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Class Election Scheduled

Class of 1962 elections will be held Tuesday, February 20, the recently-formed Ad Hoc Class Committee has announced. Students desiring to be elected to a position in the Class government must submit their nominating petitions at the Receptionist's Desk by 5 p. m., Monday, February 12.

The election rules which have been adopted for the 1962 Class Elections appear in a memorandum prepared by the Ad Hoc Committee. Copies of this memorandum are available at the Distribution Center and the Receptionist's Desk in Langdell Hall.

The Class of 1962 will elect a Class Marshal, Class Secretary and three Class Committeemen. This body will then elect, with due regard for geographical representation, four other class members to serve on the Class Committee.

The Class Marshal serves as master of ceremonies at Class functions and initiates and co-ordinates activities of the Committee. The Class Secretary maintains liaison with the Law School Alumni Office and initiates reunions every five years. The Secretary customarily prepares a newsletter containing information about class members. The Class Committeemen serve as the regional liaison with the Secretary and often initiate and co-ordinate regional and local alumni activities.

The Ad Hoc Committee will post early in February a tentative draft of the Class Charter for third year students to examine.

Richard B. Dyson, Salem, New Hampshire, is the Chairman of the Ad Hoc Committee. Serving with him are Mary Ann Abend, Syracuse, New York; Nancy J. Cribbs, Rochester, Minnesota; Clark P. Giles, Salt Lake City, Utah; George L. Kelley, Jr., Belle Harbor, New York; and

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Talent Sought For Variety Show

By John L. Worden III

An all-out search for talent for the second annual (new series) Law School Variety Show is on, it was announced today by Richard Glazer, 3L, Trenton, New Jersey, chairman of the Dormitory Council's Theatre Sub-committee.

All types of talent, including but not limited to acting, singing, writing and direction, are needed for the production scheduled for Saturday, March 24.

Last year's show, presented to a capacity crowd at Radcliffe's Agassiz Theatre, was called "the entertainment highlight of the

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Hearsay

Massachusetts is currently embroiled in a raging controversy: Is it improper for lawyers who are members of a state legislature to represent clients who are charged with gaming offenses? The answer should be yes. It is not unreasonable to demand a higher standard of ethics from a legislator than is demanded of others in his outside profession. Indeed, even in states such as Massachusetts where, lamentably, the public does not demand such a standard, a legislator should of his own accord live up to it.

It is no answer to cite the canons of the legal profession, as has been done, to the effect that everyone is entitled to legal counsel; no one denies the importance of this right. But there are many available attorneys who are not also legislators, and if under the canons it is wrong for an attorney to refuse to represent a client charged with gaming offenses, then the attorney should not serve in the legislature.

If during the course of his ordinary practice a regular client is charged with a gaming offense, there is probably no cause for objection to the lawyer-legislator's handling the case. But when a lawyer-legislator makes a career out of representing persons charged with gaming offenses, there is cause for suspicion that such clients are hoping to capitalize on whatever political influence their attorney may have.

There is a clear distinction between gaming offenses and other crimes which a lawyer-legislator may be called upon to defend. It is an organized racket. It is widespread and has a pervasively evil influence. Its involvement or attempted involvement in politics is more than just speculation. For these reasons it and other offenses like it (*e.g.*, narcotics offenses) should be avoided by the lawyer-legislator above all other crimes.

Harvard Law Record

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COMMENT

By Fenno

The current state of the Selective Service System is chaotic — and that's an understatement. For those subject to it, it is uncertain and discriminatory. Thus it is little wonder that recruits' patriotism is not at fever pitch.

A registrant with some draft boards has a 50-50 chance of not being called. Other boards draft almost all of their registrants. Some use volunteers only. Thus one of the elements in whether a registrant is likely to be called is where he happens to live — hardly a fair criterion.

There are other uncertainties, of course. *Perhaps* a man will not be called if he is married. *Probably* he will not be called if he is married and has a child. *Probably* he can avoid the draft if he has been careful to attend graduate school long enough — *i.e.*, until he is 26. *Maybe* he will remain a civilian if he has a job in an "essential industry." He *may* be called if he teaches English, but he *probably* won't if he teaches science or mathematics.

If the present system is to be continued and universal military training not instituted, Selective Service should be revamped so as to eliminate some of this uncertainty and discrimination. If not everyone is to be called to serve, then why not have the selection as soon as possible after registration? The present system of deferment for college could be continued, but one who had been called and had received such a deferment could not avoid fulfilling his obligation by means of marriage and fatherhood or becoming a professional student. He would know after high school whether he was going to have to serve, and he could within limits choose when to serve, but he could not avoid serving except for the most compelling reasons.

Undoubtedly there are other solutions. At any rate, something should be done soon to restore confidence in the system.

New Professorships Revealed

Dean Erwin N. Griswold announced this week the promotion of three legal scholars to be Professors of Law in Harvard University effective July 1. The three are Paul M. Bator, 32, Frank E. A. Sander, 34, and Detlev F. Vagts, 32. They are graduates of the Harvard Law School and were engaged in the private practice of law before becoming Assistant Professors of Law at Harvard in 1959.

Mr. Bator, an American citizen who was born in Hungary, has taught courses in criminal law and administrative law. He received the B.A. degree *summa cum laude* from Princeton in 1951 and was class vale-

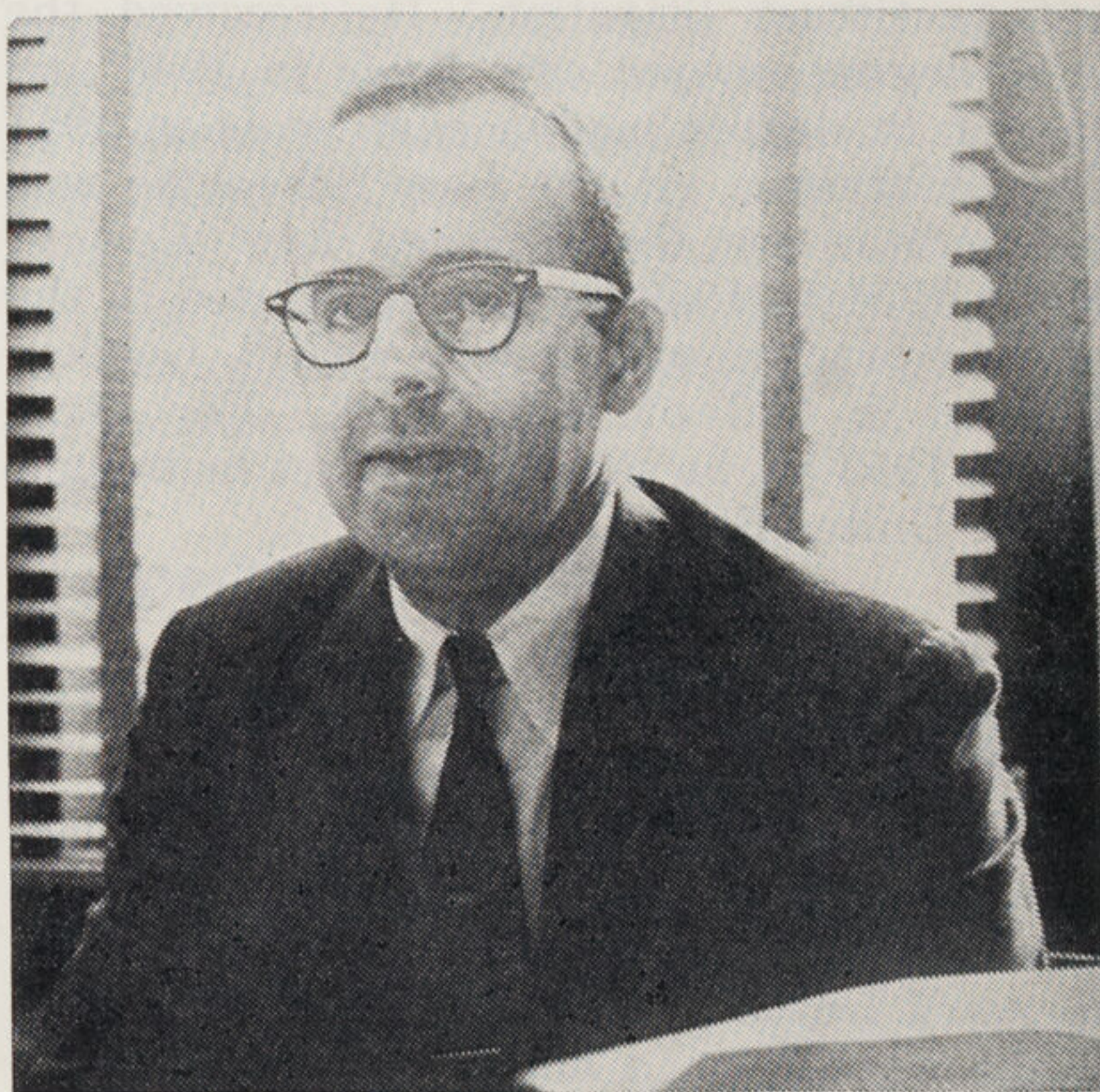
the LL.B. degree in 1952 *magna cum laude* from Harvard. As a student, he was treasurer of the *Harvard Law Review*. He came



Detlev F. Vagts

dictorian. He studied on a Woodrow Wilson Fellowship in 1951-2 and received the M.A. degree in history in 1953 and the LL.B. degree in 1956 from Harvard. At the Law School, he was president of the *Harvard Law Review*. After serving as law clerk to Justice John M. Harlan of the United States Supreme Court in 1956-7, he was associated in the private practice of law with the firm of Debevoise, Plimpton and McLean of New York.

Mr. Sander, who teaches taxation and domestic relations, is an American citizen who was born in Germany. He received the B.A. degree in 1949 *magna cum laude* and



Frank E. A. Sander

to Harvard from the law firm of Hill, Barlow, Goodale & Adams in Boston, where he was associated in private practice from 1956



Paul M. Bator

to 1959. Previously he was law clerk to Judge Calvert M. Magruder of the United States Court of Appeals for the First Cir-

cuit, 1952-3, and to Judge Felix Frankfurter of the United States Supreme Court, 1953-4. He served in the Tax Division of the Department of Justice from 1954 to 1956.

Mr. Vagts, a native of Washington, D. C., teaches accounting, corporate law and private antitrust litigation. He received the A.B. degree *summa cum laude* in 1948 and the LL.B. degree *magna cum laude* in 1951 from Harvard. At the Law School he was note editor for the *Harvard Law Review*. From 1951 to 1959 he was associated in the private practice of law with Cahill, Gordon, Reindel & Ohl of New York. For three years, 1953-56, he served as a first lieutenant in the United States Air Force.

Boston Attorney To Be Professor

Dean Erwin N. Griswold announced last week the appointment of a Boston lawyer, James Vorenberg, as Professor of Law in Harvard University, effective July 1.

Mr. Vorenberg, a native of Cambridge, is a partner in the Boston law firm of Ropes & Gray. At the Law School he will teach in the field of corporation law.

Mr. Vorenberg received the A.B. degree *magna cum laude* in 1948 and the LL.B. degree *magna cum laude* in 1951 from Harvard. As a law student, he was president of the *Harvard Law Review*.

Former Law Clerk

After Law School, Mr. Vorenberg served as a first lieutenant in the United States Air Force from 1951 to 1953, assigned to the office of the Air Force General Counsel. He was a law clerk to Judge Felix Frankfurter of the United States Supreme Court in 1953-54 and began the private practice of law with Ropes & Gray in 1954.

Active in Boston and Cambridge affairs, Mr. Vorenberg is president of the Cambridge Civic Association, serves on the board of trustees of the Boston Dispensary, the Boston Floating Hospital and the Provident Institution for Savings in Boston and is an overseer of the Shady Hill School and a member of the board of directors of the United Community Services.

Mr. Vorenberg lives at 21 Washington Avenue, Cambridge, with his wife and 3 children.

Multi-Legal Lawyers Called for in Study

Practicing lawyers who are equipped to deal with legal problems arising from events in more than one country and involving several legal systems, national or international, are needed in increasing numbers, Professor Milton Katz has reported.

"The time is long since past when this need was felt only or even chiefly in Boston, New York, Philadelphia, New Orleans, Galveston and other seaports," he pointed out in a seven-year report of Harvard's International Legal Studies Program.

Export Market

"The ramifications of the petroleum industry throughout the world make production and marketing in the Persian Gulf or Venezuela local news in Oklahoma and Texas. Throughout the West and South, farmers and farm organizations are concerned with possible export markets. . . . Direct investment abroad by American investors has been estimated by the Department of Commerce at \$28 billion. American business companies are estimated to have some 3,000 foreign branches and subsidiaries, of which the aggregate sales come to some \$30 billion a year. . . . Hundreds of thousands of men and women who make their living in steel are affected by the development of sources of iron ore in Labrador or South America or North Africa. . . . Any uranium found [in Western mines] must be mined, processed and distributed within a complex framework of legal relationships reaching to the International Atomic Energy Agency in Vienna."

Enough lawyers are becoming involved in legal problems that cut across national boundaries, Professor Katz stated, "to make this phase of the law a normal and important part of the workaday responsibilities of the profession."

THOUGHT FOR THE WEEK

The Internal Revenue Service is turning to the nation's high schools in a long range plan to obtain manpower to meet the future needs of tax administration. — *From a Treasury Department "News Release."*

Ames Winners Announced

By Daniel J. Kucera

Not everyone loses in the Ames Competition. A select few proved this by their meritorious performances in the Fall, 1961, rounds. They have been honored for their outstanding individual and group efforts. Prizes consisting of retail credit at the Harvard Coop were awarded for the best oral and best brief in the second year Qualifying Round, and a choice of a book from the West Publishing Company was given for the best oral and best brief in the first year competition.

Those students honored in the Qualifying Round are: best oral, Tom M. Schaumberg (Bruce Club), St. Louis, Missouri; best brief, Lawrence A. Carton, Locust, New Jersey, and Susan F. Schapiro, Hamilton, New York (both Casner Equity Club); best club, Griswold Law Club (Whitney I. Gerard, Cambridge, Massachusetts; David R. Hood, Spokane, Washington; Richard M. Mosk, Beverly Hills, California; Gene E. Penn, Dunbar, West Virginia; Paul M. Reitler, Beverly Hills, California; Janet Reno, Miami, Florida; Neil D. Thompson, New York, New York; Norman Waite, Chicago, Illinois).

First Year Awards

Winners in the first year class were: best oral, Albert K. Butzel (Fried Club), Birmingham, Michigan; best brief, Howard J. Krongard (Harlan Equity Club), Baltimore, Maryland. Second prize winners were Sheila A. Rush (Byse Club), Buffalo, New York, and Reese C. Johnson (Bruce Club), Billings, Montana.

John C. King, 3L, Charleston, West Virginia, Chairman of the Board of Student Advisers, commented that in general the Competition was more efficient and the quality of the work better than in the past. For the first time, the Carnegie Fellows were invited to take part. In keeping with tradition, first year class participation was over 99%.

This month the Spring Competition begins. The Finals will feature the Casner Law and Casner Equity Clubs in the battle for the top Ames prize. Their arguments will be heard on April 11 before the Hon-

orable William Joseph Brennan, Jr., LL.B. '31, Justice of the Supreme Court of the United States. The Quarterfinals will be argued by the eight clubs surviving the Qualifying Round. The four arguments will be *Holmes v. Casner Equity*, *Choate v. Root Law*, *Kent v. Story Equity* and *Cardozo v. Marshall Law*. First year Ames work begins February 2 and extends to March 16, with former opponents now merging in peaceful coexistence as partners.

Prospective Researchers Invited To Hear Howe

By Melvin S. Schwarzwald

Professor Mark DeWolfe Howe will be the guest speaker at a luncheon of the Civil Liberties Research Service at 1 p.m. on Tuesday, February 6, in the Mallory Smith Room of Harkness Commons. Professor Howe will discuss current problems of church and state relations.

The Research Service has a number of new projects for the present semester that will be discussed at the luncheon, and all second and third year students who are interested in joining the Research Service are invited to attend. Tuesday's meeting is also open to first year students who are interested in the work of the Research Service.

Projects Listed

Projects now being completed include the defense of "freedom riders" being prosecuted under breach of the peace statutes and an investigation into the constitutionality of state laws outlawing discrimination in private housing and the power of Congress to regulate the voting requirements of the states in order to prevent racial discrimination. Constitutional protections in the administration of the criminal law are being analyzed in regard to the injection of parolees and probationers with nalline, a drug that indicates the use of narcotics.

A brief on the unconstitutionality of segregated courtrooms, written last year by members of the Research Service, has been filed in the Fifth Circuit Court of Appeals.

Ethics and Conscience Face Government Lawyer

By Donald W. Kramer

Solutions to the problems of ethics and conscience facing the lawyer in government, former United States Attorney Elliot Richardson said here last week, must be found in the lawyer's traditional responsibility to respect facts, to use only relevant facts and to adhere to a standard of fairness. These are "ultimately the same standards," he said, "that a lawyer will apply wherever he is worth his salt."

Recognizing that no "rule of thumb" can be established for specific application, he said it is a "valid generalization" that "the less responsibility a lawyer has for the final decision, the freer he is to be irresponsible in the advocacy of a given position."

Mr. Richardson, a former assistant to Massachusetts Senator Leverett Saltonstall, Assistant Secretary of Health, Education and Welfare under President Eisenhower and now practicing with the Boston firm of Ropes and Gray, spoke before approximately 250 persons at the first of a series of lectures sponsored by the Student Bar Association. In a prepared talk heavily weighted with examples and in a wide-ranging question period, he also made the following points:

The legal profession "regards itself far too much as a lackey of business." He said corporate lawyers too often wish to achieve the objective of the company, "whatever it is," than to achieve a nobler role of raising standards of conduct. He said lawyers should be "at least once removed from the pressure to make money that their clients are caught in."

Conflict of interest laws are predicated primarily on "concern with public appearances." He said situations in which conflicts of interest were possible — even though there is no actual influence in official conduct — tend to "corrode public confidence" in government.

It is "inappropriate" for a legislator to represent a known bookie because of the "necessary dependency of gambling on political corruption." Asked about the current Massachusetts controversy, he would neither endorse nor contradict the charge by Republican State Representative Harrison Chad-

wick that there is a connection between the rackets and state legislators. "I don't know enough about the situation to comment on this," he stated. He noted that every defendant is entitled to counsel, but said everyone is not entitled to counsel by a legislator. As a matter of judgment, he said, a politician should not take such cases although it would not necessarily be illegal or immoral to do so.

A public prosecutor should seek an indictment when he believes he has enough evidence to warrant a judge's sending the question to a jury. Requiring less than that would tend to damage the reputations of innocent people. Requiring proof beyond a reasonable doubt in every case would be unduly restrictive on the government, Mr. Richardson concluded.

Food, Drug Talk Slated

Vincent A. Kleinfeld, senior partner in the Washington, D.C. law firm of Bernstein, Kleinfeld and Alper, will deliver the annual Charles Wesley Dunn Lecture on Food and Drug Regulation at the Law School March 9. His topic will be "The Problems of Advocacy in Food and Drug Litigation or How to Live with the Axiom that He Who Is Against the Food and Drug Administration Is for Evil."

Kleinfeld was graduated from Columbia University Law School in 1929 and practiced law in New York City for several years. With the advent of the New Deal, he went into government service with the National Recovery Administration and thereafter with several other government agencies. In 1953 he joined the Department of Justice. At that time, one of the statutes assigned to him was the Federal Food, Drug and Cosmetic Act, and for ten years he was in charge of litigation under that act, both criminal and civil, for the Department of Justice.

For two years, Kleinfeld was chief counsel to the House of Representatives Select Committee Investigating the Use of Chemicals in Foods and Cosmetics. He is now Adjunct Professor of Law at the Law Schools of New York University and George Washington University in the field of food and drug. For the past eight years, he has been in private practice in Washington, specializing in the Food and Drug Administration and Federal Trade Commission fields.

Practical Politics Course Offered by Republicans

By William J. Graham, Jr.

In its first official action since taking office, the executive committee of the Harvard Law and Graduate Schools Republican Club has announced that the organization will sponsor a course in practical politics. The objective of the course, formulated by the United States Chamber of Commerce, is to enable individuals in local groups to learn more about how they can become active and effective in the political party of their choice in their own communities.

The course will consist of nine evening meetings, beginning Monday, which will operate like seminars. There will be a group leader and assignments to be prepared for each session. The course is open to anyone, subject to the limitation that only 20 will ultimately be accepted. Preference will have to be given to members of the club, but it is hoped there will be room for other interested persons.

The course will cost each member of the club \$2.50. Non-members will be charged \$5.00. The reason for the difference is that, although the course normally costs \$5.00, the Young Republicans have made arrangements to have it offered to members at the reduced rate. Each person who takes the course will receive reference material that will serve as a continuing guide to practical politics.

The course is non-partisan in nature. It involves the mechanics of organizing a political party on the ward and precinct levels. Its thrust is how to organize, manage or participate in an effective campaign.

Now that exams are over, the Law and Graduate Republicans are planning to continue the previous policy of sponsoring interesting programs. Among speakers scheduled for the future are Congressman John Rhodes of Arizona, former Undersecretary of Labor George Lodge and Congressman Bradford Morse of Massachusetts.

The new board, elected before the Christmas break, is composed of Diarmuid F. O'Scannlain, 2L, New York, New York, president; Hugh A. Norton, 2L, Northridge, California, vice president; Katherine K. Huff, 1L, Baton Rouge, Louisiana, secretary;

Richard F. Tozer, 1 GSAS, Akron, Ohio, treasurer.

Members at large are Richard B. Klein, 1L, Philadelphia, Pennsylvania; William J. Graham, Jr., 2L, McKeesport, Pennsylvania; and W. Phillips Rockefeller, 2L, Red Hook, New York.

Record Elects Board; Paul R. Matia, President

The Harvard Law School Record Corporation has elected a new Board of Directors for the current term. Paul R. Matia, 3L, Fairview Park, Ohio, will serve as Chairman of the Board and President of the RECORD. The new president is a 1959 graduate of Western Reserve University.

Other officers and members of the Board include Charles F. Waite, 3L, Glendale, California, news editor; Wilfred E. Gardner Jr., 2L, Tioga, Pennsylvania, features editor; Emmanuel H. Smith, 2L, Tyler, Texas, editorial manager; and Fred K. Lickstein, 3L, New York, New York, business manager.

Clark P. Giles, 3L, Salt Lake City, Utah, immediate past president of the RECORD, and Justin W. Heatter, 3L, Monessen, Pennsylvania, also a past president, will continue as members of the Board. Giles will serve as senior editor; Heatter will continue as executive editor. Stephen F. Robertson, 3L, Houston, Texas, features editor for the previous term, will serve as associate editor and a member of the Board this semester.

Named to the RECORD Associate Board were continuing members Neil L. Chayet, 2L, Cambridge, Massachusetts, and H. Stephen Cranston, 3L, El Cajon, California, and new members F. Bruce Abel, 1L, Kettering, Ohio; Ron W. Fritsch, 1L, Big Rock, Illinois; Michael A. Glass, 1L, New York, New York; Charles M. Hamann, 1L, Riverside, Connecticut; Donald W. Kramer, 1L, Bala Cynwyd, Pennsylvania; Daniel J. Kucera, 1L, Westchester, Illinois; and Peter R. Richards, 1L, Sudbury, Massachusetts.

Experiment Draws Interest

By Charles F. Waite

A bold, daring experiment — and one upon which the collective eyes of the Faculty and Administration are presumably glued — is being tried this semester by Professor David F. Cavers in his seminar-sized Conflict of Laws course for third year students.

In an attempt to determine the usefulness of what are known to professional educationists as "visual aids," Professor Cavers will abandon his well-known blackboard cartography and substitute in its place the projection of map slides on a screen in the front of the Morgan Courtroom where his Conflict classes are held.

"We have been interested for some time in determining whether slides could be useful in a law class," Professor Cavers said last week. "We have discovered a projector which can be set up at the front of the class, rather than in the back — but which will show full-sized pictures on a screen at the front wall."

The slides are being prepared by a well-known Boston area museum. They will consist of drawings of maps, used by Professor Cavers to illustrate jurisdictional and choice of law problems in his course.

Gluecks Receive Award

The American Society of Criminology has voted its August Vollmer Award to Dr. Sheldon and Dr. Eleanor Glueck, researchers on the Law School Faculty, for "their many distinguished contributions to the literature of criminology." The award is named after August Vollmer, the "father of modern professional policing" in the United States and first president of the Society.

A large metal plaque, symbolic of the award, was presented to Dr. and Mrs. Glueck on December 29 in Denver.

The Gluecks are well-known in international criminological circles for their long-time follow-up studies on recidivism and particularly for their development of highly significant "delinquency production tables." Both have been long-time leaders in a fight to abolish capital punishment.

Presentation of the award was highlighted by a congratulatory telegram sent from Palm Beach, Florida, by the President of the

United States, who termed the tribute "most deserving."

New Forum Officers

After a comparatively undistinguished season during the first semester, the Harvard Law School Forum has elected new officers for the current semester.

They are Michael J. Goldey, 3L, Brooklyn, New York, president; David Berman, 2L, Hollywood, Florida, programming vice president; Robert C. McDiarmid, 2L, Vienna, Virginia, vice president; Joan S. Elbaum, 2L, Forest Hills, New York, secretary; and William R. Granik, 3L, Washington, D. C., treasurer.

Election

(Continued from Page 1)

Stephen P. Robin, Washington, D. C.

The Ad Hoc Committee is comprised of third year officers of various Law School organizations with the Chairman of the Law School Committee of Phillips Brooks House as the Chairman. The Ad Hoc Committee, representing diverse interests in the Law School, serves only to draft the Class Charter and conduct the Class Election.

Talent

(Continued from Page 1)

1960-61 academic year" by the RECORD's drama critic. Glazer hopes for an even better production this year.

He pointed out that demands on the time of the individual will be kept to a minimum; last year it averaged only ten hours per person.

Convinced that there is "a great deal of talent" in the Law School, Glazer and his aides are asking anyone interested in participating to contact them.

In addition to Glazer, sub-committee members are Wilfred E. Gardner, Jr., 2L, Tioga, Pennsylvania, and Stephen H. Polansky, 1L, Swampscott, Massachusetts.

Practice Exam

The annual practice examination for first year students will be given Saturday. Although no grades or credits result from the taking of the examination, actual examination conditions are approximated as closely as possible.

'Double Patenting' Explained to Crowd

By Neal L. Rosenberg

Donald Brown, vice president and chief patent counsel of Polaroid Corporation, addressed the Patent Law Club recently on the topic of double patenting. Brown defined double patenting as the situation in which two patents are issued to the same inventor for the same invention; an infringer on the claims of one patent necessarily infringes on the claims of the other patent. Actually there cannot be two patents on a single invention whether the patents are held by a common inventor or different inventors.

The present patent statute provides that where an inventor has included two inventions in one application and the Patent Office has required that he divide this original application into two applications, neither the Patent Office nor the courts may cite one application as prior art against the other application so as to prevent the valid granting of a patent on one of the applications because the invention claimed therein does not constitute a patentable advance over the subject matter of the other application.

In a recent case the patent grant on one of these divided applications was issued years after the grant on the other. The scope of the second patent was broad enough to include the subject matter of the first, so that, even after the expiration of the seventeen year monopoly on the subject matter of the first patent, its subject matter could not be appropriated without infringing the still-effective second patent. The court decided that this constituted an illegal extension of the time of the monopoly which the inventor deserved on the subject matter of the first patent and, without citing the first patent as prior art, held that the subject matter of the expired first patent was in the public domain and could be freely used by anyone, irrespective of the existence of the second patent. Although this result is plainly in accordance with justice, the technical basis of the decision presents many questions.

It is important to note that the subject matter of the second patent constituted a patentable advance over the subject matter of the first invention. Therefore the subject

matter of the second patent could have been invented and patented by another inventor. In this case, as the patents would be owned by separate parties, there could be no claim of an illegal extension of the time of the monopoly on the subject matter of the first patent, and both patents would stand up in the courts.

Brown asked why the result should be different merely because both inventions were made by one inventor rather than two. One policy justification he gave for this difference in result is a fear that one inventor might acquire an aggregation of patents covering a particular industry and stifle the freedom of the public to enter and compete in this field for more than the statutory period of seventeen years.

Big Things for Record Man

Samuel L. Hack, LL.B. '53, former RECORD president and currently director of the Princeton division of the U.S. Atomic Energy Commission's New York Operations Office, has been appointed assistant manager for research administration at New York, it was announced this week.

Hack has been with the AEC since 1953, when he joined the legal staff of the New York office upon graduation from Harvard Law School. He later was assigned to the contracts division and then to Princeton, becoming assistant manager of Princeton operations in June, 1960. He was placed in charge of the Princeton division in April, 1961.

Leach Straddles Defense (Again)

Professor W. Barton Leach will address members of the Harvard Law and Graduate Schools Republican Club Monday afternoon on the topic "United States Defense Policy." The talk, scheduled for 1:45 p.m. in the Harkness Commons Meeting Room, represents this year's edition of what has become an annual "airing" of national defense planning by Air Force General Leach under the sponsorship of the local political organization. Usually reliable sources indicated that, up to press time, the Administration had not attempted to muzzle the General. The meeting is being coordinated by Hugh A. Norton, 2L, Northridge, California.

Never on Sunday

By Wilfred E. Gardner Jr.

Late in 1961, the Massachusetts Governor's Committee to Consider Sunday Legislation brought to a close the work it had begun in June of the year with the preparation of the Committee Report. The Committee was appointed by Governor John A. Volpe in the aftermath of heightened interest in the subject of "blue laws" brought about by the case of *Crown Kosher Super Market of Massachusetts, Inc. v. Gallagher, Chief of Police*, 366 U.S. 617. In that case, on May 29, 1961, the Supreme Court of the United States reversed the judgment of the First Circuit Court of Appeals and held the contested Massachusetts legislation constitutionally valid.

A committee of 21 members was appointed, with Professor Arthur E. Sutherland, Jr., of the Harvard Law School Faculty as Chairman. The Governor asked the Committee to "examine the entire subject and to make to him such recommendations as the Committee might find necessary and practical."

Representatives of business, labor and organized religion were prominent on the Committee. The League of Women Voters of Massachusetts, the Textile Workers Union of America, the Association of Business and Commerce of Central Berkshire County, Inc., the Massachusetts Chiefs of Police Association, the Retail Trade Board of Boston, the Southern New England Conference of Seventh Day Adventists and the Jewish Community Council were among the organizations represented on the Committee.

As a result of numerous meetings and a public hearing which lasted in excess of eight hours, the Committee proceeded to prepare recommendations from its study of the Sunday blue laws. The report, comprising over 100 mimeographed pages, resembles a problem from the course in The Legal Process in more than format. It is divided

into a proposed revision of the law by the majority of the Committee and a detailed discussion of the Sunday laws with an alternative revision proposal by the minority of nine members, which included Professor Sutherland.

The majority report basically is a bare legislative draft which would continue the present law with only some added clarification. To quote from the separate statement filed by J. William Belanger, Regional Director of the Textile Workers of America, "it fails to meet adequately the needs of a modern economy and the great recreations industry of the Commonwealth..." The majority proposal continues the traditional pattern of the laws, developed over the past 300-odd years, of prohibiting virtually all worldly endeavor from midnight Saturday to midnight Sunday, with listed exceptions. But the list of exceptions has grown very large as nearly every session of the General Court over the past century has made piecemeal effort to bring the sanctity of the "Lord's Day" and the necessary functionings of a modern urban society into some kind of harmony.

Today in Massachusetts the occupation of shoe shining may be engaged in up to 11 a.m. on Sundays, subject to prohibition by local option. By Section 12 of Chapter 136 one is penalized who keeps "a house, shop, cellar" in which any persons other than "travelers, strangers or lodgers" participate in "drinking or spending their time idly or at play." It is apparently permissible to dig for clams but not for oysters. Transport of "general commodities" is allowed before 8 a.m. and after 8 p.m., but forbidden for the twelve hours in between. Laundromats and car-washing businesses may not operate on Sundays. Distinctions of lawful and unlawful activity in the field of transportation is on the basis of

interstate or intrastate hauls, emergency or nonemergency hauls, and hauls of some commodities such as perishables or those going to fairs as against others.

By way of contrast to the majority's approach of mere clarification of the status quo, with its lengthy and dangling list of exceptions, the report of the minority seems to say, "If we are to have Sunday legislated as a universal day of rest in the Commonwealth, let us at least do the most realistic job we can of implementing this policy of the legislature."

The minority first presents a brief but clear history of the Massachusetts blue laws from the era of the Old Colony up through the present. It then examines particular current practical problems which are presented—including retail sales, local option, travel and transportation, employer-employee relations, non-Sunday sabbatarians, service occupations and enforcement.

The conclusion reached by the minority is then embodied in a brief legislative draft which presents a new approach to the problem in this Commonwealth. The first section is a statement of legislative purpose, following the tack of the Supreme Court in *Crown Kosher* to the effect that the blue laws are not, as originally devised, intended to promote the interests of a religion but are regulations for the furtherance of social objectives which much of the community feels to be of value for various reasons.

Even more novel, the second section turns away from "the present universal negative on all work and play not expressly excepted." General prohibitions are extended to only three forms of activity—manufacturing, construction and sales of goods—but these are the areas of commercial life in which most of the Massachusetts working force is engaged. Under these

headings there are a number of exceptions — charity or necessity cases, sales of necessary goods, automobile fuel, etc. The minority in its commentary expressly adverts to the fact that the influence of organized labor, community and business custom and religious practices makes regulation by statute of certain forms of activity unnecessary — Sunday operation of banks and other financial institutions, for example.

With regard to public amusements, sports and theatre, the minority technique is to provide for local option to forbid such activities on Sunday. This is in contrast to the existing law and the majority draft, which forbid such activities subject to local option to permit them on an individually licensed basis.

The minority further recommends the establishment of an administrative body to be known as the "Sunday Leisure Law Commission," consisting of five state officials—the Attorney General and the Commissioners of Public Health, Public Safety, Commerce, and Labor and Industries. The purpose of the commission would be to develop regulations and definitions for the effectuation of the purposes of the statute. In the comment on this section of its draft the minority expresses the opinion that the functions of the commission would place but a slight burden upon the officials involved, intending the commission to fulfill the role of an implementing rather than of a general regulating agency.

The two reports also differ in their prescription of sanctions. The majority report continues the spirit of the present law in fining operators of unlawful Sunday businesses \$20 to \$100 for a first offense and \$50 to \$200 for each subsequent offense, with each individual unlawful sale being a separate offense. The minority presents perhaps a more flexible set of sanctions with a range of fines from \$5 to \$100 and a provision for injunction as a means of bringing the frequent violator under control.

It may be of note that no member of the committee espoused the view

that the blue laws should be done away with. As a consequence there is no effort made in the report to present much of an intellectually defensible case for having them. Rather, the blue laws today seem to be supported by several different interests in the community, none of which has an unassailable argument for upholding them. But, taking these interests in aggregate, they at least command enough political pressure to make the preservation of the blue laws a continued conscious policy of Massachusetts government.

The original blue laws in the state were a product of the power of the church in those early years, and as well as sanctifying the "Lord's Day" the populace was also required by law to be rather regular in its attendance at church. Today the blue laws have been upheld as providing a general social benefit, and church-going is no longer a requirement. The position of organized labor, as expressed by Mr. Belanger, is that the gains of labor with regard to working time and hours would be undermined if some employers — retailers, for example — operated on Sunday, thus turning competitive pressure on "the fair-minded or organized employer who is vainly striving to give his employees the common or uniform day of rest enjoyed by workers in other fields of endeavor."

The Reports of the International Labor Conference in 1921 and 1956 stated:

This tendency to ensure that the weekly rest is taken at the same time by all workers on the day established by tradition or custom has an obvious social purpose, namely to enable the workers to take part in the life of the community and in the special forms of recreation which are available on certain days.

The position of the churches would appear to be represented by a statement from the minority's discussion of some of the practical problems involved.

... For many residents of the Commonwealth a Sunday

in which the family may go to church together is greatly desired by the breadwinner. If he is under a compulsion to choose between changing his job and working on Sunday, church with the family, like recreation with the family, presents real difficulties.

Another type of argument in favor of the Sunday laws advocates making Sunday a day of quiet as well as a day of rest. "Trucks and other commercial vehicles (except for public transportation and except for perishable commodities) should be kept off the overcrowded highways on Sunday when the family car can be used for recreation and transportation of families to resorts or to visit relatives and friends." And many argue that sports and entertainment events should be ruled out on Sundays because of the crowds they draw and the commotion they cause, even though this cuts against making Sunday a day of recreation.

And at least some non-Sunday sabbatarians favor the blue laws because they claim it is unfair competition to allow others to operate their enterprises seven days a week while they miss a day of operation on Saturdays for religious reasons. This argument has prevailed, and the present Massachusetts law and both drafts of the report allow bona fide non-Sunday sabbatarians to operate on Sundays while their counterparts are closed. The Sunday closing statutes have been upheld as social and not religious — but quare the fairness to the persons who exercise their freedom of religious choice in not adhering to any of the organized religions.

Special treatment for the small family retail establishment — referred to as the "Pa and Ma store" in the report — is defended on the ground that there is less economic compulsion exercised by such "business superiors" on the people who run their store than in the case of a large enterprise. "Employer-employee relationships differ not only respecting the character of the business in question but also respecting its size." The problem of

dear old "Pa and Ma" working twelve hours a day, seven days a week, is not reached — yet the force of policy in the church and labor arguments suggests that they, too, should have their statutorily preserved afternoon of quiet and canned beer at home with the TV.

But even though all would agree that the life of the individual in society cannot be solely devoted to earning his livelihood and that recreation and family life are to be encouraged, how important is it that all take their "Lord's Day" or "Sunday leisure" on the same day of the week? And even if we could conclude that this is to be a goal of the society, is a system of blue laws any sort of acceptable answer?

The trend of urban society is toward its being a seven-day-week society in many respects. As the minority report recognizes, a combination of growing aspects of seven-day commerce and communication and of people seeking more elaborate forms of recreation has led to a demand for extensive weekend employment — to handle Sunday newspaper distribution, to service the automobiles on Sunday drives, to care for the swelled crowds at beaches, parks and pools, and to see that six-day-a-week trade and commerce can pick up again on Monday mornings. Surely it must be recognized that no uni-

versal day of rest exists in modern society — nor can it.

If, looking to the social realities with the minority, we reach this point, what purpose can legislation such as the minority draft serve? Alternatively, what can it achieve that could not be achieved without it?

The suggestion of this article is that the legislation probably does not make a sufficiently significant difference to justify its undesirable effects. The power of organized labor, organized business, organized religion and of business custom, as that of the financial institutions, would most likely retain the forty-hour, five-day work week in industry and the six-day week in retailing. Drug stores and discount houses and perhaps some food stores would likely make some swing toward a seven-day week. But they would only be doing this if there was a demand from customers, who in the aggregate are society.

Enforcement of the blue laws is rested with the police force, and this has made for the rather spotty enforcement which has given rise

to much of the objection to the laws from the business community. In competition with more urgent matters of criminal and traffic enforcement the blue laws have been unable to claim a systematic enforcement procedure. Prosecutions under them have been infrequent and have not always been against the most obvious violators in an area. It is not suggested that some special agency of enforcement is warranted — apparently the general social interest involved will not support that magnitude of expense. The present system perpetuates popular disrespect for the law by the general public and by the business people it attempts to regulate in particular. On the other side, it gives the police a set of laws the enforcement of which seems all too often to be by caprice rather than by some system which we could say at least makes some effort towards fairness.

And in addition, the blue laws are in general an impediment to the free flow of commerce through and within the community. This being the case, such regulations should be promulgated only if a

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sufficiently strong affirmative case can be made for their existence. Yet the case for blue laws seems marginal at best.

It is expected that the committee report will be available in printed form later this spring.

Letter to the Editor

To The Editor:

This letter is in reference to the article by Mr. Peter R. Richards in the November 30 issue of the RECORD reporting an account of a meeting at the Harvard Law School Forum.

Dr. Leo Szilard, a scientist, is alleged to have presented a plan to prevent an atomic war.

My reaction to the article was one of apprehension and of deep forebodings. As a graduate of the Harvard Law School, I sincerely wish some law school other than Harvard had afforded him a Forum for his project.

It seems to me that his proposed experiment has an all-too-familiar ring, namely that if it were not for our own stubborn and nefarious actions, the Russians would be sweet and reasonable; that if we would only turn the other cheek, all would be right in the world.

In point seven of his program, he would have us proceed unilaterally to tie our hands vis-a-vis Russia. This, of course, would please the Russians very much, but what evidence does the good Doctor have to assure us that the Russians would follow our example?

In the fifth point of his program, he says that our President, " * * * should issue an executive order to the C.I.A. to refrain from trying to recruit tourists en route to Russia for *spy assignments*." He implies that our C.I.A. is actually recruiting tourists as spies, but what evidence does he have that such is the case?

I would like to suggest to your Forum speaker that he try his plan in Russia. If it would work as successfully there as he is so confident it would work here, I am certain that real progress would follow.

Webster S. Blades, '15

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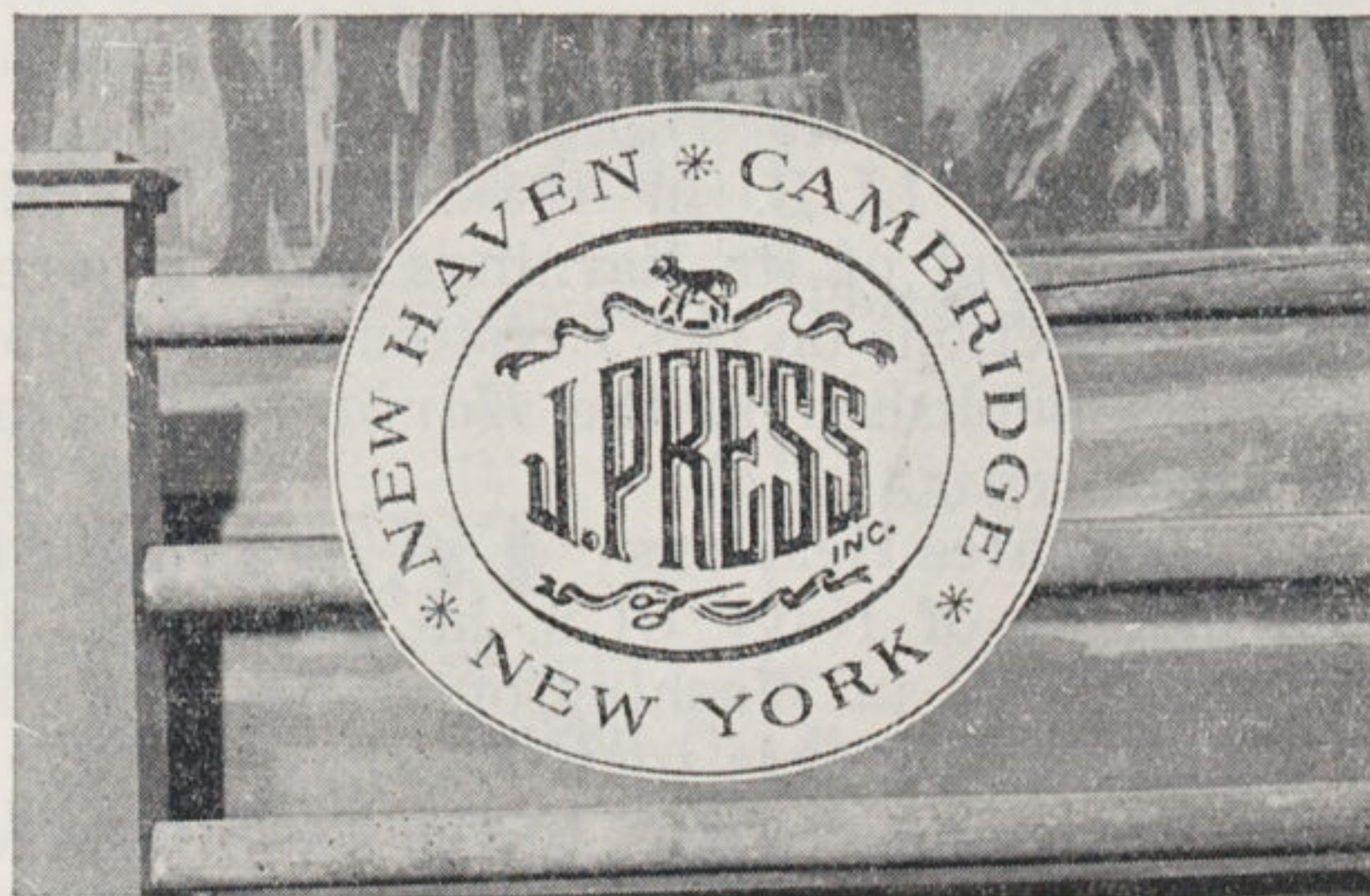
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Gallery

By Donald W. Kramer

William D. Andrews is a pretty relaxed sort of guy. At age 30, with a Harvard LL.B., three years experience with the Navy JAG in Washington, three years experience with a prominent Boston law firm, and now a taste of teaching as a Lecturer in Law here this year, he has had a wide range of legal experience. Evidently he has enjoyed it all. He has not decided which type he likes best, but that does not seem to bother him. In fact, he seems to like the idea of shifting back and forth among them.

In his cubbyhole office recently, with his feet propped up on the desk, Andrews was willing to talk about himself and his experiences. He did not have any "set speech" to offer, but his answers to a wide variety of questions were quick and precise. It was easy to see why he shifted from pre-med — where the answers can be found empirically — to the law — where "the quality of the argument can affect the verdict."

Was Pre-med

Andrews, who is teaching a second-year section in Corporations, started out as a pre-med student at Amherst College. But he did not like the idea of spending all the time necessary in the isolation of the laboratory. After a summer job in a law firm, he decided he was much more interested in working in an area of constant controversy, where the "answers" are less often right or wrong, where face to face contact with adversaries determines the outcome.

After his graduation from Amherst in 1952, he came directly to Harvard Law School, receiving his LL.B. in 1955. His third year paper, "Out of Its Earnings and Profits: Some Reflections on the Taxation of Dividends," was published in the *Harvard Law Review*.

Coordinates Hearings

After six months of Navy OCS, he was assigned to the JAGC in Washington. The most interesting part of this tour, he says, was the year he spent "on loan" to the Defense Department helping prepare the congressional presentation of the Military Aid Program. He spent most of his time coordinating appearances at congressional hearings and preparing statements for Defense offi-



cials. He was "fascinated" by the general problems of coordination when so many people are involved.

Having worked on the presentations, country by country, he was also able to get an insight into the rationale behind the entire program. Asked about aid to Yugoslavia, he said the President should have the authority to make commitments which appear to be in the national interest. Although he has not followed the details of the recent controversy, Andrews said he is not opposed to aid merely because Yugoslavia is a communist country. He noted, however, that aid is not given on as broad a scale as it is to many friendly nations.

Practice Requires Efficiency

Following his discharge from the Navy, Andrews came back to Boston and the firm of Ropes, Gray, Best, Coolidge and Rugg. Dealing in corporate affairs, he faces some of the same problems of coordination that he had in Washington, but more often he deals with the particular, and technical, needs of the client.

He is quick to point out the differences between practice and teaching. Practice places a good deal more stress on administrative problems, with emphasis on efficiency. He is interested in solving the problem his client presents. He seldom has the time to think the question through to all its conclu-

sions. He finds it difficult to "shift gears" every week to go from practice to teaching.

He says it is too early yet to make any real judgments on how he likes teaching — he had never formally taught before this year — but he does say that his students are "tops."

Back to Washington?

What about the future? Andrews is not sure about the long-range plans. He disclaims any political ambitions, but he says he might like to go back to Washington someday. "It's a lot of fun for awhile," he says.

He would not like to be a career lawyer in the government because he feels they too often face "a hard time of it." Even capable and devoted men, by reason of their position, are "foreclosed from policy-making positions in the same way as political appointees in for the short term," he says. He feels the government depends upon people "going in and out" of Washington, but he adds that "anything that could be done to increase the term beyond those of some of Eisenhower's appointees would be useful."

Andrews found great satisfaction in Washington participating in things that "in and of themselves were important to the whole

country." The frustration came in the inability to make anything but a small contribution to the final outcome.

In practice, on the other hand, while the problems may be of less overall significance, there is far more of a feeling that a good job will have a direct effect upon the result. "It's primarily a function of size," he concluded.

Plays Piano

Andrews is married and is the father of four children ranging from four years to three months old. For hobbies, he enjoys amateur carpentry and playing the piano. He "used to be pretty fair" on the piano, he says, but let his practicing slip. He is now trying to set aside time in order to learn again.

One wonders where he will find the time for it all. He already works a full six days a week. Teaching requires both Sunday and Monday for preparation, and he keeps up his practice the other four weekdays. He tries to keep Saturday free, but does not always succeed.

After he finished the interview, he went back to work reviewing some third year paper drafts he had agreed to read. But he looked relaxed.

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SECOND YEAR INTERVIEWS

Philadelphia: Wolf, Block, Schorr & Solis-Cohen. Jerome Kurtz, Esq., & Donald Bean, Esq. (2 p.m. today.) Thursday, February 8.

Chicago: Chapman & Cutler. Roscoe C. Nash, Esq. (2 p.m. Friday, February 2.) Friday, February 9.

Richmond, Virginia: Hunton, Williams, Gay, Powell & Gibson. George D. Gibson, Esq., & H. Merrill Pasco, Esq. (2 p.m. Friday, February 2.) Friday, February 9.

Milwaukee: Kaumheimer, Alt & Likert. Richard A. Van Deuren, Esq. (2 p.m. Monday, February 5.) Monday, February 12.

SECOND YEAR OPPORTUNITIES

Beverly Hills: Law Offices of Robert G. Rifkind. Requirement: Law Review, Board of Advisers or Legal Aid. Contact Mr. Rifkind.

Boston: Warner, Stackpole, Stetson & Bradlee. Contact Melville Chapin, Esq.

Des Moines: Herrick, Langdon,

Sandblom & Belin. Contact David W. Belin, Esq.

Harrisburg, Pennsylvania: McNeess, Wallace & Nurick. Contact Arthur L. Berger, Esq., or Placement Office by 2 p.m. Friday, February 2.

New Brunswick, New Jersey: Gross & Weissberger. Contact David Linett, Esq.

Providence: Gunning & LaFazia. Contact Bruce M. Selya, Esq.

THIRD YEAR INTERVIEWS

New York: Kirlin, Campbell & Keating. Donald D. Geary, Esq. (2 p.m. today.) Thursday, February 8.

Milwaukee: Kaumheimer, Alt & Likert. Richard A. Van Deuren, Esq. (2 p.m. Monday, February 5.) Monday, February 12.

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