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Boston College Law School. Student Bar Association

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## Prof. Grimes Dies

On Sunday, December 15, Boston College Law School lost a good friend, when Wendell Grimes passed away.

Professor Grimes was born April 24, 1917, in Winthrop, and he graduated from Boston Latin School in 1933. In 1938 having graduated from Harvard (cum laude) he went on to Harvard Law School from which he graduated in 1941.

He joined the Boston law firm of Badger, Pratt, Doyle and Badger that year, and later he was employed by the Office of Price Administration, in preparing cases for criminal prosecution.

During World War II, Professor Grimes also served as a Marine Corps machine gunner in the Pacific Theater, on both Guam and Iwo Jima.

After his release from the service in 1946, he joined the faculty of Boston College Law School and in 1957 was raised to a full professorship.

Professor Grimes served on the faculty of the law school for more than half of its history, having come to the school when the campus was still located on Tremont Street. He taught many of our graduates Agency, Damages, Contracts, Civil Procedure and Federal Taxation.

Those who had the privilege of being his students, as well as those who had the pleasure of knowing

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## In Memoriam



WENDELL F. GRIMES, 1917-1963

## Wendall F. Grimes Competition Initiated

The first Wendell F. Grimes Moot Court Competition will be held at the law school from February 25 through March 6, according to Kevin Byrne, chairman, and Dean Francis J. Larkin and Professor William F. Willier, acting faculty advisers. The former Bostonia Competition was renamed upon petition of students and unanimous approval of the dean and faculty in honor of the late Professor Grimes who had been its adviser for so many years.

The Competition, as in the past, is open to all second year students. Participants will prepare briefs in teams of two and present oral arguments in preliminary, quarter and semi-final and final rounds. Leading members of bench and bar will hear and decide the oral arguments. The record in the Competition will raise constitutional questions hypothetically appealed to the United States Supreme Court.

Professor Grimes was, at his death, planning reorganization and revitalization of the Competition. Dean Larkin and Professor Willier announced that some of his plans will be carried out immediately and others in the 1964-65 Competition. This year, each participant will receive an engraved medal in recognition of his participation. Winners will receive individual trophies and will have their names engraved on a per-

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# Sui Juris

Vol. 8, No. 4

BOSTON COLLEGE LAW SCHOOL

March, 1964

## Three take Clerkships



L. to R., Norm Jacobs, Joseph Spain, Charles Abbott.

Charles B. Abbott, Norman I. Jacobs and Joseph H. Spain of the graduating class have accepted clerkships.

Charles Abbott of Roslindale has been appointed law clerk to Mr. Justice Whittemore, Associate Justice of the Massachusetts Supreme Judicial Court for the 1964-65 term. A graduate of Northeastern in 1961, Charlie holds a Presidential Scholarship, has been a constant member of the dean's list and is presently the Article and Book Review editor for the Law Review. As an active participant in the Moot Court program for three years, he was a semi-finalist in the second year competition and this year is serving as an advisor for the first year competition.

Norman Jacobs has accepted a one year clerkship with the Chief Justice of the Massachusetts Superior Court, the Honorable G. Joseph Tauro. Norm graduated from Brandeis cum laude with Honors in Politics for a thesis entitled "The Need for Constitutional Reform in Massachusetts." At Law School he was awarded a half-tuition academic prize for his outstanding performance in the fresh-

man class and currently he is the Casenote Editor for the Law Review. Last summer Norm was selected for the legal intern program of the Boston Redevelopment Authority.

Joseph Spain of Troy, N.Y., will clerk for Associate Judge Adrian P. Burke of the Court of Appeals of N. Y. After a year of clerkship he plans to take an associate position with the law firm of Royall Koegel and Rogers in New York City. Joe graduated cum laude from Manhattan College in New York. As a presidential scholar he had the distinction of topping the class standings both in his first and second year. He currently is Editor in Chief of the Law Review.

## Prof. Witherspoon Joins B.C. Faculty

Mr. Joseph P. Witherspoon, Professor of Law at the University of Texas School of Law since 1935, is presently serving as Visiting Professor of Law at the Boston College Law School.

Born in Stamford, Texas, Mr. Witherspoon obtained his A.B. degree from the University of Chicago in 1936, and his LL.B. degree from the University of Texas in 1948. In 1961, Harvard Law School awarded him an S.J.D. degree (Doctorate in Jurisprudence).

An Associate Editor of the Natural Law Forum since 1957, he has also authored two books: "Basic Problems in Jurisprudence" and "Cases and Materials in Antitrust Law." In addition, he has authored numerous articles for legal periodicals in his fields of specialization--Administrative Law, Antitrust Law, Constitutional Law

(Civil Rights) and Jurisprudence. He has served as Chairman of two of the Councils of the Association of American Law Schools and as Chairman of the Jurisprudence Round Table Council in 1959, and of the Legislation Round Table Council in 1961 and 1962. Presently, in addition to having been admitted to the State Bar of Texas, and to practice both before the United States, he serves as a member of the American Society for Political and Legal Philosophy and of the American Bar Association (Administrative Law and Antitrust Law Sections).

He served as Branch Counsel of the Apparel and Service Trade Branches of the Office of Price Stabilization, Washington, D.C., in 1951-52. As legal consultant to Humble Oil and Refining Company since 1957, in 1961 he organized a summer course in Antitrust Law for thirty-two of its lawyers. This same course has since been presented by the University of Texas in the summers of 1962 and 1963. It has been attended by representatives of leading chemical and refinery companies and by major southwestern law firms.

In March he was asked to assist, as a consultant, the Citizens Committee of Austin, which consists of white and Negro citizens, in drafting an ordinance establishing a commission on human relations with authority to deal effectively with problems of discrimination based upon race, religion or national origin. After considerable research, an ordinance was drafted. Mr. Witherspoon assisted the Citizens Committee in explaining this draft to various religious and civil groups in Austin, and in the fall of 1963, presented the ordi-

nance to the Austin City Council. On the basis of this experience, he has recently prepared a paper entitled "Administrative Implementation of Civil Rights: The Crucial Role of Local and State Governments," to be published this spring.

Professor Witherspoon is presently teaching Agency and Legal Process. The latter course is novel in its concepts of what a full legal education should encompass. It might be best designated as "applied jurisprudence," in the sense that it is jurisprudential in its concentration upon the essential nature and problems of law-making, in its development of the purposes of law in institutional settings, in its avowed object to uncover and to subject to critical examination the basic premises that underlie the resolution of legal problems and in pressing the inquiry into fundamental issues of the legal system further than is practical in other courses.

On the other hand, the course departs from the traditional jurisprudence course in which selections of legal philosophers are the chief material for study. It is rather, as Professor Lon Fuller has stated "philosophy viewed through eyes that have seen (and problems that show) how law looks when it comes to cases."

Legal Process attempts to make jurisprudence a living thing and Professor Witherspoon provides the spark. His dynamic classroom approach to the study of jurisprudence as it was meant to be studied is an enriching experience. His presence has lent greater dignity to the name of the Boston College Law School.

## Archibald Cox to Address Forum



Archibald Cox

Archibald Cox, Solicitor General of the United States, will give the first address of the second semester to be presented under the auspices of the Evening Division of the Boston College Law School Forum. Paul J. McNamara, II Day, president of the organization, announced that Cox would speak on "The Government in the Supreme Court" at 8:30 p.m. on Friday, February 28, in the Forum Room of the Law School.

Cox, who was named to his present position by the late President Kennedy, was formerly Royall Professor of Law at the Harvard Law School.

William J. Groom, I Day, general chairman of this Forum presentation, stated that the general public was welcome to attend the address, but that he was particularly anxious to invite the students and alumni to hear Mr. Cox.

# Sui Juris

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## Faculty News

Prof. O'Reilly, Jr.

Professor John D. O'Reilly, Jr. testified before the Committee on Judiciary on January 30, 1964 on behalf of a bill which would change Massachusetts law so that the Commonwealth and its sub-divisions would no longer be immune from tort liability.

Dean Drinan

Reverend Robert F. Drinan, S.J., addressed a National Legal Conference of the Congress of Racial Equality (CORE) February 1, at the Hotel Belmont Plaza in New York City.

He was an observer for the NCWC at the Church-State Symposium conducted by the National Council of Churches in Columbus, Ohio, February 4-7. He was a discussant at a Campus Conference at Mt. Holyoke College on February 9-10. The subject was Race Relations in the North. Father Drinan was in Chicago, Illinois, February 14-19 as a Fellow of the American Bar Foundation, as a member of the Council of the Section on Family Law of the American Bar Association and as a member of the Executive Committee of the American Jurisprudence Society.

On February 25, he spoke to the Race and Religion Conference in New York City.

He published an article on racial imbalance in public schools in "America," February 1, 1964.

Assistant Dean Francis J. Larkin has been elected Secretary of the Young Lawyer's Section of the Massachusetts Bar Association. The Section held its organizational meeting on Wednesday, February 5. The Section is composed of all members of the Massachusetts Bar Association under the age of thirty-seven and will try to help young lawyers in their early years at the Bar.

Prof. Hart

Professor Frederick Hart will visit Sienna, Colgate, Hamilton, Union, and State University at Albany during the week of February 17. As well as interviewing, Mr. Hart will address the student body at Union and at State University.

Assistant Dean Larkin

During January Assistant Dean Larkin visited Brown and St. Michaels. On February 19, Mr. Larkin will speak to the Pre-Legal Society at University of Connecticut. He also plans trips to Merrimack, Colby, and University of New Hampshire.

Prof. Smith

Professor James W. Smith in collaboration with Zolman Cavitch of the Ohio Bar has written a book which is of vital significance to the general practitioner of law in Massachusetts. The book, entitled "Massachusetts Corporation Law with Federal Tax Analysis," extensively treats federal and state income taxation as it affects the formation and operation of corporations in Massachusetts.

Rather than dealing merely with the statutory procedures for organizing a Massachusetts corporation, this book deals extensively with such problems as when tax free incorporation is desirable, how tax free incorporation may be achieved or avoided, how the corporation should be initially financed with maximum tax benefits, under what circumstances the shareholders of the new corporations should elect to be taxed under Sub-Chapter S of the Internal Revenue Code. The authors recognize that these and other matters relating to small closely held corporations are increasingly being handled by the general practitioner rather than the corporate tax specialist. This book, therefore, represents an invaluable aid to the Massachusetts attorney.

Professor Smith was graduated from Boston College in 1952 and received his LL.B. from Boston College Law School 1957. He thereafter received a LL.M. degree in taxation from New York University where he was also a teaching fellow. He joined the faculty at Boston College Law School in September, 1958, and has been teaching courses in Torts, Taxation, Corporate Finance and Advanced Taxation. He has contributed to the tax Law Review of New York University and is currently preparing for his doctoral dissertation for a S.J.D. degree at N.Y.U.

The book, consisting of over 1900

pages of textual treatise and forms sells for \$37.50 and is published by Mathew Bender Co., Inc. of New York and Los Angeles.

Placement

James E. Dowd, Esq. from the Regional Office of the Securities and Exchange Commission was the Forum speaker on February 20 and met with students interested in prospective placement with the SEC.

Professor William J. Kilbourn from Boston University was at the Law School on February 19 and met with students interested in the graduate tax program.

Various major corporations have been contacted regarding prospective openings for lawyers in their legal departments.

## Bar Reviews

To the first and second year law student, and perhaps to a few seniors, the concept of a bar review is a mysterious thing. Questions frequently asked include:

Who gives them, what is their purpose and scope, and what is their value to the student?

The first question is simple. Reviews are given by Professors, Judges or Attorneys, knowledgeable in the law of their forum, who in a relatively short space of time, seek to impart this knowledge to the student.

The purpose is to refresh the student's memory on the substantive law of his state and to place emphasis upon the proper technique of setting forth a concise answer which denotes a recognition of the issues involved in the problem. Although this might at first glance appear equivalent to a normal law school examination, such is not the case. Massachusetts Bar Examiners are interested in Massachusetts law. They are not inter-

ested in the "better view" or in an answer that parrots the majority as opposed to the minority view. Rather, they seek to ascertain whether the student knows the law of Massachusetts.

To this end, reviewers generally dispense bound sets of notes or books which outline the law according to subject matter during class. These notes are carefully explored in lecture fashion. In addition, past bar examination questions are disseminated for the student to answer at home, which the reviewer will later personally criticize or discuss. Some bar reviews stress this aspect almost exclusively.

A long or winter review generally extends from early February to late May, for two or three evenings per week. A short comprehensive review is given immediately prior to the bar examination.

The value of taking a bar refresher, especially the long review, is subject to much debate. Law professors generally denounce long reviews, feeling that they take up too much of the student's time and are merely a redundancy, in light of the short review taken by nearly all students. This argument is countered by the feeling among many seniors to the effect that, by starting their review in mid-year, by the time of the spring review, they will already be well-acquainted with Massachusetts law. Consequently, they avoid last-minute cramming, and can enter the bar examination room with a greater air of confidence, a condition precedent to success.

Prof. Grimes Dies

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the man, were all impressed with his qualities of both candor and virility. It is most appropriate, considering his interest and enthusiasm for the Moot Court, of which he was the faculty director,

that it has been named, "The Wendell Grimes Moot Court Competition."

On December 17, Father John Tobin, S.J., said a Requiem Mass at St. Ignatius for the repose of the soul of Wendell Grimes and almost the entire faculty and student body attended. The following day, December 18, the day of the funeral, classes were suspended at the Law School in honor of Professor Grimes.

To us it must seem futile that a man so young, and who had such great love for life should be taken. But this is only to judge by our lights, and God's ways are not our ways.

The students and faculty of Boston College Law School extend their sympathy and condolences to Mrs. Grimes, her daughter, Martha, and her three sons, Stewart, Michael and Peter, to Professor Grimes' mother, and to all his family.

Grimes Competition Instituted

(Continued from Page 1)

manent trophy to be prominently displayed at the law school. Both second year and third year participants will be honored at a banquet following the conclusion of the Competition. Next year a completely new organizational scheme encompassing all three years of law school is in prospect.

Professor Willier said, "Dean Larkin and I hope to maintain the high level of interest among the students which Professor Grimes had inspired. We are committed to the belief that there is no like experience for the students in any other law school program. Its benefits both during and after law school are immeasurable." Dean Larkin added, "The placement inquiries received by my office frequently include moot court participation as one vital criterion for evaluation of a candidate. This only serves to emphasize the importance attached to the experience by members of the profession."

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# Alumni News



Alumni enjoying themselves at the December 11 bi-monthly luncheon of the Boston College Law School Alumni Association.

**JOHN J. DRUMMEY, '36** - was appointed by Francis Cardinal Spellman as a member of the Board of Trustees of Catholic University of America.

**RAYMOND A. ROURKE, '38** - has been recently elected Vice President of the Revere Sugar Refinery, 333 Medford Street, Charlestown, Massachusetts.

**WILLIAM C. MADDEN, '39** - former Assistant United States Attorney for the District of Massachusetts announces his resumption of the private practice of law in association with James W. Kelleher, 73 Tremont Street, Boston, Massachusetts.

**ROBERT J. DeGIACOMO, '48** - The Boston Globe editorialized on January 21 in a most favorable way about Governor Peabody's appointment of Mr. DeGiacomo as general counsel for the State Department of Public Works. The Globe editorial said that this appointment should be widely applauded and that Mr. DeGiacomo's designation makes available a "top drawer lawyer who is also keenly aware of the department's obligation to the public."



Herbert W. Arnold

**HERBERT W. ARNOLD, '49** - 50 Samoset Road, Winchester, Massachusetts, has been appointed senior patent attorney for Raytheon Company.

He joined Raytheon in 1953 in the digital computer laboratory and held a number of positions in the patent field. Prior to joining Raytheon he was with the Office of Naval Research as a patent adviser and at the Boston Navy Yard as a civilian physicist on work relating to anti-mine warfare.

He is a member of the Boston Patent Law Association, and the Boston and American Bar Associations.



Edmond W. Cattán

**EDMOND W. CATTÁN, '49** - of 3 Peter Cooper Road, New York, New York, has been appointed an Assistant Vice President of The Singer Company. Mr. Cattán is General Tax Counsel for the Company.

He joined the Singer organization in 1955 as an Attorney in the Tax Department. In 1960, he was appointed General Tax Counsel,

and the following year assumed the additional responsibility of managing the Company's Tax Department. In this capacity, he is responsible for advising management on tax policy and planning for all of the Company's activities, both domestic and foreign.

Mr. Cattán also holds an LL.M. degree from New York University Graduate School of Law.

**WILLIAM J. CURRAN, '50** -  
**GEORGE F. McGRATH, '53** -

A new law has been enacted and is being implemented in Massachusetts under the guidance of George F. McGrath, Commissioner of Correction and Professor William J. Curran of Boston University Law-Medicine Institute. This law, Chapter 763 of the Acts of 1963, gives a judge in his discretion the opportunity of employing psychiatric and other aids in connection with persons charged with violation of the narcotics laws.

**J. ELBERT BARIL, '52** - presently Planning Director for the State of New Hampshire, Department of Resources and Economic Development, State House Annex, Concord, New Hampshire.

**WILLIAM E. HOGAN, '53** - of Cornell University Law School will be a visiting professor at Harvard Law School in the academic year of 1964-1965.

**DANIEL J. RYAN, '52** - has been elected Treasurer and Clerk of Boston Fund and Canada General Fund, Mutual investment funds under the sponsorship of Vance, Sanders, & Co. Inc. Mr. Ryan formerly was a partner with Meahl, McNamara & Co. of Boston, certified public accountants.

**JOHN J. SLATER, JR., '53** - was inaugurated in January as the Mayor of the City of Chelsea, Massachusetts.

**RAYMOND A. TERFERA, '53** - has joined the Springfield-Monarch Insurance Companies, Springfield, Massachusetts, as Counsel. He spent four years as an insurance adjuster and five years as a superintendent of claims for other insurance companies before going into private practice with Attorney C. H. Blackall, Hartford, in 1961.

He is a member of Massachusetts and Connecticut Bars, the American Bar Association and the State Bar Association of Connecticut.

**EMILE R. BUSSIERE, '54** - has been elected as County Attorney for Hillsborough County in New Hampshire.

**ERNEST F. ROBERTS, JR., '54** - Professor of Law at Villanova University Law School, has accepted a position as Professor of Law at Cornell University Law School beginning in September, 1964.

**JOHN J. CURRAN, '55** - elected as Incorporator at St.

Vincent's Hospital, Worcester, Massachusetts; elected to Board of Directors, Big Brothers of Worcester County Inc.; elected to Tax Committee, U. S. Chamber of Commerce, Washington, D. C.; elected Chairman, Tax Committee, National Association of Machine Tool Builders, Washington, D. C.

**STEPHEN A. FANNING, JR., '55** - has recently become a partner in the firm of Edwards & Angell, 15 Westminster Street, Providence, Rhode Island.

**ROBERT A. GABRIEL, '56** - of 1 Main Street, Northborough, Massachusetts, is Town Counsel of the Town of Northborough.

**LEO F. GRACE, '56** - is the Secretary-Treasurer and a Director of the Union Federal Saving and Loan Association of Boston.

**GILBERT L. WELTS, '58** - is associated with the International Patent law firm of Young and Thompson, Tower Building, Washington, D. C.

**MICHAEL S. SAHADY, '59** - has been elected to the school committee in Fall River by the greatest majority ever given anyone in his first attempt.



David B. Slater

**DAVID B. SLATER, '59** - has been elected President of Mister Donut of America Inc. Mr. Slater is a specialist in commercial and industrial law and joined Mister Donut in 1959 as director of real estate. In 1961 he was named vice president and the following year became executive vice president.

**WALTER T. EVANS, '61** - has become associated with the law firm of Layne and Gottesman, Pennsylvania Building, Washington, D. C.

**JOHN S. HOLLAND, '60** - participated in a panel on Creditors' Rights at the Mid-winter Meeting of the Bar Association of the State of New Hampshire on January 31 in Concord, New Hampshire.

**PAUL V. KENNEALLY, '60** - formerly of Dover, New Hampshire, has recently become associated with the firm of Badger, Parrish, Sullivan and Frederick, 53 State Street, Boston, Massachusetts.

**RAYMOND I. BRUTTOMESSO, '61** - has recently opened an office for the general practice of law at 40 Main Street, Torrington, Connecticut.

He is also an Instructor of Law and Taxation at the University of Hartford.

**WILLIAM M. BULGER, '61** - has recently been appointed to a Governor's Commission to study Family and Juvenile Courts.

**HAROLD E. CLANCY, '61** - former managing editor of the Traveler, Mr. Clancy was named Executive Vice President and Assistant Publisher of the Boston Herald-Traveler Corp.

**JOSEPH P. WARNER, '61** - taught a course at Boston University Law School during the first semester of the academic year 1963-1964.

**GEORGE S. DAVIS, '62** - has recently opened his office for the general practice of law

at 27 State Street, Boston, Massachusetts.



John S. Gracey

**JOHN S. GRACEY, '62** - formerly of Wayland, Massachusetts, is returning to his Air National Guard Unit at Andrews AFB, Maryland, following his graduation from the United States Air Force technical training course for personnel specialists here.

He was trained to prepare and maintain personnel records and reports and to advise airmen on career development problems.

**EDWARD T. HANLEY, '62** - has been promoted from the position of Assistant Controller to Secretary-Treasurer of the Massachusetts Port Authority.

**RICHARD I. LANDY, '62** - is presently with the National Labor Relations Board attached to the Boston Regional office.

**ALAN B. MILLER, '62** - has become associated with the firm of Emile Z. Bermand and A. Harold Frost, 100 William Street, New York, New York.

**JOHN J. NYHAN, '62** - formerly of Guaranty Trust Company, Waltham, Massachusetts, announces the opening of his office for the general practice of law at Room 212, 600 Main Street, Waltham, Massachusetts.

**WILLIAM E. WHITE, JR., '62** - has become associated with the firm of McGuire, Bakst & Collias, 1 North Main Street, Fall River, Massachusetts. He was also Chairman for the March of Dimes Drive in Fall River.

**J. NORMAN BAKER, '63** - has become associated with the firm of Lillick, Geary, Wheat, Adams & Charles, 311 California Street, San Francisco, California. The firm is largely but not exclusively counsel for west coast shipping concerns.

**RICHARD E. DOHERTY, '63** - has taken a leave of absence from the Bureau of Public Affairs of Boston College to serve as Acting Executive Director of the Boston Metropolitan Area Planning Council. The Planning Council, established by the Massachusetts Legislature last year, is charged with conducting comprehensive planning and research in the Boston Metropolitan Area, reviewing all plans

and projects proposed for the region, and coordinating the plans of the various state and local agencies in the area. Mr. Doherty is also lecturing in Law in the Graduate School of Business of Boston College.

**STEPHEN B. KAPLINSKY, '63** - presently an Army First Lieutenant, has just completed an orientation course at the Finance School, Fort Benjamin Harrison, Indiana.

**JOSEPH H. PORTER, '63** - has recently joined the firm of Guterman, Horvitz & Rubin, 50 Congress Street, Boston, Massachusetts.

**BARRY L. WIEDER, '63** - presently an Army First Lieutenant, has just completed an orientation course at the Finance School, Fort Benjamin Harrison, Indiana.

**DONALD P. WIENERS, '63** - has become associated with the firm of Burke, Monaghan & McGrath, 92 State Street, Boston, Massachusetts.

**ROBERT B. STIMPSON, '63** - has recently been appointed as Law Clerk to the Honorable G. Joseph Tauro, Chief Justice, Superior Court, Boston, Massachusetts.

**JOHN J. CURTIN, '57**  
**ROBERT S. LAPPIN, '59**  
**ROBERT A. GORFINKLE, '60** - have been appointed as part-time instructors at the Boston College Law School for the second semester of the academic year 1963-1964.

## BAR RESULTS

The names of 5 candidates who successfully passed the latest bar examinations were announced Saturday by the Connecticut State Bar Examining Committee. They are:

- Peter R. Blum, '63
- Charles R. Moore, Jr., '62
- Albert E. Nevins, Jr., '62
- John J. Powers, '63
- Paul R. Solomon, '63

## In Memoriam

IN MEMORIAM. The Dean, Faculty and Alumni of the Boston College Law School extend their condolences to the families of: Nathan R. Angoff, '38, April, 1963. Warren U. Ingells, '37, November, 1963. William F. Mahoney, '42, January, 1964.

"If you will study the history of almost any criminal, you will find he is an inveterate cigarette smoker." - Henry Ford.



Charles T. Birmingham, Jr., '43 and Commissioner George F. McGrath, '53 presenting scroll to Daniel G. Holland, '44 for exceptional services rendered the Alumni Association. Presentation was made at the Golden Dome on December 11 at the bi-monthly luncheon meeting of the Boston College Law School Alumni Association.

## Oswald Issues Raised In Grimes Competition

If he had lived, would Lee Harvey Oswald have received a fair and constitutional trial in view of the extensive and unremitting publicity given to the incidents? The Columbia Broadcasting System Television a one hour program in late December devoted to this question. Participants in the first Wendell F. Grimes Moot Court Competition will address themselves to similar issues in a similar case in arguments to be presented February 25 through March 6. Their problem involves an appeal of the conviction of a member of an anti-moon shot organization who was tried for the murder of an astronaut being given a public hero's reception.

The teams of second year students taking part in the Competition are: George Authes and Alan Batchman; Donald MacDonald and Jerry Murray; Aaron Wise and Norman Soloway; Tom Trimarco and Joseph Engler; Stuart Potter and Thomas Collins; Burton Harris and George Ford; Dick Mazow and Nicholas Lisi; Thomas Dorchak and Jerome Frost; Mante and Hudock.

While the teams will present written briefs for only one side of the case, they may be required to argue the other side orally as winners of the earlier rounds are determined. All arguments are scheduled for 8 p.m. on February 25 (preliminary rounds), February 27 (quarter finals), March 2 and 4 (semifinals) and March 6 (finals). All students and guests are invited to attend any of the arguments. Teams, however, may not attend

other arguments prior to their own under revised moot court rules. Since this same rule applies to the first year competition to be held in early April, this will be the only opportunity for first year students to observe arguments in advance of their own.

Judges for the Grimes Competition include (as of January 24, 1964):

**FINALS:** Honorable William F. Smith, Associate Justice, United States Court of Appeals for the Third Circuit; Honorable Francis Bergan, Associate Justice, Court of Appeals for the State of New York; Honorable Francis B. Condon, Chief Justice, Supreme Court of Rhode Island.

**SEMI-FINALS:** Honorable J. Joseph Nugent, Attorney General, State of Rhode Island; Honorable Andrew A. Caffrey, District Judge, United States District Court for the District of Massachusetts; Honorable W. Arthur Garrity, Jr., United States Attorney for the District of Massachusetts; Honorable Raymond J. Pettine, United States Attorney, District of Rhode Island; Gael Mahony, Esq., Special Assistant Attorney General, Criminal Division.

**QUARTER-FINALS - Sumner H. Babcock, Esq., Bingham, Dana & Gould; James D. St. Clair, Esq., Hale and Dorr; John M. Hall, Esq., Choate, Hall & Stewart; Joseph P. Rooney, Esq., Gaston, Snow, Motley & Holt.**

## First Year Officers



Bernard J. Fitzsimmons, Jr., and Charles B. Barnes, Jr.

Elected earlier this year as officers for the First Year Class were Bernard Joseph Fitzsimmons, Jr., President, and Charles B. Barnes, Jr., representative to the Student Bar Association.

Mr. Fitzsimmons is the son of Mr. and Mrs. Bernard Joseph Fitzsimmons, Sr., of Weymouth. He attended Boston College, where he received his A.B. degree in History. While at the Heights he took part in many activities including the Young Democratic Club and varsity baseball.

Mr. Barnes came to B.C. Law from Harvard, where he earned his A.B. degree in Government. He is the son of Mr. and Mrs. Charles B. Barnes, Sr., of Westwood, Mass. Before transferring to Harvard, he spent two years at Colorado College. Mr. Barnes also served two years in the United States Army, having been commissioned a Second Lieutenant following ROTC at Harvard.

Both officers are well satisfied

with the social program being sponsored for the students by the SBA. In talking with the two, both men expressed their desire to see the SBA extend its power into other fields to a greater extent than it has done thus far. Mr. Barnes was mostly interested in the possibility of law student dorms, and seeing that the cafeteria was kept open evenings to provide service for those remaining to study at the library. Mr. Fitzsimmons has hopes that the SBA will follow through with its intention of initiating law clubs and seminar groups where the students could get together and discuss problems which have arisen in their classes and, through discussion, better master the problem.

Both restated their intention to serve their classmates to the best of their ability, and asked these classmates to come forward with any suggestion or any motion which they would like put before the Student Bar Association.

## Three Seniors Receive Appointments



Paul E. d'Hedouville, Jerome H. Soames, Nelson Ross.

Paul E. d'Hedouville of Atlantic City, N. J., has been appointed to the Attorney General's Honors Program in the Antitrust Division of the Dept. of Justice. He is a holder of a Presidential Scholarship at the Law School, Case Note Editor of the Law Review and was a semi-finalist in the Wendell Grimes Moot Court Competition.

He received a B.A. (c.L.) from La Salle College in Philadelphia and was valedictorian of the graduating class. Throughout last year he clerked at the firm of Bingham, Dana and Gould. Presently he is married to the former Janet Christopher.

Jerome H. Soames of Marblehead has been appointed to a position in Los Angeles with the National Labor Relations Board. He graduated from Colgate University in 1961 and as a Presidential Scholar at the Law School Jerry has been active in the Forum and Moot Court, receiving an award for the best brief in the first year competition.

Nelson Ross of Brockton has accepted an appointment with the National Labor Relations Board serving with the General Counsel. He graduated from Boston University and is presently Legislation Editor for the Law Review.

## "Smokey" Strikes Again

by Mike O'Donnell  
(Reprinted from the Catholic University's Legal Issues)

When a visitor to a National Park is bitten by a bear while traveling through the park, must the government answer for the damage done? This is the gripping legal question which was recently fought to a conclusion in a federal court in Nebraska.

The plaintiff, Harry Ashley, was traveling through Yellowstone Park with his wife and three sons. He was suffering from hay fever, so he took a healthy dose of "Benadryl", which soon made him sleepy. He turned the wheel over to his wife, pulled his hat down over his eyes, draped his arm out the window, and settled down for a pleasant snooze--so he thought. But fate had an unkind blow in store for Mr. Ashley. His car was soon caught in a "bear jam", a traffic snarl peculiar to Yellowstone Park. This phenomenon results when bears block the road, or when a number of cars stop to watch bears disporting near the road.

While his car was trapped in this jam, Mr. Ashley had the singularly terrifying experience of awakening to find his arm, which had been hanging out the window, engorged to the elbow in the mouth of a bear, which was chewing it with relish. The details of extracting the arm from the bear's mouth are, the judge tells us in his opinion, unimportant, but one can suppose that they were quite important to Mr. Ashley. His pain and suffering, not to mention medical expenses, were extensive.

The bear apparently was either judgment proof, or had fled the jurisdiction, because the plaintiff decided to seek his remedy against the government. In framing his complaint under the Federal Tort Claims Act, Mr. Ashley pitched it on the level of "respondet superior." He hoped that the judges would be ready to agree that this bruin had been hired by the government "to amuse and delight the

public with his antics", and was engaged in actions within the scope of his employment in biting the plaintiff. The complaint alleged, in support of this contention, that "many spectators were in fact amused and delighted by the incident in question, and took photographs while cheering said plaintiff's efforts to extract his elbow from the bear's mouth."

The government went to bat on the idea that the bear was, in the classic language of Baron Parke, "on a frolic or detour of his own" at the time of the biting. The answer also raised a defense of contributory negligence "per se", claiming that Mr. Ashley had violated the park regulation against feeding the bears when he allowed this one to munch on his elbow. The government also counter-claimed for injury to the bear, namely, indigestion, caused by plaintiff's feeding the bear "certain filthy, noxious and poisonous matter, to wit, the flesh from his hand, wrist, arm, or elbow." The answer also threw in a general denial, laches, fraud, truth, "non assumpsit", and non sequitur. It is rumored that the Attorney-General himself was responsible for this answer.

These pleadings clearly raised the issues, and the case proceeded to trial before Judge Van Pelt. The trial produced some legally noteworthy moments. The most stirring of these occurred during the cross-examination of the plaintiff by counsel for the government. Mr. Ashley was backed into a corner, and forced to make the damaging admission that he had not noticed the sex of the bear which had eaten his elbow. One can suppose that the next question was something like "Well then, Mr. Ashley, is it not quite possible that you imagined the whole incident?"

At the close of testimony, Judge Van Pelt directed a verdict for the government, on the ground that the "discretionary function or

duty" of a government employee cannot be the basis for a claim against the government. Clearly, said the judge, biting visitors is a "discretionary function" of bears, and so the government was entitled to a verdict.

The casual reader will, no doubt, assume that such "government-bearbite" case is unique in the law, but this case was preceded by two very similar cases. *Williams v. U.S.* is a 1961 case which is not reported anywhere, which seems very wise. *Claypool v. U.S.*, 98 Fed. Supp. 702, is another. Both found the government liable.

The serious student of the law should seriously ponder the question of whether Ashley, in light of these cases, represents a new judicial trend in bearbite cases or whether the older precedents will be followed, and Ashley will be "a mere derelict upon the waters of the law."



Charles T. Birmingham, Jr., '43, President of the Boston College Law School Alumni Association, and Edmund M. Hurley, '63, nephew of the late Leo A. Reed, '43, respectfully gaze upon the portrait of Mr. Reed. This portrait will be established in the B. C. Law Library as a tribute to the distinguished deceased alumnus.

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