



Harvard Law Record

Law Review Officers - - - - -	3
Republicans Hear Morton - - - - -	3
Need for Vigilance - - - - -	4
Hit Oath and Disclaimer - - - - -	5
Moslem Jurisprudence - - - - -	8
Glueck Chart Causes Comment - - -	9
Republicans Elect Officers - - - - -	10
Gallery: Paul M. Bator - - - - -	11
Current Case: Blue Laws - - - - -	13

Harvard Law Record

ROBERT C. BERRY	President
CHARLES G. KADISON JR.	Editorial Manager
SYDNEY S. TRAUM	Business Manager
CHARLES H. BARON	News Editor
RUSSELL A. WINSLOW	Features Editor
BENJAMIN M. GOTTLIEB	Photography Editor
ROY F. BARNITT JR.	Advisory Editor
ROBERT E. MANLEY	Advisory Editor
PETER J. McGINN	Copy Editor
MORRIS J. AMITAY	Ass't News Editor
RAPHAEL JACOBS	Advertising Manager

Associate Editors

Ellis A. Horwitz, Richard C. Hotvedt, Herbert H. Kaiser, David N. Levinson, Paul C. Murstein, Morton Rosenberg, David L. White.

Staff

Robert W. Worley, Thayer Fremont-Smith, Daniel F. Gold, Robert B. Terry, John G. Gillis, Leonard M. Nelson, John G. Milano, Barry M. Bloom, Alex R. Seith, Ira Frelicher, Marilyn Pfaltz, Howard Kristol, Mordecai B. Braunstein, John Martin, Justin Heatter.

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: \$2.00 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.

Hearsay

People around the Law School have usually been willing to admit that Columbia has a pretty good law school. Indeed, occasional visits by Columbia professors such as the gentlemanly Mr. Cheatham and the persuasive Mr. Wechsler have tended to confirm our general respect for Columbia Law School.

All of this is background to show why the editors of the RECORD were not only surprised, but also mildly shocked, to observe that the editors of the *Columbia Law School News* find it necessary to falsely represent their respectable attempt at law school journalism as "America's Oldest Law School Newspaper." Everyone knows that the RECORD is America's oldest law school newspaper; even the editors of the *Columbia Law School News* know this.

Columbia Law School and its newspaper are of sufficiently good quality that its editors need not misrepresent their product in order to command the admiration of Harvard lawyers, or of anyone else.

Do they feel so insecure down at Columbia that they have to claim unearned distinctions, even such doubtful ones as age? Perhaps they think it is good public relations to pretend that they are what they are not. Perhaps they have what the cocktail party psychologist calls a "classic inferiority complex." In any event, it is amusing that they feel a need to represent themselves falsely down at Columbia.

CALENDAR

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

Thursday, February 18

The SCOTT CLUB will hold a luncheon meeting in the Mallory-Smith Room of Harkness Commons at 1 p.m. Professor Brewster will speak.

Friday, February 19

The INTERNATIONAL LAW CLUB will hold a discussion group meeting in the Wheeler Room, Holmes Hall at 4 p.m. The speaker will be Mr. Boleslav Boczek of Poland. The topic will be "Flags of Convenience and International Law."

Monday, February 22

This is Washington's Birthday, a holiday at the Law School.

Tuesday, February 23

The STUDENT BAR ASSOCIATION will present Joseph L. Rauh, Jr., former law secretary to Justices Cardozo and Frankfurter, and currently General Counsel to the United Auto Workers. He will speak on "The Lawyer and Civil Liberties" at 8 p.m. in the Harkness Commons Meeting Room. Mr. Rauh is a graduate of the Law School, has served as counsel for several government agencies, and was counsel in the *Jencks* case. He is also active in Americans for Democratic Action.

This will be the opening date for the beginning of the WILLISTON COMPETITION, QUALIFYING ROUND.

Wednesday, February 24

The LAW SCHOOL REPUBLICAN CLUB will present Professor W. Barton Leach at 1:20 p.m. in the Mallory-Smith Room of Harkness Commons. His general topic will be "The Missile Gap and National Defense."

The HARVARD LAW WIVES will present Professor Abram Chayes, who will speak on the

(Continued on page 15)

Republicans Hear Morton

The requirement of a non-Communist affidavit as a prerequisite to obtaining a scholarship under the federal college scholarship program will probably be repealed if it comes to a vote in Congress, according to Senator Thruston B. Morton of Kentucky, Chairman of the Republican National Committee. Senator Morton made this prediction in a candid discussion of issues and campaign plans before a crowd of Young Republicans last Thursday at Lowell House. The appearance of Senator Morton was co-sponsored by the Law School Young Republicans.

Senator Morton devoted most of his time to answering questions from the audience. However, he first outlined briefly the Repub-

lican Party's campaign strategy and prospects in the coming election. At the present time, Senator Morton said, he could not conceive of anyone but Vice-president Nixon as the party's nominee for President. He declined to name any candidates for the vice-presidential nomination but said there were a great many men in the party eminently qualified for the job. Senator Morton said he was not a candidate, as the Republicans could not afford to lose any seats in the Senate. He admitted that the party had no mathematical chance of gaining control of the Senate this year, since most of the Democratic Senators up for re-election are from the South. However, Republicans are hoping to take control of the House by picking up 68 seats now held by Democrats.

The four cornerstones of a successful campaign, Senator Morton said, are issues, hard-hitting candidates, an efficient organization, and adequate financial support. In the past, one obstruction to an efficient organization has been the selfish motivation of some precinct workers. This problem is being overcome, the Senator asserted. He said Republicans today are more united than ever before. In answer to a question as to the party's prospects in the South, Senator Morton said that the Republican Presidential candidate had an excellent chance to win in Virginia, North Carolina, Florida, Kentucky, and Texas. He admitted that it was very difficult for Republican Congressional candidates to get votes in the South. This he attributed to the fact that Southern voters are so conservative that the Republican Party has a hard time attracting them.

Voting Referee Plan

In respect to civil rights legislation, Senator Morton predicted that Attorney-General Rogers' voting referee plan would be passed by Congress without a bitter floor battle. He said the Rogers plan was superior to the registrar plan because it would operate within the existing judicial framework and would apply to local elections.

Commenting on the current defense debate, Senator Morton said it was good to re-

Harvard Law Review Officers

The following have been elected to head the *Harvard Law Review* for the coming year:

PRESIDENT James V. Springer,
Babylon, New York

TREASURER Peter B. Edelman,
Minneapolis, Minnesota

ARTICLE

EDITORS Sidney S. Rosdeitcher,
Bayonne, New Jersey
Mark A. Weiss,
New York, New York

NOTE EDITORS Tom J. Farer,
Manchester, New Hampshire
Bernard W. Nussbaum,
New York, New York

CASE EDITORS Roland S. Homet, Jr.,
Long Lake, New York
Jack S. Levin,
Glencoe, Illinois

DEVELOPMENTS

EDITOR John E. Vanderstar,
Point Pleasant, New Jersey

BOOK REVIEW

EDITOR Nathan J. Cohen,
Pine Bluff, Arkansas

examine our defense posture, but he criticized the "headline hunting" which characterizes the attack on the missile program. He said misinformation and fear were being spread by those who emerge from unofficial executive sessions and proceed to give their own opinion on the state of the nation's defenses.

In answer to a question as to whether the Republican Party would come up with a new approach to the farm problem, Senator Morton said that was up to the platform committee at the convention this summer. However, he criticized the present system of price supports, saying that supports should be a protection against disaster rather than a guarantee of a profit.

Senator Morton explained Vice-president Nixon's vote in the Senate on the bill to grant federal aid to public schools. Mr. Nixon cast the tie-breaking vote on a motion to table an amendment to a school construction bill. The amendment would have added to the bill a grant for teacher's salaries, a precedent which the Administration and many educators oppose. The Vice-president voted to table the amendment.

— Matia

General Trudeau Cites Need For Vigilance

The head of the Army Research and Development Department, Lieutenant General Arthur G. Trudeau, spoke to a joint meeting of the American Association of University Women and the Harvard Law Wives last week. The announced topic was "Army Research and Development — Crucible for the Future."

General Trudeau spoke at length on the many challenges which are facing our nation. The existing threat of world Communism, the rising tides of nationalism and the economic gains of many countries of the world should be matters of grave concern to the American people. He believes that the Soviets have no intention of ever giving up until Communism dominates the world. Opposing this, Berlin is the symbol which represents the United States determination to stand fast. What must result is a recognition that eternal vigilance is the price of liberty.

The General described this country's need for a greater creative spirit in industry, agriculture and especially in science. But perhaps most important of all, this creativity must extend to the social sciences before we destroy ourselves. He pointed out that throughout history very few civilizations were overthrown by outside forces but rather were destroyed from within. He feels that Americans should not forget the lesson of the decline and fall of the Roman Empire.

There were two short films shown during the evening, the first of which was taken two years ago in Red Square on the occasion of



Lieutenant General Trudeau

the 40th Anniversary of the Russian Revolution. On view were a wide variety of conventional weapons, missiles, and other evidences of the Russian arsenal. The second film showed several projects which the United States Army is currently working on, such as Vertical takeoff aircraft and missiles of extreme accuracy. General Trudeau said that there are three main concerns of the Army — to move, shoot, and communicate. The Army is spending a large sum of money yearly for basic research in these areas.

— Marilyn Pfaltz

Hit Oath and Disclaimer

In a lively open membership meeting, marked by animated debate and flashes of humor, the Harvard Law and Graduate Schools Democratic Club on February 9 adopted a Resolution sharply criticizing the "loyalty" oath and affidavit of §1001(f) of the National Defense Education Act of 1958.

Paragraph One of the Resolution, adopted after the marathon three-and-one-half-hour session, states: **"RESOLVED:** That the disclaimer of belief and the loyalty oath requirements of the National Defense Education Act of 1958 be abolished."

The major issue of the meeting, chaired by Roy A. Schotland, 3L, concerned the position to be taken with respect to the oath of allegiance (the so-called "loyalty" oath constituting paragraph two of §1001(f), Title X, of the N.D.E.A.). Few of the members present argued in favor of the oath in principle, but it was strongly urged that objections to the oath were essentially esoteric, that the public would misunderstand opposition to the oath as opposition to loyalty itself, and that it would be difficult enough to achieve Congressional removal of the affidavit without diluting the opposition to the affidavit with an adventitious issue — the oath. It was pointed out that Massachusetts has an almost identical loyalty oath required of Harvard professors, so far without marked encroachment on the academic atmosphere here.

Those Against

Those against the oath claimed that there was no difference in principle between the oath and disclaimer, both represented "the swinish cult of anti-intellectuality" as Senator Fulbright once phrased it (in a different connection); in short, both provisions represented suspicion of the academic community which was therefore singled out for special, discriminatory treatment. The opponents of the oath claimed that other private citizens, *qua* private citizens, did not have to take such oaths or affidavits, citing veterans and farmers as examples. The opponents of the oath urged that two wrongs do not make a right, that the *Harvard Crimson* recently suggested

in a news story that two professors refused to sign the Massachusetts oath on principle and Harvard consequently lost their potential services. The opponents urged that Holmes' dictum in *Truax v. Corrigan*, 257 U. S. 312, 42 S. Ct. 124 (1921), had been tried out, and that there was no reason to extend the oath from the "insulated chamber" of one state to the Federal Government and thus to all 50 states.

No Opposition to Loyalty

Several speakers stressed that opposition to the "loyalty" oath does not mean that students do not believe that such oaths are legitimate as oaths of office, either elective or appointive. Nor was there opposition to loyalty itself. Objection to the oath was based on the "singling out" argument that requires oaths of students, and students alone, as a condition for enjoying federal monies granted, as the N.D.E.A. preamble states, for the "improvement of educational programs to meet critical national needs . . ." President Griswold of Yale was cited to indicate that both oath and affidavit seemed "to represent a lack of confidence in young people . . . as well as in the education process itself." One student cited Edith Green's comment in the *Congressional Record*: "The idea of the loyalty oath is a direct slap at the intellectual community The target, in all cases, is the educated man." (Quoted from the *Register-Guard* of Oregon)

This author raised the problem of administrative procedure, the confusion regarding administrative remedy, and the fact that Title X ("Miscellaneous Provisions") was hardly the place for so important a provision as the oath. It was suggested that both the oath and the affidavit would largely depend on interpretation for their immediate practical effect, and that such interpretation could be performed only by a Federal official, presumably either the Secretary of Health, Education, and Welfare or the Commissioner of Education. Senator Kennedy's argument was cited regarding the dangerous vagueness of §1001(f) in a First Amendment area where clarity of draftsmanship would seem one ap-

appropriate criterion of the wisdom — as distinct from the mere constitutionality — of the N.D.E.A. Mr. Justice Frankfurter's statement in *Dennis v. U.S.*, 341 U.S. 494, 71 S. Ct. 857 (1951), was suggested:

Much that should be rejected as illiberal, because repressive and envenoming, may well be not unconstitutional. The ultimate reliance for the deepest needs of civilization must be found outside their vindication in courts of law.... The mark of a truly civilized man is confidence in the strength and security derived from the inquiring mind.

Moral Question

Several students pointed out that even if the only result of the oath were the increase of psychological coercion or suasion on politically timid souls, there still remained the moral question of whether any pressure whatsoever might legitimately be exerted by Federal officers in the area of belief.

The majority of the group seemed to feel that "loyalty cannot be coerced" and that while loyalty is vital, its inculcation is not the job of Federal officials. Mr. Justice Jackson's statement for the majority in *Barnette* was read out by one student:

To believe that patriotism will not flourish if patriotic ceremonies are voluntary and spontaneous instead of a compulsory routine is to make an unflattering estimate of the appeal of our institutions to free minds.... But freedom to differ is not limited to things that do not matter much....

If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion....

The question of the constitutionality of the affidavit and oath occupied a prominent place in the three-and-one-half-hour marathon debate. The original provision of the Resolution had been adopted by the Drafting Committee upon recommendation by Steven R. Rivkin, 1L, as well as perusal of the articles by Harvard Law School professors Clark Byse and Mark deWolfe Howe. It was generally agreed that "it would be impractical to seek a judicial remedy, although.... the affidavit is too vague to be constitutional" as Byse states in the *RECORD*, November 25, 1959.

The constitutionality of the oath is even less open to question. Objections to the oath,

therefore, centered chiefly on its moral and political implications, especially since there existed little opposition to the oath as an oath of office. Objection to the oath seemed confined to its use as a "test oath" required as a precondition for the dispersal of funds granted in the Federal interest.

Final Formulation

The final formulation of the Resolution, "**RESOLVED:** That the disclaimer of belief and the loyalty oath requirements of the N. D.E.A. . . . be abolished . . . **BECAUSE** the disclaimer of belief is an infringement of freedoms protected by the First Amendment of the Constitution" was attacked as technically deficient in its legal phrasing, and as lacking legal precision. A motion to refer the paragraph to "competent legal authorities" of the Harvard Law School was defeated on the grounds that the preparation and consideration of the Draft Resolution had taken a month, and that if the Resolution were to have any practical effect on Congress it must be sent out at once, and lastly, that the cited paragraph expressed a moral and political, as well as purely legal, objection.

The final argument over the oath involved the question of ends versus means. All present agreed that the oath would not catch subversives since the latter would be willing to sign it. Proponents of the oath claimed that opposition was quixotic, since the Commonwealth of Massachusetts had administered such an oath to all Harvard professors of American nationality with no perceptible effects on freedom of thought at Harvard. It was urged that opposition to the oath would split the forces in favor of repeal of the affidavit, solidify the support of those Congressmen supporting both oath and affidavit, and affidavit, and thus be poor political tactics.

Thought Control

In answer, it was claimed that the impact of both oath and affidavit as "instruments of thought control" would largely depend upon the zealousness of their interpretation and enforcement by Federal officials, and that legislation should be framed not for the present only, but also for the future. With the sad experience of McCarthyism behind us, some members argued, we must try for the removal of both oath and affidavit *now* before §1001(f) of the N.D.E.A. (the first general law affecting all American higher education

since 1871, according to the *Harvard Crimson*) sets a precedent and loyalty oath forms begin to sprout upon the nascent tree of federal aid to education.

Many of the members present felt that the N.D.E.A. was a pioneering piece of legislation, and that students had a long-term interest in protecting the rights of free thought from even the possibility of future Federal encroachment. One student argued; "Our unique position as students suggests that we should take a longer-range view of the problem than those with short-term, albeit legitimate, political interests. We should," the student continued, "raise up a standard to which the wise and honest can repair" and oppose both the oath and affidavit.

The Harvard Law and Graduate Schools Democratic Club concluded its Resolution to Congress with the paragraph:

"**BELIEVING** that the disclaimer and loyalty oath subvert the American idea of free thought, we the members of the . . . Club urge immediate action upon this Resolution."

It was decided to introduce the Resolution at the Democratic National Convention at Los Angeles if no action is forthcoming by Congress.

— Camp

Summer Jobs at Law School

Student research assistants are being sought for work on the Responsibility of States Project for the coming summer. Professors Louis B. Sohn and R. R. Baxter, the joint reporters for the Project, have announced that they will be employing approximately five students to prepare annotations of various articles of the "Convention on the International Responsibility of Status for Injuries to Aliens" which they have prepared.

Only students who meet the following requirements will be considered for these positions:

- Must be currently a second-year student at the Law School.

- Must rank in the upper half of the class.

- Must have a reading knowledge of at least one foreign language.

- Must be available for work throughout the summer.

- Must have had at least one course in

international law or international organizations at the Law School.

Application forms may be obtained only from Miss Julia Casey, Financial Aid Office, Langdell Hall, and must be turned in to her. A meeting will be held at 1:30 p.m. on Tuesday, February 23, 1960, in Seminar Room 4, International Legal Studies Building, at which Professors Sohn and Baxter will explain the nature of the work and answer questions. They have requested that all inquiries be reserved until that time.

No Patent for Diaper Service

"You can't patent an idea or a diaper service," said Donald Brown, Esq., addressing a recent meeting of the Patent Law Club. To qualify for patenting, an invention must consist of a complete mental conception incorporated in some physical form or process which must be tested to the inventor's satisfaction.

In his talk, Mr. Brown illustrated problems that are incurred in drafting a patent application. He spoke of the necessity of verbally broadening the scope of the invention by drawings and specifications to bring the application within the required terms of disclosure. Mr. Brown also discussed patent filing procedure and problems of "interference" proceedings between competing inventors. On this latter point, he illustrated, by cases, that some delays between the time of application and grant of a patent may improve the applicant's position because of developments in the state of the article.

Mr. Brown was the second speaker in a symposium conducted by the Patent Law Club, which was organized by Graham S. Jones, 3L. The symposium is intended to benefit students who, although they do not necessarily aspire to draft patents, recognize that patent problems are an important facet of legal education.

Gannett House

The attic of Gannett House is scheduled to be remodeled next summer. Eight rooms will be constructed there for *Law Review* use and the floor will be made "fire safe."

International Law Club

Discusses Moslem Jurisprudence

George M. Abi-Saab, a graduate student at the Law School from the United Arab Republic, spoke to an unusually large discussion group of the International Law Club last week on "The Concepts of Purpose and Cause and the Technique of Analogy in Moslem Jurisprudence."

The Egyptian-born speaker began by distinguishing Moslem jurisprudence from law, reminding the club that Moslem law is, in its entirety, applied only in the Arabian peninsula. In other Moslem countries, it has very limited application and is utilized mainly in domestic affairs.

Citing the Koran as the basis of Moslem law and jurisprudence, Mr. Abi-Saab revealed that, of the Koran's 7000 verses, only 70 deal with what is considered to be law. Moreover,



Mr. Abi-Saab

although there are certain verses dealing with rules for criminal law and for domestic and economic affairs, the 70 verses are in the form of general principles, mostly prohibitions.

In tracing the development of Moslem jurisprudence, Mr. Abi-Saab noted that by the

second half of the ninth century and following a period of intensive classification there was felt a need for new structuring in the law. Accordingly, it was Moslem jurisprudence that developed to fulfill this need. Most of the subsequent codification was done by juriscounsels and their followers.

This point brought Mr. Abi-Saab to the importance of analogy in Moslem jurisprudence. He described analogy as a process by which one can create new norms and inject new rules to face novel situations. It is a source of flexibility without which "the whole system could have been shattered." The speaker was here defining analogy as the taking of the legal effects of one situation and applying them to a similar set of facts. These legal effects are judged by either the Koran or traditions. If a legal effect has a reason, it can then be analogized on the basis of purpose.

Merits of Reason

Mr. Abi-Saab laid emphasis on the merits of reason. He described it as objective and determinable, while purpose might not be. As a consequence, legal results could not be attached to purpose, but they might be to reason.

The speaker, throughout the discussion, emphasized the need for flexibility in law and jurisprudence. He explained that the Moslem Empire declined when the social system became rigidified because no new rules were allowed.

During the question period which followed the talk, Professor Lon L. Fuller helped clarify some of the technical points raised by the questions from the audience. It was brought out that Islamic jurisprudence stresses social interdependence and a system of optimization. It was also noted that most Moslem countries are now secularized in their law, but tribal attitudes are still reflected.

Present at this discussion group meeting was Dean Hahlo of the University of Johannesburg, Union of South Africa, who has been visiting the Law School recently.

— Amitay

Glueck Chart Causes Comment

Employing a predictability chart for the detection of potential juvenile delinquency, compiled by Drs. Sheldon and Eleanor Glueck of the Law School, New York City officials now feel that the detection of potential delinquents under the age of six years has been reduced to a relatively exact science.

Mayor Robert F. Wagner recently made public the results of seven years of study by the New York City Youth Board, which has employed the predictive table of the Gluecks and has found it to be up to 87 per cent accurate in separating potential delinquents from non-delinquents. On the basis of this, it has been recommended that the prediction scale be applied more widely to selected schools throughout the New York City Public School system.

There have been dissenters to the supposed merits of this study. The two main critical groups have been the Citizens Committee for Children of New York City and the 18 member Council of the Society for the Psycholo-

ments by the New York officials were intended to answer these charges, emphasizing that the names of the potential delinquents are a professional secret and that, although the study is concerned with helping the neurotic child, the potential delinquent is a more serious problem.

The Glueck chart, which lies at the basis of this study, resulted originally from the



Dr. Sheldon Glueck

gical Study of Social Issues which represents 2000 psychologists in the United States.

The criticisms of this group have been directed toward the low percentage of potential delinquents who have become delinquent, the stigma attached to branding a child as a potential delinquent, and the disregard in the study of the neurotic child. The announce-



Dr. Eleanor Glueck

study of 1000 potential delinquents and other boys from the slum areas of Boston, this research being conducted over a period of years between 1939 and 1950. The resulting table is based on five factors: affection of the mother for the child, affection of the father for the child, supervision by the mother, discipline by the father, and the degree of family unity.

When the Youth Board initiated its study in 1952, it rated all the boys in the entering classes of two elementary schools according to the Glueck table based on family relationships. Of the 223 boys thus ranked, 186 were estimated to have little probability of becoming delinquent. Now, seven years later, only eight of this group have become delinquent and only two others are showing serious pre-delinquent symptoms. This represents 94.6 per cent accuracy. On the other

hand, of the 37 boys who were rated as having a high probability of becoming delinquent, thus far 13 have been involved in persistent delinquency and four others are showing serious pre-delinquent symptoms. Thus, even before the mid-teens when delinquency most usually occurs, 45.9 per cent of this group have fulfilled the Youth Board's prophecy.

The most encouraging thing about these statistics is that, with the prediction being made at such an early age, it is now known to whom special attention should be directed, even in those early years.

Republicans Elect Officers, Walter A. Baker, President

The Harvard Law and Graduate Young Republican Club has elected its Executive Committee for the coming year. Walter A. Baker, 2L, of Columbia, Kentucky will serve as president.

Other officers and members of the Executive Committee include Jerry B. Fulmer, 2L, Franklin, Pa., vice-president; Barbara A. Lee, 1L, Windsor, Conn., secretary; Russell A. Winslow, 2L, West Newton, Mass., treasurer. In addition to the preceding, the following were elected members of the Executive Committee: Lewis A. Engman, 2L, Grand Rapids, Mich.; Kirkman Finlay, Jr., 2L, Columbia, So. Car.; and Sheldon A. Taft, 1L, Columbus, Ohio.

The new president, Walter A. Baker, graduated from Harvard College in the class of 1958, is a member of Chancery Club, and secretary of the Southern Club. During the last three summers he has worked in the office of Thruston B. Morton, United States Senator from Kentucky and Chairman of the Republican National Committee.

Clerkship Value Doubted

In October, 1959, the first bar examination was given in New Jersey under its recently revised rules which permit law school graduates to take the bar examination without first

having completed any period of clerkship.

A total of 290 took this examination, of whom 140 had not completed clerkships. These were presumably mostly recent law school graduates. Of these 140 examinees, 93, or 66 percent, passed the examination and are eligible for admission to practice. The remaining 150 candidates had all completed a clerkship involving at least nine months of practice. Of these 150 examinees, 79, or only 52.7 per cent, passed the bar examination. Some of these 150 were "repeaters," but 80 were taking the bar examination for the first time, and of these 49, or 61 per cent, passed.

From these statistics it would appear that proximity to law school training, rather than practical experience, is a more significant factor in determining ability to pass bar examinations.

Building Put to Use

The old gymnastics building of Sargeant College is now being used for Harvard purchasing offices and for a branch of the Cambridge Y.M.C.A. The building was acquired along with Wyeth Hall, a residence for women graduate students, when Harvard bought the buildings occupied by Boston University's Sargeant College on Everett Street and Massachusetts Avenue.

Two of the gyms are being used as warehouses for Harvard University Stores and one floor is being used for purchasing department offices.

The fourth floor gym and the basement of the building have been turned over to the Cambridge Y.M.C.A. at a nominal rent for use by grade school and high school boys.

The "Y" boys' program utilizes the basement space for a craft shop and game room. The cellar also came equipped with 16 showers. The 40 by 60 foot gym is used for supervised athletics.

According to Walter E. Barrett, Jr., Youth Director of the Cambridge Y.M.C.A., it would have been impossible for the "Y" to duplicate these facilities if Harvard had not made them available.

Secondhand Law Books
LAW SCHOOL AIDS
Bought — Sold
HARVARD BOOK STORE
1248 MASS. AVE., CAMBRIDGE
OPP. LAMONT LIBRARY TR 6-9069

SAME DAY DRY CLEANING
Complete Laundry Service
RITE - WAY CLEANERS
4 Hudson St. (off 1672 Mass. Ave.)

Rackets Restrung
One-Day Service
TENNIS & SQUASH SHOP
67a Mt. Auburn St. Cambridge
Opp. Lowell House — TR 6-5417

FEATURES SECTION

Gallery

Students in a first year course in Criminal Law and a second year course in Administrative Law this year have the opportunity of studying under a recent and outstanding graduate of the Law School. Assistant Professor Paul M. Bator graduated from the Harvard Law School *summa cum laude* in the class of 1956, and while at Harvard he was a member of the Board of Editors of the Law Review and served as president during his third year.

Mr. Bator, who was born in Budapest, Hungary, in 1929, came to this country in 1939. Entering Princeton University in 1947, he specialized in history within the Special Program in the Humanities and graduated in 1951, at which time he was appointed a Woodrow Wilson Fellow. He received an M.A. degree in History at the Harvard Graduate School and began work toward his generals with his eyes on a Ph.D. degree in History.

The call of the Law School proved stronger, however, and he left Widener for Langdell Library, in a change which he has never regretted.

Law Clerk

Mr. Bator spent the year after law school in Washington serving as law clerk to Mr. Justice John M. Harlan of the United States Supreme Court. He commented that this was a particularly controversial, and therefore interesting, time to be associated with that Court, since the *du Pont* anti-trust case and some of the most important civil liberties cases of the past decade (including the *Konigsberg*, *Jencks*, *Watkins*, *Sweezy* and *Yates* cases) were before the Court for decision.

Mr. Bator practiced with a firm in New York City from September, 1957, to June, 1959. He commented upon the excellent training offered by such an association and the superb caliber of work demanded. He gained experience in a wide range of legal problems, including corporate, anti-trust, and labor. "Gaining court-room experience, however, is the principal difficulty in New York," he remarked, "and the best way for the grad-

uate to gain such trial work would be to work with an attorney general's office for a couple of years."

Criminal Law Important

Mr. Bator expressed the view that criminal law should be important in every lawyer's training, not because of the cases he may handle, but because of its importance in the eyes of the public. "Since the layman thinks of law in terms of the criminal law, members



Mr. Bator

of the bar should take an interest in its administration. If criminal law is badly administered, the general reputation of the law suffers."

He added that criminal law is important politically, for here state authorities can interfere most significantly with an individual's private life. Yet criminal law does not receive the attention necessary. Inadequate financial return and the type of people with whom the criminal lawyer may frequently deal discourage young lawyers from this field. He suggested, however, that the role of the voluntary defender may be expanded in the future to provide a career service in criminal law.

Mr. Bator observed that more influence can be exerted upon the tone of criminal law administration in the offices of the prosecutor than by defense attorneys. The client of the Solicitor General is the public, and the needs of the public are justice and a rational development of the criminal law. These ends are best served by a careful exercise of the discretion to prosecute or not.

In response to a question as to his reasons for returning to academic life, Professor Bator commented that teaching gives one the opportunity and impetus to deal with wide theoretical problems which the urgencies of practice force one to forego. Nevertheless, he adds, it is one of the charms of the law that there is close contact and constant interplay between the academic and practicing worlds. The practicing lawyer and the teacher are both members of one professional family, he remarked.

Professor Bator is married, and he and his wife now live in Cambridge. His interests outside of the law include tennis and skiing; and he hopes also to play indoor tennis. He finds piano playing to be a source of enjoyment, commenting, in answer to a question, that his taste runs to classical music.

He warned that law students, "should not put blinders on," during their years of school or later practice, but should read great literature, and keep up with good plays and motion pictures. A lawyer should be a literate, civilized and cultured person, and too many lawyers are not; law students' writing suffers

from their failure to read good material. A broadly educated lawyer will realize how complicated most problems are and recognize the hidden strands in a problem. "The value of history," he concluded, "is that it adds to the variousness of the human picture."

— Winslow

Alumni Notes

LL.B. '48 — Paul Windels, Jr., was selected one of the ten outstanding young men of the year in the Federal service by the Arthur S. Flemming Awards Commission of the Junior Chamber of Commerce of Washington, D. C.

LL.B. '51 — Marcus D. Grayck has opened an office for the practice of tax law in Mineola, New York, and has recently been appointed Lecturer in the Law of Taxation at the Graduate Division, School of Law of New York University where he conducts a Tax Seminar on Deferred Compensation Plans.

LL.B. '52 — Victor D. Rosen has become a partner in the firm of Orr, Heuring & Wendel, Bank of America Building, Oakland, California.

LL.B. '53 — Milton Crystal has formed a partnership with Sidney Manes to engage in the general practice of law with offices at 604.5 Wilson Building, Syracuse, New York.

LL.B. '56 — Alan H. Strauss has been elected to the Board of Directors and been named Vice President, Secretary, and Legal Counsel of the Allservice Insurance Company, Colorado Springs, Colorado.

NOW OPEN Bamboo Restaurant

1786 Mass Ave.
Fine Chinese Food
Orders to Take Out

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

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

CHEZ JEAN
The New French Restaurant
of Cambridge
Finest Cuisine By Jean
(Former Chef of
Famous Restaurants)
The Best Imported Wines
PRIVATE ROOM FOR PARTIES
1 Shepard St., Cor. Mass. Ave.
Open Daily Except Sun.
EL 4-8980

**ANGELO'S
EDELWEISS**
ITALIAN RESTAURANT
Real Home Cooking
Full Course Dinner - \$1.20 up.
Lunch - 75¢ up
ORDERS TO TAKE OUT
PIZZA AT ITS BEST
Imported Beer and Wine
197 GREEN ST. CENTRAL SQ.
KI 7-3266

Current Case

After the decision in *Crown Kosher Super Market v. Gallagher*, 176 F. Supp. 466 (D. Mass., 1959) condemning the Massachusetts Lord's Day law, attention in the widespread litigation over blue laws shifted to Pennsylvania. The chief case there involved the large department store, Two Guys From Harrison-Allentown, which was seeking an injunction to prevent enforcement against its retail selling business of the Pennsylvania Sunday closing laws.

A statutory three-judge court ruled against Two Guys on December 1, 1959. *Two Guys from Harrison-Allentown, Inc., v. McGinley* (E.D. Pa.).

The decision, written by Circuit Judge Hastie, came after a six month period of heightened public debate and controversy over Pennsylvania's blue laws particularly an amendment enacted in August, 1959 severely increasing the penalties for violations of Sunday sales bans.

Two Guys, represented by the Dilworth firm, produced a massive brief documenting the historical, religious, legislative and judicial history of Sunday laws. Plaintiff's argument for the permanent injunction divided into three assertions:

(1) the Pennsylvania Sunday Laws are unconstitutional religious laws;

(2) the Pennsylvania Sunday laws on their face are unconstitutionally discriminatory;

(3) the arbitrary enforcement of the laws by defendant denies plaintiff the equal protection and due process of law.

Stunning Opinion

Judge Hastie's opinion must have stunned attorneys for the plaintiff and confused them as well, if the press reports of their immediate reaction were correct. For the Judge held that the Supreme Court's disposition of *Friedman v. New York*, 341 U. S. 907 (1951) constituted an authoritative determination of the constitutionality of Sunday laws essentially similar to the Pennsylvania statute. *Friedman*, which was not even mentioned by plaintiff's brief, involved the conviction of two Orthodox Jews for retail selling of kosher meat on Sunday. Unable to prevail before

the New York Court of Appeals (302 N.Y. 75, 96 N.E. 2d 184 (1950)), defendants, advised by the well known legal writer and advocate Leo Pfeffer, appealed to the Supreme Court. The court disposed of the case without hearing oral argument in a *per curiam* saying: "The motion to dismiss is granted and the appeal is dismissed for the want of a substantial federal question."

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.

THE MISSES LITTLEFIELD

HARVARD SQUARE

Professional
Typists

4 Brattle Street TR 6-7495

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

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

Judge Hastie interpreted: "In these circumstances the Friedman case seems to mean that in the Supreme Court's view such legislation as the New York law is so clearly invulnerable to first and fourteenth amendment attack that it would not even be useful to permit further argument of the matter."

With this as a springboard, the decisive leap was easy and as follows:

"Thus, the Supreme Court in the Friedman case was faced with very substantial indicia of the statute's relation to religion, strikingly similar to those appellant urges upon us now. We can see no basis for reasoning that the Pennsylvania statute is unconstitutionally related to an establishment of religion without bringing the New York statute under the same interdiction. Yet, the Supreme Court sustained the New York statute summarily. If the view of the establishment of religion question thus authoritatively established by the Supreme Court is to be changed it is for that court, not an inferior court, to do so. Our conclusion that the Friedman case has broad and controlling significance on the issue of establishment of religion is contrary to the view of the majority of the three-judge district court which recently decided *Crown Kosher Super Market v. Gallagher*, 176 F. Supp. 466 (D. Mass., 1959). That opinion disposes of this problem of controlling authority in a brief footnote which is not elaborate enough to make the court's reasoning clear to us. It affords no useful critique of our own analysis which indicates that the Friedman precedent is controlling."

Disposed of Charges

The court disposed of plaintiff's charges that the Sunday laws were discriminatory on their face and in their enforcement by what it also

SKI EQUIPMENT

Large Variety

TENNIS & SQUASH SHOP

67A Mt. Auburn St.
Cambridge, TR 6-5417

The Most Economical and Flexible LIFE INSURANCE PROTECTION

Offered to
LAW SCHOOL STUDENTS
by Any Company

LOWEST COST

Savings Bank Life Insurance 5-year Term policies are obtainable at the lowest cost available anywhere.

DIVIDENDS

Generous dividends have always been paid, beginning the first year, on these policies. You can use the dividends to further reduce premiums, leave them to accumulate or take them in cash.

RENEWABLE

This Term insurance is automatically renewable, without medical examination, every five years up to Age 65.

CONVERTIBLE

On any anniversary up to age 65 you may convert your Term policy, without medical examination, into any of several permanent plans at the usual low Savings Bank Life Insurance rates. We invite comparison of rates, dividends, cash surrender values and net cost.

AVAILABLE

Anyone now living or working in Massachusetts can apply for Savings Bank Life Insurance — and its protection continues wherever you may go after graduation.

NO SALES PRESSURE

We do not employ solicitors; no one will call on you. If you want the many advantages of Savings Bank Life Insurance, take the initiative: contact this bank by mail, telephone or a personal visit. The trained specialists in our Insurance Department will give you more information, rates at your age and friendly, impartial advice. Before you buy insurance from anyone let us prove to you how much you can save with lowest-cost Savings Bank Life Insurance.

Life Insurance Department

**CAMBRIDGE
SAVINGS BANK**

Right IN Harvard Square
Telephone: UN 4-8700

considered controlling precedent: "But we already have pointed out that the Supreme Court has repeatedly treated the fact that a Sunday closing law is a hodgepodge characterized by many and seemingly pointless exceptions and exemptions as insufficient to raise a substantial Federal question. A hodgepodge in enforcement has no greater constitutional significance."

Judge Welsh did not accept the majority's holding that the case is covered by the *stare decisis* effect of a *per curiam* disposition. But he did not, in disagreeing, lock horns over that issue. Instead, he wrote that the thrust of the 1959 amendment is a regulation of business and competition among businessmen. In order to determine whether the legislature acted within constitutional limits, he continued, it is necessary to see if the basis for the legislation was within the public health, safety and morals framework. He stated there was no such legitimate basis and commented especially on the highly partisan business forces that pressured the bill to enactment. According to the Judge, the amendment, though secular in inspiration and intent, was strategically tacked on to an older religiously worded Sunday statute and timed for passage a few months prior to an important State election, when members of the legislature "were put to undue and unreasonable pressure to vote for this legislation that they would not think of supporting if it was not connected with the Sunday closing." He added that, "If this act lies within the power of the legislature to enact, it will be establishing a precedent for drastic curtailment of the right to work in the future."

It is likely that this case will be appealed to the Supreme Court.

TAPE RECORDERS

Hi-Fidelity, Battery
Operated, Transistorized
Book Size

Record anything, anywhere
Make Sound Movies

Call UN 8-6988

The *Crown Kosher* case and a Maryland Supreme Court decision upholding a blue law at issue have already been docketed, although the Court has not yet determined whether to hear them. Informed sources believe that unless there is a *per curiam* disposition before the summer recess, the cases will be heard, if at all, next term.

— Nader

Calendar

(Continued from page 2)

workings of a political convention. The meeting will be at 7:30 p.m. in Harkness Commons.

The SAINT THOMAS MORE SOCIETY will hold a discussion on "The Role of Catholic Laymen" at 8 p.m. in the Associated Harvard Clubs Room, Holmes Hall. The discussion will be led by Bishop

Thomas J. Riley of St. Peter's Church.

Current Events

Various firms are now interview-

Finest Italian-American
Food and Pizzas
Choice Wines and
Assorted Beers

at

SIMEONE'S

21 Brookline St.

1 block from Central Sq.

EL 4-9569

Open 11 a.m. to Midnight

Free Parking in Rear

• UNIVERSITY •

Harvard Sq. UN 4-4580

Continuous Daily from 1:30

Now — Ends Sat.

Test your legal skills in
solving the mystery of

"SAPPHIRE"

— a superior British whodunit!
Filmed in Eastman Color with
a cast headed by
NIGEL PATRICK

and — for the many who
enjoyed "Tight Little Island" —

"HIGH AND DRY"

— a fun filled British comedy

Weekend

Entertainment

BRATTLE — Ivan The Terrible -
3:30, 5:30, 7:30, 9:30

UNIVERSITY — Sapphire - 3:10,
6:25, 9:40; High and Dry — 1:30,
4:45, 8:00.

BOSTON

TELEPIX — Grand Illusion - 11:30,
1:20, 3:25, 5:30, 7:30, 9:40.

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

UPTOWN — Story On Page One -
1:05, 5:15, 9:30; Gene Krupa
Story - 11:15, 3:25, 7:40.

The COOP OPTICAL DEPARTMENT



Patronage Refund
Third Floor
Take Elevator
TR 6-3000

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



ing second year students for summer jobs. Interested students should watch for the notices and inquire at the **STUDENT PLACEMENT OFFICE**, 23 Everett Street, for further information.

The **HARVARD OPERA GUILD** is presenting Mozart's Abduction from the Seraglio at 8:30 p.m. in Agassiz Theatre on February 18, 19, 20, 22, 24, 26 and 27. Tickets are on sale at the Harvard Coop and KI 7-7270.

Students interested in membership in the **PATENT LAW CLUB** are invited to look for announcements of meetings and to participate in the development of a speaker and activities program. A report of a recent meeting will be found elsewhere in the **RECORD**.

Future Events

The annual **OLIVER WENDALL HOLMES LECTURE** will be given by Ivan C. Rand, former Justice of the Supreme Court of Canada and now Dean of the Faculty of Law of Western Ontario. His topic will be "Some Aspects of Canadian Constitutionalism." The lecture will be held on Friday, February 26, at 8 p.m. in the James Barr Ames Courtroom, Austin Hall. It will be open to the public.

The next general meeting of the **INTERNATIONAL LAW CLUB** will be Friday, March 4, in the Pound Room in Langdell. The speaker will be Dr. Saba Habashy, Legal Advisor to the Arabian-American Oil Co. Dr. Habashy's subject will be "The Importance of Arbitration as a Means for the Settlement of International Disputes."

COFFEE 5¢!

5 SILVER DOLLARS 5
Given Away! Nothing To Buy!
Just guess the number of **PEPSI**
bottles in our window.

CAPRI Submarines
1691 Mass. Ave.

Open 9 a.m. — 1 a.m.
Fri. & Sat. till 2 a.m.
EL 4-9607

Men's Suits *Individually Tailored*

TO YOUR MEASURE

FOR THIS REMARKABLE

SALE PRICE

\$85

Regularly \$100 and \$115

Buy Where You Save
Save When You Buy

8% or 10%

**THE
COOP**

Right now you can plan your suit wardrobe for the entire year at tremendous savings. In this extraordinary sales event you may select from a wide choice of top-quality materials in the weight you desire . . . worsteds, chevots and flannels in the regular weights . . . tropical worsted and Dacron-wool in the lighter weights. These individually tailored suits are guaranteed to fit perfectly. Our fitters will expertly take your measurements with careful notations of any individual requirements. Truly, here is extra value, because at \$85 you are paying no more and perhaps less for a fine quality individual suit than you would normally pay for ready made.

Please inspect our swatches!!

3 - Month Pay-Plan

**THE
COOP**