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Forum To Air Propaganda War

George V. Allen, Director of the U. S. Information Agency, and William J. Lederer, co-author of *The Ugly American*, will appear jointly on the Harvard Law School Forum on Friday, November 4, at 8 p. m., in the Sanders Theater. Their topic of discussion will be "Are We Losing the Propaganda War?" Professor Richard R. Baxter will be the moderator.

'The Dean' Reviews Seventy Years at Harvard

On the occasion of his 90th birthday last Thursday, October 27, Dean Roscoe Pound addressed a crowded Ames Courtroom on "Three Score and Ten Years of Harvard Law School." The Courtroom was filled twenty minutes early, but faculty and students continued to congregate until they stood two and three deep around the room and ten deep outside the door.

After Dean Pound had received a standing ovation, Dean Griswold stated that he thought it a far better birthday gift "to have him speak to us rather than having us speak to him." He also presented "the Dean" with a gift from the faculty. This was a leather bound volume containing a complete bibliography of Dean Pound's writings from 1940 to 1960, the years from his 70th to his 90th birthdays. The volume, which was compiled by George A. Street of the Harvard Law Library, contained 283 items. It is a supplement to the bibliography of his works presented to him on his 70th birthday. Together they contain over 1,000 items.

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With the presidential election taking place next Tuesday and with the general area of American prestige an important issue in the campaign, this promises to be one of the Forum's more topical programs of the year. For that reason, it is expected that two such knowledgeable men in this field as Allen and



George V. Allen

Lederer will provide a particularly stimulating program.

George Venable Allen, at 56, has attained the highest rank in the U. S. government's diplomatic service. He is one of eight persons to hold the permanent classification of Career Ambassador. He was appointed to his present position, Director of the U. S. Information Agency, in 1957. Prior to that, he served

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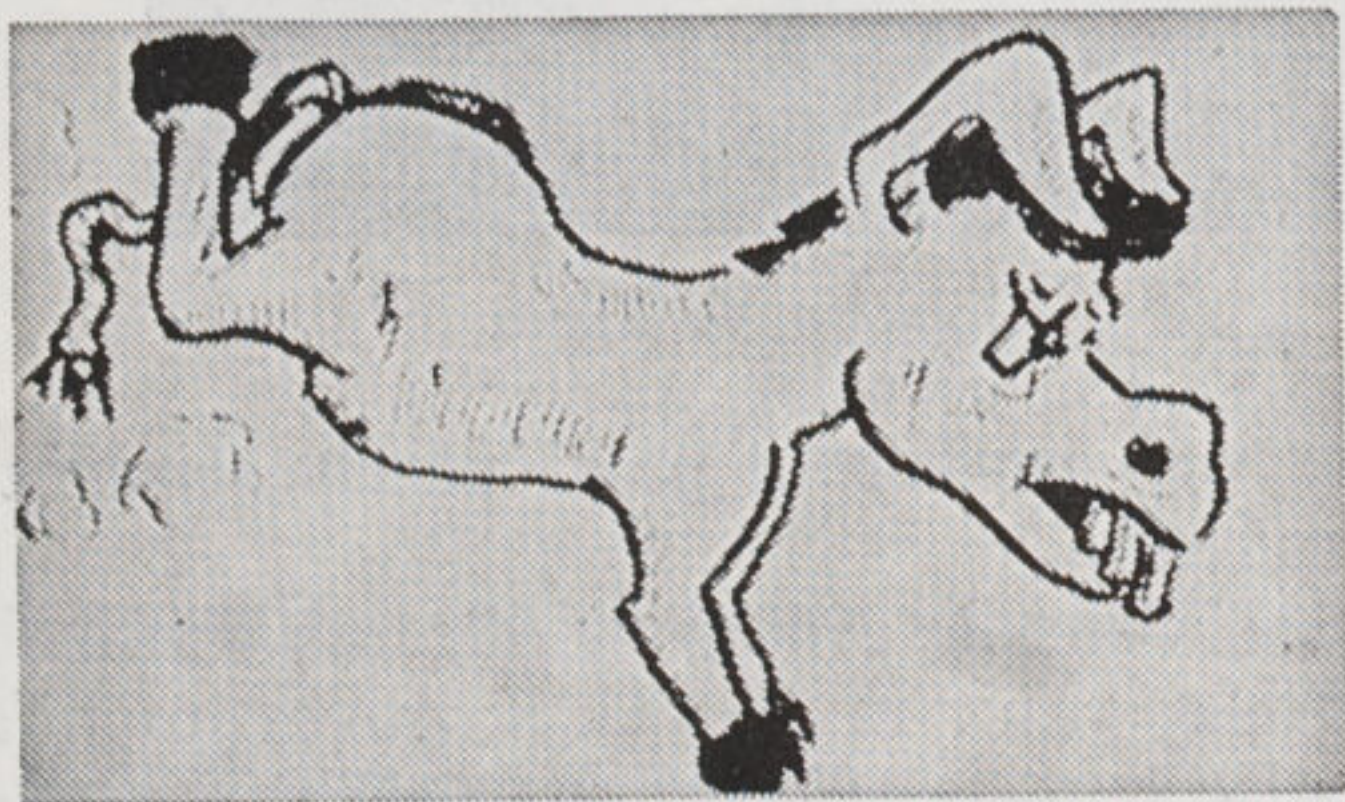
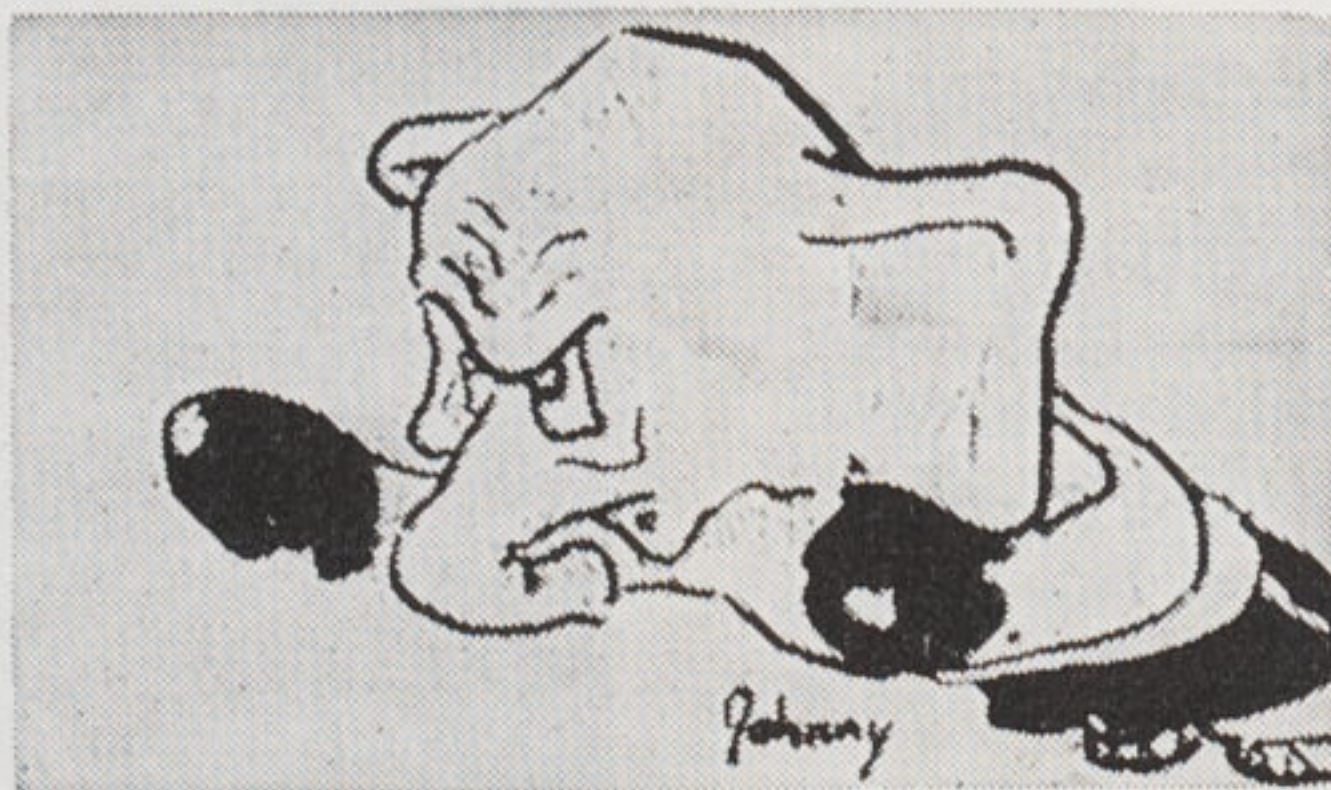
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Hearsay

The RECORD respectfully submits that the coming presidential elections should not be held. This suggestion is offered only after reaching the considered opinion that neither candidate can win. With Mr. Gallup throwing up his arms, our fair citizenry does not know how to vote.

The RECORD respectfully submits, therefore, that the election should be replaced by a return to trial by battle. In Yankee Sta-



dium, with closed-circuit T.V., with es-cutcheons of ass and elephant, Kennedy and Nixon should fight to the finish.

The RECORD feels that this is the only possibility for choosing the right man. However, if these humble suggestions should fail of adoption and if the electoral process should persist, the RECORD will abide the verdict, humble in victory, magnanimous in defeat.

CALENDAR

Thursday, November 3

Law students are invited to a series of LUNCHEON DISCUSSIONS on "Law and Protestant Thought," to be held once a month at Canterbury House, Christ Church, under the direction of Professor Adams of the Divinity School and Professor Berman of the Law School. The first meeting will be on Thursday, November 3, from 1:10 to 2:30. The subject will be "Law in the New Testament." Sandwiches, coffee and desert will be available for 60 cents.

Friday, November 4

The LAW SCHOOL FORUM will present George V. Allen, director of the U.S.I.A., and William J. Lederer, co-author of *The Ugly American*, in Sanders Theater, at 8 p.m.

Sunday, November 6

The LAW AND GRADUATE SCHOOL DEMOCRATIC CLUB will present Senator William C. Proxmire of Oregon in the Meeting Room of Harkness Commons, at 7:30 p.m.

The FORD HALL FORUM will present Dr. Margaret Mead, noted anthropologist and author, speaking on "The Relation Between Apathy and Dependency," in Jordan Hall, at 8 p.m.

Tuesday, November 8 ELECTION DAY.

The LAW AND GRADUATE SCHOOL DEMOCRATIC CLUB will hold a "Victory Beer Blast" and will watch the election returns on television in Harkness Commons, at 9 p.m.

The LAW SCHOOL YOUNG REPUBLICAN CLUB will hold an "Election Night Victory Party" with beer and two television sets at 9 p.m., upstairs in Harkness Commons. Members free.

Wednesday, November 9

The HARVARD LAW WIVES will present Vice-Dean Louis A. Toepfer who will speak on the care and feeding of the law students, in the Meeting Room of Harkness Commons, at 7:30 p.m.

McGill Dean Discusses

Problems of International Law

Professor Maxwell Cohen, Acting Dean of the Faculty of Law at McGill University and a teacher of international law, addressed a general meeting of the International Law Club last week on the subject of "Some Critical International Problems of Today." He asserted that "law will come in through the back door" in the future, since "in a peculiar way every state wants to appear to be in the right."

The speaker, introduced by Professor Richard R. Baxter as a "formidable man," once studied at Harvard. He remarked, "I was a miserable, insolvent graduate student when fellowships weren't what they are today." He humorously twitted his audience for being "too well-fed and characterized by a benign placidity with no indignation, no protest and only a ready acceptance — even of what I am going to say!" He described McGill, his own school, as a northern extension of the Ivy League.

Professor Cohen examined the general position of international law as a system and said that "one is surprised at its continuing vitality." He commented that the charter system of the United Nations makes a great contribution to the younger states, making them "something more than they would be," since the more powerful nations seek their support in the General Assembly.

Professor Cohen asked why the business of the World Court had been so modest since 1945. He suggested two answers. First, the problem of reservations remains a "bedeviling factor" which amounts to a problem of confidence in the tribunal. Second, the Court is not being used by the United Nations as an instrument of charter interpretation. He maintained that it should be given the opportunity to make creative contributions to the charter in the hope that its reputation might grow in the future.

Speaking on the crisis of the law of the sea, he talked about the 1958 conference in Geneva, which unfortunately failed by one vote to adopt a two-thirds resolution. This proposal would have provided for a six mile territorial sea and a six mile fishing zone, with historic rights in the latter to terminate

within ten years. Its defeat was a failure in diplomacy. Eighty-six nations were represented at the crucial conference.

Addressing himself to the problems that arise with respect to multi-national rivers, he described this area as a "microcosm of dynamism inherent in customary international law." The problems here are of two kinds, irrigation and power.

Applicable doctrines originally arose out of the law of riparian rights and navigation on international streams. Now, however, the doctrine of equitable apportionment between upstream and downstream states has emerged. This is illustrated by the recent



Indus River agreement between India and Pakistan. Both Professor Baxter and Professor Cohen are now actively working out the "complicated details" that exist in this area.

Speaking on the problems of nationalization and confiscation, he recognized a fundamental conflict between municipal law's exercise of the right to take property and international law with its concept of denial of justice to the alien property owner. Professor Cohen predicted more joint ventures would ultimately result because of the widespread takings in Indonesia and Cuba.

Turning finally to problems having to do with outer space, Professor Cohen noted the complications that have resulted from the unprecedented heights at which air-breathing aircraft can now fly and from the development of satellites and rockets. Although there now seem to be three areas of jural control, a "no man's land" seems to exist from 50 to 100 miles above the earth.

In concluding, Professor Cohen stressed the "indirect inhibiting effect" when nations resort to legal justification for their actions and suggested that "the emergence of Khrushchev's shoe as an instrument of policy is only a transitory phase." But he warned that the communists are attacking the order itself while seeking to develop their own system in response to the western-oriented techniques of the United Nations. "The irony may be that the very international law condemned by Soviet scholarship as 'bourgeois' may come to rescue us all from the havoc that awaits a world without law."

— Amitay

Ames Again Shows Its Anxious Face

From the vast array of books strewn on the tables in the library, it is obvious to any of the more observant passers-by that the time for the Ames Games has once again struck at the hearts of the first year class.

The researchers have learned that survival is essential to their existence — survival in the sense of Charles Darwin's theory that the victors are the "fittest." In this case, those are the "fittest" who surround themselves with the most books for the longest time. Concern for another's plight? Nonexistent.

Yearbook Back Issues Offered for Sale

The Law School Committee of Phillips Brooks House is offering back issues of the Harvard Law School Yearbook for sale. Copies are available for all years beginning with 1949, with the exception of 1953 and 1954. The price is 10 dollars per copy.

The proceeds from the sale of yearbooks will be used for the support of the Student Loan Library. Contributions to the Library in the form of books or money to purchase books will also be welcomed.

Brown of Polaroid Discusses Elements Of a Patent

Mr. Donald Brown, Vice President and Chief Patent Attorney of Polaroid Corp., addressed the Harvard Patent Law Club last week on the basic elements of a patent, pointing out that a patent may generally be obtained on any new and useful product, process, apparatus or improvement thereon.

Earlier in the day several members of the club had heard Mr. Brown address a Boston Patent Law Association luncheon on a recent case dealing with the criterion of utility. At the club supper-meeting Mr. Brown discussed the other requirement, novelty. Alleged novelty may be disproved by showing that the invention was within the skill of an ordinary worker in the art or that the substance of the invention was known by or available to the public more than a year prior to the filing of the application for the patent.

Mr. Brown explained that the typical patent application has three parts: a drawing of the invention; a specification describing a preferred embodiment of the invention in such detail as would allow one skilled in the art to make and utilize the invention; and the claims. The claims are a highly specialized type of legal writing in which the inventor delineates just what it is that he claims is novel and useful.

Claims Important

If the claims are too narrow, the patentee's rights will have been unnecessarily restricted, as he can only exclude others from making, using or selling that which he has claimed. If the claims are too broad, the courts will hold them invalid, as they do not fulfill the statutory requirements and are an attempt to extend the patentee's rightful monopoly at the expense of the public's rights to that which is not truly his invention.

At the next meeting of the club on Wednesday, November 9, Elmer Gorn of Raytheon will discuss "The Protection and Use of Unpatented Technical Information: Trade Secrets." On Wednesday, November 30, Joseph Weingarten, of the Boston patent law firm of Weingarten, Orenbuch and Pandiscio, will deal with the other side of the problem, "The Successful Business Exploitation of a Patent."

— Rosenberg

Commodity Futures — the Last Frontier

Commodity futures, said Mr. Paul Glenn before the Bull & Bear Club last week, are a "Last Frontier," the last area in which one can run a few thousand dollars into a large sum in a short time.

The commodity market is a process of "trading in something that doesn't exist with money you don't have." Although the public tends to regard this as somewhat dishonest, or at least highly mysterious, it is in fact a market that was created to make it possible for processors of commodities to spread the risk of inventory loss.

At harvest time, billions of bushels of grain, for example, are purchased and stored. This requires a large capital outlay, and, in order to share this risk, the purchasing firms engage in "hedging." They sell executory contracts calling for delivery of a given quantity of grain at some time in the future. Hence comes the name "futures."

Long and Short

In every transaction, someone is long and someone is short. In contrast to the stock market, short sales are possible at any time. However, in this respect, since a processor may make up some of his losses by increased value of his inventories, he is at the greatest advantages selling long. If a long holds for six months, he comes under the capital gains provision.

Mr. Glenn admitted that the commodity market has had a reputation for burning those who touch it. However, he feels that this reputation is due to two faults. First, everyone hears about how Uncle Harry lost his drawers in onions in 1935. Thus, the conclusion is that everyone does likewise in the commodity market.

Secondly, people try to fight an adverse

market. This is a carry-over from the stock market, where a person holds onto a falling stock. This can be disastrous in commodities, where leverage is so great. The best cure is a comfortably close stop-loss order. Mr. Glenn suggests something near 10 percent of a person's invested capital.

The point is that a good commodities trader will make much more than a good stock trader because of much greater leverage possibilities. Commodities margins run about 10 percent, whereas stock margins are nearer 70 percent.

Other Connections

During the speech, in addition to margins, there were also other connections in which Mr. Glenn compared the commodity and stock markets.

His first target was the "buy and hold" theory that is seemingly rampant in investors' minds. The trouble is, he said, that it has worked well since 1942, and people are convinced, after all, since they have made money. Thus they are unwilling to change. But Mr. Glenn pointed out that the market has gone up much faster than earnings, and this is a primary reason for abandoning the "buy and hold" theory.

His next target was the so-called Wall Street "darlings." Although the experts might point to a certain company, for example at the present time Universal Match, as a company to watch, Glenn pointed out "that no one knows whether it will succeed or not."

On the other hand, long term conjecture is far more probable in commodities. There is a watchdog commission comparable to the S. E. C. to prevent bad trading. The human factor is much reduced, since the forecasts go for just 11 months and contracts are seldom longer. Finally, the investor has full access to the available information on factors affecting the market.

Mr. Glenn, a 1955 graduate of the Law School, is currently with the Commodity Department of Dean Witter & Co. While at the Law School, he helped found the Bull & Bear Club and is a past president.

— Libbey



Paul Glenn

Christian Herter, Jr. Hits Prestige Issue

Christian Herter, Jr., a 1948 graduate of Harvard Law School, spoke to the Law-Graduate Young Republican Club at a luncheon meeting on Wednesday, October 26. Mr. Herter commented on the Presidential campaign.

Criticizing the emphasis on prestige, Mr. Herter pointed out that there has been very little real discussion of foreign policy — what it has been, is now and should be. It is only natural that our prestige was at its highest immediately after World War II, Mr. Herter said, since we were the only major power to emerge from the war unscathed and had exclusive possession of the atomic bomb.

In the intervening years Europe has recovered completely, and Russia has become an atomic power. In view of these events, it is not surprising that our relative prestige has not remained as high, Mr. Herter maintained.

Two Objectives

Since World War II the objectives of United States foreign policy have been twofold: European recovery and the physical containment of the Sino-Soviet bloc. We have achieved both of these goals, Mr. Herter said.

With respect to containment, Mr. Herter pointed out that since 1954 there has been no physical advance by Communism, largely due to the fact that we have created the greatest system of alliances the world has ever seen.

Small nations on the perimeter of the Soviet bloc know that we will defend them if they are attacked. This, said Mr. Herter, is the real meaning of Quemoy: we have meant what we said and have stood firm.

Western Commitment

Mr. Herter predicted that the newly emerging countries will follow a policy of non-alignment. But, he said, many will be morally committed to the West, in the manner of India, Burma and Malaya. Noting that many people expected Indonesia, Iraq, Egypt and Syria to fall to the Communists, Mr. Herter pointed out that they have remained free and independent in spite of alarmists and Russian forays.

Mr. Herter concluded his remarks by em-

phasizing that "the source of progress in the world today is not the United States government but the energies of 180 million Americans."

D.A.'s Office of New York Offers Opportunities

Mr. Richard Kuh, Assistant District Attorney of New York County, discussed the opportunities available in his office before a meeting of the Student Bar Association recently.

He pointed out that he is in the employ of a unique institution, since it is the only prosecutor's office in the country which is run completely on a non-political basis. It started this way as an experiment when Thomas Dewey was District Attorney, and it has remained this way during Frank Hogan's tenure of office. Political considerations never enter into the disposition of any case. Mr. Kuh said he felt that it was unfortunate this type of policy is not adopted by prosecutors' offices elsewhere in the country.

For the recent law school graduate, the work of the office offers the opportunity to handle a large number of cases under the guidance of experienced personnel. A young lawyer gets varied experience and, when he is finally allowed to take a case of his own into court, he is able to handle it with confidence and competence.

Maximum Benefit

Mr. Kuh felt that a newcomer should plan to work for the office from three to five years if he desires to obtain the maximum benefit from his experience.

Most important of all, the District Attorney's office offers the challenge and excitement of dealing with the broad social problems which are on the frontiers of criminal law enforcement. Wiretapping, eavesdropping, the interrogation of witnesses and narcotic addiction are just a few of the areas which will undergo significant development in the next few years.

Mr. Kuh concluded by pointing out that the work of his office gives an attorney the opportunity to accomplish a great deal in the interest of the public welfare. It is an important job and deserves the efforts of interested people.

— Karp

O. E. E. C. Described

Growth of International Organization

The International Law Club recently listened to Mr. Alexander Elkin, Legal Advisor for the Organization for European Economic Cooperation, who is currently in the United States to study the development of its foreign policy. Mr. Elkin, a graduate of London and Kiel, had a wide variety of international experience with the European Advisory Commission, the British Embassy in Moscow and several organs of the United Nations before taking up his position with the O. E. E. C. in 1949.

The background to the creation of international organizations after the war, began Mr. Elkin, was the widespread realization that there was no state strong enough to fulfill its role in international society without acquiring the new techniques of multilateral cooperation. The new growth of international government that sprang up to answer this need was organized on three bases: the world-wide, the regional and the specialized or functional.

A glance at the original membership list of the O. E. E. C. shows a significant difference from the narrower membership of NATO in that the neutrals Austria, Ireland, Sweden and Switzerland were included. The United States and Canada took part as associate members, while Spain has been a member since 1959. Thus the organization is even wider than the Council of Europe.

Legal Relations

Mr. Elkin was questioned later as to the legal relations between O. E. E. C. and the Council of Europe and whether integration of the two bodies was possible or desirable in the interests of European federation. He replied that there was no constitutional link analogous to the relationship between the United Nations and its specialized agencies, but a *modus vivendi* between O. E. E. C. and the European Economic Community, the Coal and Steel Community and the Council of Europe existed and was fairly close.

Representatives of the other European bodies attended the meetings of the Council of O. E. E. C.; the yearly report compiled by O. E. E. C. was submitted to the Consultative Assembly of the Council of Europe for de-

bate. The prospects of integration between the Council and the O. E. E. C. were farther off than they had been. Membership differences were a substantial barrier, and some felt that if O. E. E. C. were to be responsible to a Consultative Assembly its task would be hampered and its functions would inevitably change.

A significant feature of the O. E. E. C. among international organizations is that its Council has the power to make decisions which bind member states. Mr. Elkins stated, however, that decisions would almost never be reached against the will or without the knowledge of a member state. Decisions are taken on a principle of qualified unanimity, in that members may elect to waive the unanimity rule. Since the delegations are in daily contact at the Chateau de la Muette in Paris, the various governments do not go blindfolded to the finished result.

The power to make binding decisions is used very sparingly. The psychological force behind a mere recommendation is considerable; practical experience does not justify the cynicism of its critics. Wherever executive action or the passage of the necessary municipal legislation would be made easier by the use of the milder form or the use of a protocol of provisional application, this is done.

Mr. Elkin gave a comprehensive survey of the concrete tasks which the organization has carried out, in particular the administration of the Marshall Plan, the Code of Liberalization, the European Payments Union and the European Monetary Agreement. He explained that in the immediate postwar period each country had to organize its trade on a bilateral quota basis because of the nonconvertibility of currency. For example, it simply was not possible for a country to import primarily from France and export primarily to Italy. The hampering effects of currency restrictions were most noticeable to the general public in the tourist industry. This might have had grave effects on the economy of a country like Switzerland.

The European Payments Union enabled a member country to use receipts in the cur-

rency of a third member, and transactions were reflected in monthly net credit or debit balances with the Union. This simplified the problem of the liberalization of trade, and the percentage of trade that is free from restrictions has risen steadily to over 90% at present.

Other notable successes in the work of the organization have been in the promotion of productivity in the member states, the increase in the volume of European trade, aid to underdeveloped areas such as Greece, Southern Italy and Spain and the considerable liberalization of trade with the dollar areas. Only the atmosphere of close cooperation which exists between member countries has made this achievement possible.

The last topic with which Mr. Elkin dealt was the direction of possible reform. In the early stages of the organization some saw it as the prelude to a closer political integration and felt disappointment when this failed to occur. There now exist within the organization the six countries of the European Economic Community, who have established a club within a club and are animated to a much greater extent by hopes of ultimate political integration, and the European Free Trade Association (the "seven"). Mr. Elkin said he felt that the repercussions of this rift on political relations among the members of the organization might be unfortunate.

Against this background a committee of three "wise men" met last year and drew up a draft convention for a reconstituted organization to be known as the Organization for Economic Cooperation and Development. The most significant change hoped for from this is that the United States and Canada will become full instead of associate members. The draft convention is to go before Congress immediately after signature. The tasks of the reconstituted organization would include the problem of financial aid to underdeveloped countries.

— Eileen Young

Propaganda Forum

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four times as a United States Ambassador — to Greece, Yugoslavia, India and Iran. He has also twice served as an Assistant Secretary of State.

Mr. Allen is considered a specialist in Near Eastern and Asian affairs and has had first-

hand experience in dealing with Soviet propaganda. During one of his Washington assignments, as Assistant Secretary of State for Public Affairs, he had responsibility for the Office of International Information, which included the Voice of America and the overseas press service, libraries and cultural activities which were then part of the State Department. Since these areas were later incorporated in the independent U. S. Information Agency, Mr. Allen's heading of that department is something of a return to a former position.

Foreign Service

During his career in the foreign service, Mr. Allen has attended many high level international conferences. In 1943, he went to the Moscow Conference and, later that year, to the conference between President Roosevelt and Prime Minister Churchill at Cairo. He was at the conference which wrote the United Nations Charter in the spring of 1945 and also attended the Truman-Churchill-Stalin conference at Potsdam. One of his latest assignments was Coordinator of the American National Exhibition in Moscow in 1959.

The co-speaker on this program, William J. Lederer, is best known for *The Ugly American*, which he co-authored with Eugene Burdick. This slim volume, which remained on the best seller lists well over a year, created a great stir in directing a look at the impressions created by Americans abroad, particularly those in government service.

Mr. Lederer, after his graduation from the United States Naval Academy in 1936, served in the Navy until two years ago. At that time, in 1958, he retired with the rank of Captain, having spent much of his last eight years in the Navy as a specialist on Pacific and Asian affairs.

At present, Lederer is the Far East Correspondent for the *Reader's Digest*. In addition to *The Ugly American* and articles for most of the larger magazines, he has written several books, including *All the Ships at Sea*, *The Last Cruise*, *Spare Time Article Writing for Money* and *Ensign O'Toole & Me*.

Both Allen and Lederer have had associations with Harvard. Allen received his masters degree from Harvard in 1929, and Lederer was at Harvard in 1950-1951 in connection with the Nieman Foundation.

Law School Views Elections

Faculty Poll Favors Kennedy

The results of the RECORD's presidential poll of the Harvard Law School faculty have been tabulated. A total of 44 of the 54 inquiries addressed to faculty members were returned by November 1. Thirty of these indicated Senator John F. Kennedy (A.B. '40, Harvard College) as their choice, while 14 tallies were recorded for Vice President Richard M. Nixon.

An earlier poll of the Law School faculty conducted by the *Harvard Crimson* revealed a 22 to 11 margin for Senator Kennedy. In the *Crimson's* poll of Law School students, Kennedy received 66 per cent of the votes and Nixon, 30 per cent, with the rest undecided.

Over-all University totals in that poll showed Senator Kennedy receiving 56 per cent of the vote. Only the Business School preferred Nixon, by a vote of 68 per cent to 24 per cent with the remainder undecided. Fifty-six per cent of the Business School faculty favored Kennedy.

Various members of the Harvard faculty have been prominent in the campaigns of both the Republicans and Democrats. Notable among those from the Law School faculty have been Professors Archibald Cox and Abram Chayes, who are aiding Senator Kennedy, and Professor Lon L. Fuller, who is advising Vice President Nixon.

'More Realistic Approach'

By Steven R. Rivkin
Vice President, Young Democrats

My support of Senator John Kennedy and the Democratic party derives from two common sources of political loyalty: the head and the heart. John Kennedy succeeds in reaching both in an exceptionally relevant way. His ability to communicate his ideas and spirit constitutes not only a margin of voter appeal, but an ingredient of leadership that will be thoroughly essential to generating productive energies necessary for the solution of key national problems.

Claims are frequently made that the conflict between Kennedy and Vice President Nixon is barren of genuine issues and that party labels are essentially meaningless indicators of candidates' programs. These contentions ignore major differences among the programs and capabilities of the parties and their candidates. To my mind, the Democratic party under John Kennedy's leadership makes a clearer, more realistic, more resourceful and less dogmatic approach to national needs than its Republican counterpart.

In both foreign and domestic affairs Senator Kennedy presents highly realistic apprais-

'Interests of America'

By Walter A. Baker
President, Young Republicans

Why vote Republican in 1960? The reasons, I think, are found in the concepts which guide Republicans in their conduct of our national affairs. First, the Republican Party and its leaders, President Eisenhower and Vice President Nixon, firmly believe that government is the collective expression of the political sentiments of one hundred and eighty million free citizens, not a machine the chief function of which is to play off for political gain one economic or minority group against another.

Republicans view questions in terms of what will best serve the interests of America as a whole, what will best promote the energies and ambitions of each individual citizen in achieving a better, more productive and more satisfying life. They reject now and for all time those theorists who contend government is simply the process of resolving conflicts between interest groups. The party which was founded in the desire to find freedom for enslaved man continues to emphasize the fundamental role of the individual.

Secondly, the Republican Party is com-

(Continued on next page)

Democrats —

als and programs. Even allowing for the tendency of "ins" to glorify and "outs" to derogate, Democratic arguments are, on the whole, more respectful of voter intelligence and more pertinent to national problems, particularly on the key questions of the nation's capabilities to lead abroad and to maintain and spread economic well-being at home.

What impresses me most about the Democratic approach is its commitment to enumerate legitimate national concerns and then to develop and follow a scale of reasonable national priorities among them. Translated into the terms of the current debate, this means that the Democrats have named a vigorous defense and a dynamic national economy as issues of first priority.

While this clarity of approach symbolizes for me the hallmark of Democratic programs — themselves too extensive for analysis in this short space — Republican attitudes and policies continue to show reluctance to innovate, to disturb the familiar and, in some cases, to accept even now responsibility for national leadership in foreign affairs and in the crucial domestic problem areas of economics and civil rights.

This partisan cannot help seeing Republican leaders as only half convinced of the policies they espouse and, consequently, less than genuinely effective in the service of principles held by the majority of the American people.

Democratic victories in Congressional elections over the past six years demonstrate, on the other hand, that the Democratic Party is more nearly expressive of the needs and views of our people.

In addition to this background of programs and party record, the Democratic candidate provides a significant personal element of warmth and dynamism. Calling for programs which ask Americans to be a little larger than themselves, he articulates the aspirations of a nation with enormous capacity to fulfill a world role of grace and purpose — a nation which needs motivation to keep its historic drives fresh and relevant. To my mind, these appeals to purpose, to maturity and to self-confidence provide a buoyant and encouraging approach to the hard problems that our next President must face.

— Republicans

mitted to a foreign policy which, while protecting our liberties at home, will promote freedom and peace abroad. It measures our national standing not by the slippery currents of public opinion polls but by the growth and strength of free governments around the globe. It recognizes the existence of rapidly changing political movements in the underdeveloped areas of the world and seeks to provide such assistance, both independently and through the United Nations, as will promote those ideals of freedom which have long been a symbol of hope to the oppressed.

The Republican leadership, unlike many of its critics, believes it is possible for friends to have disagreements. It seeks a world in which the people of every country will be free to establish their own government according to their own choice and to select that economic system which will best fulfill their aspirations. It is not so naive as to think the leadership of every nation will always agree with our policies.

Thirdly, the Republican Party asserts that only a policy of firmness and confidence will be successful in our relations with the Russians. It does not believe that the erosion of principle for the purposes of expediency will be very convincing of our intention to keep free territory free, regardless of the sacrifice, work or even armed action which this may demand. It remembers too clearly the surrenders and compromises of the past which led to World War II, the loss of Eastern Europe and the Korean War. It pledges never to present a policy of weakness which could lead an aggressor to misinterpret our intentions.

Finally, the Republican Party subscribes to the belief that America will grow and develop best when her people are freest to make their own decisions. Only by allowing more resources to be devoted to the private sector of the economy can the vast industrial might of this nation fully express itself. Republicans do see a valid and necessary role for the government in economic affairs, but they firmly maintain that the greatest potential for development resides in the stimulation of the private sector of the economy.

These are the concepts which guide the Republican Party. If you find them valid, then you too should vote Republican in 1960.

Dean Pound's Birthday Address

(Continued from Page 1)

Dean Pound mentioned in his opening remarks that he had written a rather lengthy speech of over 60 pages for the occasion but quipped that he "wouldn't dream of inflicting it upon you." He spoke about his early years at the Law School but concentrated his remarks on the men who "made the School."

"On September 24, 1889, when I entered as a student, the only building was Austin Hall, built in 1883, now used for lecture rooms, seminar rooms, the court room and some administrative offices." There were no dormitories, and most students, like himself, tried to keep their board bill under two dollars a week. The key to student success was then, as it is now, "hard work."

"I remember Langdell, Gray, Ames and Thayer and many of their students who were a great influence on the development of our law," stated Dean Pound. He recalled Langdell "in a top hat and using a stout cane walking across the yard to Austin Hall looking straight ahead while crossing Cambridge Street—not too safe a proceeding even well before the days of automobiles when horseback riders and drivers of pleasure vehicles considered, as do automobile drivers too often today, that the pedestrian was anywhere on the street wholly at his own risk. I was told that his eyesight was very bad, and he made no pretense of using it."

"I sat in the back of the room and took notes on his course of equity procedure one hour a week. I could not attend the other hour, as it conflicted with the first year course in Contracts. But I read the cases, and what I picked up proved useful when some years later I came to practice in the federal courts, where the equity pleading still obtained. The impression I got from listening to him was that he was more interested in how and why than in what."

"Gray," according to Dean Pound, "was thorough, learned in the classics as well as in law, the embodiment of common sense, with an instinctive perception of what would appeal to a common-law court. He would sometimes start a nice question of medieval property law and after a number had wrestled with it pass on to something else, leaving it unanswered."

Mighty Ingenious

"I remember that on one of these occasions I thought I saw the answer and volunteered it. As was his habit frequently, he pulled at his chin whiskers and said, 'Would you mind stating that again?' I repeated. He considered a moment, then said, 'Well, that's mighty ingenious, but it isn't so,' and passed

on to the next case. Some of us after the hour tried to work out the answer but got nowhere. After all, it was nothing that could possibly arise as a practical question in our time. But it did no harm to sharpen our wits on it."

"During the Christmas recess in 1889 I was alone in the reading room in Austin Hall one morning working on the part of volume I of Gray's *Case on Property* having to do with the law of personal property. In front of every section was an extract from the *Institutes* of Justinian put there because Bracton, in expounding the thirteenth-century common law, made frequent use of the Roman law on points of personal property."

"As I had been taught Latin and Roman history long and thoroughly, as was the rule in college in those days, I felt that I wanted to

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know more about Roman law. Accordingly I went to the man in charge at the delivery desk and asked for a book on Roman law. He went into the stacks and brought me out Lord Mackenzie's *Roman Law*. While I was puzzling over it, I heard a voice behind me saying sharply, 'Don't read that.' I looked up, saw Professor Gray and said, using the title we learned to use for our teachers in those days, 'Mr. Gray, what should I read?' He replied, 'Do you read German?' and, on my answering that I could, took Lord Mackenzie's book from me, came back with Sohm's *Institutionen des römischen Rechts*, then the leading text but not then translated, handed it to me saying, 'Read this,' and went on to the desk where he used to sit. This gave me a real start in Roman law and so later in comparative law to which I owe a great deal."

Not Very Good

Dean Pound digressed to comment on the Law School grading system. He recalled receiving a letter telling him that his grades were 75 and above. Neither he nor his father thought this very good. "When my father read of my grade in the letter from Dean Langdell, he told me that it was not worth while having me go to law school if I could do no better than upwards of 75." He later learned that this performance was respectable. He remarked that this system of grading shows that "even doing his best, man cannot hope to attain that degree of perfection represented by ten."

Of Ames Dean Pound said, "He was gifted in history of law and had a sense for the right and just." But the Dean was not as enthusiastic about his class on common law pleading. "Ames I did not appreciate as a teacher of common law pleading, which I took under him

as one of the five first-year courses. He taught pleading under the Hilary Rules of 1834, which were wholly superseded in England in 1873, were never in force with us but were supposed to be very scientific. He was not at his best in such a subject."

"I sat in his class in Trusts and took notes. When many years afterward I had to teach Trusts myself and read my notes, I saw what a teacher of that subject he really was. He was at his best in a subject calling for a sense of history and a deep instinct for the just result in the actual case. He was a great scholar and a wise administrator."

"William Albert Keener, like Williston and Scott in our day, was an outstanding, one might say a natural, teacher, but not, as they, an outstanding scholar as well. He was a master of classroom dialectic under Langdell's system and could make the dullest student not merely see but express a point of law. To see him fence with a brilliant student, putting plausible fallacies to him to try him out, was like watching a master pitcher in action. He was at his best with first year men who, as I said of him on another occasion, began by strongly

disliking him, presently admired him grudgingly and by the middle of the year swore by him.

"We were taught Torts from a casebook covering only torts of direct physical injury, with two scant lectures on negligence. It was not up to the level of the rest of the courses either in respect to the teaching or what was taught." In addition he chided that "there wasn't much negligence in those days."

One Year

Dean Pound left the Law School after one year. He attributed his return as Story Professor in 1910 to the training he received from his outstanding teachers. "When I was a student I did not sit under James Bradley Thayer, who was then teaching Evidence and Constitutional Law. He died before I came to the school to teach and I never met him. But he was not the least of the four teachers of the last quarter of the nineteenth century. His teaching and writing bore fruit in the great book of Wigmore on *Evidence* and have been a major force in the development of constitutional law."

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The Bull

"Edward Henry Warren was a great figure in the school during the first half of the present century. I doubt whether any teacher in the history of the school made as strong and lasting an impression upon the students as he did. He was at his best with first year students, and his course in Property (Property I) was the most effective of introductions to the study of law for one who was to be a practitioner where the common law system obtains. He was in all things upright, downright, outright and forthright.

"Scott is a born teacher, standing along with Williston as a master of the craft in a group of tried teachers. Likewise, again with Williston, he is pre-eminent as an author. His *Law of Trusts* in four volumes (1939) stands out among the great treatises which have

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come from the Harvard Law School since the days of Story and Greenleaf. Likewise he has done notable work for the American Law Institute in its *Restatement of American Law*. In the jargon of today we may call him 'Mr. Harvard Law School.'

"During the twenty years in which I was Dean, finances were a constant worry. President Lowell, a man of exceptional prudence and good judgment in making the best and fullest use of the income of the University, was good enough to say of me when I resigned that I was 'a prudent housekeeper who knew what he could spend and how it was spent, never worrying the financial authorities of the University by miscalculation or deficit.' But the pressure from the faculty to spend beyond what we could afford was continual and often difficult to resist. Moreover, before the time when foundations could be appealed to and wealthy donors could use gifts to reduce income taxes, search for donors was pressing but availed little. Activities of the Harvard Law School Association and of local associations gradually brought relief toward the end."

No Delegation

Dean Pound commented upon accusations recently made against

him that he did not delegate authority. He drew a burst of applause when he said, "There was no one to delegate it to." He then brought his address to a conclusion.

"When a future historian undertakes to write of the school's progress for another three score and ten years, may he find as a common factor one characteristic quality — thoroughness. However the subjects taught, modes of teaching them and activities in connection with preparation for the pursuit of law may vary over the course of years, may we have faith in what has always stood out in the Harvard Law School — thoroughness. Whatever is to be done here in time to come, if guided by the spirit of the school from the beginning, will be done thoroughly."

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Recent Books

By Robert C. Berry

SACCO-VANZETTI: The Murder and The Myth, by Robert H. Montgomery. Devin-Adair Co., New York, N. Y., 1960.

It is reported that Nicola Sacco was the first of the two anarchists convicted of murder to be executed. Upon taking his seat in the electric chair, he shouted in Italian, "Long live anarchy!" In broken English, he then said, "Farewell, my wife, and child, and all my friends." And to the witnessing assemblage he uttered, "Good evening, gentlemen."

A few moments later came Bartolomeo Vanzetti. He placed himself in the chair and then began to speak. "I wish to tell you that I am an innocent man. I never committed any crime, but sometimes some sin. . . . I wish to forgive some people for what they are now doing to me."

That was August 23, 1927. But that date spelled neither a beginning nor an end to the considerations, criticisms, accusations or repercussions. That day ended the lives of the two principals, but it merely enhanced the aftermath and did little but add fuel to an already raging, out-of-control fire.

Opinion-Document

The latest addition to the conflagration is an opinion-document, *Sacco-Vanzetti: The Murder and The Myth*, by Robert H. Montgomery, LL.B. '12. With intention aforethought, he has loaded both barrels. In the first, he declares that Sacco and Vanzetti were guilty beyond a shadow of doubt. In the second, he says that Sacco and Vanzetti received a fair trial, based solely on the evidence as to the crime itself and uninfluenced by the public's aversion to the polit-

ical views which the two anarchists espoused.

To back these two contentions in such absolute fashion is, to say the least, a healthy undertaking. It is no simple set of facts that poured into the already potpourri circumstances of the South Braintree murders.

The chronology stems from April 15, 1920, when a paymaster and a guard of the Slater & Morrill Shoe Factory were shot and killed in a successful attempt at robbery of the weekly payroll. Two men did the shooting, making their escape with six compatriots who had been waiting in a nearby car. Eight men were thus involved in the hold-up killing.

Sacco and Vanzetti were the only two men ever arrested for this crime. With their being brought to trial, the case began, and today its legacy still lingers with all its brooding implications.

Requisites

In setting for himself the task of affirming Sacco's and Vanzetti's guilt and of clearing those in the trial who have been charged with prejudice and unfairness, the author has of necessity burdened himself with certain requisites. For one thing, he must examine very carefully the record of the trial, the evidence, the pressures and all the accusations deriving therefrom. This he has done.

Then he must take these findings and mold them into convincing arguments that support conclusions directed at each and every charge of misconduct or faulty evidence. This he has attempted, with every

power at his command, but whether he has been able to find sufficient support is questionable. As fact upon fact appears and is purportedly explained, one indeed begins to wonder if Mr. Montgomery has not undertaken a task which is, because of all the complications and human deviations, more than a little quixotic.

This is not to assert an arbitrary rejection of Montgomery's contentions. It is not to say that Sacco and Vanzetti were innocent or that they clearly were treated unfairly. This is only to say that when there appears a portrait showing only black and white, with little or no compromising greys, it is suspect and should be subject to the closest scrutiny.

Other Inquiry

This book does not provide a sufficiently objective approach so as to negate the need for other inquiry. To rely solely on the conclusions of this book, without reference to other materials, would be much the same as reading only one party's brief in a litigation. This book by Montgomery is advocacy. It is based on a construction of the circumstances molded to the advocate's purposes. It is not enough to rely on it exclusively.

The most auspicious pillar of advocacy that has stood at the opposite pole to Montgomery's book is, of course, Felix Frankfurter's *The Case of Sacco and Vanzetti: A Critical Analysis for Lawyers and Laymen*. Certainly even casual inquiry into the Sacco-Vanzetti case should not be made without reading the Frankfurter

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accounts. It becomes doubly important in the present instance, since Mr. Montgomery spends a good deal of his time, and regretably a good deal of his name-calling vehemence, in seeking out and attempting to destroy specific contentions made by Frankfurter.

Broadly speaking, there are two areas where Montgomery has pitted himself against Frankfurter. One is the evidence as to the actual guilt or innocence of the accused. The second is the extent to which outside prejudices and emotions infiltrated the administration of justice.

Considerations

The considerations as to how well Montgomery succeeds in discounting the alibis in favor of Sacco and Vanzetti and in eulogizing the evidence used against them could be discussed indefinitely. But there is neither time nor place nor qualification nor propriety to do so in a review.

Even so, since comparison with Frankfurter and other books which defend Sacco and Vanzetti is inevitable, a few of the difficulties should be mentioned.

What is perhaps most unsatisfactory about Montgomery's approach is his treatment concerning the charges that the courtroom was pervaded by prejudice against Sacco and Vanzetti because of their political beliefs. In this regard, he prefers to stand mainly on the jurors' later avowals that such considerations did not enter the picture. But when, one may ask, would a juror ever admit otherwise?

Surely the outside atmosphere and the times in which the trial occurred did affect the context and perhaps even the outcome. These times need fuller treatment in this book and less glossery. Some specific points made by Frankfurter, as to questions asked by the prosecution and utterances made by the judge, need to be examined and explained, if possible.

Another Weakness

Another weakness is his consideration of the testimony by the witnesses for both sides. For the defense, he largely dismisses them

by innuendo, preferring to say that if such were really true there would have been even more witnesses. This is avoiding the fact that, if believed, the witnesses for the defense established alibis sufficient to clear Sacco and Vanzetti. Montgomery therefore should have addressed himself more to their actual testimony and credibility and destroyed it if he could.

On the other hand, he makes every effort to uphold the testimony of the prosecution's witnesses. There is consequently great reliance on the testimony of Louis Pelser. Montgomery admits that this young man had lied previously; yet he swears by Pelser's telling the truth when it came to the final analysis. At the same time, the author cannot do likewise as regards Sacco and Vanzetti; for him, their lying when they were first arrested was clear evidence of consciousness of guilt. He discounts all other explanations.

Quite often, then, it boils down to the fact that he is willing, even eager, to accept the word of the "good guys" for the prosecution, but cannot view the "bad guys'" testimony with anything but suspicion and disbelief.

An Imponderable

Whether Sacco and Vanzetti were guilty as charged is still, and will forever remain, an imponderable. It would be reassuring to believe they were guilty. This would bring a reaffirmation of faith in the process of justice. But even with this latest book, the evidence is nowhere convincing, in either direction.

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So it can be said only that Montgomery's book now joins the multitude that have furthered, in one course or the other, the myths and the tales and the records and the arguments over the Sacco-Vanzetti vendetta. The author states he realizes he cannot destroy the myth nor stem the deification and the martyrdom that have come to Nicola Sacco and, more particularly, to Bartolomeo Vanzetti. In this, at least, he is undoubtedly right.

Vanzetti expressed it perfectly:

"If it had not been for these things, I might have live out my life talking at street corners to scorning men. I might have die, unmarked, unknown, a failure. Now we are not a failure. This is our career and our triumph. Never in our full life could we hope to do such work for tolerance, for justice, for man's understanding of man as now we do by accident. Our words — our lives — our pains — nothing! The taking of our lives — lives of a good shoemaker and a poor fish-peddler — all! That last moment belongs to us — that agony is our triumph."

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