

## Princeton Debate Postponed

### New Date Is February 9th

Professor Frederick A. Groel, coach of the varsity debating team announces that the annual debate that was scheduled Princeton University for Friday, January 12th has been postponed due to an inability to secure the Old First Presbyterian Church for that evening.

However, the debate will take place at the above-named church on Thursday evening, February 9th, 1934, at 8:30 P. M.

The topic will be, "Resolved, that American citizens join in a boycott of German goods". The Oxford plan of debating will be employed.

The team representing New Jersey Law School is composed of Edward Barker '34, Edgar Donahue '36, Milton Valentine '34 and Milton Yarow '34.

The reputation of the debating team of New Jersey Law School has induced a number of challenges from several leading universities in the metropolitan area.

## Jack Steier, Senior Passes Away

Jack Steier, a member of the Senior Morning class, died at the Barnett Hospital, Paterson on December 28, 1933. He had suffered from a blood disease about six months.

Mr. Steier, a resident of Clifton was 22. He had attended Clifton High School and Dana College. He entered New Jersey Law School in 1931.

He was active in extra-curricular activities while attending high school and college. He also was a member of Wig and Mace.

Mr. Stein was a staunch Republican, and was being considered as a future candidate for councilman in Clifton.

He had surprised the greatest hopes of his doctors by his great struggle against great odds, and was considered on his way to recovery when a sudden relapse set in.

He leaves his parents and a sister surviving.

## Students Reject \$5. Activity Fee

### Proposal Fails To Get Majority Vote

During the week of January 8th, the Class Organizations Committee, headed by J. Leonard Weiss conducted a referendum vote by which the student body rejected a proposal to increase the student activity fee from \$4 to \$5, and to place the additional monies, to be collected with the third quarter's tuition, in a fund to defray the expenses of a dance under the auspices of the Student Council, which every member of the school, accompanied by his or her guest, would be privileged to attend without further charge. The proposal offered by the Student Council, would have become operative if two-thirds of those voting approved it.

The final returns showed that 428 students voted, of which 243 favored rejection of the plan while 185 approved it.

Analysis of the returns, as set forth below shows that all the freshman classes were decidedly against acceptance, while the juniors and seniors of the afternoon and evening section favored adoption, but only by a majority. Furthermore, the morning seniors and junior ballots indicated that a majority voted in the negative.

## Many N. J. L. S. Graduates Pass the Bar

### Two Undergraduates Are Also Successful

On January 3rd, 1934, the State Board of Bar Examiners announced the names of 202 persons who passed its October examinations to qualify as attorneys, in which 419 participated.

The successful percentage was approximately 47%.

The names of New Jersey Law School's graduates composed the greater part of the list.

The two undergraduates who qualified are Milton Miller, of Paterson, Senior Afternoon and Julius Malkin, of Hackensack, Senior Evening.

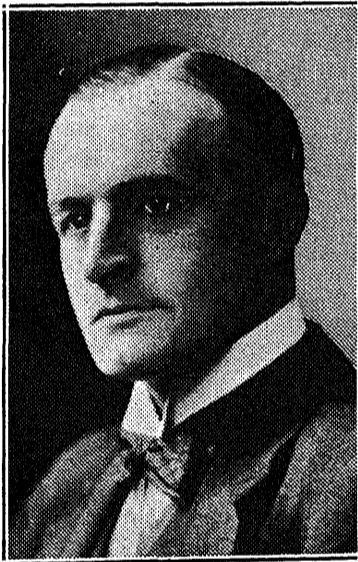
An unusual record was set by the Senior Afternoon class of 1933. Nineteen of the twenty-one aspirants of that class were successful.

## Sir Frederick Whyte Speaks

### 5 Honorary Degrees Awarded

Sir Frederick Whyte, former member of the British House of Commons and distinguished English barrister addressed the meeting held Wednesday evening, January 17 in the Old First Presbyterian Church which opened New Jersey Law School's Twenty-Fifth Anniversary Celebration. Invitations were sent to the school's 3,300 alumni and to representatives of other institutions in the metropolitan district.

Sir Frederick is a Knight Commander of the Star of India and at



SIR FREDERICK WHYTE

one time was secretary to Winston Churchill. He is a member of the Liberal Party. He holds honorary degrees from his own university, Edinburgh, McGill University, University of Michigan, and Dartmouth College.

The program included the conferring of degrees on distinguished Jersey men. Richard D. Currier, President, presided and George S. Harris, Dean, presented the candidates.

The degree of doctor of laws (LL.D) was conferred upon five outstanding men in the State. The honored were A. Harry Moore, Governor of the State of New Jersey, who received his LL.B in 1924 from New Jersey Law School, and is at present a member of the faculty of that

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## Student Council

## Splits Wide Open

### "KEY-GRAB" FURNISHES WEDGE

In the first open revolt of the year from the "new deal" economy program that has characterized the activities of the Student Council thus far, the Councillors, at their regular meeting at the Newark Athletic Club last Tuesday night, January 9th, voted 11-9 to award themselves the so-called

"Student Council Keys" as a self-conferred honor "for serving as a member of the Student Council", in the words of the moving resolution. As a result of this action amazement and sincere disapproval is being felt in many quarters of the school body, and less kindly commentators are not hesitating to characterize the action as inexcusable "key-grabbing."

The passage of the measure came as a climax to a turbulent session in which every effort of persuasion and every parliamentary device was employed to head off the result, culminating in the defeat of Chairman Sher on a vote of confidence. Feeling on both sides of the proposition was so sharp that the vote on it was taken by roll-call and recorded; and following its passage every member of the Special Committee on Awards with one exception rose to request the acceptance of his resignation as a member of the Committee.

The record of the vote was as follows:

AYE: Bendheim, Epstein, Weiss, Ginsburg, Sunshine, Wilkie, Decker, Schwartz, Sim, Furst and Grasso.

NAY: Zeller, Engelman, Goodman, Simon, Azzolino, Marryott, Dwyer, Rubinstein, San Filippo (the last three being alumni members.)

NOT VOTING: Cohen.

Mr. Sher did not vote by reason of his position as Chairman. Mr. Konvitz had left the meeting before the vote was taken. Mr. Maher was not in attendance.

The clash on the key proposition carried the meeting into such tension at the end of the session, that other action taken by the Council during the course of the evening has been relegated to relative obscurity, even though otherwise significant. The Council voted for the abolition of the *Lex Loci*, subject to the approval of the student body by referendum; voted to create a fund for the subsidy

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## Referendum On Lex Loci

### Its Abolition Before Students

As a result of a resolution adopted by the Student Council at its last meeting, a referendum will be conducted throughout the Law School to determine whether "*Lex Loci*" shall be abolished.

A majority vote in favor of the resolution, which question will be presented to the undergraduates sometime during February, is needed to effectuate the discontinuance of publishing "*Lex Loci*"—the school hand-book.

Although the value of the hand-book has been questioned for the last few years, the opposition to its publication became effective this year. With the aid of Mr. J. Leonard Weiss, Editor of the most recent "*Lex Loci*" and the editorial support of *The Barrister*, the "abolitionists" finally succeeded when the Student Council voted the following resolution:

BE IT RESOLVED, that the publication and issuance of "*Lex Loci*" be abolished.

AND BE IT FURTHER RESOLVED that this Resolution shall not become operative unless and until approved by a majority of those voting at a school-wide referendum to be conducted during February by the Class Organization Committee.

The group favoring the extinction of the publication argued that the usefulness of the book was limited to the incoming freshmen each year, and that much of the information contained in the hand-book was in the school catalogue. Furthermore, that information which is original in "*Lex Loci*" could easily be brought to the students by *The Barrister*.

## DETAILED RETURNS OF REFERENDUM

### QUESTION:

BE IT RESOLVED that the student fee be increased by the sum of \$1.00 to be collected with the third quarter bills, the same to be applied to a fund for the purpose of conducting a Student Promenade under the auspices of the Student Council, to which invitation will be extended free of charge to each member of the Law School and his or her guest.

Senior Morning		Junior Morning		Freshman Morning		Senior Afternoon		Junior Afternoon		Freshman Afternoon		Sr. & Jr. Evening		Freshman Evening		Total School	
Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
31	36	14	39	22	45	27	11	21	16	10	23	44	31	16	42	185	243



# The Barrister

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## NEW JERSEY LAW SCHOOL

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### STUDENT COUNCIL

The Student Council is the governing organization of Student Activities at New Jersey Law School. Its membership comprises the entire student body. The governing board consists of councillors elected from each class, and four faculty and three alumni representatives. The fundamental purpose of the Student Council is to direct, co-ordinate and supervise the activities of the student body.

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### Our Reply

As one of the newspapers of the law schools in this state, all of which were subjected to the criticism of Federal Judge Clark, we should reply to his outspoken views.

His denunciation, greatly tempered by his apparent and obvious ignorance about and lack of contact with the actual status of the law schools in New Jersey, certainly of New Jersey Law School, may be well answered by the following anonymous verse.

### REPLY TO JUDGE CLARK

Though Tyree be from Dixie,  
He's a clever, charming, man,  
Expressed, implied, or quasi —  
Now beat him—if you can.

And when it comes to Finders,  
And teaching smooth and sound,  
You'll say our North is mighty keen,  
If you have been around.

At horse-flesh and at fungables  
Our Torts' man sure is good,  
We'd like to see a judge or two,  
Out-wit him—if he could.

And though we student body  
Be somewhat tough and dumb,  
We don't go knocking judges  
For that is really rum.

So three cheers for New Jersey,  
For all her schools of law,  
Three cheers for all her judges,  
The righteous, rude, and raw!  
—Pax vobiscum 1936.

The judicial wrath, though well-intended, because of its patent defect—the lack of factual basis—can only induce a bit of levity as a reply.

### Bar Associations

A leading New York attorney sentenced to prison; two prominent New Jersey lawyers convicted of conspiracy to commit embezzlement; a state's prosecutor resigned under fire; jury-fixing and ambulance-chasing become by-words in the state—the bar stands very low today, looked upon by the world with suspicion at best, at worst with contempt. For the connivances, the defalcations, the dishonesty and corruptness of a few conscienceless members of the profession, every honorable and conscientious lawyer is suffering; every respectable member of the bar is made to feel the shame and contumely into which the legal profession has fallen. And fittingly so. The fault, dear Brutus, is in ourselves . . .

For every case of individual depravity the bar itself is responsible; embezzlement, champerty, ambulance-chasing are as much the fault of the bar as a whole as of any individual lawyer; with every indictment that is brought against a lawyer, the bar itself stands indicted. And, so long as the bar itself is dormant and indifferent, a few indictments and convictions of random lawyers will be of no effect in the general improbity and impurity of the profession.

The remedy for the cancerous excrescences which infect the bar lies with the bar associations of the state and the several counties. Militant bar associations could clean up not only the law but every iota of corruption that arises from the unholy trinity of bar-politics-racketeering. The bar associations know the facts. The bar associations know who the ambulance-chasers are, know who the jury-fixers are, who the grafters and

the crooks and the chisellers are. The bar associations know the knaves, either in or out of public office. If the bar associations would act, they could eliminate the venal conditions speedily and efficiently. They are themselves the finest cathartics for purging the profession.

Let the bar associations act! The corrupt element of the bar is still an infinitesimal minority of the profession, but it only takes one skunk to smell up a pack. Let the decent element awake, let them take things in hand, let them uproot the cancers from the system. Let them be militant. Why should they wait until public pressure forces indictments against members of the bar? Why should these men be members of the bar by the time the indictments are moved? Surely, the mere ability to keep out of jail is not sufficient to qualify a man as an attorney. Let the bar associations drive the rascals out, and restore the legal profession to the heights it merits and should maintain, to the honor and probity it reflected in the past. Exi ergo pius, exi scelerate, exi cum omni fallacia tua!

### The Book Nook

Last year the National Advisory Council on Radio in Education conducted a series of fifteen-minute programs on the air on the law and its problems. These talks, by various distinguished members of the bar, have now been collected in an inspiring little book called "The Lawyer and the Public." (University of Chicago Press: \$1.00). At a time when, in many circles, the legal profession is somewhat in disrepute, this collection of essays should be read by every lawyer and law student, to awaken in him or to accentuate the responsibility which he owes to society and to a noble profession, and by every intelligent layman, to recall to him the dignity and worth of a learned art which has suffered from the deleterious influence of a few reckless individuals.

To the law student especially "The Lawyer and the Public" is a treasure-house of information and inspiration. It will make him acquainted with the problems, the scope, and the aims of the law as a science and an art. It will instill in him a desire to make of the practice of law more than a mere business. It will make each law student feel just a bit unworthy of a great profession and at the same time proud that he is entering it.

Roscoe Pound, Judge Samuel Seabury, John H. Wigmore, Newton D. Baker, Jerome Frank, George W. Wickersham, Judge Learned Hand, and John W. Davis are among the distinguished lawyers who contribute to the volume. Mr. Wickersham has a fine essay on restating the law; Roscoe Pound's short dissertation on training for the bar is a gem; John H. Wigmore's warm and brilliant piece on "Should the Public Distrust a Lawyer?" is a grand gauntlet tossed into the teeth of scoffers and belittlers. In addition, there are remarkable chapters on "The Lawyer's Influence on Public Opinion"; "The

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## PEREMPTORY CHALLENGES IN CRIMINAL CASES

By LAWRENCE FRIEDMAN '34

A challenge is an exception or objection taken to the jurors summoned and returned for the trial of a cause either individually (to the polls) or collectively (to the array). Challenges are divided primarily into challenges to the array or panel and challenges to the polls of individual jurors. Those to the array are further divided into challenges for cause and peremptory challenges. Both challenges to the array and for cause are further divided into challenges for principal cause and challenges for favor. 35 C. J. 358.

A principal challenge is grounded on such a manifest presumption of partiality, that if the fact alleged is proven to be true it unquestionably sets aside the array or the juror, as the case may be, because the fact shown leads to a presumption of partiality not to be rebutted. 35 C. J. 358.

A challenge to the favor leaves the question whether the juror stands indifferent to the judgment of the court or triers, the evidence adduced in support of the challenge leading to no presumption which may not be overcome by other evidence.

A person accused of crime has no right to the service of any particular juror on his panel. 16 R. C. L. 241. A legal and impartial jury is all that he is entitled to, it being a well-established principle that the right of challenge confers not the right to select but a right only to reject. The essence of the right to reject a juror peremptorily is that it shall afford a person the privilege of saying that some particular juror shall not try him. State v. Deliso, 69 Atl. 218, 75 N. J. L. 808. From this principle it follows that an exception for a refusal of his challenges for cause to jurors is not open to review where the litigant has relieved himself of them by use of his peremptory challenges. 16 R. C. L. 241. However, since challenges from an essential part of the trial, and it is one of the substantial rights of the prisoner to be brought face to face with the jurors at the time when challenges are made, where the record does not affirmatively disclose that the prisoner and jury were brought face to face at the time when the challenges were made, the judgment of conviction will be reversed. 16 R. C. L. 242.

The peremptory challenge to proposed jurors is an absolute right, given by law to a defendant in a criminal case. The motive which may influence the defendant or his attorney in the exercise of his right is not the subject of inquiry nor comment in the presence of the jury. 16 R. C. L. 243.

The right to challenge peremptorily was originally conferred in *favorem vite*, in trials for crimes punishable capitally. Encyc. of Pled. & Prac. 12 P. 474. From what has been said, it follows that in modern practice unless the case is one in which the right to challenge existed at common law, i. e., the trial of a felony punishable with death, the right to challenge peremptorily does not exist, unless expressly conferred by statute.

At common law there were no peremptory challenges except for felonies of death and treason for which a prisoner might challenge thirty-five or one under three full juries. By statute of 22 Henry VIII C. 14, paragraph 7, the number was reduced to twenty in petit treason, murder, and felony, and in treason the right of peremptory challenges was taken away altogether by statute of 33 Henry VIII; but by the Statute of 1 and 2 Philip and Mary C. 10, the right as it existed at common law was restored. Encyc. of Pled. and Prac. 12, p. 479.

There is no right to a greater number of challenges than the number prescribed by statute or the number allowed by common law practice, where that practice prevails. The right of the state to challenge peremptorily exists only by force of statutes and the number of challenges are interposed in the same manner. Id.

In the courts of the United States, under the Act of 1790, the right to challenge peremptorily existed only in trials for treason and other crimes for which the punishment was death. Now the amount of challenges to be had is fixed by the Revised Statutes of the United States for use in the Federal Courts.

In New Jersey the right to peremptory challenges is regulated by statute. By virtue of P. L. 1898 p. 896, 2 Comp. St. 1910, p. 1846, of the Criminal Procedure Act, "Every person who shall be indicted for treason, murder, misprison of treason, manslaughter, sodomy, rape, arson, burglary, robbery, forgery, or subornation of perjury . . . shall be admitted peremptorily to challenge twenty of the jury."

This statute was repealed by the Laws of 1930, Ch. 350, p. 904, Supp. to Comp. Stat. 1930, 53-80, p. 414, which stated that a person indicted for any of the above enumerated crimes shall, if he be tried alone, be admitted peremptorily to challenge twenty of the jury and no more; and if two or more persons be jointly indicted and tried at the same time, they shall each be admitted peremptorily to challenge ten of the jury and no more.

This statute was passed to remedy a condition which existed prior to its passage, where each of the defendants was entitled to twenty challenges and the state was only permitted to challenge twelve jurors in all cases involving such crimes, no matter how many defendants there were. The statute of 1930 remedies this by giving the prosecutor the right to challenge six jurors peremptorily for each ten challenges allowed to the defendants.

Under the Act of 1898, p. 896, "Upon trial of any indictment where twenty peremptory challenges are not allowed, the defendant or defendants and the attorney general or the prosecutor of pleas shall each be entitled to challenge peremptorily ten of the general panel of jurors summoned . . ." The case of State v. Rachman 53 Atl. 1046, 68 N. J. L. 120, decided in 1902, held that under this section "providing that on trial of an indictment where twenty peremptory challenges are not allowed, the defendant or defendants and prosecutor shall each be entitled to challenge peremptorily ten of the general panel, where several persons are indicted jointly they are not to severally challenge ten jurors but collectively ten." To the same effect is State v. MacQueen 55 Atl. 1006, 69 N. J. L. 522, State v. Tonghami, 114 Atl. 250, 96 N. J. L. 263.

This defect was remedied by P. L. 1930, Ch. 220, p. 995, Supp. to Comp. St. 53-81, p. 414, which reads, "Upon the trial of any indictments where twenty or more peremptory challenges are not allowed the defendant or defendants and the attorney general, or the prosecutor of pleas, shall each be entitled to challenge peremptorily ten of the general panel of jurors summoned and returned by the sheriff or other officer."

A peremptory challenge must be interposed before the juror is directed to be sworn and has the book placed in his hand. State v. Lyons 58 Atl. 378, 70 N. J. L. 635; Leary v. North Jersey St. Ry. Co., 54 A. 527, 69 N. J. L. 67.

A peremptory challenge cannot be withdrawn after the juror has been set aside and the next juror has been called. *Fidrum* v. Applegate 23 N. J. L. 28.

## The Hypothetical Question

By DR. LOUIS J. GELBER '35

The hypothetical question is the method by which opinions of an expert witness are elicited during a trial of a cause. It is supposed to include facts that the lawyer claims to have proved and he desires from the expert witness an opinion as to the probable effect, conditions or result produced by those facts under investigation. This question is presumed to imply that facts mentioned therein have been proved to the satisfaction of judge and jury and the expert's answer must be based only on such facts and not on any knowledge which he may have irrelevant to the case. Hypothetical questions may be as long as counsel desires them to be if they do not contain any irrelevant matter. On the other hand, it must necessarily contain substantially all the facts which counsel claims have been proven in the case relating to the particular matter on which the expert's opinion is sought. For example, hypothetical questions put to experts in cases in which the defense of insanity has been interposed and the evidence goes back to the great-grandparents of the accused on both the father's and mother's side and contains descriptions of all the changes that may have befallen the accused's mother during the time when accused was a fetus in his mother's womb and progressively advances through all the phases of the life of the accused to the time of the killing and up to the moment of the trial are likely to be facts forming a long hypothetical question. References: Page vs. State, 61 Alabama 16. Crocher vs. Crocher, 156 Ark. 309.

A medical expert should be one whom both attorneys may look up to for an honest and unbiased opinion in so far as he should have real expert knowledge of the particular subject for which he is testifying. We should then feel that we will be getting a fair and unprejudiced answer to the hypothetical question under review. On the other hand if the hypothetical question is unwarranted by any testimony given in the case, objections to it should be sustained. What is an attorney to do if the facts as stated in the hypothetical question are in dispute? In that case it would be up to each party to frame his hypothetical question to include the facts as he claims the evidence showed them to be. The jury will then be instructed that if the truth of the fact is contested, to consider first whether the fact upon which such an opinion rests is proved to their satisfaction and if it is, then to give such weight to the opinion resting on it as it deserves. However if the fact is not proven, then the jury should give the opinion no weight whatsoever.

It is the function of the trial court to interpose in presenting hypothetical questions which are valueless, unfair and likely to mislead the jury. The judge should permit such facts to be put into the hypothetical question which have been conclusively shown and admitted and he should exclude all facts which have not been offered in evidence and agreed upon. References: Higbie vs. Guardian Life Ins. Co., 53 N. Y. 603.

The facts in a hypothetical question are usually in dispute but this alone does not prevent the counsel for the plaintiff in propounding the question even if there is other contradictory evidence as to the facts admitted. References: People vs. Bowers 79 Cal. 415.

Two objections may be interposed when a hypothetical question is asked by the opposing attorney. The first objection is that the question had omitted certain undisputed and indispensable facts; secondly that the question contained facts which there was no evidence at all to support. Under these conditions it is then necessary for the attorney asking the hypothetical question, to reform it in accordance with the ruling of the court.

Frances Wellman in his treatise on "The Art of Cross-Examination" states "One of the greatest vices of expert medi-

cal testimony is the hypothetical question and answer which have come to play so important a part in our trials nowadays. This is perhaps the most abominable form of evidence that was ever allowed to choke the mind of a juror or throttle his intelligence." Professor Wigmore follows Mr. Wellman in stating that "the hypothetical question has been so misused by the clumsy and so cleverly abused by the shrewd that it has led to intolerable obstruction of truth." However in spite of the fact that these hypothetical questions might be frequently abused in practice it is still one of the few truly scientific features of the rules of evidence.

While it has taken as much as 10,000 words to frame some hypothetical questions and probably one-half hour to relate, the shortest answer to some of these questions consisted of only three words: "I don't know."

References: Wellman in his treatise on "The Art of Cross-Examination" states "One of the greatest vices of expert medi-

## CLUBS—FRATERNITIES—SOCIETIES

### LAMBDA ALPHA PHI

Kalisch Senate of Lambda Alpha Phi Legal Fraternity held its first meeting of the new year on Monday, January 8th, 1934 at the Ezekiel Lodge. A large number of the fraters were present included among whom were the newly inducted fraters.

The Activity Committee presented its report of the Formal Initiation dance which was recently held at the Progress Club. The affair proved to be both a financial and social success and the committee was congratulated on its splendid work.

An outline of the new year's activity was presented and from all indication Kalisch Senate will be very active this coming year.

New quarters are being leased and if present plans materialize the next meeting will be held in a more spacious meeting place.

A plan to organize the school group was presented to the fraters and a committee was appointed in furtherance of this plan.

After the business meeting was over a general discussion took place on divers legal topics. This proved very enlightening and will, no doubt, be continued at future meetings.

### DELTA THETA PHI

Pitney Senate, Delta Theta Phi law fraternity held its annual New Year's dance on Saturday, January 6th at the Hotel Robert Treat.

A large number of brothers and guests attended. The splendid ballroom of the Robert Treat Hotel was the place where alumni members mingled and renewed friendships with the active members of Pitney Senate.

An excellent program of scintillating rhythm was presented by an old friend of Pitney Senate, Don Voorhees and his orchestra.

The committee composed of Joseph Carlucci, chairman; and Harold Keshaw and Charles Morgan extend expressions of gratitude to the many who attended and enjoyed the affair.

### KAPPA DELTA

Due to the impending examinations in the Law School a temporary cessation of the social affairs of the fraternity has been declared. The study groups established to aid those preparing for examinations have proved extremely instructive and they will remain as a permanent feature.

The Committee on Entertainment, planning for a dance to take place the early part of February, announces preparations for a semi-formal affair. Details as to place and exact time have as yet not been disclosed.

### DELTA SIGMA PHI

At the last meeting of the Delta Sigma Phi fraternity, an interesting lecture was given to the fraters by Brother Ben Kantor of Keyport, on the subject of "Mortgage Deficiencies". The discussion was well received by an especially large audience due to the fact that the restrictions barring outsiders from attending these meetings were not invoked because of the importance of this topic. It was announced that at the next meeting, Secretary Abe Feltman will speak on "Practice and Procedure in the Lower Courts". All Brothers, who can manage, are urged to attend.

The Fraternity is very happy to announce that as a result of the recent Bar Examinations, six attorneys were added to the list of practicing Fraternity men. Among them are J. Cohen of Jersey City; A. Cohen and Nat Kassel of Elizabeth; Irving Prager of Newark, and Charles Breslow and Jack Goldblatt of Passaic. Congratulations are extended to these men and the Delta Sigma Phi wishes them successful careers as practicing attorneys.

An announcement was made that at the next meeting, a special feature will be added to the list of activities of the Fraternity, by a resolution passed to the effect that all athletically inclined members who wish to take part in any athletic competition report for basketball practice for one hour prior to the scheduled meeting time at the Newark Y. M. H. A.

All members, pledges and prospective members are urged to attend the next meeting. For any information, get in touch with Morris Rubin of the Senior Evening Division, who is in charge of the membership committee.

### ALPHIANS

The Alphans returned to school after the Christmas vacation prepared to concentrate on the examinations. A special meeting was held with that object in view and a majority of the notes for studying have been distributed. It is only due to the exceptionally hard work and effort expended by a few of the members that this work has been accomplished; especially is it true of Mr. Gordon of the Junior Evening Class, for whose efforts the Alphan Society is grateful.

A special announcement was made to the effect that four of the five Alphans who took the recent Bar Examinations passed. Among the new attorneys are Charles Breslow, Jack Goldblatt, Pensiero Calcia and Julius Malkin. Special congratulations were extended to Mr. Malkin, who is still a student of our school and member of the Senior Evening Class, whose chief worries now are to pass the mid-year Senior Examinations.

It was announced that only special meetings will be held for the balance of this term due to the forthcoming Examinations.

### THE BOOK NOOK

(Continued)

Lawyer and Business"; "The Lawyer Looks at His Responsibilities" (by Newton D. Baker); "How the Law Functions"; and other significant topics.

To such students who have begun to doubt slightly the value, the probability, the sincerity, or the dignity, of the profession they have chosen, this book will act as a tonic. No law student can read these essays without finding a new pride and a new idealism in his chosen field. It is a convincing reiteration that the law is not only a living, but a noble and learned art and a valuable public service. H. Z.

## OBITER DICTUM

H. Z.

### THE VICARIOUS GOURMET

I sing the glory of Tokay,  
The fervor of Romanec-Conti,  
The felicity of Montrachet,  
The sunshine of Asti-Spumante.

Of Graves and Medoc my saga,  
Of Chambertin and San Cassiano;  
I sing the rapture of Malaga;  
I sing the bliss of Pulciano.

To drink the nectar of Cointreaux,  
To sniff the boquet of Marsala,  
To quaff of heavenly Clos-Vougeot—  
Turns earth into a blest Vallhalla.

The dulcet drip of Burgundy,  
Madeira port (the pride of Spain),  
St. Emilion, Sauterne, Chablis,  
Pomerol, and divine Champagne,

Johannisberger, and Moselle—  
How can man ever live without them?  
To drink, to sip, to taste, to smell,  
Or just, like me, to read about them!

We have not the pleasure of being acquainted with Mr. Reginald Parnell, one of Newark's commissioners and a former member of the faculty of N. J. L., but a story we heard about him endears him to us, sight unseen. Mr. Parnell used to teach Common Law Pleading here and in the course of his lectures he used to tie up the development of the law with the history of England. It appears he had a very poor memory for dates and used to transfer historical events from one century to another with wanton disregard for accuracy. A young lady in his class—a young lady not especially distinguished for her beauty of face and form—one day interrupted him. "Mr. Parnell," she said archly, "you have your dates all mixed up." Mr. Parnell turned to her and without batting an eyelash, said, "Miss Blank, you'd be mixed up too, if you had as many dates as I to keep track of!" . . .

Our excavations in the catacombs of Minturniana have yielded up another priceless opinion by the gay sage of Hudson County. It is the case of Hercules Powder Co. v. Common Pleas, 93 Law 93. Read it. It will repay you . . . Many a married legislator would give anything to be able to repeal his in-laws . . . Scientists have been trying for years to discover something smaller than the atom. We could help them out, but we refuse to mention any names . . . Opponents of the four-time rule in the New Jersey bar examinations and other elements that add to the difficulty of being admitted to the practise of law have found an ardent prophet in *Der Schone Adolf Hitler*. Discovering that the bar examinations in Germany were too difficult for his precious Aryans, the Great Windbag ordered that they be made easier. His next edict will probably be that hereafter horses should be pulled by carts . . . A new dish in New York restaurants is the Hitler Herring. The recipe? Take an ordinary Bismarck herring, remove the brain, and open the mouth wide.

A young lady in Toledo lost her voice when taken into an airplane for the first time. We suggest forthwith that all crooners be forced to take up aviation . . . Speaking of young ladies, they tell me that Esther Tannenbaum is—(deleted by order of the faculty advisor) . . .

Revisiting the dictionary: Marriage, the triumph of matter over mind . . . Puritanism: the haunting feeling that somewhere somebody is having a good time . . . Wisdom: the ability to be content with one's consolations . . . Love: the metaphysics of sex; the cerebralization of lust . . .

Man so far has been unable to go up more than eleven miles into the air. That is, without counting left-handed pitchers . . . Heap cheers upon New York's Judge Wooley for finally admitting James Joyce's "Ulysses" into the country. After several readings of the book, we do not subscribe to all the ardent Joyceans say about it, but nevertheless we are pleased that America is becoming adult enough to allow it in general circulation. You and you and you may not like the subject-matter of the book or the way it is handled, but a careful perusal of the statute-books has failed to disclose any law which compels you to read it . . . And while we are heaping cheers let us not forget Morris Ernst, the brilliant New York lawyer who has fought long and valiantly—and successfully—against blue-nosed censorship . . .

Aphorism: we succeed by what is mediocre in us . . . Please, Mr. President, in your experiments with the American dollar, see if you can't establish one that will last from one Saturday to the next . . . Advertisement in Jersey paper: "Wanted, young lady; respectable; till after Christmas." Stet! . . . Now that we have recognized Russia, Fordham can soon expect a shipment of football players . . . Who says two wrongs don't make a right? Take a look at the doctrine of recrimination in the law of divorce. You double the reason for the divorce and you get no divorce. In the mathematics of equity one plus one equal zero . . .



STUDENT COUNCIL (Continued)

of King's Bench, honorary scholastic society; voted to award keys to the Varsity debating team and the successful interclass debating team; voted a resolution petitioning the administration for commencement exercises separate from the affiliated schools, to be held in a place larger than the Old First Church; voted a resolution expressing sentiment in favor of a Law Review; and voted to advance the money necessary to cover a deficit sustained by the Freshman morning class, subject to repayment by the class next year.

The history of the "key" proposition has its roots in the experience of former years, particularly of last year, when as the result of a series of "raids" by so-called "special interests", keys were "awarded" to all Student Councilors, to debaters, to Seal and Scroll members and Legacy staff members. To avoid these pork-barrel tactics and the last-minute confusion resulting from them, the Council, at the very first meeting of this year, passed a resolution offered by Mr. Engelman, calling for the creation of a Special Committee on Awards to study the problem and make recommendations for a definite and comprehensive plan. It was hoped that as a result of the report of such a committee, the Council would be able to settle the problem definitely at one stroke, with all the considerations on both sides carefully considered.

The first sign that the path would not be so rosy came at the December meeting of the Council, when the Awards Committee's first report was denied acceptance and sent back for revision. Last week the Committee submitted its amended report, which was substantially the same as the first. Its only positive recommendations were that keys be given to debaters as noted, and that a \$50 annual subsidy be voted for King's Bench. It specifically disapproved any keys for Student Council members as such or for publication staff members as such. As for Seal and Scroll, which is known to be the stormy petrel in

the problem, the Committee held any positive recommendation in abeyance, indicating, however, that it might be prepared to recommend keys for this society as soon as the society had settled for itself the problem of how members were to be selected.

This report was read by Jack Simon, chairman of the Committee. A surprise was then sprung when William J. Wilkie, also a member of the Committee, asked permission to submit a minority report. Although this was unexpected, the permission was granted. Mr. Wilkie declared he approved the majority report in all its recommendations, but desired to add a further recommendation to the effect that Student Council members who have not in the past received any key and who will not receive one thru any of the other sources indicated, should "be given one as an award, because of his serving as a member of the Student Council." On motion of Mr. Schwartz, both the majority and minority reports were accepted from the committee, and the recommendations contained therein tabled for new business. Mr. Goodman's being the only dissenting vote.

The meeting thereafter moved comparatively harmoniously for a while, with the Council disposing of its other business. On motion of Mr. Goodman, the body voted to do away with the expense of publishing the Lex Loci, provided the students approve in a referendum to be conducted during February. On motion of Mr. Ginsburg, the Council drafted the resolution to the administration with respect to the Commencement exercises. On motion of the Treasurer, Mr. Marryott, the Freshman morning class was voted an advance of \$34.25 to cover the deficit sustained on their recent dance, after a sharp rebuke from the Chair warning every class president against the happening of a similar situation in the future.

Then, when the members were about ready to pack up and go home, Mr. Goodman moved that the recommendations of the Awards Committee be taken off the table for immediate

consideration. This was somewhat of a bombshell, because it had been hoped that the Council would not attempt any action of this matter until the Committee brought in its final recommendations as to Seal and Scroll. However, Mr. Goodman's motion passed, and the cat was out of the bag.

The first proposition to be moved was that relative to the debating teams. Here the first tilt occurred between the "railroad" element and those in favor of the orderly process of dealing with the problem. Mr. Dwyer moved that the motion be tabled. This was defeated and the proposition passed. With the ball thus rolling the recommendation as to King's Bench likewise passed. Then the minority proposition favoring keys for those Council members who have not or will not receive any from other sources was called for vote. This was defeated, and the "administration" forces thought for a moment that the flood had been stemmed off.

It proved to be only a snag in the steam, however, around which the wave curled and surged. Mr. Wilkie, in spite of the defeat of his proposition, rose to move it again in a slightly altered form. His new motion asked that keys be awarded to all Council members who have not in the past received them, thus including all those who may receive them from some other source in the future. Here the real contest was fought out. Chairman Sher ruled the motion out of order, on the ground that it was substantially the same proposition as had just been defeated.

But apparently in the space of a few moments, the tidal wave had gained momentum. There was grumbling at the Chair's ruling, and when Mr. Sher asked for a vote of confidence, he was balloted down. Thus the motion still stood and discussion on it was resumed. Those who spoke against it minced no words in branding it a flagrant exhibition of childishness at the best and callous selfishness at the worst.

Another attempt to head it off was made when Mr. Marryott moved that it be tabled. This too was defeated. Then objection was made that Mr. Wilkie's motion was too indefinite, since it neither expressly included or excluded faculty, alumni and ex-officio members of the Council. Mr. Wilkie thereupon amended his motion to exclude the last named groups, and it was in this form that it was finally voted upon, and carried by a vote of 11-9. Mr. Reid, the only ex-officio member of the Council, had no vote, but he spoke against the proposition.

The announcement of the result was dramatic, when Messrs. Marryott, Goodman, Zeller, Simon, and Rubinstein, rose in turn to submit their resignations from the Special Committee on Awards.

The meeting continued, but what followed was anti-climatic. Even an impertinent catechising of William Reid, Editor of The Legacy, by Milton Goodman, Editor of The Barrister, was passed by almost casually. Mr. Goodman wanted to know

why The Legacy contracts have not been submitted for approval and why The Legacy staff has not been announced. Mr. Reid replied as to the first question that the contracts are not ready, and as to the second question that he does not choose to make the announcement.

THE DREAM OF THE LAST MINSTREL

In the Evening Freshman Class

(With acknowledgments to Gray and Scott; and Coleridge, DeQuincy and other reputed hashheens)

The curfew tolls the knell of parting day, And Public Service rolls the mobs away From office, factory and department

To home, where they can eat and snooze And snore.

But several hundred of this tired mass, No early cats or snooze for them, alas! No homeward wending of their weary ways.

Within the law school's cloister they must stay For legal education. There they sit Two hours each night, and learn law bit by bit.

Forgive your poet, then, his aching frame, And hold him not entirely to blame If at one class attention would not keep; So, tired out, he shortly fell asleep. Asleep, but not to sleep, to dream instead Of future days, when passing years had

gone.

The leaning process. Student? No, not now, A legal, licensed lawyer, boys, and how! He stood before the state's Court Of Appeals.

The ne plus ultra of the law's cog wheels, "Your honors", and so forth and in this wise,

When suddenly he needs must recognize The judges on the bench: "Well, I'll be derned!"

The very lads with whom the law he'd learned.

Chief Justice Lerner gazed out into space While Jaffee, J., could hardly hold space, And waved his hand to cut the others short.

To hear the wisdom of his own report. Judge Wolfe sat by with wise and kindly mien.

The kindest face, I think, I've ever seen. Judge Schlossberg sleeping was, his force to store

For aerobatics when he got the flood. The case was one of truly great import. A contract matter of the very sort That lies around for years and, still unsolved,

With passing time gets more and more involved; To Joicey City a strong man had run On offer of a prize. But in good fun The offeror, before the tape was crossed (The prize thus won, and hence to him he lost)

Three feet to go to win the money pail. The offeror had shouted, "I revoke!" A valid contract this? Could he renege? Could law force him into his pants to dig

And pay the runner the established prize. Thus thrill him with more than a wild surmise? This mooted question still hung in the air.

Where Mr. Sinclair had impaled it there.

The court's decision Lerner reads to all in voice as gentle as a fog-horn's bawl, With "ah" and "uh", explosive expletives, Judicial force the learned judge achieves. The leading case on which his thoughts do perch

Is that famed case about the Swedish church.

The judge goes on, gets hot, most starts to smoke; So hot is he that, fearful of a stroke, His learned colleagues seek to calm him down:

And so they ask him, with a puzzled frown, "The law is right, but what about the facts?"

"You have not stated them, is this not lax?"

The Chief subsides, sits down, with reddened face.

Protesteth he, "I did so read the case!" Judge Jaffee then arose with dignity And said, "I must concur in the decree. For reasons of my own, you understand. No thoughts of Jaffee, J., are second-hand!"

A furrowed brow, head shake, as to repeat, "This legal stuff is really just my meat." And so he spoke with gentle voice and soft,

And scarcely did he lift that voice aloft; A woman in the back, 'twould never reach 'er,

—Ogden Nash per W. R. F.

SIR FREDERICK WHYTE (Continued)

School; Edward D. Duffield, President of the Prudential Insurance Co., former Acting President of Princeton University and a former Assistant Attorney-General; Charles W. Parker, Presiding Supreme Court Justice in Essex County, member of the New Jersey Supreme Court since 1907, and Princeton University honored him with a LL.D degree in 1919; John R. Hardin, lawyer and President of the Mutual Benefit Life Insurance Co.; and Frank H. Sommer, Dean of New York University School of Law, and member of its faculty since 1895.

Rabbi Charles I. Hoffman of Temple Oheb Shalom and Dr. William H. Foulkes of Old First Presbyterian Church were also present.

The faculty of New Jersey Law School and the guests of honor attended in gowns.

Preceding the meeting, a dinner was held at the Essex Club at which Sir Frederick Whyte, the candidates for the honorary degrees, President Richard D. Currier, Dean Geo. S. Harris, Judge Edwin C. Caffrey and Judge Richard Hartshorne were present.

Members of the undergraduate body acted as ushers.

An alumni dinner in April and commencement exercises in June will be part of the anniversary celebration.

In charge of arrangements is an alumni committee of 100 with S. Whitman Landon, Jr., as general chairman, Mr. Currier as honorary chairman and E. Morgan Marradale as secretary.

Governor Moore heads the anniversary celebration committee and Mayor Ellenstein the dinner committee. Other chairmen are H. Theodore Sorg, speakers, Judge John C. Howe, attendance, and Franklin J. Marryott, law activities.

NEW JERSEY LAW SCHOOL THE 1934 LEGACY TENTATIVE EDITORIAL STAFF

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Joseph Zeller Associate Editor
Louis Schwartz Associate Editor
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Harold Kelshaw Asst. Associate Editor
Charles Morgan Asst. Associate Editor
George Wood Asst. Associate Editor
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TENTATIVE BUSINESS STAFF

- Jack Cohen William Furst Lawrence Grasso
William Grimaldi William Spitalny Business Associates
J. Leonard Weiss Nathan White Henry J. Bendheim

N.J.L.S. Debates with Princeton

Negative of German Boycott Question Wins

"Resolved that American Citizens Should Join in a Boycott of German Goods" was the subject of the debate on Friday night, February 9, 1934, by New Jersey Law School and Princeton University at the Old First Presbyterian Church, in Newark. The debate was conducted according to the Oxford Plan, with former Senator William H. Parry presiding. The affirmative side was upheld by Milton Yarrow of New Jersey Law School, and M. C. Dittman and Steiss T. Sears of Princeton University; and the negative by Averill Stowell of Princeton, and Edward Barker and Edgar Donohue of New Jersey Law School.

The audience, apparently disregarding their personal convictions on the subject, by a two to one vote indicated that Messrs. Stowell, Barker, and Donohue had more effectively presented the negative argument.

The negative speakers argued that a boycott by American citizens of German goods would be neither the efficient nor proper weapon for halting the Hitlerite offences against civilization, showing that the boycott would never be a unified movement, creating only a greater economic par-

(Continued on Page 4)

Dana Trustees Increased

Greater Unification of the Law School, College and Business School Planned

Dana College recently announced the appointment of eighteen additional trustees and made public plans to complete details of its unification with New Jersey Law School and Seth Boyden School of Business.

Richard D. Currier, president of these institutions, said he hoped that Dana's action would further ultimately the project of a university in Newark to include other schools here.

Mr. Currier intends to go before the State Board of Education at its next meeting to ask that Dana be granted the right to confer the degrees of bachelor of laws and bachelor of science in business administration now conferred in the name of the other schools. This, if granted, will complete the unification of the three institutions.

Names prominent in communal life are included in the list of eighteen additional trustees. They are:

Mrs. M. Warren Cowles of Ridgewood, vice president of the State Federation of Women's Club and a member of the faculty of Teachers' College of Columbia University; Dr. Max Danziss, chief of staff of Beth Israel Hospital; Judge William L. Dill of the Court of Errors and

(Continued on Page 4)

Seal & Scroll Adopts Plan

Points to Select New Members

At the last Student Council meeting held on February 13th, that body approved the following method and rules to determine the selection of Seal and Scroll members, which system of selection had been previously adopted by the membership of Seal and Scroll.

The following is the merit-point system:

- President, Student Council.....15
Secretary, Student Council.....10
Student Council Representative..... 5
President, Senior Class.....10
President, Junior Class..... 6
President, Freshman Class..... 5
Other Class Officers..... 3
Editor-in-Chief, The Barrister.....12
Editor-in-Chief, The Legacy.....12
Editor-in-Chief, The Lex Loci..... 9
Assistant Editor, The Barrister..... 9
Assistant Editor, The Legacy..... 9
Editorial Staff, The Barrister..... 6
Editorial Staff, The Legacy..... 6
Associate Staff, The Barrister..... 3
Associate Staff, The Legacy..... 3
Secretary, The Barrister..... 3
Secretary, The Legacy..... 4
Business Manager, The Barrister.....10
Business Manager, The Legacy..... 8
Assistant Business Manager, The Barrister..... 5
Assistant Business Manager, The Legacy..... 5

(Continued on Page 4)

Inter-Class Debates to be Inaugurated

March 16th Set For First Round

The Student Affairs Committee of the Student Council, under the leadership of its new chairman, Louis Schwartz, announces that the annual series of inter-class debates will soon be under way.

All class presidents will be asked to select class teams of three members each, by conducting try-outs in the classes. All students are urged to engage in this forensic activity. The names of the members of the respective teams must be in Mr. Schwartz's hands before March 6, 1934, since present arrangements contemplate the completion of the first round of debates by March 16th.

Failure to select a team within the specified time will be sufficient cause to declare that class team in default.

Members of the class team that win the final round of the series of debates will be awarded keys for their achievement.

Harmony Returns to Student Council

A regular meeting of the Student Council was held on Tuesday evening, February 13, at the Newark Athletic Club, the session proving unusually mild in comparison with turbulent meetings of the past, with the question of key awards to Seal and Scroll members the only short period of high-pitched parliamentary feverishness.

The whole problem of awards to Seal and Scroll was initiated by a report to the Council from Mr. Sher, acting as ex-officio member of the Awards Committee, which, with the exception of Mr. Wilkie, resigned with lightning quickness at the last meeting when its recommendations met with so little favor at the hands of the Council. Mr. Sher's report informed the Council of the method which the Seal and Scroll has decided upon to be used in the selection of its members this year. The method involves a point system, by which students partaking in extra-curricular activities, and those high in scholarship, are awarded various sums of points, with Seal and Scroll demanding a minimum of eight points for eligibility. The report also indicated that unanimous vote of the organization would be necessary to bar an eligible member, thereby removing any doubts as to "favoritism" entering into the selections.

The report was accepted by the Council. It appeared that this report was in answer to the report of the Awards Committee which specified that no provision for Seal and Scroll keys be made until the organization reformed its method of admitting new members. Although the report of the committee was generally disregarded in subsequent voting, it did leave questions as to the exact methods the Seal and Scroll used, which methods were not approved of by the committee in its recommendations. An attempt to make a motion awarding keys to Seal and Scroll graduating members was declared out of order, and the whole difficult question temporarily avoided until old business was discussed.

Under old business, Seal and Scroll awards again boomed into prominence. On motion by Mr. Ginsburg, two provisions were moved, both offered as one motion. One provided for the purchase of the Council keys and the other for awarding Seal and Scroll keys to all of that organization's graduating members. On the objection of Mr. Goodman, the constitutionality of this form of motion was put to vote and voted down. Mr. Ginsburg reformed his method of moving, and made another motion pertaining only to Seal and Scroll, which motion provided for keys for graduating members; whereupon Mr. Marryott offered an amending motion to provide keys to those graduates of Seal and Scroll who had not or who will not receive Student Council keys. The amendment passed and was incorporated. A vain attempt of a councilman to pass an amendment further that the motion be not retroactive so as to prevent Council members who already have keys, from receiving Seal and Scroll keys went down to ignominious defeat. Finally, into the heat of amending and dispute, came a relieving motion from Mr. Rubinstein to submit the whole question of awards to Seal and Scroll to committee, which motion was joyously passed, thus temporarily relieving the Council from making any definite awards to that organization.

During the early part of the session, Mr. Sher announced that Mr. Zeller had resigned his chairmanship of the Student Affairs Committee, because of pressure of outside work, and in his place appointed Mr. Schwartz. As chairman, Mr. Schwartz presented reports of social sponsored by the Junior morning, and the Senior Morning classes.

In response to the plea for cooperation by Mr. Reid editor of The Legacy, the Council awarded the printing contract to the York Printing Company, the lowest bidder, which institution had previously done work for the school.

With the same cold, critical calculation, which is characteristic of the Council when the issue involved does not touch upon the matter of awards, the Council approved the granting of the engraving contract to the New Jersey Photo Engraving Company, the lowest bidder.

A motion of Mr. Schwartz appropriating a sufficient sum for the purchase of Student Council key awards was tabled after a tie vote was broken by the affirmative tabling vote of Chairman Sher.

Lengthy discussion concerning the advisability of sponsoring the usual annual Council dance occupied the last few minutes of the session, and after many councilmen had expressed their desire that the matter be given every attention before being decided finally upon in order to avoid any possibility of a deficit, the matter was given on motion passed to committee for complete investigation and consideration.

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