



Harvard Law Record

Rand Is Holmes Lecturer - - - - -	3
No Increase in Tuition - - - - -	4
Parietal Rules Questioned - - - - -	4
Ames Semi-Final Results - - - - -	5
Mock Appeal Argued - - - - -	5
Forum and Guided Missiles - - - - -	7
Tort Lawyer Gives Lesson - - - - -	9
Lawyer and Public Service - - - - -	10
Rare Texts Divers and Propre - - -	13

Harvard Law Record

ROY F. BARNITT JR.	President
ELLIS A. HORWITZ	Editorial Manager
MORTON ROSENBERG	Business Manager
RICHARD C. HOTVEDT	News Editor
HERBERT H. KAISER	Feature Editor
DAVID L. WHITE	Copy Editor
ROBERT E. MANLEY	Executive Editor
PAUL C. MURSTEIN	Senior Editor
STEPHEN R. VOLK	Senior Editor
CHARLES H. BARON	Ass't News Editor
THOMAS A. SKORNIA	Ass't Features Editor
ROBERT C. BERRY	Ass't Editorial
	Manager
DAVID N. LEVINSON	Personnel Manager
RAPHAEL JACOBS	Advertising Editor
BENJAMIN W. GOTTLIEB	Photographic
	Manager

Staff

Robert W. Worley, Peter J. Mc Ginn, Thayer Fremont-Smith, Daniel F. Gold, Robert B. Terry, Charles G. Kadison Jr., John G. Gillis, William Hanlon, Leonard M. Nelson, John G. Milano, Morris J. Amitay, Sydney S. Traum, Barry M. Bloom, Russell A. Winslow.

Published weekly on Thursday for twelve weeks of each term by THE HARVARD LAW SCHOOL RECORD CORPORATION, 23 Everett St., Cambridge 38, Massachusetts. Subscription price: \$200 per term, \$4.00 per year (24 issues) mailed; student subscription \$1.50 per term mailed, \$1.00 per term distributed at the Law School. Individual copies 10c each at the Law School, 20c each mailed. Business and editorial offices, 23 Everett St., Cambridge 38, Massachusetts. Telephone UNIVERSITY 8-7600, extensions 418 and 419.

Permission is given for reproduction of any part of an article appearing herein, provided that credit is given to both the RECORD and the author of the article.

Second class postage paid at Boston, Mass.

CRONIN'S

30 DUNSTER ST.

Famous for Steaks

Chops & Sea Food

Tenderloin for Two

on Sizzling Platter

\$6.00

Porter House Steak for Two

\$5.00

— SAMPLE DAILY SPECIALS —

Soup or Juice

Roast Rump of Beef

French Fries — Tossed Salad 99¢

Rolls & Butter — Beverage

Dessert

Beers — Wines — Liquors

Tel. EL 4-1366 Jim Cronin, Mgr.

CHERCHEZ LA FLAMME BARBER SHOP

• EIGHT EXPERT BARBERS
21 DUNSTER ST. EST. 1898

SKI EQUIPMENT

Large Variety

TENNIS & SQUASH SHOP

67A Mt. Auburn St.

Cambridge, TR 6-5417

FREE PARKING

JOYCE CHEN

Shanghai & Peiking Dishes

Original Chinese Buffet

Tues & Wed — 6-8 p.m.

SPECIAL LUNCH BUFFET — 99¢

Mon — Fri

617 CONCORD AVE., CAMB.
AT FRESH POND ROTARY

UN 8-7474

CALENDAR

Thursday, December 17th

Professor W. Barton Leach speaks today to the Student Bar Association at BOSTON UNIVERSITY. His subject: "The Massachusetts Rule Against Perpetuities."

The INTERNATIONAL LAW CLUB presents a speech by Robert S. Tancer on "International Law Practice in Washington, D. C." today at 4 p.m. in the Gray Room of Holmes Hall.

Henry Kissinger will speak to the Law School REPUBLICAN CLUB at 1:30 p.m., today, in the meeting room in Harkness Commons. The subject: "Nuclear Weapons and National Defense." Everyone is welcome.

Saturday, December 19th

CHRISTMAS VACATION begins after the last class today.

Tuesday, December 22

The Harvard Law School Association of Michigan invites all MICHIGAN STUDENTS as guests to the first annual Christmas luncheon at 12 noon in the Ivory Room of the Statler Hilton Hotel, Detroit.

Monday, January 4th

Classes resume today.

Thursday, January 7th

Judge Dorothy Kenyon of the New York City Juvenile Court will give a lecture, sponsored by the HARVARD - RADCLIFFE LIBERAL UNION, on "The Legislative Attack on the Supreme Court." The time is 7:30 p.m. in the Wheeler Room of Holmes Hall.

SEASON'S GREETINGS

from

UNIVERSITY TYPEWRITER

"Olivetti Lettera 22"

Studio 44

REPAIRS — RENTALS
ELECTRIC TYPEWRITERS

Hermes, Everest, Olympia, De-Jur
10 Boylston St. At Harvard Sq.
KI 7-2720

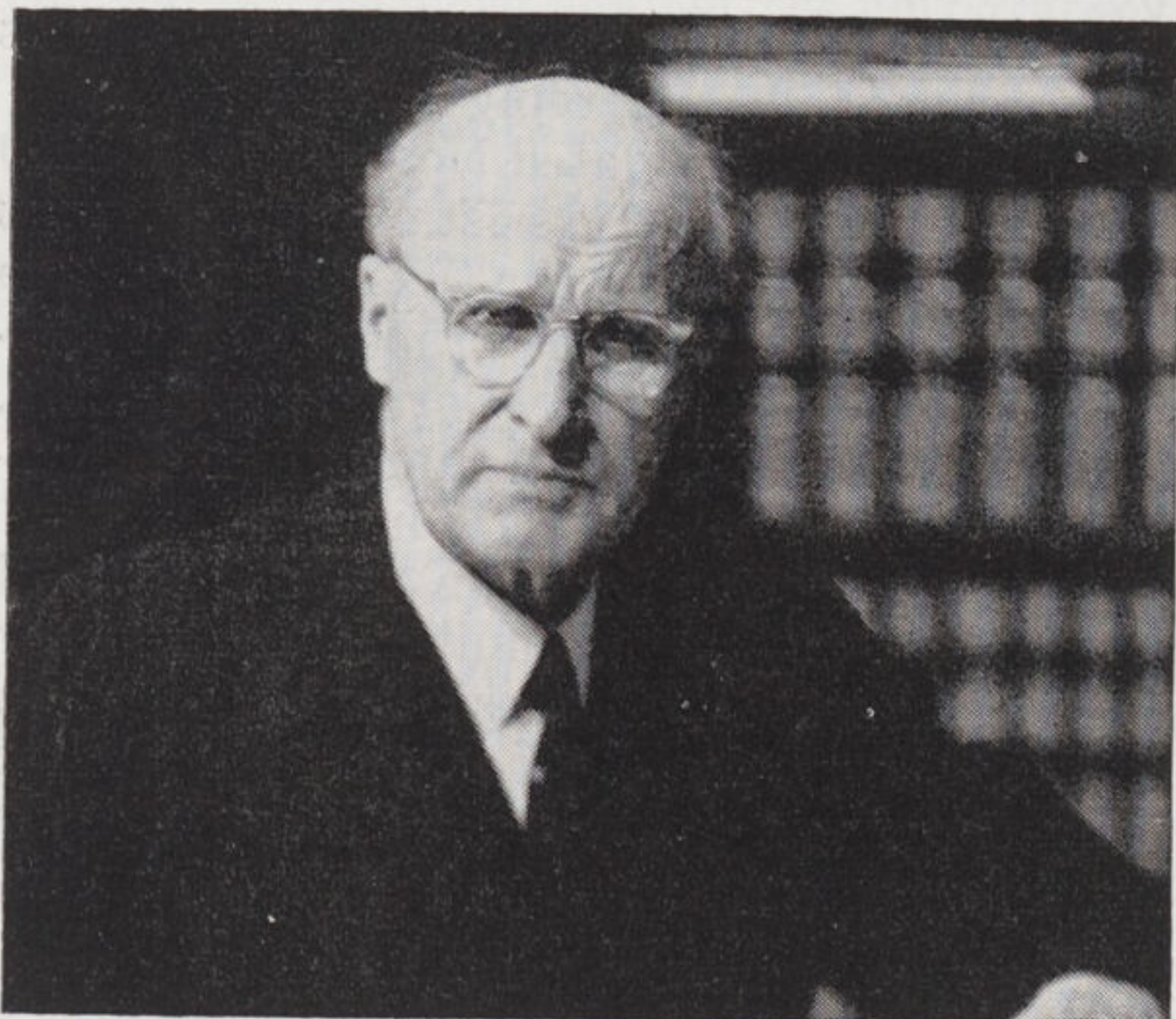
NEWS SECTION

Ivan C. Rand Is Holmes Lecturer

Ivan C. Rand, LL.B. 1912, Dean of the Faculty of Law, University of Western Ontario, is the Holmes Lecturer for the academic year 1959-60.

Dean Rand is Canadian by birth but American by education. While at the Law School he sat in the classes of the renowned Beale and Gray. He also was present in the first class of a new instructor at the Law School, Austin W. Scott. In the years since then, Dean Rand has been active in many branches of the law; in 1943 he was appointed to the Supreme Court of Canada.

After his graduation from the Law School, he settled in Alberta where the Canadian west was opening up, as the American fron-



Dean Rand

tier had opened up after the Civil War. From there, he returned east to New Brunswick, his birthplace. After a period of general practice during which he spent one term in the New Brunswick legislature as Attorney General of the province, he became counsel for the Canadian National Railways and remained in railroad law for fifteen years. In the middle of the last decade he was appointed arbitrator of the Ford labor dispute and in 1947 was the Canadian delegate to the U. N. committee investigating in Palestine in preparation for the founding of the new nation of Israel.

Dean Rand's appointment to the Supreme Court was by the government in Ottawa. Arising out of the bilingual and duo-cultural life of Canada, three justices out of nine are named from the province of Quebec. The task of Dean Rand as a Supreme Court justice was made more difficult and more interesting by the fact that there are two basic legal systems in the nation—the common law, and, in Quebec, the civil law.

Justice Rand's settlement of the Ford strike in Windsor in 1946 aroused widespread interest. The strike was to obtain security in the nature of a closed shop. Ford officials admitted improvements and benefits brought about by the union in the matter of wages and working conditions. The union was striking to strengthen its position both in relation to the company and to the non-union workers who enjoyed the benefits. Justice Rand made the non-union workers pay basic union fees and so become "associates" of the union, having the right to vote on the issue of the strike. If they were not consulted before the strike, the "check-off" of fees would stop flowing into the union treasury. This balanced solution by Justice Rand has since been adopted in many smaller plants in Canada. This has removed the necessity of a closed shop which Justice Rand felt would place the individual's right to work at too great a hazard.

At present, Justice Rand is Dean Rand of the Law School of the University of Western Ontario.

Dean Rand's ideal is still to achieve the settlement of social problems, whatever form his legal career takes. As he has said: "We must apply ourselves in society to bring about civil harmony and order. A lawyer is a specialist set to reconcile differences among specialists. He must be a political animal (cognizant of the relationship of law to government and politics) and a good psychologist, knowing what makes men tick."

NOTICE

This is the last issue of the RECORD for the fall semester. The RECORD will resume publication after the mid-term examinations on Thursday, February 4th.

Coming Year to Bring No Change in Tuition

Vice Dean Louis Toepfer announced this week that there will be no increase in the Law School tuition for the academic year beginning next September. Several other departments of the University have already indicated that they will raise tuition charges to meet their expected needs. Dean Toepfer indicated that unless the demands of the Law School became "acute," every effort would be made to keep costs at their present level.

The Law School tuition is much below that of other Eastern law schools. Columbia and Cornell, for example, are currently receiving \$1450 a year. Yale's fixed fee of \$1200 is slated for an increase next year. Within the University itself, tuition for both the Business School and the Medical School will climb to \$1500. Accordingly, Mr. Toepfer happily calculates the Law school provides "the greatest bargain in any field of education."

The Law School's relatively low costs are attributable partly to a higher student-teacher ratio and partly to the attitude of the faculty. The bulk of available funds is drawn from alumni gifts and endowments. In order to keep expenses within bounds, law professors contribute to the salaries of their secretaries and supply their own equipment. Rumor hath it that an unnamed high official is helping to cut electric bills by turning off lights after hours. Dean Toepfer summed up the financial policy of the Law School as one in which all the musts are provided for — with restraint.

— Kristol

Parietal Rules Questioned

The Law School Dormitory Council has made public some of the results of its poll of dormitory residents, taken last spring, concerning the parietal rules. As a result of this poll, a special committee was created which presented its recommendations to the administration.

Eighty eight percent of the 276 dormitory residents who voted on the present hours were in favor of their being extended. Of the 289 who voted on the sign-in rule, ninety five percent voted to abolish it. (Note for

first year students: Until the end of last year, dormitory residents were required to "sign-in" female guests on a sheet located near the entrance of their dorms).

The committee recommended to the deans that the sign-in rule be abolished and that the parietal hours be revised to the following:

Monday	5 p.m. to 10:30 p.m.
Tuesday	5 p.m. to 10:30 p.m.
Wednesday	5 p.m. to 11:30 p.m.
Thursday	5 p.m. to 10:30 p.m.
Friday	12 noon to 1:30 a.m.
Saturday	12 noon to 2 a.m.
Sunday	12 noon to 10:30 p.m.

At the present time the hours are from 5 p.m. to 7 p.m. on Monday through Friday; on Saturday from 12 noon to 12:30 a.m.; and Sunday from 12 noon to 9 p.m. Parents are permitted to visit at any time.

The administration acted quickly concerning the sign-in rule. It was abolished.

The recommendation concerning the hours received the following reply:

dated November 19, 1959

"Since last spring, Assistant Dean Bevins and myself have been considering the changes in parietal rules proposed by a committee representing the Dormitory Council. We have decided that we cannot approve extending week-end visiting hours.

It is our feeling that the present parietal hours give ample opportunity to students for the entertainment of guests and allow for a full social program. While we are aware that other graduate schools have allowed later hours, we are not convinced that such extensions serve a desirable end.

On behalf of Mr. Bevins and for myself, I want to thank you and the committee for your interest and help with this matter."

Sincerely yours,
Louis A. Toepfer
Vice Dean

New MacLachlan Article

Professor James A. MacLachlan, Professor of Law, is about to prepare an article on debtor and creditor law for the new edition of the *Encyclopaedia Britannica*, as well as a few shorter items. Professor MacLachlan has also recently participated on a panel of the New York Members of the Commercial Law League on the hazards involved in secured transactions.

Ames Semi-Final Results

Frankfurter Club in Close Triumph

The Frankfurter Club has earned the right to meet the Root Equity Club in the Ames Final in the spring. Last Wednesday, December 9, it narrowly edged out the Story Law Club before the Honorable Peter Woodbury of the United States Court of Appeals for the First Circuit, the Honorable John Hamilton King of the Connecticut Supreme Court of Errors, and George F. Lowman, Esquire, of the Connecticut Bar.

The case, *Bernard J. Lee v. Jenkins Brothers and Farnham Yardley*, was brought to recover pension payments allegedly due under an oral agreement in 1920 by a corporation president on behalf of the corporation and for his own account. The Frankfurter Club represented the plaintiff, an ex-employee who sought recovery against the corporation and its president. Both claims were dismissed by the District Court as barred by the Statute of Frauds. The trial court was also of the opinion that, as to the corporate defendant, the claim was unsupported by proof that the agreement was authorized. The Court of Appeals disagreed with both these holdings, but affirmed for insufficiency of evidence of the agreement, with one judge dissenting. The Supreme Court of Ames granted certiorari to reverse this latter holding and to hear argument on the other questions presented, among them the proper application of the Statute of Frauds and the authority of the president of the corporation to make such an agreement.

Judge Woodbury and one other judge thought that the oral arguments were of equal excellence and gave the Frankfurter Club the win on the strength of its brief. One judge considered the Story Law Club oral argument superior.

Oralists for the Frankfurter Club were Burton A. Schwalb, Hyde Park, Mass., and Arthur I. Settles, Sunnymead, Calif., arguing for plaintiff-appellant. Counsel on the brief were Michael P. Arra, Mt. Kisco, N. Y.; Charles S. Blankstein, Greensboro, N. C.; Stephen I. Hochhauser, Ossining, N. Y.; Herbert J. Korbel, New York City; David A. Rakov, Newton, Mass.; and Richard T. Watson, Maple Heights, Ohio.

Oralists for the Story Law Club were Ronald H. Marcks, New Providence, N. J., and Craig F. Swoboda, Norfolk, Nebr., arguing for defendants-appellees. Counsel on the brief were Morris M. Goldings, Brighton, Mass.; Chester L. Gray, Jr., Atlanta, Ga.; Frederick S. Hird, Jr., South Minneapolis, Minn.; Edward C. McLean, Jr., Darien, Conn.; Hugo M. Pfaltz, Jr., Short Hills, N. J.; and Richard H. Thomas, III, Covent, N. J.

Pearly Gifts Argued On Mock Appeal

On Tuesday, December 15, the case of *Moore v. Willard* came up on appeal to the Supreme Court of the Commonwealth of Ames. The court, convened specially for this case, was composed of John V. Spalding of the Massachusetts Supreme Court who acted as chief justice, and Visiting Professor Frederick Odgers and Elliot Richardson, United States Attorney in Boston, as associate justices.

The case involved the disputed gift of a pearl necklace and pearl earrings which the plaintiff claimed was given to her by the defendant's testatrix and which she was attempting to recover from the possession of the defendant.

The trial court granted a summary judgment for the defendant with respect to the earrings because they were delivered to a jeweler by the testatrix and delivered by him to the defendant after the testatrix's death.

Plaintiff-appellant contended that granting of the summary judgment was improper since there was a material question of fact as to whether the testator intended the jeweler to hold the earrings for the plaintiff's benefit.

As to the necklace the jury found that no gift had been completed. Appellant raised questions as to the trial court's instructions regarding donative intention and delivery as a matter of law.

Attorney for appellant was Roger Fisher, Lecturer on Law. Counsel on the brief were

Holland C. Capper, 3L of Manistee, Michigan and Robert E. Sullivan, 3L of Lebanon, Connecticut. Attorney for appellee was Dean Erwin N. Griswold. Counsel on the brief were Robert R. Sylvor, 3L of Cambridge, Mass. and Calvin W. Torrance, 3L of Jamestown, New York.

The appellee won on appeal.

— Horwitz

New Student Bulletin

A new student publication joins the ranks of those already servicing the Law School, the alumni, and the legal world in general. The *Bulletin of the Harvard International Law Club* has just been released. Volume two, number one is a neatly packaged, interestingly produced journal of the affairs that center about the new International Legal Studies Wing.

The fact that this is volume two would seem to belie the novelty of the operation. But in keeping with the new building and its new headquarters, the club has come up with an enlarged and a more broadly oriented newspaper which can be of interest to all law students.

The first issue contains contributions from Arthur T. von Mehren, Professor of Law, as well as from graduate students from foreign countries. Also included is a full run-down on the International Law Club's activities and a full list of all its speakers.

Small Charity

The Harvard Law School Combined Charities Drive was officially closed last Sunday night, December 13. All people living in the dormitories were solicited personally. People off-campus were reached by letter and some were also telephoned as a follow-up.

After this worthy effort on the part of the Phillips Brooks House Committee, the grand total of funds received was \$747.50, less than fifty cents per person at the Law School.

As a result of this showing, the Committee has extended the Drive period in hopes that, as the season of gift-giving gets closer, a little of its spirit will swell the coffers of the Charity Drive.

Donations may be addressed to the Law School Combined Charities Drive, Phillips Brooks House Committee, 23 Everett Street, Cambridge 38.

Christmas Cheer

EXAMINATION SCHEDULE

1960

	MONDAY JAN. 18	TUESDAY JAN. 19
A. M.	Creditors' Right Intro. to Am. Law	Domestic Relations A
P. M.	International Law	Evidence
	WEDNESDAY JAN. 20	THURSDAY JAN. 21
A. M.	Copyright	State & Local Gov.
P. M.	Conflicts Legal Probs. of Doing Bus. Abroad Securities Reg.	Civil Law System Comp. Sov. & Am. Law Jurisprudence Legal Process
	FRIDAY JAN. 22	SATURDAY JAN. 23
A. M.	Real Estate Trans.	Insurance Accounting
P. M.	Antitrust Law Am. Legal Hist. English Legal Hist. U. N. Law	Corporations II-A State & Local Tax



Forum Way Out With Guided Missiles

"We will all be cremated equally should Russia's missiles strike an unready U. S.," warned George Feldman, a U. S. delegate to the U. N., at the Law School Forum's "Outer Space Symposium" last Friday night. Presidential Advisor Dr. G. B. Kistiakowsky responded complacently, "Russian rocket production doesn't scare *me*." He gave assurance that secret figures show America has great missile strength.

Dr. Kistiakowsky quipped that Mr. Feldman's speech concerned the topic, "What is there in outer space for us lawyers?" Responded New York lawyer Feldman, "The momentous task of extending to space the rule of law not rule by force." But he cautioned that even traditional rule of law might give Russia sovereignty over the moon. "If we abdicate power . . . to the Russians we will be second runners. And in this field second best is last place."

America's missile lag is an engineering — not a scientific — shortcoming, declared panelist Homer J. Stewart from the planning staff of the National Aeronautics and Space

Administration (NASA). "Our missiles are inefficient," he said, "Pioneer IV used a first stage weighing 20,000 pounds to orbit a 12-pound payload." Foreseeable engineering changes can cut the cost of a satellite from \$12,000 per pound to \$600 per pound. Said Dr. Stewart, "we can beat the Russians without bankrupting the country."

In scientific fields there is no missile lag, according to panelist Bruno Rossi, an M.I.T. physics professor. "Present small rockets can tell us what we want to know," he said. While not disputing the long-range value of human space flights, Dr. Rossi advised that "unmanned vehicles can satisfy scientific needs for the next ten years or so." Satellites can reveal exciting new scientific facts about the age and size of the universe and the origin of life.

Such questions do not primarily concern NASA, according to General Counsel John A. Johnson, who said the new agency puts first importance on sending man into space. Unlike military or scientific researchers, only NASA gives its full energy to beating Russia in the race to space. Mr. Johnson predicted,

"it is scientifically feasible to fly a man to the moon in 10 years and to Mars in twenty."

"Why bother to beat the Russians?" asked a student during the question period. Replied Dr. Kistiakowsky, "If you don't understand why Columbus discovered America, you can't understand this. Besides, space exploration promises unknown scientific advances and brings international prestige." Professor Rossi added that space flights may reveal whether there is life on Mars.

The symposium had a futuristic, "Buck Rogers" atmosphere with its hints of strange new things lurking in the vastness of outer space. "A few years ago," observed Dr. Kistiakowsky, "such serious talk would have marked a man for the insane asylum."

— Seith

Both Ends Against the Middle

"You can't eat your cake and have it too." A Cairo lawyer named Ahmed Hussein knows this well. He won his case and lost it the same day before the same judge in the same court, according to the Cairo newspaper *Al Akhbar*, as reported by NANA.

Hussein is public prosecutor. He was called to press charges against a driver who allegedly had struck down a pedestrian before sounding his horn.

The accused didn't have a lawyer. So Hussein decided out of the goodness of his heart to defend the man as well as prosecute.

Hussein as prosecutor lashed out at the defendant for not signaling with his horn. Then, as defense attorney he reminded the court that there is a law in Cairo against automobile horns.

The judge agreed with Hussein — the defense attorney.

Hussein — the prosecutor — lost his case.

Law Medic Honored

Dr. Elias C. Dow, physician in the Law School Medical Office will present a paper on the results of his research at the International Symposium on the Use of Radioisotopes in Medical Research, in Bad Gastein, Austria, in January, 1960. In conjunction with this, Dr. Dow has been awarded a Wellcome Trust Fellowship to visit laboratories in London, Louvain, and possibly, Lund, Sweden.

Ames Qualifying Results

The qualifying rounds of the Ames Competition is over for another year. Eight teams will now go on to compete in the Quarter-finals in the spring. They will be selected on the basis of total point scores amassed by the four two-man teams which compete for each club. The point scores of the top eleven clubs are as follows:

1st	Jaffe (won 4, lost 0)
2nd	Bruce (572.5)
Tied for	Gardner (570.5)
3rd	Gower-Herwitz (570.5)
5th	Dawson (568.5)
6th	Langdell (563.5)
7th	Magruder (563.0)
8th	Kaplan (559.5)
9th	Toepfer (558.7)
Tied for	Scott (554.0)
10th	Story (554.0)

The top eight teams will be definitely selected after hearings on penalties which have been assessed for violations of the Board of Student Advisers' rules.

Second-year students who do not go on to the Quarter-finals will have the opportunity to compete in the Williston Legal Drafting Competition next semester.

Alumni Notes

LL.B. '03 *c.l.* — Walter S. Hilborn received the 1959 Edwin Rosenberg Award for outstanding leadership in advancing the ideal of greater cooperation in Jewish Communal service programs in ceremonies held in San Francisco in November. The award was presented at the 28th General Assembly, Council of Jewish Federations and Welfare Funds.

LL.B. '28 — Earl R. Hoover's speech about politics "O.K. It's the Bunk Or So You Want To Be A Politician" which he delivered to the Washington, D. C. Rotary Club during September was published in the November 1 issue of *Vital Speeches of the Day*.

LL.B. '51 — Armand A. Korzenik has formed a partnership with Gerald C. McLaughlin for the general practice of law. The office of the firm of Korzenik and McLaughlin is located at 37 Lewis Street, Hartford, Connecticut.

Tort Lawyer Gives Lesson

Last Thursday, the Student Bar Association heard J. Newton Esdaile, a noted Boston lawyer, discuss the problems of medical testimony. Mr. Esdaile is a graduate of Boston University Law School and holds a master's degree in law.

Mr. Esdaile's speech concerned the techniques one should use in trying negligence cases. He said that although the greatest number of cases in our courts are negligence cases, the road to success in this area of the law is not an easy one. He did state, however, that in his opinion there is nothing more satisfying than winning a case of this sort, because the lawyer is dealing with an individual's future and happiness. He said that it is a wonderful feeling "to start from nothing and end up with a judgment which will make you and Uncle Sam happy."

Getting to the heart of his speech, Mr. Esdaile discussed how to handle medical problems. The first thing he suggested was that a lawyer should never rely strictly on what his client tells him in reference to past health. He warned against taking anything for granted, because the opponent's counsel might destroy your client by showing that he has been previously treated often for the back ailment for which he is now claiming damages. He said that the lawyer must take great care in his pre-trial preparation and investigate all the facts. It is important, he went on, to get all of the client's hospital records and to see his personal physician about his medical history. Knowing the client's past injury, the lawyer can meet any arguments by trying only *this* injury. He suggested that it would be wise to point out to the jury the client's past injuries and explain to them that at least, for example, *before* this latest injury the plaintiff's back was serviceable.

Thorough Investigation

Further pursuing the importance of thorough investigation, Mr. Esdaile said that the lawyer must attain from the employer of his client just what the loss of wages was because of the injury. He pointed out the natural tendency to exaggerate and the importance of not asking for outlandish

figures which do not have some justification.

Mr. Esdaile then pointed out the technique he felt should be followed concerning the order of medical testimony. Whereas the convention seems to be to put the family physician on the stand first, Mr. Esdaile felt that it would be better to put the specialist on first. He expained this by saying that the family physician is likely to be unsophisticated in these matters and tends to become very nervous, willing to answer any question to get himself off the stand. On the other hand, he felt that the specialist is more of a professional, being better trained and very likely to have gone through the mill before. By putting him on first, counsel can see just what the defendant is getting at and then the family physician will not be as vulnerable.



Concerning cross-examination, the speaker suggested that a lawyer never attack a doctor on the stand. He felt that more was to be gained by the use of a little honey than a lot of acid. He said that counsel should never try to get a doctor to change his mind.

Esdaile said that it would be best to take the doctor's notes and to attempt to read those parts of them, or to question those parts of them which would be most favorable to his client. He also strongly suggested the use of hypothetical questions, which he felt if properly worded by counsel could lead to the admission by the doctor on the stand that the symptoms of the plaintiff's injury are serious. But he warned against going too far with the hypotheticals. He also warned against the use of the word "why" on cross-

examination, explaining that this leaves it open for the witness to make a speech.

Summing up, Mr. Esdaile said that he has received a great deal of personal satisfaction from working in this field of the law. He suggested that young lawyers fresh out of law school should go into it because the experience gained from working with people's emotions and such variant kinds of personalities will help in whatever field of law the lawyer chooses to settle in.

—Schlissel

'Learned Art in the Public Service'

By Sylvester C. Smith, Jr.

I have always been intrigued by Roscoe Pound's definition of a profession as an "organized group pursuing a learned art in the public service." I point out that there are two additions in Dean Pound's definition to the ordinary definition of a profession: 1. That the group is organized; 2. That the objectives must be in the public service.

Our relationship to the public is different from that of a vocation. Our Canon 32 of professional ethics terms us "ministers of the law" and our canons, which good conscience must in truth enforce, control our conduct as members of the profession in the public interest. Whatever privileges we may have by reason of our being a member of the profession licensed to practice law, they are always accompanied by obligations which some times are overlooked. There are great responsibilities which must be fulfilled by lawyers if we are to grow in our usefulness to society as a whole and to have good public relations.

Our friend, the late Arthur T. Vanderbilt, suggested that there are five functions of a great law-

yer—counseling, advocacy, improving the profession, the courts and the law, unselfish leadership in molding public opinion, and unselfish holding of public office.

John Randall, President of the American Bar Association, in an important address emphasized our professional responsibility. He points out that: "... partisan advocacy is a form of public service so long as it aids the process of adjudication. It ceases to be so when it hinders that process, when it misleads, distorts and beclouds the issues, when it renders the task of the deciding tribunal not easier, but more difficult."

Canon 32

In counseling, we cannot too often remind ourselves of Canon 32 when it states that it is the obligation of a lawyer to advise his client to render "exact compliance with the strictest principles of moral law."

However, I would like to call to your attention the public responsibility of the lawyer. This is a subject upon which many leaders of the bar over the years have constantly spoken but each generation needs to be reminded of its public responsibilities and to have them pin-pointed at the problems which are current in our society today.

One of the problems which should have some attraction for younger lawyers is the problem of juvenile delinquency and how the juvenile delinquent can best be treated so

as to bring him into good cooperative citizenship. Are the legal processes at the present time suitable to this problem? Have they done anything to reduce juvenile delinquency? Are we getting too soft in the treatment of the juvenile delinquent so that there is little example which would deter others from the same course of delinquent conduct?

Another problem which is being studied in a great research project by the American Bar Foundation is the administration and enforcement of the criminal law.

Another current problem which must be pursued constantly is how can we improve the process of judicial selection.

Throughout the United States, the American Bar Association, State Bar Associations and many local bar associations are actively studying these problems and trying to suggest improvements which may remedy any evils that exist.

Unpopular Causes

In speaking to those newly admitted to our profession, it seems proper to remind them that in the course of their advocacy they will from time to time be called upon in the performance of their public responsibility to act as lawyers in criminal cases and other unpopular causes. Unfortunately, there are those of the public who do not understand this high duty of a member of our profession and look suspect upon such a lawyer as though he were subverting the public good.

Mr. Smith is Chairman of the House of Delegates of the American Bar Association. The article is excerpted from his address to inductees to the Bar of Ohio and is reprinted from the Ohio Bar Association Report, Vol. 32, No. 48, December 14, 1959.

for the private interest of his client, and yet frequently that lawyer is fighting for and proclaiming the very rights which our American citizenship and way of life have guaranteed. The House of Delegates of the American Bar Association in 1953 adopted in a resolution a declaration of principles that provided:

"The right of defendants to the benefit of assistance of counsel and the duty of the Bar to provide such aid, even to the most unpopular defendants, involves public acceptance of the correlative right of a lawyer to represent and defend, in accordance with the standards of the legal profession, any client without being penalized by having imputed to him his client's reputation, views or character.

"The Association will support any lawyer against criticism or attack in connection with such representation when . . . he has behaved in accordance with the standards of the Bar."

There has been great progress in one public responsibility of the lawyer in recent years through the organized bar in the development of legal aid so that even the poorest person may have the benefit of legal advice and assistance. A correlated activity is the development of legal referral services so that those in modest means may have the advice and assistance of lawyers in their affairs at reasonable cost.

Performing the Duties

Several years ago in talking to some young men who had just been admitted to the bar, I was reviewing some of the public responsibilities which I felt every lawyer should attempt to fulfill. I was asked by one of them, "How do we go about performing these duties?" I suggested that one should first be-

come a member of his local bar association, attend meetings and try to gather from those meetings the crumbs of wisdom and advice, aid and assistance which the older members of the bar would generously give. I suggested that he should become a member of his State Bar Association and to the extent that he could, he should attend the meetings not wholly for the social advantages of meeting other lawyers from other parts of the state, but to listen to the interesting discussions that would take place and to become acquainted with the great amount of work undertaken by the Association. I suggested that when he could, he should become a member of the American Bar Association, and particularly the Junior Bar Conference, because on the national scale through its coordination program, it was continually having a constructive program in the public interest. I finally suggested that if he could not attend the meetings, it was his duty to inform himself by reading the publications of the State and American Bar Associations of the work which was being undertaken currently by those organizations. I venture to suggest that such advice for the young lawyers we are greeting today is still good advice; that if it is followed, the individual lawyer through the organized bar will do his part in the fulfillment of the lawyer's responsibility to the public.

Every now and then I am told, "I don't think much of bar associations" for this or that reason. This always reminds me of the story about Jack Johnson, the great negro heavyweight champion, who fought Jess Willard in 1915. A spectator abused Jack, criticising

his style, his color, his ancestry, and his courage in the ring. Between one of the rounds, Johnson leaned over the ropes, looked at the spectator and said: "Man, you are down there talking and I am up here fighting." I am afraid that some times many of our lawyers who acknowledge the public responsibility of the lawyer prefer to be spectators sitting in the stands when actually in our profession they should be taking part in the work of the Association.

Post-admission Education

With our varied and complex life today, the profession must in its public service be fully equipped intellectually to counsel and advocate for its citizens. The need for post-admission education becomes greater each year. In estate planning there are new and greater uses of life insurance with legal consequences. The increased use of the administrative process in state and federal government is an important daily factor in modern business. The lawyer today must be so educated and trained that he can advise his clients wisely in administrative law. For this reason the program of increased bar organization activity in advanced legal education proposed by the American Bar Association is a step in the fulfillment of the obligation of the lawyer to be fully and well trained for his public service in private practice.

The strength of our profession, our acceptance by the public generally and our personal sense of satisfaction with our calling will, I suggest, depend upon how we as lawyers fulfill our public responsibilities as a member of the profession that is an "organized group pursuing a learned art in the public service."

GINO'S

MODERN BARBER SHOP

"A Pleasant One Block Walk"

1638 Mass. Ave.

4 Chairs — Quick, Expert Service

SQUASH RACKETS

Largest Variety in New England

Tennis & Squash Shop

67A Mt. Auburn St., Cambridge
Opp. Lowell House — TR 6-5417

OPUS 1

Accessories for Everyday Living

1741 Massachusetts Avenue
Camb.

(opposite Linnaean Street)

Why Limit Parietal Hours?

The administration has refused to extend the week-end parietal hours. (See page 4). The reply to the Dormitory Council, couched in general terms, denied the proposal as failing to serve "a desirable end." No more specifics were given. The original request asked for extended hours during the week as well as on week-ends. The administration's reply concerned itself only with the latter. So restricting ourselves to the issue of week-end hours (particularly Saturday night), we present this argument for extension. This is particularly pertinent in light of the overwhelming expression of student opinion in favor of this change. (See page 4).

We start with this basic proposition. A graduate school which exacts responsible conduct from the student in his academic life, should expect no less from him in his private life. If this be so, there is no need for restrictive parietal rules.

We concede that the communal life of the dorms presents conflicting situations that must be resolved. Even admitting mature conduct, the actions of some will inevitably interfere with the interests of others. But we do not believe that a solution lies in the present parietal rules restricting week-end hours.

In the Cambridge academic community Saturday night is traditionally a time for social activities. Even the Law School Library closes at 5 p.m. in recognition, at least in some measure, of the propriety of non-legal interests in the life of the law student. Generally, curfew hours for young ladies in neighboring colleges are extended to 1:30 a.m.

But at the same time, places of public gathering in the Boston area are forced to close at midnight. It normally follows that those who do not wish to terminate their social activities at this time, the majority, will gravitate to private clubs, apartments, or dormitory quarters to entertain their evening guest or guests.

Is there any reason why such entertainment should be curtailed in the dormitories at 12:30 a.m.? Especially when deans from surrounding womens' schools sanction later curfews?

It might be suggested that noise from student gatherings in the dorms interferes with the sleep or studies of other residents. Ex-

cessive noise is not a necessary consequence of such gatherings. There is a parietal rule against radio noises, etc. An addition to this rule would solve any noise difficulty. Residents who might feel imposed upon would be few in number and should have the good grace to go along with the customary Saturday night socializing. At 1:30 a.m. most guests will have departed because of curfews, and the few who remain because they have no curfews or later ones, present no noise problem.

It might be argued that the Cambridge community will look askance at the extension of the present hours. But the great numbers of graduate students residing outside the dormitories have accustomed the community to seeing graduate students coming and going on the streets at late hours. Further, this phenomenon has become more widespread with the gradual extension of parietal hours in other graduate and undergraduate schools in the area.

If the rule is intended, in part, to regulate group morality in the dormitories, it is only a half-measure so long as non-residents are permitted in the dormitories at some time.

Finally, it is to be noted that the Law School weekend is unavoidably a short one because of Saturday classes. This undoubtedly curtails Friday night social activity. The heavy scheduling of classes on Mondays necessitates setting aside a good portion of Sunday for preparation. The result then is the limitation of a law student's week-end to Saturday evenings. This pleasant period should not be limited beyond the dictates of necessity.

We see no substantial reasons that overcome our basic proposition, especially with regard to Saturday night parietal hours. With the continuous recognition that law students do exhibit respect for the rights of their fellow residents, guests, and neighboring Cantabrigians, there is no need to create unneeded restrictions.

A reconsideration of the issue of extended hours should be undertaken by the administration. Or at least a more developed explanation of the refusal should be given to dormitory residents through their Council.

FEATURES SECTION

Rare Texts Divers and Propre

By EDITH G. HENDERSON

In August, 1955, the outer edge of Hurricane Diane dumped twelve inches of rain on Cambridge in twelve hours. The west wing door of Langdell—then below ground level—was flooded, and eventually the glass in the door was burst by the weight of the water. Although the water was held back by a barricade at the entrance to the library stacks, enough water seeped through to cover the entire west wing to a depth of two inches. In the subbasement the water reached two feet and caused between \$15,000 and \$20,000 damage to books. For days after the flood the Reading Room was covered with wet and damp books salvaged from the mess after the water had been pumped out.

If this had happened before 1948 the damage might have been far worse. For until then, the Law School's remarkable collection of old and rare books was kept in the vault at basement level; if water had seeped in there, the damage could have come to hundreds of thousands of dollars. Besides the possibility of flood, the books were exposed to extreme heat and dampness in the summer, and to cold and drying out in the winter. Altogether the situation was not reassuring.

Memorial

In 1948, as a memorial to the graduates of the School killed in both World Wars, the Treasure Room was built to house the rare book collections in a manner befitting their value and unique interest. About 23,000 books of early date are kept here, under constant conditions of temperature and humidity.

The heart of the Treasure Room is the Dunn collection of fifteenth and sixteenth-century English law books shown on the shelves at the end of the room. 460 year-books out of the 530 editions

known to have been printed in the sixteenth-century are here. They contain the very roots of the common law and the adversary system. The statutes enacted under Tudor kings and queens, made quickly available to the bar by the new device of the printing press, are part of the collection. Early treatises by which some order and system were gradually brought into the common law are also kept in the Treasure Room.

Unskilled Printers

But it seems that not all of these printers were scholars. In 1525 Richard Pynson called his competitor Robert Redman "more properly Rudeman for among a thousand men you will scarcely find one more unskilled. In fact, I wonder that he can now call himself a printer, unless perchance the devil, when he made a cobbler into a sea-captain, also made him a printer. Formerly the scoundrel professed himself a bookseller—well knowing that a thing can be called a book when it has merely the appearance of being one and little else. Yet the villain has dared to promise that by his skill he can print truly and faithfully all the revered and holy laws of England." Pynson had had a monopoly of printing Littleton's *Tenures* until Redman brought out an edition; this fact probably had some bearing on this outburst.

Manuscripts

Many of these came to the school by a single purchase in 1913. That January, the librarian received a cable from Sweet & Maxwell, the Library's London agent, telling him that the whole library of the late George Dunn was to be sold at auction within less than a month. Dunn was a qualified barrister who had spent his time and large resources in collecting books instead of in legal practice. He had directed that his large collection of early law books be sold as a unit if possible. In the collection were fifty-three English and Continental legal manuscripts, over one hundred editions of Year Books printed before 1600, and over 150 other printed law books of the same period.

The School succeeded in raising the large sum of \$10,000 in the short month before the sale took place. This was done by the Herculean efforts of the Faculty Library Committee, namely Dean Pound, who says he was "a chief conspirator" in the matter, and Professor Joseph Beale. With money already on hand, this sum enabled the School to buy the

Weekend Entertainment

CAMBRIDGE

BRATTLE — Inspector Maigret
3:30 (Sat), 5:30, 7:30, 9:30

UNIVERSITY — Auntie Mame —
2:20, 5:30, 8:50; Short Subjects
— 1:30, 4:45, 8

BOSTON

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

TELEPIX — Stella — 12, 2, 4, 6,
8, 10; Niok — 11:30, 1:30, 3:30,
5:30, 7:30, 9:30

UPTOWN — They Came to Cordura — 1:05, 5:20, 9:40; Man
Who Understood Women —
11:15, 3:30, 7:45

● UNIVERSITY ●

Harvard Sq. UN 4-4580

Rosalind Russell

in

"AUNTIE MAME"

and

Walt Disney's "Niok"

Also: "Jack and Old Mac"

whole law collection for £3750 or \$18,750. Many collectors had gathered to bid on individual books, but only two bid against the School for the collection *en bloc*. If such a collection were to come on the market now, nearly fifty years later, it would fetch many times more. But no comparable collection now exists in private hands.

Lawyers were among the earliest buyers of printed books in England. In 1482, only five years after William Caxton had printed his first book in England, his earliest competitors, John Lettou and William de Machlinia, printed five law books. They were Littleton's *Tenures*, an *Abridgment of the Statutes*, of which the Law School has two copies, and three Year Books. They must have sold well, for Machlinia printed six more law books in 1483-86. His successor, Richard Pynson, printed no less than 150, or one-third of his entire output.

Many sixteenth-century law printers were learned men. Pynson, a Norman, was educated at the University of Paris. John Ras-

tell, whose three-volume edition of Fitcherbert's *Abridgment* was one of the most ambitious ventures of the time, was at Oxford and then at Lincoln's Inn. He practised successfully as a barrister, and toward the end of his life was a member of Parliament. He married a sister of Sir Thomas More and took part in the religious controversies of the time. Beginning as a Catholic, he was converted by his opponents to Protestantism. Besides a morality play and a chronicle, he wrote a very useful law dictionary for students: *The Exposicions of the Termes of the Lawes of England, with divers propre rules and principles of the law — for young men very necessary*. His son, William Rastell, also a lawyer and writer as well as a printer, remained a Catholic and served as a judge of the Queen's Bench under Queen Mary.

Early English books were not usually much decorated or illustrated, being designed for reference rather than for show. Yet the woodcuts used on the title pages

were often very handsome. More unusual is a "fore edge painting" on the Law School's copy of Christopher Barker's bulky *Whole Volume of Statutes at Large* (1587). A spirited scene from "Jack Cade's Rebellion" is drawn on the edges of the pages, where students sometimes write their names. In the foreground are several hand-to-hand combats and a beheading; in the middle distance are warriors on horseback, and one of the houses in the background is being stormed with ladders and clubs.

Besides these sixteenth-century books, the Dunn collection included

CHEZ JEAN

The New French Restaurant
of Cambridge

Finest Cuisine By Jean
(Former Chef of
Famous Restaurants)

PRIVATE ROOM FOR PARTIES

1 Shepard St., Cor. Mass. Ave.

Open Daily Except Sun.

EL 4-8983

ELSIE'S

Noted for the Best Sandwiches
To Eat in or Take Out
The famous Special Roast
Beef Sandwich

KNACKWURST — BRATWURST
with Sauerkraut
OR POTATO SALAD

71 Mt. Auburn St., Cambridge, Mass.
Elsie & Henry Bauman EL 4-8362

CAPRI

Submarines
1691 Mass. Ave.

Wishes you and your family
a Mery Xmas and
Happy New Year

FOR A MORE ENJOYABLE TRIP
HOME, STOP OFF AT THE
CAPRI FOR A SUB "TO GO"

Home of the "WHOPPER"
World's Largest Sub Sandwich
2 Feet Long — 98¢

If you can finish 2 of them,
we will give you a 3rd one FREE!
Biggest variety of subs in town

Open 9 a.m. — 1 a.m.;
Fri. till 2 a.m.

The COOP OPTICAL DEPARTMENT



Offers you accurate and prompt service on all prescriptions. Broken lenses and frames replaced.



Patronage Refund
Third Floor
Take Elevator
TR 6-3000

OVER 30 YEARS AS A
CAMBRIDGE FORD DEALER

Elbery Motor Co., Inc.

Authorized
SALES FORD SERVICE

IMMEDIATE LUBRICATION SERVICE

Corner Memorial Drive 360 River St., Cambridge Phone KI 7-3820

over fifty manuscripts, kept with other manuscripts in the Treasure Room stacks. There are, for instance, two early manuscripts of Bracton's great treatise, several Year Books, and many collections of statutes.

Early Reporter

In 1924 the Law School bought the entire manuscript law library of two eminent seventeenth-century lawyers, Arthur Turnour, serjeant-at-law (died 1651) and his son, Sir Edward Turnour, Speaker of the House of Commons and Chief Baron of the Exchequer. There are no less than seventeen manuscript volumes of reports, mostly from the first half of the seventeenth century. Eight of these are neatly indexed in a church octavo volume, which also contains references to the early printed reports. This fat little book of some 1500 pages must contain at least 10,000 citations on every legal topic imaginable, in various handwritings, added from time to time over many years. In time, when some topics outgrew the space allotted to them, new pages were begun, and an index to the index was added so that all the material in the book could be found at a glance.

In the back of the book the owner has jotted down a cure for tooth-

ache, and another for "waterish humors." Other notes show the older Turnour's perplexed concern with the troubled times he lived in. His Royalist sympathies appear in two versions of a sentence noted on the same page: "No remedy is given to men subject to a tyrant but the improvement of his life" and "No remedy is given but tears and prayers." On the inside of the back cover is an "Epitaphe" for Thomas Wentworth, Lord Strafford, whom Parliament caused to be executed in 1641; from that moment a bloody conflict between King Charles and his Parliament was not to be avoided.

First Editions

The Treasure Room's collection of seventeenth-century English law books is too extensive to describe here. There are first editions of Coke's *Reports* and *Institutes*, of

Bacon's *Reading on the Statute of Uses*, and Hale's *History of the Common Law*, to name only a few. Most of the state trials of the time are here, including, for instance, the Gunpowder Plot of 1605 and the Popish Plot of 1638; there are several editions of the trial of King Charles I.

All in all, without cavil, a most impressive and weighty collection.

Edith Guild Henderson, A.M., LL.B. '53, is Librarian-in-Charge of the Harvard Law School Library Treasure Room. This the first of her occasional articles on the Treasure Room and its contents.

Secondhand Law Books LAW SCHOOL AIDS

Bought — Sold

HARVARD BOOK STORE

1248 MASS. AVE., CAMBRIDGE

OPP. LAMONT LIBRARY TR



*Finest imported
and domestic
apparel for the
discriminating
gentleman*

10% Discount To Student
and School Staff
CHARGE ACCOUNTS INVITED
Next to University Theatre

Coop

Stays

Open

An

Hour

Later

Buy Where You Save
Save When You Buy
8% or 10%

THE
COOP

For Your Shopping Convenience thru Dec. 23
The Coop will Remain Open Until 6:30

THE
COOP

Letters to the Editor

To The Editor:

I have just finished reading the review of Professor Petro's book in your issue of November 25 and cannot resist expressing my thoughts with respect thereto.

The critic appears to worship absolute objectivity and he appears to abhor emotional reactions. He does not hesitate to condemn the author by attributing to him a base motive, to wit: that the author described "violent" actions of "violent" men in order to rouse "violent" passions to produce support for his legislative program. The critic does not seem to question that the actions described were "violent" actions and that they were performed by violent men. He seems to believe that they should not have been described because of the possibility that they would evoke an emotional response and thereby persuade members of the public to protect themselves from such violence by legislation.

I would like to suggest that the reviewer satisfy himself, as to the violence, which appears to be all too common in union operations, by reading the opinion of Judge Noe in connection with the Mount Clemens case, which is reported in *Commerce Clearing House, Cross Co. v. Auto Workers Local 155*, 38 Labor Cases, 65,900; or better yet, that he spend the Christmas holidays in an attempt to go through the picket line at this plant. I then suggest that upon returning to the law school the critic spend a little time searching for statutory or case law to support the violence which he observed.

I submit that there is a large segment of the world population which does not approve of violence by any group and that the time will come when society will insist upon the use of its powers to eliminate the use of force and violence by labor organizations. If this does not come about soon, I submit that the non-union segment of the population will utilize self-help in its own defense.

I do not intend the foregoing as a criticism of your entire publica-

tion, inasmuch as I have enjoyed reading it and this is the only time I have seen fit to take issue with it.

Very truly yours,
J. D. Hartwig '47
Benton Harbor, Mich.

Author's Reply

The second paragraph of the above letter attributes an unreasonable position to the review published in the RECORD. I neither suggested that facts of union violence should be suppressed nor that remedial legislation was not necessary. My criticism was that in Professor Petro's *Power Unlimited*, the gap between the problem of union corruption and *his specific remedies* was bridged by waves of emotion rather than by timbers of reason. The review was intended to suggest that this weakness comes from a combination of great zeal with incomplete argument, not from a "base motive."

—Manley

Rackets Restrung

One-Day Service

TENNIS & SQUASH SHOP

67a Mt. Auburn St. Cambridge
Opp. Lowell House — TR 6-5417

RITE-WAY CLEANERS

Complete Laundry Service

4 Hudson St. (Off 1672 Mass. Ave.)
Cambridge

Jack Welcomes You to

Mike's Club

WHERE YOU CAN ENJOY
THE LARGEST

ROAST BEEF SANDWICH
IN THE SQUARE

OPEN EVERY SUN. — THURS.

'TILL ONE A.M.

FRI. SAT. 'TIL 2 A.M.

Orders to Take Out

EL 4-9625

The Original!



★ Eat Here

★ Take Out

★ Delivery

1728 Mass. Ave. Between
Harvard and Porter Squares

UN 8-7000 YOU RING...
WE BRING!

ORDER BY NUMBER

21 DELICIOUS VARIETIES OF PIZZA

1. Tomato and Cheese	\$.89
2. Onion	.99
3. Green Pepper	1.09
4. Green Pepper - Onion	1.09
5. Salami	1.19
6. Linguica	1.19
7. Ham	1.19
8. Bacon (Canadian)	1.19
9. Pepperoni	1.19
10. Anchovie	1.19
11. Meat Ball	1.19
12. Mushroom	1.29
13. Italian Sausage	1.29
14. Mushroom - Green Pepper ...	1.29
15. Meat Ball - Mushroom	1.29
16. Clam	1.49
17. Shrimp	1.49
18. Pepper Steak	1.49
19. Chicken	1.59
20. Special	1.59
21. Lobster	1.69

CREATE YOUR OWN COMBINATION SPECIALS!

22. Spaghetti - Marinara Sauce ..	\$.79
23. Spaghetti with Meat Balls ...	.89
24. Spaghetti - Mushroom Sauce ..	.89
25. Spaghetti - Italian Sausage ...	.99
26. Spaghetti - Shrimp Sauce	.99
27. Spaghetti - Lobster Sauce	.99
28. Spaghetti and Clam Sauce ...	.99
* * *	
29. Cheese Ravioli	.89
30. Ravioli and Meat Balls	.99
31. Baked Lasagna	.99
* * *	
32. Italian Submarine	.59
33. Italian Cooked Salami	.59
34. Ham	.59
35. Meat Ball	.69
36. Salami and Cheese	.69
37. Ham and Cheese	.69
38. Italian Sausage	.79
39. Pepper Steak	.79
40. Pepper and Egg	.59

CLIP AND SAVE THIS MENU
ORDER BY PHONE DURING
EXAM CRAMMING