



Harvard Law Record

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Glimpses of the New Wing

Rickover and Copyright

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, November 6

The BULL AND BEAR CLUB will present Carl M. Loeb of Loeb, Rhoads & Co., Inc. who will offer suggestions on "Planning a Portfolio" in Harkness Commons at 1:45 p.m.

The INTERNATIONAL LAW CLUB will present Professor Manfred Lachs, Delegate of Poland to the U. N., revealing "Recent Trends in Recognition" in the Roscoe Pound Room at 8 p.m. Elections will follow the presentation.

Sunday, November 8

The SAINT THOMAS MORE SOCIETY will hold a Communion Breakfast at 10 a.m. in the Mallory Smith Room of Harkness Commons. The Speaker will be Rev. J. Edward Nugent, C.S.P.

Thursday, November 12

The INTERNATIONAL LAW CLUB will conduct a discussion around a talk by Hernando Gomez concerning "Judicial Function as a Source of Law in French and Latin American Systems" in the Wheeler Room at 4 p.m.

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Secret Forum Discovered

Although a mantle of secrecy heavily covered the Law School Forum this week, the RECORD was able to discover from a usually reliable source that nationally-known cartoonists Al Capp and Walt Kelly will be appearing at Lowell Lecture Hall on Friday, November 13 at 8 p.m.

Indications are that Capp and Kelly plan an assault on the Lecture Hall where they will conduct a mock Republican nominating convention in which American political folkways will feel the sharp barbs of humor wielded by the two satirists. The humorists'

antics for the Forum will be a preview showing of a skit tentatively entitled "Sketches of American Life" that will be touring major cities of the U. S. shortly.

This will mark Kelly's first appearance for the Forum but he appeared in Cambridge in 1952 leading a "Pogo For President" torchlight parade which eventually degenerated into a major undergraduate brawl in Harvard Square. Local police hope that Kelly's latest political endeavours will be greeted by somewhat less enthusiasm from the students. Capp appeared for the Forum last in 1957.

Hellmuth Reports Legal Income

Paul F. Hellmuth, Senior Managing Partner of the Boston firm of Hale and Dorr, told the Student Bar Association last Thursday afternoon that every lawyer can increase his income and help raise the economic standing of the profession by adopting efficient methods of office management.

Today, Mr. Hellmuth stated, the number of people passing bar examinations is decreasing, and therefore, with the continuing prospect of rising population there is no reason why the lawyer cannot maximize his income if he follows efficient methods of office management. Discussing the present economic position of the lawyer, Mr. Hellmuth quoted statistics indicating that the lawyer's average income is more than five thousand dollars below that of the physician. As of 1954, he said, the average income of the solo law practitioner was not much greater than seven thousand dollars, while the average income of firms with nine or more members was over thirty-six thousand dollars.

Lawyer's Assets

Time and ability are the lawyer's only assets, he said, and thus the lawyer must keep accurate records of the working time spent on each case. Most lawyers in large firms record working time in individual diaries, but this method, Mr. Hellmuth said, is not very effective because it is difficult to determine the total amount of time spent by all lawyers in the firm who worked on the

same case. He suggested that some kind of central tallying office be set up for an entire firm. The central office would maintain a running tabulation of the time spent by each lawyer on the same case and could make this information easily available.

Own Business

The lawyer, Mr. Hellmuth declared, should exert as much effort to run efficiently his own business as he does in advising clients how to run their businesses. The Boston attorney also pointed out that lawyers are not compelled to wait long periods of time until a case is finally settled before billing a client. If the lawyer waits too long he is forced to estimate inaccurately the working time put in on a case. Mr. Hellmuth suggested that with the aid of accurate time sheets, periodic bills can be sent to clients in accordance with approved business procedure. Emphasizing the fact that clients do not want to feel indebted to their lawyer, Mr. Hellmuth said that lawyers should oblige their clients by maintaining realistic cost control over their work.

Referring to the internal management of his own firm, Mr. Hellmuth said that the income of each member is determined on a method of evaluation which places a premium of 60% on work-output time. Business-getting ability is evaluated at 30% and 10% is allocated to profit-getting. Weekly meetings

of members of the firm are held, he said, in order to facilitate exchange of information. A card ledger of each case is kept and at weekly meetings cases handled by the firm are discussed. Firm meetings are also held to discuss billing practice.

Turning his attention to new developments in the practice of law, Mr. Hellmuth noted that tax accountants who are not qualified to offer legal advice are performing a function which should be performed by the lawyer. Most lawyers, he said, take a short-sighted economic view by not advising a client on tax return preparation. The work of merely filling out a tax return is not very lucrative, but the opportunity to examine financial statements enables the lawyer to offer advice which can save his client considerable money. In the area of trust work, Mr. Hellmuth asserted that the trust companies have taken over for the lawyers. As a result, he

said, clients are deprived of legal advice which can help them to stabilize their income and to save on estate taxes.

Commenting on the question of specialization, Mr. Hellmuth said that lawyers who do not refer cases which can best be handled by specialists are guilty of defrauding the public. As one attempt to meet the problems presented by specialization, Mr. Hellmuth referred to the establishment in Quincy, Massachusetts, and in other parts of the country of "legal clinics" which are similar in their operation to medical clinics. Mr. Hellmuth also spoke of the efforts of state bar associations to enforce a system of minimum fee schedules. In answer to a question, Mr. Hellmuth said that a lawyer who patently undersells his services would be subject to suit for unlawfully soliciting business.

— Bloom

Scott Gives 'Traditions' Talk

Last Friday at 1:40 in Harkness Commons, the Coffee Hour, developing something of a tradition of its own, opened its annual series of presentations with a talk by Professor Austin W. Scott on "Traditions of the Law School." With his customary inimitable wit, to which second year students alternately become painfully and pleasantly accustomed, Professor Scott outlined a history of the school and its personalities. He noted that "the school was established as a separate entity in 1817, and I'll talk about it from then, although I haven't been here *all* the time."

Professor Scott first referred to what he termed the "false dawn" with just two professors and few students, but suggested that the starting date of the school as a solid institution dated from the hiring of Professor Story, "who had a perfectly good job on the Supreme Court," and Professor Greenleaf. These two figures dominated the scene for some time, but at their departure, major revisions were in order, spurred on by an article of the time appearing in the *American Law Review*, allegedly authored by Oliver Wendell Holmes, Jr., which referred to con-

ditions at the school as "a scandal, and blight upon the Commonwealth."

Professor Scott then proceeded to trace the steady growth of the faculty with Langdell, Ames, and Thayer, and added observations about some of the more colorful individuals who have graced the academic halls. Of Professor "Bull" Warren, of "look to your left, look to your right" fame, he suggested that he had a reputation as being a bit hard on his students. He related an incident which purportedly took place in one of Professor Warren's classes:

After putting a hypothetical to one of his students, he inquired whether, upon those facts, the defendant or plaintiff should win. The student, after long hesitation said "I think that the p-p-plaintiff should win, sir." "Right!" the answer came back. "Jesus!" the student exclaimed.

Professor Scott sought to distinguish sharply between those professors who were thus hard on their students and "those who are easy, like me." He said that he felt that once a point had been fully discussed in class, "I feel free to communicate any conclusion which I may have formed on the subject, with

which students should feel completely free to disagree. Of course, all my conclusions are right, or I wouldn't have come to them."

On the subject of qualifications of students at the Law School, Professor Scott noted that with the advent of stringent entrance requirements, only people of high potential now appear in classes. He observed that this was not always true, relating that in one of his first year classes in Torts, which he used to teach, a student had told him that a defendant was liable because "he done it, and he done it intentional." Professor Scott said that he hadn't heard anything comparable recently, but then he wasn't teaching the first year any more, either. He said, however, that entrance requirements should be applied with

discrimination, since great minds not infrequently accomplished only C averages in college work, "but when a student has barely scraped through, then one is able to form an abiding conviction that he's just kinda dumb."

When asked during the question period whether the tradition of Scott on Trusts would be offered to students again next year, the Professor said that he thought it might, "I'll be 76 the next year, however, the age at which everyone retires. However, once one passes 70, they ask you every year whether you intend to be back the next, and after a while, saying "yes" gets to be a habit of sorts."

— Skornia

Forum Loses Thondup

Delicate relations between India and the Tibetan exile government apparently led the Dalai Lama's brother, Gyalo Thondup, to cancel his speech before the Law School Forum. The Forum talk was to have been one of several appearances designed to win American public support for Tibet's struggle with Communist China. The speeches were abruptly forestalled when the Dalai Lama ordered his brother to return to India a week ahead of schedule.

Since his escape from Tibet, the Dalai Lama has been the guest of the Indian government which opposed United Nations' discussion of Tibet's troubles. India has

discouraged provocative statements against Communist China in an effort to settle the Sino-Indian border disputes amicably.

The sudden cancellation of speeches was entirely unexpected. The Dalai Lama's brother fulfilled only his commitment to the National Press Club where it was felt that the presence of foreign diplomats gave his appearance a more diplomatic than propagandistic character.

This is the second set-back the Forum has suffered this season. James R. Hoffa, president of the Teamsters Union also backed out of his scheduled appearance at the last minute.

Defenders Announce New Members

Fifteen second-year students have been selected as members of the Harvard Voluntary Defenders, Francis X. Meaney, 3L of South Braintree, Mass., president of the group, announced this week. The incoming group is the largest in the eleven-year history of the Defenders because of the growing demand for its assistance to indigent persons accused of crime.

Although membership in the Defenders is now open to both men and women, only men applied this fall. The following persons were selected: Howard T. Brinton, Wilmette, Illinois; Francis C. Brown, Jr., Montclair, New

Jersey; Howard E. Chase, South Orange, New Jersey; Henry M. diSuvero, San Francisco, California; Lewis Engman, Grand Rapids, Michigan; Charles A. Goldstein, Perth Amboy, New Jersey; R. Dobie Langenkamp, Tulsa, Oklahoma; Daniel N. Loeb, Forest Hills, New York; H. Erik Lund, Augusta, Maine; Richard H. Morehead, Huntington, West Virginia; Herbert B. Newberg, Philadelphia, Pennsylvania; Curt L. Owen, Los Angeles, California; Walter M. Strine, Jr., Media, Pennsylvania; William M. Sullivan, Rego Park, New York; J. Joel Woodey, Lutherville, Maryland.

"Last year the Defenders' caseload passed the 550 mark, a 20% increase over the previous high. The number of pre-trial interviews and investigations increased significantly, and more research memoranda were prepared for persons already sentenced who were considering some form of appeal or motion," Meaney explained.

"The same upward trend continues this year. In addition, third-year members of the organization have received authority from the Supreme Judicial Court of Massachusetts to appear as counsel in the district and municipal courts on behalf of criminal defendants," he concluded.

Dems Forecast Programs

A program of campaign oratory and hard practical politicking has been laid out by the Law and Graduate Schools Democratic Club as it prepares to take to the pre-1960 hustings. With almost 300 members as a product of early recruiting, the club has scheduled activities ranging from the appearance of several major Democratic presidential contenders to diverse research and leg-work projects at national, state, and local levels.

Later this month, Governor Robert B. Meyner of New Jersey will open the Harvard Democratic Leadership Forum, a joint College-Law School Democratic venture to sponsor speaking engagements for eight leading party presidential possibilities. Meyner will speak at 4 p.m. on Wednesday, November 18, at the Lowell (formerly New) Lecture Hall. He will be followed later in November by Missouri Senator Stuart Symington.

Other firm commitments to the Forum for Harvard appearances have come from Gov. G. Mennen Williams of Michigan for January or February and Sen. John F. Kennedy for early January. Governor Edmund G. Brown of California and Sen. Hubert Humphrey are listed as interested and probable speakers for the spring. The program is under a co-chairmanship with David Adamany, 2L of Green Bay, Wisc., representing the Law School.

The Democratic and Republican clubs in a show of bipartisanship, will jointly sponsor a talk on Tuesday evening, December 1, by Lloyd K. Garrison, a leading civil liberties lawyer and partner in the New York firm of

Paul, Weiss, Rifkind, Wharton and Garrison. Mr. Garrison, noted as the counsel of J. Robert Oppenheimer, speaks on the lawyer's role in the field of civil liberties. The meeting in the Ames Courtroom will be chaired by Dean Griswold.

Additional speakers from time to time will be provided, with the Harvard faculty serving as a continuing source of possible choices; thus far this year, Professors Cox and



Senator Hubert Humphrey

Schlesinger have spoken on public policy issues within their particular interests. During the spring, the club hopes further to be able to organize a representative panel of Democratic spokesmen to consider the possible contents of a 1960 Democratic platform plank on civil rights.

Meanwhile, a group of students will be addressing the task of preparing several other platform planks on subjects relevant to law and education, which the club hopes to submit to the party Platform Committee at the national convention next summer. Under the chairmanship of Ted Orliss, 2L of Seattle, Wash., a committee has begun to consider several possible issues, including the National Defense Education Act loyalty oath, federal aid to education, and U.S. policy toward the International Court.

At the state level, an active program of research assistance to several Massachusetts legislators is in its second year, involving about 40 people from the Law School. Under

the chairmanship of Mike Dukakis, 3L of Chestnut Hill, Mass., these student aids are preparing materials for state legislation relating to the public status of the University of Massachusetts, discrimination in college fraternities, housing and urban renewal, regulation of public authorities, atomic wastes, and the elimination of loopholes in the state's ailing tax structure.

— Rivkin

First Issue of Review Carries Holmes Lecture

The *Law Review* publishes its first issue on Tuesday, November 10th. Professor Herbert Wechsler of Columbia University is the author of the lead article. It was presented at the Law School last spring as the Holmes Lecture under the title "Toward Neutral Principles of Constitutional Law."

The issue will also have an article by Professor Brainerd Currie of the University of Chicago, entitled "The Constitution and Transitory Causes of Action." This is the first half of a two-part series.

The rest of the issue will include the annual Supreme Court note, with a foreword by Professor Henry M. Hart.

International Incident

Professor Richard R. Baxter delivered a talk and demonstrated the use of the bibliography of Public International Law before International Law Club members on Tuesday, October 27. The demonstration which had commenced in the Pound Room was interrupted when it became necessary to surrender the premises to a faculty meeting. Unruffled, Professor Baxter led his audience to the Elihu Root Room. The "retreat" through the main reading room of the Langdell Hall Library was made in good order.

With the aid of a cart loaded with representative samples of the volumes to be encountered in research in the field, Professor Baxter outlined a bibliography of important collections of treaties, decisions of international tribunals and various treatises in the new International Legal Studies Library. The talk was enhanced by an account given by

Mr. Philip A. Putnam of the library staff of the unusual circumstances surrounding the acquisition of the important Olivart collection. This collection provided the library with a system of classification for works dealing with International Law which has been basically retained.

— Amitay

Law Students Bid on Ellis Island

The greatest land grab since *Ewing v. Burnet*, 11 Pet. 41 (1837), may soon be accomplished by six alert law students doing business as the Blackacre Island Company. Noting that the United States government is disposing of famed Ellis Island in New York Harbor, the six partners took immediate steps to obtain adequate capitalization for the acquisition of the choice location in the shadow of the Statue of Liberty. Their price: twenty dollars.

Blackacre's projected coup is directly attributable to the quick thinking of the company's founder, Leslie Susser, 2L. Early last week Susser, as is his practice, was avidly scanning the advertising columns of the *Wall Street Journal* in search of business opportunity. "Suddenly," says Susser, "a startling notice caught my eye. Opportunity reached out from the type face! The federal government contemplated transferring all its right, title and interest in Ellis Island to a firm bidder, his heirs and assigns forever."

Moving with what Ames Hall observers have termed "amazing alacrity for a second year student," Susser quickly rounded up five partners and formed the Blackacre combine. Susser reports he felt the need for associates well-versed in the nuances of property law and turned naturally to first year students. Samuel Insull III, 1L, grandson of the well known financier and trust-former, Samuel Insull, was quickly accepted into partnership. Immediately Ira Freilicher, Robert Stone, John Denniston, and Neil Heyman, all 1L, joined the growing amalgamation of legal talent.

Adequate capital for the purchase of Ellis Island was needed. Accordingly the partners contributed \$.20 each to bring the total

capitalization of the company to \$1.20. This emergency fund was sufficient to underwrite an original deposit of 5% of the \$20 purchase price offered by Blackacre. With organization costs pegged at \$.39, the company sought additional resources to make up the \$.19 deficit. A loan in that amount from partner Susser met this need.

From this financial basis the Blackacre Island Company made its firm offer to the government's General Service Administration which is handling the sale. Although the government's notice allowed proposed offerors to submit either cash or credit offers, according to Susser, "The partnership felt a need to lead the fight on inflation. The partners unanimously voted to offer hard cash."

Action on Blackacre's \$20 offer is expected shortly. Offers closed at the end of the business day last Monday and will be evaluated by the General Services Administration to determine the adequacy of financing and the proposed uses to which the island is to be put. Susser expressed confidence that the method of financing would be approved and pointed out that Blackacre has informed the

government that it would develop the harbor real estate "for educational undertakings."

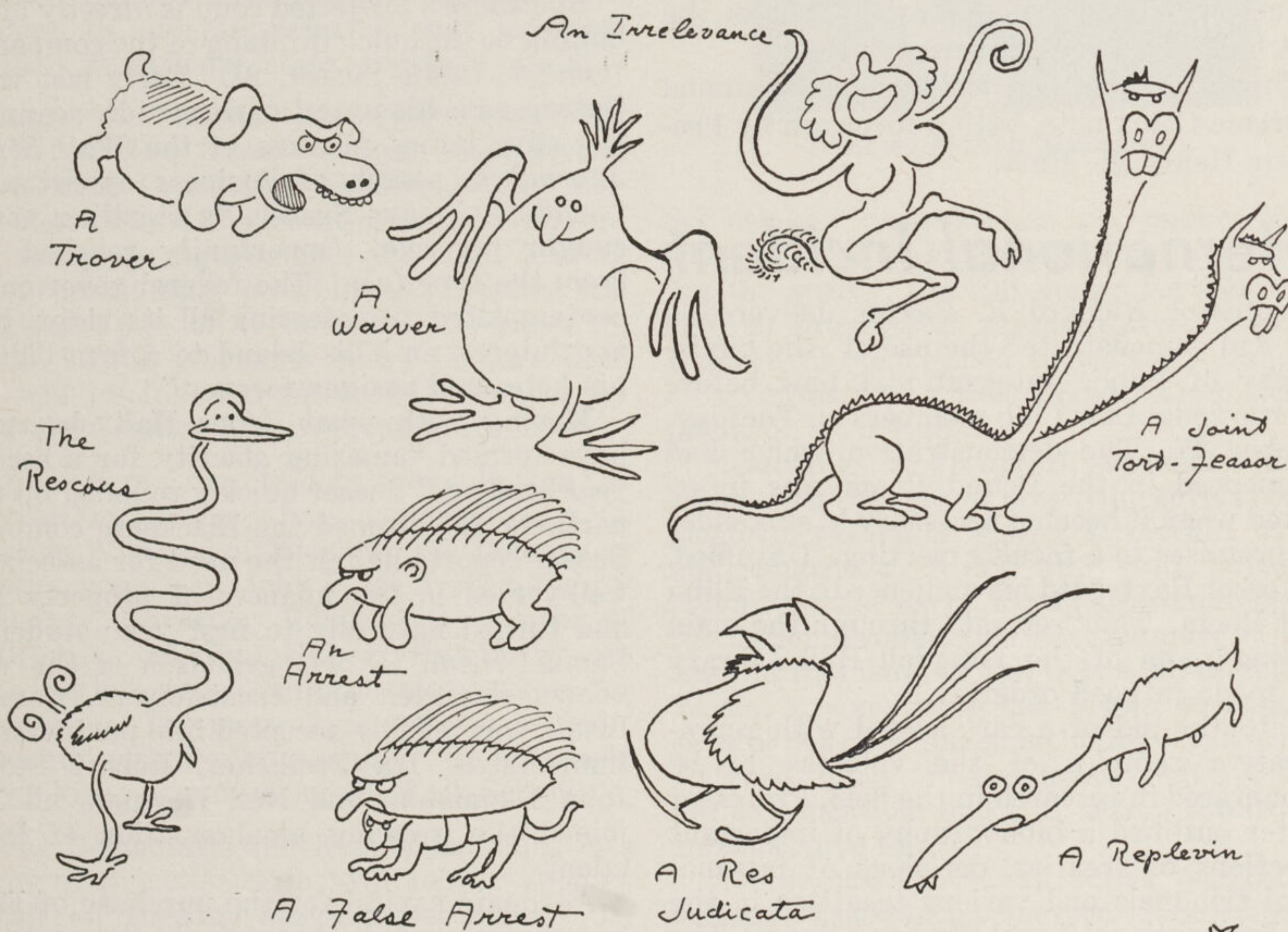
— Worley

Bar Sponsors Court Tours

The Student Bar Association is sponsoring a series of court tours for its members. The groups will visit the Federal District Court in Boston. They will have the opportunity of observing a federal trial in progress and possibly of speaking to the judge in his chambers.

The series of tours began early this week. There will be three more tours — one tomorrow, Friday, November 6; the second, Tuesday, November 10; and the final tour on Friday, November 13.

The tours will leave from Harkness at 2:00 p.m. and will return at about 5:00 p.m. Members interested in attending are advised to call either Marvin Garbis or Robert Frome at TRowbridge 6-7304 and indicate which tour they would like to accompany.



Glueck Praises American Medley

Below are extracts from an address delivered by Sheldon Glueck, Roscoe Pound Professor of Law, at the Sixth Annual Meeting of the International Institute, Boston.

If I should mention the town of Prague, you would think of Czechoslovakia; but I have in mind Prague, Nebraska. Were I to speak of Upsala, your thoughts would turn to Sweden, but I am thinking of Upsala, Minnesota. The name Zeeland would conjure up dikes and wooden shoes and windmills; but I refer to Zeeland, Michigan. Were I to mention Warsaw, you would think at once of Poland, but I have in mind Warsaw, New York. The names of Berne and Zurich would bring before you visions of the Swiss Alps; but I speak of Berne, Indiana, and Zurich, Kansas.

Seek Friendly Lands

Hardly a prominent place of old Europe or Asia that might be mentioned but has its counterpart in the United States.

These towns in the New World were not given such names because the early settlers liked the colors of their native lands on the maps of the old world. They were given them because the migrants from afar, who had the vision and courage to seek liberty, tolerance, and prosperity in the friendly lands across the Atlantic, wished to preserve the memory of their old homes.

True, they had not, at times,

been any too happy back home. The minds of many were stocked with poignant recollections of economic privation, of political enslavement, of obsessive religious and racial prejudices. But in their hearts the newcomers also treasured the nostalgic perfume of the festivals, the music, the poetry, the language of the Motherland.

And thus they gave to their new settlements the familiar names of their old-world habitations.

From all corners of the world they poured, millions of them; so that in Boston alone there are over half a million foreign-born or children of foreign-born. These people were truly pilgrims; they came, quite simply, to reach the "land of the free." They tilled its soil, they fished in its waters, they built its homes, they raised its church spires — all in the invigorating, tolerant, God-blessed atmosphere of a land where everybody is free to work and play and worship as he sees fit, provided only that he keeps within the ample bounds of its liberal laws.

No Money

Yes, these hardy migrants flocked to the land of the free.

But it is also the home of the brave.

Were they fit to share that home?

The very fact that, with little or no money, and little or no experience in travel, and little or no knowledge of the

language and customs of the country they hopefully sought, these inexperienced travelers crossed thousands of miles of land and sea to achieve their goal is proof enough of their courage.

No Slogans

But when the time came for them to prove beyond a shadow of doubt that theirs is the home of the brave, when their adopted land needed them for its defense, they poured willingly into its armed forces. No slogans, no propaganda could instruct or misinstruct them. They knew in their hearts why they fought. Those whose ancestors had lived here for generations thought they knew; but the immigrants and their children knew so much better! For they had a yardstick; they could compare the hopeless oppressions of Old World governments with the priceless privileges of their adopted land.

Professor Carl Wittke, distinguished historian, and himself a descendant of German immigrants, has this to say about the deeds of the sons of immigrants during the First World War:

"In 1918 no less than thirty-three representatives of American immigrant groups joined in a pilgrimage to the tomb of Washington to pledge anew their allegiance to their adopted fatherland in a time of great international crisis. Sing Kee, a New York Chinese, won the Distinguished Service Cross in the World War, and the famous 'Lost Battalion' which Lieutenant

Colonel Whittlesey led in the Argonne Forest was largely recruited from Yiddish pushcart men, sewing-machine operators and buttonhole workers from the Lower East Side of New York."

These immigrants have never found it difficult to visualize the Unknown Soldier. To them he is as well known as their neighbors all about them. He is fair and dark, tall and short; old-stock American and immigrant Italian; Irish and Polish; Mexican and Hungarian. Of course, he speaks English; but as they listen they catch the musical nuances of Virginia and Vermont, of California and the Lower East Side of New York, of Little Italy and Chinatown.

To them, the Unknown Soldier is one whose outlook on life strangely adds up to more than 100 per cent. For he is, in an earnest and not a propagandistic sense, 100 per cent American in his political outlook. Yet he is also 100 per cent for the music and poetry and dance of the storied lands of his forebears, and strangely enough, he is also 100 per cent for the growingly distinctive culture of America! His name? The immigrant will tell you, laughingly, that it is rather long and rather hard to

pronounce, but it goes something like this: John Juan Jack Jacques Jacob McCabotsteinikoffskisalvatoreivitch.

No Fear

Let us never forget that tyrants arise like noxious weeds. Remember Hitler? His diagnosis: "The American people is not yet a nation in the ethnographical sense; it is a conglomerate of disparate elements." And Goebbels': "North America is a medley of races. The ferment goes on under cover of democracy, but it will not lead to a new form of freedom and leadership, but to a process of decay."

And Hitler's boast: "We shall succeed in making the new political and social order the universal basis of life in the world. . . . We do not seek equality, but mastery. We shall not waste time over minority rights and other such ideological abortions of sterile democracy. . . . I guarantee that at the right moment a new America will exist as our

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And let us always remember that here in America there is no aim to tear apart the strands of the rich tapestry woven by the varied cultures that have made America beautiful in greatness and great in beauty. Here there is no aim to substitute for the sublime values of the human spirit a drab and deadly system controlled by force and concentration camps and ruthlessness and sadism.

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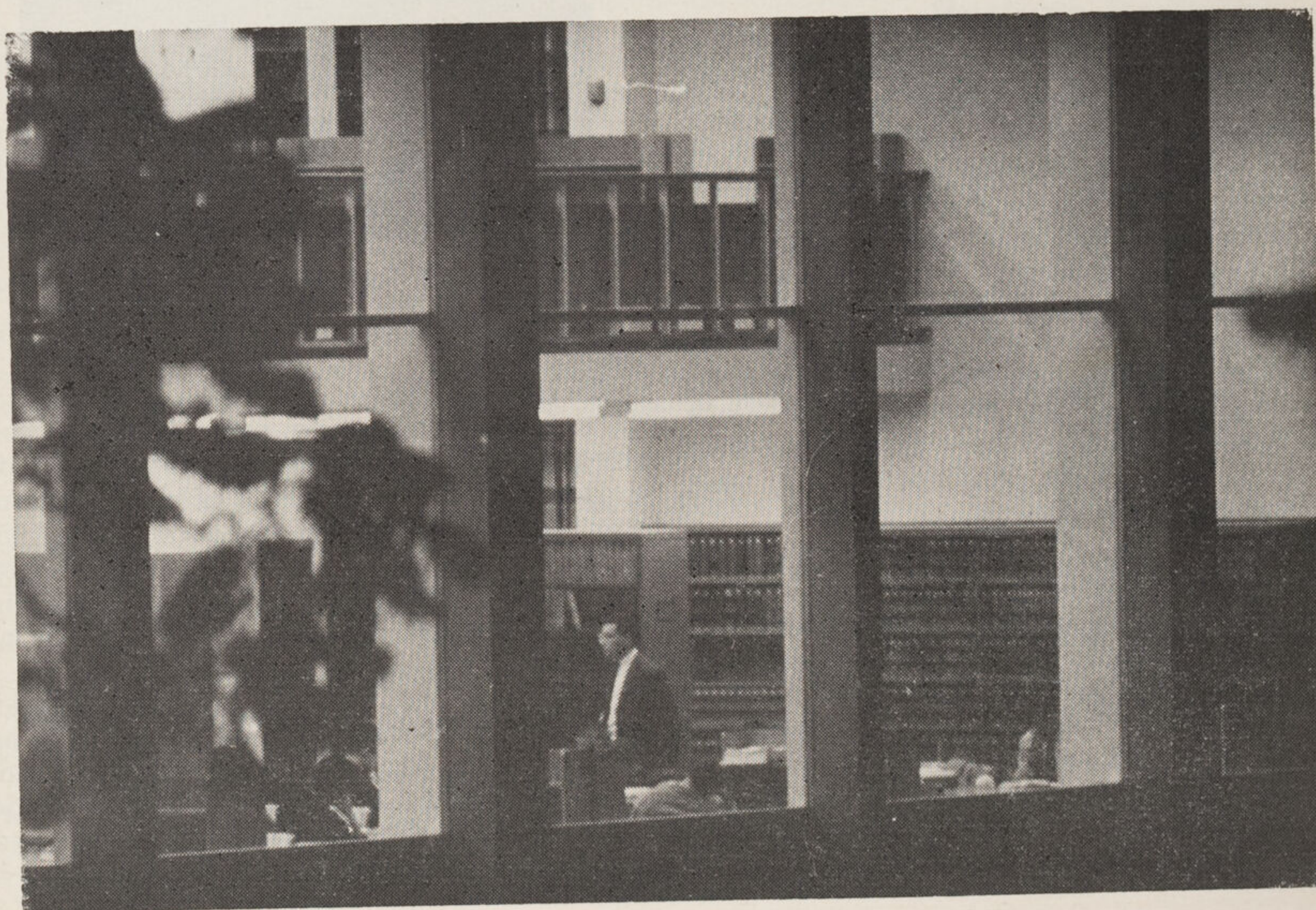
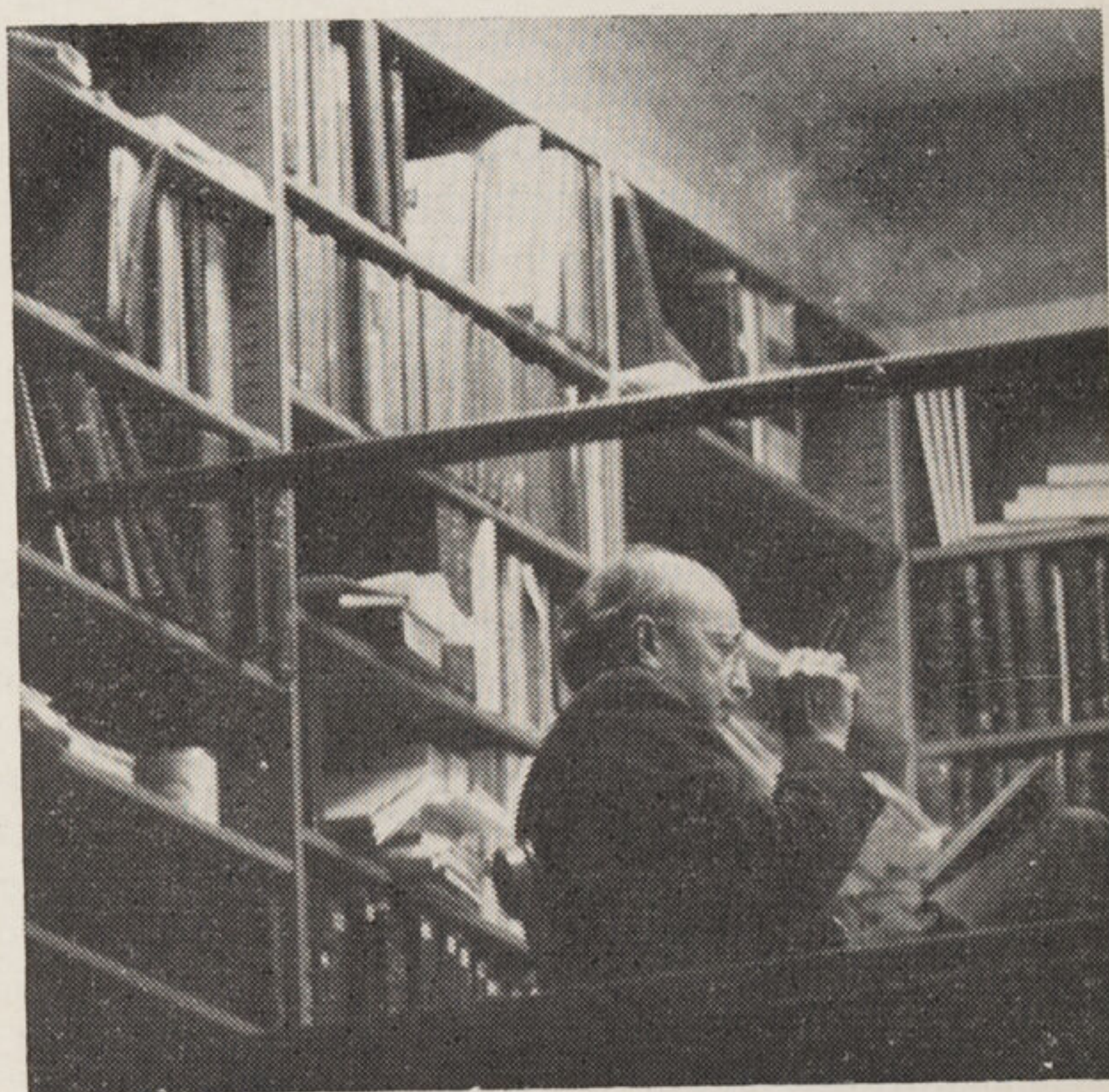
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Glimpses of the New Wing

Occupants of the new International Law Wing apparently suffer from a complete lack of privacy. These pictures, taken at night from outside, display the fishbowl appearance of the newest addition.



Gallery

A new appointment to the faculty of the Law School this year, as Lecturer on Law, Mr. Leonard G. Ratner, was for thirteen years a successful practitioner in Los Angeles, California. When asked why he chose to leave his practice, which consisted mainly of trial and appellate work, and assume the academic life, Mr. Ratner said that the life of a private practitioner is that of a "paid worrier".

"The clients come in and tell you their troubles and then you worry," Mr. Ratner said. He found that the practice of law doesn't get any easier as you go along. The tension which is involved in preparing cases for trial and during a trial, did not lessen with passing years. When a prominent Los Angeles attorney told Mr. Ratner that after thirty years in practice he was still nervous and could not sleep the night before a case went to trial, Mr. Ratner decided that perhaps he had had enough.

Starting in 1953 Mr. Ratner became a part time member of the University of Southern California Law School faculty, teaching a course in Trusts. "I enjoyed teaching so much more, I felt I should do what I enjoyed the most." Mr. Ratner indicated that he is not alone in this attitude toward the practice of law. "Many lawyers," he said, "are eager to get out of practice." He said he had never seen one who refused an appointment to the bench, and many others become corporate executives. "Some," he admitted, "just love the tension and go blithely along until they have a heart attack. But not me," he said smiling.

Leonard Gordon Ratner was born in Brooklyn, New York on July 10, 1916, but has been a native of Los Angeles, California since he was one year old. He attended elementary and high school in Los Angeles; and in 1937 was graduated with highest honors from U.C.L.A. where he was a member of Phi Beta Kappa and the debating team. He went to the Law School of the University of California at Berkeley where he was editor of the Law Re-

view. He graduated in 1940 as the top man in his class.

Following his graduation he became law clerk to Judge Traynor who had just been appointed to the California Supreme Court. He was the first in a long line of young men who had the particular honor. From 1942 to 1946, Mr. Ratner was an officer in the United States Navy, serving in the South Pacific. He



Leonard G. Ratner

was a Lieutenant Senior Grade upon discharge.

After a brief association with Judge Lester Roth, he opened his own practice in Los Angeles. From 1947 to 1958 Mr. Ratner was his own boss. He did quite a bit of trial work and was often before the appellate courts. In 1953 he started part-time teaching at the University of Southern California Law School and became progressively more interested in an academic career.

In 1958 he made the decision to devote his full energies to the teaching of law and accepted a Ford Foundation fellowship to study at the Harvard Law School for an S.J.D. degree. At the Law School last year Mr. Ratner was a student in Professor Hart's courses in

The Legal Process and Federal Courts, Professor Fuller's course in Jurisprudence, and Professor Freund's seminar in Constitutional Litigation. His thesis, "Congressional Power Over the Appellate Jurisdiction of the Supreme Court," is being revised and should be submitted for publication shortly. In 1957 the *University of Chicago Law Review* published an article by Mr. Ratner entitled "Consequences of Exercising the Privilege Against Self Incrimination."

As a Lecturer on Law at the Law School

this year Mr. Ratner is teaching a section in Evidence this fall and one in Trial Practice in the spring. His background of private trial work aids in the effective teaching of both. In addition he is the faculty member in charge of the first year group work program.

Mr. Ratner is married to the former Catherine Rogin of California. They have three boys, Eric 9, Steven 8, and James 6. Currently living in Cambridge at the Botanic Garden Apartments, he hopes to build a home soon in Weston.

— Rosenstein

Current Case

Public Affairs Press v. Rickover, (1959)

Judge Alexander Holtzoff of the U.S. District Court for the District of Columbia held in a recent case that Admiral Rickover, father of the atomic submarine, has a full right to copyright his speeches. Suit for a declaratory judgment was brought by the Public Affairs Press, a Washington publishing house. The plaintiff wished to publish several of the Admiral's speeches in book-form. The court briefly summarized the contentions of the plaintiff: "It is the contention of the plaintiff that since the speeches were made on topics that were the outgrowth of the defendant's Government activities and in part prepared on what the plaintiff calls 'Government time' and with the aid of Government facilities, he has no literary property in his speeches and may not secure a copyright on them, but that they are in the public domain and are available without restriction to any one who desires to reproduce them."

Between 1955 and 1959 Admiral Rickover had delivered some twenty-two speeches on subjects varying from "Nuclear Power" to

"The Talented Mind — an Opportunity and an Obligation." Mimeographed copies of the speeches were generally distributed at the time of delivery to interested persons. After December 1, 1958, the Admiral adopted the practice of placing a copyright notice on the mimeographed copies of his addresses.

The Judge found little precedent to aid him in his decision. He noted that "publications emanating from Government officers and employees may be divided into three categories." The first category consists of publications prepared by a Government officer or employee as part of his official duty and issued by the Government as an official and public document. Here the individual is hired to write for the Government and he has no literary property in the product. An Act of Congress expressly prohibits the Government from procuring copyrights, but places in the public

domain the literary products originally owned by it. (17 U.S.C. par. 8)

The second category concerns literary products of Government officers or employees that have no connection with the official capacity of the author. Washington Irving and Nathaniel Hawthorne produced some of their finest writings while in Government service.

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The third class lies somewhere between the first two and comprises literary products of a Government officers or employee that have some bearing or relation to his official actions, but writing the book or delivering the speech in question is no part of his official duties. In concluding that the speeches here were the literary product of Admiral Rickover, the court said: "On the other hand, no one seals or mortgages all the products of his brain to his employer by the mere fact of employment. The officer or employee still remains a free agent. His intellectual products are his own, and do not automatically become the property of the Government. The circumstance that the ideas for the literary product may have been gained in whole or in part as a result or in the course of the performance of his official duties, does not affect the situation."

The court supported its conclusion by citing the case where an instructor in an Army school had reduced his lectures to writing and arranged for their publication. It was held that he had a right to secure a copyright on the book. (*Sherrill v. Grieves*, LVII The Washington Law Reporter 286). The court also supported its conclusion by reference to analogous

situations involving patents on inventions made by Government employees. Employees who had, in the course of official activities, conceived the idea of devising a radio instrument to be operated by the ordinary house alternating electric current were allowed to obtain patents on their invention. (*United States v. Dubilier Condenser Corp.*, 289 U.S. 178).

The court noted several interesting examples of works which could fit into the third category: The diary of Gideon Wells, Secretary of the Navy during the Lincoln administration was published under a copyright; Harold L. Ickes, Secretary of the Interior in the administration of Franklin D. Roosevelt, also kept a diary of current events and figures which was

published under a private copyright; the formal diary kept by Captain William Clark on the famous Lewis and Clark Expedition was held to be the personal property of Captain Clark. (*First Trust Co. of St. Paul v. Minnesota Historical Society*, 146 F. Supp. 652, aff'd, sub. nom. *United States v. First Trust Co. of St. Paul*, 251 F. 2d 686)

The plaintiff further claimed that the addresses prior to December 1, 1958 were in the public domain by reason of the fact that the author had put no copyright notice on them, acquiesced in the distribution of copies at the meetings when the speeches were made.

The court's answer was that this was only a limited publication and that "(i)t is well established that a restricted distribution of a limited

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number of copies does not constitute an abandonment of the literary property or a dedication to the public." A limited publication of a subject of copyright is one which communicates a knowledge of its contents under conditions expressly or impliedly precluding its dedication to the public.

M. B. Schnapper, Executive Director of the plaintiff publishing house, has declared: "In essence the Judge has ruled that the so-called literary rights of a public servant are more important than the right of the people to know. Possibly the Judge is right. Public Affairs Press doesn't think so and we're appealing for review of the case by the Circuit Court of Appeals."

However one feels about the decision, interesting and complex problems are raised by the case. How far can an official go in

restricting the reproduction of his speeches? Can he forbid newspapers from reproducing the text of a copyrighted speech given the day before the printing of the speech in the newspaper? Is the distinction between the accumulation of an author's speeches for publication and their publication in a newspaper vital?

The Navy has come to the support of Admiral Rickover. The Navy's opinion, written by direction of the Chief of Naval Research, states that a Government employee retains rights in his "original written or spoken material" and he may copyright this material if it "is not prepared at the direction of the official superiors of the author or as a part of his official duties."

The Washington, D. C. *Evening Star* has noted several interesting

facts that were not mentioned by the District Court's opinion. "Most of the Rickover speeches were printed and distributed by the Government before he delivered them. Some carry the official seal of the Department of Defense and the word: "News release. Department of Defense, Office of Public Information.'" The District Court apparently did not think that this constituted the necessary "publication" by the Government.

The Admiral has expressed his satisfaction with the court's decision. He has said: "Appropriating people's brainwork is the worst crime you can commit. There is too little brainwork as it is. People who try to help this country should not have their work taken away from them. The copyright and patent idea was intended to protect people who do brainwork."

McGinn

Foreign Students Study Law

As Harvard opened its doors again this autumn it welcomed graduate students from thirty-six different countries who have come to the Law School to pursue advanced studies in law.

Direction

These students, seventy-nine of them, study under two different parts of the Law School administration. As graduate students, they

are counselled, directed, and assisted by the Committee on Graduate Studies, headed by Professor Lon L. Fuller. This Committee concerns itself with the academic program of all graduate students, both Americans and students from abroad. The foreign students, however, have a second source of guidance and direction. This is the International Legal Studies Program, whose Sec-

retary, Mr. John A. King, Jr., is Adviser to Foreign Students. Mr. King, who is also a member of the Committee headed by Professor Fuller, deals with both academic and non-academic questions, starting months before the student

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— 1:30, 4:45, 8.

BOSTON

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

EXETER — The Mouse that Roared
— 2:25, 4:10, 6:00, 7:45, 9:35

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

SAXON — Career — 12, 2, 4,
6, 8, 10

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

UPTOWN — Gigi — 12, 3, 6, 9;
Antarctic Crossing — 11:05,
2:05, 5:05, 8:05.

arrives in Cambridge, and terminating sometimes years after he has left this campus. The Committee on Graduate Studies and the Adviser to Foreign Students thus work together on the problems and opportunities that present themselves as the academic year progresses.

Some of the graduate students from abroad are working for an advanced degree, the LL.M. or the S.J.D., under the guidance of a faculty member. Others are not studying directly for an advanced degree but are engaged in legal research. Some are studying in the International Program in Taxation where they take courses in the Law School in addition to seminars developed by Assistant Professor Oliver S. Oldman, the Director of Training, and his staff. Others are working in programs designed for scholars or public officials. Still others are here primarily to learn certain phases of United States law which they expect to use in future practice.

International

Among the several student organizations which are encouraging the graduate students from abroad to participate in their programs is the International Law Club. Although the interests of all seventy-nine students do not lie exclusively in International Law by any means, this club is seeking out the foreign graduates, asking them to participate in discussion group meetings dealing with topics such as the civil law system, legal education in other countries, and comparisons of the laws of various nations. This participation by the foreign graduate students has proved extremely valuable and interesting in the past, and the International Law Club is attempting this year to include this group even more in its activities.

A second region in which a non-

faculty attempt is being made to allow the graduate student from abroad to get a better idea of the American law student, is a proposed request to the various Ames Competition Clubs to invite foreign graduates to witness arguments. A large majority of the graduates has expressed an interest in the Ames cases. It is hoped that they will be able to satisfy this interest.

Humanity

In addition to the academic exchange element involved, there is also something of the human element, for many of these students now have the opportunity to exchange ideas with American law students, to see how the LL.B. student goes about analysing a

problem as well as how he goes about obtaining his legal education. This is a rare opportunity for these seventy-nine students.

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