

Study Shows Bail Shortcomings

By Michael Hampden

Taken from the county jail
By a set of curious chances;
Liberated then on bail,
On my own recognizances . . .

The Lord High Executioner of Titipu evidently had little reason to criticize his jurisdiction's treatment of the criminally accused. But two Harvard Law students have uncovered important deficiencies in the bail system of this country.

Marion Coen, 2L, and Harry Hellerstein, 3L, conducted the studies this summer in various cities under the auspices of the Vera Foundation of New York.

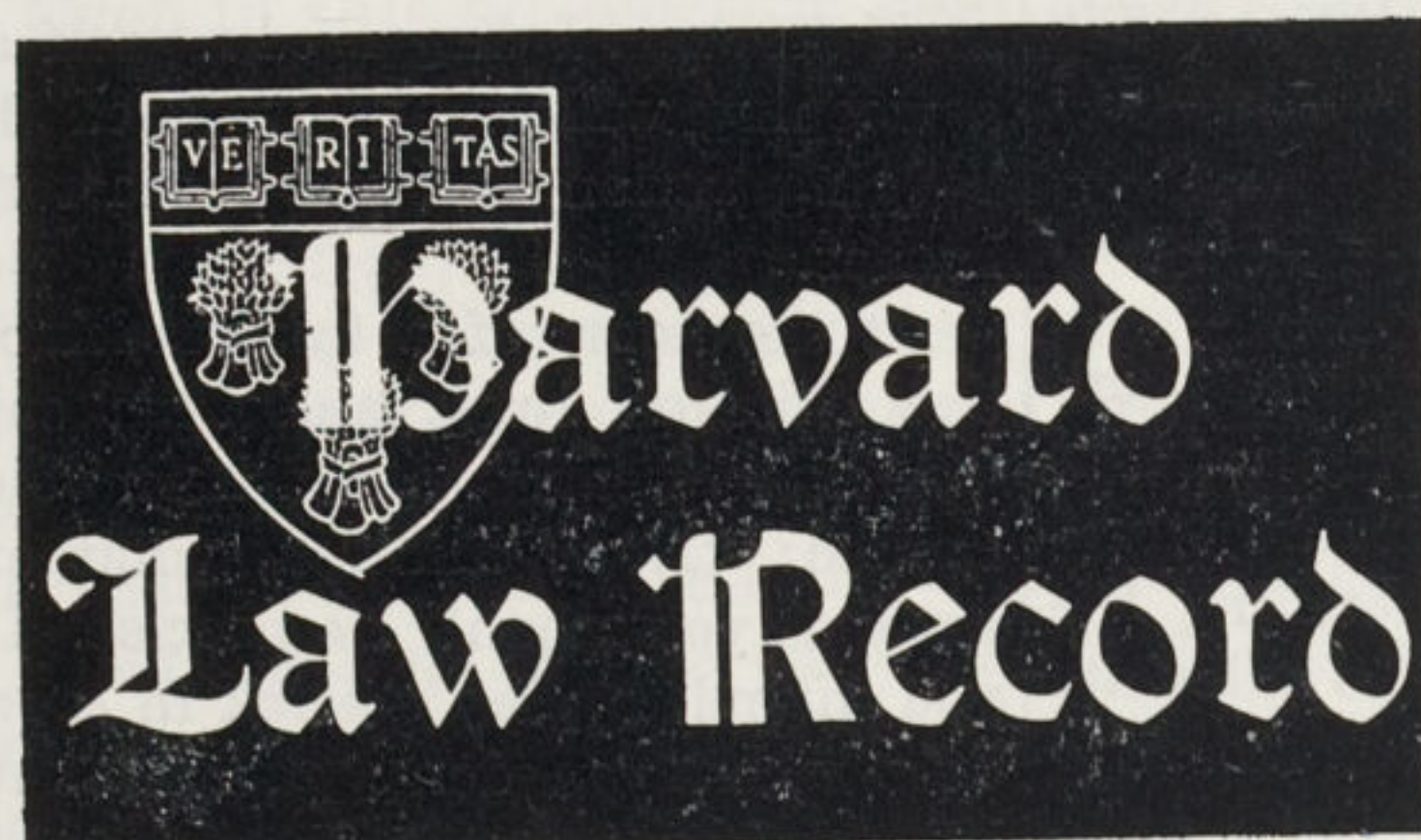
Miss Coen found that while judges considered relevant to the determination of the bail the factors of employment history, family life, and years spent in the community, they rarely have any such information before them.

Vera's Manhattan Bail Project sought to remedy this with pre-arraignment jail interviews, hasty verification, and written recommendations to the judge for release without bail in appropriate cases.

The technique had great statistical success. Those released on their own recognizance who "jumped" trial were comparatively far fewer than those who jumped bail. The city itself now plans to take over this operation.

It is a complexity of factors which makes the bail problem so acute today, Miss Coen explained. The criminal courts claim to be

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R. F. K. To Speak

Defenders Convene

Attorney General Robert F. Kennedy will address the concluding dinner of a conference on the defense of indigent persons accused of crime here tomorrow. The conference is sponsored by the New England Law Institute.

In closed sessions held today and tomorrow, the conference will explore the responsibility of the organized bar in New England to provide adequate defense for indigent defendants, stressing both the problems faced in this social and legal area and solutions which should be tried in the New England states.

Panels this afternoon and tomorrow morning will deal with three facets of the meeting's topic:

- The Scope of Legal Obligation to Provide Counsel.
- Methods of Providing Defense.
- Problems Common to All Defense Systems.

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Goldberg on World Law

Associate Justice Arthur S. Goldberg will speak on "World Peace Through World Law" in Sanders Theater at 8 p. m., Wednesday, Nov. 6.

The address will mark the second Dag Hammarskjöld Memorial Lecture sponsored by the Harvard-Radcliffe World Federalists and Radcliffe College.

Roscoe Ipse Loquitur



Dean Pound celebrates his 93rd birthday. See page 10.

Search for the Qualified Negro

What is Harvard doing to recruit Negroes to its law school? We asked this question nearly two years ago after NAACP Counsel Jack Greenberg urged action by law schools and the bar during a speech here. We asked it again this week in light of stories on the Ivy League colleges' active recruitment drives in the South. The situation has not changed much in two years.

Are we doing anything? Yes, says Admissions Director Louis A. Toepfer. Are we getting anywhere? No, he laments.

Administration officers visit Negro colleges. They specially encourage Negro applicants who appear to be qualified. They tend to judge Negro candidates by whether they will be able to do the work, rather than by comparison with other applicants, thus stretching the admission requirements slightly in their favor. They try to alleviate financial problems. In general, they try to make clear that Harvard education is open to anyone without discrimination.

But the real problem, Dean Toepfer says, is that there are so few qualified applicants. To illustrate, he said in 1962 (RECORD, March 29) that the average LSAT score at Harvard College was in the high 600's while the average at two well-known Negro universities was only slightly over 400, with only one or two scores over 600. It does no good, he says, to encourage applications from people who would not be able to do the work. The Law School has had some bad experiences where standards were stretched so far that the Negroes flunked out.

He also said that many of the brighter Negroes go into science or engineering, where more opportunities have been open to them. They do not exhibit as much interest in the law, although the School is trying to reach potential candidates earlier in their education.

We can only hope that talented Negroes will be encouraged to consider their opportunities in the law. The whole civil rights movement evidences the need for legal leadership. The only real solution lies in improvement of education at all levels. But the situation requires a positive effort to get qualified Negroes into law schools now.

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TONGUE 'N CHEEK

By Fenno

Who wants to go begging? Watching is more fun. Last year at Halloween I disguised myself as a weeping willow and watched the begging action at some professors' houses.

At the home of a tax professor, two children rang, and then said "Trick or treat!" A southern voice replied: "Now, children, what exactly do you mean? Be precise. Do you intend to play a trick in *every* case when you don't get a treat? Who defines 'treat'? Shouldn't you really say . . .?" Finally, the children were rewarded—with five Penguin eggs apiece. "That cuts both ways," the children yelled as they slashed his tires.

At his restricted estate, a property professor arrived home, a grin on his face and a bar of soap in his hands. He sold to the children copies of a book: "Elementary Edition of Estate Planning." The book had lots of pictures, including two group shots of the Black Family (before and after Mr. Black's untimely death on the day he received his attorney's bill). The children were instructed to color the pictures.

The children who rang the bell of one torts professor were given two surprises. First, there were spring guns. Next, for those remaining, a gorilla answered the door. He carried an axe. A sign tied around his neck read: "I *appear* to be a gorilla. I *am* a gorilla. Conclusion: Give me all of your candy."

As I inched my way home in my weeping willow costume, one father shepherding his children leaned against me. He too was a professor. His children were begging for candy, money for UNICEF, and rags to improve the acoustics in Langdell North. He was saying: "Well, Amy, we'll work it like a pooling agreement. Since you and Bill collected a total of twelve candy bars, we'll agree to vote to split it three ways. I get seven, and you each get two-and-a-half."

Boo-hoo, I weeped.

Faculty Involved in '63 Politics

By Neal W. Johnston

Even in this off-election year, a substantial number of Law School faculty members are engaged in the business of being candidates, committeemen, and campaign managers. While many Harvard professors are known for their contributions to the national political scene, a brief survey of the faculty shows an interest no less intense in local, civic elections.

Most notable is the candidacy of William Bruce, Assistant Dean, who is running for the position of alderman in Newton.

Already in office are Professors Livingston Hall and Richard Field, who serve, respectively, as town moderators of Weston and Concord.

The function of the town moderator, who is elected by popular vote of the entire town, is to preside at town meetings.

Weston, with a population of 8000, is still small enough to retain an unlimited town meeting as its form of local government. Every citizen who wishes may attend the meeting and vote: the meeting determines such questions as taxes, zoning, school policy, and the town budget.

According to Field, attendance at a town meeting in Weston runs from 10 to 30 percent of those eligible. He confesses that if many more were to attend, the meeting would have to be canceled for want of adequate space.

Some communities are too large to continue to operate in this way, but, rather than abandon the town meeting idea entirely, have opted for an elected 'town meeting,' where the entire population picks some two or three hundred men to represent the town in the meeting.

One such community is Belmont, and among the town meeting members of that community are professors Robert Braucher and Albert Sacks, and Dean Griswold.

According to Russell Peck, Secretary of the Law School, most of the politically active professors living in Cambridge work through the Cambridge Civic Association.

Peck is presently serving as campaign manager for Gerald Gillerman, a CCA endorsed candidate for the Cambridge City Council.

The CCA was formed in 1945, and grew out of the successful community effort to change

the Cambridge form of government from a highly corrupt and highly partisan one of classic text-book description, to the present nonpartisan city manager scheme.

Nine men are elected to the city council, and from their number they elect the mayor. They also hire the city manager. In a separate election, six other men are elected to the School Committee, on which the mayor sits as chairman. All elections are on the basis of proportional representation.

Professor James Vorenberg, a past president of the Association, explains that the CCA not only endorses candidates, but also

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Dean Bruce is taking his first plunge into elective politics in this campaign. Newton (population 94,000) will be electing 24 aldermen and a mayor on Tuesday; Dean Bruce is competing with four other men for two posts in the non-partisan city-wide election.

Although running at large, Dean Bruce represents Ward Six, which includes Chestnut Hill and Newton Center.

He said early this week that he has been speaking every night for nearly a month at one gathering or another in all parts of his city. He noted that as chairman of a group supporting the pay raise (for Mass. legislators) referendum he acquired 200 workers who have been actively supporting his candidacy.

The Aldermanic group, which meets weekly, is the city's legislative governing body, examining and passing on recommendations of the mayor and professional civil servants.

HLS Men Teach Rights Law

Three third-year Law School students, John G. S. Flym, Owen M. Fiss, and Robert J. Sugarman, will instruct college-age Negroes and whites in the legal aspects of the civil rights movement. Their educational role is part of a larger effort, planned to start next week, designed to give young Negroes in the Boston area a better idea of their heritage, their leaders and their opportunities.

Other aspects of a three-faceted teaching program, which constitutes the heart of the effort, are a study of the psychology of the civil rights movement — primarily elaboration of the fact that more is accomplished through compromise than through extremism — and the economics of integration — information as to the job opportunities Negroes now have and how to take advantage of them. The law students intend a fairly intensive study of civil rights law with an accent on problems which face Negroes.

One of the prospective teachers said that "the purpose is not to indoctrinate but to discuss legal problems with the hope that these people will adopt their own attitude. The need is for the people affected by these problems to understand them. At present they don't understand them — they just react."

Another Law School student, Elliot C. Lichtman, 3L, has undertaken to provide a panel from the Law School community for a forum program planned in conjunction with the teaching program. The panelists sought are articulate persons, especially interested in civil rights problems, not "experts" on the subject.

The project is the inspiration of Herbert Fajors, a member of the NAACP and PAC (Positive Action Committee). The Youth Council of the NAACP has advertised it in churches with Negro or part Negro congregations in Boston.

Wives Plan Beer Party

The annual Bavarian beer party for married students, sponsored by the Harvard Law Wives, will be held on Saturday, Nov. 9 at 8 p. m. in Harkness Commons.

Tickets, which cost \$2 per couple, may be obtained at the door, or from Elizabeth Lazeroff, Carol Stadum, Susan Thomas and Rita Walker.

Jamaican Constitution Discussed

Sir Neville Ashenheim, Jamaican Ambassador to the United States, directed his remarks primarily to what he termed "the exotic provisions" of the recently enacted Jamaican Constitution in a talk last week to the International Law Club. Sir Neville played a key role in the drafting of the document during 1961.

The Jamaican government is headed by a prime minister who at all times is armed with the power to dissolve the Parliament. As a countervailing force, the Parliament is able to remove the prime minister by a simple majority resolution. The anticipated result is that this arrangement will encourage swift governmental action. In the event of a stalemate between the prime minister and the Parliament, each can oust the other and the issues will be presented to the electorate.

More Detailed Provisions

In marked contrast to the United States Constitution, that of Jamaica is much more detailed in its provisions, particularly in the area of civil rights. Sir Neville explained that the intent was to obtain immediate certainty of the law. Leaving the express delineation of constitutional provisions to the judiciary would necessarily involve a period of ambiguity until sufficient cases had been decided. To provide an element of "elasticity" the constitution contains a clause allowing courts to strike down as unconstitutional laws which can be shown to be "unreasonable" (a clause which may in the future be a "headache" to the judiciary, Sir Neville observed.)

Should the present equal balance of political parties ever degenerate to a dangerous imbalance, the constitutional drafters have armed the minority with special powers unique, Sir Neville believes, in the history of constitutional government.

The leader of the minority (defined as the leader of the most non-majority members of the House) is guaranteed a salary from the state, the power to appoint eight of 24 Senators in the second branch of the Parliament and a voice in appointing key officials in the judiciary. If the militancy of a majority becomes exceedingly threatening, representatives in the minority may stay away from the legislative session and still make their presence felt: by abstaining or staying away, a House member votes "no".

Study Conducted on Bail System

(Continued from page 1)

too busy and understaffed to adequately investigate the backgrounds of everyone brought before them. Many District Attorneys tend to recommend bail according to their evaluation of the suspect's danger to the public, or what he "deserves," criteria difficult to reconcile with a presumption of innocence. Excessively high bail is not easy to overturn on review; it is a question of discretion.

The jails and detention facilities are crowded with people who cannot afford bail bonds. Vera studies show that many indigents remain for months until their trials. Jobs are lost and defenses are less adequately prepared. The dividing line is strictly economic; the rich go free and the poor do not.

Wardens have suggested that being detained before trial is psychologically debilitating for many in a way that a prison term is not; the outcome is unknown and they are never sure how long they must remain. Bail bondsmen have absolute discretion as to whom they shall bail, and abuses of this discretion are impossible to prosecute. They may discriminate at their whim or prejudice, subject to no review.

Miss Coen made studies of detention practices in Passaic County (N. J.), Nassau County (N. Y.), Philadelphia, and five principal Southern cities. She is presently preparing a report on conditions in Boston. Her projects involved discussions with District Attorneys, wardens, judges, bondsmen, probation and welfare officials.

Miss Coen's reports contained descriptions of the process of bail determination, statutory regulations, prosecutors' bail "schedules" for different crimes, criteria used for setting bail, procedures for review, jail facilities, and the role of the bondsmen.

Hellerstein conducted his study in Denver. He reported that although similar problems exist there, they are not as aggravated as in the Eastern metropolitan areas. Denver's particular crime problem is the "transients" or cross-country criminals and escapees.

"But it is a smaller community than New York," he said "and people tend less to get buried in a jail without help." By order of the Colorado Supreme Court, law students defend the indigent in the municipal courts,

Hellerstein reported. He indicated that these rather special facts lend some justification to the bail system as it exists in Denver.

The Vera Foundation was begun in 1961 by a chemical engineer, Louis Schweitzer, to study the deficiencies in our present bail system and to seek alternatives where they are needed. It is directed by Herbert Sturz of New York, and has a small staff composed mostly of law students working either full-or part-time for the Foundation.

A National Conference on Bail and Criminal Justice is being planned by Vera and the Department of Justice for the spring. This will be a culmination of its work to date in the area of bail and pretrial release problems, and will serve to assemble, codify and disseminate existing information, and to focus the national public attention on these problems and possible solutions.

SLRB Plans Year's Work

The Student Legislative Research Bureau has expanded its program this year to include the editing of a journal centered on the problems of the legislative process, in addition to drafting of statutes.

Karl V. Hart, 3L, the Bureau's President and Editor, said the first edition of the journal is planned for January, with a second in June. Authors contributing to the January edition include Prof. F. Reed Dickerson of the Indiana University Law School, California State Senator James Cobey, and David Anderson, LL.B. '63. The issue will also feature draft statutes which the Bureau has produced in the past.

This year's drafting projects will include such diverse subjects as a Motor Vehicle Code for Maine and a model statute for the certification of teachers. Other areas where statutory work is planned include the annexation of adjoining land by growing cities, search and seizure in view of *Mapp v. Ohio* and other recent cases, conflict of interest situations, and purchases by state agencies.

Alan R. Spier, 3L, the Bureau's Vice-President for Legislation, said that the Bureau's clients range from Congressmen to local and municipal officials and private associations.

Ames Semis: Tort, Antitrust Cases

For the first time all-judge courts will be used this year in the semi-final round of the Ames Competition.

Both semi-final cases are based on actual cases still in litigation in the federal courts.

The first contest on Tuesday, Nov. 19, matches Marshall Equity, represented by counsel Arthur J. Lombard, 3L, and J. Laurent Scharff, 3L, against Curtis M. Caton, 3L, and John F. Olson, 3L, counsel from Bevins Law Club. Hearing the argument in the Supreme Court of Ames will be Hon. Carl McGowan, U. S. Court of Appeals, District of Columbia Circuit, Hon. James B. Craven, Jr., Chief Judge, U. S. District Court, Western District of North Carolina, and Hon. Oscar H. Davis, U. S. Court of Claims.

The case, arising out of an airplane crash in the harbor of Boston and involving wrongful death and survival actions, concerns the

propriety of a transfer of venue from a federal court in Pennsylvania to Massachusetts, where the two districts apply different standards in measuring damages.

One of the respondents' counsel in the actual case, plaintiffs' in the original action before the Supreme Court of the United States, is planning to attend the Ames argument.

The second case of the semi-final round, to be argued Monday, Nov. 25, finds plaintiff Griswold Equity Club with James D. Lorenz, 3L, and Joseph A. Wheelock, Jr., 3L, counsel opposing defendant Scott Club with Henry C. Miner III, 3L, and Lewis E. Striebeck, Jr., 3L, counsel. Judges will be Hon. Thurgood Marshall, U. S. Court of Appeals, Second Circuit, Hon. Edward Weingeld, U. S. District Court, Southern District of New York, and Hon. C. William Kraft, Jr., U. S. District Court, Eastern District of Pennsylvania.

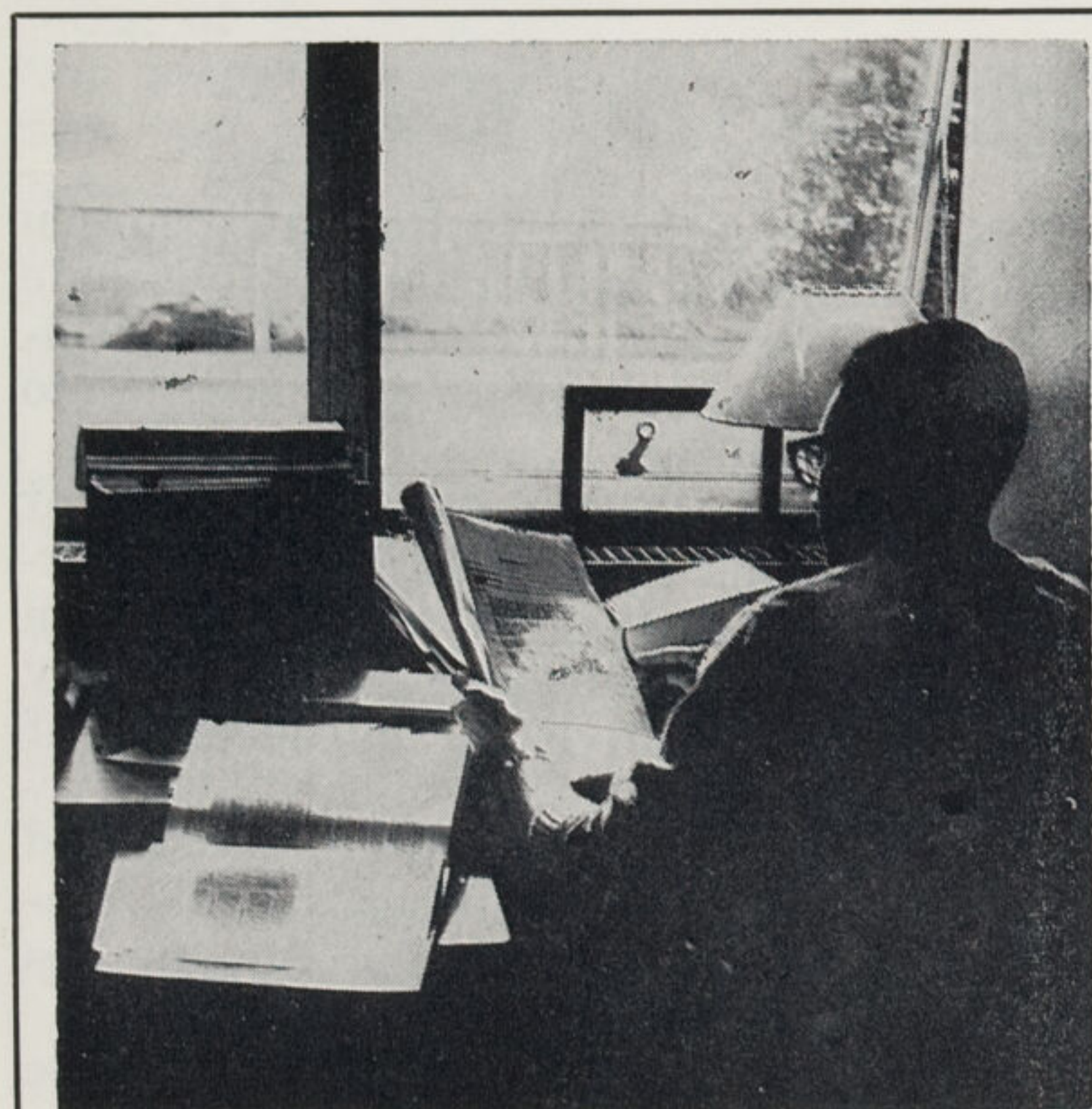
This Ames case, a criminal antitrust action, involves questions of the extent of immunity from prosecution and the right to a separate trial of one of the defendants who testified before a grand jury on some of the matters in question.

Williston Entries Turned In

Battling for an eventual \$500 in prizes, seven teams submitted entries in the semi-final round of the Williston Competition last Thursday.

Two teams, whose entries will be judged by Harry L. Kirkpatrick, Esq., of the Boston firm of Fisk, Richardson & Neave, competed on the problem of drafting a foreign licensing agreement. Three other teams drafted a joint venture agreement. Benjamin F. Crane, Esq., of the New York firm of Cravath, Swaine & Moore, will judge their entries. The two remaining teams sought to solve a problem of drafting control arrangements pursuant to the formation of a close corporation. Their judge is George Brownell, Esq., of the firm of Davis, Polk, Wardwell, Sunderland & Kiendl, also of New York.

Three teams selected on the basis of this semi-final round will compete in the final round of the competition next semester. The team winning the final round will receive a first prize of \$250. Second prize will be \$150, and the third prize winner will receive \$100.



Ignoring fair weather outside, a participant in the first-year Ames arguments calmly peruses his opponent's undoubtedly tendentious, not to say foul, argument headings.

What difference does it make that opponent's client is a modern reincarnation of Jean Valjean? The law in 27 of 50 states supports our friend's arguments in rebuttal.

And opponent's citations! Not a single opinion written before 1950. He has completely neglected the immortal words of Oliver Wendell Holmes and Joseph Story, not to mention Judge Spencer Roane, of Virginia.

Our friend reflects: the argument's a cinch — maybe a sunbath is in order, after all.

Research Money - Applicants Needed

By Walter V. McLaughlin, Jr.

The Walter E. Meyer Research Institute of Law is faced with a problem. It may not be able to spend all its money.

The Institute was established in 1957 under the will of Walter E. Meyer, LLB '04, "to throw light on matters which will be of aid in securing to humanity a greater degree of justice." Harvard Professor David F. Cavers, the Institute's President, recalls that the value of the bequest was highly problematical. Shortly after Meyer's death, however, court decisions on the voting rights of the stocks involved greatly strengthened its position. Each time a block of stock has been sold, the price has been substantially higher.

As a result, Prof. Cavers pointed out, despite disbursements for research totalling some \$597,000, the Institute now has assets of about \$2.5 million more money than it had when it was founded. The problem lies in the will's stipulation that all of the funds be spent within twenty years.

Prof. Cavers said that the Institute has made relatively modest grants to recognized experts in many fields of the law. One example would be \$8,610 given to Stanford University for a study by Prof. Lowell Turrentine of the thirty-year record of the integrated California bar in the exercise of its disciplinary powers. The largest single grant was \$100,000 to Columbia, Harvard, New York and Yale Universities, for Walter E. Meyer Research Professorships and other research support. Prof. Paul W. Tappen of Berkeley is presently a visiting Professor at Harvard under this grant.

Areas of particular interest to the Institute, as outlined in its report for 1960-62, have been what might be called "Law and the Common Man" and "Justice in the Big City." The first is the study of justice in matters that touch the lives of a great many people. This involves research into such topics as reparation for automobile injuries, the administration of criminal justice in petty offenses, and problems of domestic relations.

"Justice in the Big City" is shorthand for the complex of legal problems arising out of the increasing urbanization of American life. This includes problems of obsolescence of local governmental frameworks, the organi-

zation and control of community services, and the inevitable conflict between the rights of the individual and the interests of the general community. The Institute has recently been given a grant of \$500,000 by the Ford Foundation to be spent in this area of research over the next seven years.

The Institute has given only a few fellowships as such. The major experiment has been the establishment of two annual grants to help support legal scholars in residence at the Center for Advanced Study in Behavioral Sciences, located at Palo Alto, Calif.

Prof. Cavers said that "the number of applicants in the Institute's areas of interest has been disappointing." He expressed confidence, however, with the whole area of the law before it, not to mention the social sciences generally, the Institute would find sufficient projects to expend its funds.

Rights Conference at Columbia

Nearly a score of prominent personalities in the civil rights movement will discuss the law student's role in civil rights at a two-day conference at Columbia Law School next Friday and Saturday.

The conference, sponsored by the Law Students Civil Rights Research Council, will include a series of addresses and seminars designed to acquaint any interested student with concrete situations and opportunities for work. Joel F. Henning, head of Harvard's Civil Rights Auxiliary Group, will forward registration fees and requests for free rooms for anyone wishing to attend.

The program is outlined below:

Friday: Address by Jack Greenberg, Chief Counsel, NAACP Legal Defense Fund; panel on The Right to Protest, including Constance Baker Motley of the NAACP Fund; after dinner speech by Judge J. Skelly Wright of the D.C. Circuit; address by Birmingham attorney Charles Morgan; seminars on De Facto Segregation in Northern Schools and The Negro Ghetto and the Neighborhood Common.

Saturday: Seminars on Administration Civil Rights Legislation; The Law Student and Summer Field Work; Labor Discrimination, Unions and the NLRB; a panel discussion on pending legislation, including Harvard Professor Mark Howe; and a discussion on The Negro, Discrimination and the Legal Profession.

New Sound System for LNM

Law School professors who teach in Langdell North Middle will be able to save their voices in the future. A brand new high fidelity public address system has been installed in the room.

Secretary Russell H. Peck said that the contrast in sound quality between the middle rooms in Langdell Hall and the end rooms, where problems were radically reduced by changes made this summer, had produced a fuller recognition than before of the inferior sound quality in the middle rooms.

The new sound system is rigged so that "anyone" can operate it, Secretary Peck said. The controls include a switch and a volume adjustment dial which allows variation within a range limited to prevent feedback. A professor who uses the system has a choice between a stationary and a walking mike. Some Professors prefer a stationary mike to one which hangs around their necks, the Law School Secretary said.

Lockers in Harkness Commons?

Complaints of thefts in the hallways of Harkness Commons have decreased this year, Vice-dean Louis A. Toepfer reported recently.

Dean Toepfer feels that the warning signs put up by Dining Hall Director Warren Thompson and precautions taken by students themselves have helped cut down the number of petty stealings.

The main student precaution resulted in the rush to rent law school lockers. Exemplifying this hurry was the curling line of overheated students surrounding the receptionist's desk and plugging Langdell Hall's center hallway off and on during the opening days of school.

An idea of Stuart Hall 3L, submitted to the Dormitory Council last year, would put coin lockers in the Harkness coat-rack area as a further preventive measure. Dean Toepfer and Secretary Russell Peck are considering that idea now.

In the meantime, Dean Toepfer urged students to make use of the Langdell facilities, promising that if the school runs out of lockers he will acquire more.

Defenders' Conference

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Addressing the conference on the first of these topics will be Law School Prof. Arthur Sutherland Jr. Speaking on the other topics will be New York attorney Whitney N. Seymour, chairman of the ABA special committee on defense of indigent persons accused of crime, and Arnold S. Trebach, administrator of the "Defender Project" of the National Legal Aid and Defender Association in Chicago.

Prof. Charles Fried of the Law School will be the reporter for the panel on methods of providing defense.

The program is set up so that the representatives of each New England state will meet privately to analyze the problems of that state and later will join the panels to hear of and discuss the pros and cons in general of various methods. The proximate object is to find the best system of representing indigents applicable to each state.

The ultimate objective of the conference is to attract more and better talent to the practice of criminal law, especially as defenders. Also sought is a means of improving the public image of the criminal lawyer. To this end men responsible for the defense of indigents were invited to attend.

Faculty Politicians

(Continued from page 3)

solicits them, and while it cannot directly provide them with campaign funds, it can facilitate their finding of such funds.

Peck, himself a past CCA president, strongly favors proportional representation, in that it enables significant minority groups who would otherwise be unrepresented to obtain voices on the council.

The CCA confines itself strictly to Cambridge affairs. It does not endorse candidates either for Congress or the Massachusetts legislature. Vorenberg explains that the only exception to this is that the Association has occasionally had to lobby in the State House to protect those state statutes which authorize the city manager form of government.

The Association has a sixteen-point platform for the Council elections, ranging from concern with urban renewal and zoning code enforcement to housing for the elderly and historic districts.

U.S., Australian Students Compared

By Peter F. Knopp

Visiting Professor Zelman Cowen, Professor of Public Law and Dean of the Faculty of Law of the University of Melbourne, Australia, proposes a contrast between the average law student at the University of Melbourne and the average Harvard law student which is strikingly suggestive of the ethos of the two institutions.

"In Australia a boy seventeen years old, fresh out of high school, will enter one of the state law schools. Private schools do not exist beyond the high school level. In most cases he will go to a school in his own state. Melbourne has a selection process, but we don't have the opportunity to select on a national basis.

"Our man, being younger, can't be subjected to the same work pressure as in the United States," said Dean Cowen. "He is more confused, immature; our pace must be less rigorous."

Dean Cowen believes that "a man is a better subject for legal instruction when he is more mature and has had a more extensive pre-legal education." However, he expressed concern and doubt at the "immense length of the educational process in the United States and wondered whether 'the educational experience was commensurate with the time expended. Four years plus three years is a very long time," he said.

Dean Cowen is not exactly the product of cram courses himself, having earned five degrees, three from the University of Melbourne and two from Oxford where he was a Rhodes Scholar in 1940 and a Fellow of Oriel College during 1947-50.

"There is no comparable competitive atmosphere at Melbourne," said Dean Cowen. "Everyone at Harvard is striving, battling; our majority are 'pass men,' they just want to pass. Only a few at the top are fiercely competitive."

Dean Cowen explained that "in terms of hiring and recruitment, the tendency in Australia is not to emphasize law school performance. A number of our best men become barristers, single operators, and so are not immediately involved in the hiring process."



Prof. Zelman Cowen

The image of a lawyer to the Australian law student is that of "a comfortable office lawyer not profoundly influencing the course of events, having a good social standing. The ambitious hope to be judges or enter politics. Few of them are considering a career as public servants."

Dean Cowen said Harvard students "have all sorts of views. They want to be big time . . . big tax lawyers . . . big corporation lawyers . . . be the kings . . . it's powerful . . . no one stops to look over his shoulder . . . anybody who's anybody is going somewhere."

"The values of Harvard Law School," said Dean Cowen, "are the values of tough excellence. It is not an introspective place, but very analytical. No one can fail to admire it."

Wooed but not won by Oxford's cloistered classicism, Dean Cowen believes that "the traditional classical education leaves a man at sea in this world." Dean Cowen is "fascinated by the problems of automation," and he believes that "it necessitates a knowledge of technology and of the scientist himself."

Although Dean Cowen may not exactly bestride the gap between "the two cultures" like a colossus, it is no exaggeration to say that he has a finger in every pie. He appears

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Alumni Fund Seeks \$900,000

The Fourteenth Annual Meeting of the Harvard Law School Fund Organization was held here last Saturday. More than 100 Fund workers from as far as California and from classes back to 1902 heard Dean Erwin N. Griswold speak on the importance of the Fund to Harvard Law School.

The goal this year is \$900,000 to be used for financial aid, building renovations, and library improvements. It is planned that \$610,000 will be expended to maintain the Financial Aid Program in face of increased tuition and to move toward a comprehensive program for first year students. Another \$250,000 will go to pay for the renovations made this summer and to continue Langdell classroom improvements. \$40,000 will be used to introduce modern research facilities into the Library.

The National Chairman for the organization for this year, Squire R. Ogden, '23, Louisville, Ky., hopes that the fourteenth annual drive will set records for the total amount given and for the percentage of the graduate body contributing, as did the twelfth and thirteenth. Graduate body participating, was 48.6% last year, the highest ever; but still less than a majority. It is hoped that this year will see a majority contributing.

Assistant Dean Wesley E. Bevins, Jr., Director of the Fund, said that a two pronged attack is being mounted by the Fund Organization to meet its \$900,000 goal. First, beginning immediately, State and District Chairmen and committee members will contact alumni soliciting contributions. Then, around January, the Class Agents for each class will contact their members who have not already given.

According to Dean Bevins, a start has already been made. The Fund office had received over \$80,000 toward its goal from early contributors, according to a count made October 23rd.

ILC Sherry Party Tomorrow

The International Law Club will hold a sherry party tomorrow at 5:45 p. m. in the Harkness Commons meeting room. Abram Chayes, legal advisor to the State Department, will attend.

Pound Celebrates His 93rd

By Daniel J. Kucera

Spry and quick-witted, Dean Emeritus Roscoe Pound celebrated his ninety-third birthday in an informal, homey manner Monday. As he entered his room at the Stillman Infirmary, where he now resides, the Dean was greeted by a chorus of Happy Birthday sung by an enthusiastic gathering of nurses and friends.

"Well, what shall I say to my always good friends? This is wonderful!" he exclaimed.

"I thank you people who have had to endure me for the time that I have been 'imprisoned' here," the Dean apologized. "I do not pretend to be a model 'prisoner' — patience was left out of my constitution when I was built."

As Secretary Russell H. Peck clicked away at his camera, a nurse tried to fix the Dean's tie. "Tying a tie is a man's job," Dean Pound proclaimed with judicial humor. "Yes, but most men learn it from women," interrupted Assistant Dean William L. Bruce.

Shortly before the party, Dean Pound chatted about his latest law review article, *Runaway Courts in the Runaway World*, in 10 U. C. L. A. L. Rev. 729 (1963). "The term *runaway court* comes from the runaway horse in a trotting race like they used to have in an old-fashioned country fair," he explained. "Every once in a while, a horse would take a notion to break into a run and that would upset the whole race. Some horses were artists and would come back under control at the right moment — but others were mischief makers."

Can we control courts that run away from the law? "That raises the question whether courts in applying the law are under an obligation to treat a legal proceeding as a horse race and follow an artificial pattern of mechanically applying rules or whether they can do it better in a natural pattern." In his article, Dean Pound concluded that courts should not be held to an artificial conventional trot when the exigencies of reason in a growing world demand a natural gallop. "We're using figures of speech here, however, and there is nothing more misleading than taking figures of speech too seriously."

Dean Pound's article, photographs, and various memorabilia are on display this week in the main reading room of Langdell Hall.

Women Seek Equality With Men

By Daniel J. Kucera

It's a man's world, but the "weaker" sex may be taking over soon!

What's all the shouting about? That is what the RECORD asked Professor Frank E. A. Sander, a member of the committee on political and civil rights of President Kennedy's Commission on the Status of Women. Formed in 1961 under the leadership of the late Mrs. Eleanor Roosevelt, the Commission presented a report this month which may have a significant effect on the status of the nation's females.

After surveying current laws and opportunities, the report called for a general recognition of the equality of the sexes, a greater development of women's potentials, and a fuller use of their present abilities. For America's 96 million feminine mystiques, it is hopeful and inspiring; for the minority — the henpecked husbands and pursued boyfriends — it was challenging, if not downright frightening.

Although Professor Sander considers Mrs. Sander "a relatively emancipated wife," he believes that there is a great need to examine and improve the status of the fairer sex. Thus, he looks upon the Commission's work as an important first step in a vital direction.

Among the areas that Mr. Sander's committee investigated were laws and official practices which distinguish among persons solely on the basis of sex. States or the federal government may create classifications for the purpose of legislation, if they are based on reasonable grounds. However, the committee concluded that many of the present laws which treat men and women differently simply do not appear to be reasonable.

For example, only 20 states permit women to serve on juries on the same basis as men. In Alabama, Mississippi, and South Carolina, females are prohibited from jury service. And, in the other states, they can claim exemptions not available to the masculine sex.

The rationale for such distinctions is found in cases like *Hoyt v. Florida*, 368 U. S. 57 (1961): a "woman is still regarded as the center of home and family life;" and *Bailey*

v. State, 214 Ark. 472, 217 S. W. 2d 424 (1949): "Criminal court trials often involve testimony of the foulest kind, and they sometimes require consideration of indecent conduct, the use of filthy and loathsome words, references to intimate sex relationships, and other elements that would prove humiliating, embarrassing and degrading to a lady."

Moreover, in spite of the Civil Rights Act of 1957 which now makes women eligible to sit on all federal juries, the committee found that this new statutory right has not yet been given full effect in all districts.

Within the committee, Professor Sander was also chairman of a subcommittee on property rights and family law. In this area, the report concluded that the principal problem centers around the treatment of married women. In fact, *single* girls are in pretty good shape. They enjoy equality of legal treatment with respect to property and contract law, while married women are denied such equality.

Thus, in most states — regardless of Married Women's Property Acts — old common law disabilities, which once made the wife a virtual legal nonentity, still exist in one form or another. These anachronisms include: a wife cannot enter into contracts, sue or be sued in her own name, convey property, act as surety or fiduciary, engage in business in her own name, or receive and control her own earnings. Only four states allow a married woman to choose and acquire her own domicile, independently of her husband and without limitation.

Another area of discrimination is in crimi-

(Continued on page 12)

Corporations Expert Speaks Tonight

The Business Corporation Law which recently became effective in New York State will be discussed tonight at 8 p. m. by James J. Fuld, LL.B. '40, a partner in the firm of Proskauer, Rose, Goetz & Mendelsohn and chairman of the Corporation Law Committee of the New York County Lawyers' Bar Association. He will speak in the Ames Courtroom.

Status of Women

(Continued from page 11)

nal law. States often apply different standards according to sex. For example, in *Territory v. Armstrong*, 28 Hawaii 88 (1924), the court upheld a statute which gave a lighter punishment to females than to males for committing adultery.

It concluded that the classification was reasonable and did not deny males equal protection of the laws. "We are fully aware that the trend of recent legislation has been to put women in all respects on equal footing with those of the opposite sex but, granting all this, the distinction between the sexes remains. Men and women remain men and women forever."

How can the status of women be improved? At various times, champions of female liberty have proposed an equal rights amendment to the Constitution. It would provide that "equality of rights under law shall not be denied or abridged by the United States or by any state on account of sex."

The President's Commission, however, concluded that such an amendment was not necessary at this time. It felt that equality of the sexes was already embodied in the Fifth and Fourteenth Amendments.

"The effect of the committee's recommendation will probably be to slow the momentum behind the proposed amendment," Professor Sander explained, "at least until the Supreme Court squarely rules on the issue and says that the Fourteenth Amendment does not protect against discrimination solely on the basis of sex." Thus, the Commission asked for early and definitive "judicial clarification" and told interested groups to give high priority to bringing under court review such cases.

In the property and family law area, Mr. Sander's committee made specific recommendations for revision—including removal of outmoded common law disabilities and greater recognition of married women's rights in marital property.

"We also pointed out areas for further study," the Professor elaborated. "We called attention to the need for more empirical re-

search in the hope of getting researchers interested in the problems." The committee also suggested the creation of a permanent commission on the status of women to carry out some of the recommendations and to do work that the present Commission was unable to complete.

An example of the kind of legal modernization desired is a bill which Mr. Sander had introduced in the Massachusetts legislature last January and which was passed last week. It abolishes an old prohibition against contracts between a husband and a wife. Prior to the new law, separation agreements leading to divorce were impossible without an intermediate trustee. Professor Sander pointed out, however, that "it takes a lot of effort to make even such a technical adjustment in the law."

Will full legal equality of the sexes have any social implications? Some spokesmen have attributed our higher divorce rate to the gradual emancipation of women. That is, wives are becoming more demanding and expect more out of marriage; and husbands cannot fulfill all of these demands.

Mr. Sander, however, feels that the real issue is incidence of "marital breakdown," not the divorce rate. Divorce is only a legal event, but not every disintegration of marriage ends in divorce. "The real question," he believes, "is what effect would new laws of marital property and alimony have on the rate of marital breakdown. In the absence of studies, we do not know enough and cannot predict that. However, breakdown is a product of the total situation—including personalities and environment as well as monetary reward and personal rights."

Professor Sander, who found his role a "worthwhile experience," chuckled that there was no male versus female partisanship on the committee. "Actually, I sometimes found myself more zealous to grant women rights than the women were to accept them!"

Although equality may be just around the corner and men cannot skirt this issue, they can be expected to resist. As the great Justice Holmes once said, "it will need more than the Nineteenth Amendment to convince me that there are no differences between men and women."

Scott Speaks of Traditions

"In my day, teachers at the law school were just ceasing to be characters," said Prof. Austin W. Scott, giving his traditional talk on Law School history and traditions.

Prof. Scott, whose own "day" at Harvard Law School involved over 50 years of active teaching, credited Christopher Columbus Langdell with the reforms that made the Law School "a great institution," after rather shaky beginnings. At one point in its early history attendance at the Law School, founded in 1817, dwindled to two students.

Praising Langdell for instituting entrance requirements, examinations and the case system, Prof. Scott said he thought Langdell was wrong in thinking cases were the only original source material worth studying. "Langdell didn't like statutes," he explained. Mentioning that Langdell was a rather dull teacher, Scott said "the case system succeeded because Langdell was not the only one to use it."

Scott characterized James Barr Ames as a "wonderful and kindly teacher" who was a master of the Socratic method. Scott thought

Ames and Samuel Williston were the greatest teachers he had known at the Law School.

Noting that he had always found it easier to be a professor than a student, Scott said that law professors should be great scholars and good teachers.

Prof. Scott, who is as much a tradition at the Law School as any of the men about whom he spoke, said that since his retirement in 1961 he has been "as busy as ever" but that he does miss teaching. Speaking of his own career Prof. Scott said, "I would rather deal with law than anything else; I would rather teach law than work with any other part of it; and I would rather teach law at the Harvard Law School than anywhere else."

No RECORD Next Week

Next Tuesday is Election day in many communities across the nation. Next Thursday there will be no RECORD. The connection? Absentee ballots, absentee editors — the spirit is catching. The RECORD will appear again on Thursday, November 14.

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Cowen

(Continued from page 9)

frequently on Australian radio and television as a commentator on international affairs and on panel and discussion programs.

Recently he spoke at a convention of Australian architects on "Repose, Reform, Revolution." He was an Australian delegate to the United Nations Seminar on the Role of the Police in the Protection of Human Rights. He is author of a number of text books and articles and recently published a short life

of Sir Isaac Isaacs, a distinguished Australian judge and public figure.

Dean Cowen has a great interest in the theatre. He goes to the theatre not for amusement and comedy but for tragedy and fantasy. About Anouilh he said, "I am taken into a world of unreality, of half-light and have a sense of an experience which only the theatre can give."

In a world of stifling specialization it is rare to meet a reincarnation of the Renaissance ideal; and yet Dean Cowen, interested in "practically anything I can understand," seems to be such a person.

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Freedom on Display

Six new books on various aspects of the history of freedom are on display in the center hall of the library reading room through Nov. 15. They are the result of work done under the auspices of the Center for the Study of the History of Liberty in America, founded in 1958 and directed by Oscar Handlin, Harvard Winthrop Professor of History.

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Letters to the Editor

(Continued from page 16)

civil actions. There is just as much need for a person to have a trial in a civil action as in a criminal action. . . .

In the United States, [trial judges] are elected on the basis of handshaking, personal popularity and partisan politics, which includes the federal bench to some extent. The vast majority of the trial judges know nothing of the trial of a law suit and learn it on the bench. Many serve only for a limited time, they may and do resign or retire to continue the practice of law, and they usually remain as partisans in politics. They do try a number of cases without juries by agreement of counsel. As for others, the juries are for the protection of the parties before them and of the trial lawyers. In substantially every state, if the trial lawyers do agree, they can waive juries and try cases before the judges. That they do not do so is proof enough of the belief

of the trial lawyers of the efficiency and wisdom of jury trials.

True, trial by jury is not an inexpensive way of settling cases and true, it does impinge upon the time of the jurors, but substantially every person who has served upon the jury believes this system to be fair, honorable and proper, is willing to devote some of his valuable time to such public service and if a popular vote were taken by persons who serve on juries, it would be more than 90% in favor of retaining the system.

Alternative systems would be either a judge trying these cases or a panel of administrative officers trying them. Unless and until we get the abolishment of contested election of judges as the Dean has suggested, that method is not satisfactory.

Having found before Workmen's Compensation bodies, Public Service bodies and the numerous commission administrative bodies of Washington the delay and congestion before those tribunals, the unskilled personnel who are politically appointed to serve upon them, it is with horror that any trial lawyer

thinks this could be a solution. To a professor's mind, this may seem adequate, but to those who do the work, it seems totally and necessarily inadequate.

The jury system has worked, will work and except for being abolished in countries under a dictator, does work throughout the world. True, it could be improved upon, but as Plato said, "Until Gods are like men and men are like Gods, these things shall not be."

Long live the jury system.

J. Campbell Palmer III, LL.B. '29
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**THE
COOP**

Letters to the Editor

(The following is excerpted from a letter to President Pusey on Dean Griswold's annual report. — Eds.)

Dear Sir:

... When [Dean Griswold] proposes to minimize or abolish the use of jury trials in most civil cases, with deep and due respect to the Dean, it is suggested that he is talking about a subject of which he has no personal knowledge.

It is doubted that the Dean has ever sat through a whole complete jury trial, conducted by responsible trial lawyers before a capable judge, and it is more seriously doubted that he has ever participated as active counsel in such a case. Hence, his views should be looked upon with some skepticism, as he is not speaking of a subject which he has either fully investigated or of which he is fully aware.

As an alumnus of the Law School and one who has participated actively in the trial of cases for nearly thirty-five years, together with the appeals of those cases to various appellate courts, I respectfully suggest that while my learning generally could not be compared with that of the Dean, my view of this particular subject, although perhaps prejudiced, is certainly that from one who knows rather than from one who believes.

The Dean asks the question, why should anyone think that twelve persons brought together should have any special capacity to decide controversies between persons? I would ask the Dean if he can explain the law of probabilities, why

a slot machine operates, why aspirin is a well-known medical cure and why gravity works.

We do not know the answer to the Dean's question or those others, but nevertheless, no one doubts that they do work.

For many hundreds of years, issues of facts have been settled and disposed of by twelve jurors. They represent in miniature a cross-section of that individual community and through their experience in life, are able, with few exceptions, to determine on which side the truth lies or where the probability of truth lies, better than any system yet devised.

In all my experience as a trial lawyer, I have never heard any of the thousands of trial lawyers representing plaintiffs, or the thousands of lawyers representing defendants, complain of the jury system. True, they may complain of an individual jury, as no system is perfect, but even the insurance companies who pay the bills in substantially all of the so-called automobile accident cases, do not complain of the jury system or wish it abolished.

Who does complain? A few lazy judges, and they are in the minority, who wish three months' vacation in the summer, which trial lawyers never get, who wish to try a minimum of law suits a week for a minimum number of hours, complain. Ninety-eight per cent of the trial judges who preside over jury trials are firmly convinced it is the only practical system of justice between persons.

Who else complains? A few professors, if I may say so, in their ivory towers who have never been in the heat of combat or sat in the trial of a contested case before a jury, looking from afar and using their reason, believe that the jury system is not a fair one and doesn't work. Those are the only complainers.

The Dean says that congestion exists in the trial courts. If he chooses to select a few metropolitan centers, this is true. Again, in more than 90% of the courts in the 50 states, including our federal courts, he will find this is not true. . . .

On the other hand, the appellate procedures where only judges take part are considerably delayed and it will ordinarily take two to three times as long to have a case perfected and heard as it will to have a case tried before a jury. . . .

He suggests that the jury trials be retained in criminal cases. Why? Most criminal cases arise out of some action which could or may be the basis of a civil suit — robbery, assault, improper driving of an automobile, are all related to

(Continued on page 15)

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