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TEN CENTS

Ames Briefs Used by Judge In Kidney Transplant Case

First year Ames briefs were used this summer to help a Massachusetts court decide a case involving the transplanting of a kidney from one identical twin to the other. Robert J. Shearer, clerk to Edward A. Counihan, Jr., LL.B. '06, Associate Justice of the Supreme Judicial Court of Massachusetts, requested briefs from one of the better known first year Ames cases involving a minor who consented to the amputation of his right hand. The same issue, whether or not a minor could consent to an operation which was not to his benefit, was involved in the Massachusetts case, *Masden v. Harrison*, No. 68651 Equity.

In *Masden v. Harrison*, Justice Counihan, sitting alone, decided that a healthy twin, age 19, could consent to an operation which would cause one of his kidneys to be removed and transferred to his sick twin. The case arose as a petition for a declaratory decree brought by the mother of the twins against doctors of the Peter Bent Brigham Hospital in Boston in



Edward A. Counihan, Jr.

order to protect the latter from civil liability and criminal prosecution resulting from the kidney transplant operation.

In the Ames case, a minor requested a doctor to amputate his right hand, with which in a fit of rage he had just slapped his middle-aged mother. The boy cited the Biblical admonition: "If thy right hand offend thee, cut it off and cast it from thee." The doctor, after some hesitation, performed the operation and accepted a fee.

Justice Counihan did not decide the specific issue raised in the Ames case, because he found as a matter of fact that the operation was to the healthy twin's psychological benefit, even though it might not be to his physical benefit. After hearing the report of a psychiatrist, the justice decided that this particular operation, even though it meant removing a healthy kidney from a healthy person, was to that person's benefit. He found that the

(See AMES BRIEF on page three)

Model Trial

Five hundred first year men will assemble in the James Barr Ames Courtroom on Thursday, October 17, to watch the annual Model Trial. The Superior Court of the Commonwealth of Ames, County of Pound, will consider the case of *Sanders v. Bennet*, which is now being studied by first year men in their weekly group work sessions.

For the ninth consecutive year, Professor Richard H. Field will act as counsel in the proceedings. Mr. Field, who teaches courses in Civil Procedure, Evidence, and Problems of Trial Practice, will represent the plaintiff. He will be seeking his sixth victory.

Representing the defendant will be Arthur E. Sutherland, Bussey Professor of Law. Mr. Sutherland, who has participated in several Model Trials, must overcome a long-standing jinx: only once during the past eight years has a verdict been rendered for the defendant.

Case in Point

The Board of Student Advisers will present its technicolor movie "Case in Point" this evening at 8 in the James Barr Ames Courtroom. The movie was produced by the Board as part of its orientation program for first year students.

"Case in Point", filmed last year, will illustrate the special problems encountered by a first year student doing research in Langdell Library for his first Ames brief.

Market Authority Explores National Economic Trends

William Gassett, senior analyst for the Eaton and Howard Funds, delivered an analysis of the state of the national economy and the stock market for the Bull and Bear Club's first meeting of the year last Friday afternoon. The meeting was attended by 250 students in the Large Meeting Room of Harkness Commons.

During his address, Mr. Gassett discussed the various factors which institutional investors in general, and Eaton and Howard in particular, consider as determinative of trends in the economy and in financial markets. Then he offered some personal predictions on the course of events in 1958.

The negative factors which he considered relevant to economic conditions today were "tight money", a lack of any shortages in the economy, a lessening in government defense expenditures, and a drop in net foreign investment. Because of the tendency toward over-capacity in industry, Mr. Gassett expected business spending on plant and equipment to level out during the fourth quarter of this year, and even to decline in 1958. The speaker declared that "tight money" will have a deterrent effect on capital expansion, since corporate liquidity is at a lower level than at any time since the end of World War II.

Economic Indicators

As further symptoms of this "topping out" in the economy, Mr. Gassett mentioned the rather high level of business and consumer inventories and the downtrend in industrial commodities. A last, possibly unfavorable factor that he foresaw was the imminence of many new and important labor contracts in the coming year.

On the positive side, the analyst discussed such factors as a lack of any serious maladjustments in any major industry, a greater awareness of business that possible imbalances may occur, the presence of built-in government stabilizers such as unemployment compensation, a probability of a tax cut, and a possibility of

Champlin To Give Research Lecture

Next week first year men will be initiated into the intricacies of legal research in preparation for their first appearance before the courts of the Commonwealth of Ames.

The West Publishing Company's annual lectures on legal research will be delivered by Ellis E. Champlin, a representative of the company, during the week of October 7 through 11 at 4 each afternoon in the James Barr Ames Courtroom. These lectures are open to members of all classes but will be especially valuable to first year men, according to John E. Merow, 3L of Little Valley, N. Y., chairman of the Board. Informative literature on legal research will be distributed at the lectures.

The Advisers have also announced for second year students that the docket for rounds one and two of the Qualifying Round will be posted today. The facts for round one also will be issued today.

Bay State Legislators Pass Uniform Commercial Code

On Saturday, September 21, Governor Foster Furcolo signed into law House No. 130, and Massachusetts joined Pennsylvania as states which have adopted the Uniform Commercial Code. A Recess Commission has been set up to study the bill and suggest amendments. The Code will not take effect until October 1, 1958.

Professor Robert Braucher, one of three Massachusetts Commissioners on Uniform Laws, expressed the hope that other states will follow the lead of Massachusetts and Pennsylvania. The Code has already been passed by one branch of the Indiana legislature, and studies of the Code are underway in several other states.

Preparation for the Uniform Commercial Code began in 1940 when the National Conference of Commissioners on Uniform Laws appointed a committee to revise the Uniform Sales Act and to consider the progress of a federal sales act being proposed by a New York group.

The American Law Institute soon joined the venture, and soon all the uniform commercial laws were being considered. A total of \$400,000 was spent in drafting the new Code.

The net result was a recodification of the subject matter of a whole series of uniform laws prepared by the National Conference. Among these are the Uniform Sales Act, the Negotiable Instruments Law, the Bank Collection Code, the Bulk Sales Acts, the Uniform Warehouse Receipts Acts, and the Uniform Bills of Lading Act.

The Code was completed in 1951, and was approved by its sponsors and the American Bar Association's House of Delegates. In 1953 it was introduced simultaneously into the legislatures of Massachusetts, New York and Pennsylvania.

The Pennsylvania legislature enacted the Code to take effect on July 1, 1954. In Massachusetts it was referred to a Recess Commission, while in New York it was referred to the Law Revision Commission of that state.

In 1954 the Massachusetts Commission, by a vote of 6 to 3, recommended



Robert Braucher

immediate enactment, and a volume of annotations was thereafter prepared. However action was held up to await the results of the New York study, which was costing that state more than \$300,000. The New York Commission finally approved the project as a whole, made a number of criticisms, and recommended a com-

(See CODE on page four)

Recent Litigation Over Girard Fund

In the latest episode of the Girard College case, the Pennsylvania Orphans' Court for Philadelphia has ordered that the Philadelphia Board of Trusts be removed as trustee for the College, and that a private trustee be substituted. The purpose of this action, taken on September 11, was to remove the administration of the trust from the reach of the Fourteenth Amendment and permit the institution to continue on a segregated basis.

By his will probated in 1831, Stephen Girard left a trust fund to maintain a school for "poor white male orphans," naming the City of Philadelphia as trustee. The city's Board of Trusts has administered the fund for many years. In 1955 two Negroes, meeting all qualifications except that of color, applied for admission. Upon their rejection, they petitioned the Orphans' Court to direct the Board to admit them, contending that their exclusion by the Board violated the Fourteenth Amendment.

State Courts Reversed

The Pennsylvania Supreme Court affirmed the action of the Orphans' Court in denying the petition. In *re Girard's Estate*, 386 Pa. 548, 127 A.2d 287 (1956). In a per curiam decision last April, the United States Supreme Court reversed the Pennsylvania courts. *Pennsylvania v. Board of Directors of City Trusts of Philadelphia*, — U. S. —, 77 S.Ct. 806 (1957). The Court held that "The Board which operates Girard College is an agency of the state of Pennsylvania. . . . Such discrimination is forbidden by the Fourteenth Amendment," citing *Brown v. Board of Education*, 347 U. S. 483 (1954).

The case was remanded to the Pennsylvania Supreme Court, which remanded it to the Orphans' Court on June 28. Pennsylvania adheres to the

(See GIRARD on page four)

District Attorney Discusses Experiences in Local Office

By JAMES L. O'DEA, LL.B. '48

District Attorney, Middlesex County, Mass.

The office of District Attorney presents an opportunity to the lawyer, unique, exciting and challenging.

Every student of the law knows that the district attorney is the focal point for the administration of justice in his district. He is, in short, the public prosecutor who appears on behalf of the people of his district to bring offenders to trial and secure their conviction and punishment. Generally unappreciated is the fact that

"the duty of a district attorney is not merely to secure convictions. It is his duty to secure them with due regard to the constitutional and other rights of the defendant. It may even become his duty in some circumstances to direct the attention of the court to evidence favorable to the defendant." *Smith v. Commonwealth*, 331 Mass. 585, 121 N. E. 2d 707 (1954).

His duties are, then, in very large part, quasi-judicial. "They are of the most delicate nature. They demand of the holder of the office the exercise of a high degree of discretion and sensitive moral judgment upon the conduct of others." *Attorney General v. Flynn*, 331 Mass. 413, 120 N. E. 2d 296 (1954).

Broad View

More than this, the district attorney is the one person in a position to see the crime problem as a whole, its incipency in groups of unsupervised, undirected juveniles, its toll in life and property in the community, the courageous and methodical work of the police, the preventive efforts of the social agencies, and the eventual efforts at rehabilitation. He is, therefore, concerned with the whole proc-



James L. O'Dea

ess by which society deals with crime. It is in this area that the district attorney has an opportunity, indeed an obligation, to assume constructive leadership, not merely of that part of the process which brings offenders to

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Too Much, Too Late

Hindsight is usually much easier to come by than foresight. Yet it is through the past that we can discern our errors, and avoid them subsequently. The recent events at Little Rock serve as a lesson for both sides in how *not* to handle similar situations which will arise in the future.

It is generally agreed that the enforcement of domestic law and order is neither the ordinary nor the desirable function of regular Army troops. It is true that the shameful events attendant upon the attempt of the nine Negroes to enter Little Rock's Central High School called for forceful action. But the President's tendency to avoid controversial actions as long as possible made the use of Federal troops his only possible recourse under the circumstances.

Had Mr. Eisenhower federalized the Arkansas National Guard as soon as Governor Faubus used them to block the entry of the Negroes, he could have commanded them to carry out the law instead of frustrating it. Any disobedience of this order would have placed disobedient guardsmen and their Governor clearly in the position of armed rebels, and federal troops would have gone in anyway. The issue would not then have become clouded.

But this was not done. Instead, the President did not federalize the guard until he had brought in elements of the 101st Airborne Division from nearby Kentucky. This importation of federal troops into Arkansas has fitted in nicely with Governor Faubus' catchphrases such as "the imported federal judge". It has alarmed many Southern moderates, some genuinely concerned with the issue of states' rights. And it has furnished ammunition for other Southerners who call for unyielding resistance against integration.

This attitude is illustrated by less dramatic events elsewhere. South Carolina, like Virginia, threatens to remove state financial support for any school that integrates. In Texas, where 122 school districts had voluntarily integrated, the legislature has prohibited the extension of integration without local referendum.

Rigid Attitude

In a speech at Bennettsville, S. C., last week, one of the most distinguished Southern statesmen, James F. Byrnes, gave one view of this resistance. "The people of the South deplore violence. It helps no cause. The United States Government has the military power to enforce the orders of its courts. The people do not speak or think of resisting the armed forces but they know the armed might of the United States Government cannot change the hearts and minds of the people. Whenever the tanks and guns are removed, there will remain the same determination on the part of the white people to resort to every legal means to prevent the mixing of the races."

Governor Byrnes was careful to use the word "legal". Senator James O. Eastland (D.-Miss.) proclaimed that the President's action "has lit the fire of hate between the races. . . . The use of an army will not win because the soldiers cannot stay in Little Rock all the time."

Now a new string has been added to the bows of Southern radicals: the picture of a

Gallery



Fleming James, Jr.

Continuing a policy of bringing several well-known professors to the Law School for one-year visits, Dean Erwin N. Griswold has arranged a form of exchange with the Yale Law School. Professor Fleming James, Jr., Lafayette S. Foster Professor of Law at Yale, is spending the year at the Law School while Professor Benjamin Kaplan is on leave to teach at Yale.

Professor James brings to the faculty a distinguished background in the fields of torts and procedure. His interest in torts and procedure goes back to his work as counsel to the New Haven Railroad just after his graduation from Yale Law School in 1928. It was during that period that he established an outstanding reputation as a trial lawyer; and it is not too unusual for a railroad lawyer to be involved in a few personal injury cases.

Teaching, however, appeared to be a more challenging field to him and the return to Yale was welcome when the invitation by Dean Charles Clark came in 1933. Like many other teachers in the law, he began teaching a subject which was somewhat new to him—insurance. Soon came the entry into the teaching of torts. Some time later, he co-authored a casebook with the late Dean Harry Shulman: Shulman and James, *Cases and Materials on Torts*.

Professor James began work on a definitive treatise on torts in 1947. A joint effort with Professor Fowler Harper of Yale culminated in the publication of a three volume work, *The Law of Torts*. The work was divided equally between the two; each assumed responsibility for particular sections and topics. Professor Harper covered volume one and chapters 14 and 30 and Professor James the remainder.

Another well known case book which was used for many years in the field of civil procedure was that co-authored with Professor Thurman Arnold. It is possible that a new case book on procedure may be a future project for Professor James.

The current year at Harvard is the first departure from the Yale Law quad for Professor James since World War II. From

bullied South, which wants only to maintain its traditional way of life. This argument may not impress the Ivy Leaguer or the Midwesterner, but it is not without effect in the South, as Federal troops stand guard in Little Rock.

There are those who maintain that the only solution for this national problem is to use troops throughout the South to compel immediate compliance with the Supreme Court's decision against segregation. They lose sight of a lesson of history: democracy cannot function successfully without the consent of the governed.

Others deplore the use of force by the federal government under any circumstances. Men such as Orval Faubus, who spoke of "shiny, unsheathed bayonets", were strangely silent when Negro newsmen were kicked in the stomach by brick-wielding rabble-rousers.

It should not be forgotten that the Little Rock School Board had some time ago worked out a scheme of gradual integration, extending to 1962, which had received the approval of the federal courts. There is more reason to attribute these disorders to "Faubus fallout" than credit them to "Faubus foresight."

Under conditions existing on September 24, President Eisenhower had no choice but to send troops to Little Rock. But these conditions might never have come about if swift action had been taken to halt the flouting of the law of the land by the Arkansas National Guard, under the command of Governor Faubus.

The principal lesson which should have been learned by the Administration is that when such defiance occurs again—as is quite possible—action should be more prompt so that it may be less drastic.

1943-45 he served as the director of the Litigation Division of the Office of Price Administration and worked with several Harvard Law professors including Professors Cavers, Field, and Hart. He also worked with Professor Freund, who was in the Solicitor General's office at the time.

Before the war Professor James had worked closely with a small group of New York lawyers in the New York Law Society. The group was mainly interested in the promotion of procedural reforms. One of the contributions of the Society was a history of the New York court system prepared for the 1938 Constitutional Convention hearings.

More recently his time has been devoted to the Connecticut State Board of Labor Relations. At present he serves as chairman of the group. The functions of the Board are similar to those of the National Labor Relations Board.

Although there have been just two weeks of classwork, Professor James is highly enthusiastic about the response and interest expressed by his first year students. "The large classes do not seem too different from those I've had at Yale. Large classes of 125 students were common at one time in first year courses and are still to be found in some of the more popular elective subjects. The Harvard students have been quite responsive and eager, which helps to make teaching a large group more effective."

Asked about the new academic program at Yale, Professor James replied, "Although I personally did not have one of the small first year seminars, they seemed to prove highly successful according to the reports of my colleagues. It seems quite useful to give first year students training in legal bibliography and writing in such seminars in conjunction with assignments of regular material in torts, constitutional law, or contracts. The program goes into full effect this year as fourth and fifth term students do seminar work and a thesis in a divisional area of their choice."

Professor James gives his course in Civil Procedure at 10 a.m. on Thursday, Friday, and Saturday in Austin East, and in Torts at noon on the same days in Langdell South.

—Cottrell

Movie Review

The new English comedy, *Brothers in Law*, opens with a quote from Shakespeare's *Henry VI*: "The first thing we do, let's kill all the lawyers." The rationale behind this sentiment is then duly brought forth in a delightful spoof on the British Bar. The Boulting Brothers, who scored a recent hit with *Private's Progress*, use most of the same cast and a bit of the same formula. The net result is not in the same class with several other English comedies which have enjoyed great success in this country, but it nonetheless has great appeal for the law student.

Ian Carmichael, the maladjusted soldier of *Private's Progress*, once again has his troubles, this time as a young barrister attempting to launch a legal career. He struggles through a series of losing cases, emerging victorious only when he is handed a rather shady client who is proficient at giving rather than receiving legal advice.

Richard Attenborough, Carmichael's smooth-talking companion, does an adequate job portraying the youthful barrister who thinks he knows all the ropes. He is at his best when pursuing his wig, which had floated from a window sill and landed atop a hearse.

Jill Adams, who seems to be appearing in every recent English film, provides the romantic interest, and has very little to do except look beautiful.

Miles Malleon, as the established barrister for whom Carmichael and Attenborough work, manages to steal most of his scenes by his appearance alone. He seems to have come straight out of one of the cartoons hanging in the corridors of Langdell Hall.

As a satire on the British bar, *Brothers in Law* is an exceedingly funny film. As long as Carmichael is in court, whether he be before the Lord Chancellor or in the "Old Bailey," the level of comedy is high. But when focus is shifted away from the legal aspect of the plot, the humor wears thin. Carmichael trips, stumbles or bumps once too often. Fortunately, this does not sufficiently detract from the general excellence of the legal spoofing.

Also some serious consideration is given to the very real problem concerning the barrister's need for some sort of independent income at the onset of his career. This is the one difficulty Carmichael faces which really isn't funny.

Brothers in Law, although of general interest to all law students, will strike closer to home in the case of third year students, who may well picture themselves in many of Carmichael's dilemmas. For that reason alone, it is highly recommendable.

A brief comment may not be amiss concerning the accompanying cartoon. Bugs Bunny and Elmer Fudd engage in a take-off on Wagnerian opera, which is far superior to their run-of-the-mill romps. (*Opens Sunday at the Exeter Theatre.*)

—Page

Current Case

The state of Missouri has broadened the scope of admissibility of evidence in criminal cases. Deciding *State v. Kollenborn* on September 9, 26 U. S. LAW WEEK 2130, the state's high court was faced with a situation where the testimony of a wife was essential to convict her husband for unlawfully injuring their five month old child.

The case arose under a Missouri statute which provides that "If any mother or father of any infant child under the age of sixteen years . . . shall unlawfully and purposefully assault, beat, wound or injure such infant, whereby its life shall be endangered or its person or health shall have been or shall be likely to be injured, the person so offending shall, upon conviction, be punished by imprisonment. . . ." MO.STAT.ANN §559.340.

Generally, the testimony of one spouse against another is inadmissible over objection in criminal proceedings, where one is charged with a crime against a third person. Missouri adhered to this doctrine in *State v. Willis*, 119 Mo. 485, 24 S.W. 1008 (1894), and extended it shortly thereafter to forbid a divorced spouse from testifying as to statements made by the defendant during their marriage. *State v. Kodat*, 158 Mo. 125, 59 S.W. 73 (1900).

In *Kollenborn*, however, the court held that testimony of the defendant's wife against him was admissible over his objection. The court distinguished the "broad statements" in the *Willis* and *Kodat* cases, but cautioned that it did not intend to lay down a new policy applicable to civil litigation between spouses for negligence.

Presiding Judge Henry I. Eager wrote for the court, "The present offense can well be classified as one against the marital status, within the authorities using that test as a guide. We hold that every reason of public policy and true necessity which permits the wife to so testify in the event of a personal injury to herself, applies equally here. . . . It is, in our opinion, contrary to all principles of morality and justice to close the mouth of the only witness in such a case as the present. What is not good sense should not be the law."

Sub Judice

(The following item appeared in the *Fairbanks, Alaska, News-Miner* on April 16, 1957. It was forwarded by Martin Mushkin, LL.B. '56, a former member of the RECORD now serving in Alaska with the United States Army.)

A district court jury quickly decided last night that a lady of the evening has a right to collect her price even if she has to use a whiskey bottle to do it.

The jury acquitted Janis Barroga of assault with a dangerous weapon in the clubbing of Leon S. Cheek, a soldier stationed at Fort Greeley.

Miss Barroga, who has been in court before on charges of soliciting, took the stand yesterday to tell that she bopped Cheek with an empty whiskey bottle when he refused to pay for her favors.

Miss Barroga, a rotund armful of woman, looked the jury right in the eye as she told her troubles. The man, she said, had done business with her but refused to pay the fixed price of \$20. She was sporty enough to knock the price down to \$15, she said, since the man was in military service, but he had quibbled and offered only \$10. In an effort to collect the debt, she had slugged him with the bottle and he had fled the premises.

Cheek was battered about the head and hospitalized following the fight in which the two heavyweights crashed onto a bed in Miss Barroga's cabin and broke the bed.

It was the debut in district court of Mrs. Paula Tennant, assistant district attorney handling her first case on her own. District Attorney George Yeager was busy with grand jury sessions.

A spattered door from Miss Barroga's home was brought into court as a Government exhibit but was tossed out when the Government failed to prove what kind of blood, if it was blood, had spattered the door.

Defense Attorney Everett Hepp had questioned arresting officers about statements that there was blood in Miss Barroga's home and on the steps.

Hepp, co-counsel with R. J. McNealy, demanded to know if the stains were human blood and if they were human blood, whose blood it was.

City policeman Bob Nearing said that in his opinion the stains looked like human blood but he didn't know whose blood it was.

"It could have been a dog's blood," Hepp asserted.

The door was removed from court during the jury's absence.

Hepp also told the court that Miss Barroga had taken necessary steps to collect a just debt, the same as if a customer had ordered a sack of groceries, then refused to pay for the merchandise.

Miss Barroga, dressed tastefully in a high-necked blue blouse and a dark skirt, was found innocent at 7:40 p.m. last night after the jury went out at 5 p.m., had supper, then returned their verdict.

O'DEA

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justice, but even more important in the mobilization of expert and community forces for prevention and for eventual rehabilitation. Here, he is in a position to make a real contribution to cutting down the cost in money, life, property and, perhaps most of all, in shattered lives and wasted human capacities which crime imposes on our society.

The work of the district attorney bears little resemblance to the "G-man" image exemplified in radio and television dramatizations. As the departmental head of a staff of investigators and lawyers, he is an administrator and his most time-consuming duties are at his desk and in the courtroom. Like the head of a private law firm, he tries to run his organization efficiently and economically, but must lay even more stress on the development of administrative procedures, since, in and of itself, this can indirectly affect the crime pattern.

Working together with a staff of lawyers gives opportunity for regular discussion of trial techniques which must be constantly re-examined. The exchange of ideas leads to the exploration of various legal approaches, which can often mean the difference between conviction and acquittal. Hence, the district attorney and his staff enjoy a practical, realistic learning process which is invaluable to any lawyer.

Archaic Procedures

As a legislator, and as a lawyer in private practice, I became aware of the archaic procedures which gave rise to the tremendous backlog of cases in the criminal courts, of the hours of travel time for police and lawyers to confer with the district attorney's office, of the dearth of legal representation for indigent defendants, of the enormous amount of money given to families on welfare. As a district attorney, I found myself in a position to do something about these things.

A prompt trial is desirable not only to serve the ends of justice, but also to prevent the lapse of time which allows witnesses' memories to dim and important factors of evidence to be lost. It was found that the implementation of a weekly list system (instead of a daily one) by which all cases to be heard for the week "called" for trial produced an immediate diminution of a very serious backlog of cases which had meant months between arraignment and trial. Now, "pleas" are entered in much greater number than before and, incidentally, considerable time is saved by civilian witnesses and defense counsel.

The innovation of a pre-trial conference procedure between defense counsel and prosecutor further increased the number of pleas and, within nine months, the backlog of some ten years' duration has been cut by a third. Thus, offenders are on notice that they will not gain by the "long wait".

In a district which is the largest in the Commonwealth, some police and civilian witnesses must travel as long as an hour's drive by automobile to the district attorney's office. By establishing a branch office in the southern part of the district, we have brought the office closer to the police, to defense counsel, and to the public.

Law Wives...

On Wednesday, October 9, Mrs. Erwin N. Griswold will give a tea for wives of law students, faculty wives, and women students enrolled in the Law School. The tea will be in the Large Meeting Room of Harkness Commons from 4:30 to 6:30 p.m., according to Mrs. Truman S. Casner, president of the Law Wives. "Everyone has been invited whose name and address is available; however, if any wife or woman student has not received an invitation, she will be more than welcome," Mrs. Griswold said.

and have saved time and money for all, as well as having effected substantial savings in travel and witness costs. So successful has this operation been, that plans are now being made for another branch in the northern part of the county.

In one city, we have instituted a pilot project designed to bring deserting fathers back into the jurisdiction. The amount of money being spent on this type of welfare is appalling. By working out of a fiscal arrangement between police and welfare agencies, these deserters are being brought back, prosecuted quickly and stiff sentences recommended. Thus, this group in society is on notice that it will be preferable to accept their responsibilities. Our consideration here is not only for the social value, but for the harassed taxpayer who has enough trouble supporting his own family.

We have already had one group of third year law students serve as unpaid part-time law interns and the second group has just started on our fall program. Each intern is assigned to an assistant district attorney to whom he reports and for whom he works. This is invaluable training for the interns and of real assistance to the assistants. We are hopeful it may serve to attract some of these able legal fledglings into the field of criminal law or some branch of public service.

During my campaign for this office, I had made it clear that my concept of the job included sponsoring or assisting with constructive programs in crime prevention and had I now no other duties, I could still be fully occupied with such problems as these: handling of juveniles, finding employment for parolees, establishing realistic sentencing recommendations, making recommendations for enlightened probation policies, particularly with regard to juveniles and youthful offenders, providing counsel for indigent defendants, educating the community on the resources of their available agencies, psychiatric services to defendants, particularly the repeaters — to name the more conspicuous.

Time and Knowledge

These, obviously, required more time and more expert knowledge than I had at my command. There are, fortunately, in each of these difficult fields, recognized experts who were willing to be brought together into an Advisory Committee to the District Attorney. In the few short months since the committee was formed, members have been working on plans which should prove of inestimable value in approaching these problems. It is broken down into small groups, each working on projects assigned to them by the district attorney, and is presently exploring as one of its major projects, a statistical survey of crime, with a view towards implementing a pilot project for crime prevention in an area shown to have a high crime incidence.

Not only in this committee, but also in other ways, I have been fortunate in being able to draw upon the great interest of the public in crime prevention and the selflessness and devotion of many citizens.

We have been able to establish a juvenile panel by which a program is charted out for youngsters who can better be handled by a program at home, rather than in an institution. The panel, which includes a clergyman of the child's faith, a social worker, an educator, a probation officer, a businessman and a housewife, sits down with police, parents and child and works out a program. The progress of the youngster is carefully watched. If the program is not successful, the case is marked up for trial quickly and the youngster is dealt with in regular fashion. We have been heartened with the results so far. The panel rightfully feels it has succeeded in setting some youngsters straight by getting them on the right track, and ultimately in their rightful place in society.

For civic groups interested in learning... (Continued on page four)



Arthur E. Whittemore

AMES BRIEF

(Continued from page one)

psychological effect of the suffering or death of one twin would result in much more harm to the other twin than the physical risks of the operation.

Justice Coughlin also ruled that the 19 year old twin was of sufficient understanding to realize what would be happening to him.

Subsequently, a second kidney case was decided by Arthur E. Whittemore, LL.B. '22, Associate Justice of the Supreme Judicial Court of Massachusetts in accordance with the holding in *Masden v. Harrison*.

In *Huskey v. Harrison*, No. 68666 Equity, the parents of identical twins brought a petition for a similar declaratory decree against the same doctors. Justice Whittemore ruled that the petition presented a proper case for a declaratory decree, and proceeded to follow *Masden v. Harrison* in allowing the operation. The testimony of a psychiatrist was also heard in this case.

The full bench of the Massachusetts Supreme Judicial Court does not sit during the summer months, but each week a single justice sits to hear cases over which the Court has original jurisdiction. In the kidney transplant cases, involving a petition in equity for a declaratory decree, the Supreme Judicial Court has concurrent original jurisdiction. The case was decided almost immediately after its presentation because of the critical nature of the illnesses.

Massachusetts is the only state in which this type action has been brought because the Peter Bent Brigham hospital is the only place in the United States, if not the world, where this type operation can be performed.

It is expected that the procedure of the *Masden* and the *Huskey* cases will be followed in subsequent kidney transplant operations.

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New Competition Announced For Essays on Military Law

An annual competition designed to encourage publication of articles in the field of military law has recently been initiated by the Institute of Military Law, Department of the Air Force, according to a release from the office of Captain John W. Fahrney, USAF, Executive Secretary of the Institute.

The prize, consisting of a Certificate of Merit and a cash award of \$50, will be awarded for an outstanding article contributing to professional thought on some phase of military law published during the preceding calendar year. The Institute will also award three certificates of honorable mention. Articles submitted during 1957 will be eligible for this annual award.

Rules governing the competition are as follows:

1) In order to enter, the author should submit a published copy of his article to the Annual Award Committee, Institute of Military Law, Office of the Judge Advocate General, Department of the Air Force, Washington 25, D. C., during the calendar year in which the article is published. The copy so submitted will become the property of the Institute and will, at the conclusion of the competition, be placed on file on the shelf of materials, Institute of Military Law, in the Army Library.

2) There are no requirements as to length or subject matter, except that the article must deal directly with military justice, military affairs, procurement, or some other aspect of military law. The Annual Award Committee shall be the final judge in this respect.

3) No member of the board of governors, the Annual Award Committee, or elected official of the Institute of Military Law is eligible for competi-

tion for the annual award during the period of his service in such office. An entrant need not be a member of the Institute or the military service.

4) The annual award will be announced at the earliest opportunity following the end of the competition period of the preceding calendar year.

The Institute of Military Law is a voluntary organization of members of the legal profession who are interested in scholarly studies in the field of military jurisprudence. It is not official in character, and membership has no relation to military grade or rank. Membership is by nomination, and is limited to those who have made substantial contributions to legal thought in the field of military law.

The Institute has its headquarters in Washington, D. C., and each year elects a board of governors from its membership. A majority of the present board are judge advocates or legal specialists in the Armed Services stationed in Washington.

Exams...

Midyear examinations for second and third year students will begin one week later than last year. The first day of testing will be next January 20; last year, examinations began on January 14.

Students enrolled in Professor Lon L. Fuller's course on Jurisprudence normally are tested earlier in the month on the basis of a "take-home" essay question, for which forty-eight hours are allotted. The date of Professor Fuller's examination has not yet been announced.

Other examinations will be given according to the following schedule:

Monday, January 20, 9 a.m., Introduction to American Law. 2 p.m., Evidence.

Tuesday, January 21, 2 p.m., Insurance.

Wednesday, January 22, 9 a.m., Anti-trust Law. 2 p.m., Securities Regulation, Unfair Competition.

Thursday, January 23, 9 a.m., Corporations II-A. 2 p.m., Domestic Relations, The Civil Law System, English Legal History, The Legal Process.

Friday, January 24, 9 a.m., Conflict of Laws, Legal Problems of Doing Business Abroad. 2 p.m., Admiralty, Creditors' Rights, Comparison of Soviet and American Law, American Legal History, Legislation, United Nations Law.

Saturday, January 25, 9 a.m., Taxation (Advanced). 2 p.m., Accounting.

GIRARD

(Continued from page one)

doctrine that if a named trustee is unable to carry out the intent of the testator, another may be appointed by the courts. This was the course taken by the Orphans' Court, 26 U. S. LAW WEEK 2134. The court said, "[The United States Supreme Court] did not rule either directly or indirectly, that the testator's express wishes were to be disregarded and that the two Negro applicants were to be admitted. . . . It becomes the duty of this court to remove [the Board] as trustee and to appoint a substituted trustee which can lawfully administer the trust in the manner prescribed by the testator."

The final chapter has yet to be written, however. Last Friday the Attorney General of Pennsylvania filed a petition asking the Orphans' Court to vacate its order. The petition contends that unless this is done, the \$100,000,000 estate must be turned over to the State.

At the same time, the City of Philadelphia has petitioned the court to reconsider its order. The City was joined in its petition by the Negro youths who have been seeking admission to the school.

Alumni Notes

LL.B. '16 — *Calvert Magruder* of the Law School faculty and Chief Judge of the United States Court of Appeals for the First Circuit, received the degree of Doctor of Laws from Northeastern University last June.

LL.B. '26 — *David F. Cavers*, Fessenden Professor of Law and Associate Dean of the Law School, received the degree of Doctor of Juridical Science from Suffolk University last June.

LL.B. '27 — *Henry J. Friendly* was appointed a director of the New York Telephone Company on September 25. While at the Law School he received the Fay Diploma and was editor-in-chief of the *Law Review*. Mr. Friendly is a partner in the firm of Cleary, Gottlieb, Friendly & Hamilton with offices in New York, Washington and Paris.

LL.B. '30 — *Samuel E. Thorne* of the Law School faculty received the degree of Doctor of Literature from Wesleyan University last June.

LL.B. '32 — *William P. Cairo*, who has been associated with the Electric Storage Battery Company, has just been made Assistant Secretary of that company.

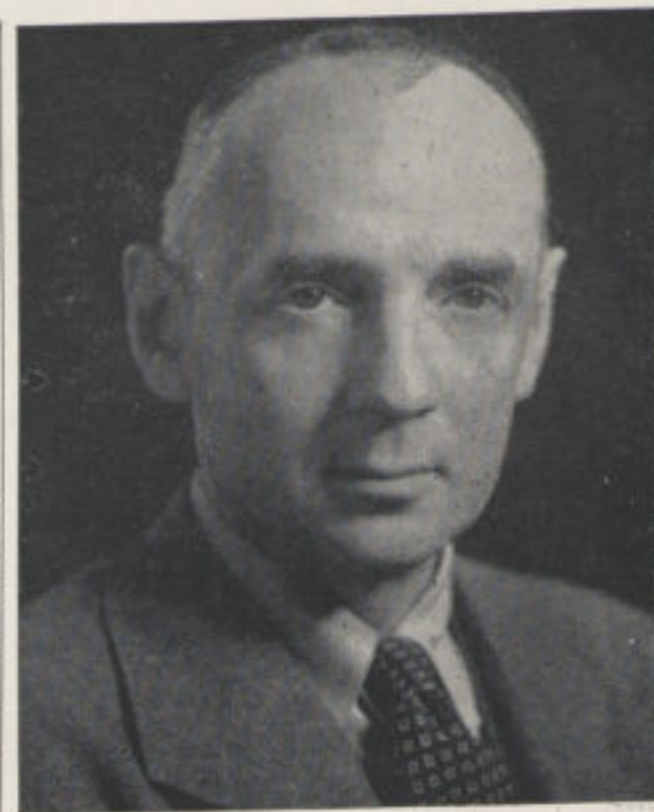
LL.B. '48 — *Harvey Karlin* has moved his offices from Suite 528, Public Service Building, to Suite 908, Public Service Building, 920 S. W. Sixth Avenue, Portland, Oregon.

LL.B. '51 — *Walter B. Bergner* is the Democratic candidate for Judge of the district court of Nassau County. He is a member of the firm of Bergner & Bergner with offices at 11 Park Place, New York City.

The appointment of *Jay J. Newman* as manager of the New Product and Market Development, RCA Components Division, has been announced. His new position will entail responsibility for planning new product programs and development of new product markets. His headquarters will be in Camden, New Jersey.

LL.B. '53 — *Richard L. Ottinger* is a Democratic candidate for supervisor of the township of Mount Pleasant, New York. He served in the United States Air Force after graduation, and since last fall has been with the firm of Kridel, Malone and Spear.

LL.B. '54 — *Robert Goldscheider* has been notified of his appointment to the International Labour Organization in Geneva. He has been named the American member of their International Organizations Division.



Arthur E. Sutherland

Sutherland Talks On Ark. Impasse

Addressing a luncheon meeting of the Law School's Southern Club last Thursday, Arthur E. Sutherland, Bussey Professor of Law, discussed "The Constitutional Crisis in Arkansas."

Professor Sutherland began his talk with an examination of the statutory authority for President Dwight D. Eisenhower's proclamation of September 23, which called upon demonstrators in Little Rock to "cease and desist" therefrom, and to disperse forthwith. The speaker discussed past incidents where federal forces have intervened in state disorders, dating from the Whiskey Rebellion of 1792, and concluded that the President's action had ample Constitutional authority and historical precedent. The meeting adjourned after Mr. Sutherland answered questions from the floor.

CODE

(Continued from page one)

prehensive re-examination and revision. One of the consultants to the New York Commission was Paul A. Freund, Royall Professor of Law.

Meanwhile the sponsors of the Code had been keeping track of the work of the New York Commission, and had also been listening to comments from Pennsylvania people directly affected by the Code. By November 1956, a joint editorial board appointed by the National Conference and the ALI had completely revised the Code. Coordinators of the revision were Professor Braucher and Arthur E. Sutherland, Bussey Professor of Law.

Petition Filed

In December 1956, a petition for the adoption of the revised Code was filed by the Massachusetts Commissioners on Uniform Laws. They were joined by Dean Erwin N. Griswold, Vice Dean Livingston Hall, Professor William E. Hogan of the Boston College Law School (who is now on a Ford Scholarship as a graduate student at the Law School) and faculty members from the Boston University and the former Northeastern Law Schools.

The Code passed both legislative branches, and finally reached Governor Furolo on August 13, 1957. He studied it until September, when the town clerks of Massachusetts almost prevented the bill from going through. It seems that they discovered that a provision in the Code required chattel mortgages to be filed at the State House in Boston, rather than in the local towns. The bill was sent back for amendment on this point, and was finally signed by the governor.

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(Continued from page three)

ing more about the functioning of the criminal courts, we have arranged for a program called a "mock trial" which is set up like an actual trial, in a courtroom atmosphere, with judge, counsel, defendants, witnesses and jury. We have found these mock trials effective in bringing home to the public the functioning of the democratic processes in our judicial system.

An eight-months' training course for police officers interested in working with youngsters has recently been inaugurated by the office of the district attorney. This is sponsored and run by the Judge Baker Guidance Center in Boston, renowned for its place in enlightened child guidance practices. The emphasis on the course is on prevention and includes actual diagnostic conference, investigations of family and neighborhood background of assigned juveniles. It is aimed at giving the trainee a broader understanding of the mechanics and dynamics of delinquency and how it can be dealt with on an effective preventive basis.

The detail, planning and coordination which goes into new procedures and programs is extensive. But these procedures and programs can be measured in terms of specific accomplishment and I am confident will be well worth all the time and work.

Publicity a Problem

The matter of what to tell the press and what not to tell the press presents a knotty problem. The lawyer is more aware of the moral and legal hazards of press comment on pending investigations and trials than others. And, though the press is, too, it has a job to do, and the "no comments" do not give the reporter much of a story. The United States Court of Appeals in *Delaney v. United States*, 199 F. 2d 107 (1st Cir., 1952), was specific on this matter when it stated that "it would have been a gross impropriety on the part of the prosecuting officials if they had made available to the press all this damaging material respecting Delaney."

Though the newspaper publicity was engendered here by the legislative arm of the government, nonetheless the court said: "After the United States has imposed this burden upon the defendant, by making it difficult to determine his guilt or innocence solely on the basis of evidence to be presented at the impending trial, it seems to us neither right, nor in harmony with the spirit of the Sixth Amendment, for the United States to make him stand trial while the damaging effect of all that hostile publicity may reasonably be thought not to have been erased from the public mind." I have been feeling my way on this one, deliberately erring in favor of protection to defendant and Commonwealth by saying as little as possible.

Any assignment a lawyer has is too time-consuming. In the case of the district attorney, it is a justifiable complaint in the extreme. But the administrative and legal experience and training which the district attorney receives in this office is one which will prove him in good stead whether he is interested in remaining in public service or returning to the private practice of law. Also, it represents an experience by which he can measure his own performance and by which he can secure immense personal gratification at having rendered some service to society.

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