



Harvard Law Record

Student Plight : Lack of Time

Judge Lauds Vanishing Tribe

Dalai Lama's Brother to Speak



Interview with Potter Stewart

Drafting Judicial Reform

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.

Thursday, October 29

Professor Louis B. Sohn will deliver a bibliographical lecture on "Research Materials of the United Nations" to the INTERNATIONAL LAW CLUB in the Roscoe Pound Room at 4 p.m.

CHRISTIAN SCIENCE ORGANIZATION at Harvard University announces a free public lecture on Christian Science to be given by Mr. Francis William Cousins of Manchester, England, in Paine Hall, Music Building, at 8 p.m.

Annual REPUBLICAN CLUB mixer with Wellesley and Radcliffe students will be held in Harkness Commons, 8:30 p.m. Non-members may attend if they pay an admission fee.

Friday, October 30

"The Common Market and Some of Its Consequences for Business" will be discussed at the INTERNATIONAL LAW CLUB by Engelbertus L. Grommers, LL.M. '55, legal counsel and assistant general manager of N. V. Drentmina, Hoogeveen, Holland, in the Wheeler Room at 4 p.m.

The DORMITORY COUNCIL will sponsor a mixer in Harkness Commons at 8 p.m. on the second floor. Music will be supplied by two bands.

Wednesday, November 4

Professor Harold J. Berman will speak about his recent trip to Russia, where he represented the estate of Sir Arthur Conan Doyle in a case involving Russian breach of copyrights, at Harkness Commons, 7:30 p.m. before the Harvard LAW WIVES.

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Student Plight: Lack of Time

"Law Schools should provide less detail work and more basic thinking for their students." Speaking at the Centennial of the University of Michigan Law School last Friday, Dean Erwin N. Griswold declared: "We should make it plain to our students that we are not teaching them everything about everything."

"What we ought to be teaching is how to go about attacking and resolving *new* problems, not the specific details about a vast number of problems which happen to be current now."

Surprise

He added what "may seem a surprising observation, especially coming from me: that law school students 'have to work too hard trying to absorb and digest, with too little opportunity for thinking and the development of understanding. . . ."

"Moreover, our present system may give an undue advantage to a certain type of mind which can handle large quantities of details readily, while unduly minimizing the performance of some other students who may be really better potential lawyers. These are men who take more time to work their way through a mass of detail, but who may be really more perceptive, more understanding, more resourceful, and better able to face new problems, about which they have heard nothing in law school, than are the men who can keep more or less straight in their minds

the vast mass of material which we now lay before them."

Dean Griswold summed up his views this way:

"The basic problem of legal education today is to try to cut away much of the detail — not all of it — and to concentrate on fundamentals. American law teachers have done a tremendous job of building up and organizing this detail. This has been a major contribution of legal scholarship. I do not want to disparage it in the least. My point is simply that most of it is not suitable for use in legal education. I believe that the law teacher of the immediate future can do much for legal education by working out means to reorganize and simplify his instruction. This will surely involve clearing away, or at least rehandling in a major way, much of the detail which we now feel to be an essential and inescapable part of our pedagogical work."

Detail

The mass of detail now required of American law students, Dean Griswold explained, arises from the growth and complexity of the federal system of government in the United States.

"We have over 50 jurisdictions in the United States, all of them with full court systems, including a Supreme Court. Each one of these court systems turns out a full quota of law reports."

By contrast, he noted, the

English law student deals essentially with a single system, "turning out much less material annually than that produced by one leading state here." In Canada, there are only 10 provinces; Australia has only six states.

"It is possible to talk about 'the law of Australia' or 'the law of Canada' on a matter of torts or contracts, in a way which is quite meaningless as applied to this country. I do not advocate such a system for us. On the contrary, I feel fairly sure that our particular kind of federalism is the only form of government which could have been made to work in this great and diverse country, and I feel that the lawyers and judges of the country play a crucial and often unappreciated role in making the federal system reasonably effective. All that I want to do is to point out — what is well known, but what we tend to overlook — that our legal system is extraordinarily and uniquely complex, and that this presents major problems for legal education as well as for those who are engaged in administering the law."

Questions

Dean Griswold questioned a recent movement toward more legal instruction in small groups or in individual work with a professor. This not only overloads faculty members — who should have "a considerable amount of connected time for thought and

composition" to produce great books and important articles in the law — but also endangers "important values in the educational process."

"It is easy to say more in favor of individual instruction than is really merited," he commented. "One of the things that a lawyer has to be able to do is to stand on his own two feet. A good place to begin to learn that is in law school. Self-reliance and hard thinking often come from relying on oneself to

work things out, and from doing one's own thinking."

Specifically, he questioned the development of instruction in legal writing at the law schools.

"My suggestion is that these students who need so much help in English composition should simply not be admitted to law school. Ours makes some claim at being a learned profession, and people who cannot write sentences and paragraphs have no right even to start the process of

becoming members of it."

He concluded:

"I have sometimes put it this way: Yes, there are too many lawyers in the United States. But there are not enough good lawyers. If our law schools were to concentrate their efforts on those who are really qualified to undertake legal training and to practise law, the pressure on law teachers would be greatly reduced, and the instruction in our law schools would, I believe, be far more effective."

Judge Lauds Vanishing Tribe

Judge Samuel S. Leibowitz told the members of the Student Bar Association and their guests, Friday, that the criminal lawyer is a member of a vanishing tribe.

He blamed this on the fact that only a few criminal lawyers are able to get large fees due to the nature of the clientele ("85% of the criminal defendants can't even afford an attorney"). This is also caused by the fact that the romance of criminal law is gone. Times have changed. Today the public favors the prosecution. The criminal lawyer is looked down upon much as is the abortionist in the medical profession. The public impression is formed, to a great extent, by the movie and television portrayals of criminal lawyers.

His Honor was accompanied on his trip to Cambridge by his former legal secretary, Murray H. Perlman, who is now a justice of New York City Municipal Court in Brooklyn.

Judge Leibowitz gave several pointers to his audience. He stressed the importance of preparation of the witness. "It is important," he warned, "to have your witness show you exactly what happened at the scene under similar conditions. It is also important for you to correct weaknesses in your witness's story before opposing counsel gets an opportunity to discredit his testimony." The witness should be instructed before the trial to speak up when answering questions and not to volunteer any information, he added. He should answer only "yes" or "no" when

possible, and he should be courteous to opposing counsel.

Additional pointers given by the Judge included the form of the statement to the jury. "This should be in simple narrative form — as *you* see it — omitting technicalities. Stop when you've done this. Some lawyers just can't let go."

Witnesses

"Do not present too many witnesses for the same point. Each witness is a target and a good lawyer may shoot a hole in one of your witnesses," he cautioned.

"Use demonstrative evidence rather than testimony. When something is described orally, each juror gets a slightly different picture of what is trying to be conveyed. Have the jury inspect the scene involved if at all possible," the Judge continued.

The art of good cross-examination is not learned; it is innate. "You've got to have 'it,'" Leibowitz emphasized. "The purpose of cross examination is to point out mistakes, exaggerations, contradictions, and willful falsehoods."

"Cross-examination has been the graveyard of many cases. It's not easy to win a case on cross-examination, but it's very easy to lose one there," continued the speaker. Judge Leibowitz gave an example of one of his own errors as a trial lawyer.

He was defending three men accused of robbing a movie theater. The prosecution

had introduced signed confessions, and the defense was trying to prove that these were obtained by the use of third degree methods. One of the police officers was on the stand and Mr. Leibowitz asked, "Did you beat this man?" The officer replied, "No." Mr. Leibowitz asked the officer what he had in his back pocket expecting the officer to take out a blackjack. Instead the officer took out a handkerchief from one pocket and a Saint Christopher medal from the other. Mr. Leibowitz beat a hasty retreat.

Fishing

The Judge pointed out the danger of "fishing" in cross-examination. He told of an actual occurrence where one attorney by fishing brought out his opponent's best point.

He stressed the importance of a practical knowledge of human nature for a trial lawyer. He compared an attorney to a salesman



"You've got to have 'it'."

— selling his client's cause. "As a salesman, the lawyer must know his product, his competitor's merchandise, and his buyer." Poor salesmen belong in the office drawing up papers.

"The trial lawyer should neither attempt to curry favor with the judge nor try to bait

him since both practices make poor impressions on juries. In the few cases where you do get a bad judge — take it, say nothing. The jury may sympathize with your cause. It is only human nature for them to want to help you if the judge is unfair," he continued.

Poor Salesmen

Judge Leibowitz proceeded to describe the types of poor salesmen he has encountered in his many years of experience. They are as follows:

(a) The *Milquetoast* — He is the hen-pecked of the courtroom, the "Yes, mother" type.

(b) The *Peacock* — who struts around like a curvaceous woman in a Turkish bath on ladies' night.

(c) The *Bore* — He concentrates on the most irrelevant facts such as whether it was 12 or 12½ feet from the door to the window. His speech is liberally interspersed with *ehs* and *ahs*. He drones on and on until the jury is asleep.

(d) The *Ripper* — This type tears everything and everyone apart, from the big cop to the little old lady. No one escapes his saber-like slashes.

(e) The *Gazer* — who must consult that little spot on the ceiling before he can ask a question.

(f) *Pony Boy* — This trotter bounces around the courtroom like a little rabbit. He's here, he's there, he's everywhere.

(g) The *Buzzer* — He's in a huddle with two or three assistants after each question.

(h) The *Fumbler* — buried in a mass of paper and official looking documents.

(i) The *Lover* — making love to the jury; smiling in his unctuous way in an effort to gain their favor.

(j) The *Venal Fellow* — the bluffer who's putting on an act. He is the man you cannot trust. He will cite an article from a lengthy state constitution and be unable to tell you what it says when you ask him.

(k) The *Professor* — He always talks above the jury. His counterpart is

(l) The *Low-Brow* — who starts his plea with, "Listen, fellas" and whose speech contains a large number of words such as *dem* guys and *dos* people.

(m) The *Chronic Objector* — Take the words "immaterial, irrelevant and incompetent" from him and you have diminished his vocabulary by half.

(n) The *Table Pounder* — bangs on the table as he tries to pound home each point.

(o) The *Swisher* — This one needs two pairs of glasses, one for seeing and one for swishing in the air in an attempt to gain attention.

(p) The *Orator* — who sounds so beautiful but rarely talks about the subject of the case.

Judge Leibowitz urged the future lawyers present to "Be yourself in court!"

Theatre

His Honor likened the criminal courts to the theatre and said that they are among the most dramatic places in the world. The cast consists of the judge, the jury, and the witnesses. The spectators are the audience and the press. The critics are the jurors.

"It is important to ring down the curtain at a strategic time. Quit while you're ahead," advised the Judge as he concluded his talk.

During the question and answer period the Judge was asked how the criminal lawyer can get a start. His reply was that the young lawyer should begin with pauper cases. He should do a thorough job of investigation and really *work* — giving his all to each case. If he's good his reputation will spread quickly enough among those who need his help, he concluded.

In connection with this point, a student asked if it was fair to the family of one contemplating the criminal bar to subject them to the low income that a beginner is likely to earn and the low esteem that the public has for criminal lawyers. The Judge advised such people that if they really like criminal law they should try it. "See if you have *it*," he counseled.

Judge Leibowitz was queried on the criteria for pronouncing sentence. He listed four: (1) the nature of the crime and the moral turpitude involved; (2) the age of the defendant; (3) his prior record; and (4) the prognosis for his future — can he be rehabilitated or should he be stowed away to protect society?

In answer to a request to compare the Russian criminal law that he observed on his recent trip to the Soviet Union, Judge Leibowitz said that the Russian system compares unfavorably to ours. In the U.S.S.R. a prosecutor can keep a prisoner from seeing his family or even a lawyer for up to a year. The court has no power to act until an

indictment is filed. On the other hand, he reports that their prison ideas are much further advanced than are ours. Russian prisoners work at trades and are paid on the same scale as are workers outside the prison. After deducting an amount for expenses the balance is sent to the prisoner's family.

Responding to further questions concerning his personal views, the Judge informed those present that he favors capital punishment only in cases of cold-blooded murder and killing for gain.

He believes that the public defender idea is a valuable part of our society. This reduces the number of inept defenses and provides money for the defense of poor individuals.

When asked why he interrupts attorneys in their questioning of witnesses, Leibowitz replied that a judge is in court to see that justice is done and should step in for this purpose whenever he believes it necessary.

The Judge justified the defense by a lawyer of a man that he believes to be guilty on the ground that the defendant might really be innocent. He related one of his own experience where this actually occurred. "Never prejudice the guilt or innocence of an accused."

The Student Bar Association's next speaker will be Paul F. Hellmuth, a prominent corporation attorney. He is also Treasurer of of the Harvard Law School Association and member of the Association's Committee on the RECORD. He is with the firm of Hale & Dorr which is one of Boston's largest and his topic will be "Problems of Law Office Management." He will speak this afternoon, Thursday, October 29, in the Wheeler Room of Holmes Hall at 1:40 p.m. Coffee will be served.

— Traum

Harkness Manager Injured

Walter J. Dennis, Manager of Harkness Commons, is recovering from a broken back and a broken arm he received at his summer home, Groton, Mass., when a tree fell on him Sunday, October 18. He will be away from the Law School for an undetermined period of time. Mr. Dennis is now convalescing at his home in Arlington.

Louis J. Tolleson, Mr. Dennis' assistant is managing Harkness Commons in the interim.

He suffered the injury while assisting a neighbor take down a tree.

Dalai Lama's Brother to Speak

The Dalai Lama's brother, Gyalo Thondup, will speak before the Law School Forum at 8:30 p.m., Wednesday, November 4 at Lowell Lecture Hall. Mr. Thondup, who is titled Representative of His Holiness the Dalai Lama of Tibet, was sent to the United Nations to gain support for his country's struggle with Communist China.

In his talk Mr. Thondup will describe the efforts of Tibetan Buddhists to maintain their religion despite Red Chinese suppression. A Harvard professor of Buddhist Studies, Masatoshi Nagatoni, will be the moderator.

Gyalo Thondup was born in a humble Tibetan family in 1927. Twelve years later, his brother — then age four — was discovered and proclaimed to be the Dalai

Lama. After World War II Gyalo traveled widely in neighboring Asian countries. He studied in Nanking, China, until shortly before the Communist take-over in 1949. During part of 1951 and 1952 he lived in the United States. He left this country to return to Lhasa, Tibet, the principal residence of the Dalai Lama. In Tibet, Communist agents kept him under close surveillance. Fearing for his life, he escaped to India where he remained with his family until his present trip to the U. S. Mr. Thondup says his plea for U. N. support is not made "in a spirit of retaliation" against Communist China. "We Buddhists are wedded to the doctrine of peace," he has explained. "Our only wish is to live in freedom and friendship with all, as in the past."

Schlesinger Blasts Republicans

Harvard History Professor Arthur M. Schlesinger, Jr. fired a brief but broad salvo against the Republican national administration in his talk before the Harvard Law & Graduate Democratic Club at Harkness Commons last Wednesday afternoon, October 21st.

Red Blood

Commenting on what seems to be developing American folk custom, Mr. Schlesinger noted that "Like all good red-blooded Americans, I visited Russia this summer." "Over there," he continued, "they have dopes selling tickets to Odessa, but their best people shoot rockets at the moon. Over here . . ." and the Professor stopped before completing his intended and unflattering comparison with the U.S. Schlesinger stressed that he was particularly impressed by the strength the U.S.S.R. derives from its ability to allocate its talent and resources according to a system of national priorities.

Criticizing what he saw as the tendency to judge all values solely in terms of the market, Professor Schlesinger claimed such a philosophy leads to a poverty of the public welfare and to our present system of "private opulence and public squalor." "Allowing the market system to determine our national



Author M. Schlesinger Jr.

priorities is one major reason for current U. S. missile and education difficulties. Rockets have no market value," Schlesinger noted pointedly; "education certainly doesn't pay its way in the narrow market sense of the term." Schlesinger summarized his point in one sentence: "As long as we think that only things which can pay their way

in the market are worth doing, we will be in trouble."

Crystal Ball

Bringing out his crystal ball, Professor Schlesinger predicted a revival of liberal feeling in the United States, and set forth a cyclical theory to explain the "ups and downs" of public enthusiasm for reform movements in America. "Not confronted by the depression realities of the 'thirties, America's liberal revival will probably take a form analogous to Teddy Roosevelt's Progressivism," Professor Schlesinger suggested. "It is the Democratic Party alone which can harness the liberal forces of this country behind a new program capable of dealing with America's new problems. These problems include the Soviet economic and military challenge, and the vast new public requirements for housing and school construction for our 'exploding' population."

The Republicans could only hope to lead the liberal revival if they nominated Rockefeller, Schlesinger argued, but to be effective, Rockefeller would have to remake the Party in his image — not a very likely contingency. "The Republican Party broke Teddy Roose-

velt's heart, and it would do the same to Rockefeller," Schlesinger charged.

Drifting Politics

Replying to a question, the Professor said he believed that Nixon would be "an easier man to beat than Rockefeller, although from a non-partisan point of view, we may hope that the more liberal Rockefeller will win out over the out-and-out conservative Nixon."

Mr. Schlesinger saw only one real danger to the Democratic Party's leadership of the American liberal renaissance: a lack of forthrightness by the Democratic leadership itself. In an indirect swipe at Johnson and Rayburn, Schlesinger claimed that "Congressional Democratic leaders are not always representative of the Democratic Party rank and file. A firm attitude in defense of civil rights, an honest facing of the need for more resources for public necessities — these are required, not mere lukewarm lip-service to Party pledges and platforms. A 'me-too' attitude toward the 'politics of drift' in the White House must be resolutely opposed by Democratic Party leaders — in Congress and out," Mr. Schlesinger concluded.

— Camp

Pound Celebrates 89th Birthday

A busy man paused for a moment Tuesday to mark the passage of his 89th year. Roscoe Pound, University Professor Emeritus and retired Dean of the Law School, had a full year of study, writing, and speechmaking.

On the 25th of June, 1959, the West Publishing Company issued his five volumes on *Jurisprudence*. He gradually prepared this work during a period of over 40 years, despite the interruptions of administrative jobs, teaching, service to foreign governments, and other writing and editorial work.

Last year the man known to all, including Mr. Griswold, as "the Dean" wrote twelve law review articles, addressed two bar association meetings, gave three Law Day speeches at law schools, and delivered addresses at two other universities.

A week before his birthday, the directors of the National Association of Claimants' Compensation Attorneys held a premature birthday party for Dean Pound who at one time was editor of the Association's journal. The Dean laughed about the confusion over the date of his birthday and noted that in

his native Nebraska they used to call this type of a party "a sooner."

Among the many congratulatory messages, Dean Pound received letters from four jus-

Khrushchev is written above in Dean Pound's own Russian script. On the side is his Chinese script of his own name. These are two of the languages he has used in his study of jurisprudence. Others include Latin (which he learned from his mother), Greek (which he learned from his father), French, German, Italian, and Spanish.

tices of the Supreme Court. In response to the letter from one of his former students, he wrote to Mr. Justice Burton:

My grateful thanks for your letter. It has been my good fortune to have had an exceptionally able group of students and I feel deeply my indebtedness to them. They have done much to teach me while I was endeavoring to teach them.

His latest addition to the four shelves that contain his writings is the five volume treatise on *Jurisprudence*. This work is divided into eight parts, viz., (1) Jurisprudence, (2) The End of Law, (3) The Nature of Law, (4) Scope and Subject Matter of Law, (5) Sources, Forms, Modes of Growth, (6) Application and Enforcement of Law, (7) Analysis of General Juristic Conceptions, (8) The Systems of Law.

In the introduction he reflects on the 70 years of study, the 54 years of teaching, the years of practice, and his service on the Nebraska bench. He comments:

... in writing this book I have had in mind the general lay reader, the practicing lawyer, the judge, the legislator, the law teacher and the student, whether the latter comes to his study of law from some preparation in philosophy, in history, in economics, in political science, in ethics, or in sociology, in the course of which he has acquired or confirmed an idea of law as a body of rules. Indeed I might add those who think of law from experience only of social work on the confines of the legal order. The science of law has much to say to each of these.

Technically, the printers have demonstrated great skills in their efforts to make the appearance of the volumes worthy of the reputation of the author. Dean Pound's *Jurisprudence* is printed in large, readable type. Indeed, even the footnotes are easy for failing eyes to read. Their fine bindings,



Dean Pound

their illuminated first letters in each chapter, and their handsome type make his book stand out as a work of printer's genius as well as of legal brilliance.

Although he began his *Jurisprudence* in 1911 and wrote several chapters throughout his career, it was not till 1955 when a foundation offered him a writer's stipend that he was relieved of the necessity to work for a livelihood and began to devote full time to research and writing. During these past four years he has been revising the manuscript and preparing the volumes for publication. Last spring his desk was piled with galley proofs and reference books, as he laboriously read and corrected them.

Public International Law Analyzed

Professors Milton J. Katz and Louis B. Sohn presented an introduction to International Law before an attentive gathering of over one hundred persons in Harkness Commons on October 20. Professor Katz, speaking first, expressed dissatisfaction with the existing classification of the subject matter of International Law. He asserted that it "does not correspond to facts of life as lawyers see them." "A different analytical framework," he said, "may allow for more constructive thought."

Purposely limiting his remarks to relations

between governments or states as opposed to relations involving private individuals, Professor Katz warned of the problems of developing a quasi-constitutional ordering among states. As a possible approach he suggested that we look to see what light can be thrown upon these problems by existing municipal systems.

Emphasizing the fact that Public International Law is "a very young legal system" barely four centuries old, Professor Katz informed his audience that International Law would be harder to handle than other systems.

At the same time, however, "you can have more fun taking part in the creative evolution of a legal system".

Professor Sohn, speaking next, described International Law as being a counterpart of domestic law. He advised looking to a particular application of law rather than to generalities. Following what he called "the modern trend" one should try to split International Law into its component parts. Characterizing the acceptance by eighty-two nations of the United Nations Charter as "a common denominator of what nations are willing to accept as a world constitution," Professor Sohn maintained that one cannot expect the United Nations to solve in fifteen years all the problems that the United States had to cope with in one hundred seventy. He went on to state that "now we are living in a situation where the only way we can solve disputes is by peaceful means. Force no longer can be used, certainly not among the big powers."

Describing the work being done today in International Law as "a stimulating challenge," Professor Sohn declared that by taking part in the study of the subject one feels a part of this process of growth.

During the question and answer period which followed the two talks, Professor Katz was queried regarding the inability of international tribunals to enforce all of their decisions. Professor Katz explained that "there is an awful lot of difference between a little better and a little worse." Using family problems as an illustration and working up to the integration issue, Professor Katz pointed out that if many relatively simple problems could be definitively solved, that

it is foolhardy to look for simpler answers when we get up to two and one-half billion people. What is of profoundest importance, he asserted, is the difference of degree. "All you can do is have a set of standards and try to do a little better as you go along."

— Amitay

Williston Deadline Nov. 4th

The Williston Competition semi-final rounds are in progress. Nine teams that qualified last year are working on three problems in preparation for the deadline of November 4. Three teams are competing on each of three problems, based on the law of Illinois, New York, or Delaware.

Judges will be lawyers from these jurisdictions.

The three winning teams will compete in the spring for the Williston championship, which carries \$250 in prize money.

The Williston Competition was founded in 1951 in order to provide an opportunity for students to gain skill and experience in legal draftsmanship. It is named for Samuel L. Williston, Dane Professor of Law, Emeritus.

Republicans Hear Baxter

Assistant Professor Richard R. Baxter addressed the Law School Young Republican Club on aspects of the "International Lawyer in Government Service," during a luncheon meeting on Friday, October 23. Introduced by Alexander McColl, 3L of Kalamazoo, Michigan, Professor Baxter highlighted his remarks by emphasizing the importance of finding good men to represent this country in international legal tribunals.

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He noted that the field of International Law is growing and presents many new and unsolved questions which can provide stimulating work for men well-qualified to handle its special problems. The present administration in Washington, he remarked, has taken the lead in adopting a more positive approach toward submission of this country to the jurisdiction of the International Court of Justice. Possibilities of the repeal of the Connelly Amendment promise to give greater importance to the role of International Law in this country if we submit to the jurisdiction of that court unconditionally.

Professor Baxter likened International Law to constitutional law in that lawyers should understand the place of their own legal institutions within the greater sphere. Most lawyers never try cases involving questions of constitutional law before the U. S. Supreme Court, but an understanding of that subject contributes to the individual lawyer's better understanding of problems in his own field. In a like manner, knowledge of International Law provides greater awareness of the place of the common or civil law within the larger realm.

— Winslow

Obstetrical Clinic Opens

A student wives' obstetrical clinic commenced operation this fall as a new service of the University Health Services.

Wives of registered students enrolled as degree candidates and full-time married female students are eligible provided they qualify as clinic patients at the hospital. Eligibility is determined when the enrollment application is reviewed. Once enrolled a patient can continue in the program until she delivers, even though her student status or her husband's status changes.

Care

The hospital provides all the clinical facilities and services for prenatal and postpartum care. Referral to staff consultants, routine laboratory tests, and all other available services, as medically indicated, are included. This clinic care is also available at a reduced rate to an expectant mother whose delivery date extends beyond the time she will be in the area.

At the time of delivery, the patient is admitted to the House Service under the im-

mediate care of the Chief Resident and the House Staff. Insofar as possible, the hospital will group clinic patients in beds on the same floor. All hospital charges for a six-day stay are covered by the clinic fee, including routine pediatric care during the mother's hospital stay.

If the patient is insured in the Student Insurance Plan, expenses for care arising from complications of pregnancy are paid for by the plan. If the baby is immediately insured in the Student Insurance Plan, premature nursery charges and other hospital expenses for care of acute conditions are also included.

Plan

If the patient is not insured in the Student Insurance Plan and pays the maximum clinic fee, the hospital will allow multiple admissions and care for obstetrical complications without additional charge. Care in the premature nursery is not included, however.

If the patient is enrolled in the Student Insurance Plan, the full fee is \$215.00. For other patients, the fee is \$235.00. The fee for the pre-

natal clinic is only \$26.00. The usual Harvard "painless payment plan" is available. People interested in this should send a \$26.00 check, payable to Harvard University, to the Insurance Office, 15 Holyoke Street, Cambridge 38, immediately after hospital approval of the application has been given. The balance of the fee will appear on the student's term bill in either November, January, April or June, whichever month is prior to but nearest the expected date of delivery.

Clinic

The clinic is open from 8 to 10 a.m. on Thursday mornings at 221 Longwood Avenue, Boston. Wives should call BEacon 2-1700 for an appointment for the initial visit. A supervised playroom and nursery makes it possible for an expectant mother to bring other children with her while she is seeing her physician.

Dr. Ruby G. Jackson, a senior obstetrician on the hospital staff, is in charge of the clinic. The Medical Department of M.I.T. is a co-sponsor with the University Health Service.

— Hotvedt

Interview with Potter Stewart

Justice Potter Stewart's earliest recollections of purpose concern the law. While he was growing up in Cincinnati, his father — later an Ohio Supreme Court judge — was a successful trial lawyer, and family life revolved around the courts. "I don't remember contemplating being anything but a lawyer," said Justice Stewart when interviewed in his chambers in Washington.

Justice Stewart was other things before he became a lawyer, however. While at Yale, he was Chairman of the *Yale Daily News* and worked two summers on the *Cincinnati Times-Star*. He concedes that, upon graduation from Yale, he "flirted with the idea of trying to get a job as a journalist," but he quickly adds, "I didn't seriously flirt with it."

Justice Stewart's journalistic training has served him well as a lawyer, and, more particularly, as a judge. He feels that journalism and opinion-writing have "more than a little in common." An important and often neglected part of a judicial opinion is an "accurate, fair, clear, objective statement of facts," along with a reasoned exposition of the law. It is important to an honest opinion that all relevant facts be included without undue emphasis on the facts most favorable to the result-reacher. Because "one of the sins" of appellate judges is to state only the favorable facts, it is often impossible for the lawyer or student later reading the opinion in a lawbook to determine whether it was fair to the parties.

Along with completeness, Justice Stewart's opinions also have the characteristic of being exceptionally clear and well-written. "I try to make the fact statement interesting, to tell a story."

These attributes of fairness and lucidity with a dash of color which are reflected in his opinions are qualities which are manifest in Justice Stewart's personality. He considers himself a slow writer with a "miserable compulsion" to change what he has written, yet his writing has a quality of spontaneity. In a similar fashion, he speaks fluently and

precisely, but only after careful consideration. During a short interview, he frequently referred to the books lining his study to check the accuracy of a fact he was asserting. He was invariably correct in his assertion.

The combination of this scholarly approach to the law with literary ability suggests that Justice Stewart might have become a professor. After his wartime Navy service, he did consider teaching for "one whole weekend" but abandoned the idea to return to the New York firm of Debevoise, Stevenson, Plimpton and Page as an associate. He left the Debevoise firm in 1947 to become associated with the Cincinnati firm of Dinsmore, Shohl, Sawyer and Dinsmore, where he was a partner from 1951 to 1954, when he was appointed judge of the Court of Appeals for the Sixth Circuit. He served on the Sixth Circuit until his October 8, 1958 appointment by President Eisenhower to the Supreme Court.

In a sense, Justice Stewart's professorial talents are realized on the bench. "In a rough inaccurate way," the job of judging is "half way between teaching and practicing law," in terms of the sort of temperament, intelligence and scholarly interest required.

Personal Losses

Yet Justice Stewart left the life of private practice "with real regret." He misses "the fun of advocacy, the satisfaction of giving advice to people which turns out to be right, the satisfactions of service to individuals in trust, to people who need help, the happy experience of working with other lawyers."

"A judge loses some companionship as well as the possibility of becoming a millionaire and the satisfaction of helping individuals. It is not an easy psychological adjustment to make, and I haven't found it easy. I have more than once wanted to get down off the bench and argue the case."

Justice Stewart has not allowed this instinct for advocacy to force him into the position of espousing one political philosophy or another. At a press conference after his nomination, he was asked whether he was a liberal or conservative. "I'd like to be

thought of as a lawyer," was his reply. He adhered to this statement when interviewed several months later.

Part of this reluctance to expound a philosophy was perhaps attributable to Justice Stewart's vulnerability to political attack until his Senate confirmation, which came seven months after his nomination. However, his opinions do not lend themselves to being categorized as expressions of a particular view beyond the lawyer-philosophy of considering each opinion in terms of the particular facts and factors involved. He feels that, because of his experience as an intermediate appellate judge, he has a greater respect for precedent than many of his colleagues on the Court. He does think, however that there is more room for construction and interpretation in constitutional cases than in other fields because of the "purposefully broad" terms employed by the drafters of the Constitution. However, "practically every phase of the Constitution has a body of law," which should not be ignored.

In line with his lawyer's philosophy, Justice Stewart is quick to jump on judicial reasoning which proceeds from questionable or fatuous assumptions, whether uttered by counsel or by a brother Justice. He is critical of the application of a standard other than the common law standard of negligence in FELA cases. "The statute clearly bases liability on negligence," he said. "If I were in the legislative branch of government, I would probably be in favor of Workman's Compensation laws in this field. I think a very good argument can be made for it. However, the statute as it stands says negligence."

Slow Worker

Justice Stewart — "a slow worker" — is concerned with the quantity of work handled by the Supreme Court. He believes that the court should not spend time with cases involving only factual issues. "If it is just a matter of deciding cases we have state courts and the lower Federal courts. In the Supreme Court we have twenty-five petitions a week, briefs on both sides, and argument. Each of the 9 judges does all the work himself; it's a question whether any of his judicial powers are constitutionally delegable. It is therefore almost impossible for a judge to do all the Court's work well. You have to neglect one thing or another."

Justice Stewart does not think the Court's time should be conserved, however, by the creation of a special Tax Court of Appeals to hear ordinary tax cases on appeal. This proposal would give the Court more time for other fields, in addition to effecting more consistent and satisfactory results in the federal taxation field, according to its proponents, whose ranks include Dean Griswold.

Justice Stewart thinks that the tax cases which reach the Court present questions of



Mr. Justice Stewart

federal statutory interpretation, where "it is better to have a general court and people with general knowledge to resolve conflicts in the statutory construction."

He does think, however, that the Court's work could be cut down by more judicial restraint in the granting of certiorari in fields such as negligence cases arising out of diversity jurisdiction. "They don't belong here. They involve questions of state law which the trial judge and the Circuit Court judge on appeal are more familiar with."

Unanimity

Justice Stewart feels that efforts should be made by the Justices to have a unanimous Court, something relatively rare in recent Court history. "Members should try to find common rather than diverse grounds. On the Court of Appeals in cases where the issue was primarily factual and I didn't disagree with the applicable legal principle, I didn't

bother dissenting, if I could not convert my colleagues. I don't believe in filling up the books with dissents on factual issues." Justice Stewart feels that the losing litigant is "even more frustrated" if the Court's decision is not unanimous.

However, when efforts to find a common ground on important issues fail, a dissent is in order.

Justice Stewart also feels that the use of *per curiam* decisions is justified when no new legal principle is to be asserted. The time of the Justices is freed for "more important matters" by *per curiam* opinions.

His attitude towards judging is one of fairness to the parties, within the limits of his concept of the role of a judge. He feels that a judge should rarely decide a case on the basis of material not argued by the parties. "If a court is going to go very far from what's been presented in brief or in argument or is going to decide an issue that hasn't been presented, it's best to have a reargument in fairness to the parties."

On the Sixth Circuit, he also indicated a tendency to "think out loud" concerning the substantive position of the parties in future litigation in cases disposed of on jurisdictional grounds. See *Williams v. Dalton*, 231 F. 2d 646, *Fuqua v. Steelworkers*, 253 F. 2d 594. He feels that "giving an indication of my views, which are not controlling in any way," might have a tendency to save the parties

and the courts from further fruitless litigation.

Justice Stewart's appointment to the Supreme Court at the age of 43 was called the "happiest appointment in 20 years" by a leading Constitutional Law authority, and was generally hailed by members of the bar. His academic career at Hotchkiss, Yale, and Yale Law School, where he was an Editor of the *Yale Law Journal*, and in England as a recipient of a Henry Fellowship, was outstanding. His successes as an advocate and in politics as Vice-mayor of Cincinnati led to his elevation to the bench. Despite his swift rise to success at 44 he manifests the maturity and tested fair-mindedness that are usually associated with an older man. It is impossible to predict what his place in American jurisprudence will be, but one would expect his career to be similar in some respects to those of Chief Justices Charles Evans Hughes and William Howard Taft, both of whom are personal heroes of Justice Stewart. Like Justice Hughes, Justice Stewart shows an ability to analyze complex and confusing situations, expertly distilling acceptable criteria for decision.

His similarity to fellow Cincinnati Taft lies in Justice Stewart's concern with the court's many administrative problems. Significant solutions to those problems might well come from the Court's newest and youngest Justice.

— Volk

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Driving Standards Recommended

CHICAGO — Four suggestions for improving driver behavior on the nation's highways were made last week by a Harvard University psychologist, Alfred Moseley. His advice was offered at a session of the 47th annual National Safety Congress held at the Congress Hotel.

Mr. Moseley recommended:

1) Issuance of a national driver's license complete with an identifying color photograph.

2) Broader and compulsory driver training programs which would include detailed instruction in the handling of emergency situations and in the effects of drugs, chronic illnesses, etc., on the driver.

3) More adequate accident investigation procedures including mandatory autopsies of accident fatalities and physical examinations of surviving drivers.

4) On-the-spot hearing by authorized motor vehicle "hearings officers" traveling with enforcement officers.

Accidents

Mr. Moseley is co-director of a five-year United States Public Health Service-sponsored study at the Harvard Medical School, looking into the underlying causes of fatal traffic accidents, and is a research associate in the Department of Legal Medicine at the Medical School.

Standardization of driver licensing, Mr. Moseley pointed out, would not only insure correct identification through color photographs, but would standardize physical examinations and such driving aids as hand signals and road signs. The latter would eliminate much of the confusion experienced by motorists traveling

from one area of the nation to another.

In elaboration of his second point, Mr. Moseley said it was of extreme importance that today's motorist develop skills to meet such driving emergencies as skids, blow-outs, panic stops and the sudden loss of power steering or of brakes. Prior to the issuance of the first driver's license he urged that all applicants complete a driver education course which would embody all emergency procedures. He also advocated the inclusion, in booklets issued to driver applicants prior to their examination, of information concerning the effects on driving of emotional problems, fatigue, chronic illness, drugs and various medications, alcohol and toxic gases.

Fatality

"Each fatal accident," Mr. Moseley stressed, "should be treated as if it were a homicide." This would require, he pointed out, a mandatory autopsy to determine the cause and manner of death. Further, he urged that competent personnel be available to make a careful examination of the vehicle or vehicles involved in fatal accidents to determine their role, if any, in the fatality. Also, to ensure that drivers who survive accidents in which fatalities occur are capable of continuing to drive, he suggested that mandatory physical

examinations be required of each such driver.

One way in which to avoid the malpractice of ticket fixing, Mr. Moseley believes, as well as to insure rapid legal action following traffic accidents, would be the assignment of a "hearings officer" to ride with enforcement officers.

Courtesy

"The hearings officer," he said, "would thus be in a position to observe the violation firsthand and to hold roadside hearings for license suspension and to issue time-limited licenses to enable the operator to drive to his home. Because he is on the scene, the hearings officer could also commend the skill and courtesy of other drivers."

Mr. Moseley indicated that authorization for such a procedure could probably be achieved in most states by administrative order and would not require legislative action. Another boon to the process, he noted, would be the elimination of long delays between traffic violation and traffic court hearings.

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Conference Drafts Judicial Reforms

A high level National Conference on Judicial Selection and Administration will be held in Chicago November 22-24, bringing together leaders of the legal profession and representatives of the public to draft an action blueprint for basic reforms in the selection of judges and in court administration.

Selection

The main purpose of the conference will be to focus national attention on the need for improved methods of selecting judges, and for modernizing court administration. By bringing together the best professional and public thought on these questions, the sponsoring organizations hope to crystallize sentiment and encourage joint bar and public action for court reforms wherever they are needed. In recent years court reorganization measures have been undertaken, or are being considered, in more than half of the states.

John D. Randall, of Cedar Rapids, Iowa, president of the American Bar Association; Albert E. Jenner, Jr., of Chicago, president of the American Judicature Society, and Judge Philbrick McCoy of Los Angeles, president of the Institute of Judicial Administration, announced plans for the conference. They said the conferees would include representatives of all state bar associations and major city bar associations in the country, as well as government officials, representatives of both political parties, federal and state judges, labor union representatives, law schools,

lay organizations and representatives of the press, radio and television.

Action

The plan calls for the conference to split into seven discussion groups, to discuss and formulate conclusions as to seven facets of the judicial selection-court administration subject. After two days of such discussion, starting Nov. 22, the full conference will assemble on the final day to draft a statement of conclusions and suggestions for community action.

Subjects which the conference groups will consider are:

1. How should judges be selected?
2. Making the existing state selection systems work.
3. Problems of federal judicial selection.
4. Judicial tenure and retirement.
5. Discipline and removal of judges.
6. Effective use of judicial manpower.

7. Action programs to achieve reform.

The first three topics to be discussed by conferees will deal generally with the subject of selection of qualified persons, the following three subjects with administration, and the last equally with selection and administration.

The last day of the conference, Tuesday, will be devoted to evaluating results of the meeting, formulating a comprehensive campaign program, and issuing final statements.

Weekend Entertainment

CAMBRIDGE

BRATTLE — The Captain from Koepenick — 3:30 (Sat), 5:30, 7:30, 9:30

UNIVERSITY — Middle of the Night — 2:45, 5:55, 9:05; Antarctic Crossing — 1:40, 4:55, 8:05

BOSTON

BEACON HILL — Sapphire — 10:10, 12:05, 2:05, 4:05, 6, 8, 10

EXETER — Power Among Men — 2:15, 4:05, 5:55, 7:45, 9:35

GARY — Big Fisherman — 10, 1:15, 4:15, 8:15

SAXON — Career — 10, 12, 2, 4, 6, 8, 10

TELEPIX — Mon Petite — 11:30, 1:30, 3:30, 5:50, 7:30, 9:30

UPTOWN — Middle of the Night — 1:20, 5:35, 9:35, Room at the Top — 11:15, 3:25, 7:40

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