



Mr. Borgeson

(20)

# Harvard Law Record

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**Law Review Chooses Leaders**

**Atoms for Peace**

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**Harvard's Loyalty Oath**

**Food & Drug Law Changes Today**

# Harvard Law Record

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## CALENDAR

### Thursday, March 5

Lloyd K. Garrison, LL.B. '22, Partner, Paul, Weiss, Rifkind, Wharton and Garrison will speak on "The Law as a Profession" in the Junior Common Room, Lowell House at 8 p.m.

### Friday, March 6

The Democratic Club will hold its election meeting in the Wheeler Room, Holmes Hall at 4 p.m.

Dr. Samuel Eliot Morison, Jonathan Trumbull Professor of American History, Emeritus, will speak at the Coffee Hour at 1:30 p.m. in the Harkness Meeting Room.

### Saturday, March 7

New Jersey Supreme Court Justice Nathan L. Jacobs, LL.B. '28, S.J.D. '31, member of the University Committee to the Law School, will be guest of honor at a cocktail party given by New Jersey law students in Harkness Meeting Room from 5-7 p.m. Justice Jacobs will speak briefly on law and practice in New Jersey. All those interested are invited to come with their wives or guests. There will be a nominal charge to cover the cost of refreshments.

### Sunday, March 8

Dr. Henry A. Kissinger, Associate Director, Harvard Center for International Affairs, will speak on the "Problems of American Foreign Policy" at the Ford Hall Forum, Jordan Hall at 8 p.m.

### Wednesday, March 11

The Harvard Law Wives will present their annual fashion show, "The Feminine Touch" in the Harkness Meeting Room at 8 p.m.

### Future Events

The Harvard Law School Forum will present a discussion of contemporary problems in women's education at 8:30 p.m. Friday, March 13. The panel will consist of William Stevenson, President of Oberlin College, Harold Taylor, President of Sarah Lawrence College, and a third participant and moderator to be named. The place where the Forum will be held will be announced.

# NEWS SECTION

## Republicans See Strained Relations Between Iran, Soviet Union

Middle East problems in light of the current Berlin crisis was the subject of a stimulating talk by Bruce Campbell Hopper, Professor of Government in Harvard University, at a meeting of the Harvard Law and Graduate School Republican Club on Thursday, February 26.

Recent strained relations between Iran and the Soviet Union following a breakdown in negotiations for a non-aggression pact are indications of a continuing historical hostility between those two countries, Prof. Hopper stated. Iran's border position, a Soviet need for warm water ports and a desire to deny use of Iranian oil to the West account for Soviet sensitivity to Western influence in Iran, a problem that will continue to be a source of friction to the free world, he continued.

Noting that Communist strategy in the past has often been to divert the attention of the West in one area while striking in another, Prof. Hopper pointed out that the 1948 Berlin crisis provided an effective diversion of public attention from the struggle and eventual fall of Nationalist China.

The flirtation of the revolutionary government of Iraq with Communist elements in that country gives cause for concern and strengthens the hand of the Soviet Union should it begin to bring strong pressure on the Middle East.

A Soviet legal pretext for many threatening gestures toward Iran stems from a controversial treaty of the 1920's between those two countries whereby Iran was never to serve a "place d'armes" for a power unfriendly to the USSR. Though its recognition status is doubtful, the signing of defense pacts between Iran and the United States might be used as a justification for Soviet intervention in Iran, Prof. Hopper said.

More important, he continued, was Communist exploitation of the nationalistic aspirations of the Kurdish tribes. Many of their leaders have been trained in the Soviet Union

and returned as expert agitators for a separate republic of all the Kurdish peoples who, taken together, occupy part of the territories of Iran, Iraq, Syria and Turkey. It is from this quarter that Professor Hopper expects the most trouble to develop.

Applying this background to the present Berlin crisis, he concluded that it would not be impossible that the Soviet Union might use the present Berlin crisis as a diversion to cover a strong effort in the Middle East.

As a Washington consultant for over three decades Prof. Hopper has had wide experience in government work. During the post war period he has been Lecturer at the Naval War College, the Army War College and the Armed Forces Staff College, and consultant to the Commanding General of the Air Force. He is presently serving in an advisory capacity with the Defense Department.

— Kaiser

## Peaceful Atomic Uses Reviewed by Bull & Bear

Industrial uses of nuclear energy and the problems of financing a company working on the frontiers of technology were the subjects covered by Denis M. Robinson, president of High Voltage Engineering Corporation at a luncheon meeting of the Bull and Bear Club last Friday. The spectacular success of High Voltage in building a \$5.8 million annual sales volume from scratch in ten years in an entirely new field formed the background for the discussion.

Starting with an idea in 1948, Robinson and several of his MIT colleagues persuaded the American Research and Development Corporation and the Rosenwald Foundation to put up \$250,000 to get their Van de Graaf particle accelerator into production. By early 1953, the company had achieved an earnings record. On this record the company attempted an offering of six percent convertible debentures, but switched to a limited placement of common stock when they found little public support for it. The common stock, which was placed at six dollars per share, was soon being sold at 20.

In 1955 the company made two more offerings of common stock which raised almost a million dollars. The second of these, Robinson said, was placed with two phone calls. Robinson commented that businessmen were reluctant to back such highly publicized ventures as American Research and Development Corporation, which concentrate in backing new ideas. Instead, he said, they prefer companies which have not only new ideas but demonstrated ability to get them off the ground and make them work.

Hospital sterilization, cancer treatment, food preservation, and the strengthening of plastics are among the currently feasible applications of particle acceleration which

Robinson described. The installations which High Voltage makes range in price from \$100,000 up to a million dollars. A number of these are in use for radiation therapy and sterilization of surgical instruments in hospitals.

As an example of the uses of particle acceleration in food processing, Dr. Robinson said that after removal of bacteria by a directed stream of charged electronic particles a package of meat or cheese can be kept on display in a supermarket for six weeks instead of one. Thus current spoilage rates as high as ten percent in the food processing industry could be sharply reduced.

— Smart

## Law Review Elects New Officers

John D. French 2L of Excelsior, Minnesota was elected President of the *Law Review* in the election which took place during the week-end of February 20-22.

The new president then appointed the following members of the *Law Review* to their respective positions:

Article Editors: Herbert Dym, 2L of Brooklyn, N. Y., Daniel K. Mayers, 2L of Scarsdale, N. Y.

Case Editors: Philip B. Heymann, 2L of Pittsburgh, Pa., Richard S.

Arnold, 2L of Texarkana, Arkansas.

Note Editors: Frank I. Michelman, 2L of White Plains, N. Y., Antonin G. Scalia, 2L of Trenton, N. J.

Treasurer: Nathan Lewin, 2L of New York, N. Y.

Developments Editor: David P. Currie, 2L of Chicago, Illinois.

Book Review Editor: Fletcher L. Yarbrough, 2L of Navasota, Texas.



Left to right, front row, Lewin, Arnold, French Scalia, Yarbrough; second row, Michelman, Dym, Mayers, Currie, and Heymann.

## Is Harvard a Trade School? Broad Cultural Program Expands

Bill Jones, 2L of South Orange, New Jersey, announced today that an exhibition of drawings and sculpture submitted in the second "Third Floor" Art Contest will be held from 2 to 4 p.m. on Saturday, March 7th at 59 Kirkland St., Cambridge.

Jones, director of the contest, stated that the contest would be open to all present and former residents of the third floor of Story Hall and their friends. Prizes commensurate with ability displayed will be awarded to deserving entries.

The first contest last year was part of a broad cultural program prompted by a forum on third story Story entitled "Is Harvard Law School Becoming a Trade School?" Other activities included an Easter Egg Hunt and the performance of an original one-act play entitled "Tipton v. Feitner."

Entries in any medium whatsoever will be eligible for this year's contest. All entries must be signed, titled, and priced (though not necessarily legitimately), and no entry may be such as to shock the conscience of the director.

Last year's contest was won by Bob Gelber, 2L, with "Soldiers Drilling," a composition on typewriter. The second prize winner was entitled "Black Body w/Life Estate," (price: \$50/hr.) and the third prize winner "Misdeal, I Have Fourteen Cards." Other prizes given include the Bill The Janitor Award and Best Drawing by an artist under five.

## Law Wives Feature 'The Feminine Touch'

The Harvard Law Wives Annual Fashion Show "The Feminine Touch" will be held Wednesday, March 11, at 8 p.m. in Harkness Commons. The latest in spring styles will feature "lady-in-waiting" fashions and clothes for the small fry from The Gertrude Singer Fashion Studio, 54 Church Street, Cambridge and Baker's Children Shop, 42 Leonard Street, Belmont. Wives and children of law students, and Law School faculty wives will serve as models. Mrs. Calvert Magruder and Mrs. Roger Fisher will be



**Mrs. Bruce Simon and Mrs. Calvert Magruder**

among them. Mrs. Bruce H. Simon, chairman, has as her committee chairman Mrs. Alan L. Reed, co-chairman; Mrs. Garret A. Hobart, Publicity; Mrs. George H. Crawford, Decorations; Mrs. Dean E. Miller, Programs; Mrs. James R. Modrall, Tickets; Mrs. Laurence H. Silberman, Door Prizes; Mrs. Robert B. Silverman, Refreshments and Mrs. Douglass G. Boshkoff, Music. There will be door prizes donated by Harvard Square merchants. Refreshments will be served in the North Dining Room at the conclusion of the show. Tickets are now on sale at the Harvard Coop and at the Langdell receptionist. Tickets will also be sold at the door.

## Millions in Aid

More than half of the University's tuition charge is composed of student aids. Aids to students amounted to \$11,595,688 this year. Almost 4,000 of the University's 11,000 students (excluding Radcliffe College) are aided, President Nathan M. Pussey reports.

About one third of the Law students — 544 of them — receive aid. This amounts to \$528,855. Of this, \$335,000 is in scholarships and \$193,000 in loans.

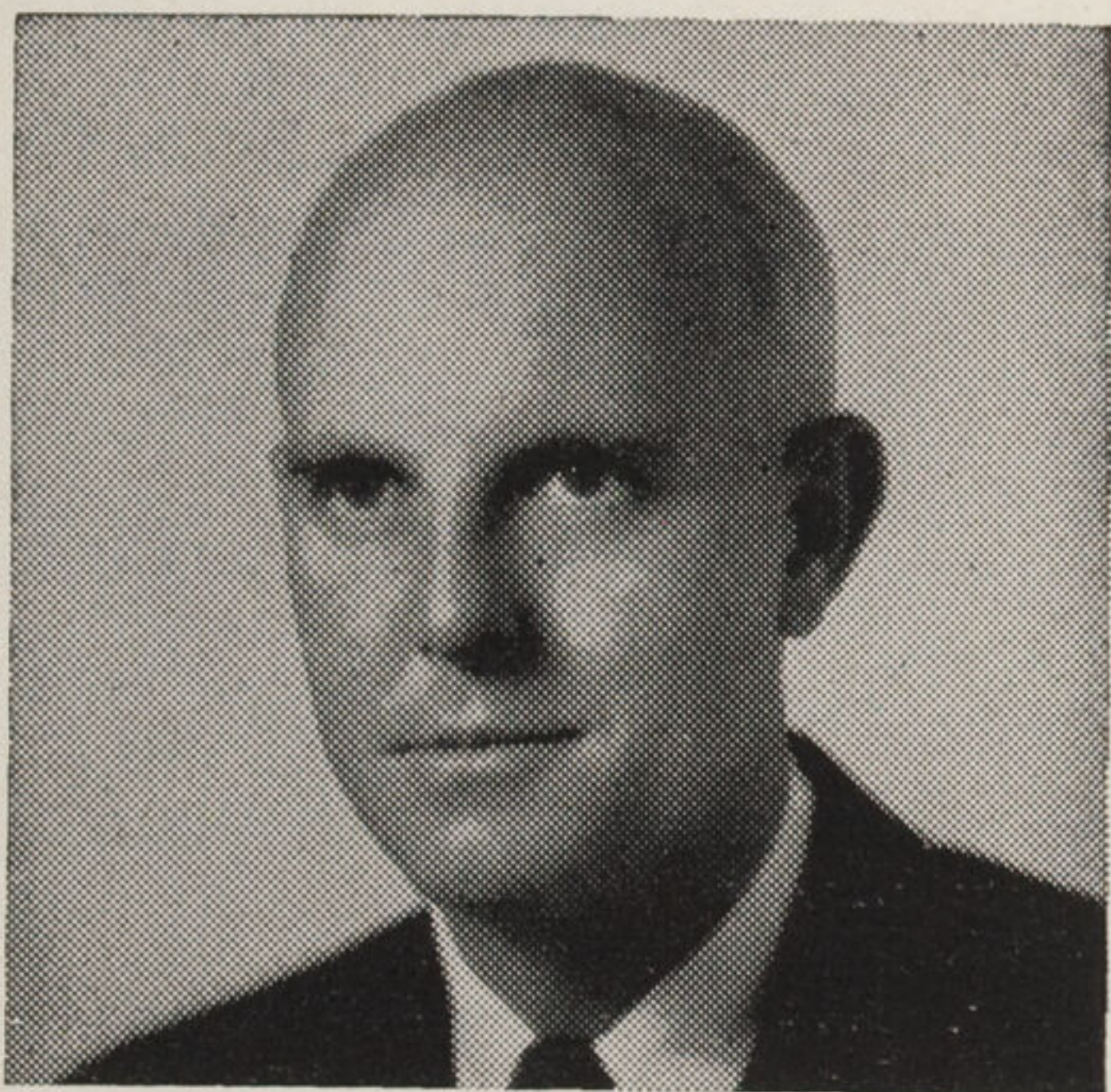
There is no information on the amounts students contribute to their own budgets by outside work. President Pusey noted, however, that "Perhaps even more impressive are the amounts contributed by the many student-wives, chiefly in the graduate departments of the University, who are working effectively to help their husbands to their degrees."

## June '61 Is Time To Attack Leach Advises Soviet Union

Giving some free advice to the men in the Kremlin, Professor W. Barton Leach stated that if he were in their place he would choose the month of June, 1961, to attack the United States. At this time he expects the Defense Department to be in a state of paralysis resulting from a complete turnover of civilian leadership following the next presidential elections.

Professor Leach made these remarks in an address to the Law School Republican Club at its annual Lincoln's Day Luncheon meeting. The talk was the first in a series on defense policy.

Criticizing the Eisenhower administration's handling of the defense budget, Leach



cited findings of private research groups that the national economy could sustain an annual defense budget of 75 billion dollars per year. He spoke with approval of recommendations that the present defense budget be increased six billion dollars each year for the next five years.

Leach, long time consultant to the Chief of Staff of the United States Air Force, was

critical of the Democratic party as well as his own. Deploring their unwillingness to take responsibility for the tax cost of the defenses we vitally need for the dangerously vulnerable period during the next three years, he stressed that failure to take immediate action to close the missile gap which will appear in the early 1960's (The Soviets will have a 3-1 advantage) puts this country into an intolerable state of unpreparedness.

Personnel policies in the Defense Department are the source of much concern to those familiar with defense problems, Leach emphasized. He considered it a matter of urgency to appoint members of both parties to key civilian posts in the Defense Department and to make these posts as invulnerable as possible to political changes of fortune. Citing the tremendous complexity of many defense posts, where it often takes a man two years to learn his job properly, Leach described the total paralysis that would result from a sudden turnover of personnel in those posts. If this happens in 1961, our defense establishment would be helpless, he concluded.

Praising Vice-President Richard M. Nixon for his knowledge and ability in the defense field, Leach also spoke favorably of Secretary of Defense Neil McElroy. At the same time he sharply criticized Democrats, or anyone else, who attack the integrity of the Central Intelligence Agency. The organization is strictly non-political and works in the national interest, he said.

Professor Leach pulled no punches in a stimulating and provocative talk that attracted a larger audience than the facilities could accommodate. A recognized authority in the defense field who has had a great deal of experience in key defense jobs, Leach's comments were received with great interest.

— Kaiser

## Canadian Fellowships

The Institute of International Education has just announced that the Canada Council is offering five fellowships for study in Canada during the academic year 1959-1960 in the arts, humanities, and social sciences. The deadline for applications is April 15. Application blanks are available in Room 18, Langdell Hall.

## June Class Plans Campaigns To Choose Marshal & Secretary

Nominating petitions in support of candidacy for membership on the Class Committee of 1959 are now available at the receptionist's desk in Langdell Hall. The petitions must be filed by Thursday, March 12. Elections by class wide ballot will take place on Thursday, March 19, and Friday, March 20 immediately following the usual meetings of Property II.

A Class Committee consisting of a Class Marshal, Class Secretary, and seven Committeemen has been established by adoption of the *Charter of the Class of 1959*. The charter was prepared by several members of the class representing various student organizations in an *Ad Hoc* Committee.

Those elected to the Class Committee will direct the usual pre-graduation functions as well as organize class reunions and prepare annual reports. The Marshal is traditionally the titular and ceremonial representative of the class and the chairman of the Committee. The Secretary assumes much of the work of communication with members of the class after graduation by way of reports, directories, and news letters.

Only four Committeemen will be elected of the initial seven. The remaining three will be selected by the officers and Committeemen with reference to geographical representation. This is to assure a broad selection of members from the many alumni areas throughout the country.

The Charter also provides for class wide elections by mail of officers and Committeemen in the years following graduation. Initial terms for the Marshal and Secretary will be five years. Committeemen will serve for ten years.

Campaigning has been restricted to two 8" x 11" posters to be placed in Harkness Commons and Langdell Hall. The posters may contain one photograph and the usual biographical data. Detailed information may be found in the Election Rules prepared by the *Ad Hoc* Committee.

3L students serving on the *Ad Hoc Committee* are Thurman W. Bretz, Lakewood, Colorado, Chairman; William F. Cottrell, Chicago, Ill.; Ky P. Ewing, Jr., University

Park, Md.; William D. North, Arlington Heights, Ill.; Marilyn G. Rose, Chelsea, Mass.; and William O. Sumner, New Canaan, Conn.

### Sutherland Marries

Mrs. Mary G. Kirk of Stowe, Vt., widow of Leander R. Kirk, was married February 21 to Arthur E. Sutherland, Bussey Professor of Law, in the church of St. John's in the Mountains, Stowe, Vt.

The marriage service was performed by the Rev. William H. Kirk, brother of the late Mr. Kirk who died in 1955.

Mrs. Sutherland is the daughter of Mr. and Mrs. Frederick M. Genung of Plainfield, New Jersey.

Professor Sutherland teaches the courses in Commercial Law and Constitutional Law and the seminars in Commercial Law and the Bill of Rights and the Fourteenth Amendment. His first wife, the former Margaret Susanne Adams of Rochester, N. Y., died in January, 1958.

### Pusey Replies

Nathan M. Pusey made a short reply to the Law-Graduate School Democratic Club's letter urging him to refuse federal scholarship funds conditioned upon the recipients' taking of loyalty oaths.

In a letter to Charles L. Edson, the Harvard President said:

This will acknowledge receipt of your letter as president of the Harvard Law-Graduate School Democratic Club. Our positions concerning the undesirability of both the oath and the affidavit in the National Defense Education Act are not far apart. On the other hand, it is clear we do not agree regarding the best way to register a protest.

Sincerely yours,  
Nathan M. Pusey

Three different editorial comments on the Democratic Club's petition are in the Features Section of this week's RECORD. Last week the RECORD published the text of the Democratic protest.

### Griswold

Massachusetts Attorney General Edward J. McCormack, Jr., announced that Dean Erwin N. Griswold has accepted an appointment as a member of the advisory committee to the new division of civil rights and liberties in McCormack's office.

# FEATURES SECTION

## Harvard's Loyalty Oath

The Law-Graduate School Democratic Club's visceral objection to loyalty oaths reported in last week's RECORD calls for student support of Harvard's decision to accept funds under the Defense Education Act of 1958.

Harvard agreed to accept \$26,807 from the Government for scholarships. In order to qualify for a grant from these funds, a student must sign an oath of allegiance to the United States, to its Constitution, and against its enemies. He must also affirm that he does not advocate the overthrow of the government of the United States by force or violence. The Democratic Club has urged the University to reverse its decision and to reject the funds, because "The oath tends to engender an atmosphere of intellectual conformity, where students fear to associate freely with others and to follow where knowledge and truth lead."

To concentrate exclusively on the loyalty oath aspect of Harvard's decision and to disregard, as did the Democrats, the question of whether or not Federal grants constitute the most economical method to finance better education, the objection to the loyalty oath in this case is an example of purblindness, disguised as liberalism.

Certainly, it is legitimate to deny the wisdom of Congress in its repeated insertion of loyalty oaths in fiscal sundries. Perhaps this enables several round-bellied legislators to have less difficulty in their digesting that celebrated bean soup served on Capitol Hill. There may even be other benefits to this particular application of the oath, but they are hard to discover. Though this device adopted by Congress is neither wise nor effective, the legislators are correct in their opinion that they should not channel funds in a direction that will be harmful to the United States.

What are the effects of the loyalty oath condition of this grant to Harvard?

Harvard's aid to students is reported in this week's RECORD as \$11,595,688 for the current academic year. Under the assumption that there is a student who is both quali-

fied for a Harvard grant and who would "fear to associate freely with others and to follow where knowledge and truth lead," if he were required to sign a loyalty oath, certainly non-government funds can be found to accommodate him. There is no necessity for a qualified Harvard student who would feel intellectually pinched by a loyalty oath to leave Harvard because of his unwillingness to take the oath. Non-oath money is available to take care of him.

The rights of the student who fears a loyalty oath are adequately protected at Harvard, but what about the students who are in financial need, who are qualified for a Harvard grant, and who are willing to swear allegiance to their country? If Harvard were to bow before the dogmatic utterances of the Democratic Club, perhaps a score of students in this latter category would be denied an education at Harvard. When the Democratic Club makes a decision, it has no responsibility. But Harvard has made a decision that meets its responsibilities, both to those who cannot take loyalty oaths and to those who would not receive scholarships if the money were refused.

The Law School is packed with students who have taken loyalty oaths for military service, for registration as law students with their state supreme courts, for passports, for government employment, and even for private employment. Similarly, the several graduate schools, and to a lesser extent, the College have many students who have taken loyalty oaths.

Is there evidence that these students have found their oaths a barrier to intellectual inquiry? Have the oaths caused the evil effects imagined by the Democratic Club?

The Democratic Club assumes that the oaths interfere with intellectualism. The present Law School atmosphere refutes this assumption. If the assumption were true, then contemporary students would show an unbelievable weakness.

The lawyer is professionally dedicated to the protection of the rights of his fellow citizens. Insofar as the Law School members of the Democratic Club rose to defend

rights they thought were being infringed by a decision of the President and Fellows, they deserve praise and serve as an excellent professional example to their colleagues in the Law School.

Unfortunately, the wrong they seek to remedy is a dogmatic dream. They are out-sloganeering the late Senator from Wisconsin. The Democratic Club's action in regard to this particular loyalty oath situation is one more example that political action rooted in reliance upon a handbook of political labels is not sufficient to cope with concrete issues.

— Manley

## A Dissent

Many people in this country of both high and low degree look upon Harvard University as a leader in the affairs of men. They expect at the very least that they will be met with wisdom and consistency untainted by any desire to gain material ends. What institution in this country is better able to stand above the pressures which may be exerted on its policy makers to decide which is the best course and to follow that course to its logical conclusion?

On December 19 President Griswold of Yale University wrote Secretary Fleming of the Department of Health Education and Welfare criticizing the use of the loyalty oath. On December 23 President Pusey also wrote Fleming approving Griswold's letter and stating that it explained clearly why students and faculty disliked the use of the oath. This is just one example of the position the administration has consistently taken regarding this matter.

How confusing then it is to find that now the University is going to accept government scholarship funds which are conditioned upon the taking of the oath by the recipient. It seems irrelevant that many students have already taken the oath for other reasons, or that Harvard can afford to make other funds available to those who do not wish to take the oath. What is important is the fact that Harvard does not disapprove of its use strongly enough to refuse funds which are conditioned on it.

Surely \$26,000 is a negligible sum to a university which is in the process of collect-

ing \$82.5 million for expansion. Surely it is not sufficient reason to force the University to abandon its position.

We can see no justification for the abdication of a principle adopted after due deliberation regardless of how easy it may be to curtail its practical effects. If the oath is bad, it is bad, and Harvard ought not to engage in any action which might be construed as acceptance of the policies.

As the Democrats pointed out in their letter, many smaller and less wealthy colleges and universities have refused the grants on the grounds that to accept them would sacrifice academic freedom. If they could afford to take this step rather than abandon a principle, why can we not expect the same of this university?

— Horwitz

## Another Dissent

It is one of the sadder commentaries on the political health of our nation that the ineffective, gratuitous insult has become the means of insuring the political purity of our academic institutions. For, in essence, what else is a loyalty oath but a sinister suggestion that those among us who will apply for scholarship aid under the 1958 Defense Education Act are suspect? We could, however, turn the other cheek if we truly felt that the saboteurs would be separated from the innocents, that government funds would not be channelled "in a direction that will be harmful to the United States." A bit of reflection will not permit such a rationalization, for it is patently obvious that the "disloyal," whoever they may be, will be the first in line with their right hands in the air ready to swear their fidelity ten thousand times over. So the insulting ritual in which Harvard is asked to lead its students is meaningless, which makes it all the more insulting. And this is what the above editorial in today's RECORD asks us to accept.

We do not need Harvard's expanding department of Social Relations to collect statistics on the effects of loyalty oaths. The results they produce cannot be charted on mathematical graphs for they are peculiarly personal to each individual. They manifest themselves not so much in one's action as in his lack of action; not so much in positive programs as in the failure to create such

programs; not so much in one's thoughts as in his refusal to think. A confident society, sure in its strength and its beliefs does not need loyalty oaths. A university community dedicated to varied intellectual discourse does not require its members to bow low before ambiguous absolutes. Granted we are writing of intangibles when we decry the curtailment of a free spirit, and you may call it dogmatism or sloganeering or political labelism. But such intangibles are the stuff that is at the heart of this nation's greatness. We toy with them at our peril.

Harvard University could have done its bit to fight the political yahooism manifested by these oaths if it stood with a few of the principled smaller schools and refused to take part in the government program as presently constituted. It chose not to do so. This University has not fallen because it accepted scholarships with a loyalty oath proviso. It merely stands a little less erect.

— Rosenberg

## Gallery

The Ezra Ripley Thayer Teaching Fellow for the current academic year, Peter Brett, Senior Lecturer in Law at the University of Melbourne, is an outstanding representative of a Commonwealth University. Professor Brett received his LL.B. from the University of London in 1939 and after his service in World War II qualified and practiced as a solicitor. In 1949, in London, he met his wife and was married in the same year in Australia, which was her home. He then decided to make Australia his home and in 1951 took up the post of Senior Lecturer in Law at the University of Western Australia in Perth. He also studied while there, writing a thesis on "The Penal System of Western Australia," and received the LL.M. degree in 1954. He then took up his present position in Melbourne.

At Harvard, Professor Brett teaches a section of Criminal Law and is working toward the S.J.D. degree, preparing a thesis which will assess the practical value of modern philosophical and psychological theories in setting up a criminal code. His other particular interests in law are in the field of Administrative Law and Evidence.

Asked to compare teaching methods of England and Australia with those of the Uni-



ted States, Professor Brett noted that while the case method as known here is not used in England, the usual lecture is not simply an exposition of abstract rules of law, but deals with problems raised in various cases. He said that part of the difference may be accounted for by the fact of the unitary jurisdiction in England and the strong sense of precedent there. He added that the English system was basically a *case* method, but simply not *Socratic*, although there is ordinarily a question period reserved at the end of each lecture.

"Since 1951, when Dean Griswold visited Australia and made an eloquent exposition of the case method, it has been steadily gaining in strength in the schools. While there are six states, there are not six common laws, due to the High Court of Australia being the ultimate court of appeal from private matters in each state. For this reason, the case system as known here may not be needed to the same degree," he noted. "One of the factors impeding its spread in Australia is the unavailability of case books and materials, due perhaps to the smallness of the number of students, rendering this field of publishing rather unprofitable." A circumstance promoting its use, however, is the number of Australian Law Professors who have studied in the United States, ten out of thirteen at the University of Melbourne having done so.

Comparing the schools themselves Professor Brett noted that there is no restriction on entry to Australian law schools, and consequently the range of ability of students is

much greater and the percentage of failure higher. The law faculties are a part of the undergraduate framework, and this may account for the absence of a selective process to some extent. He noted that there is nothing quite comparable to the Ames Competition at Melbourne, this being due at least in part to the fact that there are no written briefs in court argument in general Commonwealth practice. There is a beginning of one form of moot court work at Melbourne, however.

At Melbourne, where he is faculty adviser to the recently established Law Review, Professor Brett observed that women make up fifteen or twenty percent of the class and perform outstandingly, as a general rule. In two of the four years in which he has been at Melbourne, women have taken the "Supreme Court Prize" for highest scholarship. "Generally, however, the spirit is less competitive at Melbourne than at Harvard. The students there are less concerned with grades, and the principal distinction in class standing is between those with honors, about 30%,

and those without, there being relatively little concern with specific standings within either group"

Professor Brett finds his first year Harvard students very keen, and, he adds, "always prepared."

"The students are generally more mature here, but are also an average of four years older than at Melbourne. Preparing for my first class, I anticipated, as in Melbourne, the uphill job of getting students to talk, but discovered that one may be faced with the opposite problem here, at least in directing the discussion in the most fruitful manner."

Regarding his family's stay in Cambridge, he commented, "One of the happiest things that has happened to us has been the opportunity to meet and talk with your students and learn something of their aspirations outside the normal formality of the classroom; but I wish you didn't have *that!*", he added, nodding toward the customary thick blanket of white on the lawn outside his office in Langdell.

— Skornia

## Alumni Notes

LL.B. '23 — *Harold Newman's* seventh edition of "Newman's European Travel Guide." was fully revised, and was published by Harper & Brothers. He practiced law from 1923 to 1944 and served as Assistant General Counsel, Reconstruction Finance Corporation from 1932-35. During World War II he was General Counsel to the Office of Civil Defense.

LL.B. '25 — *Toy R. Gregory, Sr.* is in the practice of law at Las Vegas, Nevada and Lancaster, South Carolina. Both law firms are under the firm name of Gregory & Gregory.

LL.B. '37 c.l. — *Theodore Chase*, law partner in the firm of Palmer, Dodge, Gardner and Bradford of Boston, has been named chief Marshal to lead the alumni at Harvard's Commencement.

LL.B. '48 — *Bernard Marcus* has been made a partner in the law firm of Deutsch, Kerrigan & Stiles. They are located at Hibernia Bank Building, New Orleans.

LL.B. '52 — *Leonard H. Monroe* has opened offices at 118 South Beverly Drive, Beverly Hills, California. Prior to this he was with the firm of Mitchel, Silberberg & Knupp.

## Current Legislation

### Food and Drug Law Changes Today

A highly important and long overdue amendment to the 20 year-old Federal Food, Drug and Cosmetic Act went into effect today. It provides for extended pre-testing and federal approval before a host of products known generally as "food additives" may be placed upon the interstate market.

Before today no mechanism of any kind was available to prevent

a food manufacturer from putting substances of unknown toxic effect into his foodstuffs and introducing them to the American consumer, without prior testing of any kind to indicate whether the food was safe to eat.

The burden was on the Federal Food and Drug Administration, a division of the Department of Health, Education and Welfare, to

conduct its own tests to determine if the food additive was toxic and to prove such in an injunction proceeding in a Federal District Court. The food additive could be used during this period of testing and, unless a preliminary injunction was issued, during lengthy court proceedings leading to a legal determination of the poisonous quality of the additive.

And the Food and Drug Administration for years has been complaining to deaf ears that it lacks the funds, the manpower, and the facilities to successfully investigate and keep pace with an ever increasing number of food additives being introduced on the American food market.

Beginning today, however, all food manufacturers are required to conduct tests much more comprehensive (and, incidentally, much more expensive) than most have been conducting on a voluntary basis before introducing a new food additive to consumers. Data from these investigations must be submitted to the Food and Drug Administration and must prove that the additive will be safe in the amounts and under the conditions of its proposed use. No food additive may now be used without the approval of the agency.

The great majority of food manufacturers have customarily pre-tested their additives. But many of the testing procedures they have utilized are inadequate under the new federal standards, which require specific proof, for example, that the new substance will be safe if eaten over long periods of time. New and better methods of testing have recently shown that food substances long thought to be harmless, such as coumarin, are actually toxic.

The agency may reject additives not only because of lack of proof that they do not contain objectionable toxic qualities, but also on the ground that their use would "promote deception of the consumer, or would otherwise result in adulteration or misbranding of food."

Another provision of the new amendment states that no substance may be approved if it is found "after tests which are appropriate for the evaluation of the safety of food additives to induce cancer in man or animal."

After an adverse agency ruling upon any additive, the food manufacturer will be entitled to a hearing before the agency and, if its grievances are not then satisfied,

to an appeal to a Federal Circuit Court of Appeals.

The new law permits the agency to approve the use in foods of "safe" quantities of additives which are known to produce toxic effects if used in larger quantities.

Before today no food manufacturer was permitted to use an additive unless it was harmless when consumed in any amount and under any conditions, unless it was "required in the production" of the food or its use could not be avoided by "good manufacturing practice." 21 U.S.C.A., sec. 342 (a).

All additives, therefore, were classified as either "poisonous" or "non-poisonous" by the agency. Although no food manufacturer was permitted to use a "poisonous" substance in a harmless amount, the law was not applied strictly. Not long ago, however, the Food and Drug Administration stopped the use of certain coal-tar dyes used to color Texas and Florida oranges because they were found to be toxic if consumed in extremely heavy amounts.

The law leaves a big uncertainty concerning the definition of a "food additive." It includes such things as preservatives, emulsifiers, flavorings, buffers and neutralizers, anti-caking agents, stabilizers, sweeteners, thickeners, and a large body of other chemical agents.

The new amendment does not cover coal-tar food colors which have been certified under the Act (21 U.S.C.A., sec. 346 (b)) or meat and meat food products which are covered by the Meat Inspection Act. It does not include any substance "generally recognized among ex-

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perts qualified to evaluate its safety as having been adequately shown to be safe under the conditions of its intended use." This latter phrase creates a large nebulous area which may lead to serious disputes in the future.

Pesticide chemicals are not covered. A 1954 amendment to the Federal Food, Drug and Cosmetic Act empowers the Food and Drug Administration to set limits on the amount of pesticide residues permissible on raw agricultural commodities, such as fruits and vegetables.

A large number of "additives" presently in use must now be tested

and approved by the Food and Drug Administration or be ruled off the market in 18 months. This is the time period which the amendment grants to manufacturers to demonstrate the safety of their additives.

The total dollar volume of foods, drugs and cosmetics that fall under the jurisdiction of the Food and Drug Administration is now nearing \$70 million.

An expansion of staff and facilities of the agency has been necessitated by the amendment and is now in progress.

— Binder

## American Bar Association Seeks 'Remedial' Legislation

*The following resolutions were adopted by the House of Delegates of the American Bar Association in Chicago, February 24, 1959.*

### I

WHEREAS, the Supreme Court of the United States and an independent judiciary created by the Constitution have been and are the ultimate guardians of the Bill of Rights and the protectors of our freedom, and as such it is the duty of the members of the Bar to defend the Institutions of the Judiciary from unfair and unjust attacks; and

WHEREAS, this Association recognizes that sharp differences have been expressed as to the soundness of some of the recent decisions of the United States Supreme Court affecting the National and State security, with particular reference to the activities of domestic and foreign Communists within our country; and

WHEREAS, such differences have given rise not only to severe criticisms of the decisions, but unfortunately to condemnation of the Court itself, and to omnibus proposals for limiting its Appellate jurisdiction; and

WHEREAS, while members of this Association view some of the decisions to be unsound and incorrect, they deem such broad omnibus proposals at this time unwise and likely to create more problems than they will solve;

THEREFORE, BE IT RESOLVED that the American Bar Association disapprove proposals to limit any jurisdiction vested in the United States Supreme Court.

BE IT FURTHER RESOLVED that wherever there are reasonable grounds to believe that as a result of court decisions weaknesses in Internal Security have been disclosed, remedial legislation be enacted by the Congress of the United States, including a specific pronouncement of Congressional intention that state statutes proscribing sedition against the United States shall have concurrent enforceability.

### II

WHEREAS, recent declarations by the United States Supreme Court (notably in *Watkins vs. U.S.* 354 U.S. 178), have been construed as holding that the House of Representatives has not spelled out with sufficient clarity or detail the au-

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thority granted to the Committee on Un-American activities and queries whether the said Committee has been carrying out properly its Congressional mandate, which interpretation has resulted in the reversal of trial court convictions for contempt of Congress; and

WHEREAS, it has been deemed by many members of the Congress, the Bar and the public that such declarations and interpretations thereof tend to impede the work of the Congress through its Committees and thereby create a problem, the solution to which must be found; and

WHEREAS, it is the view of this Association that the quickest and best solution is for the House of Representatives to re-write its resolution of authority to its Congressional Committee investigating internal security and Communist activities in terms so thoroughly, carefully and precisely worded as to leave no area for reasonable misunderstanding or evasion;

NOW, THEREFORE, BE IT RESOLVED that this Association recommend to the Congress that the House of Representatives re-write and adopt its basic resolution of authority for the Committee on Un-American Activities under the same name or such name as such Legislative Body shall designate setting forth that the purpose in creating said Committee is to study the operation of existing laws and the requirements of further legislation, in addition to defining clearly and adequately the powers of such Committees.

### III

WHEREAS, your Committee deems it advisable that the precise terms of the basic authority of the Congressional Committee which subpoenas the witness to appear and testify should be made available to each witness subpoenaed, for his enlightenment in advance of the hearing;

NOW, THEREFORE, BE IT RESOLVED that this Association recommends to the Congress that whenever any of its Committees

subpoenas a witness to appear and testify or to give evidence, such Committee should furnish the witness at the time he is subpoenaed with a copy in writing of the precise terms of the basic authority of the Committee.

### IV

WHEREAS, recent decisions of the United States Supreme Court, in cases involving National and State security and with particular reference to Communist activities, have been severely criticized and deemed unsound by many responsible authorities; and

WHEREAS, problems of safeguarding National and State security have been exposed or created thereby which this Association feels would be best solved by the careful study of each decision, and the prompt enactment of sound amendments to existing laws within the Constitutional powers of the Congress;

NOW, THEREFORE, BE IT RESOLVED that this Association recommend to the Congress the prompt and careful consideration and study of recent decisions of the United States Supreme Court and the preparation and passage of separate amendments to the laws involved so as to remove any doubt as to the intent of the Congress, and to remedy any defect in the existing law revealed by the decisions.

BE IT FURTHER RESOLVED that legislation be promptly enacted to eliminate obstacles to the preservation of our internal security in the following areas:

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(a) Amend the Smith Act to define the word "organize" to include the recruitment of new Party Members, the formation of new Party Units, and the regrouping, expansion or other activities of an organizational nature performed by members of existing clubs, cells, classes and other units so as to insure the applicability of this section of the Act to Communist actionists, agents, organizers, colonists or members currently performing organizational work.

(b) Amend the Smith Act to make it a crime intentionally to advocate the violent overthrow of the Government of the United States or to teach the necessity, desirability, or duty of seeking to bring about such overthrow; in order that (1) this Nation might take protective steps to prevent acts which, if not prevented, could result in bloodshed and treachery; and (2) this Nation need not be forced to delay the invoking of the judicial process until such time as the resulting damage has already been wrought. (See *Yates v. U.S.*).

(c) Establish the right of each Branch of Government to require as a condition of employment that each employee thereof shall not refuse to answer a query before a duly constituted Committee of the Congress or before duly authorized officers of either the Executive or Judicial Branches of the Government with respect to Communist, Communist front or other subversive activities or any other matter bearing upon his loyalty to the United States, as the Government has a right to know his record.

(d) Invest the Executive Branch of the Government with the right to protect our internal security against the activities of aliens who who were communists at the time of their entry into the United States or became Communists at any time subsequent to their entry into the United States by providing for their deportation without any deprivation of due process; and the right to make and enforce reasonable restrictions on aliens awaiting deportation to prohibit them from

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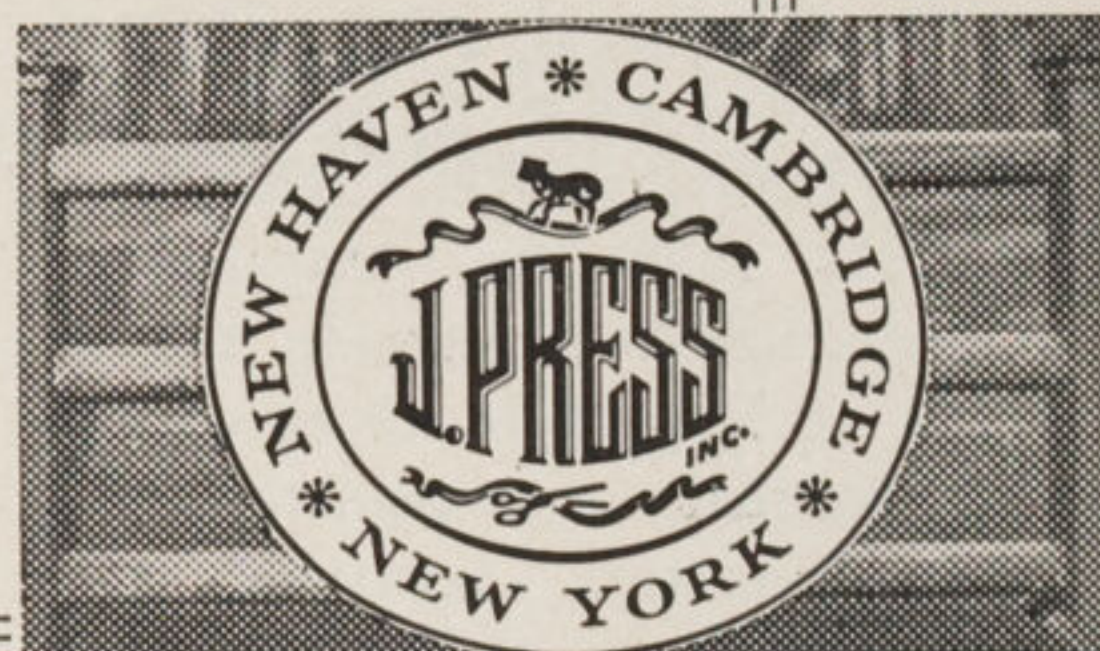
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engaging in any activities identical or similar to those upon which the aliens' deportation order was based, with further right fully to interrogate aliens awaiting deportation concerning their subversive associates or activities.

(e) Insure the effectiveness of the Foreign Agents Registration Act of 1948 by a requirement that political propaganda by agents of foreign principals be labeled for what it is where such agents are situated outside the limits of the United States, but nevertheless directly or indirectly disseminate such propaganda within the United States.

V

WHEREAS, the respective records of the Subcommittee on Internal Security of the Senate Judiciary Committee and of the House Un-American Activities Committee both charged with the duty of investigating internal security and Communist activities are records of accomplishment and great service to the Nation; and

WHEREAS, the continuation of the work of these Committees is essential to the enactment of sound and adequate legislation to safeguard the National and State security;

NOW, THEREFORE, BE IT RESOLVED that the American Bar Association recommends that the House of Representatives continue to maintain a committee to investigate matters relating to National Security with particular emphasis on Communist activities invested with adequate jurisdiction to accomplish its purpose, and that the Senate continue to maintain and support its Subcommittee on Internal Security; and

BE IT FURTHER RESOLVED that such Committees maintain close liaison with the Intelligence and Security Agencies, as well as with the Attorney General of the United States, to the end that they may be kept advised as to legislative needs of the Executive Branch of the Government required to carry out its responsibilities for internal security.

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