country, several second and third year students at Suffolk Law School have organized a Student Advisory Board on Selective Service Law. The Board has taken over the function of counseling students in the University on their rights and obligations under the draft law. This function was previously performed on an ad hoc basis by the faculty. The goal of the Board are to provide information on the draft to any interested student, graduate or undergraduate, and to engage in legal research, independently and in conjunction with practicing lawyers, with a view toward understanding the present operation of the draft law and devising alternative solutions to present law where advisable.

In preparation for assuming these responsibilities, the students attended a number of special classes taught by practicing lawyers, faculty, and members of the Committee for Legal Research on the Draft at Harvard Law School. Professor Lynch, Suffolk Law School Librarian, has given valuable assistance in starting a collection of documents and materials on Selective Service Law. The Board will continue to provide its services as long as the need exists.
PHI ALPHA DELTA INITIATES NEW MEMBERS

Newly initiated members of Phi Alpha Delta Law Fraternity
From left to right, top,
Left to right, bottom,
John Case, Philip Adams, Robert Dwyer, George Whiting, John Balzano, Philip Chesley.

Phi Alpha Delta Law Fraternity has available a special laminating and framing process which may be used for pictures and diplomas. Information on "Perma Plaque" will be available from Robert Levitz or Paul Nyer. Hours and location to be posted on Bulletin Board.