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The Register Vol. 1, No. 7, 4/1916

Suffolk University Law School

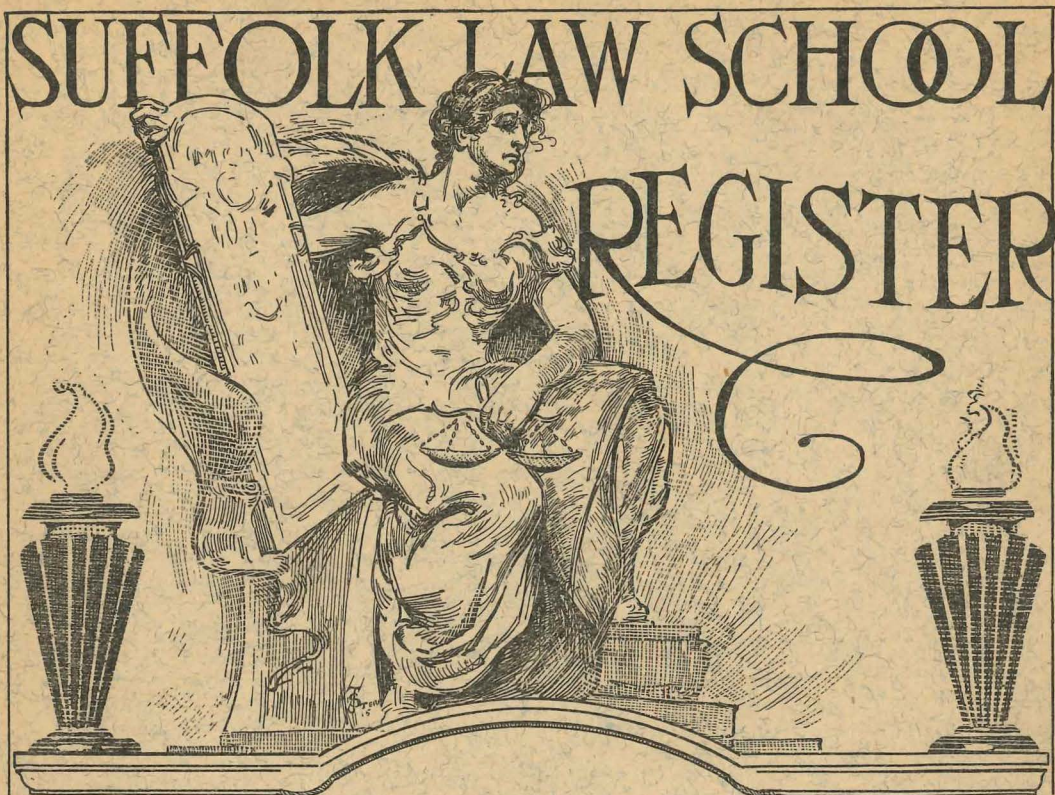
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Volume 1

BOSTON, MASS., 1916

Number 7

The Law

Of Law there can be no less acknowledged, than that her seat is the bosom of God, her voice the harmony of the world; all things in heaven and earth do her homage, the very least as feeling her care, and the greatest as not exempted from her power.

—Hooker.

APRIL

SUFFOLK LAW SCHOOL REGISTER



Published by the
STUDENTS OF THE SUFFOLK LAW SCHOOL
45 Mt. Vernon St., Boston

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Subscription, One Dollar a Year

Justice

John J. Murphy, '18.

'Tis said I'm blind and do not see,
Or else I do not care about
The feelings of humanity
Which I so often snub and flout.

I know not rich, poor, weak, or strong,
Nor do I care for race or creed;
My views are based on right and wrong,—
Therefore I judge each by his deed.

Ambition, passion, sympathy,
Education, force, state in life,
Do not ever influence me;
That's why I'm always in the right.

And he who breaks the laws we make,
By intent, actual or implied,
Must always be prepared to take
The penalty statutes provide.

I favor not the young or old,
Who is possessed of a sound mind;
I punish both timid and bold,—
That is why it is said I'm blind.

For right is always right you know,
And whatso'er is right Today
Was right two thousand years ago,
And will continue thus for aye.

So all who shall before me come
To answer for a law's transgress,
Expect from me no favor done,—
But plain Justice, not more, not less.



SUFFOLK-LAWRIE

(To Air of Tipperary)

S. A. McALEER, '18

Up to Suffolk Law School came a student one dark night,
Groping round the different schools,
To try and find the light.
He met Dean Archer and instructors all the best,
The student got excited,
And he sang to them the rest.

Chorus—It's a good place, your Suffolk Law School,
It's a good place to go;
Where they teach you in the square way,
In the best school that I know—
Good-bye Harvard University,
Farewell Y. M. C. A.
For I'm on my way to Suffolk Law School,
And right there I'll stay.

Take a trip to Suffolk Law School, when you have the time,
And you'll see a crowd right there who all are simply prime;
Five hundred students plugging in the good old Suffolk way,
Just stop up short and listen, when they talk to you and say:

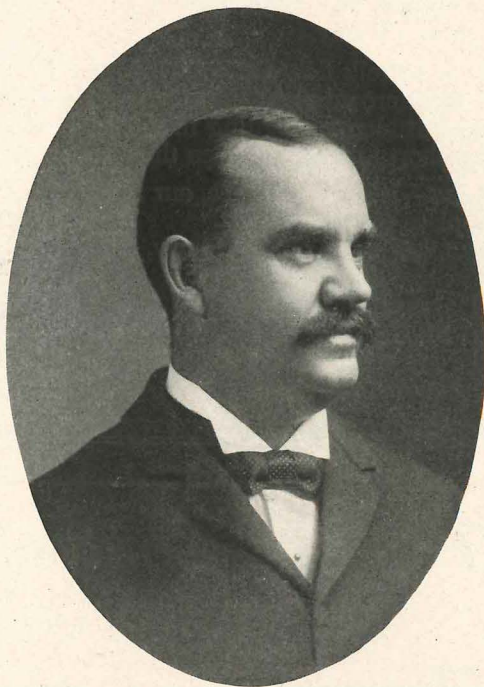
Second Chorus—It's a good place, our Suffolk Law School,
It's a good place to go,
Where they teach us in a square way,
In the best school that I know—
Good-bye Harvard University,
Farewell Y. M. C. A.
For I'll take my stand with Suffolk Law School,
And she'll show me the way.

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Professor Walter R. Meins

Mr. Meins was born in Roxbury, Mass. He was educated in the Boston public schools and graduated from Roxbury High School. He studied law at Boston University Law School, graduating as valedictorian of his class in 1905. He was admitted to the Massachusetts bar in August, 1904. He was Assistant Instructor at Boston University Law School for three years, 1908-1911.



Professor Walter R. Meins.

Mr. Meins was a member of the City Council of Boston in 1909 and also a Representative in the Legislature of 1912 from Ward 21. He is Secretary of the Lincoln Club of Boston (Republican); Clerk, Roxbury Historical Society; Member of Executive Committee, Roxbury Improvement Society. His subjects are Equity and Municipal Corporations in the Day Department.

Apportionment and Distribution of the Estates of the Deceased

By KARL GRANVILLE BAKER, Litt. B.

It has been well said that man brings nothing into this world and that he can take nothing with him into the Great Beyond. In olden days property escheated to the State, after the death of the temporal owner. In 1540, under Henry Eighth, the justly famous Statute of Wills was passed, regulating the apportionment and distribution of estates of the deceased. From that date an intricate system of apportionment of estates of deceased persons has been built up; a superstructure the understanding of which necessitates continued application and study.

Students of the elusive subject of Real Property know that the laws of the State where the land lies govern the distribution of real estate, after the death of the testator or one who dies intestate; while personal property is distributed under the laws of the State where the owner last resided before his demise.

A consideration of the apportionment and distribution of estates of the deceased, confining ourselves generally to Massachusetts law, must always be made with the distinct understanding that "heirs" and "next of kin" are practically equivalent terms in this State.

RIGHTS OF SURVIVING SPOUSE.

Revised laws, Chapt. 140, paragraph 3 states, as to rights of a surviving husband or wife, that the surviving spouse gets one-third of all property left, real and personal, where there are children, the remainder going to the issue of the marriage. This right is subject to charges of administration, funeral expenses and debts, in the order named, as are the rights described in the two paragraphs which follow.

In case of similar circumstances to those stated above, but where the deceased left relatives, but no children or issue, the spouse surviving gets \$5,000, and one-half of the real estate and personalty remaining over and above that amount. The next of kin gets what is left.

Suppose the deceased left no issue or kindred; the surviving husband or wife is then accorded the entire estate.

Revised Law Ch. 135 Paragraph 16 states that if the deceased left a will the surviving spouse may, if not agreeable to the terms of the will, or its provisions, waive such provisions and ask for the same part of the estate to which the survivor would have attained in case the deceased had died intestate; this to be done within one year after the probate court allows the instrument.

The above is limited as follows: if the surviving spouse by thus waiving the last will and testament would secure more than the sum of \$10,000, then he or she will get only the income on what remains above that amount; and if the deceased left no kindred, the survivor

who waives the will gets only \$5,000, outright and half the remaining realty and personalty, the balance going to the next of kin.

The right to waive the will is a right inherent in the surviving spouse and is cancelled if the survivor dies before so waiving; but a guardian has such right, acting for his minor or incapacitated charge.

If a court decree is entered that either party to the marriage contract has been deserted by the other, the party at fault cannot take advantage of this right of waiver. See R. L. Ch. 153, paragraph 36 and the Statutes of 1906 chapter 129.

By a writing filed in the registry of probate a surviving husband or wife can, within a year after the bond of the executor or administrator is approved, claim curtesy or dower, as the case may be. But to do this, where there is a will, a waiver of the will must also be made.

SIGNIFICANCE OF DOWER

Dower means that the widow, if granted same, gets a life estate in one-third of her dead husband's realty. Dower has the "first bite" in claims against the estate. The right of the widow to dower includes real estate which the husband transferred and in the deed to which the wife did not sign away her rights. This does not preclude the widow from getting what is due her by statute in the personalty of the deceased, this being heretofore explained.

As to curtesy the law is less definitely defined in some details. If the marriage took place on or after January 1, 1902, the husband's right or curtesy is identical with the wife's right of dower, as stated in last paragraph. The right extends to any land which the wife had obtained since the date stated, even if the marriage was previous to such date. The husband surviving may, as we have seen is the case with the surviving wife, as to dower, claim his statutory rights in her personalty.

In case the marriage took place before Jan. 1, 1902 the husband's curtesy in real estate previously acquired by his wife, if they had issue born alive, is a life estate in all his wife's realty; or, if no issue, a life estate in half his wife's real estate. Under this set of circumstances, however, if the husband so claims he cannot get his statutory rights in her personal property.

R. L. 153. Paragraph 1.

Statutes of 1915. C. 134.

After the rights of surviving husband or wife have been settled, as above, the heirs, or next of kin, in this state take as follows as to realty and personalty not disposed of by will.

If there is issue, such children share equally, the issue of deceased children taking their parents' estate per stripes, i. e. by right of representation. If all the issue are of the same degree of kindred they take per capita; i. e. "by the head," or equally. R. L. Chapter 133.

An example of the meaning of "per stirpes" and "per capita" is where A, dies leaving two children B, and C. They would each take one-half. Suppose, however B, also dies, leaving two children D, and E. Then as to A's, property, C, would take his one-half and D, and E, one-quarter each, the last named two taking per stirpes, i. e. by right of representation. Suppose C, dies, also leaving two children,

(Continued on page 19.)

An Anecdote of Webster

By Charles S. McEvilla, '16

Mr. Webster took delight in telling anecdotes of his early life, among which was the following:

John Hanson was a plain spoken neighbor of his father, whose sons were schoolmates of Daniel. The neighbor had moved in the vicinity of Hanover, where he had opened a little clearing, and had settled upon a piece of comparatively barren land. After Daniel had been in college several months, his father said to him,—"John Hanson is away up there somewhere. I should like to know how he is getting along. I think you had better find him, and go and see him."

So Daniel inquired about him, and soon found out pretty nearly where Hanson lived.

"One Saturday afternoon," relates Mr. Webster, "I thought I would trudge up through the woods, and spend Sunday with my old friends. After a long, tedious walk, I began to think I should never find the place, but I finally did, and when I got there I was pretty well tired out with climbing, jumping over logs, and so on. The family were not less delighted than surprised to see me; but they were as poor as Job's cat. They were reduced to the last extreme of poverty, and their house contained but one apartment, with a rude partition to make two rooms. I saw how matters were, but it was too late to go back, and they really seemed glad to see me. They confessed that they had not even a cow or any potatoes. The only thing they had to eat was a bundle of green grass, and a little hog's lard; and they actually subsisted upon this grass fried in the hog's fat. But," said Mr. Webster, emphatically, "it was not so bad after all. They fried up a great platter of it, and I made my supper and breakfast of it.

About a year and a half afterward, just before graduating, I paid another visit to the Hansons and found they had improved somewhat, for they had a cow, and plenty of plain homely fare. I spent the night and was about to leave next morning, when Hanson said, 'Well Daniel, you are about to graduate. You've got through college, and got college larnin',—and now what are you going to do with it?'

I told him I had not decided on a profession.

'Well,' said he, 'you are a good boy; your father was a kind man to me, and was always kind to the poor. I should like to do a kind turn for him and his. You've got through college, and people that get through college either become ministers, or doctors, or lawyers. As for bein' a minister, I would never think of doin' that, they never get paid anything. Doctorin' is a miserable profession, they live upon other peoples' ailin's, are up nights, and have no peace. And as for bein' a lawyer, I would never propose that to anybody. Now' said he, 'Daniel, I'll tell you what! You're a boy of parts; you understand this book-larnin' and you are bright. I knew a man who had college larnin' down in Rye where I lived when a boy. That man was a conjurer; he could tell, by consultin' his books, and study if a man had lost his cow, where she was. That was a great thing, and if people lost anything, they would think nothin' of payin' three or four dollars to a man like that, so as to find their property. There is not a conjurer within a hundred miles of the place, and you are a bright boy, and have got this college larnin'. The best thing you can do, Daniel, is to study that, and **be a conjurer.**' And Daniel did become a conjurer.

The Lawyer—Yesterday, Today and Tomorrow

John J. Murphy '18.

Of all profession the law has been the most discredited, most abused, most criticised, and least appreciated; and chiefly without good reason. A close investigation of the causes of this condition reveals the fact that people seem to judge the large majority of lawyers by a selected few. Of course it cannot be denied that there are and have been some unscrupulous and irresponsible lawyers, yet the same may be said of any profession or business. However, it can be truly stated that the number of lawyers of this type today is indeed few. This can be attributed to the fact that of late years the schools and colleges teaching law have devoted more time to the ethical side of the profession. The Bar Association too has done a great deal to bring the practice of law up to its present high standard by disbarring lawyers who had been found dishonest or guilty of breaking the ethical rules of the profession.

Unfair Suspicion.

Although in the past many people have been inclined to look upon a lawyer with suspicion, it cannot be stated that dishonest lawyers were ever numerous; in fact, they have been the exception rather than the rule. The only apparent reason for this seeming distrust is that a lawyer, being an officer of the court, is regarded as being above the ordinary layman on account of his superior knowledge of law, and is supposed to set the standard to which laymen must conform. Therefore when a lawyer is found dishonest or commits any crime, the matter is given much publicity with the result that it reflects

greatly upon the rest of the profession.

Yet in spite of all this it is a singular fact of history that most people have always placed confidence in lawyers. From the time that the common law was adopted up until today, people in trouble or needing advice have consulted men learned in the law; men who had devoted their lives to the study of laws and who were familiar with the proceedings of the court—men who would see to it that justice was done them. In our own country lawyers have had a tremendous influence in shaping its destinies. When the Thirteen Original Colonies selected delegates to represent them at the First American Congress a large number of those sent were lawyers. The people did not hesitate to entrust to them their whole future, their lives, liberty, property, and in fact everything that this world holds precious and dear. Of the fifty-six signers of the Declaration of Independence almost half, or to be exact, twenty-six, were lawyers. The wisdom of their judgment and foresight, their knowledge of history and human beings, is appreciated more and more as Time rolls on.

As it was yesterday so it has continued until today; the people confide in the lawyer during their trials and tribulations, they risk their futures and fortunes on his judgment. And yet we hear the wail that the profession offers no opportunity; and that it is overcrowded. Of course as to what will actually happen in the future, we cannot say; we can merely conjecture. But the safest way to judge the future is by the past. Customs have

changed, and new inventions have revolutionized industries and conditions, but human nature remains much the same. It has the same avariciousness, the same feelings, the same susceptibilities as it did in the days of old. Men still seek fame and fortune, glory and applause. Men strive, fail, falter, and succeed. Men disregard the laws; commit crimes. All these things bring about complications, controversies, questions, and uncertainties which to settle with fairness and justice necessitate the services of a lawyer. And to meet these changing conditions, new laws must be enacted. The government is today supervising and regulating the railroads. The operation of automobiles is restricted and regulated, as the airship must be in the future. Then there is the Income Tax Law, the Inheritance Tax, Law and many other laws which make the services of a lawyer essential. In fact there are so many laws and regulations that the layman is confused and is uncertain as to his right. And the laws are so intricate and involved. What is he to do? Go ahead and take a chance on his own judgment, or consult a lawyer? Prudence would indicate that the latter is the proper course to pursue, but it often happens that the layman follows the former to his regret and expense. The next time he generally gets legal advice.

It is well to look to the source of the cry that the profession is overcrowded. Whoever heard of a successful lawyer complaining about competition? The trouble is that many men attempt to practice law who would do far better in some other line such as agriculture, engineering, or the like.

In view of all the facts it must be said that to a man who can develop a legal mind, who is honest, upright, and capable, and has a good personality, the study of law offers today and tomorrow, what it did in the past, a standing in the community and the proper foundation for a career whether in law, business, or public life.

A Louisville attorney and a railroad man who has his "stop-over" here went to a theatre the other night. The railroad man saw a flashily dressed, red-faced, sporty-looking individual sitting in one of the boxes.

"Who is that over-dressed comedian?" he asked.

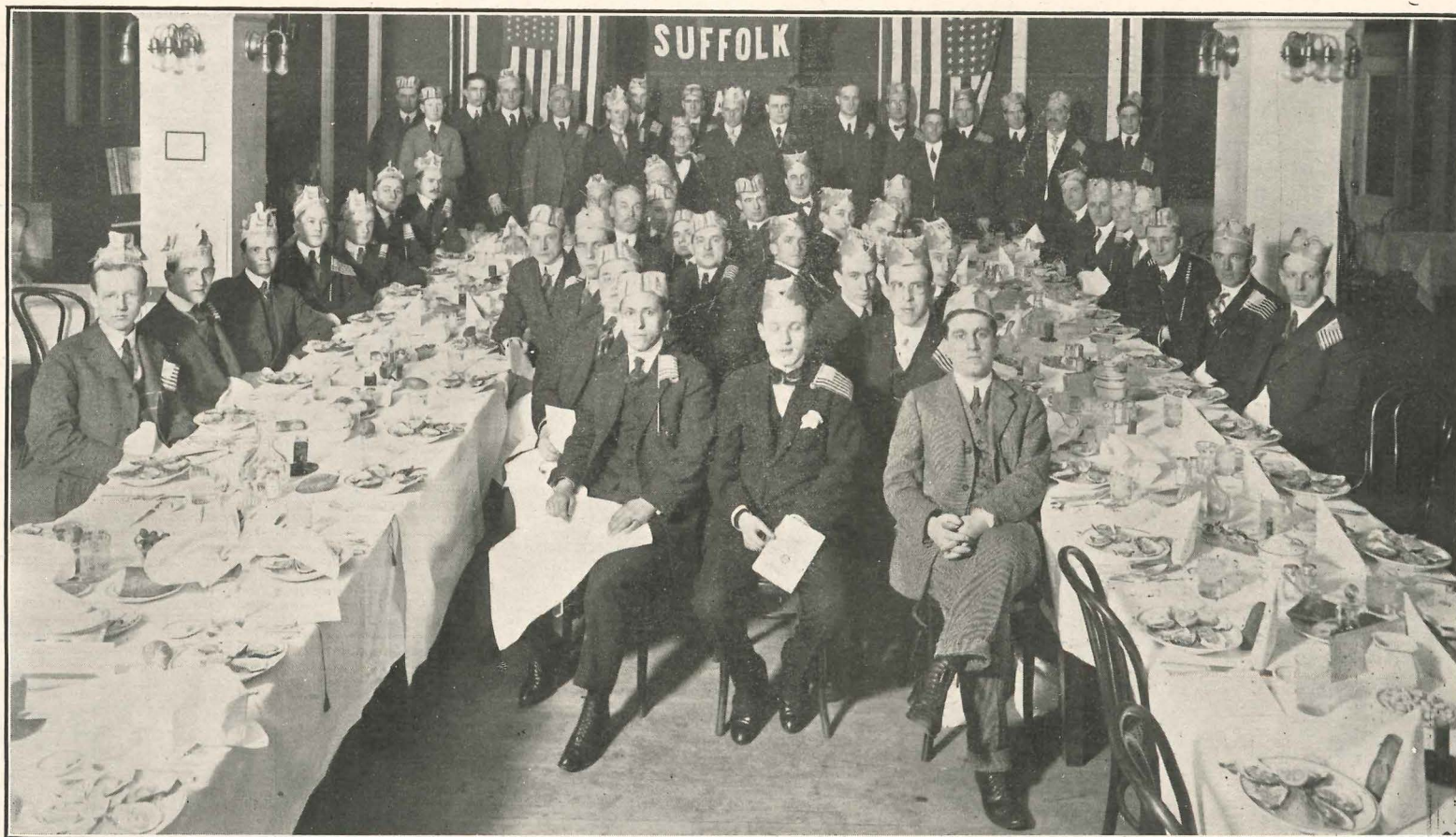
"That," answered the attorney with some coolness, "is my brother."

"Well, at any rate," said the railroad man, "I came to the right party for my information."

SOCIETY NOTE

Another one of our popular Soph. classmates has decided to "take the jump." This time it is "Viv" Porter of Winthrop. His engagement to Miss Hazel Mae Arnold of Lynn is announced. "Vic" will have the crucial ceremony performed on May 20th, the day after school closes;—evidently the three "exams" which

precede the wedding day have no fears for him. His classmates wish him the best of luck, and extend to the future Mrs. Porter their warmest felicitations and express the belief that she has chosen one of the finest fellows whose genial smile has ever adorned a lecture room. Bon Voyage "Vic."



STUDENTS' BANQUET—CLASSES OF 1918 AND 1919

Photo by Karl G. Baker—Boston Record Pictorial

Students' Banquet A Great Success

Prominent Men Address Members of Freshman and Sophomore Classes at Elks' Home.

Reported by "Joe" Dinneen, '19.

March twentieth was a night long to be remembered by those students of the Freshman and Sophomore classes who attended the Students' Banquet at the Elks' Home.

From seven until twelve o'clock the fun and revelry lasted. Pres. Leo J. Halloran of the Sophomore and Pres. Maurice M. Walsh of the Freshmen, together with their fellow committeemen had arranged an excellent program, full of novelties and specialties. Paper hats, flags, horns, whistles, rattles and numerous other favors were distributed by the committee.

Great Enthusiasm.

Enthusiasm reached a high pitch during the speeches of Dean Archer, Hon. Daniel V. McIsaac, Asst District Attorney of Suffolk County, Judge Greeve of Houston, Texas and Charles S. O'Connor, Esq., of the Mass. Bar, Suffolk class of 1912; who were the invited guests.

During the evening, many of the latest song hits were sung, the students joining in the choruses. As the Asst. District Attorney commented to Pres. Halloran, "I would rather sit here and listen to the singing of these men than all the professionals on the stage."

Three Suffolk songs were sung, "Suffolk School, My School of Law," written by Steve A. McAleer; "To Suffolk" by Howard W. Foster; and McAleer's latest

song, "Suffolk Lawrie," which was uproariously received.

Maurice McDermott of the "Around the Map" show, arrived late and pleased with many songs.

After the remains of the evening repast were cleared away, Kenneth Dunlop, '19, presented to the gathering Daniel J. McGillicuddy, '18, who assumed the duties of toastmaster.

Possessed, as usual, of his ever ready humor and his genial nature, albeit with his 200 pounds avoirdupois encllothed in evening raiment, Dan proved an able chairman. Like a modern Simon Legree, he swung and snapped the whip of his wit until he had the gathering in perpetual laughter.

Toast to Dean.

Dean Archer responded to the following toast written by Maurice M. Walsh:

"Here's to you, Dean Archer,
Here's success to you;
Not because you lead us,
Or because you're our teacher,
too;
Not because you offered us,
What others did not do;
But because we love you, Dean,
Because you're you.

In his customary witty, pointed, fashion the Dean jokingly referred to several individual members of the classes, and then in more serious vein praised the students for their loyalty and good fellowship.

Asst. District Attorney McIsaac received a tremendous reception when he arose to speak. He was introduced as "the next district-attorney of Suffolk County." During the course of his remarks,

he denounced those who favored exclusion in the profession of law and briefly sketched the work of the district-attorney's office.

Mr. McIsaac's Address.

Mr. McIsaac said in part:

"I am perfectly willing to back you students of the Suffolk Law School against the students of Boston University, Harvard, Y. M. C. A., or any other school in the country.

"In my capacity of Assistant District Attorney, I have met a good many law school students and graduates, and I have yet to find one graduate of the Suffolk Law School who is not the most loyal law school student that I have ever seen.

"You have in Dean Archer a man who is an inspiration to everybody in the country, and when you consider that in less than nine years he has built up this wonderful School of Law, constantly fighting against adverse and hostile influences, you will see that my statement is correct.

"There is something wonderful about a man who can accomplish such results and I am sure you will be a credit to him when you practice law. Even if you do not practice law, if you should be prevented from finishing your course, you would find one or two years' training in such a school as this of lasting benefit to you in any kind of business and you will never regret the expenditure of time and money. It will make you a better citizen of the Commonwealth and of the country."

Judge Greeve, a Justice from Texas, who is at present visiting Boston, was next introduced. He

proved to be an interesting, humorous, after-dinner speaker and had his auditors in a continuous roar of laughter by his remarks and funny stories.

The toastmaster then introduced Charles S. O'Connor, Esq., of the Mass. Bar and a graduate of Suffolk, class of '12. Mr. O'Connor's address was stirring, his eloquence forceful, and his stories pithy. He briefly reviewed the Legislative fight, told of his own school days, and urged the students if they ever practised law to be an honor to Suffolk and to the profession. At the conclusion of his remarks, everyone arose and gave three hearty cheers "for one of our own boys."

President's Speech.

Pres. Leo Halloran of the Sophs, declaring that he "had no intention of boring the students, made a short address in which he thanked the students for being present and for their manifestation of cordiality and good-will. Pres. Maurice M. Walsh of the Freshmen made a splendid address in which he typified the students as "the men upon whom the nation is depending now and will depend upon to a still greater degree in the future; men qualified by training and experience to occupy the highest positions in the city, state and nation."

John J. Murphy of the Sophomore class paid a great tribute to the Dean and what he had done for the school. James Dooley rendered a recitation which received tremendous applause.

The committee of arrangements included Pres. Leo Halloran, Treasurer S. A. McAleer, John J. Murphy and John J. Hefernan (Fram) of the Sophomore Class and Pres. Maurice M. Walsh, Kenneth F. Dunlop, Joseph F. Dineen, J. Russell King and J. F. Meagher of the Freshmen.

Senior Notes



Mr. Marshall is a very light sleeper, one who is easily awakened and is a long time getting to sleep.

One night recently, while traveling in New York State, he was obliged to stop at a suburban hotel, and after much tossing about he finally succeeded in getting into a sound sleep. In answer to loud, repeated knocks on his door, he nervously sat bolt upright in bed.

"What's wanted?" he grumbled.

"Package downstairs for you, sir."

"Well, let it stay there; it can wait till morning, I suppose."

The boy shuffled down the corridor and after a long time the guest fell into a sound sleep again. Then another knock came at the door.

"Well, what's up now?" queried Mr. Marshall.

"'Tain't for you, that package!"—Judge.

Mr. McEvilla—All set? Then off we go in pursuit of pleasure.

Miss Babette—We'll never overtake it in this car unless pleasure's a cripple.

Judge John J. Murphy of the Circuit Court believes that caution is one of the chief assets of a jurist. The judge and a friend were automobiling one afternoon when they passed the home of a mutual friend.

A painter's scaffolding, tarpaulins, paint buckets in front of the house bore out the signs "Fresh Paint" plastered over the front of the building.

"I see X—— is having his house painted," remarked the judge's friend as the machine sped by.

"Well, it looks that way from this side," came the reply, "though I wouldn't state it as a fact."

Teacher—I'm surprised at you, Willie Murphy, that you cannot tell me when Christopher Columbus discovered America! What does the chapter heading of the week's lesson read?

Willie—Columbus—1492.

Teacher—Well, isn't that plain enough? Did you never see it before?

Willie—Yes'm, yes'm; but I always thought it was his telephone number.

Optimistic Pointers

It has been said that short accounts make long friends—but there are notable exceptions to this rule.

The more some married men are obliged to do things the more they wish they were in the bachelor class once more.

When the wife supplies all the liabilities and the husband all the assets, or vice versa, marriage is apt to prove a failure.

Some people who think they know how to raise chickens don't even know how to raise children.

Odds and Ends

Libel Note.

(Note: The following, written on a sheet of paper, was found on the stairway one night. Mr. Walsh is still looking for the chap who wrote it.)

"Dear Miss Walsh: I have seen you often and have fallen desperately in love with you. Won't you please drop one golden word from your beautiful lips and make me happy. U know. Lovingly yours,
—Gladys."

(Feloniously dedicated to Miss Walsh: "O U Cutey. O U Beau Brummel. The man who made Dorchester the village it is today.")

Soph. Items.

"Jack" Wisser and "Alex" Marcus always sit together in class, and it is refreshing to hear them question the instructor for unlike many questions, their's are "sensible."

"Eddie" Murray is an old Boston College Prep. boy and it is interesting to watch him smile when the "Profs" spring Latin phrases, for if Eddie has one weakness, it's Latin.

The bowlers of the class may be interested to hear that Harry W. Hanson, a fellow Soph. on April 14th, broke the world's candlepin record with a mark of two hundred and seven for one string.

"Ben" McQuaid is gaining considerable recognition as a pianist. The way that boy can "rattle the ivories" is a pleasure.

And speaking of musicians, we just have to mention "Joe" Younie, our fellow student from East Boston. "Joe" usually plays at the school functions, such as banquets, graduation exercises, etc., and believe me, he is "some violinist."

"MUCH ADO ABOUT NOTHING."

Reported by "Walsh."

Leo J. Halloran, sophomore class president, assistant editor-in-chief, attendance clerk, philanthropist, organizer, etc., stopped one day on the corner of Winter and Washington streets, and with puzzled mien, gazed upward, as it seemed, into oblivion.

Two young men stop, and with questioning stare, gaze upward;

Three women and a little girl questioning stare, gaze upward.

Two automobiles come to a full stop, occupants—gaze upward.

Several more people gather around, and gaze upward.

A surface car weeds its way into the crowd, and—stops.

Two traffic policemen arrive.

A fight starts.

Policeman calls the patrol.

Patrol knocks down a small child, near the corner.

A woman screams, and then swoons.

An ambulance is called.

Washington street is blocked.

In the meantime, Leo J. Halloran remembers on which floor of Filene's department store he bought the necktie and rec'd the stockings instead, and proceeds to rectify his error.

Prof. Douglass.

Familiar saying of Prof. Douglass:

"All books closed!"

Pointing his finger in northwesterly direction, saying, "Last gentleman in the room."

Prof. Douglass assumes the role of interlocutor, "Marty" Hamilton, a Brookline Assessor, that of end man.

The only thing that saves the Professor from having his tax increased, is the fact that he is not a resident of Brookline. "Dope it out" for yourself.

Junior Notes



NOTICE TO THE JUNIORS.

"It has come to my attention that many members of the Junior class are asking why a wider range is not given to the Junior knocks; that is why more students are not mentioned in the column instead of limiting the notes to a few men. In answer I would state that we cannot print notes or items if we do not receive any. It is all right to have the joke or item of interest in your head but it does us no good unless put on paper and turned into our hands. There is a "Register" contribution box beside the Treasurer's desk, placed there for just such a purpose. Month after month the time has come for putting the magazine together and the Junior page has been blank, and month after month in spite of the fact that I have many other departments to care for I have had to write notes about those men whom I know, but I do not know everyone in the class, and if you students who know your fellows do not give us items, is it unreasonable or strange that a wider range is not given to the notes?"

Leo J. Halloran, Asst. Editor-in-Chief.

Klivansky is back. The rest has fattened the Class Caruso.

Buckley calls his fellow students by every other name but their true Christian ones. Not bad mindedness, just absent mindedness.

Our class president is not gifted with an Apollo-like form, but is

the possessor of an oratorical tongue that Mr. Webster would envy.

Fielding is a close kin of a prominent Canadian jurist; but this has not caused "N. C.'s" head to grow out of proportion.

It is rumored that "Joe" Parks is the proud possessor of a rattling good fliver.

One day off in three has been sought by the members of the Fire Dept., and especially by those belonging to the Russell Club. O'Leary of the juniors is secretary of the above organization, and it is said that Harry's secretarial voice was as much in evidence in arguing for this good cause, as it is in class, and that is saying some.

Change Your Mind

Are you nearing desperation,
From some chronic irritation,
Which with mental aberration,
Is combined?
Drop those morbid superstitions,
Causing sore indispositions,
When you cannot change conditions,

Change your mind.
Are you seeking consolation,
From someone above your station,
Who pretends that all creation,
He designed?
Dodge commands and prohibitions,
Lawyers, preachers and physicians,
When you cannot change conditions,

CHANGE YOUR MIND.

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THE EASTER SPIRIT

Lent will soon be over. In a few days the curtain will again arise on pleasures which for six weeks were foregone by thousands of our fellow beings. The spirit of Easter seems to effect people much the same as does Christmas. It is a spirit of radiance, of joy, of love of mankind, of peace. But there is one cardinal difference: Christmas, the spirit exists for days and weeks, gradually culminating in the Day of Days, Easter comes after six weeks of fasting, of abstinence, of prayer; six weeks during which we meditated on the divine passion of our Lord. Then Easter, the day of Christ Risen comes and we are joyous. The fact that Easter comes in spring when the flowers and the trees and all nature seems to be budding, when the very air we breathe is scented with the invigorating odor of fresh turf and newly awakened life. And we all seem to take an added lease of life. We are inspired as it were, and apply ourselves to our work and to our studies in a manner which augers well for the future. And so the spirit of Easter makes us happy and jubilant, we are filled with the joy of living, and we look upon all life in a different and more optimistic light.

REGISTER EDITOR LEAVES SCHOOL.

It is with deep regret that we announce the withdrawal from school of Charles S. Germain, a member of the "Register" Editorial Board. His pleasing personality, his readiness to give of his time and his trouble in the interests of the magazine, his intense loyalty to the school, has endeared him to the hearts of all his classmates. Mr. Germain holds an important position in the Quincy Branch of the New England Tel. and Tel. Co., and it was owing to the growing importance of his work and consequent drain on his time that he was forced to sacrifice his law studies. We sincerely hope that he may be enabled to return to school next fall and continue with his studies.

CONFIDENCE.—ASSET OR LIABILITY?

When the great Spanish Armada, the most powerful fleet ever assembled by any of the old world powers, began its memorable journey to England with the purpose of conquering Britain and raising Spain to a foremost position in the rank and file of nations, it had as its commander a man who had never headed a sea expedition before, a man who doubted his own ability, a man who lacked the confidence necessary to a successful leader. Largely due to his lack of faith and trust in himself, almost as much as to the terrible storms of the British Channel, was the great Armada defeated, and Spain never again stood in the first rank of nations. As exemplified in the case of the Spanish Armada in the early centuries, so in the present day is the lamentable result of lack of confidence manifested. A cer-

tain man who had risen from a poor office boy to the position of the world's foremost financier, once wrote, "Confidence spells success, lack of it—failure; but mind, by confidence, I do not mean egotism." Every man or boy who aspires to be anything in this world, must have the requisite supply of get-there spirit, but not to the extent of egotism, for that fatal failure has proved the death knell of many a brilliant man's ambitions.

COMMISSIONER "CHARLIE" GILFIX.

Charlie Gilfix of the Sophomore Class is a member of the Minimum Wage Commission, that body of men which has done so much to alleviate the conditions of department store girls. The work of the commission is a humanitarian one, and it was a happy choice which selected Mr. Gilfix as one of the body. Few men are more versatile with existing conditions, and combined with this he possesses a fair, impartial, open mind. Mr. Gilfix is a B. S. man from Harvard, matriculating for that institution at Newton High School.

A WORTHY WORK.

Dean Archer has been so kind as to establish an Employment Bureau for the benefit of the students of the school and all should lend a hand in assisting the Dean in this matter. This bureau is to assist and place the students of the school in positions, who have been thrown out of work through no fault of their own, but through business conditions and other unforeseen happenings, over which they have no control.

Now then, the Faculty and the members of the school, among whom there are a great number of business men, should always have in mind the School Employment Bureau, and when the time comes that you may need any help, stenographers, bookkeepers, clerks, etc., you should call on the Bureau and assist someone of your fellow-students who may not be as fortunate as you. On the other hand, if there should be a vacancy in your place of business, always have in mind your fellow-students and call the attention of the Bureau to your employer, and by doing so you will have accomplished two things at once. You will have secured employment for some one of your fellow-students, and also will have shown your employer that you are looking out for his interests. You can never tell when you yourself might need a lift. If you bear in mind the following quotation you may at some time in the near future make some one happy:

"I shall pass through this world but once,
Any good that I may do therefore,
Or any kind act that I may show a fellow being
Let me do it now,
Do not let me defer or neglect it,
For I shall not pass this way again.

The aim of the Bureau is to bring together the employer and the man seeking a position. The Bureau serves employers of all kinds, from the man conducting a small business to the gigantic corporation.

It is needless to say that the men who give up three evenings a week to attend the Suffolk Law School and put so much outside time on the school work to advance themselves, can be recommended and depended upon.

In Re "Fred" Carpenter

The following is from the Medford Mercury of recent date and pertains to "Fred" Carpenter of the Sophomore class.

"Supreme Judicial Court hearing on writ of mandamus compelling the city clerk of Medford to change the records of the Board of Aldermen's meeting of January 25th. In the course of his opinion Judge Loring said:—

"The writ omits to state that Alderman Carpenter made a motion that the petition be returned to Alderman Volpe, voted in the affirmative. Petition returned to Alderman Volpe.

"I cannot help believing that Mr. Carpenter is more likely to be correct about that than any one else, and that is enough to satisfy me that that alleged error is not the fact. I believe Mr. Carpenter's testimony."

Needless to say the writ was dismissed.

A COME-BACK.

(Editor's Note—Mr. Walsh was quite upset when he read McAleer's poem about him in the March Register and this is his come-back:)

The following specie of verse will be placed on a comic valentine and tendered S. A. McAleer, poet-laureate of Suffolk next year on Feb. 14.

No doubt your poetry is sublime;
Shakspeare's has passed its time.

When it comes to rhyming

You'll need no priming,

(We give you our word for that)

But please don't draw our curses
By reading out your lovely verses

Force of Habit.

Every night, Leo Halloran, in looking over the class, preparatory to checking up his attendance report, begins with the Prof. gradually travels around in almost a complete circle and then proceeds to check. Did you ever notice him? Just watch him some night. He knows every man by his first name and can tell who a late student is without looking at him.

HUMOROUS NOTES.

"Who is that tough person sitting in the box?" the railroad man asked pleasantly. "He looks like a drunken burglar."

"That," said the attorney, "is my cousin."

The railroad man gasped a couple of times before he could get a grip on himself. Then a smile spread over his face as he remarked.

"Well, I went straight to headquarters for information, didn't I?"

Alfred Ingalls likes to have the football season come around. "Al" is a close student of the game and was formerly a referee of the Scholastic football games.

An eminent lawyer was once cross-examining a clever woman, mother of the plaintiff, in a breach of promise action, and was completely worsted in the encounter of wits. At the close, however, he turned to the jury and exclaimed:

"You saw, gentlemen, that even I was but a child in her hands. What must my client have been?" By this adroit stroke of advocacy he turned his failure into a success.

Apportionment and Distribution of Estates of the Deceased

(Continued from page 6.)

F, and G. Then D, E, F, and G, grandchildren of A, would each take one-quarter of A's estate. This would be taking per capita.

RULES OF DESCENT.

The rules of descent among next of kin, where there is no issue, is that the property goes to the father and mother in equal shares; if one only is living then the whole to that one.

If there is no issue or father or mother living, brothers and sisters and their issue would take equally. If the brothers and sisters are all deceased and their issue are all the same degree of kindred they take per capita; if not all of the same degree per stirpes.

Where there is neither issue, father, mother brothers or sisters or their issue, the next of kin in equal degree take in equal shares. Where collateral kindred. (descended from same stock but in a different line, eg, a nephew) in equal degree, claim through different ancestors, he or she claiming through the nearest ancestor takes by priority, against the other.

If there is no kindred or surviving husband or wife the entire estate escheats to the State.

The manner in which degrees of kindred are computed has been a stumbling block to the law student from time immemorial. It is, after all, a mathematical proposition merely and is within everyman's grasp who will put the time in to thoroughly understand it in the first place. The rule is, so far as the law of this state is concerned, to count from the deceased person back until a common ancestor is reached for him and for the person whose relationship is being figured out. Then count downward, i. e., in the direction of descendents to the one whose relationship is being considered.

To better understand this an example or two will suffice. Let A, be the deceased person, B, is his mothers' aunt. Their nearest ancestor in common would then be A's, great grand-mother, C. Counting backward (in point of years) from A, the deceased, we have three steps (1) his mother; (2) his grand-mother; and (3) his great grandmother. Then from his great grandmother down to his great aunt (his mother's aunt) is another step, making (4). The great aunt is then of the fourth degree of kindred to A, the deceased.

As other examples it may be stated that a dead man's uncle or aunt would be of the third degree of kindred, being two steps backward to the common ancestor (grandmother or grandfather) and one step downward to the uncle or aunt from the common ancestor; a man's second cousin would be of the sixth degree, the steps being (1) father, (2) grandfather, (3) great grandfather and common ancestor, (4) great uncle; (5) father's cousin and (6) second cousin; and a man's cousin's son would be of the fifth degree, the steps being (1) father (2) grandfather and common ancestor, (3) uncle (4) cousin and (5) cousin's son.

NEWHALL'S CHART.

An illustrative chart, drawn up by Attorney Guy Newhall, A. B.,

will further illuminate the matter. Attorney Newhall is a personal L.L.B., of Lynn, printed in the recent book on "Settlement of Estates," friend of the author of this monograph.

As a last word it may be stated that a posthumous child (one born after his father's death though in being before the father's demise) is treated, as to inheritance, as if alive at the death of the parent; that kindred of half blood take equally, if of same degree of kindred with those of the whole blood; that an adopted child inherits from natural parents and also from his adopting parents; and that an illegitimate child inherits from his mother or ancestors on her side but not from legitimate children of the mother or his mother's collateral kindred.

If in this article the author has thrown light on a few of the intricate points of this especially technical branch of the law, he will consider that he has achieved his purpose.

Five Point Method of Abstracting Cases

A report of a law case, diamond-like, flashes forth different light viewed from varied angles. Students glean legal meat from any given case in proportion to their advancement through the mazes of the study of the great body of law proper; one class of embryo attorneys digs for and finds rules governing cases of contract. From the same case the men studying evidence note the rules of evidence considered by the court: and so on ad infinitum.

All legal case reports, however, have one thing in common. They may be abstracted according to the so-called "five point method," which includes: (1) Nature of the case; (2) Facts of the case under consideration; (3) Question or questions in dispute; (4) Finding of the court on the question or questions at issue; and (5) Legal reasoning by which the judge or judges arrived at his or their decision or decisions.

The "five point method" is an admirable manner of boiling down a legal case into comprehensible form, systematic enough to stick in the student's memory. The very labor of thus abstracting a legal case bears fruit for the student in giving him legal principles, of undoubted accuracy. The Supreme Judicial Court makes the law and its findings are final until overturned by subsequent decisions.

Suffolk Law School combines the best teaching methods as worked out by the most creditable day and evening law schools, as well as adding something to these methods. Case reading is encouraged at this law school; the lecture system is in vogue here; and furthermore the students of this institution are put closely in touch with the big fundamental rules of the common law and modern law by class recitations, frequent quizzes, oral and written, and by a system of driving home legal points into the minds of students in such manner that our men are bound to understand and assimilate thoroughly the principles needed for the acquiring of a well-rounded legal education.

The "five point method" is an example of one of the manual matters of the study of law which each and every student must needs understand in order to master the big legal branches. The "five point method" is not new. It has been worked out through the ages and has proved most efficacious whenever, wherever and however used.

Sophomore Notes

Alderman Fred Carpenter of Medford, who is a member of the sophomore class, says that being a "city father" is not all that it is supposed to be. He says that some of his constituents are unreasonable in their expectations and also that some of their demands are laughable.

"Jim" Harrington of Somerville says that quiz marks are like rainbows, that is, they come around after the storm is over.

"Jim" Dooley of Hyde Park has gained the sobriquet of "Equity." Dame Rumor has it that "Jim" is to be a candidate for the House of Representatives this fall.

"Tom" Patten, the genial president of the second division, has lost the "coat of tan" which he acquired on his trip to Colorado in February.

Driscoll of the second division has moved his seat in the class room on account of his inability to stand fresh air. "Jeems" now sits over in a corner where "hot air" predominates.

And speaking of "nothing to do till tomorrow," John Morehead's got a cinch;—all he does it attend Harvard College day times and Suffolk Law nights. He'll be receiving two degrees about the same time.

Ed. Rivera of the First Division is a brother to Professor Rivera of Harvard, instructor in Spanish. "Ed" is some teacher himself, and has frequently taken his brother's place.

"Jim" Tierney is a chap who doesn't say much, he resembles Tom Friary somewhat in that respect, and like Tom is a prime good fellow.

There is one member of the Soph Class about whom you do not hear much, but who is all the time sawing wood and hits his studies high. But to those who know Frank Dermody, he has a reputation for fairness, for geniality and good fellowship that few can equal.

Bernard Rosenburg holds one record. He came the longest distance of any man in order to be present at the students' banquet. All the way from the city with the Great White Way—Worcester. And as is natural with "Bernie" he stuck till twelve o'clock when the festivities were over. You've got to hand it to him, boys—he's "there."

It is claimed by some uncharitable persons that John W. O'Donohue was casting eyes at a certain waitress at the Students' Banquet, and that she (doubtless realizing that it is leap year) returned the advances with radiant smiles. But there is no absolute proof,—it may be a malicious slander circulated by jealous rivals. You never can tell however "still water runs deep."

The Sophs have two sets of brothers in the class and claim that no class can show any more. They have Edmund and Ernest O'Callaghan, and Harold and Joshua Lipkin. The class boasted of a third combination in "Jerry" and Walter Watson, but the first named left school.

Rufus Choate---Lawyer and Citizen

An Interesting Study of the Greatest Advocate of the Nineteenth Century

Leo J. Halloran, '18.

Rufus Choate, the greatest advocate of the nineteenth century, was born in Essex, Mass., October 1, 1799. He studied at the Cambridge Law School, now the Harvard Law School, with the renowned William Wirt, and became one of the most eminent lawyers and orators of his time. He began the practice of law at Danvers, Mass., when twenty-five years of age.

Mr. Choate was a distinguished legislator, and blazed an enviable record for himself as a true and noble statesman. He was a member of both branches of the Mass. Legislature, a member of the Lower House of Congress, and in 1841 he became United States Senator, succeeding Daniel Webster. In 1853 Choate became attorney-general of Massachusetts. After the death of Webster, Mr. Choate was the recognized leader of the Massachusetts Bar. Impaired health forced him in 1858 to retire from public life. His condition grew rapidly worse and after an illness of almost a year Rufus Choate died in Halifax, Nova Scotia, in July, 1859.

Choate ranked as "the first orator of his time in any quarter of the globe where the English language was spoken, or who was ever seen before a jury panel."

Famous Cross-Examiner.

Mr. Choate's great claim to fame as an advocate was in his remarkable ability as a cross-examiner. He was acknowledged as the greatest cross-examiner of his time on this side of the water.

In conducting a case before a jury, Choate depended almost entirely upon his magnetic personality. His remarkable success in the court room gained for him the title of "wizard of the court room." He never browbeat, or sought to intimidate a witness. He always cross-questioned with a face wreathed in smiles, and during the course of the questioning he seemed to fairly beam upon the witness. He grew friendly, almost intimate with him, question by question he lured him on, until he had him in the net, and then he pounced upon him, but in such a quiet, graceful manner, that the unfortunate witness had neither the opportunity or the inclination to become angry.

Choate was a close student of human nature. He understood the springs of human action and the thoughts of human hearts. "He treated every man who appeared like a fair and honest person on the stand, as if upon the presumption that he was a gentleman; and if a man appeared badly, he demolished him, but with the air of a surgeon performing a disagreeable amputation—as if he was profoundly sorry for the necessity. Few men, good or bad, ever cherished any resentment against Choate for his cross-examination of them. His whole style of address to the occupant of the witness stand was soothing, kind and reassuring. When he came down heavily to crush a witness, it was with a calm, resolute decision, but no asperity—nothing curt, nothing tart," says a writer of the times.

Eloquent Before Jury.

As a jury lawyer, Choate had few equals. In summing up a case and making his plea before the jury, he was known to address a single jurymen, whom he believed was against him, for an hour at a time. After presenting a mass of proof and persuasion, one of his favorite expressions was, "But this is only half my case, gentlemen, I go now to the main body of my proofs."

In his final argument Choate would rush enthusiastically over the weak spots in his case, but would linger on the strong points to make them appear the stronger. His voice as he talked has been described as "a musical flow of rhythm and cadence, more like a long, rising, and swelling song than a talk or an argument." He won the jury to his side by his

very eloquence, his striking personality, his magnetic eye.

The great Daniel Webster, on his death-bed, declared Choate to be the most brilliant man in America, and after reviewing the noted man's work as a statesman and a lawyer, we are forced to agree with Webster.

It might be proper to add here that Rufus Choate was a great reader. He accumulated a library of some eight thousand volumes, where he was wont to spend hours at a time reading his beloved authors, who were the loves of his life. But his passion for reading was not confined to his library. He used to read at his meals and while walking in the streets. Books were his only pastime, but a pastime wherein he found solace and recreation, and wherein he found a magic medicine to recuperate a tired body and a weary brain.

A Legal Soliloquy

Howard W. Foster, '18.

(Everybody has taken a "crack" at poor old Hamlet's soliloquy, so why not I. Here is my version.)

To duck or to attend, that is the question,
Whether it is easier on the mind to suffer the ignomy of flunked exams,
Or to take up study for exams to come,
And by plugging pass them. To study, to work,
Oh, horrors. And by that work to say we end the trouble and constant
worry that delinquent is heir to.

'Tis a possibility
Devoutly to be dreamed of. To study, to come to class,
To work, perchance to abstract, aye there is the rub,
For after cramming four long years, what job may come,
And tho standing high in class
It may be wasted. That's the idea,
That makes calamity of so much drudgery.
For who would bear the burden, the waste of time,
By midnight oil, the energy's consumption,
The pangs of passed up shows, the laws technicality,
The steady grind, and the 70's
That patient merit often leads to.

When he himself might his own quietude gain
By not paying tuition? Who would these inconveniences bear,
To work and sweat, by day and night,
But for the hope of something after passing the bar
That unexplored field, from whose glory,
Many men have risen. That is the answer.

Freshman Notes

DUE TONIGHT, FRESHMAN TUITION."

Round the bulletin board,
Students clamored and roared,
Abstract notes and items galore,
To be paid at their own volition,
And below, hung this awful bore:

Joe Cohen—short and rotund, a scholar, and a "corking" good sport. The first to come across with his money for the students' banquet.

John R. Wallace—perhaps old in age, yet young in spirit. Modest and retiring. Should be prominent and imposing as a lawyer.

Tom Egyes—Serious and deliberative, never leaps before he looks. A true friend if you need a friend.

Kenneth Dunlop—As official introducer he is the "cream." No doubt his college training is the solution.

Bill Hayden—real estate operator. In business with his father. Believe us, boys, a "darn" fine fellow. Have you noticed the "young" runabout that comes to school with him some evenings? "Some boat."

Joe Dinneen—Secretary of the Debating Club, secretary second division Freshman Class, a member of the 1918-1919 students' banquet committee. Sure signs of a worker. Latest ambition, to be a reporter.

Everett Studley—noted for never having signed an attendance slip and giving it to the recorder.

To be seen any evening about

7:15: general migration of Freshman Class.

SUFFOLK SILENT SENTINELS.

Eight or ten empty milk bottles lined up by the door,
Seen by Suffolk students, and with laughter they did roar—
"Ought not a law school with five hundred need many, many more?"

I hope this little ditty will not make anybody sore.

Another Dead Story.

Just out. At all news-stands: The Thrilling Grave-Yard Episode: "Coffin vs. Coffin."

Young Finn, an adjuster for a big insurance company, was just returning home from a nearby city, where he had been to adjust a loss on a building that had been burned, when he met an old friend.

"How did the fire start?" inquired the friend.

"I can't say with certainty," replied the adjuster, "and nobody seemed able to tell. But it struck me it might have been the result of friction."

"Why," asked the friend, "what do you mean by that?"

"Well," said Finn gravely, "friction sometimes comes from rubbing a \$15,000 policy on a \$10,000 building."

Paul Halloran is managing the Gate of Heaven Baseball Team of the Boston Catholic League. Four years ago "Hally" managed the St. Eulalia's, the champion "semi-pro" team of Boston.

Roscoe Conkling---A Sketch

Leo J. Halloran, '18.

Roscoe Conkling was born in Albany, New York, Oct. 30, 1829. He received an academic education, and studied law with his father, a judge in the United District Court, and former minister to Mexico. He was admitted to the bar in Utica in the year 1850.

Conkling was prominent not only as an advocate but also as a statesman. He was elected Mayor of Utica in 1858, and the same year was also elected to Congress. He was reelected to Congress in the years 1860, 1864 and 1866 and in January, 1867, was chosen United States Senator, which seat he held until 1881.

During his service in the Senate Conkling was active in the promotion of the reconstruction measures and in opposition to President Johnson's policy.

Civil Rights Bill.

Conkling was influential in securing the passage of the Civil Rights Bill over President Johnson's veto; and was notably conspicuous in his support of President Grant. Senator Conkling was a member of the judiciary committee during the entire course of his senatorial career.

He was a strong advocate of a third term for President Grant in 1880, and after the election of James A. Garfield, when an influential federal appointment was made in New York City, Senator Conkling and his associate, Senator Platt, claiming that they should have been consulted con-

cerning such an appointment in their state, resigned.

At the ensuing session of the State Legislature, the two ex-Senators failed to secure reelection, and as a result of such failure Mr. Conkling retired to the practice of law in New York City. He was offered by President Arthur, a seat on the Bench of the United States Supreme Court in 1882, but declined. He died in New York City, April 18, 1888.

Justice Miller once said of Conkling that "he was one of the greatest men intellectually of his time."

In spite of the fact that he was more than fifty years of age when he finally retired from public life and opened his law-office, such was his great success during his six years at the New York Bar, that he is reputed to have accumulated for a lawyer, a very large fortune.

Conkling constituted himself a barrister and adopted the plan of acting only as counsel.

Great Orator.

His speech was fluent and eloquent, and his preparation of his cases was noted for its thoroughness. We must attribute his great success as a cross-examiner to his painstaking minuteness in his preparation of a case. In order to disprove an expert on cross-examination in a certain important case, Conkling once went to the extent of having a body dissected, that he might understand its various parts. And as a result of his cross-examination of the expert in question, the presiding judge felt compelled to declare the evidence so absolutely untrustworthy that he declined to submit it to the jury and instead directed a verdict for Conkling's client.

More Bar Questions and Answers

(January Examination, 1910.)

(Hereafter the Register will print Bar questions with the answers complete in same issue.)

ANSWER 1.

(a) Of course A can.

(b) B cannot. In actions against towns this is held to be too remote, not the proximate cause.

Marble v. Forcester, 4 Gray 395.

"It is now an established principle of law, that, upon a true construction of the provisions of the statute, towns are responsible only for direct and immediate losses occasioned by defects in highways, which they are required to keep in safe and convenient condition for public use. It follows, as a necessary consequence from this proposition, that towns are not responsible for injuries arising from more remote or other intervening and efficient concurring causes.

Jenks v. Inhabitants of Wilbraham, 11 Gray 142."

The rule is different in actions not against towns. "If the present action had been brought against a town, under circumstances similar to those disclosed in this declaration, *Marble v. Forcester* 4 Gray 395, would be a decisive authority in favor of the defendant. The liability for damages caused by defects in highways is limited to cases where the defect is the direct and immediate cause of injury.

Jenks v. Wilbraham 11 Gray 142.

But this statute liability is more narrowly restricted than the rule in actions at common law for damages caused by negligence, in which it is perfectly well settled that the contributory negligence of a third party is no defence, where the defendant has also been guilty of negligence without which the damage would not have been sustained.

Eaton v. B. & L. R. R. 11 Allen 500."

McDonald v. Snelling, 14 Allen 290.

See R. L. ch. 51, s. 18.

Q. 2. In an action of tort by A against a town for an injury received upon a highway from a collision with a cart loaded with gravel driven by one Smith, a laborer employed by the highway surveyor to aid in repairing the highway, the Court instructed the jury that if Smith was driving the horse and cart with which the plaintiff came in collision, and Smith was then employed by the highway surveyor of the town, to so aid him, and the collision was caused solely by Smith's want of care in driving the horse and cart, the town was liable.

Has the defendant any ground for exception to the above charge?

ANSWER 2.

Yes, where a municipal corporation elects or appoints an officer, in obedience to an act of the legislature, to perform a public service, in which the city or town has no particular interest, and from which it derives no special benefit or advantage in its corporate capacity,

but which it is bound to see performed in pursuance of a duty imposed by law for the general welfare of its inhabitants or of the community, such officer cannot be regarded as the servant or agent of the town, for whose negligence or want of skill in the performance of his duties a town or city can be held liable. To the acts and conduct of an officer so appointed or elected the maxim respondent superior is not applicable.

This is especially true in the case of surveyors of highways. They are elected by towns and cities not because they are to render services for their peculiar benefit or advantage, but because this mode of appointment has been deemed expedient by the legislature in the distribution of public duties and burdens for the purposes of government, and for the good order and welfare of the community.

Walcott v. Swampscott, 1 Allen 101.

Q. 3. A statute of the State of Kansas provided that "all personal estate of all corporations organized under the laws of this state, whether the property be in or out of the state, shall be subject to taxation, and shall be assessed at its fair cash value." The Pope Refrigerator Company was a corporation organized under the laws of Kansas. It owned two thousand refrigerator cars, fifteen hundred of them used in the State of Kansas and the others used and kept in other states. Under the above law a tax was assessed in the State of Kansas upon all of the cars owned by the company, which assessment the Company contested through the Kansas courts where the final judgment was adverse to it. It then by proper procedure had the case carried to the United States Supreme Court and sought to have the judgment reversed.

(a) Does this involve a question under the Constitution of the United States?

(b) What decision should be rendered?

ANSWER 3.

There is a constitutional question under XIV Amendment, viz., "Due process of law."

The judgment should be reversed.

"It is essential to the validity of a tax that the property shall be within the territorial jurisdiction of the taxing power. Not only is the operation of state laws limited to persons and properties within the boundaries of the State, but property which is wholly and exclusively within the jurisdiction of another state receives none of the protection for which the tax is supposed to be compensation."

Union Refrigerator Co. v. Kentucky, 199 U. S. 194.

Constitutional Law, McGethe 218.

Q. 4. Brown is trustee under a common law assignment for the benefit of creditors. The assets are of uncertain value, and it is not certain what the dividend for creditors will be. Brown's son, with money furnished by Brown and for Brown's benefit, buys up one half of the claims at ten cents on the dollar. By careful management Brown is finally able to pay a dividend of fifty per cent. upon all the claims, including those purchased by his son. The profit on the claims bought up amounts to \$3,000. Who is entitled to it?

ANSWER 4.

Those creditors whose claims were not bought, assuming there

was no fraud practised on the creditors whose claims were purchased.

Burton v. Quinn, Mass. 279. '

Ex parte James 8 Ves. 337.

(Editor's Note.)—Burton v. Quinn is no authority for this answer. The principle reaffirmed by this case is that such a transaction is at least voidable, and probably void, if not affirmed by the beneficiaries. Trustees are not permitted to put themselves in a position antagonistic to the interests of those whom they represent. (p. 279). Hayes v. Hall 188, 514. Brown represented all the creditors and was bound to account to them for all he realized from the assets. He could not profit by dealing in the assets. Hayes v. Hall, supra. H. W. B.)

Q. 5. (a) How may a trust concerning land be created?

(b) How may a trust concerning personal property be created?

(c) How far is delivery necessary to make a valid trust of personal property?

ANSWER 5.

(a) Must be in writing signed by the party creating or declaring the trust, and if a third party is trustee must be by deed, and as against creditors and purchasers without notice must be recorded.

R. L. Ch. 147, s. 1.

May arise or result by implication of law.

(b) May be created by parol. No particular form of words is necessary. There must be delivery and acceptance, such as to vest title in the Trustee (Peck v. Schofield, 186 Mass. 11) or a declaration of trust communicated to and assented to by the donee. 170 Mass. 414.

(c) If a third person is made a trustee there must be a conveyance or delivery of the property to him, or a declaration by the donor, that he holds the property for the purposes of the trust.

Welch v. Heushaw, 170 Mass. 414.

Q. 6. (a) What is meant by "an executor de son tort," and for what does he become liable?

(b) What is meant by ancillary administration?

(c) What is meant by an administrator de bonis non cum testamento annexo?

(d) What is a holographic will?

ANSWER 6.

(a) One who injuriously intermeddles with any personal property of a deceased person, without being thereto authorized by law. He is liable as an executor in his own wrong, to the person aggrieved.

R. L. ch. 139, S. 14, 15.

114 Mass. 421.

(b) An administrator appointed in a state other than the domicile of the intestate.

Smith Prob. Law 6th Ed. P. 104.

(c) An administrator appointed after the death, resignation, or removal of an executor to administer the goods not already administered.

R. L. ch. 137, s. 8.

114 Mass. 421.

(b) An administrator appointed in a state other than the domicile of the intestate.

Smith Prob. Law, 6th Ed. P. 104.

(c) An administrator appointed after the death, resignation or removal of an executor to administer the goods not already administered.

R. L. ch. 137, s. 8.

Smith Prob. Law, 6th Ed. p. 103.

(d) A will wholly written by the testator in his own handwriting.

Bouvier. Holograph or Olograph.

Q. 7. At the hearing before a master the defendant offered certain evidence which was excluded; whereupon the defendant asked the master to save him an exception. The master's report stated the offer, the exclusion and the grounds therefor, but made no reference to any alleged exception to such exclusion.

(a) How, if at all, can the defendant have the master's ruling excluding the evidence passed upon by the court?

(b) Is the question of the correctness of the ruling open upon a motion to conform the master's report, or for a final decree?

ANSWER 7.

(a) By seasonably filing with the master a written objection to his report because of the exclusion of the evidence, and later by seasonably filing in court a written exception based upon such objection; unless by special order of the court no such exception will be allowed unless founded upon an objection shown by the master's report.

Rule XXXI S. J. C. Equity and Superior Court Equity.

(b) No.

Marshall Engine Co. v. New Marshall Engine Co.

Banker & Tradesman, 6 Nov. 1909. Probably in 203 Mass.

Richardson on Equity Pleading, etc., pp. 82-88.

Q. 8. A, a resident in Massachusetts, obtained a divorce in Massachusetts on the ground of desertion. His wife was then living in New York. Afterwards A married B in Massachusetts and moved with B to New York. A child named C was born of this marriage. According to the law of New York desertion is not a ground for divorce. Is C the legitimate child of A and B in New York?

ANSWER 8.

Yes. The divorce was good in Mass. If there was personal service in Mass.

The marriage in Massachusetts was good in Massachusetts and will be recognized as valid in New York. See dictum (?) in

Adams v. Adams, 154 Mass. 290.

See Haddock v. Haddock, 201 U. S. 572.

as to the point that personal service in Massachusetts was necessary to make the decree of divorce good outside of Mass. (I don't see how Adams v. Adams is any authority for this answer. In that case the husband residing in Texas, went to California, and obtained by fraud

a divorce from his wife then residing in Mass., and no actual notice was given the wife, neither has the husband acquired a domicile in Cal. He then remarried in Cal. and has issue, and the court held that such issue was illegitimate. 154 M. 297.—H. W. B.)

Q. 9. Brown, a retail provision dealer, becomes deeply insolvent, and there are numerous creditors, one of whom brings suit and attaches the stock of goods. The greater part of the goods will perish if not at once sold.

What steps can Brown take to protect the rights of the other creditors

(a) In the State Courts?

(b) In the United States Courts?

ANSWER 9.

(a) He can apply to the sheriff to sell the goods as perishable and then after they are turned into money, file a petition in bankruptcy so that a trustee may be appointed who will take the proceeds of the goods.

(b) He can at once file a petition in bankruptcy and ask the Court to at once appoint a receiver and authorize him to take possession of the stock of goods and dispose of the same. The adjudication will dissolve the attachment.

(a) *R. L. ch. 167, ss. 83-87.*

Buswell & Wolcott Mass. Prac. 4th Ed. p. 193.

(b) *Collier on Bankruptcy, 6th Ed. pp. 9-19-20-548-549-608.*

Q. 10. A as principal and B as surety signed a note to C for \$1,000.

To secure such note A gave to C a mortgage upon real estate worth \$3,000.

A refused to pay the note at maturity and B requested C to foreclose his mortgage. C declined to do so and sued B on the note.

As counsel for B what would you advise him to do?

ANSWER 10.

Pay the note and become subrogated to the rights of C under the mortgage.

Allen v. Woodward, 125 Mass. 403.

Richardson v. Washington Bank, 3 Met. 536.

The surety must pay the entire amount due before he will be entitled to be subrogated.

Q. 11. (a) How and by whom must a legal meeting of the Stockholders of a Business Corporation organized under the laws of Massachusetts be called?

(b) What constitutes a quorum at such a meeting?

(c) How may the statutory formalities for calling and holding such meeting be waived?

ANSWER 11.

(a) By written or printed notice stating the place, day and hour thereof given by the Clerk at least 7 days before such meeting to each stockholder by leaving such notice with him or at his residence or usual place of business, or by mailing it, postage prepaid, at his address as it appears upon the books of the corporation. Such notice must state the purposes for which the meeting is called.

(b) Unless the by-laws otherwise provide, a majority in inter-

est of stock issued and outstanding and entitled to vote shall constitute a quorum.

Stat. 1903, Ch. 437, S. 20.

(c) By every stockholder, or his attorney thereunto authorized, by a writing which is filed with the records of the meeting waives such notice.

Stat. 1907, Ch. 437, s. 20.

Q. 12. (a) In what respect, as to partners and their respective liability, does a limited partnership differ from a general one, and how are the partners designated?

(b) State the essential elements of a general partnership and of a limited one?

(c) When, if at all, must the names of a general partnership be recorded?

ANSWER 12.

(a) In a limited partnership the liability of the special partner is limited to the amount of the capital contributed by him if he has complied with the statutory requirements, (R. L. 71), if not, he is liable as a general partner. They are designated as general or special partners.

(b) General elements are the contribution of capital and a sharing of the profits.

Bouvier Vol. 2,597.

Rawle's Revision.

(c) When the name used does not disclose the real names of the partners.

See Acts 1907, Ch. 539.

Q. 13. (a) What is the difference between an "exception" and "reservation" as regards real estate?

(b) How are they created respectively and when if at all is the word "heirs" necessary?

ANSWER 13.

(a) An exception applies only to that in esse. It is something carved out or excepted from the granted premises, e. g., one part of a field excepted from the entire field.

A reservation creates a new right not before in esse, e. g., A owning two adjoining fields conveys one and reserves a right of way over it for the benefit of the remaining field.

See Stockbridge Co. v. Hudson Co. 107 Mass. 290-321.

(b) It is common to use the words "reserving and excepting" as the Court is not governed entirely by the words used as to whether there is an exception or a reservation.

The words "heirs" is necessary in the case of a reservation in order to create a fee. It is not necessary in case of an exception.

Claffin v. Boston & Albany R. R. 157 Mass. 493.

Simpson v. B. & M. R. R. 176 Mass. 361.

Q. 14. (a) What are the statutory requirements necessary to be observed in foreclosing a mortgage on real estate by sale under the power contained in the mortgage?

(b) How, if at all, and for what price may the mortgagee or holder of the mortgage become the purchaser of the property in case of a sale under the power in the mortgage?

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