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Suffolk Alumni News, Vol. 2, No. 2, 1928

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Recommended Citation

Suffolk University, "Suffolk Alumni News, Vol. 2, No. 2, 1928" (1928). *Advancement and Alumni Newsletters*. 54.

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Suffolk Alumni News

Devoted to Legal and Educational Interests in the Commonwealth

VOL. II, No. 2

Suffolk Law Alumni Association, 73 Hancock Street, Boston, Mass.

MARCH, 1928



COMMITTEE AND CONFERENCE ROOM NO. 1

Suffolk Law Alumni Club House

Last month we gave you a view of our Library where one may study without interruption in a most attractive environment. Today you see one of our Committee Rooms, the use of which is free to members (by reservation through the Secretary) for conference with client, business appointment, formation of corporations or preliminary master's hearings. Men enrolled in our graduate courses, although not members, are extended the use of these rooms, as well as the Library.

GENERAL PLAN FOR THE ALUMNI CATALOGUE

You will receive herewith a questionnaire for information necessary to make the publication of our Alumni Register a success.

This questionnaire calls for prompt co-operation in filling it out and returning it at once that we may have the material in hand to work with.

All Suffolk graduates, whether members of the Alumni Association or not, will be listed, and the information you give should be clearly written and accurately stated.

We request all replies to be in hand by the 10th of March.

We are obtaining from past class photographers, group pictures, from which your picture will be taken, if a Founder or Charter Member, and inserted in the Directory (if this meets with your approval), or unless you notify us at once that you prefer a later photo used, which naturally we would like to publish. In which case you can obtain a sitting at any time with a single ferrotype photo for our use (uniform size already agreed upon with the photographer) at Purdy's, 145 Tremont Street, Boston, for \$1.00. Simply refer them to the Alumni Office in the matter of special price, as arrangement has been made for this

rate. (If you personally want more pictures, pay just a little more and benefit by the special rate already arranged for such cases.) All you need to do is to go to Purdy's, look pleasant, pay your dollar, and they will do the rest. This applies only to Founders and Charter Members, of whom photos will be published. It is impossible to publish photos of all graduates under the present plan because of the cost.

This Directory will be an invaluable advertisement to every Suffolk man and a handy reference to reliable men who can be counted on for co-operation. It will be a book of some 175 pages and contain,—

A photo of and Foreword by Dean Archer as Director and Founder.

A Chronology of Suffolk Law School, with photo.

A Historical Sketch of the Alumni Association, with photo.

The Trustees and Faculty of the School, with photo.

Officers of the Association, with photo.

Honorary Members of the Association, with photo.

Founders' Committee, with photo. George H. Spillane, Chr.

Charter Members, with photo.

(Continued on Page 3)

MEMBERS' NIGHT

Wednesday

February 29th

7.45 P. M. sharp

CHARLES S. O'CONNOR, '13

Speaker of the Evening

on

CITIZENSHIP ITS PRIVILEGES AND ITS POSSIBILITIES

Selections by

"THE GOLDEN TONE VIOLINIST"

of Radio Fame

Vitali Podolsky

Accompanied by

Madame Podolsky

COLLATION

All Suffolk Alumni, whether members of the association or not, are invited to enjoy this occasion.

"GOLDEN TONE VIOLINIST"

Vitali Podolsky, Russian violinist and a Junior in Suffolk Law School, was born in Vilna, Russia, and studied in the Conservatory of Music, Petrograd, under Professor Leopold Auer. He toured America from coast to coast under the management of the Affiliated Concert Bureaus of Chicago, and was acclaimed by the music critics as one of the most distinguished violinists of the present day.

O. M. Static of the Boston Post in a recent comment on Mr. Podolsky's playing said, "One hears Vitali Podolsky and one says, 'That man can play!'" And talking incidentally about the artist's own composition which he was then playing, Mr. Static said, "That is no pigmy among the giants!"

In 1927 Mr. Podolsky gave a series of weekly concerts through Station WBZA, of Boston, and was proclaimed the "Golden Tone Violinist" of the Radio, by which name he is now popularly known and is starred as the feature artist of that station.

Outside of his concert work the young master is busily engaged as a pedagogue in several of his studios and recitals given by his pupils twice annually are always anticipated with great eagerness by music lovers. With him, as accompanist, as usual, is Betty Podolsky, his wife, a brilliant pianist and most accomplished musician.

Mr. and Mrs. Podolsky will favor the Alumni with a thirty-minute recital on Members' Night, Wednesday, February 29th, at the Club House.

ALUMNI OFFICERS FOR 1928

James H. Brennan, President.
George A. Douglas, Vice-President.
Martin W. Powers, Treasurer.
Alden M. Cleveland, Secretary.

SUFFOLK ALUMNI NEWS

Published monthly, September to June,
by the Suffolk Law Alumni Association,
73 Hancock Street, Boston, Massachusetts.
Alden M. Cleveland, Editor, HAY. 0739.

PRICE, 25c per copy; \$2.00 per year.
Annual subscription included in mem-
bership dues of the Alumni Association.

For advertising rates apply to Editor.
Our Advertisers are our Allies, and de-
serve your regular patronage.

TO ALL ALUMNI: We would be pleased
to receive letters and articles for publica-
tion in the NEWS from our graduates.

ANNOUNCEMENTS**MARCH BUSINESS MEETING AND DEBATE**

The March Business Meeting of the Alumni Association will be held at the Club House promptly at 7.45 P. M., Thursday, the 8th. Report on nominations to Committees; of the progress of the Publication Committee on the Alumni Illustrated Catalogue; and other matters of business will be heard. Followed by

Debate

President Brennan, presiding.

Resolved: "That Capital Punishment Should Be Abolished."

Affirmative:

William R. Gilman, '27.
John J. Geoghan, '27.

Negative:

James E. Bagley, Jr., '27.
Arthur Laurian, '27.

This is a program which speaks for itself; and a meeting to which every alumnus should come with a ready opinion on the matter in debate.

SUFFOLK ALUMNI LUNCHEON CLUB

The first meeting of the Suffolk Alumni Luncheon Club will be held at Bellevue Hotel, Thursday, March 15th, at one o'clock. Speaker, Hon. Joseph E. Warner, Assistant Attorney-General, former Speaker of the House, instructor in Suffolk Law School, and an Alumni Founder. Luncheon tickets, \$1.00. Reservations should be made through the Secretary not later than Monday, the 12th. Tickets may be purchased singly (\$1.00) or in series of four (\$4.00) for the monthly luncheons of March, April, May and June. Attorneys and business men from Suffolk who are unable to attend the evening meetings will especially welcome this opportunity to get together informally. The hour will be taken with a worth-while program, always; either with a special speaker or discussion of matters of importance in business or law. All alumni invited.

MEMBERS' NIGHT

Always a joyous occasion, with music and speech and fine fellowship. March 28th, Wednesday. Reserve the date! You cannot afford to miss!

REPORT OF FEBRUARY MEETING**Alden M. Cleveland, '24,
Alumni Secretary**

The February meeting of the Suffolk Law Alumni Association was held at the School at 7.45 P. M. on the 9th, President Brennan presiding. About sixty men were present.

Reports of the Secretary and Treasurer were read and approved.

Proceeding at once to balloting for two more members for the Executive Committee (nominees having duly qualified previously with the required number of signatures and certification), John F. Dever, '26, and John J. Geoghan, '27, were elected to serve for the year 1928. Tellers, Messrs. Henderson, '26, Richmond, '23, and McLaughlin, '27.

After short speeches by the candidates and others, the matter of the Alumni Directory was brought up for discussion, and was finally referred to the Publication Committee and Dean Archer, with power to act.

Adjournment, 9.30 P. M.

FOUNDERS' COMMITTEE

We regret the inadvertent omission, in the last issue, of the name of *David E. Richmond, '23, from the list of Founders who had paid their pledge of \$100 in full. Mr. Richmond was one of the early Founders and is one of Suffolk's active and loyal supporters. We believe Mr. Richmond's payment of his \$60 balance due on his pledge just two days before Christmas is likewise worthy of special mention!

We invite other men to become Founders in our great Alumni enterprise. *If you wish you can enter your name with the Secretary on the basis of a \$2 a week remittance!* Never has a graduate had an opportunity to show his loyalty to the interest of the school in a more convenient manner; nor has any group of men had more to warrant heartiest support than our Association offers with its fine Club House, its practical graduate courses, its social functions, and its support of Suffolk men. Send in your first payment and enroll as a Suffolk Alumni Founder, now.

Standing Committees for 1928**Executive Committee**

James H. Brennan, Chr.
Gleason L. Archer
Alden M. Cleveland
John F. Dever
John J. Geoghan

Committee on Judicial Appointments

Wilmot R. Evans, Chr
Bernard J. Killion, '20
Charles S. O'Connor, '13
Andrew J. Casey, '19
George H. Spillane, '21
Martin W. Powers, '25
P. Emmet Gavin, '26
John B. Hynes, '27
Walter V. McCarthy, '20
William V. Hayden, '19
Raymond A. Fitzgerald, '25

Committee on Elections to Public Office

Thomas J. Boynton, Chr.
Francis P. Garland
Thomas F. Duffy, '16
John L. Hurley, '18
Edward T. Simoneau, '18
John H. Backus, '19
Philip J. Gallagher, '21
John N. O'Donahue, '21
John F. Gilmore, Jr., '22
J. Warren McCarthy, '24
John J. Beatty, '26
James W. Norton, '26
Harry Rose, '27

Committee on By-Laws

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Henry P. Fielding
Matthew L. McGrath, '17
Kenneth C. Dunlop, '19
Howard Dowd, '21
David E. Richmond, '23
Stephen L. Stacey, '22
Walter G. Shuttleworth, '24
Sidney G. Carpenter, '25
Robert E. Granfield, '21
P. Austin MacCormack, '26
Orvis H. Saxby, '26
Paul H. Wallace, '27

Membership Committee

George A. Douglas, '09, Chr.
Leo Wyman, '18

Abraham Lelyveld, '12
F. Leslie Viccaro, '13
Henry B. P. Betts, '14
Charles A. DeCoursey, '15
George F. Hogan, '16
Joseph A. Parks, '17
John F. Hardy, '18
John L. Maccubbin, '19
James P. Gallagher, '20
William H. Henchy, '21
Robert W. S. Cox, '22
James A. Mulhall, '23
Francis J. Tague, '24
Louis H. Steinberg, '25
William Bartlett, '26
John E. Winston, '26
Frederick G. Hart, '27
Edson L. Ford, '27
James E. Bagley, '27

Committee on Publications

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Leo J. Halloran, '20
Thomas J. Barry, '20
Arthur V. Getchell, '22
Owen M. Sandiford, '24
Warren A. Fogarty, '26
Kenneth Williams, '27
Arthur W. Hanson, '27
Nicholas J. Dynan, '27

Committee on Library

Frank Keezer, Chr.
William G. Dolan, '12
Harry Burroughs, '15
Fred Gillespie, '18
Arthur T. Cole, '23
John E. Fenton, '24
Thomas H. Bresnahan, '24
Joseph J. Launie, '26
Ignatius J. O'Connor, '26
Harry G. Gilbert, '27
Committee on Legal Ethics
Gleason L. Archer, Chr.
Thomas J. Boynton
Hiram J. Archer
Wm. J. Leonard
George F. Hogan

Finance and Auditing Committee

"The President of the Association and the Chairmen of All Committees."
By-Laws, Art. 2, E.

SUFFOLK TO SUFFOLK SERVICE BUREAU

The Alumni Office is ready to co-operate by giving information on recent decisions, state or national; on legal research; on legislative affairs; and such matters of business as may fall within its scope.

Information on national government activities and appointments may also be obtained from reliable sources in Washington, should such questions arise.

The Service Bureau includes a listing of Suffolk men by locality for reference with cases, collections, etc., and general co-operation in law and business.

RECENT DECISION OF UNITED STATES COURT

Kenneth Williams

PETER NOBRIGA ET AL.

v.

UNITED STATES OF AMERICA

(U. S. C. C. A., First Circuit.

Decided November 19, 1927.)

Peter Nobriga and Tony Vierea were convicted in the District Court of the United States for the District of Rhode Island upon evidence secured by a search warrant issued on the affidavit of a Federal prohibition agent that he made a visit to the cellar of a certain tenement house and saw "a still in operation and smelled odor of fermenting mash."

Section 25 of the National Prohibition Act provides that "no search warrant shall issue to search any private dwelling occupied as such unless it is being used for the unlawful sale of intoxicating liquor, or unless it is in part used for some business purpose, such as a store, shop, saloon, restaurant, hotel, or boarding house."

"Before the trial the defendants filed a motion to quash the search warrant and suppress the evidence obtained by its execution because the affidavit did not allege facts sufficient to authorize its issuance." This motion was denied.

The building searched was a private dwelling and it was not contended that it was being used for any business purpose.

The Court of Appeals set aside the verdict against each defendant, saying in part: "It was the intent of Congress to protect a private dwelling house against an unreasonable search and seizure." "A cellar is a part of a dwelling house and no warrant to search the same under the National Prohibition Act could be issued except upon the affidavit required by Section 25 of that Act. The fact that a still, intoxicating liquor, and articles used in its manufacture were found upon search of the premises described would not cure the insufficiency of the affidavit. Its sufficiency must be tested by the statements of fact which it contains."

"There is no statement in the affidavit which would justify any conclusion that intoxicating liquors were being manufactured upon a commercial scale and that the dwelling house was being used for the sale of liquor." "The sufficiency of the affidavit must be determined by the statements which it contains and not by the result of the search."

In connection with the Nobriga case it should be borne in mind that if the defendants had not filed a motion be-

fore the trial to quash the search warrant and suppress the evidence the result on appeal would have been very different.

In *Nunes v. United States* (decided by the Circuit Court of Appeals on February 2, 1928) a search warrant was issued on an affidavit similar to the one in the Nobriga case. Stills and liquor were found in the cellar of the house occupied by Nunes.

"After the government had completed the presentation of its testimony, all of which was admitted without exception or objection, the defendant filed a motion to quash the warrant and suppress the evidence. This motion was denied and Nunes was convicted. On appeal the conviction was affirmed.

"In view of the fact that the defendant knew of the search and the seizure of the still and liquor prior to the trial, and made no objection to the admission of the oral testimony relating to the search and seizure or to the introduction in evidence of the things seized, his motion to quash the warrant and to suppress the evidence was made too late and cannot be availed of, as he had adequate opportunity to present the matter raised by his motion in advance of the trial. *Segurola v. United States*, 274 U. S., decided November 21, 1927.

"In that case it was said:

"Except where there has been no opportunity to present the matter in advance of trial . . . a court, when engaged in trying a criminal case, will not take notice of the manner in which witnesses have possessed themselves of papers or other articles of personal property, which are material and properly offered in evidence, because the court will not in trying a criminal cause permit a collateral issue to be raised as to the source of competent evidence. To pursue it would be to halt in the orderly progress of a cause and consider incidentally a question which has happened to cross the path of such litigation and which is wholly independent of it. In other words, in order to raise the question of illegal seizure, and an absence of probable cause in that seizure, the defendants should have moved to have the whiskey and other liquor returned to them as their property and as not subject to seizure or use as evidence. To preserve their rights under the 4th Amendment, they must at least have seasonably objected to the production of the liquor in court. This they did not do, but waited until the liquor had been offered and admitted and then for the first time raised the question of legality of seizure and probable cause as a ground for withdrawing the liquor from consideration of the jury. This was too late."

GENERAL PLAN FOR THE ALUMNI CATALOGUE

(Continued from Page 1)

Class Listing.

Alphabetical Listing.

Geographical Listing.

A Memorial Page to our men in Service at home and abroad.

The Constitution and By-Laws of the Association.

A short outline of the Graduate Courses and Social Functions.

Extra paging for memoranda, clip-

pings and Annual Addenda for Five Years. (This will be for a listing of graduates published in the NEWS each succeeding Commencement suitable for clipping and inserting in the Five Year Addenda.)

We propose to finance this Directory through advertising and to place it in the hands of every alumnus desiring it, without charge. It is an immense task. Your individual co-operation will be appreciated, first by the prompt sending of information, and photo if you are a charter member; or by the solicitation of suitable advertisements, or the placing therein of your own advertisement if in business; for it will be a great asset for you to be thus advertised before Suffolk's hundreds of graduates and undergraduates.

We welcome suggestions and co-operation.

THE PUBLICATION COMMITTEE.

COURSES AND LECTURES AT ALUMNI CLASSES

6 to 7.30 P. M.

March

Monday—Conditional Sales

Frank Keezer, LL.B., Professor of Law, Suffolk Law School.

Tuesday—Medical Jurisprudence

R. M. Shukle, M. D., LL.B.

Friday—Land Court Procedure and Conveyancing

Albert L. Partridge, LL.B., Author, "Partridge on Deeds, Mortgages and Easements."

"DAILY LIST"

Suffolk Law Alumni Club House,

73 Hancock Street, Boston.

Tel. Hay. 0739.

Lecture, 6 to 7.30 P. M.

Monday, Tuesday and Friday

Rates for Courses: Members and their guests, free. Non-members, apply at office, or telephone for information.

Fri., Mar. 2. Land Court Procedure and Conveyancing. Mr. Partridge.

Mon., Mar. 5. Conditional Sales. Prof. Keezer.

Tues., Mar. 6. Medical Jurisprudence; Problems of Insanity and Mental Incompetence. Dr. Shukle.

Thurs., Mar. 8. Monthly Meeting of Alumni, and Debate.

Fri., Mar. 9. "Speakers' Clinic," for attorney, business man or student. Members come prepared to speak three minutes on a subject assigned at time of registration. Groups limited in number. Register early.

Mon., Mar. 12. Conditional Sales. Prof. Keezer.

Tues., Mar. 13. Medical Jurisprudence; Problems of Legitimacy and Malpractice. Dr. Shukle.

Thurs., Mar. 15. Monthly Alumni Luncheon Club at Hotel Bellevue, 1.00 P. M. Speaker, Asst. Attorney-General Joseph E. Warner.

Fri., Mar. 16. "Speakers' Clinic;" Parliamentary Problems.

Mon. Mar. 19. Conditional Sales. Prof. Keezer.

Tues., Mar. 20. Medical Jurisprudence. Problems of Identification of

the Living and Dead. Injuries and Wounds in Evidence. Dr. Shukle.

Fri., Mar. 23. "Speakers' Clinic;" After-Dinner Speeches.

Mon., Mar. 26. Conditional Sales. Prof. Keezer.

Tues., Mar. 27. Medical Jurisprudence. Toxicological Points. Dr. Shukle.

Wed., Mar. 28. Members' Night; Entertainment and Collation.

Fri., Mar. 30. "Speakers' Clinic;" Problems of Debate.

Other Courses in April and May.

PERSONAL MENTION

(The editor invites correspondence or local newspaper clippings pertaining to Suffolk men and affairs for our columns.)

Walter M. Kendall, class of 1920, who was associated with Judge Estes until the latter's recent appointment to the bench, has opened his own offices at Attleboro. Mr. Kendall was recently honored by being elected to the Presidency of the Attleboro Chamber of Commerce. This organization is probably one of the most active of its kind in Massachusetts, having over five hundred members. We know that Mr. Kendall will support its many and varied activities with the same loyalty that he has supported the Alumni Association.

Wilmot R. Evans, President of the Five Cents Savings Bank, Trustee of Suffolk Law School, and Professor of Deeds, Mortgages and Easements, has been elected President of the "Lawyers' Mortgage Investment Corporation," organized in February, 1928; and also President of the "Lawyers' Title Insurance Company," now being organized. Both are million dollar corporations.

R. John Henderson, former President of the Class of 1926, is now associated with Dexter B. Pattison, Kimball Building, 18 Tremont Street, in the general practice of law.

Congratulations are in order to our Professor Henchy, '21, on the arrival of a fine baby girl; and to John F. Hardy, '18, who has a new prospect for Suffolk ranks! Let us hear from more of the younger Suffolk generation.

George Locus, '25, was the young attorney instrumental in having the United States District Court, under Judge Lowell, sit in session at the Massachusetts General Hospital, in the case of Ferdinand Guglielmi in his last illness that he might take the oath of allegiance to the United States and become a citizen. This is the first recorded instance in which the United States Court has gone to a client, and not the client to the court, thereby establishing a precedent. Years ago Mr. Guglielmi had left an infant daughter in sunny Italy, and it was to bring her to this country more expeditiously that he sought to become a citizen on his death bed. It is commendable that Attorney Locus voluntarily submitted to a blood transfusion in an attempt, though vain, to save his client's life.

Maurice M. Cohen, '27, has entered general practice with office at 161 Devonshire Street, Boston.

Harry Rose, '27, has opened his office as Attorney and Counsellor-at-Law at 8 Verrill Street, Mattapan.

Owen M. Sandiford, '24, chief title investigator of the New Haven Railroad, has rendered invaluable assistance to the Secretary in the association work during the past few months by his friendly calls on fellow alumni in different parts of the State, his relocation of men with "changed" addresses, his informing graduates as to present alumni work, and not infrequently the enrollment of members. Mr. Sandiford has shown the Suffolk spirit of co-operation and loyalty and is now classed as "Suffolk's first line scout."

F. William Hochberg, '26; Louis Vilani, '26; Richard H. Armstrong, ex '24; Edmund F. Richards, '24; and Lloyd LaFontaine, Senior, were successful at the Maine Bar Examination in Bangor, February, 1928. They were the only Suffolk representatives, and all passed, though two were not graduates. A 100 per cent score for Suffolk.

ACKNOWLEDGMENT

We acknowledge another gift to our Library, with deep appreciation of its value, the latest book from Dean Archer's pen, "Ancestors and Descendants of Joshua Williams," a Mayflower descendant and pioneer, of whom Dean Archer is a great-great-grandson. This is an admirable genealogical work, requiring much patient research. It lays bare the vicissitudes and fortitude of the little Mayflower Colony in a new light. It reveals family tradition in many a homely incident of days when his forefathers, as Pilgrim pioneers and soldiers of Revolutionary fame, made early colonial history. It leads one to trace the family migration in interesting stages through the Old Bay State to the wilds of Great Pond, Maine, Plantation No. 33, whence came its inimitable author, our Dean.

THE LIBRARY

Few of our Alumni realize yet the particularly fine facilities provided in our Library for up-to-the-minute research in Massachusetts Law. The General Laws and Blue Books; the Massachusetts Reports from the earliest to the latest, including Advance Sheets; Shephard's Massachusetts Citations; and the Massachusetts Digest; as well as text and case books are available. The Banker and Tradesman covers commercial, real estate, legal, financial, credit and corporate interests of New England. The United States Daily gives a complete and comprehensive record of the daily activities of the government of the United States in all its branches, including Legislative, Judicial, and Executive, without comment or editorial opinion. The reports of pending Committee and Legislative hearings in Massachusetts are also available.

The picture of the library in last month's News showed the pleasing environment for quiet, uninterrupted study and research. No Suffolk man has excuse for ever pleading a case without thorough preparation with this library available. It is open early and late, weekdays, holidays and Sundays. The Secretary is ready to cooperate in any way possible for the success of every Suffolk man.

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A NEW DEPARTMENT IN APRIL NEWS

Office Space: Wanted or To Rent?
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Position: Wanted? Assistant: Wanted?
Register in the Classified Ad Column of the Alumni "News" next month.
3c per word; \$1.00 minimum charge.
Copy and fee should be in hand by the 20th.

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ROSE'S

FEDERAL PROCEDURE 1926 — THIRD EDITION — 1926

By JUDGE JOHN C. ROSE,

Late United States Circuit Judge, for the Fourth Circuit;
Lecturer on Federal Law, University of Maryland

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RECENT DECISIONS OF MASSACHUSETTS SUPREME COURT

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Waiver

Porter v. Harrington, 1928 A. S. 187. Suit in equity for a specific performance. Plaintiff agreed to buy and defendant to sell two lots of land for specified sum, to be paid in stated instalments. By the terms of the written contract, prompt performance was of the essence of the contract, and in case of default of payment of instalments for thirty-one days the contract should become void, and all moneys paid thereon should become the property of the defendants as liquidated damages. Payments were made with punctuality until first lot was paid for; thereafter the payments being far behind the contract dates. When plaintiff later offered to make a belated payment, defendant notified plaintiff that he had previously exercised the option to cancel the contract and hold the money as liquidated damages. Held that, while parties have a right to make a stated time for performance the essence of a contract, no principle of law or equity prevents waiver of such terms, however explicit the phraseology of the contract. Waiver may be by action as well as words. The defendant had for nearly three years accepted payments long overdue. This constituted waiver. The failure of the plaintiff was not willful or offensive, nor did it cause any loss for which compensation cannot be made. Decree in favor of plaintiff affirmed.

Estoppel

Lunt v. Aetna Life Ins. Co., 1928 A. S. 1. An insurance company which had aided in defence of insured, who was also represented by his own counsel, is not estopped to show, in an action brought by insured to recover on a policy of insurance the amount recovered against him, that it was not liable under the terms of the policy.

Sale of Land by Executor

Bryant v. Lombardi, 1928 A. S. 7. A testatrix had devised land specifically to demandant. By her will she authorized her executor to sell "any portion or all of my estate without any license from the court, and to execute and deliver proper and sufficient deeds and other instruments to transfer and convey the same." The executor sold to tenant the land devised to demandant, to pay debts of testatrix. Judgment for tenant was upheld.

Mandamus

Burke v. Metropolitan District Commission, 1927 A. S. 291. Petitioner, who had right of access, under his deed, to parkway, sought, by mandamus, to compel Commission to allow him to construct two driveways to his land (to be used for a filling station) instead of the one narrow way permitted by the Commission. It was held that, since it was within the discretion of the Commission, and petitioner did not prove that their action was arbitrary or irrational, mandamus will not lie.

Contributory Negligence of Guest in Automobile

Oppenheim v. Barkin, 1927 A. S. 287. The court reiterates the Massachusetts rule that a passenger is not in the exercise of due care who completely surrenders himself to the care of the driver; and even assuming that the defendant driver was grossly negligent in the operation of the car, the plaintiff, who was asleep in the rear seat at the time of the accident, was using no precaution for his own safety. Judgment for defendant.

Warranty of Fitness

Standard Rice Co. v. P. R. Warren Co., 1927 A. S. 281. Under Sales Act, G. L., c. 106, sec. 17 (1), there is an implied warranty that goods shall be reasonably fit for purpose required when buyer expressly or by implication makes known to seller this purpose. And where plaintiff ordered packages by sample there was no breach of this warranty because the boxes furnished were unfit for use in automatic packaging machinery, it not being proved that defendant knew or should have known that automatic machines were to be used.

WITH THE SOLONS

Leo J. Halloran

Measures against the meanest of all automobile drivers continues to develop. The Governor's Council has voted to take \$5000. from its emergency fund to be used for the apprehension of "hit and run" drivers.

Governor Fuller's policy of promotion in the public service where merited, recently resulted in the appointment of a woman as clerk of the Newburyport District Court. She had for many years been an assistant.

The bill relative to the abolition of grade crossings was once again rejected. The cost to the railroads, if the bill went through, would be tremendous; but on the other hand the loss of life and destruction of property at unguarded crossings is also tremendous.

The hearing before the Committee on Legal Affairs of the bill to liberalize the law relative to obscene literature contained many rights. It is believed, however, that the law will remain as it stands.

Governor Fuller intimates that he will not re-appoint the clerk of the Barnstable District Court whose term expired several months ago. Opposition to the clerk's re-appointment developed, on the ground that he was autocratic and over-officious.

The Attorney-General's Department has urged liberalization of the laws relative to gaming, so as to allow the preservation of prizes at whist and other parties; alleging that the laws which prevent the giving of prizes enacted in 1719 is out of keeping with present day conditions. The rigid enforcement during the past several months of this law by the authorities under the leadership of the Attorney-General has taken from the churches

and charitable organizations a main source of income.

The Sunday Sports bill to allow professional sports, under local option in this Commonwealth, has again been argued, this time in the Gardiner Auditorium in the State House, to accommodate the large number of people who appeared for and against the measure. Many interesting and at times humorous by-plays were noticed during the hearing.

The Boston Elevated Control Bill is staggering along its weary path; and the legislators who must pass upon it are already being pulled and hauled this way and that, by the bill's adherents and opponents. It is certainly one of the most important problems before this Legislature.

The contest is still on by candidates for the vacancy in the associate judgeship of the Dorchester Court. The latest report is that a member of the Suffolk Law School faculty is a leading candidate. Governor Fuller is taking plenty of time before making the appointment.

The recent death of Representative Lewis R. Sullivan, of Dorchester, removes from the lists a legislator who through a long and honorable public service had been a loyal friend of Suffolk, and a great admirer of Dean Archer. It is recalled that when the school was fighting for the right to grant degrees, Rep. Sullivan worked hard for the passage of the bill. In other years, even up to the last session of the Legislature, Rep. Sullivan was always in the forefront when the welfare of the school was threatened. Never a student of the school, his interest was based upon two important facts; First:—his friendship and admiration for Dean Archer; and Second:—his desire to protect the young man in moderate means who desired to study for the profession of the law.

The death of Rep. Walter Snow, of Somerville, although expected, came as a severe loss to his host of friends in the Legislature and in private life. The writer remembers with pleasure his association with Rep. Snow in the Legislature; and his admiration for the courteous, high-minded gentleman who so ably represented his people.

ACKNOWLEDGMENT

From Prof. Hogan, the American Bar Association Reports of 1925 and 1926; and the American Bar Association Journals for 1926, making our 1925, 1926 and 1927 file complete.

We are pleased to acknowledge regular receipt of "Colliers" and "Liberty" from Messrs. O'Reilly, '25, and Whiting, '27.

PERSONAL MENTION

Abraham Lelyveld, '12, is Secretary of the Rockland, Mass., Commercial Club; and President of the Rockland Credit Union, a large and flourishing organization of great local benefit. Mr. Lelyveld conducts a very successful shoe business in the heart of the shoe city.