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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, faculty and guest writers on timely subjects pertaining to the law.

All articles and editorials reflect the personal views of the authors and are not necessarily the views of the administration or faculty of Suffolk Law School.

Guest editorials by students and faculty are welcomed by THE ADVOCATE which recognizes its obligation to publish opposing points of view.

COVER  
"JURY AT THE TURN OF THE CENTURY"  
Illustrated by CHARLES WATERHOUSE
"Legal Services", more particularly "Group Legal Services" is not novel, rather, it had its inception in the early 1900's when the United Mine Workers and the Brotherhood of Railroad Trainmen retained lawyers to represent members in workmen's compensation cases. Then, many union officials began referring members on an informal basis to the law firms retained by the union to handle its business, though union members paid their own bills. From this beginning there evolved group legal service plans which initially, were generally restricted to job-related matters to plans now offering a wider range of services covering usual occurring personal legal problems such as consumer matters, domestic relations and the like. The cost of such plans has been met by the group, whether it be a union or some other unit, through increased dues and in "check off" by the employer from the employee's wages. It is interesting to note that bargainers for 750,000 members of the major postal unions have demanded that the U.S. Postal Service provide group legal insurance for its members as a benefit to be secured from collective bargaining. That such efforts on the part of collective bargaining units is not more widespread is as a result of certain sections of the Taft-Hartley Act; however, it is expected that special legislation including legal care benefits as a mandatory or permissive bargaining subject between the employer and the employee as well as permissibility of the creation of trust funds for such purposes will be enacted. Then too, Section 501 (c) 9 of the Internal Revenue Code which gives non-profit status to unions providing certain benefits (and legal service is not one of those benefits as yet) does not appear to present a significant hurdle to overcome.

Heretofore Group Legal Services and plans currently in existence, for the most part, have been predominantly "closed panel" in that the group member has been restricted to the use of lawyers or law firms selected by the leadership of the group. Whereas the "open panel" allows the group member a choice of lawyers within his community or in the locality where the need for legal services arises. In Shreveport, Louisiana, a pilot program has been in existence for approximately nineteen months whereby an "open panel" plan was created for the approximately 600 members of Local 229 of the Construction and General Laborers Union whose total membership numbers some 550,000. This pilot plan was developed and sponsored by the Shreveport Bar Association and administered and directed by the Shreveport Legal Services Corporation which consists of attorneys, union representatives and private citizens of Shreveport. The union member contributes 2 cents per hour; grants from the American Bar Association cover part of the administrative expenses and a grant from the Ford Foundation "backstops" benefit payments. The true cost was estimated to be 5 to 7¢ per hour, however, actual usage indicates a lesser cost.

Much favorable publicity has focused on the Shreveport plan which appears to have the enthusiasm of both the private practitioner and the subscribers themselves whether or not the subscriber has as yet had occasion to use the service provided. Actual usage indicated that only about 25% of the 600 eligible union members and their families have sought the legal assistance available to them under the plan.

Mr. Rizzo was educated at Northeastern University from which he received a B.B.A. in 1957, and at Suffolk University Law School where in 1968 he was awarded a J.D. Degree. Mr. Rizzo is the founder and Chief-Executive Officer of the Afco Products Inc., a wholly owned subsidiary of Yale Industries, Inc. of which Mr. Rizzo is Vice President. A member of the Middlesex Bar Association, Mr. Rizzo is Chairman of the Pre-paid Legal Service Committee.
A wide variety of groups are scrambling for entry into the market of providing legal services for people of moderate means or those earning between $5,000 and $15,000 a year, which in 1963 represented about 60% of the nation's families, for a total of approximately 28 million family units. A California law firm that started offering a plan of group legal services in August of 1970 is under retainer to more than 30 labor unions, credit unions and other organizations with about 50,000 members. A partner in that law firm has joined with another attorney of national prominence in setting themselves up as consultants in the most complete plan offered so far, administered by a new non-profit entity called National Legal Care Program, Inc. The initiators expect to have approximately 2 million members within the plan on a national basis in the near future.

Every plan currently existent and those now being contemplated are directed to groups rather than individuals. The group plan spreads the cost over the entire group and in its infancy, as now, valuable cost and actuarial experience is gained. It inevitably follows that as soon as sufficient experience and data is collected then the group plan will become available to subscribers on an individual basis, though at a higher cost than the group member, just as in the "health care" insurance plans. Little need be left to the imagination were you to consider that the bulk of the so-called person of moderate means, or for that matter the middle class, is a member of some group, be it union member, teacher, firefighter, policeman, employee of a company or what have you. This is the same class of people, the largest segment of our population, who are expected to use their tax dollars to provide free legal services for the poor yet are unable to afford legal services for themselves. This concept, which is more often than not inappropriately called "legal insurance", will eventually provide this class a means by which they can obtain legal assistance at a cost which they can afford and of a quality that they deserve and require, independent of government funded legal aid clinics and social welfare programs.

It would seem that such a concept as prepaid legal services would attract as many insurance companies as are now writing health care plans, and this will eventually be the result. For the moment, however, insurance companies are sitting on the sidelines until much more information in the way of experience of pilot programs and their actuarial costs are known. If, for example, an insurance company could fairly rely on an actuarial experience of 25% usage as in the pilot Shreveport plan (indicating a potential profit of about 75%) the insurers would lose no time in offering competitive legal service plans to as many groups as now purchase health insurance plans. The Shreveport experience, as successful as it is, does not represent a cross-section, if you will, of other unions in other areas of the country. In other words, the information gathered cannot be interpolated to represent actuarial data, in the insurers view, since the union local of 600 members is all black and for the most part legal services are provided by all white lawyers.

This isn't to say that legal service plans will not be available in the foreseeable future. On the contrary, New Jersey's Blue Cross has already established a separate entity to implement and administer a prepaid legal services (insurance) project which it hopes to offer to all of its nearby 4 million group health subscribers upon accumulating actuarial data.

Additionally, last month, a large, national, property casualty insurer announced a pilot legal-insurance project in participation with several Philadelphia unions. The experiment would be for one year and if successful the company expects that it would market legal insurance throughout the United States by 1974.

What about some form of a program of prepaid legal services or insurance type plan in Massachusetts to serve the needs of the majority of our more than 5.8 million inhabitants who are unwilling to avail themselves of legal assistance for a variety of reasons, principal among these is their inability to meet the total cost of engaging their own lawyer?

To undertake and coordinate such a program requires the cooperation and high degree of involvement of the Bar. The American Bar Association had already sponsored two projects, the on-going one in Shreveport and the other in Los Angeles which ended dismally. Any project in Massachusetts should logically rest on our own Massachusetts Bar Association, the representative of the professional group most affected and concerned by the ever increasing encroachment by others in their expertise, experience and yes, livelihoods.

Towards this objective and end, the M. B. A. created a "Prepaid Legal Insurance Committee", initially if you will, as a sub-committee of its "Committee on Legal Services to the Poor". It wasn't too long after that the sub-committee was given prominent and equal full committee status, chaired by Collette Manoil of Boston. The committee's name has since been changed to that of the Prepaid Legal Services Committee, a more
descriptive name to cover the complete range of plans that will become available.

The committee viewed the establishment of a viable program of prepaid legal services with a great sense of urgency. The plan envisioned was to be state-wide in scope and that of an "open panel" allowing the member of the group being served the choice of lawyers. To develop such a plan the input of volunteer hours by the committee has been substantial. Experience throughout the country indicated that the major problem in establishment of a state-wide program was marketability. In order to assure that the benefits offered and the premiums charged are economically sound from the point of view of the program itself and are appealing in the view of the general public and the Bar alike, the committee engaged a well-known publicist to guide them in their efforts as well as a firm experienced in its field to conduct a state-wide survey of public attitudes and views to discover areas of ignorance, apathy, knowledge or prejudice and to ascertain those areas in which the public at large would be receptive to legal representation and how much and for what reason they would be willing to pay for this type of "legal insurance".

The analysis and plan took approximately five weeks at a cost of $25,000 raised by the Committee through donations principally from the Massachusetts Bar Foundation, Massachusetts Bar Association and most of the County Bar Association. The survey results were quite enlightening indicating, for example, that whereas 58% of Massachusetts residents had bought or sold their house or other real estate, only 38% used professional legal services to assure that their purchase and sale agreements were in order; 5% relied on a real estate agent to do this. Forty-six percent (46%) of Massachusetts residents have made large purchases on the installment plan; only 9% used a legal expert to review their contracts; 33% of the citizens of the Commonwealth have a will; 31% had the counsel or advice of a legal practitioner. Thirteen percent (13%) of the residents of Massachusetts say that they have had a problem or situation where they had to deal with a local state or federal government agency; only 4% retained a qualified legal professional to protect their rights before the appropriate government body. Sixty-one percent (61%) of the inhabitants of Massachusetts have relied on outside assistance in preparing income tax returns; only 13% of these have relied on the services of a legal practitioner.

Only 1% of the residents of Massachusetts took advantage of preventive legal advice which saved them time, money, or inconvenience.

HYPOTHETICAL SCHEDULE OF BENEFITS

A. CONSULTATION
Cost of initial consultation regarding any individual cause to be borne by the assured; subsequent consultation benefits $25.00 per consultation, not to exceed $50.00 in total benefits hereunder for any individual cause; benefits hereunder not to exceed $100.00 each policy term.

B. PLEADINGS, NEGOTIATIONS AND CONFERENCES
Preparation of pleadings; conferences, negotiations and meetings with adverse or associated parties for purposes of settlement; research; preparation of opinions; letter, document and pleading drafting and reviewing; preparation of settlement or closing papers; filing of same with pertinent administrative or judicial forum; a sum not to exceed $300.00 per individual cause, 80% of which charge is to be paid hereunder and the balance by the assured.

C. COURT APPEARANCES
(1) In any individual cause, either criminal or civil, in which an assured is a named defendant in a District or Municipal Court, or court of similar jurisdiction in any other state or territory, the sum of $150.00 per day, or fraction thereof.
(2) In any individual cause, either criminal or civil, in which an assured is named defendant in a Superior or Probate Court of the Commonwealth of Massachusetts, or court of similar jurisdiction in any other state or territory, the sum of $200.00 per day, or fraction thereof.
(3) In any individual cause, either criminal or civil, in which an assured is a named defendant in the Supreme Judicial Court of the Commonwealth of Massachusetts, or court of similar jurisdiction in any other state or territory, the sum of $250.00 per day, or fraction thereof.

D. GOVERNMENTAL ADMINISTRATIVE HEARINGS
Appearance before any municipal, state or governmental agency in behalf of an assured; 80% of an amount not to exceed $200.00 for each individual cause.

E. COSTS AND EXPENSES
Actual costs, including filing fees, service charges, stenographic services, photographic services, investigative services, and other necessary court costs or expenses; $100.00 for each individual cause.

F. MAXIMUM BENEFITS
In no individual cause shall the total benefits payable hereunder sections A, B, C, D and E exceed $1,000.00.

G. BAIL OR COLLATERAL
Bail or collateral shall be provided to an assured in an amount not in excess of $500.00. In the event of forfeiture of such bail or collateral, said assured, his dependent or family, shall reimburse the company for such loss. No further benefits under the policy shall be provided to said assured, his dependents or family, until such reimbursement is made.

H. DIVORCE AND SEPARATION MATTERS
In any individual divorce or separation cause, or collateral matters arising therefrom, once benefits are extended to any assured, no other assured shall receive benefits concerning the same cause.

I. REAL ESTATE TRANSACTIONS
Legal fees, recording fees, costs of title examination, and any other costs or expenses generally incidental to the purchase of realty, a total benefit not to exceed $200.00 restricted to the purchase of a dwelling to be used and occupied by the assured; benefits under this section to be available only after the policy has been in effect for eight months and to be paid to an assured under the terms of the current policy or any subsequent renewals thereof once in each five year period.

J. WILLS, TRUSTS AND OTHER TESTAMENTARY DOCUMENTS
A sum not to exceed $75.00 for the preparation of a Will or Trust, or Will containing Trusts, payable to an assured under the terms of the current policy or any subsequent renewals thereof, once in each three year period.

K. CONSUMER LITIGATION
In any individual cause in which an assured is a plaintiff or moving party to enforce said assured's statutory rights or protections under existing consumer protective legislation, all of the benefits set forth under sections A, B, C, D, and E with the limitation as set forth in Paragraph F.

L. CIVIL RIGHTS
In any individual cause, in which an assured is a plaintiff or moving party to enforce said assured's statutory rights or protections under existing civil rights legislation, all of the benefits set forth under Sections A, B, C, D, and E with the limitation as set forth in Paragraph F.
The system of bail as we know it originated in England during the thirteenth century. Whether a defendant could be released, in order to better prepare his defense for trial, was within the sound discretion of the sheriff.1 A common restriction placed by the sheriff on the defendant’s release was that a friend or relative of the defendant promise to forfeit a specified sum of money to the court if the defendant failed to appear for trial. Thus was introduced the custom of the bail bond into pre-trial release as an assurance of a defendant’s appearance.

Since the introduction of this method of pre-trial release there have been problems and abuses in its application. The defendant’s friends or relatives often did not have the financial resources to conduct widespread searches for fugitive bailee’s nor were they able to absorb the forfeited sum if a defendant failed to appear for trial. As a result of this, the system of private surety soon was abandoned and in its stead the commercial or professional bondsman came into being 2. Along with the bondsman came complications and endless accusations of corruption, extortion and collusion. The laymen’s stereotyped impression of the bondsman seems to equate him with a bounty hunter who has the ability to choose who his clients will be and if they will be released from jail. Over the many years the bondsman has developed his role in the criminal justice system, to that of a quasi-judicial decision maker who has taken upon himself a never intended function in the release of defendants awaiting trial. This view of the bondsman has been expressed many times. Justice J. Skelley Wright wrote in Pannell v. U.S. 320 F. 2d 698, 1963 "The court merely sets the amount of the bail but the bondsman controls the jailer’s keys." When a bondsman decides not to write a bond, an accused who could be innocent may be confined to jail until trial. - They (the bondsmen) determine for whom they will act as surety - who in their judgment, is a good risk. The bad risks, in the bondsmen’s judgment and the ones who are unable to pay the bondsmen’s fees remain in jail.

It would seem that a bondsman’s discretion could play an inappropriate role in the release of defendants who are considered by him to be unworthy of his services by being either a "high risk" or personally distasteful (as in the case of civil rights workers and anti-war demonstrators who have been unable to find bondsmen to take them as clients.)

The bondsman alone does not account for all of the problems in the present bail system: Premium rates differ markedly throughout the country for bonds; judges have wide discretion and no set guidelines for assessing amounts of bail; personal prejudice influence judges’ decisions (a District Court Judge in the City of Boston is known to place extremely high bail on suspected drug pushers so that "the public might be protected from people like this"); and bail reform legislation is often overlooked or avoided.

The greatest inequity that must be resolved in the bail system is the obvious discrimination between defendants of financial means, who are most likely to be released on bail, and indigent defendants who must remain in jail until their trial. All men, rich and poor, are presumed innocent when they are brought to trial, but a man who is able to obtain bail and is not committed prior to his trial is more likely to be found not guilty. (According to a report of The Lawyers’ Committee for Civil Rights under Law, 19% of those committed while awaiting trial in the Superior Court were found not guilty and 76% were found guilty - as opposed to - 41% of those not committed while awaiting trial were found not guilty and 54% were found guilty).3

These many defects in the bail system have led to various attempts to remedy the 800 year old system of pre-trial release. The first attempt at reform came about on the theory that a defendant with roots in the community is not likely to flee, irrespective of his lack of prominence or ability to pay a bondsman.


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The first experiment with bail reform was conducted by the Vera Foundation in 1961 when they launched The Manhattan Bail Project in New York City. The project was able to show empirically that if judges were acquainted with the accused's family and community ties and the nature of his residence and employment they might be able to make a reasonable factual assessment of the probability of the accused's return to court. Here was the first major attack on the bail system that offered a reasonable alternative if sufficient fact-finding facilities were made available.

The first basic change in federal bail laws since Congress enacted the Judiciary Act of 1789, providing that "upon arrests in criminal cases bail should be admitted except where punishment may be by death", came in the Bail Reform Act of 1966. Its purpose was to assure that all persons regardless of their financial status, shall not needlessly be detained pending their appearance to answer charges, to testify, or pending an appeal, when detention serves neither the ends of justice nor the public interest". The Act sets up a presumption in favor of releasing the defendant on his own recognizance (ROR) without denying the court's authority to detain or to set bail when deemed necessary.

Massachusetts has been a leader in bail reform. In 1965 a state-wide conference was held, at which a Committee on Bail was appointed consisting of judges, lawyers, and others professionally concerned with judicial administration, to study at first-hand bail practices in Massachusetts. The combined activities of this committee and the early attempts at bail projects in Massachusetts along with the cooperative effort of the courts, the legislature and the bar brought about the passage of a bail reform law in Massachusetts. Massachusetts was the first state to pass this kind of bail reform legislation. The presumption had been in favor of release on bail; the new statute has reversed this presumption and now cause must be shown why individuals covered by it should not be released on personal recognizance.

The Bail Reform Act does not remedy all of Massachusetts' bail problems although it has been a breakthrough in the discriminatory system that existed prior to the 1960's. Along with the Act there are many experimental programs and legislative proposal in existence in Massachusetts to aid those not eligible under the Act, not released on ROR.

The Suffolk County Jail Bail Appeal Project is an example of the type of project being experimented with in order to give effect to the Act. It provides bail appeals for indigent defendants by gathering additional facts to present on appeal to the Superior Court so that the defendant's bail may be reduced or set aside for ROR to allow the defendant's release prior to trial.

However, there is not universal acceptance of the villainous role of the bondsmen. Judge Sobel in People v. Smith 91 NYS 2d 470, 494 (1949) views the function of the professional bondsmen as follows: "There is a general misconception that solicitation of business by bondsmen is illegal. It is entirely lawful - just as lawful as solicitation by life insurance agents. And the solicitation under the law may take place in the courthouses, police stations and places of detention.

It is even necessary and desirable that this should be so - under proper regulation. Otherwise the casual offender, the inexperienced offender, the offender charged with minor crimes, would be confined in jail while the professional criminal with his outside contacts experiences little difficulty in arranging bail. In this Court I have found many defendants ignorant of the amount of bail fixed and the method and cost of obtaining release on bail."

A local bondsman expressed his opinion of his role, in an interview with me, as "an integral cog which was needed to prevent chaos in the form of spiraling default rates and indiscriminate releases

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TIME FOR CHANGE

Thomas S. Eisenstadt currently is serving a six-year term as Sheriff of Suffolk County, which is comprised of the communities of Boston, Chelsea, Winthrop and Revere.

A native of Boston, Sheriff Eisenstadt previously had served as a four-term member of the Boston School Committee and two terms as its Chairman.

He attended the Boston public schools and graduated from Boston English High. He then received an AB from Boston University's College of Liberal Arts and his law degree from the University's School of Law.

Sheriff Eisenstadt is a practicing attorney in Boston and has also served as an assistant attorney general of the Commonwealth.

Selected one of the outstanding young men in America in 1965, Sheriff Eisenstadt has received numerous awards for his achievements.

Today most law enforcement officials acknowledge that the bail system here in Massachusetts, despite previous attempts to reform it, is fraught with numerous faults and shortcomings. The chief weakness, of course, is that the poor and deprived, unable to post bail -- even when only minimal -- must remain in jail before trial. In numerous cases historically, this period can stretch into weeks and even months. This is unfair.

Additionally, under the Commonwealth’s current bail system, when the bail is set by the court, the defendant’s only recourse is either to pledge an asset in an equal amount to, or in excess of, the bail or arrange with a bondsman to purchase a bond in the amount of the established bail.

When the defendant decides on the latter course, he must pay the bondsman 5% (or, in some instances, 10%) of the established bail. This sum, it should be remembered, is non-refundable. All of the profit of the bail system, goes not to the court and/or the country, but rather to the bail bondsman and his surety firm.

For several years now I have had legislation filed that calls for a radical change in the Commonwealth's bail procedure. Unfortunately, the Legislature, as yet, has failed to enact this proposal into law. Undaunted, however, I intend to file this legislation, with some additions, for action in the 1973 session of the Great and General Court.

Under my amendment to the law, which admits a person to bail, the courts naturally would continue to set bails along established guidelines. However, this amendment would provide the defendant with the option of paying to the court the same amount of money that he would have paid had he, the defendant, arranged for his bail through a bail bondsman, that is, 5% of the bail.

Understand that at this point a bail commissioner would have to take a sworn statement from the defendant that he agrees to return to the court on a prescribed date. When the defendant returns he receives back 80% of the sum he paid down on his bail initially.

For example, if the defendant’s bail is set at $1,000 and he puts down 5% or $50, he would receive in return $40. The remaining $10 would be kept by the court and applied toward administrative costs of the program.

Naturally, if the defendant fails to appear he forfeits the entire bail and a warrant would be issued for his apprehension. The notice of default

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would be recorded on his record, and at no time in the future would he be permitted to use this type of personal bail.

It is my belief, especially after carefully researching the present bail system and scrutinizing Section 1, Chapter 276 of the General Laws, that the cash refund Bail Amendment that I have proposed for Massachusetts has a number of advantages lacking in our present bail system.

Most importantly, I want to stress, it eliminates the need of bondsmen as middlemen. Most importantly, too, it assists in reducing the financial loss to the defendant who lives up to his obligations. Note also that the implementation of the cash bail system at police stations could effect, in many instances, the immediate release of defendants.

I think it is safe to say that the frequency of defendants defaulting under this system would be substantially reduced because the bail would be posted either directly by the defendant or by his familiarity and/or friends, and those individuals should provide much greater incentive for the defendant to meet his court obligation so that 80% of the deposit could be realized.

Think also of the savings which would accrue to the taxpayers when defendants are able to post bail. A new source of revenue is deposited into the coffers of the county or municipality instead of into the pockets of private bondsmen.

Everybody saves when the defendant is bailable! He is able to work and meet his family responsibilities. Thus fewer jobs are lost and fewer families go on relief. The government does not have to use the citizens’ resources to feed, clothe and house the accused in an institution pending his court appearance.

Bear in mind that in keeping defendants out of jail, particularly first-time offenders, we spare them from the rehabilitation effects of potential criminalizing contacts within the jail prior to trial. This is crucial.

By being outside, the defendant also has a greater opportunity to prepare his defense with an attorney and witnesses prior to the proceedings.

It is my firm belief that freedom, pending legal action, never should depend on the individual’s financial situation. Rather, it should depend on an individual’s character and the probability of his appearance for trial.

With this in mind, I established in July, 1972 the Charles Street Jail Bail Appeal Project, which has the primary objective of seeking the release, pending trial, of indigent defendants in accordance with the Massachusetts Bail Reform Act of 1968 as amended in 1970.

The existing law as to bail appeals states: “Said petition shall have priority over any other matter before said justice and he shall, if he finds in his discretion that the petitioner may be released on his personal recognizance or on an execution of an unsecured appearance bond, order such release, or he may take any order of bail he deems appropriate revising the amount of the recognizance or the number of sureties thereon, or both.”

Chief Justice Walter McLaughlin of the Massachusetts Superior Court was apprised of this project prior to its inception, and gave it his endorsement several months prior to actual implementation.

The Chief Justice said: “Anything that gives more information to the court regarding bail appeals and anything that would facilitate the heavy caseload of the Massachusetts District Court or other public attorneys is welcomed.”

This year-long project, which hopefully is expected to continue indefinitely, is being financed by federal funds obtained with the assistance of the Governor’s Public Safety Committee and the Mayor’s Safe Street Advisory Committee.

Its first director was Attorney Michael Farrington of Milton who stepped down September 30, 1972, to be replaced by Attorney Thomas W. Stanton of Quincy, a 1971 graduate of Suffolk Law School. A former Marine Corps sergeant, Stanton obtained valuable experience for his new position during eight years as a probation officer in Roxbury Court.

I decided that the bail program was essential because some 12,000 persons pass through the Charles Street Jail annually, and quite obviously the nation’s bail system does not very often fulfill its original intent of releasing all who can substantially assure the court that they will appear for trial.

Unfortunately, in too many instances, the accused is informed that he is not bailable or that bail is set a figure that is unrealistic, considering

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Billy was sixteen years old in the summer of 1972 and he was in the Suffolk County Jail on Charles Street. He was arrested while sitting in the passenger seat of a late model auto parked on a Bright-on thoroughfare shortly after midnight during a warm week in August. The auto was hot. Billy was hot. Billy wasn't alone in the auto when he was arrested. With him were two young friends - juveniles - as the Commonwealth of Massachusetts and her statutes viewed them. But Billy was alone in "Charles Street". His two friends were home with their families.

Billy was a quiet youth. He didn't make small talk. He didn't make big talk. He didn't question what happened to him. He didn't complain. Billy had grown quickly and grown big. He liked automobiles. He liked looking at them. He liked sitting in them. He liked driving them. He had been arrested three times for using an automobile without authority. The police at the Brighton stationhouse knew Billy and they knew he liked autos and they knew how old he was.

When Billy was brought before the Juvenile Session at the Brighton District Court his two friends were with him. The three boys slumped in chairs while the parents of one boy and the father of the other boy, the juvenile probation officer, two attorneys and the judge discussed the disposition of the matter. Billy was alone.

Where were his parents? His father had walked away eight years ago. His mother was an alcoholic. She had been arrested 270 times in sixteen years. Well, where was Billy's lawyer? Everybody in America has the right to have a lawyer if they are charged with a crime. The attorney for one of Billy's friends told Billy not to worry if he could not retain his own attorney. The attorney said he would look out for Billy's interests as well. That was agreeable to Billy because Billy rarely disagreed.

The lawyer didn't disagree or say anything or do anything when the judge announced his decision to treat Billy as an adult and transfer the matter to the next session of the Suffolk County Grand Jury. Before the judge was finished speaking he had ordered that Billy recognize with surety in the amount of ten thousand dollars for his appearance in Superior Court. No one said anything when the two court officers with wilted collars and more wilted expressions - at the thought of the upcoming drive to Charles Street in the mid-day heat - took Billy out of the room.

Billy's trousers stuck to the seat of the sedan as an old man - also going to visit the Sheriff - delivered a litany of "do's" and "don't's" while being confined at Charles Street. Billy just nodded as the big metal gate rolled up, like the top of an old roll-top desk, at the rear of the 120 year old jail. The court officer guided the sedan for two hundred feet between a twelve foot high steel wire fence and the old brick wall that surrounded the jail. After passing an open space and passing through an opening in the massive stone-built structure the sedan stopped inside a courtyard. In seconds Billy found himself inside the jail and locked in a wire caged portion of a room. He rubbed his wrists that were
slightly uncomfortable where the cuffs - metal bracelets the officers said - had held his hands together. Moments later, a young man, obviously a guard from his appearance, sat down at a desk that faced a small opening in the wire cage. Billy leaned on the metal shelf at the bottom of the opening and answered the guards questions as the booking card was filled in. Billy's eyes wandered to that faced a small opening in the wire cage. Billy behind the guard.

He read, "All inmates who wish to be interview-
ed by the Bail Appeal Project sign the card that
will be provided for your use."

“What does that mean?” Billy asked the guard.
The guard replied, "Your bail is set at ten
thousand dollars. Do you want to try to get it
lowered?"

"Sure!” exclaimed Billy.

"Here sign this!” said the guard putting a small
card on the metal shelf.

Billy printed his name and the amount of his
bail and the criminal charge against him on the
card and handed it back to the guard.

Someone will come to talk to you later today,
he was told.

As Billy climbed the old open iron staircase,
carrying a blanket and two sheets he wondered why
he was sent to jail instead of the Youth Service
Board Detention Center where he had been sent
once before. He also wondered why his two friends
were not sent to either place. Billy walked along
a narrow iron walkway - thirty five feet in the air-
passing a dozen cells, all identical, until the guard
stopped and indicated his cell.

Three hours later, Billy was guided from his
cell to the main floor where he was greeted by a
young man who could have been “Mo” Handler,
Jack Coyne or “Skip” Hakala. All three men are
Suffolk Law School students and all three are
veteran members of the Suffolk County Jail Bail
Appeal Project. They had been selected by Sheriff
Thomas Eisenstadt and his staff along with law
students from other law schools.

The interview lasted one hour. During the in-
terview Billy answered dozens of questions about
his background and his prior involvement with the
police and the courts. At the end of the interview
the student lawyer told Billy that it would be neces-
sary to verify the information and to speak with
the attorney who had represented him in District
Court. However, Billy was reassured that the odds
were favorable that some reduction of the bail
seemed appropriate in view of all the circumstan-
ces. Billy returned to the tiers of cells in time for

the evening meal. A breeze was coming through
an open window as Billy moved along the food
line and was served. He went to one of a long
row of tables and sat on a bench with dozens of
inmates all busy eating.

The student lawyer returned to the Bail Appeal
Project Office down the corridor from the main
floor. He quickly telephoned the Brighton District
Court Clerk's Office hoping that someone would
answer the phone even if it was already past the
four o'clock closing hour. The phone rang steadily.
The student lawyer cursed the heat that caused the
Clerk's Office to be abandoned. "Now Billy’s
petition will be delayed a whole day!” muttered the
would-be advocate.

For another hour the student lawyer who inter-
viewed Billy made telephone calls. He spoke with
a sister of Billy who was nineteen years old and
planning to get married within the week. She ex-
plained that she had no control over Billy and
couldn’t help. She did verify the information Billy
had given the student. A probation officer, a priest,
a baseball coach, an uncle and others - all knew
Billy and contributed bits and pieces of informa-
tion to the file being prepared for Billy’s Bail
Petition.

The file along with several others was placed
on the desk of the Director of the Bail Appeal
Project. The Director was an attorney and he
would represent Billy at the hearing of Billy’s
Petition for Review of Bail which would be filed in
the office of the Suffolk County Superior Court
Clerk for Criminal Business.¹

The next day at nine o'clock in the morning the
student lawyer telephoned the Brighton District
Court and spoke to an Assistant Clerk. Arrangements
were made to pick up a copy of the complaint charg-
ing Billy; a copy of any information regarding Billy in the Probation Department Files; and a
statement by the judge who set the bail as to why
Billy was not released on personal recognizance.
These documents would all be attested to by the
Clerk. The attorney that represented Billy in the
Brighton District Court was telephoned and stated
that he did so gratuitously and did not desire to
represent him further.

A petition for review of bail was brought into
the guard room and Billy was called down from
his cell, high on the tiers to sign it.

That afternoon, another Suffolk Law School stu-
dent on the Project staff, Joan Schmidt, filed Billy’s
petition together with the essential documents from
the Brighton District Court. Then she went into
the courtroom on the seventh floor of the Suffolk
County Courthouse in search of Lieutenant Jim

¹ See M.G.L.A. Ch. 276 & 58
Bowen of the Boston Police Department. The Lieutenant was - as always when the First Criminal Session is open - seated at his desk midway into the courtroom, patiently following the printed trial list for that day.

As the defendants names were called by the Assistant Clerk in the Session the Lieutenant would call over a loud-speaker the names of Boston Police officers who were witnesses in the case. Miss Schmidt waited until the Lieutenant could speak to her and then she asked him to notify the police officer who was in charge of Billy's case to be in court the next day for the hearing of the Petition to review the bail. Lieutenant Bowen recorded the essential information and smiled as the Assistant Clerk called another defendant's name.

The second day after Billy had been brought to "Charles Street", as most people refer to the Suffolk County Jail, he was guided back to the wire caged booking room. There he waited with thirty other men as the jail officers prepared to transport them to the various courthouses in Suffolk County. About 9:30 a.m. Billy was put into the back of a windowless van with a dozen men. After a bumpy five minute ride the door of the van opened and Billy and the dozen others were herded into a nearby elevator tended by a smiling lean Irishman named Pat. Pat looked at Billy with his kind eyes that seemed to say - "You're too young to be with this group!" When the elevator stopped and the doors opened everyone walked down a corridor. An electric lock buzzed and a steel gate opened. Inside the gate was a large room with a steel wire enclosure predominant. Inside the enclosure were inmates of other jails and correctional facilities. Billy mingled in and found a bench to sit on.

A few minutes later he heard his name called by a young man standing outside the enclosure. Billy went over and the fellow introduced himself as the attorney who was going to represent him that morning at the hearing. For twenty minutes Billy and the attorney talked about the case and Billy's background. The attorney made several notes in the file and smiled, telling Billy not to worry. Then the attorney talked with three other men in the enclosure until he was told by a court officer that Judge Lurie wanted him in the First Session.

Later, Billy was cuffed to another man and taken along a corridor and down a flight of stairs. He was led through a door and sat down on a bench located close to the door. He looked around and saw that he was in a courtroom. Billy settled back when he saw his attorney seated at a table a few yards away. Within a half hour Billy's name was called and he was told to stand up. The judge looked over to where Billy stood and he seemed to smile. The cuff on Billy's right wrist twisted as the man he was cuffed to shifted position. The attorney was on his feet speaking to the judge. Billy sat down.

The police officer that arrested Billy was given the oath by the Assistant Clerk and then the officer testified as to the facts regarding the complaint against Billy. The attorney cross-examined the officer and the officer explained that he knew Billy to be a car thief but he also knew that Billy had always lived in Brighton.

After the officer was dismissed Billy's attorney explained his background. Billy winced when it was said that his mother had been arrested 270 times in sixteen years. The judge asked the attorney some questions and then said "Since you have arranged to have the Youth Service Board take charge and there is a good chance a foster home can be found, at least while the matter is pending, then I will release him."

The Assistant Clerk told Billy to stand up. As the Clerk spoke the attorney told Billy he would be released as soon as the papers were processed.

Billy's incarceration at the Suffolk County Jail on Charles Street because he could not provide the necessary ten thousand ($10,000) dollar surety, was not an unusual circumstance. This was a circumstance that is repeated dozens of times daily at the old facility. The only peculiarity in Billy's case was that he was a juvenile. However, by a procedure not often used, Billy was lawfully sent to the jail to await the action of the September 1972 term of the Suffolk County Grand Jury. If Billy had been sent to the jail three months earlier he probable would have been incarcerated for six weeks to six months awaiting trial or some process preliminary to trial which might result in his freedom. However, as of June 1972 the Suffolk County Jail Bail Appeal Project began functioning at the Jail. As a result, within two days, the focus of our criminal justice system was again directed to Billy's case and the initial order of bail was reviewed by a justice other than the one who set the bail. The statute, referred to earlier in the note, has afforded some protection to criminal defendants caught up in an ever increasing, presently staggering, volume of District Court Criminal business where the proper and necessary attention cannot be directed to the pre-trial release decision.

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Editor's Caveat: This article was written based on New Jersey law. Appropriate modifications have been added noting Massachusetts variations. Nevertheless, the importance of the article lies in its arrangement of prominent factors and issues to be considered and researched in the particular jurisdiction involved when contemplating entering into a realty sale contract.

The lawyer in general practice is particularly aware of the ever increasing demand for housing since a considerable amount of his time and talents is spent in representing clients who are selling or purchasing real estate. As expected, the Courts lately have decided many cases affecting realty and these cases indicate the considered judgment and care that must be used in the preparation of the Contract of Sale. These cases also emphasize the fact that the rights of a purchaser at the closing of title and in the entire transaction depend principally upon the terms of the contract.

With a realization of the fundamental importance the contract assumes in a realty transaction, we shall endeavor to set forth a correlation of salient factors to be considered. It is not expected that the cases referred to will be novel but it is hoped that the manner of their arrangement will be helpful.

PARTIES. The primary requisite in the preparation of a contract for the sale of real property is to determine who are the proper persons to be named in the contract as the selling parties. It is frequently necessary to make a preliminary search of the records to determine the proper parties. Unless all persons having an interest in the fee are parties to the contract, the purchaser could not effectively sue for specific performance to enforce his bargain.¹

When the realty is being sold out of a testator’s estate it is imperative that the will be examined prior to execution of the contract to determine who has the title and who can make an effective sale. Whether the executor has the power to convey is a question that frequently affects marketability of the title and suggests determination by a judicial interpretation.² Modern probate codes frequently empower the executor to sell in the absence of a contrary provision in the will.³ Conversely, a contract of sale or a deed of conveyance by devisees under a will may be vitiated by a subsequent sale by the executor of the said will.⁴ It may be advisable to have both the devisees and the executor under the will sign the contract as the selling parties.

If the vendor is an individual, the question of marital status is important in states where dower and curtesy rights exist.⁵ In these states the spouse of the owner must join in the contract; otherwise the purchaser will not be able to insist that the

⁵. Even though Dower and Curtesy have been repealed in its basic form in Massachusetts it is a better practice to have both signatures in event the vendor dies before the time of conveyance.
seller convey free of a dower or curtesy right. The court will not decree specific performance nor allow indemnity or abatement in the purchase price on account of an outstanding inchoate dower or curtesy right. Of course, if the spouse refuses to convey in a case of noticeable deception or collusion the purchaser will be saved harmless. If a wife allows her husband to sign her name to a contract in her presence and makes no disavowal, the court will consider the husband as her agent, no written authority to sign the contract being necessary, and will compel her to convey her inchoate dower interest.

Should inquiry reveal that the seller was divorced in a sister state, consideration must be given to the validity of the divorce. The courts have indicated that the "full faith and credit" clause will not cloak from scrutiny the decree of the sister state and that the matter of domicile of the parties may be attacked unless the same has been actively litigated. But the mere fact that the vendor, alleging he is unmarried, was a party to a "Reno" divorce does not make his title prima facie unmarketable. Recently hundreds of spurious Alabama divorce decrees have come to light indicating that particular attention must be given to Alabama divorces.

If the vendor is a corporation, it is imperative to determine if a proper resolution of the board of directors has been adopted authorizing deputized agents to execute the contract. The by-laws of some corporations require the consent of all the stockholders to conveyances. The president of a corporation, even though it be a close family corporation, has not the authority, virtute officii, to execute a binding contract for the corporation. Yet, a corporation by its method of operation and surrounding circumstances may be bound on a contract of sale executed by its attorney.

If the corporation is in dissolution, in some jurisdictions the contract should be executed in the name of the corporation by its surviving directors as trustees in dissolution. The deed should be executed in the same fashion. This is required because upon dissolution the legal title to its property remains in the corporation. However, modern corporation codes may permit these acts to be done by the officers. Likewise, if title is in a partnership name, the contract and the deed should be executed in the partnership name. See N.J.S.A. 42:1-10.

When title is vested in a fiduciary or in any person acting in a representative capacity, an examination should be made of the instrument under which he purports to act to ascertain the extent of his power. If title is in more than one trustee and they designate an agent to sign the contract on their behalf, this designation or power of attorney must be recorded prior to the execution of the deed of conveyance.

DESCRIPTION. The element of a contract designated aggregatio mentium is particularly applicable to the description of the premises in question. In order to insure that the contract embraces the exact premises both parties intend, the use of a metes and bounds description is recommended. Avoid identifying the premises solely by its street number. Such a description is not per se open to objection, but it permits doubt as to the extent of the premises.

It is good practice to use a metes and bounds description and a reference to the street number. If there is an error in the metes and bounds description, the street number may make the identity of the premises reasonably certain. Reasonableness in the description is all that is required. Whether a variation is material or not depends upon its extent as well as upon the nature of the property to be sold.

Should the acquisition of title to the bed of the street be important, as in the case where a vacation of the street is contemplated, it is imperative that the contract provide expressly that the bed of the street is conveyed. Frequently a vendor is under the erroneous impression that he owns the lands to the center of the street when actually the title is vested in the municipality or in the person who developed the area.

ENCUMBRANCES. An absolutely "clean" title is a rara avis and very few contracts are prepared that do not contain the "subject to" clauses which.
are the exceptions to the warranties made by the vendor. Reference is herewith made to some of the more common exemptions that may entrap the unwary purchaser.

(A) **Covenants and Restrictions.** If a purchaser is without knowledge as to the terms of a covenant and restriction, he should not, of course, execute a contract containing a provision "subject to covenants and restrictions of record." The covenants and restrictions of record may be completely harmless and acceptable. On the other hand, they may be of such character as to make the property useless for the purpose intended or they might prevent mortgage financing. For that reason the purchaser's attorney will customarily insist upon a specific reference to the covenants and restrictions and then arrange to examine them prior to the execution of the contract. If that is not possible, a warranty should be inserted that there is no existing violation and that any violation would not result in a forfeiture or reversion of title. This may be accomplished by the use of the phrase "It is understood and agreed that no violations exist, etc." 19.

If the purchaser accepts a contract "subject to restrictions" he is presumed to have notice of them and of rights of adjoining lot owners under such restrictions. 20. A contract to convey "subject to restrictions," in the absence of fraud, is satisfied even though there is an easement over the land and the contract provided free and clear of encumbrances, where the existence of such easement is a matter of record of which the purchaser knew or should have known. 21.

(B) **Leases and Tenancies.** When the contract is silent on the matter of possession, it is the vendor's obligation to deliver possession at the time of delivery of the Deed. 22. Conversely if the contract is subject to a lease, the purchaser is chargeable with notice of all of the terms of the lease including an option to purchase even though he has not seen the lease. 23. The better practice is to attach to the contract a copy of the lease, initialed for identification by both parties, and incorporate it into the contract by reference. Should any lease by its terms expire prior to the closing date, provision should be made as to whether the seller or purchaser may effect a rental of the property.

(C) **Survey.** The only positive method of determining the relation between the physical attributes of the premises and the record title of the premises is by a survey. The layman, by an eyeball examination of the premises, usually cannot detect encroachments or violations of restrictions and set back provisions. Accordingly the vendor, when no survey is available, will endeavor to include in the contract a provision making it "Subject to such facts as a survey may show." Ordinarily the purchaser's attorney cannot accept this because it literally means that the purchaser will be required to take title even though there are encroachments that render the title unmarketable.

The survey provision may be modified to read "Subject to such facts as an accurate survey may show provided the same does not render the title unmarketable." This provision in the contract will not afford complete protection to the purchaser because the Courts have held that he must take title even though there exists encroachments such as pilasters and metal copings encroaching in street 24 and eaves, fifty feet in length, encroaching on adjacent premises to the extent of six inches. 25.

The more acceptable provision for the purchaser's protection is "It is understood and agreed that all buildings and structures are within the boundary lines and no buildings or structures on adjoining premises encroach on premises in question." This provision will allow the purchaser to reject the title when even very slight encroachments exist. 26. In estimating the importance of an encroachment, keep in mind the rule that one who remains in possession of a structure which projects over the boundary line for the statutory period gets title to that portion of the adjoining land covered by the structure. 27. But such possession will not gain title against the sovereign.

**PURCHASE PRICE.** When a full cash payment is not contemplated, the contract may provide that the purchaser shall take the premises subject to the existing mortgage thereon or the purchaser may assume the payment of existing mortgage. In either case, it is imperative that the purchaser examine carefully the terms and conditions of said mortgage. It is well to provide in the contract that the vendor furnish at the closing of title an Estoppel Certificate of the current amount secured by the mortgage. With reference to the assumption of the mortgage some codes require an express written statement in order to bind the purchaser. 28.

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19. In Mass., to protect the vendee the Certificate of Municipal Liens should be recorded since any claim not listed is discharged, M.G.L.A. c. 60 sec. 23.
If a purchase money mortgage to the vendor forms part of the purchase price it must be remembered that the purchaser cannot liberate himself from the obligation of signing the bond or note and mortgage by an assignment of the contract, without the consent of the seller. When the purchasers are husband and wife and the contract provides for their bond and mortgage, the death of one of them prior to the closing of the title vests the entire equitable estate under the contract in the survivor as in an estate by the entirety and the vendor can insist upon the bond and mortgage of the survivor.

TIME FOR PERFORMANCE. The day fixed in a contract for closing title, without more, is merely formal and it is not imperative that performance be accomplished on that day. If time is of the essence and purchasers fail to appear at the time and place set, their right to hold the vendor of the contract ends and thereupon the vendor is at liberty to make a new sale to anyone with whom he can make a satisfactory bargain. When the parties have expressly stipulated that the time for performance of their mutual undertaking shall be an intrinsic, essential and vital term of the compact, a lack of punctuality is ordinarily fatal to the contractual rights of the delinquent party. When the contract does not indicate whether the time set for performance is Eastern Standard Time or Eastern Daylight Saving Time, the court has held that Eastern Standard Time which prevailed at the time the contract was executed will govern even though Eastern Daylight Saving Time was in effect on the date designated for the performance of the contract. If the contract is not consummated on the formal date set in the contract, either party may by notice to the other party, designate a definite place set, their right to hold the vendor of the contract ends and thereupon the vendor is at liberty to make a new sale to anyone with whom he can make a satisfactory bargain. When the parties have expressly stipulated that the time for performance of their mutual undertaking shall be an intrinsic, essential and vital term of the compact, a lack of punctuality is ordinarily fatal to the contractual rights of the delinquent party.


ONE MAN'S PERSPECTIVE ON SMALL TOWN PRACTICE

Mr. Stephen Monsein, age 28, received a B.A. degree in 1966 from the University of Massachusetts, Amherst and his J.D. degree from Suffolk University Law School in 1969. He has been practicing law in Amherst for the past two years.

The subject matter of this article will attempt to deal with one man's view of the practice of law in a small town. My experience practicing law in a large city or metropolitan area is limited to about six to eight months, so I cannot really compare the difference between the two localities. What I can say is that the same demand for expertise and professionalism exists in the country, as well as in the city. The small community has its advantages, as well as its disadvantages.

My office is located in a small community in the western part of Massachusetts, where reputations spread at a rapid rate. This most likely is because there is a great deal more contact between a small town lawyer and the people of his community than would be true of the city attorney. When a town is small, there is a lot more pressure on a professional, whether he or she be a doctor, lawyer, etc. It seems one is constantly under the scrutinizing eye of some seg-


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ment of the community at one time or another. This is not a bad kind of pressure, but rather a good reminder of one's responsibility not only to his clients, but to the community itself.

A lawyer in a smaller community is frequently called upon by the town fathers to render legal opinions on a variety of subjects, very often relating to zoning. With the great trend of moving out of the cities, real estate developers are realizing a large financial boon. The natives of most rural communities are well aware of the abundant wealth that exists in the form of undeveloped land, and have taken positive steps to insure its orderly development. Town after town has adopted the provisions of chapters 40A and 41 of the General Laws of the Commonwealth, as amended, and has set up development guidelines through their zoning by-laws and subdivisions control laws. The preservation of open space and the creation of conservation districts within community borders is not only desirable, but essential. Out of necessity, an attorney in these outlying communities has to develop expertise in zoning matters, not only to serve his private clients, but to competently serve the town when and if called upon.

I personally have found that practicing in a rural locality affords me the opportunity to come into contact with a variety of legal subject matters. One has to become a general practitioner in many respects. To handle a divorce, form a corporation, draw a real estate purchase and sale agreement, and represent a client in a criminal matter, all within a period of a few days, is not unusual. It is difficult, as well as impractical, to specialize in just one area. I enjoy this type of diversification. It would be difficult for me to imagine a young lawyer in a large city having the opportunity for this type of exposure to the law. Meeting this challenge gives one a great sense of accomplishment and pride.

A legal education provides the basis or foundation upon which to build legal know-how. One should think like a lawyer after graduation and have the ability to single out the important issue or issues of your client's problem. Learning the procedure of the local courts is immensely important. Getting to know the members of the local police force is one of the most essential tasks a small town lawyer must face. These are the men you will deal with; therefore, development of a mutual respect is an aid in representing your client's interests effectively in criminal matters.

It goes without saying that involvement in local civic clubs and businessmen's organizations is another essential part of the lawyer's role in the small community. It is my impression that a lawyer practicing in a rural community becomes more involved in its affairs than his brother in the big city. This may not be true in every instance, but I think it is fair to say that it is generally the case.

I am pleased to start my career in a small town. People are extremely friendly and eager to guide a certain amount of business to the new attorney. I think that some townspeople are anxious to see how the new young attorney in town will fare against the seasoned pros who have either been born and brought up in town or have lived here for the past twenty-five years. I try to remember that each of the established lawyers in town started out just as inexperienced and scared as I, and everyone of them appears to have survived.

I enjoy getting up each morning and driving past the corn and tobacco fields in the summer on my way to the office. Recreational facilities, ranging from ski slopes to quiet lakes, are within easy reach. I am happy out here in the countryside and would not trade places with my brother in the city for all the tea in China, but that is probably the way he feels.
"PENAL INSTITUTIONS - THE BOSTON CITY COUNCIL PERSPECTIVE"

by Councillor Lawrence S. DiCara

Mr. DiCara, a native of Dorchester, was elected to the Boston City Council in 1971. In 1972 he was elected to the Democratic State Committee, from the Sixth Suffolk District. At the age of 22 Mr. DiCara is the youngest person ever to be elected to either of these positions.

Educated at Boston Public Schools, Boston Latin School and Harvard College, where he received an A. B. cum laude in Government, Mr. DiCara is presently attending Suffolk Law School.

With the exception of persons who are convicted of more serious crimes and confined in the Massachusetts Correction Institute, most of the City's offenders are committed to one of three institutions, The Deer Island House of Correction, The Charles Street Jail, and the Middlesex County Training School. The Deer Island House of Correction is supervised by the Commissioner of the City Penal Institution Department, an appointee of the Mayor. This prison is an antiquated institution used primarily for men serving relatively short terms. Despite the fact that it is basically an open institution which allows most of the men to roam about through the day, there is a considerable amount of unrest over the relatively small work-release program whereby a few inmates are allowed to leave the institution to work during the day. The small size of this program and the never-ending delays in breaking ground for a proposed work-release structure has been a focal point of prisoner unrest. Other problems, such as omnipresent cockroaches and homosexual attacks, have been brought to the public's attention by reporters such as the Boston Globe's Jack Thomas, who lived at Deer Island for a week.

While such reports may have been new to the public, many public officials, including this writer, were well aware of the steadily deteriorating conditions at Deer Island. It is clear that any century-old building such as the Hill Prison at Deer Island cannot help but be in bad condition given the fact that those in government, both in the executive and legislative branches, have traditionally considered such facilities to be of extremely low priority--probably because those in penal institutions do not vote.

Recent public, academic and political awareness as to the nature of penal operations has, fortunately, prompted some first steps in the area of penal reforms. Not too long ago, a Harvard-initiated high school equivalency project was implemented at Deer Island to attempt to provide prisoners there with an opportunity to obtain high school diplomas, the lack of which prevents so many of them from obtaining employment. Although the average length of stay of those confined in Deer Island makes it difficult to effect a real change in an individual personality it is possible that a high school diploma earned there will be the key step to a somewhat better outlook on life.

The problems of Deer Island are complex and no one outlay of cash will remedy all of the ills which plague the prison system. From my vantage point in the City Council and my talks with Deer Island inmates, I have come to believe that a significant first step would be the construction there of a new facility flexible enough to deal with inmates confined under different levels of security. While such a facility would cost a minimum of three million dollars, I am convinced that such as investment would be worthwhile, primarily since it is clear that without some
A drastic revision in current penal policies, most of the men now confined at Deer Island will be back at some time in the future. It is clear that despite the efforts at reform that have been made, the House of Correction does not "correct" people and must, in fact, be "corrected" itself.

Short-term inmates and prisoners awaiting trial are confined in the second institution that deals with the City's offenders, the Charles Street Jail. This prison, which has been in operation for well over a hundred years, makes the Deer Island facility appear modern by comparison and has acquired a reputation for the great number of prisoners who have escaped from it over the years. It has been suggested that this facility could be transferred to Deer Island; the logistics of such a combined facility pose jurisdictional problems, however, inasmuch as the House of Correction is supervised by a mayoral appointee while the County Jail is managed by the Suffolk County Sheriff, who is elected every six years. Thus, while the administrative ramifications of such a combined operation do pose significant problems, especially in this city, these obstructions should be removed and the two should be made a joint operation.

There are now two options open to substantially upgrade penal institutions. One, is to increase expenditures by the city and two is to have the State take over County costs.

As it stands now, the city of Boston pays for the courts, jails, and prisons of Suffolk County. This includes Boston, Winthrop, Revere, and Chelsea. To increase money earmarked for penal institutions, is not the prerogative of the City Council. To expend city funds, the Mayor must first recommend and then the City Council must approve. However, the Council may not initiate any increase of funds. With a property tax rate approaching $200 per thousand in the city, if the Mayor were to initiate the increasing of expenditures to upgrade penal institutions and thereby reduce crime, the response from your average resident would be, "If you want to reduce crime, put more policemen on the street." The reduction of crime by rehabilitating criminals, not by simply removing them from society, is a long-range process. Yet, a tax derived from a person's home is an immediate process. He can see the money leaving his pocket, (in direct proportion to the kind of home he owns), and put into something invisible and intangible - rehabilitation.

If a city, or county, continues to base prison reform funds on property taxes, those men in correctional institutions will continue to suffer. I have supported all measures to increase funds to the jail or the prison. However, the Mayor does not have either the fiscal or the political power to recommend substantial increases for these institutions.

The cost must be born through a tax collected at the State level, and derived according to a person's ability to pay.

Many may argue that public expenditures must first be spent on programs rather than facilities. Yet, from a city official's viewpoint, I have come to realize that Federal and State moneys are now designated for programs such as counselling and instruction, while very little of these funds may be used for physical improvements. To espouse that we can rehabilitate men by teaching and counselling three or four hours a day, and then return them to a decadent physical environment which exemplifies the ills of society which has at least partially helped put these men in such institutions, is an overly naive attitude. The time a man spends uninvolved with such programs, about 20 or more hours a day, influences his attitude to a greater degree than the little time that he is treated like an individual. Unless we upgrade the facilities of penal institutions, such instruction will go for naught. Yet, if we in fact, improve his physical surroundings, the fruit of rehabilitative activities will be increased by a multiplier effect.

The City's use of the Middlesex County Training School for wayward youth is the third correctional facility upon which the City Council has an indirect role. The Training School concept was developed in the Nineteenth Century; revisions in the General Laws soon prescribed that children determined to be "truant" or "stubborn" by the courts were to be sent to such institutions. By law, the City of Boston must send all such offending youth to the Middlesex County Training School last year the total amount paid by the city, through the County budget, for this "privilege" approached $200,000.

The county training schools have been the subject of abolition efforts by a number of reform-minded groups who assail such institutions, largely because the excesses of political patronage that do so much to give county government a bad name and exacerbate the defects in this form of correctional methodology.

The Council may yet have an opportunity to sever its bonds with the Middlesex School by virtue of a 1909 enactment. Prior to taking any sort of action, the Council is awaiting the proposals of two newly-elected, reform-minded Middlesex County Commissioners, who appear to be ready to completely revamp the school, if not shut it down completely. Continued on page 30
CORRECTIONS: THE WEAKEST LINK

by A. Reginald Eaves
Commissioner Penal Institutions for the City of Boston.

Today's correctional institution is a product of historical evolution. Because of the historical antecedents of the contemporary prison, its "treatment" regime is predicated on consistency rather than individuation. It's primary tools are rules governing most aspects of the inmate's daily life, gradations of punishment that can be invoked for each single breach of the rules, and minimal rewards attainable only by total conformity. At best, such a system produces a well-behaved inmate (while in the institution).

If such a form of physical control were all we expected from the correctional process, we could be satisfied that our system works very well. Not many inmates even attempt to escape from institutions. But no one judges the effectiveness of correctional service by the criterion of mere control. The community wants change of the offender from a person whose behavior is intolerable under normal conditions of community life to a person who can function within the limits of public tolerance.

The current orientation of our correctional institutions toward mere control is destructive of the goal of change. Such control for control sake returns the offender to a child like independence on external controls which does nothing to prepare him for his return to the community. The development and expansion of community based correction is an attempt at mitigating the adverse influence of imprisonment. Community based correction seeks to build or rebuild ties between the offender and the community, integrate of reintegrate the offender into community life by restoring family ties, obtaining employment and educational opportunities securing in a larger sense a place for the offender in the routine functioning of society. It is transitional in that it allows for some interaction by the inmate on a continuum with the normal community.

While the usefulness of community based correctional programs is clear, it is unconscionable for men and women to be incarcerated in environments that are counterproductive to the goal of re-entry regardless of the quality of programs upon release. A person's development, both in terms of attitude and skills, should begin during incarceration and continue into the community. The currently destructive experience of incarceration must be transformed into a period of time in which individual growth may occur.

Significant changes must take place in our institutions in order for this transformation to occur. A setting must be created that is absent of negative influences and marked by an overall philosophy

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Mr. Eaves was appointed Commissioner of Penal Institutions for the City of Boston in May of 1972. Prior to his appointment Mr. Eaves held the positions of Administrator of the City of Boston, Mayor's Office of Human Rights and Executive Director of the (Boston's) South End Neighborhood Action Program, Inc.

Mr. Eaves has received a B.A. degree in Economics from Morehouse College, his LLB and LLD from New England Law School and has also attended both Boston University and Atlanta University.

In 1970, Mr. Eaves was named one of the Ten Outstanding Young Men of Boston and one of the Outstanding Young Men of America.
predicated on opportunity, where a man can begin to develop attitudes and skills necessary to making it in a conventional role. This simple statement implies a great deal. Architectural changes designed to mitigate “mass” treatment is essential. Careful attention has to be given to the development of a clearly defined objective system of rewards and punishments linked to the goal of attitude change and skill acquisition. At the same time, counterproductive informal reward systems must be discouraged. Finally, and most importantly, a man must be presented with a wide range of opportunities for growth - all levels of academic education; vocational assessment, vocational skill development, on-the-job training, job development and job placement. Provision of medical, psychiatric services, and family and individual counseling is central to an approach which deals with the client as a whole man.

Our resources, financial and moral, must be committed to achieving the objective of transformation. Transformation of our correctional institutions from the outwardly secure but destructively wasteful storage facilities they now are, to the hopeful and enriching environments they ought to be. Our institutions must become environments conducive to intrapersonal change and growth, if the wasteful cycle of crime is to end.

Corrections is not the only component of our criminal justice system and the others cannot be ignored if we are to be successful. The police, the courts, and parole are other major participants in the overall system which deals with crime and the criminal. Each component needs improvement. The entire system needs public support and understanding if the system is ever to achieve the changes required to improve the quality of life for our citizens through greater public safety and security.

But the statistics of offender recidivism leads to a simple and common sense conclusion: the weakest link in our criminal justice chain is not the police, but rather those agencies responsible for changing or reforming the law breaker - our correctional institutions. To date, corrections has acted as a mere revolving door of failure. The police re-arrest the same people over and over again. If we are ever to improve the overall efficiency of the criminal justice system and provide greater protection to the people, our efforts must focus on the weakest link - our correctional agencies.

JAMES SHINE

Mr. Shine is currently providing planning assistance to the Penal Institutions Department of the City of Boston under a LEAA specialized skills grant. He was formerly Program Director/Corrections for the Mayor’s Safe Streets Act Advisory Committee of the City of Boston.

Mr. Shine is a graduate of the University of California at Berkeley where he attended the School of Criminology at the graduate and undergraduate levels. Mr. Shine received his J. D. from the Hastings College of the Law of the University of California at San Francisco.

JOHN VOROS

John Voros is currently serving as Program Director/Corrections, Mayor’s Safe Streets Act Advisory Committee, and is responsible for the administration of LEAA funded corrections programs at the Suffolk County House of Correction (Deer Island) and the Charles Street Jail. He has planned and administered a number of correctional treatment programs in his former capacity as Assistant to the Penal Institutions Commissioner of the City of Boston and Planner of the Penal Institutions Department.

Mr. Voros is a graduate of Harvard College and is currently enrolled in the evening division of the Suffolk University Law School.

A theory of correctional treatment must include two major informational and theoretical components - the offender component and the change dynamics component. Insofar as the change dynamics must interact with the offender being changed, the accuracy and completeness of our description of the offender population will influence the accuracy and
completeness of the change dynamics designed to "rehabilitate" the offender. If our description of the offender population is inadequate, a rehabilitation plan based on that description of the offender will also be deficient.

We know that existing correctional programs are inadequate. Generally, correctional "experts" are bewildered by this state of affairs and choose either to ignore it or to explain it in some way that does not threaten their existence. The most common explanation -- that "the basic design of treatment is right, but that the tools have not yet been perfected" -- is another way of saying that the theoretical description is adequate but that we have failed at the level of implementation. And so, again and again, the same solutions are proposed: smaller caseloads, wider use of probation, larger budgets, more trained workers, higher salaries. As Gibbons has said: "This is a position of unbridled and undue optimism, for there is little empirical basis for such faith."

No one would deny that imperfections in implementation and operation explain part of corrections' failure to correct. But the failure goes deeper than that. It goes to the theoretical foundation of corrections itself: most correctional practices have no explicit theoretical basis at all.

Neither the offender or change dynamics components of existing "theories" of correction are adequate. Most of the major forms of contemporary correctional practice (probation, incarceration and parole) were born of the 18th and 19th centuries, long before the advent of the modern behavioral science. Rationalizations, drawn in part from the behavioral sciences, are related back to these early correctional forms in an effort to justify their continued existence in the modern world. Our correctional practices must be understood for what they are -- accidents of historical evolution.

Yet there are some "rehabilitation" practices that have explicit theoretical foundations. If we exclude the rare examples of therapeutic communities and applied learning theory in a residential setting, it is safe to say that there are two major schools of correctional rehabilitation. One is born of clinical psychology and psychiatry, and the other of structural sociology. Each has a distinct view of etiology (the offender component) and treatment (the change dynamics component). But, as we shall see, in certain major ways they are similar; each suffers from a myopia which results in program failure.

Psychotherapeutic rehabilitation programs have failed -- both in the traditional prison and in a non-residential setting. One key reason underlies the failure of psychotherapy and group psycho-therapy to change the behavior of offenders: they are structurally inferior attitudinal change processes, as normally applied to correctional populations.

Inherent to the psychotherapeutic and psychiatric perspectives is an emphasis on processes internal to the individual, with a tendency toward excluding from consideration those processes and factors external to him. Because the importance of the "external" factors has generally not been recognized by the psychiatrists and psychologist these professionals have not been overly concerned with controlling and manipulating these externalities.

Rehabilitation programs having either an implicit or explicit theoretical foundation in sociology have fared no better than those based on the psychiatric and psychological (clinical) models. While the vast bulk of the literature on the etiology of deviant behavior has been supplied to us by sociologists of various schools, few specific theories of rehabilitation have resulted from this work. With the exception of attempts to develop a rehabilitative model based on Sutherland's theory of "differential association" the theoretical underpinnings are implicit rather than explicit.

Quantitatively speaking, most notions of correctional rehabilitation draw upon the early work of Robert K. Merton in that they are primarily concerned with expanding the offender's legitimate opportunity -- structure -- i.e., it is difficult to find a rehabilitative scheme that does not include academic and vocational education components, and job counseling and placement as the main ingredients. The opportunity-structure idea of rehabilitation is widely accepted and infrequently questioned. It seems self-evident. For a man to make it in the conventional world he needs a conventional way of making it -- a job. He needs a legitimate source of income as opposed to an illegitimate source of income. The key to all opportunity-structure types of rehabilitation programs is employment. The academic education, vocational education, testing, and counseling elements are all designed to lead in one direction -- a job.

Why does this approach fail for many offenders? Again we face a choice. Are opportunity-structure programs theoretically inadequate (either the offender component or change dynamics components), or have they been improperly or inadequately implemented or operated? Most correctional experts take the latter view. They tell us we need more of the same, only done better -- better job training and placement efforts. When these things have been done, we are told, we can expect substantial improvement in the rate of successful change. There is no rational basis for this faith.

Continued on page 38
Paul D. Lewis, Esquire is a Professor of Law and Criminology at Boston College. He received his Undergraduate Degree from The College Of Holy Cross in 1962 and his Law Degree from Suffolk University Law School in 1967. He is a member of the Massachusetts and Federal Bar Association.

There are no Boards of Directors, corporate officers or shareholders, yet it is the largest business in the world. There are no annual reports to be filed, dividends to be distributed, or income taxes to be paid. Yet it is the most profitable business in the world. The business, of course, is crime and the individuals who retain the profits, all of the profits, are the criminals who commit it.

Just as there are experts ranging from security analysts to accountants, who survey the make up of legitimate business in the world. There are no annual reports to be filed, dividends to be distributed, or income taxes to be paid. Yet it is the most profitable business in the world. The business, of course, is crime and the individuals who retain the profits, all of the profits, are the criminals who commit it.

There are no Boards of Directors, corporate officers or shareholders, yet it is the largest business in the world. There are no annual reports to be filed, dividends to be distributed, or income taxes to be paid. Yet it is the most profitable business in the world. The business, of course, is crime and the individuals who retain the profits, all of the profits, are the criminals who commit it.

And lastly, the sociologists' approach seems more pragmatic. They look to environmental factors and rely heavily on a socio-economic theory to explain how criminals become such.

It is not the purpose of this article to be critical of the aforementioned crime watchers. Without question, taken individually or as a whole, there is great merit in their theories. There are certain considerations concerning crime and criminal behavior which are seldom written or talked about, which need to be discussed.

In any inquiry into the make up of criminal behavior, we must consider the high profitability resulting from the criminal venture. Although one must admit that not all crime is motivated by profit, it is becoming more and more so related with the advent of the drug culture. Relating this to the rehabilitative process, it seems to be an impossible task to encourage an individual who has been netting $500 to $1,000 a night by breaking and entering to refrain himself as a computer programmer for $150 a week. Some ask, why? Isn't it better to work for $150 a week and know that you are not running the risk of spending part of the rest of your life in prison? Unfortunately, the argument is a weak one. It is so easy to commit profitable crime in our society today that on a risk-reward basis the percentages are heavily in favor of the criminal. Not only is crime profitable and easily committed, but it also involves a high degree of excitement. How many times does a law enforcement officer, whether he be with the FBI or a local police department, hear the comment, "Boy, what an exciting job you must have?" But who has the exciting job? Without a doubt the criminal. Think of the hours spent in the planning of the crime, its actual commission, and indeed the chase after it. Measure that against the excitement involved in a day's work toiled by the average citizen and the answer becomes clear. Ease, profitability and excitement are some very understated ingredients of criminal behavior.

If the theory has merit, it would seem to follow that if we could make crime less easy, the result would be a lessening in profit and possibly a leveling off in the degree of excitement. This is easier said than done. There is no question that greater and more efficient law enforcement will help. However, it is essential that the private sector cooperate more actively with the law enforcers. This cooperation must extend further than the simple reporting of criminal incidents. It must be a total cooperation that includes not only private individuals, but also private industries as well. Private individuals must be made more aware of their present role as accessories before the fact of criminal behavior. They must understand the cooperation which they extend to the criminal when they leave their keys in their automobile or their back doors open. Private industry must take part of the blame when they manufacture homes whose only protection

Continued on page 36
Throughout American history the legal profession has always exerted, for better or worse, a considerable if varying influence upon the politics of our society. Politics - the art and science of the control and exercise of governmental power in the public interest - has always had a special appeal for lawyers. For lawyers, by virtue of their education, training, and experience in the law, have generally possessed certain inherent advantages in the political arena over most of their fellow-citizens - advantages which could properly be utilized at every level of government to influence the course and direction of political activity in the nation.

It is no accident that lawyers have been attracted to politics, or that they have from time to time, more so than any other profession, dominated the American political scene. Lawyers, by the essential requirements of their profession, have been virtually compelled to develop those very skills and talents which can be most effective in politics among others: the ability to get along with all kinds of people; the talent to communicate and to persuade; the capacity to analyze a complex intellectual situation or problem and reason through to a meaningful and responsible course of action; and the judgment to discern maturely the necessary limits beyond which personal principle and private desires cannot be permitted to prevail but must yield to a just, workable, and effective compromise. Above all else, lawyers by the very nature of their profession inevitably tend to become profound students of human nature - compassionate and understanding observers of human frailty and weakness in all of its many manifestations. Without surrendering to cynicism or pessimism about man and his society, lawyers know that all men are at best weak and imperfect, and that human weakness and imperfection are at the heart of much of the conflict and controversy that exists in society which they must be prepared to resolve peacefully if society is to survive. In short, lawyers know, or quickly learn, that human progress, however defined, is at best only slowly, patiently, and painfully achieved.

These qualities or characteristics of the legal profession are precisely those attributes of mind and spirit which are needed to promote the smooth and harmonious functioning of any democratic political system. In a real sense, there is a natural affinity, an indissoluble link, between politics and law in a democratic society. Yet, while lawyers can be found exercising political power, whether in elective or appointive office, at every period of time and at every level of our governmental system, the constructive contributions of the legal profession to the politics of our nation - the overall concern of the legal profession for the advancement of the public interest through politics - has noticeably declined in the past century. The earlier preeminence of the legal profession in the building of our nation and in the attendance upon the problems of the people has appreciably diminished. Beginning in post-Civil War America and continuing right down until recent times, and indeed to the very present, the fundamental nature of the legal profession - and, more importantly,
its sense of its own professional responsibilities — underwent dramatic change in response to the emergence of modern industrialization and the growth of large-scale social and economic organization. Hand in hand with the rise of our vast industrial, commercial, and financial system has gone the virtual enslavement of the legal profession to the demands, requirements, and necessities of the business community. The legal profession has permitted itself to become the captive of the business community—-serving its needs, devising its strategies, implementing its policies, and rationalizing its interests, all to the exclusion of continuing concern for the public interest and the welfare of the people.

In 1888, Lord Bryce, a most sagacious British commentator on American government and society, had occasion in his book, The American Common-wealth to lament the general decline in the public influence of the American bar from what it had been in an earlier day. Lord Bryce attributed this decline to the failure of the bar to face up to the challenge of the social and political issues of its time because of its economic co-option by the industrial, commercial, and financial community. And the late Justice Louis D. Brandeis, writing as early as 1905, joined Lord Bryce in deploiring the increasing concern of the legal profession for the advancement of purely private interests and the resultant lack of concern for the protection of the public interest. With characteristic insight and clarity, Brandeis forcefully asserted:

"It is true that at the present time the lawyer does not hold the position with the people that he held seventy-five or indeed fifty years ago; but the reason is not lack of opportunity. It is this: Instead of holding a position of independence between the wealthy and the people, prepared to curb the excesses of either, able lawyers to a large extent allowed themselves to become adjuncts of great corporations and have neglected their obligations to use their powers for the protection of the people. We hear much of the "corporation lawyer", and far too little of the "people's lawyer". The great opportunity of the American bar is and will be to stand again as it did in the past, ready to protect also the interests of the people."

The economic co-option of the legal profession by the business community, so cogently noted by Lord Bryce and Justice Brandeis, has been the dominant fact of the life of the law in America down to the present day. To be sure, the ascendency of the New Deal, and the enormous growth and expansion of positive government and govern-mental services in the wake of World War II, has opened the door of public service through governmental employment to thousands of lawyers. But with the exception of such governmental employment, the legal profession has done very little until relatively recently to address itself constructively to the needs of the people and the requirements of the public interest. For altogether too long, the perceptions of the legal profession as to its own professional responsibilities has been essentially cast in terms of providing the best representation possible for its private clients. It was almost as if lawyers believed that Adam Smith's "invisible hand" that was once deemed mysteriously capable of resolving and harmonizing individual economic interests, vigorously and relentlessly pursued, had now acquired a miraculous capacity in the legal order to transmute automatically the frenzied pursuit of individual, competing interests into a beneficial public whole. It was not until the United States Supreme Court under Chief Justice Warren began to mandate the constitutional requirement of counsel for indigent defendants in criminal cases and the Federal Government established the Office of Economic Opportunity Legal Services Program in 1965 that the legal profession began to bestir itself and began to devote any significant organized attention to the difficult problems of democratizing the very means of access to the legal process.

To emphasize the headlong retreat of the legal profession from the full realization of its earlier professional ideals of service to the people and protection of the public interest is by no means to denigrate the constructive contributions to the politics of our society that has been selflessly made by many lawyers even in the darkest days of this past century. Here and there, outstanding members of the bar have kept alive its earlier, pre-Civil War traditions of public service. Such lawyers have had the courage, vision, and commitment to look beyond the money-grubbing provincialism and narrow self-interest of the legal profession and to dedicated themselves fully and unselfishly to the promotion of the public good. But the profession as a whole has remained frozen in the ice of its own indifference and insensitivity, unable or unwilling to exalt the public interest over private profit or personal gain.

Slowly, yet nonetheless perceptibly, these attitudes of the legal profession are changing not only as a belated, fainthearted response to the initiatives and declaration of the judicial and other branches of government, but more particularly through the leavening influences of a whole new generation of lawyers and law school students.
Their hopes and expectations for the future, their widespread dissatisfaction with the continuation of the co-option of their chosen profession by the business community, their recognition of ever-widening new vistas of public interest and political concern in the law—all these, properly viewed, augur well for the reemergence of the legal profession as a vital force for constructive social change. Through the efforts of this new, emerging generation of young lawyers and law students, the highest ideals of public service—-the noblest perceptions of professional responsibility once entertained by an enlightened and progressive bar—-can once again be reclaimed and redeemed. Through their efforts, the legal profession is once again returning to politics, to the continuing, never-ending struggle to utilize the power of government to promote the public interest.

It would be foolhardy to expect that the spiritual revitalization of the legal profession which is currently underway—this breaking of the chains of professional responsibility which have inextricably bound lawyers to the exclusive service of the business community—should be met with universal praise, uncritical acceptance or even overwhelming approbation. It is not, therefore, surprising that many members of the bar are troubled by the many developments they see underway in the legal profession. They are troubled by the public interest orientation of the new lawyers and law students. They are troubled by the public interest activities which have been undertaken all around them—the growth of public defender and community legal aid centers. They are troubled by the constantly increasing enrollments and graduations from law schools all over the country, by the record-breaking numbers taking and passing the state bar examinations, and by the rapid increase in the number of lawyers or those with legal training in society. Yet, viewed in the context of its new sense of professional responsibility—of the resurgence of the legal profession to a new awareness of its proper role as the champion of the public interest in the politics of our society—we can perceive quite clearly that there are not—and cannot in fact be—any limits placed upon the constructive public purposes for which the skills, knowledge, and abilities of lawyers may appropriately be used. In a very fundamental sense, so long as there continues to be new and ever-expanding areas of human activity requiring the protection of the public interest, the demand for lawyers who view their professional responsibilities in this perspective will continue to increase.

Karl Lewellyn once said, "As long as a lawyer can eat, he owes service." Today's young lawyers and law students have in effect chosen to take these words seriously and to subordinate their private interests and personal gain to the promotion of the public interest. In their conscious choice lies the best hope for the redemption of the legal profession and its long overdue return to the highest ideals of American politics.

of hardened criminals likely to jump bail." This prevention is in the form of careful selection of clients, close supervision of clients, and an intricate network of bondsmen and their many resources in tracking down bail jumpers.

An experimental project taking place in the Dorchester and Cambridge District Courts is geared to those defendants who have bail set and have limited funds available to them. The project is experimenting with a Percentage Deposit Bail System. Along similar lines with this project is a legislative proposal filed by Suffolk County Sheriff Thomas S. Eisenstadt*. A proposal of this type has proven successful in Illinois.8

The awareness of the faults and injustices of the bail system has led to many constructive changes on a state to state basis but needless to say bail reform nationally is still in the fledgling stage. Massachusetts is seemingly making a bona fide and an initially successful attempt at reforming a bail system, which was tarnished during eight centuries of use, by applying a decade of innovative polish.

Hopefully the need for uniform bail reform legislation, forcing all states to abide by a truly equitable system of bail, will be realized in the near future. Thus parity in pre-trial release rights could be established for all defendants in all states.

* Note Sheriff Eisenstadt's article post.
DO WE NEED MORE LAWYERS?

by Joseph C. Bonk—Editor-in-Chief

As the statistics appear, one realizes how the lawyer population has grown and how law school enrollment has more than doubled in the last twenty years.* But what is not realized is the effect this growth will have on the legal profession and society. If this increase of lawyers can be absorbed by the needs of the profession in serving society there is no problem and the answer to our question would be yes—we need more lawyers. Yet one's reasoning and job hunting experience could conclude that no—we do not need more lawyers. Let us first probe the soundness of the latter conclusion.

At this point in time, one could only speculate whether recent legislation has substantially limited the number of occasions when an attorney would be retained for his services. The recent advent of no-fault auto insurance legislation has noticeably reduced the “bread and butter” work that some attorneys thrived upon. To compound this, there is the eminent possibility of no-fault legislation in the area of divorce. As the particular no-fault plans become law, those attorneys who previously concentrated their practice on either divorce or auto claims covered by these plans will pursue other areas of specialization. This change of pursuit will obviously have its influence on the demand for lawyers in “non no-fault” areas.

In the area of consumer protection, enabling legislation in some states (In Mass. see M.G.L.A. Chapter 93A) has established agencies of consumer affairs under the auspices of the Attorney General and his staff. These agencies receive calls from consumers detailing their problems and seeking some kind of aid or relief. If appropriate, the agency will call the merchant or individual involved and by leverage of the Attorney General’s involvement will usually settle the issue over the phone. If there is no settlement, a suit may be commenced either in the form of a class action or a bill for temporary or permanent injunction. The class action would consolidate a number of would-be individual suits and the injunction would remove the necessity of further suits. This type of agency, call it para-legal, is eliminating in many instances the need for a consumer to consult an attorney.

Also there has been a growing tendency on the part of our law-making branches of government to make things uniform. The Uniform Stock Transfer Act, Uniform Trust Act, Uniform Fiduciary Act, Uniform Probate Code and the Uniform Commercial Code are a few examples. This uniform design was intended to lay to rest the confusion and unpredictability of outcome in a number of areas of the law. Some of these acts are relatively clear on what is to be done if you want to do it right. Could this codified approach be remotely yet insidiously reducing the number of occasions necessary to retain an attorney?

States are also raising the maximum account under which you may represent yourself in Small Claims Court. In Massachusetts the maximum is $400.

Yet despite these factors and others including increasing law school enrollment, perhaps we do need more lawyers.

To determine whether in fact we need more lawyers the issue to be resolved is whether more lawyers can be absorbed by the profession in serving the needs of society. What is the responsibility of the legal profession to society and how wide and deep does this responsibility run?

Canon 2 of the A.B.A. Code of Professional Responsibility outlines the manner by which the need of members of the public for legal services can be fulfilled. It suggests that the need only can be met if the public “recognize their legal problems, appreciate the importance of seeking assistance and are able to obtain the services of acceptable legal counsel”. The responsibility is three-fold. First, lawyers are needed to assist laymen.

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*The number of lawyers in 1950 was 221,000 as compared to 385,000 today. Law school enrollment in 1960 was 49,000 as compared to 97,000 today.
to recognize legal problems because such problems may not be readily apparent and not noticed in time. Secondly, society should be educated to appreciate the importance of seeking counsel and the dangers of the do-it-yourself approach.

Third, yet most important for our consideration here, is the ability to obtain legal counsel. The Supreme Court in Argersinger v. Hanlin, 92 S. Ct. 2006 (1972) has focused on this need for obtaining legal counsel by ruling that an impoverished criminal defendant cannot be jailed unless he has been offered free counsel. This applies to any offense whether classified as petty, misdemeanor or felony. How many new clients are involved in the realm of this particular responsibility? There are an estimated 27 million legally indigent persons in America and millions more who just fall short of making the monetary qualifications necessary for free legal aid.

There can be no doubt that there is a vast quantity of legal work not being done that should be done. A person may be contemplating promising a performance or relinquishing a legal right and does so without an attorney. He may find himself in a relationship with an agency of the government, a corporation, a merchant, a landlord, an employer or a financing agency where legal rights are involved yet he is without proper aid or legal counsel. Such dealings might not be fatal. The point is, however, that these people will continue to involve themselves in relationships without access to our legal system and continue to be deprived of full participation in civilized society.

It is the writer's belief that what at first glance might seem to be a liability caused by an overabundance of lawyers is in fact an asset to be utilized to accomplish a job long overdue. Namely, to provide the vast number of Americans with their right to live in a nation where laws are not only service for some but a nation of enforceable laws for all its citizens right across the board.

It becomes evident that here is a need to establish vehicles by which people can come to rely on the law in their daily lives. This can be accomplished by instituting pre-paid legal insurance programs and the various judicare plans. Government subsidy programs should be instituted for those who, although they can afford to pay some of the cost for a lawyer, cannot afford the total cost needed to insure their rights. These types of vehicles are needed to transcend the gap now existing between the supply of lawyers and the needs of the public in general. When this is accomplished not only will there be enough lawyers but the possibility of a shortage of lawyers might exist.

Who is that man - and why is he following me?

The Photo on page 26 is a view of the Municipal Prison in Paris, France

Massachusetts, which has the dubious distinction of pioneering No-Fault Auto Insurance, is on its way towards a viable state-wide program of Prepaid Legal Services by 1974.
Mr. John Deliso received his B. A. from Babson College in 1968 and his J. D. from Suffolk University Law School in 1972. While at Suffolk Law, Mr. Deliso served as president of the Student Bar Association. He is now serving as the Director for Admissions for Suffolk University Law School.

One year ago, as a third year law student, I wrote an article for The Advocate entitled "Is Number 2 Trying Harder?" The message of that article was that we had become the second largest law school in America. Since that article was published, I have graduated from Suffolk University Law School, and I am now an administrator. What was news last year is still news this year. However, the changing situation in American Legal Education has produced still another surprise. Suffolk University Law School now has the largest number of Juris Doctor Degree candidates of any Law School in America! The following chart depicts the relative size of the 10 largest Law Schools in the United States by student population.

<table>
<thead>
<tr>
<th>School</th>
<th>Juris Doctor Degree Candidates</th>
<th>Special Students and/or Graduates Degree Candidates</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Suffolk University Law School</td>
<td>2,000+</td>
<td>15</td>
</tr>
<tr>
<td>2. Georgetown University Law School</td>
<td>1,965</td>
<td>235</td>
</tr>
<tr>
<td>3. Harvard University Law School</td>
<td>1,687</td>
<td>235</td>
</tr>
<tr>
<td>4. University of California Hastings College of Law</td>
<td>1,527</td>
<td>---</td>
</tr>
<tr>
<td>5. University of Texas School of Law</td>
<td>1,671</td>
<td>11</td>
</tr>
<tr>
<td>6. The John Marshall Law School</td>
<td>1,382</td>
<td>---</td>
</tr>
<tr>
<td>7. George Washington University National Law Center</td>
<td>1,375</td>
<td>359</td>
</tr>
<tr>
<td>8. Brooklyn Law School</td>
<td>1,292</td>
<td>---</td>
</tr>
<tr>
<td>9. Loyola University Law School</td>
<td>1,148</td>
<td>---</td>
</tr>
<tr>
<td>10. New York University School of Law</td>
<td>1,050</td>
<td>1,200</td>
</tr>
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</table>

Only New York University Law School and Georgetown University Law School have more students, but when their graduate law student population is subtracted from their total law student population Suffolk University Law School becomes the largest Law School in America awarding the Juris Doctor Degree.

During the past 10 years Suffolk University Law School has witnessed phenomenal growth. Only 10 short years ago (1962), we were a Law School with 434 students, producing 59 law graduates in June of that year. This year we have over 2,000 undergraduate law students, an increase of 460 percent in total student enrollment in 10 years, with a June 1972 graduating class of 404. An increase of 683 percent in the number of June graduates in the last ten years has occurred. While other Law Schools are boasting of 50 and 100 percent increases, Suffolk University Law School has far outrun these institutions in terms of growth and numbers of new law graduates produced each year.

Last year Suffolk University Law School produced 2.37 percent of all the Law School graduates in the United States. This in itself is significant, when one realizes that only 10 years ago Suffolk University Law School produced .59 of one percent of all the Law School graduates in the United States, we start to become aware of our relative position as a school with a national influence.

As a result of the continually increasing demand for the approximately 30,000 seats per year available in American Law Schools, this and other Law Schools have made changes in their admissions policy. Ten years ago entrance to Suffolk University Law School was relatively easy by today's standards. However, today's applicants have higher grades, higher test scores, and often have military or specialized civilian training. When it is realized that only 1 in 8 persons who applied to Suffolk University Law School last year was accepted, the competitiveness of the current admissions process becomes apparent.

The most recent class (Day Class of 1975 and Evening Class of 1976) to enroll in the Law School reflects this increased competition for Law School seats, as evidenced by the following statistical data;

FALL 1972
and because of the efforts of our bail release personnel, released later on personal recognizance.

In special circumstances, the project personnel have been winning their release on reduced bail or personal recognizance, as a result.

While not always successful, many defendants have undertaken to provide these additional services: (1.) representation at hearings regarding mental examinations and reports; (2.) representation in District and Municipal Court trials and hearings; (3.) petitions and motions in Superior Court requesting various kinds of relief; (4.) arranged for interviews and admissions to drug rehabilitation facilities and alcoholic treatment facilities; and (5.) arranged for diagnosis of illness and for transfer or commitment to appropriate mental facility.

We should remember that under the Federal Bail Act of 1966 the underprivileged are entitled to the same rights as the wealthy. Additionally, undue constraints on pre-trial release prove far more costly to all levels of government, including city and county, than is necessary. In this connection, the genesis for our project was the Massachusetts Bail Reform Act of 1968, as amended in 1970 and 1971 and which permits a defendant to appeal his bail to Superior Court.

Each citizen, as he is jailed, is contacted almost immediately and informed of his right to appeal. This is most important because 70% of the population at the jail are in the indigent category and usually do not understand their rights. We estimate that among our prison population alone, an average of 30 persons are eligible for bail review during a six-day week.

If a defendant indicates that he wants to appeal his bail, then it is incumbent upon our staff to interview the defendant and prepare the necessary papers. Our project director appears for the accused in Superior Court.

The bail appeal must be made no matter what our bail project personnel consider the prisoner's chances of winning a reduction. That is not their concern. The welfare and desires of the prisoner come first.

Here again, in winning release for appropriate cases, we reduce the size of the prison population, ease the jail's administrative burden, save the taxpayers' money, and return the defendant to his family, permitting him, concomitantly, to retain his job, preserve and provide for his family, and better prepare for his trial.

In these and other ways, I have sought on a continuing basis to improve the bail system in Massachusetts.

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**Note**

The application deadline this year for both the Day and Evening Divisions of the Law School is February 15.

The Law School Data Assembly Service is now required for students applying to the Law School. (This service collects transcripts of academic work; summarizes them into a uniform format; and sends an LSDAS report, containing the LSAT score and transcript summary to each Law School designated.)

Many of you may have friends or children who are interested in attending Suffolk Law School. If you would encourage them to complete their application before February 15, it would be to their benefit, inasmuch as the Admissions Office does not anticipate considering any applications received after February 15, 1973.

If you have any questions regarding admission to the Law School, call John Deliso at 723-4700, Extensions 309, 219, or 220, in the Law School Admissions Office.

**Penal Institutions**

In dealing with the problems of prison reform, then, it can be observed that the City Council is confronted with a situation that unfolds along political, economic, and social lines. For years, the growing needs of the penal system were shunted aside in favor of issues drawing higher priority and political visibility. In recent years, the interest that has accrued on these unpaid debts has begun to catch up with our society.

The drain placed on our society by inept and inefficient penal management is a liability that can not be tolerated much longer. However bad the present penal system's "rehabilitation" activities are, this lack of success is heightened by the changing trends in the ages of today's offenders. Now, more than ever before, the offender is a much younger man: the singularly unsuccessful nature of our correctional system is accentuated by this age trend among criminals, for it is clear that a hardened criminal at the age of 20 is going to be around for a long time.

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**Time for Change**

Continued From Page 19

all the circumstances involved in each individual case.

Now such people may petition the Superior Court for a review of such decision through the auspices and personnel of our bail appeal project. While not always successful, many defendants have been winning their release on reduced bail or personal recognizance, as a result.

To be more specific, we have had defendants, with bail set anywhere from $1,000 to $100,000 and who were unable to meet this minimum amount, and because of the efforts of our bail release personnel, released later on personal recognizance. In special circumstances, the project personnel...
**Changes Asked for Law Schools**

A recent study of the way American lawyers are educated calls for broad diversification to reflect the growing heterogeneity of the legal profession and the increasing demands of a changing society. The study, sponsored by the Carnegie Commission of Higher Education, and released in San Francisco was published by the McGraw Hill Book Company.

The study reviewed the history of American legal education beginning with the development of the case study method inaugurated in the latter part of the nineteenth century utilized with the Harvard model of the three year law course. The emergence of the "Wall Street Firms", the shift of the bulk of law practice to the major cities as industry and government expanded and the now changing attitudes toward the role of the legal profession in society were some of the ingredients constituting a growing heterogeneity of the legal profession. Yet the method of educating lawyers has virtually remained the same.

The authors suggested two "modest changes" within the present structure:

1) reducing the minimum pre-baccalaureate time to three years
2) reducing the minimum time spent in law school to two years

The authors felt that these options should be available to some students at some schools. They felt that the case study system is considered best suited for first year students but has been shown to become dull and repetitive to third year students. The study also noted that while the case system would not disappear, it had been and would be coupled with the clinical approach in which students learn by "doing" while in law school. The authors believe that while the clinical approach has merit as an alternative, it could not replace the case system.

**Society and the Law Program Expands**

Under the direction of Professor Hollingsworth, this year's Society and the Law program has expanded. The program currently has forty-seven members teaching at five high schools. In addition to Boston English, Quincy, and North Quincy high schools, Dover-Sherborn and Haverhill high schools have been added to the program.

The program consists of weekly classes on law-related topics taught by student-teachers from Suffolk University Law School. The student-teacher's class is taught in conjunction with each school's Social Studies program and the discussion of broad legal principles is emphasized. The teaching program lasts the entire academic year and provides valuable experience for the student-teacher as well as a basic legal education for the students.

**Phi Alpha Delta**

The Felix Frankfurter chapter of Phi Alpha Delta Law fraternity has conducted the Freshman Orientation program for the day and evening divisions for several years. This year's orientation program was quite successful and proved to be a great help to the incoming class.

Under the leadership of Justice John Capone, the fraternity has sponsored two guest speakers from the professional community. Attorney Lawrence O'Donnell gave a most interesting discussion on trial tactics in which he presented a realistic picture of the "bread and butter" techniques that all trial lawyers should attempt to master.

The fraternity also presented Assistant United States Attorney Frederick R. Kellogg, a noted trial lawyer and a leader in the area of Environmental Law Enforcement. Mr. Kellogg gave a thorough analysis of the problems which face attorneys in the vital area of pollution control.

The next event sponsored by Phi Alpha Delta will be the Composite Review Program. This program will be open to both the day and evening divisions' first year students. The students will have a chance to analyze fact patterns from past composites and the proper method of answering the problems presented in the composite.

Phi Alpha Delta fraternity will continue to sponsor programs which will supplement the existing academic curriculum and prove of interest to the students.
LAW LIBRARY EXPANDS

The area left vacant by the relocation of the law faculty offices has been utilized by the law library to substantially expand the facilities for individual study. The increase in study area as well as the increase in the stacks area will bring the total number of seats from 230 to over 400.

This expansion, however, should not be thought of as an end result. The law librarian, Professor Lynch, cited the need for constant expansion which faces any law library. As an example of the space problems Professor Lynch noted that 5,600 volumes were added last year and that figure will be surpassed this year.

The financial assistance to the library has kept pace with the need for expansion. This can be seen through the growth of the budget from $20,000 for the fiscal year 1966-67 to $130,000 for the current fiscal year. The law library’s needs demand that plans for expansion be part of its future.

DELTA THETA PHI

Once again, Delta Theta Phi will present its tutorial program. The preparation for the Criminal Law exam was quite successful last year and should prove to be equally as successful this year. The program emphasizes advanced preparation of course material by students before troublesome areas are analyzed. The tutorial sessions are presided over by upper class fraternity members who attained a high grade in that particular course. Several other subjects are under consideration as additions to the program.

The fraternity has ratified the recent election of John Nanorta to the position of Dean. Mr. Nanorta is a third year student and a charter member of Delta Theta Phi.

LAW SCHOOL STUDENT FACULTY COMMITTEE

by Normand D’Amour

Last year, in an effort to promote cooperation among members of the Law School Community, retired Dean Donald Simpson spawned the idea of creating a committee composed of students and faculty to air problems that affect the Law School and to channel to appropriate individuals proposals that are intended to effectuate their resolution.

After disagreement over the selection of the committee members, it was agreed that the Dean would name five faculty members and the Student Bar Association would propose a list of ten students from which the Dean would select five. The faculty members chosen are Professors Herbert Lemelman, Chairman, Brian Callahan, Charles Kindregan, Doris Pote, and Richard Vacca; the student members are Charlotte Cherington, Michael Cooperman, Normand D’Amour, Ronald Horvitz, and Linda Millman.

Meetings were held to discuss the purposes and scope of the fledgling committee. It was decided that since the primary purposes of the committee were to receive student and faculty opinions on relevant issues and to proffer appropriate recommendations that any issue within the Law School Environment which affected students and faculty would be fair game. Toward that end an agenda was proposed for discussion at monthly public hearings which includes Law School evaluation, academic policy, inter-organizational responsibility toward Law School advancement as well as the structure of the committee itself and the methods of selection of the participants.

To date two public hearings have been held at which students and faculty discussed Law School evaluation including membership in the Association of Law Schools and academic compensation avail-
able to students who participate in extra-curricular organizations. Other public hearings designed to inspire a rational discussion of the problems facing the Law School are planned. Students and faculty are invited to attend and participate or to submit written proposals to the committee.

TRUSTEE APPOINTED

Chief Justice Walter H. McLaughlin

Judge John E. Fenton, chairman of the board of trustees, has announced that, Chief Justice Walter H. McLaughlin of the Massachusetts Superior Court has been appointed a trustee of Suffolk University.

A 1930 graduate of Suffolk Law School, Chief Justice McLaughlin, was elected to a three-year term on the 21-man board. He fills the vacancy created by the death of Superior Court Judge Eugene A. Hudson former vice chairman of the board, who died April 20.

He was appointed an associate justice of the Superior Court in March of 1967 and was named chief justice in October, 1970. Prior to his appointment to the bench, he was a senior partner in the law office of the McLaughlin Brothers.

He is a trustee and charter member of the Massachusetts Bar Foundation, a member of the New England Advisory Council for the New England Law Institute, Inc., is a lecturer for Massachusetts Continuing Legal Education, Inc. He has been a delegate to the National Conference of Metropolitan Court Judges and a delegate to the National Conference of State Trial Justices.

FACULTY NEWS

Professor JOSEPH CRONIN was appointed by Governor Sergent to serve on the Commission to Make an Investigation and Study Relative to Lowering the Age of Majority to Eighteen.

Professor ALEXANDER CELLA was recently appointed to the Board of Directors of the Massachusetts Defenders Committee, the only Law Professor on the Board.

Captain ANTHONY J. DEVICO was recently elected Treasurer of the National Association for Law Placement. Captain DeVico, who is a retired military judge, is also serving on the A.B.A. special committee on military justice.

Condolences to Professor DAVID SARGENT on the death of his mother on August 17, 1972.

Professor CHARLES KINDREGAN was recently appointed to the Mass. Bar Association Committee on Family Law and also serves in the sub-committees on Family Process and Confidentiality.

Professor BASIL YANAKAKIS attended several conferences on International Law this past summer in Europe.

Professor BRIAN CALLAHAN and family are hosting a 16-year old Vietnamese boy in their home.

Professor CHARLES GARABEDIAN has arranged to purchase a set of color video - tapes of trial procedures for the law school.

Professor CLIFFORD ELIAS has been invited to assist in the drafting of new rules of criminal procedure in Massachusetts.

Professor ALFRED MALESON recently spoke at a program on taxation sponsored by the Internal Revenue Service.

A belated welcome to professor THOMAS F. LAMBERT JR. previously editor-in-chief of the American Trial Lawyers Association, he was graduated from UCLA where he was president of the student body, and holds a B.A. in jurisprudence, a B.C.L. and M.A. in jurisprudence, all from Oxford. In addition, he was awarded the Sterling Fellowship for Graduate Law at Yale University.

June 20, 1971: An extremely fine day

Who is Carnac?
Eminent Jurist Honored

Recently the portrait of Judge Frank J. Donahue was hung in Doric Hall in the State House, Boston. This portrait was presented to the Commonwealth by the Chief Justice of the Superior Court, Walter H. McLaughlin. The Secretary of State, John F. X. Davoren accepted the portrait for the Commonwealth.

Class of 1940

Benjamin P. Romero has been named Vice-President of Personnel and Safety of Eastern Associated Coal Corporation, headquartered in Pittsburgh, Pa., a subsidiary of Eastern Gas and Fuel Associates of Boston, Mass.

Class of 1950

Joseph P. Hegarty Jr. of Boston was promoted to the rank of Colonel in the Massachusetts National Guard. He is the staff judge advocate at state headquarters and vice-president as well as counsel for the American Mutual Insurance Alliance.

Class of 1953

Thomas J. Roche of Boston was recently appointed assistant Registrar of The Suffolk County Probate Court.

Class of 1960

Ronald D'Avolio of Peabody, Massachusetts was appointed by Mayor Mavroules of that city, to a planning board position. D'Avolio's term runs to May 28, 1975.

Class of 1963

Robert J. Goodnow of Holden, Mass is now associated with the law firm of Bowen and Baker of that city. Goodnow was formerly an attorney for the Sentry Insurance Group.

Robert E. O'Briant, Vice-President of the Middlesex Bank has been placed in charge of the bank's Wakefield office. Prior to this assignment he has managed Middlesex Bank offices in Cambridge, Wilmington, and Burlington.

Class of 1964

Dr. Harold E. Dreyer of Simmons Avenue, Cambridge, Mass. director of Personnel at the M.I.T. Charles Stark Draper Laboratory has been named to the Board of Directors of the Massachusetts Easter Seal Society for Crippled Children and Adults.

Francis J. Harney of Puffer Lane, Sudbury, Mass. has been appointed a Special Assistant Attorney General by Massachusetts Attorney General Robert H. Quinn. He was a founder of the Felix Frankfurter Chapter of Phi Alpha Delta Law Fraternity at Suffolk Law School.

Arnold J. Lovering was unanimously elected chairman of the Board of Trustees of Lowell Technological Institute at the July meeting. Originally appointed to the Lowell Tech. Board in 1970, Attorney Lovering received a Bachelor of Science degree from Lowell Tech. and subsequently served as President of the Alumni Association.

Class of 1966

Wayne M. Boylan of Westfield, Mass. has been appointed to the teaching faculty of Western New England College's evening division School of Law in Springfield, Mass. WNEC's evening division Law School is the only one of its kind outside of Boston in Massachusetts.
Richard J. Troy of Everett, Mass. has been appointed advisor to selective service registrants by President Nixon for Local Board #103 in the City of Everett.

Class of 1971

Jack M. Atwood of Wareham, Mass. has been appointed Federal and State Grant Coordinator for Plymouth County by the county commissioners.

Gary Casaly of Natick, Mass. has joined the law firm of his father, Mr. John Casaly, who has been practicing law in Natick for thirty-four years. The firm specializes in the fields of Probate and Real Estate Law.

Ralph Aphrem Donabed has opened his own law office in the Town of Brookline. He has spent two years for the Boston Legal Assistance Project.

Robert E. Dwyer of Indianapolis, Indiana has recently completed Officers' Basic Training at Fort Sill, Oklahoma. Mr. Dwyer has been admitted to both the Indiana and Federal Bars.

Alfred E. Saggesse Jr. of Winthrop, Mass. has been appointed Assistant District Attorney in the Suffolk County District Attorney's Office and named chairman of the United Fund Campaign in Winthrop.

Class of 1972

Timothy J. Schiavoni of Bradford, Mass. has joined the Faculty of Bradford College in its Institute of Urban Studies. The Institute will grant the first Bachelor degree from Bradford College which has in the past only granted associate degrees.

Andrea Wasserman has been appointed assistant to Middlesex County District Attorney John Drony. John C. DeLiso of Shrewsbury, Mass. has recently been chosen for the new post of Law School director of Admissions at Suffolk Law School.

WHERE ARE YOU NOW?

Help keep our mailing list and records up to date.

NAME ___________________ 
CITY ______ STATE ______ ZIP ______
FORMER ADDRESS ___________________ 
CITY ______ STATE ______ ZIP ______
FIRM NAME ___________________ 
POSITION ___________________ 
NEWS INFORMATION FOR THE ADVOCATE:

Names of other alumni who may not be on the mailing list.

NAME ___________________ 
CITY ______ STATE ______ ZIP ______

FALL 1972
Two educators and a probate judge were cited as outstanding graduates of Suffolk University by the university’s General Alumni Association at a Homecoming Dinner held at the university on Beacon Hill Saturday night.

Recipients of the first annual Alumni Fellow Awards were Dr. Paul G. Buchanan, president of Dunbarton College, Washington, D. C., George A. Strait, professor of law and law librarian at Antioch School of Law, Washington, D. C., and Judge Edward T. Martin of Middlesex Probate Court.

The three were chosen on the basis of having distinguished themselves professionally and in community and social service as well as reflecting the ideals of Suffolk University. A committee of university-affiliated alumni made the selections from hundreds of candidates nominated by the general alumni.

left to right: Hon. & Mrs. Edward T. Martin, Mrs. Buchanan, Pres. Fulham, Dr. Paul Buchanan, and Mr. & Mrs. George A. Strait.

AN $850 CUT IN WEEKLY SALARY
Continued From Page 23

from the criminal on the outside who wants in is a 1/8 inch glass window or an easily jimmed door lock.

In the end the first step in the solution to the problem of crime is that there must be enkindled in every person an awareness that we are “all in this together.” If there are answers to the problem of criminality, no one group has a corner on the market. Indeed, no group should have a corner.

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THE ADVOCATE
GOMILLION'S LIGHTFEET

To the Editor:

It is my sad duty, as self-appointed oracle, to inform the vast minions that the Student Bar Association intramural football program has come to a premature and somewhat sinister halt.

As there were eight teams in this league, even a novice in the myriad world of mathematics could quickly grasp the fact that if every team played seven games, this would result in each team playing every other team once—a situation seemingly sufficiently succinct and satisfactory. But alas, after little more than half the schedule was played, the remaining games were cancelled. The reasons for the cancellation were four-fold: A) No money was left in the budget with which the referees were to be paid. (“No more money!” the masses exclaimed). B) The intramural basketball season is due to start November 18th. (The relation between the two tends to leave one puzzled.) C) The weather was getting too harsh. (As Judge Cardozo once said of the “Oh My God” doctrine - “if when the judge hears the evidence and is prompted to exclaim ‘Oh My God’ then the rule applies.”) D) Gomillion’s Lightfeet was the clear-cut winner. Now we come to the real issue. After playing a mere four games, this team, bound together through hard work, love of the game and a promise of free beer, had decimated the opposition to such an extent that atrophy had set in. (Not a trophy, but atrophy.)

Perhaps this decision which was made by the moguls of the intramural league was wise, but even the ever-present reasonable man would agree that representatives from each team should have been consulted prior to the decision. Now I would never say that something is rotten in Denmark (because I’ve never been to Denmark), but I think (therefore I am) that it is against the American System of fair play to cancel a season merely because one team is leading.

Richard J. Glidden

To the Editor:

It seems that lurking somewhere in this law school is a proposal that would alter the present final examination structure. From the brief information that I can piece together this proposal has the potential to work unprecedented hardship upon the entire law school. At the same instance there has been little or no communication as to where this concept stands as of this moment.

Clearly, there will always be a need for reform in the process by which a student is evaluated on his knowledge and application of a particular subject, until that process which is most equitable emerges. However, I am convinced that any alternative to the current examination structure which would require more frequent examinations during the course of the semester would be a regressive step for this law school.

Most students working, whether it be for dollars or credits in areas such as consumer protection will be forced to make numerous sacrifices under the proposed alternative system of testing. While the time of the student is cut into by the demands of more testing, the subject he is studying is likely to be cut up by a testing pattern that requires an examination every few weeks.

While these thoughts come to mind, I am convinced that there are far more that will trouble the population of this school when it faces an examination system that includes monthly testing in each and every course. The problem remains. Who knows where this proposal hides today?

Reynold A. Cullman

Want to be heard? The ADVOCATE now has a Letters to the Editor Box located in the Law Library. Put your pen where your mouth is.
THE OTHER ERIE CASE

Once upon a midnight dreary
While I pondered weak and weary
Over many a volume of long-forgotten law
I glimpsed the cursed name of ERIE
Through my dim eyes red and teary----
Erie, Erie, Erie, Evermore!

"Dudley v. Mayhew" reads my brief,
Patent-holder seeks injunctive relief
(Selling stoves in Erie County
Is the way he makes his bounty
And he'll swear that all his merchandise is hot
And that Mayhew elbowed in where he should not.)

DUDLEY wanted locals to rule upon the matter
But MAYHEW's mouthpiece made a jurisdiction chatter.
"Why, Mayhew, friend," said Dud
"Why make a federal case?"
And slipped Mayhew a v.c.*
So state became the place.

*valuable consideration (maybe a stove)

The money* paid, Mayhew agreed
On jurisdiction to be quiet
But then he lost and in his need
His lawyers thought they'd try it.
Erie, Erie, Erie, Evermore!

"Davis versus Packard"
And "Coffin versus Tracy"
Were watch-words in the court-room
Driving Dudley's lawyers crazy.

"Assent by parties can't confer
The judge his jurisdiction,"
The Mayhew people argued well
To Dudley's legal fiction.
Erie, Erie, Erie, Evermore!

"Mayhew, you have broken faith
With morals none too good,
But everything is legal here,"
The last court understood.

So patent-ly the case was clear
And Dudley shouldn't bitch,
Since those who can not stand the heat
Should not be in the kitch!

(END)

Submitted by
Wayne Soiri, First year student

TOWARD A THEORY OF CORRECTIONS
Continued From Page 22

This view of behavior change does not come to terms with the reality that there are individuals who define themselves as criminals -- individuals who have developed a repertoire of behavior patterns which include violation of the criminal law. These offenders are the most difficult to change because a fundamental change in attitudes is required. Until our correctional programs begin to include consideration of conditions under which attitudinal change can occur, they will continue to fail to reach large numbers of men. This failure will continue to manifest itself through rising crime rates and broken lives.

ENVIRONMENTAL LAW SOCIETY TO CLEAN UP BOSTON HARBOR

Once again the Environmental Law Society is conducting student intern programs consisting of the placement of students with state and Federal agencies which deal directly with environmental protection. The student works with the agency for a semester in return for which he receives two semester hours credit. The primary objective of the program, however, is to give the student practical experience in the field of environmental protection.

In addition to the intern program, the society initiates litigation on environmental issues whenever possible. Presently a class action suit under the Citizen's Right to Action bill M.G.L.A. ch 214 Sec. 10A is planned in order to deal with the problem of the pollution of Boston Harbor.

A young lawyer by the name of VanCleefs
Had very idealistic beliefs.
But his career was cut short
On his first day in court,
When he asked the judge to examine his briefs.

THE ADVOCATE
We at THE ADVOCATE are saddened to report the deaths of the following alumni.

Class of 1923

Wyman P. Fiske, former management consultant and professor at Harvard and M. I. T. died at the age of 72. Mr. Fiske, who was born in Somerville was a Harvard graduate and attended both Harvard Law School and Harvard graduate school of business. He also served as national president and as executive secretary of the National Association of Accountants.

Class of 1924

Edward Ankeles of 83 Hobart Street, Danvers, Mass. died at the age of 72. A former president of the Peabody Bar Association, he practiced law in that town for 40 years.

Class of 1926

Alfred L. Hutchinson, of 15 Richmere Road, Mattapan, Mass. died at the age of 66. He served with the American Mutual Companies of Boston.

Class of 1933

Julian P. Israelson of 103 Washington Street, Rumford Maine died at the age of 62. Mr. Israelson served with the Berst-Forster-Dixfield Co. division of Diamond Match Co. as assistant to the Vice-President in charge of production. In 1953 he opened his own real estate and insurance business in the Rumford area.

James P. Quinn of 30 Prince St., Wilton, N. H., died at the age of 60. He was employed by the federal government for 25 years, retiring 4 years ago. He served as New Hampshire director of the W. P. A., Administrator of the office of Price Stabilization, and as loan officer for the Department of Education.

John P. Hennessey of 48 Benton Road, Belmont, Mass., died at the age of 64. Mr. Hennessey, a vice-president of Boston Edison Company, was past president of the Boston Edison Employees Credit Union, and of The Credit Union League of Massachusetts.

Class of 1935

Frank A. Welch of 31 Jackson Terrace, Newton, Mass., is dead at the age of 77. Mr. Welch who was a practicing attorney for 37 years, was a member and former secretary of the American Association of Retired Persons.

Class of 1936

Lawrence J. Moore of Cedar Street, Dedham, died at the age of 66. Mr. Moore was a former associate assessor and corporation counsel for the City of Boston.

FALL 1972
PERSONALIZED PLAQUE

Cast Bronze Suffolk Law School Emblem is mounted on solid hand-rubbed walnut. 8 1/2" x 11". Graduate’s name and class are engraved on the brushed bronze nameplate. Excellent gift idea. $19.95 plus $1.00 postage & handling.

LAW SCHOOL EMBLEM

Cast Bronze Suffolk Law School Emblem with felt backing. Ideal use as decoration or as a paper-weight. $9.95 plus $.50 postage & handling.

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