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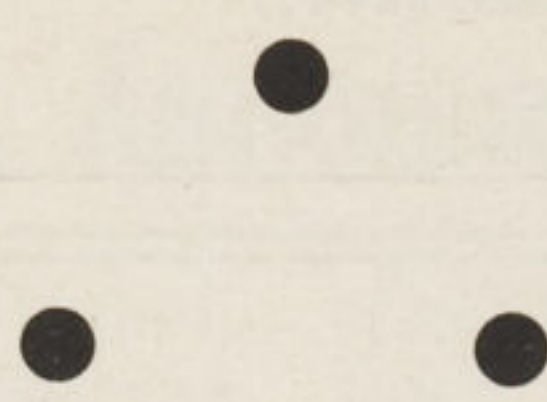


Harvard^{cf} Law Record

Honor Societies Announce New Membership

Harkness Institutes New System

Griswold's View of Australia



Training In Legal Ethics

Harvard Law Record

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CALENDAR

Notices for publication in the Calendar should be in the RECORD offices not later than noon the Friday before the date of publication.

Friday, October 2

Charles Sevens, President of Incorporated Investors, a Boston mutual fund, will address the first meeting of the BULL AND BEAR CLUB on the current business and market outlook at 1:40 p.m.

Sunday, October 4

Governor W. Averell Harriman will open the fifty-second season of the FORD HALL FORUM with an address on "Peace with Russia?" at Jordan Hall, 30 Gainsboro Street, at 8 p.m.

Wednesday, October 7

Mrs. Douglas Ley of Belmont, Mass., will discuss such New England personalities as Christian Herter, Norman Rockwell, and Joseph N. Welch in a talk intitled "People are Fun," at the LAW WIVES meeting, Harkness Commons, 7:30 p.m.

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Dean Greets New Class



"My name is Griswold. I am the Dean of this place." With these words the Class of 1962 was welcomed to Harvard Law School. Most of the 532 member class was present in the James Barr Ames Courtroom on Sunday, September 20, to hear the Dean's speech. "You are entering two great traditions, one of which is the legal profession." After tracing the English origins of the profession the Dean lamented that the American bar loses

a certain amount of professional sense which is almost automatic with the English bar. "You are entering a second great tradition, the Harvard Law School, which takes a bit of the place of entering an English Inn of Court. With alumni in each state, you get the feeling of being in a great society. You are following in the footsteps of Langdell, Holmes, Brandeis, Frankfurter, Dean Acheson, Robert A. Taft, and hundreds of others who have contributed greatly to American life." After predicting the legal and political futures of some members of the class, the Dean told the rest that they would be "journeymen lawyers, acting as lubricators in our society."

Dean Griswold emphatically denied that it is the policy of the school to arouse scholastic competition. "If there is any such competition, it comes from the students themselves. It is a problem in semantics in which competition might better be called a tradition of excellence."

The Dean introduced his major administrators and David Snow, 3L from the Board of Student Advisors, who described the Ames Competition. The Dean adjourned the meeting with a warning against the tension producing comments of upperclassmen. The class was invited to a reception and dinner at the Commons following the meeting.

Honoraries Announce Members

The Harvard Law Review, The Student Board of Advisors, and the Legal Aid Bureau have announced their new members for the year 1959-1960.

The following second year students were invited to membership on the Editorial Board of the Review: Nathan J. Cohen, Pine Bluff, Ark.; George E. Cooper, Baltimore, Md.; Anthony A. D'Amato, Jr., Cambria Heights, N. Y.; Timothy D. Dyk, Brooklyn, N. Y.; Peter Edelman, Minneapolis, Minn.; David Falk, Pittsburgh, Pa.; Tom J. Farer, Man-

chester, N. H.; David H. Fleck, Oskaloosa, Iowa; Daniel I. Halperin, Brooklyn, N. Y.; Elise B. Heinz, Menlo Park, Calif.; Roland S. Homet, Jr., Scarborough, N. Y.; Jack S. Levin, Glencoe, Ill.; Jere D. McGaffey, Nebraska City, Nebr.; Bernard W. Nussbaum, New York City, N. Y.; Robert M. O'Neil, Cambridge, Mass.; Roland A. Paul, Jr., Memphis, Tenn.; Ancil N. Payne, Jr., Gainesville, Fla.; Sidney S. Rosdeitcher, Bayonne, N. J.; Kenneth Semmel, Nutley, N. J.; James van Roden Springer, Babylon, N. Y.; John E. Vander-

star, Point Pleasant Beach, N. J.; Mark A. Weiss, New York City, N. Y.; Stephen F. Williams, New York City, N. Y.; Matthew J. Zinn, Neponsit, N. Y.

Third year men who were invited to membership include William G. Buss, Jr., Cuyahoga Falls, Ohio; Arthur Z. Gardiner, Jr., Bryn Mawr, Pa.; Walter H. McLaughlin, Belmont, Mass.; Cordell J. Overgaard, Chicago, Ill.; Matthew S. Perlman, Bethesda, Md.; Roy A. Schotland, East Orange, N. J.; Frederick A. O. Schwarz, Jr., New York City, N. Y.; and Jerold Zieselman, Stamford, Conn.

Student Board

The following second year students have just joined the Board of Student Advisers: Edward L. Epstein, Walla Walla, Wash.; Leonard E. Epstein, Jersey City, N. J.; Newman T. Halvorson, Jr., Gates Mills, Ohio; Wilmont R. Hastings, Cambridge, Mass.; John H. Lewis, Jr., Lafayette, N.J.; Johathan Mallamud, New York, N. Y.; John R. Quarles, Jr., Wellesley Hills, Mass.; Jerome A. Rabow, Buffalo, N.Y.; Cyril V. Smith, Jr., South Orange, N. J.; and Diane V. Theis, Hollywood, Calif.

Robert A. Krantz, Jr., 3L of Hutchinson, Kansas, has also been elected to the Board

of Student Advisors and has also been named chairman of the Williston Competition Committee.

Legal Aid

The following second year students have been invited to membership by the Legal Aid Bureau: David S. Baker, Jacksonville, Fla.; Sheldon L. Baskin, Highland Park, Ill.; Joshua M. Berman, Brooklyn, N.Y.; Charles L. Birke, St. Louis, Mo.; Norman B. Dickman, Spring Valley, N.Y.; Joseph M. Fries, Brooklyn, N.Y.; Jerry B. Fulmer, Franklin, Pa.; Patrick A. Heffernan, Willmette, Ill.; Robert E. Jordan III, South Boston, Va.; Joseph P. McGrath, Wilmington, Del.; Ricardo A. Mestres Jr., Belmont, Mass.; Arnold K. Mytelka, Jersey City, N.J.; Michael E. Schoeman, New Rochelle, N.Y.; George H. Shapiro, Atlanta, Ga.; Gerald M. Stern, Memphis, Tenn.; Leslie Susser, Jersey City, N.J.; William M. Watkins, Salt Lake City, Utah; Charles M. Wyndham III, Wilmington, Del.; and Herbert W. Yanowitz, Sharon, Pa.

The following third year students have also been invited to membership: Leonard M. Goldberg, Jersey City, N.J.; Myron Stein, Brooklyn, N.Y.; and Morris M. Sherman, Minneapolis, Minn.

Harkness Effects Dining Changes

Innovation characterizes the tenth opening of Harkness Commons dining hall. New variety in menus, flexibility in methods of payment, and continuous service throughout the day are the three principal changes.

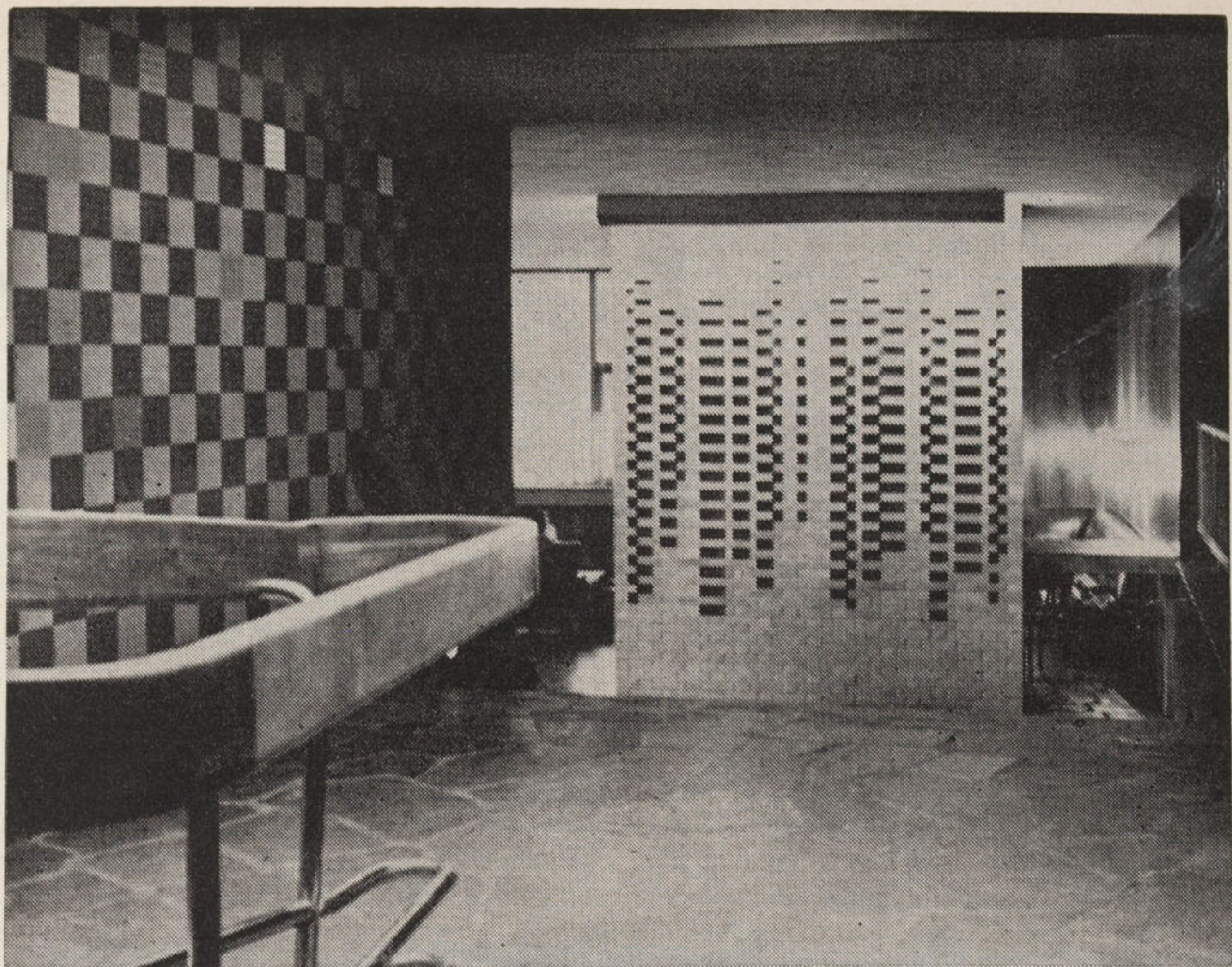
Student patronage of Harkness Commons declined steadily over the previous five years. The number of meals served on board contracts dropped 33.1 percent between 1954 and 1958 and the total number of meals served declined 23.9 percent in the same period. This trend demonstrated to officials of the Law School, the Graduate School of Arts and Sciences, and the University Dining Department that students were not receiving the kind of dining service they wanted.

Last year a New York consulting firm, Harris, Kerr, Forster & Company, was summoned to study Harkness Commons. It was upon the recommendation of this firm that the current innovations were adopted.

Instead of offering only one menu for all customers, the dining hall now offers a vari-

ety of items, ranging from full course dinners to light snacks. It continues to serve breakfast till 11 a.m., lunch till 4 p.m., and supper till 7 p.m., when the dining hall closes. At 8:30 p.m. the Grill Room opens and serves sandwiches, ice cream, and beverages till midnight. At noon the Grill Room is open for students who prefer sandwiches; a short order chef prepares sandwiches, dessert, and beverages for students who prefer not to go through the two cafeteria lines. The Grill Room menu is available at supper, also, but is served at the cafeteria lines. The supper menu also includes beer.

Waiting in line has dropped considerably, except at 1:05 p.m. when several Law School classes reach the Commons at the same time. An increasing number of students are avoiding this rush period by scheduling their lunch at a less orthodox time. Some of the patrons of the Grill Room are sidestepping the lunch line by climbing the back steps to reach the sandwich counter.



Harkness Commons

The new system of payment includes two types of sign-on contracts, one for 21 meals a week and one for 15 meals a week; cash; and Harvard University coupons. Early this week there were 344 Law School students who had signed board contracts. More than two thirds preferred the 21 meal contract over the 15 meal contract.

Vice Dean Louis A. Toepfer is convinced that the changes in Harkness Commons represent a considerable step forward, but adds that "there is still plenty of room for improvement, especially in the expansion of variety of foods served."

He recalls that the consulting firm predicted that the changes will not put the Harkness Commons on a profitable basis, without compulsory sign-on contracts. But, both Dean Toepfer and Associate Dean Reginald H. Phelps of the Graduate School of Arts and Sciences have rejected compulsory sign-on contracts.

The University made \$40,000 available to convert Harkness Commons to the new services.

William J. Dennis, Manager of Harkness Commons, has been busy during the past two

weeks studying the new operations and looking for ways to improve the service. He explains that there is actually more variety than shown on the menus, because of the short order cooks who prepare items to order throughout the day.

SALVATION ARMY TRIUMPHS

Dame Justice is always represented as being blind; she wears a blindfold so that she may accurately weigh the matters on her scales. But we wonder if she was able to resist one small peek when the matter *Meade v. Salvation Army*, 168 F. Supp. 279, came up for consideration by her minions in West Virginia. The details of that case as outlined by an unabashed Judge Watkins are as follows:

Buster Darmon bought a building in Malory, W. Va. which he ran for some years for commercial enterprises. This activity ceased to satisfy and Mr. Darmon went off to college (Marshall College at Huntington) to better himself. His purpose must have been accomplished because he decided to make a gift to the Salvation Army of his business establishment and one of his motives was

Continued on page 10

New Glueck Book on Crime Prediction

Publication was announced yesterday of a new book by Professor Sheldon Glueck and Dr. Eleanor T. Glueck, which constitutes a major achievement in the field of preventive criminology. "Predicting Delinquency and Crime" represents the current thinking produced by a program of study which has been in progress for thirty years. The Gluecks have long felt the need for some basis for criminal sentencing, other than the instant discretion of the judge who must make a rather impressionistic decision based on a probation officer's report alone without comparison of results previously obtained with various sentences. The Gluecks have pursued the study of traits and factors in criminal behavior in an attempt to arrive at conclusions which could be used for predicting future conduct. This, combined with conclusions drawn as to which types of criminals are best helped by the various corrective measures, would

This was the first such system ever suitably developed for testing in the field. Although it did not proceed uncriticized, the feeling of the Board and Mayor Robert F. Wagner was that the system, which the Mayor called a "social Geiger Counter," would be of unprecedented aid in curbing the high delinquency rate. This confidence was based on findings made after four years of testing which showed that 88.9% of the cases were behaving as predicted.

The current effort is more ambitious. The authors have set up a comprehensive forecasting apparatus which will apply to criminals and delinquents up to age forty and which can be experimentally used by judges and parole boards. The volume sets forth methods for predicting behavior of juveniles during probation and parole, and after incarceration, and for predicting behavior of adult offenders who have had longer records



constitute a rational basis whereby a sentencing judge could achieve the greatest chance for rehabilitation.

In 1952, the authors had sufficiently perfected a system for correlating factors leading to juvenile delinquency for it to be adopted by the New York City Youth Board.

of antisocial activities. It then goes on to explain the methods of applying the prediction tables for the identification of potential delinquents. The tables for juveniles have already been validated on new samples of cases.

Although some of the predictive factors

vary with type of correctional treatment, many run through numerous prediction tables. The factors include number of children in the family, moral standards of the home, discipline by parents, affection of parents for the child, age at which delinquency began, school conduct, work habits, skills, use of leisure time, etc. By comparing the individual case history and such ratings as may be available from social workers with the experiences which the Gluecks have gathered from the study of thousands of wrongdoers, the judge or parole board will have a more informed basis for the sentence.

There has been criticism of the philosophy which is implicit in such a system. It is said that the result will be a kind of mechanized justice. However, the authors do not suggest that the judge follow their system blindly and mechanically; it is merely hoped that this device will provide the judge with a sound basis upon which he can individualize his decision.

It is also said that any attempt to apply predictive techniques to human behavior must end in failure because the factors operating are so numerous and the subject so complex that the underlying motivation cannot be sufficiently pinpointed to justify the creation of what purports to be a scientific scale for prediction. The authors' answer to this is that it is better than nothing; it is at least a start in what is hoped is the right direction. It stands as a basis for future work and can be modified easily when advanced knowledge warrants. As Chief Justice Earl Warren states in his Introduction:

"The more we know about human behavior, the better we will be able to discharge the responsibilities of probation, sentencing, and parole selection. For this reason, no one can seriously question the importance of the problem which this book attempts to solve, and we should be grateful for the really dedicated efforts of the authors . . ."

— Horwitz

Griswold Back From Down Under

Dean Erwin Griswold is back at the Law School after a five month trip to Australia and New Zealand. Down under, the Dean had the chance to meet lawyers, judges, professors, and law students. The Dean observed and spoke to the personnel in the four law schools in New Zealand and the seven law schools in Australia.

The Dean visited the same two countries in 1951.

As a result of his most recent trip, the Dean included a section in the 1958-59 *Harvard Law School Dean's Report* giving "Some Comparative Thoughts on Legal Education." In his report he notes that the law student in the United States has much more to learn, both quantitatively and qualitatively than a student in the other two countries. This shows up in law practice in these countries. New Zealand practice is mostly in the fields of conveyances and probate while the Australian practice is only slightly more varied.

As in England, legal education is undergraduate. Students begin legal training at about the age of 17, when they enter the university. Although a small part of their five-year curriculum is devoted to "arts"

studies, the graduate of the Australian law school is generally less cognizant of his cultural backgrounds than his American counterpart.

Whether the American system produces better lawyers than the system in New Zealand or Australia is hard to discern. However, during his tour, the Dean was struck by the paucity of lawyers in the New Zealand or Australian Parliament or state legislatures. Just as in America, lawyers do enter politics as a career, Prime Minister Menzies being an example, but there is a tendency for the Australian or New Zealand lawyer to remain a practitioner of the law until a post on the judiciary becomes available to him.

In Australia and New Zealand many law students spend a full five day week during school time working in a law office. Classes for those students are held either before 9 in the morning or after 5 in the afternoon. In other cases, there is full-time legal education followed by a period of "articling," similar to our "clerking," before the student is qualified to practice. There is seldom an equivalent of our Bar Examination. The

University "Finals" are considered sufficient assurance that the graduate is qualified. A higher percentage of law students are women, mainly due to the early entrance age for legal training, and the universal family pressure for males to earn their own way once they finish secondary school.

Deviations from American legal practice also appear in the separation of barristers and solicitors, still observed in three of the six Australian states, the virtual non-existence of jury trials in negligence litigation, and the extreme adherence to the "no advertising" rule among lawyers.

The trip enabled the Dean to renew his acquaintance with Francis W. Russell, '31, U.S. Ambassador to Australia, Graham Hall, '25, U.S. Consul General in Melbourne, and Francis L. Allen, Vicar of Christ Church, New Zealand, with whom the Dean has corresponded for forty years.

The Dean and Mrs. Griswold stopped on the way back in Honolulu, where the Dean was honored at a reception by Governor Quinn and addressed a Harvard Law School Alumni luncheon. Back in the United States, the Dean and his wife visited Cleveland, where they watched their son graduate from Oberlin College.

Appraising the trip for the RECORD, the Dean observed that, coupled with his personal edification, he hoped he had furthered the already cordial relations which have brought Australian teachers and scholars to Harvard in the past.

— Gold

Law School Admits 538

"Well, it's not the most interesting class we ever had," said Mrs. Edith Duehay Oliver, Admissions Secretary, "but you should have seen the ones we had to turn away."

From 1684 applicants for the class of 1962, 538 persons were selected. Last minute "no-shows" will probably reduce the class to around 532. A record number of women, twenty-one, have been admitted. There are 130 veterans. Of the 45 states represented, New York leads with 28.8% of the first-year student body. It is followed by Massachusetts' 10.7%, New Jersey's 6.4%, California's 5.5%, and Ohio's 5.3%. Harvard leads the 122 colleges represented with 18.8%. Yale has 9%, Princeton 8.3%, Cornell 3.9%, and Columbia 3.4%.

The class has 515 persons with bachelor's degrees only; thirteen have master's degrees; and four have doctor's degrees, two of which are in medicine. There are four Fulbright scholars. Of four A.B.'s in jurisprudence from Oxford or Cambridge, two are Rhodes scholars.

Only ten entrants are known to be the sons or daughters of alumni. There are no advance-standing transfer students in the second year class.

Chancery Renovates

A \$5,000 remodeling project delayed the opening of Chancery till Monday, September 28, a full week after classes began. A new cloakroom was constructed on the clubhouse porch and the basement renovated to make more room for social activities.

The furnace room has been moved away from the dance floor and a new tile floor installed in the basement. Overhead pipes were moved to give more head space. The basement was also painted.

The cloakroom includes space for coats, hats, and books as well as a lavatory. This project also included a new entry to the dining room.

The remodeling was done by First National Builders of Boston and Fort Lauderdale, Fla.

Casner Committee to Continue

The Committee on Legal Education has been meeting weekly since its inception last February. Professor A. James Casner, chairman of the group, announced that this practice will continue with the intention of presenting a report to the faculty at the close of the 1959-1960 school year. The Committee was set up to study the curriculum and to review the methods of education at the Law School. If the faculty adopts the committee's report, curriculum changes, if any, will probably be made in the fall of 1961.

Of the 1500 questionnaires submitted to the Law School students last spring, about 600 have been completed and returned.

The Committee consists of Professor A. James Casner, Professor Henry Hart, Professor Benjamin Kaplan, Professor Archibald Cox, Professor Albert Sacks, Professor Kingman Brewster, and Professor David Herwitz.

Professor Tells of Drafting Labor Laws

Archibald Cox, Royall Professor of Law, held the Harvard Law School Democratic Club rapt for two hours Tuesday afternoon with an intimate "biography" of the new Landrum-Griffin labor act. More than 250 persons filled the Harkness Commons meeting room to hear the professor report his experiences in both the 85th and 86th congresses as a legislative draftsman and adviser to Senator John F. Kennedy.

Professor Cox complained that organized labor made three errors which contributed to the final legislation. First, the labor lobby successfully worked to defeat the Kennedy-Ives bill in the 85th Congress' House. Second, labor insisted that the Kennedy-Ervin bill contain "sweetener" provisions amending the Taft-Hartley Act. Third, labor attacked the compromise bill which passed the Senate before the House passed its Landrum-Griffin bill.

The "sweeteners" which produced vigorous management opposition were originally used to enlist labor support for the otherwise friendless labor reform bill. They proposed to legalize building trades hiring agreements before men were actually on the job, give economic strikers who had been replaced with other workers a vote in bargaining elections, and to redefine the status of foremen. These had been selected as "non-controversial" because they had been called for by the President and by leading Republicans. Mr. Cox would have preferred that amendments to the Taft-Hartley Act be considered separately from questions of internal union reform. In Cox's view, a comprehensive revision of the Taft-Hartley Act tied to an internal reform bill would have made passage of any labor bill unlikely. Further, the inclusion of partial Taft-Hartley changes placed an additional impediment in the path of a comprehensive revision.

Many of Professor Cox's remarks pictured the parliamentary struggle involved in the labor reform legislation. He claims that the Administration Bill was actually a paraphrase of the Kennedy-Ives Bill, without the "sweeteners." At one time when McClellan and Kennedy forces were at loggerheads, Professor

Cox was comically able to insert acceptable language drawn from the administration version of his ideas. He also expressed his amusement at the President's television plea that a particular example of secondary boycott should be outlawed, when, as a matter of fact, it had been against the law since 1947.

He reported that frequently he was used to draft amendments on the Senate floor to meet speakers' objections to the draft bill. There was even an instance when Senator Kennedy requested Senator Wayne Morse to continue his critical remarks to allow the Professor enough time to draft a suitable amendment.

Later, Professor Cox worked with the Senate-House Conference Committee, despite a motion by Senator Everett Dirksen to exclude him as "having no business here." Because some House committee members "had come to see red" in all that came from the Cox pen, the drafting method at that point changed to accepting much of the House language, with the addition of provisos which preserved much of the Cox meaning contained in the Senate version. The Professor called this atrocious draftsmanship, but a useful device.

"After living most of one's life in a relatively rational community, watching the House of Representatives at work is one of the most disheartening sights in the world," said Professor Cox. "There are some bright young men who attempted to discuss the measure in a manner I thought persuasive, but they were howled down." Later in response to questions, Mr. Cox said: "One felt almost the same thing watching the Senate as watching the House, but after all, the process is an extraordinary one. I came away with a mystically renewed faith in it. What came out (the bill) was just about what the country wanted. It is not perfect, but neither is the country." Cox commented that if it were his fortune to write the labor bill of his heart's desire, 75 percent of the law as passed would be in it. He did object to the extreme detail of those sections regulating union elections and affairs.

— Hotvedt

New Jersey Revamps Clerkship Rules

Over this past summer the New Jersey Supreme Court amended its rules governing admission to practice within the state. These amendments became effective on September 9, 1959 and have radically altered the legal clerkship requirement, which in the past has tended to make New Jersey practice unattractive to many graduating law students.

The clerkship has not been abolished altogether. It still purports to accomplish its primary objectives of safeguarding the public from the errors of the inexperienced lone practitioner and of assuring that all lawyers have practical familiarity with the various phases of the judicial system before settling into a specialized legal practice. However, the recent changes are designed to eliminate artificial restraints inherent in the former clerkship requirements, and it is intended that the clerkship should offer no hindrance to the law student who intends to affiliate with a law firm rather than go directly into practice for himself.

The principal change in procedures for admission to practice is that bar examinations may now be taken at any time after graduation from an accredited law school. These bar examinations will be given twice a year, once in January or February and once in June or July. Upon passing the bar examination, the candidate will immediately be permitted to practice before the bar. If a lawyer has already completed his clerkship, he will be given a plenary certificate to practice. If he has not fulfilled his clerkship requirements, he will receive a limited certificate of admission to practice until he has completed his clerkship. This limited certificate entitles its recipient to practice in the courts, however, he must appear in the name of a duly qualified lawyer or law firm, and this lawyer or firm bears the ultimate responsibility for his conduct. In addition the holder of a limited certificate may not have his own clients or appear as attorney of record in any case until he has completed his clerkship.

The clerkship itself consists of a nine month period during which the clerk associ-

ates himself with a qualified practicing lawyer, his preceptor. A clerk can anticipate being called to appear at least three times before a committee of local attorneys to demonstrate his fitness to practice law. Also, during this time the clerk must attend a full session of state and federal courts as well as proceedings of the workmen's compensation board and the state legislature.

Complete information concerning admission to practice in New Jersey may be obtained from the New Jersey Board of Bar Examiners, State House Annex, Trenton, N.J.

The principal significance of these changes, as far as law students are concerned, is that they make it possible for a recent law graduate to appear in court as soon as he has passed the bar examination. It is intended that law firms will be able to make more immediately effective use of those whom they accept as clerks and will be less inclined to regard hiring clerks as an unprofitable obligation owed to the legal system. Under these circumstances it is anticipated that the principal New Jersey firms will increase their traditionally low salary schedules in order to make them competitive with those offered in neighboring states.

— Pfaltz

Salvation Army Triumphs

Continued from page 5

that since "he had used the property for a beer parlor, pool room, and a brothel, capitalizing on the weaknesses of the men in that small coal mining community" he wanted to repay for whatever damage he had done. Also he could not find a buyer for the place.

The case at bar arose when Mr. Darmon's mother, Mrs. Meade, claimed the gift was invalid because her son was incompetent due to schizophrenia. Justice triumphed, however. The Salvation Army was allowed to keep the present.

— Horwitz

FEATURES SECTION

Current Case

Greene v. McElroy, 254 F. 2d 944 (D. C. Cir. 1958), rev'd 360 U.S. 474 (1959).

At the close of its term last June, the Supreme Court held that in the absence of specific authorization from the President or Congress, the Secretary of the Navy could not cause an employee of a government contractor to lose his job following proceedings in which the employee

was not afforded the safeguards of confrontation and cross-examination.

William Lewis Greene was the Vice President and General Manager of Engineering & Research Corporation (ERCO), a private corporation holding Defense Department contracts which required access to classified defense information. On April 17, 1953, the Secretary of the Navy wrote the President of ERCO that Greene's continued access to classified security information was not consistent with the interests of national security. Greene was charged with as-

sociating with suspect persons and organizations. Most of these

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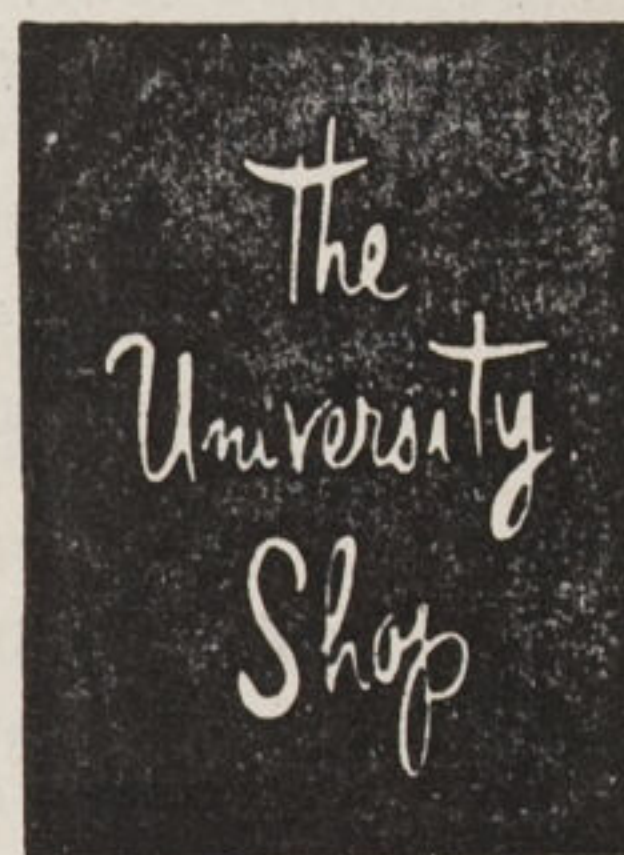
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charges concerned his ex-wife. Extensive administrative hearings were granted to Greene but the Secretary's judgment was affirmed. ERCO carried on extensive Naval work and, as a result of this clearance revocation, Greene could no longer work for ERCO. He brought an action in the District Court to declare the actions of the defendant (Secretary of the Navy) null and void. Following another decision adverse to Greene by a newly established review board, the district court granted the Government's motion to dismiss the case. The court

based its decision on the freedom of the Government to enter into contracts designed to restrict access to its secret information.

In affirming the decision of the district court, the circuit court held that the Secretary had both the power to label information "secret" and wide discretion in determining who could have access to this information. Confrontation of one's accusers was not necessary in the circumstances of the present case and due process had not been violated. Greene had acquired no "status" allowing him access to classified information. He could be denied access without full adversary proceeding.

Cross Examination

The Supreme Court, with Mr. Chief Justice Warren writing the opinion, reversed the circuit court and held that neither the President nor Congress had explicitly authorized the procedures by which Greene was deprived of his position. Such procedures, in which the right of confrontation and cross-examination of one's accusers is not afforded, are allowed only when such specific authorization is present.

In deciding the case on this ground, the Court did not avoid the "slippery slope of due process" but strongly suggested that the administrative proceedings employed had violated Greene's constitutional rights. The Court, in expressing some doubts about the charges against Greene, noted that one of the charges was that he had attended a dinner given by an organization officially cited as a Communist front. The Court, in a footnote, commented that several members of the Court also attended the dinner. The Court, in what must be considered elaborate dicta, discussed the action of the clearance boards. These boards did not even see the informants against Greene but relied on an investigator's summary report. An example of the hearsay nature of some of the questions is illustrated by the request of a board member that Greene comment upon a statement by one of his "friends" that

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9:30, 12:10, 3:00, 5:50, 8:45

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Night - 1:14, 3:20, 5:26, 7:32,
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3:30, 5:30, 7:30, 9:30

UPTOWN — The Scapegoat -
11:00, 2:40, 6:10, 9:45
Shake Hands With the Devil
- 12:40, 4:10, 7:50

Greene's wife seemed to be parlor-pink and that appellant just went along with her.

Mr. Justice Frankfurter, joined by Justices Harlan and Whittaker, concurred in the result that authorization for the revocation was lacking but they expressed no view as to the validity of the procedures involved. Mr. Justice Harlan, concurring specially, criticized the Court for unnecessarily dealing with the very issue that it sought to avoid. He reiterated the "traditional and wise" rule that constitutional issues should not be prematurely decided.

To Justice Clark, in a lone dissent, the case seemed "both clear and simple." Following the circuit court's opinion, Justice Clark maintained that the appellant Greene has no constitutional right of access to governmental secrets. Furthermore, he found specific authorization from the President and Congress for the procedures which were followed. Congress, being fully aware of the program, had authorized funds and several Presidential orders had conferred extensive discretionary authority upon the Secretary.

Having decided the case on the authorization issue, Chief Justice Warren's elaborate discussion of the dubious nature of the procedures seems open to the criticism leveled by Justice Harlan. Some would regard this as further evidence of the new technique by which the Court avoids constitutional issues yet gives effect to constitutional principles. The Court seems to be creating a presumption that cross-examination and the opportunity to confront one's accusers exists in the absence of specific authority to the contrary.

The decision, involving 3,000,000 defense workers, compels speedy action by the government. Some concession to the "relatively immutable" principles of confrontation and cross-examination seems desirable. The use of hearsay testimony and opinions given by ordinary and undisclosed informants seems unnecessary as well as unfair to the accused.

—McGinn

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American Bar Association President Calls for Training in Legal Ethics

Boulder, Colo. — President Ross L. Malone of the American Bar Association declared in an address here that many of the nation's law schools, and the legal profession itself, are not placing enough emphasis on ethics and professional responsibility in the training of law students.

In over half of the approved law schools, he said, there is no inclusion of legal ethics or professional responsibilities in the curriculum and no organized effort at instruction in this field. Mr. Malone expressed the view that this phase of

legal education must be treated as equal in importance to training in substantive and procedural law.

"The time has come when some more adequate process than 'osmosis' must be uniformly employed for the education of students in professional responsibility," he declared. "The hope that students will absorb high ethical standards and a well developed sense of professional responsibility from a faculty, none of whom has any assigned responsibility for instruction in these areas, places undue reliance upon optimism."

Faculty System

"In making this statement," he continued, "I am in no sense reflecting upon legal educators, but I am seriously questioning the system which is followed in over one half of the approved law schools in the United States today. In those schools there is no inclusion of legal ethics or professional responsibility in the curriculum and no organized effort at instruction in this field. Osmosis may be a recognized phenomenon of science, but it should be a supplementary process to education in professional responsibility and not the chief means of instruction."

He pointed out that legal educators for years have disagreed

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among themselves as to how to accomplish this phase of legal training.

"No objective of legal education is more important than this one; few are of equal importance," he said. "A law school which graduates a student who is deficient in his appreciation and regard for the professional responsibilities of the lawyer has done a great disservice to the legal profession and to society, regardless of how well educated the student may be in substantive and procedural law."

Public Suffers

"This is a problem which must be of even greater concern to the practicing profession than it is to legal education. We are educating students to be lawyers — not law students. It is the legal profession and the public — rather than the law schools — which suffer if there is a deficiency in education for the law."

The ABA president spoke here at the dedication of the new Fleming law building at the University of Colorado, commending that law school for sponsoring in 1957 a summer conference on education for professional responsibility. He emphasized that his remarks were not directed to any particular law schools but to legal education generally. He noted as "evidences of progress in this area" the creation of a committee of the Association of American Law Schools to study the problem, last fall's Arden House Conference on continuing legal education, and the national conference on legal education held last month at the University of Michigan.

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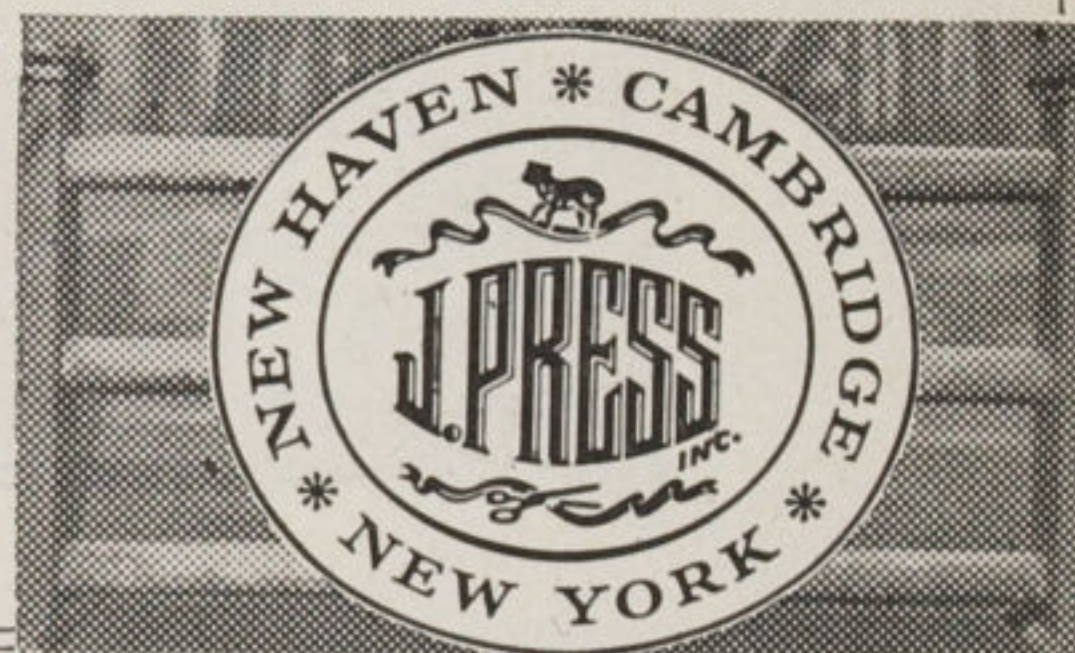
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