Law is the governmentally expressed and enforced conscience of the human condition. Religion in its various forms represents the abstract ideals and aspirations of mankind. Religion admonishes it appalls to the higher instincts of worthy citizens. It is powerless to control the conduct of the unregenerate and the depraved.

Law, however, is the indispensable servant of the conscience of the nation. It enacts the Ten Commandments and provides penalties for the violation thereof. It does not say “Thou shalt not kill” but it says “Thou shalt not kill lest man punish thee hereafter,” but “Thou shalt not kill lest man punish you here and now.”

The individual does not look into the future. He is obsessed by the passion of the moment. The fear of punishment immediate and condign is the only fear that can stay his hand.

We must have religion with its ideals to enlighten the conscience of mankind for we know full well that in the absence of that conscience will ultimately find expression. But if this world is to remain habitable for the righteous we must ever and always have the restraining hand of the law to enforce these ideals of religion.

The Boston Police Strike taught us a staggering lesson. We had fancied that generations of self-government had made us a people to whom the policeman was more of a luxury than a necessity. We had fondly believed that we could go on living much the same whether the large-walleted guardians of those days walked the streets or salved at home. We found to our shame and sorrow as a city that the moment the hand of the law fell from the ever present criminal element instantaneously overthrew upon us in a reign of lawlessness unparalleled in our local history.

But the world has had other lessons even more grievous. History abounds with illustrations of the truth that ideals must be enforced by the compelling hand of the law. If the sworn guards of the law guard not chaos will stand unchallenged.

We do not need the lesson of Cromwell and his Puritans lifting England to the heights only to give place to the shameful Charles II who turned the nation back into the swinish wallow of the pig pen. We have had a much closer illustration. We beheld but yesterday the same thing in our own land.

We ourselves have lived through one of the most glorious periods of American history only to descend into a shameful orgy of national corruption. In revolt we may disagree with some of the ideas and the methods of

(Continued on Page 2)
Woodrow Wilson we are obliged to
graft and no corruption—ideals trans­
for righteousness but its great leader
Mr. Prentice.
April 11th. Voted: That the action on
But Wilson passed on. The cru­
prevented. In our courts of
the affirmative finally won by the margin
CONSTITUTIONAL CHANGES
Almost everybody, whether lawyer or
Constitutionality seems to be a very
necessity of the law and have transformed
ing of mankind has created such great dis­
By the Suffolk Alumni Association,
Nineteen Amendments, creating equal suffrage,
In our Legislative halls the word is fre­
the spell of war the question also arises quite fre­
and transportation of alcohol for bev­
sibly seeking the patronage of the
government in Washington. Yet no great
the time of the Constitution of 1787. Voted:
the affirmative was strongly presented by
June. Voted: "That the Boston
The nation is recovering from its
The business meeting was ad­
Chairman; George H. Spillane, '27; Joseph J. Twitchell, '18; George A. Douglas, '09; John F. Hardy, '18;
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After remarks by President Bren­
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SUFFOLK TO SUFFOLK
SERVICE BUREAU

The Alumni Office is ready to co-operate by giving information on recent decisions, state and local legislation; and such matters of business as may fall within its scope. Information on national government activity, however, may also be obtained from reliable sources in Washington. Addresses of questions arise.

The Service Bureau includes a listing of Suffolk men by locality for reference with cases, courts, dates, etc., and general cooperation in law and business.

RECENT DECISIONS OF UNITED STATES COURTS

Kenneth Williams

GROSFIELD ET AL. v. UNITED STATES

(Decided April 9, 1928.)

Defendants rented certain premises to Silverman for the purpose of storing hay and straw. On January 17, 1925, police officers entered these premises and destroyed two stills and other appliances used in the manufacture of intoxicating liquors, together with large quantities of mash and whiskey distillate. Defendants did not know of this unlawful use until they read an account of the raid in the papers, but they had not ousted Silverman from the premises and had not filed a bond on the conditions prescribed by the statute.

The applicable statute provides in substance that not less than two years having passed since the husband had made his declaration.

The Supreme Court overruled the lower courts; "Citizenship is a high privilege, and when doubts exist concerning a grant of it, generally at least, they shall be resolved in favor of the United States and against the claimant. If Anieio had lived, his declaration of intention to become a citizen of the United States, October 13, 1913. He died December 10, 1914. On October 4, 1924, his widow, Amalia, relying upon her husband's declaration, asked for citizenship. This was granted. February 3, 1925, and certificate issued.

The fallacy of (defendant's) argument is made at once apparent by a consideration of the purpose of the Probation Act. Probation is the attempt of rectitude if an opportunity for reform be given him before he is stigmatized with imprisonment and subjected to the association with hardened convicts.

"Clearly, therefore, probation is not intended to be the equivalent of imprisonment. The aim of the statute is reformatory, not punitive; and its language carried this aim into effect.

"While we have found no decision under the Federal Probation Act which passes upon the contention that the prior probation must be credited upon a sentence of imprisonment when probation is revoked, numerous cases under similar Statutes have adjudicated its lack of merit. See King v. Commonwealth, 246 Mass. 57; 140 N. E. 253."

KAPLAN v. UNITED STATES

(Decided March 5, 1928, Circuit Court of Appeals for the Second Circuit.)

Kaplan was convicted in a United States District Court and was sentenced to imprisonment in Atlanta Penitentiary for a period of eighteen months. He was out on bail until June 7, 1926, when upon his motion he was placed on probation for a term of eighteen years. Imprisonment after December 8, 1927, was not to be repeated. The premises to be occupied or used upon giving a bond upon the conditions prescribed by the statute.

Amalia Manzi v. Anieio Manzi filed his declaration of intention to become a citizen of the United States, October 13, 1913. He died December 10, 1914. On October 4, 1924, his widow, Amalia, relying upon her husband's declaration, asked for citizenship. This was granted. February 3, 1925, and certificate issued.

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 HOUSE CLERK KIMBALL DIES

The recent death of James W. Kimball, for many years past the clerk of the House of Representatives, is a source of sadness and regret to all legislators, past and present, who had occasion to be in contact with Mr. Kimball. His unfailing courtesy and willingness to help members of the House, especially the younger and newer members, made for a host of friends. His knowledge of parliamentary procedure has been of great value, not only to the members of the House, but to the Speaker as well. The appointment of Mr. Bridgman as his successor was approved by Mr. Kimball, and we have no doubt that Mr. Bridgman will qualify him for the position.

L. J. H.
CONSTITUTIONAL CHANGES

(Continued from Page 2)

study of the Constitution, I believe in common with the vast majority of our citizens, that the Constitution of our nation is almost a supernatural document in its wisdom and foresight; however, I am not one of those who believes that it is immutable and unchangeable and should never be altered or amended. I believe there are many instances in which our national charter should be amended. One of the most important of these changes, in my opinion, is the method of ratifying a constitutional amendment. The present method of ratification of an amendment submitted by Congress provides for an approving vote by three-quarters of the legislatures of the States of the Union. This, in my opinion, is not a representative or democratic method of ratifying a sweeping change such as the 26th Amendment.

During the early periods of our Republic, when communication was slow, when travel was painful and tedious, and when it took a long time to assemble the people at the polls, for the various States to cast their vote on public questions, I believe that this method of ratification was, no doubt, sound, but with changing conditions, with the advent of the railroad, the automobile, the airplane, the telephone, and now the radio, I believe we ought to modernize this section of our Constitution and provide for a direct vote of the people of the United States as a substitute for the ratification by the legislators. This could be easily accomplished either on a national election day, when Congressmen and Senators are elected in the various States of the Union, or on a special day set apart for this purpose.

It is only fair to the American people, where an amendment affecting their own personal ideas and lives, is to be written into the Constitution, that they shall have the opportunity of personally voting on this important amendment. The legislators of the forty-eight States comprise a very minute fraction of our entire population, of one hundred twenty million people, and by legislative act the will of our entire population should not be bound, possibly forever.

From my experience in the Legislature, legislators do not vote as their conscience dictates. They vote often through political fear, political cowardice, and for political expediency. Many men who are Wet personally, vote Dry, because of their districts and vice versa, and their6 incumbent vote should not further be used to hamper the will of the American people. For that reason, I am heartily in favor of a Constitutional Amendment that would make it possible to amend this section of our national Constitution and have a popular referendum of future amendments decided by the people directly by the Congress of the United States. This surely cannot be criticized by any American who presumes to be a lover of free government, and it is the only successful and sound solution of a problem which has caused so much rancor and discussion during recent years.

In a later article I will discuss other proposed Constitutional changes which I believe would tend to modernize and democratize our present Constitution.

PERSONAL MENTION

Bernard Eyges, '17, announces the removal of his offices to 329 and 339 India Building, 84 State Street, Boston.

John J. Geoghan, '27, and Frederick G. Hart, '27, announce the opening of their office, Room 911, Beacon Building, 6 Beacon Street, Boston.

Sidney S. Cross, '27, is also located at 6 Beacon Street, Room 908.

We are pleased to welcome four Seniors into our ranks who have already been admitted to the Bar, though graduating in June: Messrs. Bernard F. Gately, Fred E. Burden, John H. Gilbert and Joseph Rothstein.

Mathew King, '25, and Joseph Finks, '25, received a commendatory letter from the Police Commissioner, and favorable comment from court officers on their conduct of a three-day trial in the Suffolk Superior Criminal Court. Though their client was convicted, they, with the fine Suffolk spirit, let their opponents know that victory had to be won.

We note that Prof. William H. Henchy, '21, is now President and Director of the Henchy Motor Company, Newburyport, as well as Treasurer and Director of S. H. Goddard Insurance Company, Woburn.

Friends of William A. Bartlett, '26, North Attleboro, will be interested to know that aside from his activity in the practice of law, he is owner of the Bartlett Insurance Agency, established eighteen years ago, and representing twenty-seven companies.

Thomas J. Brown, '21, of the firm of Brown, Borkoff & Co., Little Building, is a Special Lecturer at B. U. College of Business Administration. Mr. Brown received his A.B. at Harvard, 1910, and is a Mass. C. P. A.

Nicholas J. Dynan, M.D., ('27), has established a record attendance at the Graduate Lectures of the Alumni, having missed but two or three throughout the Winter.

We are glad to report that our Alumni Treasurer, Martin W. Powers, '28, is making good recovery from his serious throat operation, and is in his office now a part of the time. We have missed Mr. Powers at our meetings, and will be happy to have him with us again.

Ernest D. Cooke, '24, is Assistant Corporation Counsel for the City of Boston, with law office at 11 Beacon Street.

We note that Charles Gilfix, '18, is now First Vice-President of the Revere Chamber of Commerce, and a Director of the First National Bank of Revere.

Joseph J. Launie, '25, is head Pro-legal section, U. S. Internal Revenue, Boston.

Walter V. McCarthy, '20, who is Director, Public Welfare Department, City of Boston, is also an Instructor and Lecturer on Social Science and Public Welfare.

Ernest W. Branch, '18, civil engineer, and surveyor, with office in Quincy, has recently returned from an extended trip South. Mr. Branch is one of the most highly esteemed civil engineers on the South coast, and his investigations are much valued by banks as well as individuals throughout the section.

RECENT MASSACHUSETTS DECISIONS

Arthur V. Getchell

MALICIOUS PROSECUTION

Bannon v. Auger, 1928 Adv. Sh. 463. Bannon, who had been arrested on complaint of one Thompson, Auger's client, upon Auger's advice, for obtaining a loan from Thompson upon worthless security, was Auger in tort for malicious prosecution, alleging that the criminal action against him had been brought maliciously, without probable cause, and that the action had been terminated favorably to him. It was shown that the original action had been dismissed at the request of Auger, who had been simultaneously acting for Thompson from Bannon. Held, that dismissal of the action was not an acquittal of the offense. A termination of the original proceeding by judgment in favor of the defendant is an essential element of the proof offered by a plaintiff in an action for malicious prosecution. Also held that if Auger had acted maliciously he could not be charged with liability if he acted with probable cause. Want of probable cause cannot be inferred from malice, but must be established by positive proof.

SNOW AND ICE

Lucas v. Thayer, 1928 Adv. Sh. 965. Although it was found that plaintiff was injured by falling on ice, which ice was formed by water flowing from defendant's land, even if the water had come there by flowing down defendant's driveway, which was so constructed that the grade to the street was greater than that of the land in its natural state, nevertheless, as it was not shown that this water came down in greater amount than it would have in its natural course, or in different manner, a finding for defendant was correct.

INJURIOUS SUBSTANCE IN FOOD

Carlson v. Turner Centre System, 1928 Adv. Sh. 993. Plaintiff was injured swallows a piece of glass contained in one of defendant's bottles of milk which plaintiff purchased from a retail dealer. Plaintiff relied on a contract in count for breach of implied warranty that the milk was...
wholesome and fit for human consumption, and verdict for defendant was upheld on the ground that there was no privity of contract between the plaintiff and defendant. [Ed.—Compare the so-called “food cases” where recovery in contract was held to depend upon privity of buyer and seller existed (Friend v. Childs Dining Hall Co., 231 Mass. 65); where recovery in tort was upheld because of negligence (see Hunt v. Rhodes Bros. Co., 207 Mass. 30); and where plaintiff failed to recover in tort because negligence of plaintiff (Ash v. Childs Dining Hall Co., 231 Mass. 86).]

**MOTOR VEHICLE—AGENCY**

In Kindell v. Ayles, 1928 Adv. Sh. 853, actions for damages for personal injuries were brought against the owner of an automobile and against his wife. At the time of the accident the wife and daughter of the owner were riding in the car, which was driven by one Carroll, the daughter’s fiancé, through whose negligence the accident occurred. The owner did not know that the car was being driven at such a high speed he had given and refused permission to Carroll to drive the machine. The court held for the defendant, resting in the rule that where permission to use a car and knowledge of such use by the owner do not create an agency between the owner and the driver of the car, and that without such relationship the owner is not responsible for the negligence of the driver. Even if the wife in this case had requested her daughter and Carroll to take her in the car, that would not show that she, the wife, was in control of the car.

**RESTRAINT OF FREEDOM OF EMPLOYMENT**

In Club Aluminum Co. v. Young, 1928 Adv. Sh. 879, defendant entered the employ of plaintiff under agreement that for one year after termination of employment defendant would not engage in the sale of aluminum cooking utensils, by a plan similar to that used by the plaintiff in competition with defendant. Defendant left plaintiff at end of three months and entered employ of one Carroll, the daughter’s fiancé, through whose negligence the accident occurred. The owner did not know that the car was being driven at such a high speed he had given and refused permission to Carroll to drive the machine. The court held for the defendant, resting in the rule that where permission to use a car and knowledge of such use by the owner do not create an agency between the owner and the driver of the car, and that without such relationship the owner is not responsible for the negligence of the driver. Even if the wife in this case had requested her daughter and Carroll to take her in the car, that would not show that she, the wife, was in control of the car.

**LIABILITY OF PARENTS FOR TORTS OF SON**

Guziwaski v. Stemplesky, 1928 A. S. 729. Plaintiff, who was shot in the eye by an air-gun in the hands of a thirteen-year-old boy, sued the boy’s father and mother. There was no evidence that the parents furnished the gun or ammunition in violation of the statute, yet this action was allowed to the plaintiff. The court held that plaintiff need not wait to bring his action until defendant had actually solicited customers, and injury to its business had been caused thereby.

**ACKNOWLEDGMENTS**

We are indebted to Prof. York for the ancient parchment deed, dated 1690, now framed and in one of our committee rooms. Some of the original pages of Chief Justice Lemuel Shaw, donated by Mr. Gately, ’28, and the drawings and presentation of the Flint Institute, which are in our Library. We trust that many more men will turn their attention to building up the Library by contribution of books, magazines or money. Certainly one cannot but appreciate the fine atmosphere afforded for study and the books and material available for careful research in Massachusetts law now in the Library.

Through the channel of The Alumni NEWS the following valuable volumes have been added to the Library from Matthew Bender Company, Statute Law on Mass. Corporations, Magison and Bourne; Mass. Wills, Federal and State Prohibition Law, Blakemore; American Prohibition, Search and Seizure, Digest; History of the United States Supreme Court, Mueller; Finger Prints Can Be Forged, Wehle and Beffel; Regular and Irregular Commercial Papers, McMaster; Carriers, 2nd Edition, 3 Volumes, Moore; Limitations, 4th Edition, 2 Volumes, Wood; Federal Trade Commission Manual, Harvey & Bradford.

**WITH THE SOLONS**

Leo J. Halloran

The bill to amend the zoning laws of Boston to allow the erection of buildings to a height of 156 feet has been signed by the Governor.

The Shattuck bill to compel corporations to file lists of its lending customers has been rejected by the Senate. The main objection to this bill which has been defeated several times previously, is that it opens the way to persons desirous of securing lists for the purpose of circularizing prospective gullible clients for the purchase of oil, silver and other forms of stocks.

Although there is a determined fight to force rate reductions on the Edison Electric Company, it is believed that the Public Utilities will not recommend such reduction at this time.

Governor Fuller has signed the bill increasing the amount given to prisoners upon their discharge from State Prison from five dollars to ten dollars.

The House of Representatives, by a vote of 116 to 90, has rejected the bill to allow the employment of women in textile industries from 6.00 to 10.00 P. M. This bill had previously passed the Senate. Spirited lobbying characterized the progress of this bill.

The bill to legalize the granting of prizes at card parties for the benefit of religious, charitable or fraternal organizations is having its difficulties; several members of the legal affairs committee seem opposed to it. It will be recalled that until Attorney-General Reading was re-elected, nothing was ever done about the offering of prizes at card parties, lawn parties and other church and fraternal affairs. The Attorney-General’s sweeping statement of several months ago caused a cessation of the activities of church and other organizations. The main source of income was these parties.

Senator Robert E. Bigney’s bill to rename the East Boston Airport, Al-
The Department of Public Utilities with Commissioner Hardy dissenting, has approved the new rate schedule of the West Boston Gas Company, and the Malden Electric Company.

Rep. Hurley, of Fall River, has succeeded in overturning the adverse report of the Labor and Industries Committee on the bill to amend the Workmen’s Compensation Law. No roll call vote was taken. What will be done in the Senate on this measure is a question.

The Ways and Means Committee is still struggling with the Boston Elevated ownership problem.

The bill to retain the services of Secretary Herbert H. Boynton after he reaches retirement age after the adverse report had been overturned, is on its way through the Legislature.

The Senate has rejected the bill to make Armistice Day a legal holiday. The opposition was raised by textile manufacturers and textile men as a question of manufacturers and textile men has, in the past, been effective in blocking all passage of this legislation. It is pleasing to note that the Legislature and our Governor have seen fit to set apart a day in commemoration of the World War, ten years ago.

JUDGE WALTER L. COLLINS

The appointment by Governor Fuller of former president of the Boston City Council, Walter L. Collins, as a Judge of the Superior Court, the place left vacant by the death of Judge Flynn, seems to have met with popular approval. An able lawyer, at all times maintaining the highest ideals of the profession, a profound knowledge of the law, and an abiding sense of fairness and square dealing, Judge Collins takes his position with the well wishes of his brethren of the profession, and the confidence and trust of the people generally.

L. J. H.

MASSACHUSETTS BAR EXAMINATION

December 31, 1927

Afternoon Paper

1. Jones, Smith and Brown form a partnership to engage in the pro­

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2. If the foreclosure is by an entry and recording of certificate?

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4. The seller of a car of grain sold it to the buyer at Worcester, and the buyer, when he reached Worces­

4. The seller of a car of grain shipped it to the buyer at Worcester, and the buyer, when he reached Worces­
William gave the above paper to his son, John; the latter at once endorsed it to the plaintiff for value.

What are the plaintiff's rights against the maker, William Bracton?

10. (a) Jones and Brown are joint owners of an automobile. They are unable to agree as to its use or as to its sale.

How can they have their rights determined?

(b) Carter is entitled to a legacy of $1000 under the will of X. The executor Y refuses to pay Carter.

How can Carter enforce his rights?

11. In what ways may a valid trust of real estate be created?

12. Jones by his will gave the income of $50,000, to his son for life, and on the son's death gave the property outright to his children.

What are the plaintiff's rights as to its use or as to its sale?

13. (a) Who can vote for trustee?

(b) What, if anything, can the builder recover on, and in general acted as owner of the business. Munroe made a promissory note, signed "Atlantic Fish Co."

(c) How, if at all, can a husband sell and convey personal property to his wife?

14. McIntire died in New York, having his domicile in that State. He left a will made in New York, there being only two witnesses to the will. His entire property consisted of real estate in Massachusetts and shares of stock in Massachusetts corporations. He was offered for original probate in Massachusetts. Should it be allowed?

15. A. B. and C were co-partners under the name of Brown Brothers. The firm and the partners became insolvent and joined in a voluntary petition in bankruptcy. There were firm assets and individual assets, and firm creditors and individual creditors.

(a) What, if at all, can a husband and wife co-partner in business.

(b) What are the plaintiff's rights as to its sale.

(c) Who can vote for trustee?

IN DEFENSE OF JOHN E. COOK

D. W. Voorhees

Who is John E. Cook? He has the right himself to be heard before you; but I will answer for him. Sprung from an ancestry of loyal attachment to the American government, he inherits no blood of tainted impurity. His grandfather, an officer of the Revolution, and his named X as executor, but named no one as trustee. X was duly appointed as executor. What was X required to do as such executor?

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he now realizes and deplores. I defy the man, here or elsewhere, who has ever known John E. Cook, who has ever looked once fully into his face, and learned anything of his history, to lay his hand on his heart and say that he believes him guilty of the origin or the results of the outbreak of Harper's Ferry.

Here, then, are the two characters whom you are thinking to punish alike. Can it be that a jury of Christian men will find no discrimination should be made between them? Are the tempter and the tempted the same in your eyes? Is the beguiled youth to die the same as the old offender who has pondered his crimes for thirty years? Are there no grades in your estimates of guilt? Is each one, without respect to age or circumstances, to be beaten with the same number of stripes?

Such is not the law, human or divine. We are all to be rewarded according to our works, whether in punishment for evil or blessings for good that we have done. You are here to do justice, and if justice requires the same fate to befall Cook that befalls Brown, I know nothing of her rules, and do not care to learn. They are as widely asunder, in all that constitutes guilt, as the poles of the earth and should be dealt with accordingly. It is in your power to do so, and by the principle by which you yourselves are willing to be judged hereafter, I implore you to do it.

A DICTION WITHOUT DIFFERENCE

A sophomore recently appealed in writing to Dean Archer for a reappraisal of marks given by the Review Department on the first and second answers to questions on an Equity test. He argued learnedly that although neither question was in point, yet the first was better than the second and deserved a higher grade. Dean Archer found that both answers were worthless and that the second was worse than the first. In order to satisfy the student's demand for different grades he marked the first 0+ and the second 0—.

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SUFFOLK LAW ALUMNI ASSOCIATION

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Friend and Alumni:

We enclose herewith sample page from the new Alumni Directory. While in the back of the book there will be a complete listing of all Suffolk graduates, yet it is necessary to limit the type of work here shown, with photographs and descriptive matter, to the members of the Alumni Association. This will be given in alphabetical order, affording every graduate an opportunity to become familiar with the face of every member of the association.

It seems to us that no graduate can afford to miss joining the association.

Sincerely yours,

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