

Hazy Draft Mandate Reclassifies Law School



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Griswold Equity Wins Ames

Late News: Griswold Equity defeated the Morgan-Brown Club in the final round of the Ames competition, held on Tuesday, April 12, in the Ames Courtroom.

The case was heard by a three-judge court consisting of United States Supreme Court Justice Tom C. Clark, Paul C. Reardon of the Supreme Judicial Court of Massachusetts, and Reuben Oppenheimer of the Maryland Court of Appeals.

Gellhorn Advocates U.S. Adopt Ombudsman Idea

By John Spitzer

People suffering psychic lacerations after tangling with bureaucratic machinery need an Ombudsman, according to Walter Gellhorn, Columbia University professor of law, at the Holmes Lectures March 28-30.

"Typical cases handled by Ombudsman in countries I have visited would almost never be taken to court," he explained. "For instance, the Swedish fisherman's disagreement with a game warden's interpretation of the law, the Norwegian craftsman's demand that a licensing authority return his expired license certificate as a keepsake, and the Finnish townsman's dissatisfaction with local officials who insistently advised him how to

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Much Discretion Retained; 80 Is Minimum Score

Law students at Harvard must achieve the same scores as graduate students on the Selective Service College Qualification Test in order to retain their student deferments. The new guidelines for deferring college and graduate students were recently issued to local draft boards by Lt. General Lewis B. Hershey, Director of the Selective Service System.

The guidelines include a new category of "professional schools," in addition to "graduate schools." In the past a law school was not considered a graduate school because a large percentage of students were admitted before receiving the bachelor's degree. Presumably, the new category recognizes the changes in legal education over the past half-century and is meant to apply to law schools.

Professional and graduate students will have to attain a score of 80 on the test in order to remain deferred. Undergraduate students need only achieve a score of 70. Despite the action of the Selective Service in no longer classifying law students as under-

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Prof. Walter Gellhorn

Welfare, Housing Offices Need "Mr. Fixit"

(Continued from preceding page)

be a good neighbor when all he wanted was to be left alone."

He advocated an American Ombudsman on state and local levels in order to handle matters of this kind, and also to resolve the hotly contested issue of police civilian boards. "It is not sound governmental structure for citizens and police to fight one another in an adversary proceeding," emphasized the friendly, urbane speaker. "Police chiefs should in turn be responsible to an external critic or Ombudsman."

Public housing administration abuses was another area cited as needing an impartial overseer to make independent investigations instead of forcing an abused citizen to enter a costly maze of litigation. Prof. Gellhorn commented that unmarried mothers are often evicted from an apartment with such curt words as, "Go and never darken our doorsteps again. You have sullied the name of the Calvin Coolidge Housing Development." Illegal admission policies might be another field of investigation in this area.

Welfare administration is especially prone to bureaucratic "dehumanizing" and "autocratic condensation," he contended. "The welfare recipient frequently becomes insecure and submissive as a result. Instead of jointly attacking a problem of shared concern, the welfare staff member and the client have all too often ended by attacking one another." Reducing the "grimness of twentieth century life" through a combination father-figure, investigator and "Mr. Fixit" was a recurring theme of the lectures.

As prisoners currently have few means of making their dissatisfaction known "other than by rioting," Prof. Gellhorn pointed out how useful an Ombudsman could be to them. A conflict with a high school principal and students over what kind of haircut could be worn to school is another area where help is needed.

He urged that experimental Ombudsman systems be set up around the country to help alleviate "bureaucratic bungling." Stressing that an Ombudsman would not be expensive to maintain, he pointed out experiments would be easy to institute because they would

entail "virtually no organizational restructuring or change in administrative responsibilities."

"But there is a danger of over-reliance on what an Ombudsman could do," he cautioned. "Many Americans absorb the idea of an Ombudsman as though it were a well advertised household remedy for every ache and pain. Too many persons seem willing to suppose that God's in his heaven, all's right with the world of public administration so long as an Ombudsman is keeping an eye on operations. That is a dangerous fallacy.

"Administrative critics do not produce good government. They cannot themselves produce good social policies. They cannot themselves create sound social policies. They have no capacity to organize a competent civil service. They are at their best when calling attention to infrequent departures from norms already set by law or custom and at their weakest when seeking to choose among competing goals or to become general directors of governmental activity.

"Issues that concern the public at large without focusing upon individuals may per-

(Continued on page 6)

Alan S. Rapaport

Alan S. Rapaport, 2L, died of cancer on March 31st.

Mr. Rapaport was a 1963 graduate of Brandeis University where he served as president of the student body. He was also a founder of the Brandeis Invitational Debate Tournament. Several of his friends have proposed re-naming the tournament in his memory and have begun a fund to defray the tournament's cost.

Entering the Law School in 1963, Mr. Rapaport completed the first year with the Class of 1966, but was forced to suspend his studies the following year because of illness. Last fall he re-enrolled as a member of the second year class.

Those interested in aiding the Brandeis tournament memorial fund are urged to contact Robert Shrum, 1L, the Brandeis debating coach.

Prof's Praise Decision

N.J. Rules Defense Lawyers Must Be Paid

By Steven A. Goddard

A recent New Jersey Supreme Court decision that the state must compensate all counsel chosen by the court to represent indigents has won acclaim among the professors of criminal law at the Law School.

"We are satisfied the burden is more than the profession alone should shoulder, and hence we are compelled to relieve the profession of it," said Chief Justice Weintraub last month in announcing that, beginning Jan. 1, 1967, the State will pay all court-appointed counsel.

This decision follows *Gideon v. Wainwright*, in which the U.S. Supreme Court held that an accused criminal was entitled to counsel in state courts. Prior to this present case, *State v. Rush*, New Jersey law provided for payment only to attorneys appointed to defend against a homicide charge. New Jersey is the fourth state, following Indiana, Wisconsin, and Iowa, to give appointed counsel compensation in all cases.

Various members of the Law School Faculty involved in criminal law were asked their opinion of the decision, and they unanimously praised it. Professor Livingston Hall was particularly pleased with the decision.

"What is surprising is to find a state where the courts have that kind of power," Prof. Hall stated. "I think that if they have the power they should exercise it," he said. New Jersey courts have unique Constitutional powers over the regulation of all judicial matters.

"We have four or five courts in Massachusetts where no cases have been tried for a year because the Legislature hasn't appropriated money for court officers, and our courts can't take the initiative," Prof. Hall asserted. "These are district courts authorized for a two year experimental period to try cases with six man juries if the defendant consents," he explained. "The bill for court officers died in the last Legislature."

In a twenty-one page opinion the New Jersey Court rejected the state's Constitutional argument of deprivation of property

without due process, and based its decision on policy grounds. The ever-increasing complexity of criminal prosecutions was cited as one of the main reasons for the decision.

Details of implementing the ruling were left explicitly to the Legislature. The Court suggested, however, compensation at "60% of the fee a client of ordinary means would pay an attorney of modest financial success," calculating average office expense at 40% and



Prof. Hall

adding 1/3 of the normal profit. The courts presently appoint counsel alphabetically from Bar membership lists.

Professor Hall pointed out the New Jersey Court did not specify how the paid counsel was to be provided.

"What kind of system should a state use?" he asked. "Are you better advised to hire specialists as Public Defenders, or to use a rotating system? Which system is the more economical, and which gives better representation?" Prof. Hall indicated he favored the Public Defenders.

"A third alternative," he continued, "would be to pay the money to some charitable organization, such as a Legal Aid Society. In Massachusetts this wouldn't be possible," he stated, "due to a clause in our constitution, forbidding the appropriation of public funds to private charitable organizations."

(Continued on following page)

Uncle Sam Wants You!

(Continued from page 1)

graduates there was no indication that the Law School will award a doctorate to its graduates instead of the bachelor of law degree.

Friendly neighborhood draft boards may also continue to defer law students if they (1) have passed *directly* to law school after graduating from college, and (2) were in the top quarter of *male* students during the "last full year of work" in college. This apparently refers to the senior year average and not to the cumulative four-year average.

There also seems to be a general policy that graduate and professional students in the top half of the class will not be drafted. Vice Dean Louis A. Toepfer emphasized that these policy guidelines are not binding on the local draft boards and that "large gobs of discretion will be left with the local boards." He advised that students check with their own local boards for more accurate information.

"Law students had to take the same kind of test during the Korean War," he added. "To my knowledge, we lost virtually no students during the academic year and only a few over the summers." Any student drafted before completing his law school education is guaranteed readmission after receiving his honorable discharge.

Dean Toepfer stated that he would respect a "student's conscientious choice not to take the test," but he urged that it would be "ill advised" to take such an attitude. "Look at it from the other side," he counseled. "They have the difficult, thankless job of trying to preserve in school the best students. A national test is the only way to compensate for

degrees of difficulty among schools."

William L. Bruce, Secretary of the Law School, shared Dean Toepfer's attitude and pointed out the stark fact that "if the local board once gets you within the technical limits, and they want to take you, there is no power on earth that can prevent them from taking you. And if the war heats up, all the rules can be changed overnight."

The Law School does not keep the college class rank of students on file, and any student wishing such information must write to his college.

Law students can take the examination at the law school on May 14. Forms are now available at the receptionist's desk in Langdell Hall and the deadline for applications is April 18. Students taking the test will be fingerprinted.

New Jersey Counsel

(Continued from preceding page)

Refuting the duty-without-pay theory, Prof. Hall cited the medical profession, where indigents who once received free treatment are now covered by government programs.

Professor Alan Dershowitz, when asked his appraisal of the New Jersey decision, also lauded the holding.

"The virtue of the opinion is that it forces us to face up to the problem," Prof. Dershowitz asserted. "The cost of broad programs to further the public welfare — which a well-functioning advocacy system is — should be borne by the society in general."

"The whole system benefits if there are well-motivated defense counsel," Prof. Dershowitz declared. "The advocacy system isn't a charity, it is a necessary part of our system of justice."

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Projected Court Decision Extends Obscenity Ruling To Curb Man's "Base Instinct" of Culling a Fast Buck

In The Finance Cases, reported below, Jethro K. Lieberman, 2L, aroused by the recent decisions in the Obscenity Cases, cautiously predicts the next step in the trend.

The Finance Cases, 400 U.S. 1 (1972).

OPINION OF THE COURT

Appellants in these cases were convicted under the so-called Baser Instincts Act of New York (N. Y. Stat. §1,000,000) for the distribution of books dealing with financial investments and the stock market, and encouraging "ways of making money other than by hard work." Appellants do not deny the fact of publication or distribution but claim that the statute is unconstitutional on its face under the First Amendment as made applicable to the states by the Fourteenth, and that the language is so vague as to deny them due process of law.

I

As construed by the Court of Appeals of New York (whose construction is, of course, binding on us, *Near v. Minnesota*, 283 U. S. 697, 708 (1931)), only those publications which clearly pander to a "pure pecuniary interest, a money for money's sake interest" are prohibited. The First Amendment is no more a bar to the prohibition against the publication and distribution of such books, the Court of Appeals says, than it is to the prohibition against the publication of obscene books. The Obscenity Cases, — U. S. — (1966). We agree.

It is of no moment, even if true, that the Act was passed in retaliation against the move of the New York Stock Exchange to Hoboken, New Jersey, during the summer of 1966. The Act clearly spells out its intent: "to stop the spread of man's baser instincts in the accumulation of

wealth for wealth's sake" §1,000,000 (a).

Social commentators and psychologists disagree about the dangers to society of such instincts. It is pointed out that animals do not seek after money. It is said that the lust for wealth causes alienation, which in turn causes social unrest, and even, "existential Angst."

Others assert that the drive to gain money is crucial to a growth economy. If the Act had made it illegal to earn money by any means, we might agree that the economic growth argument had merit. But the Act merely prohibits the making of money for money's sake. There is a crucial difference.

Sheer Dogmatism

Against a background of such disagreement, it is not for this Court to say that New York is clearly wrong in its assessment of the danger. As Mr. Justice Frankfurter, dissenting, said in *Winters v. New York*, 333 U. S. 507, 529 (1942): "It would be sheer dogmatism in a field not within the professional competence of judges to deny to the New York legislature the right to believe that the intent of the type of the publications which it has proscribed is to cater to morbid and immature minds — whether chronologically or per-

manently immature."

It is not for us to tell a legislature it cannot prohibit those acts which it reasonably believes perpetuate man's baser instincts to the detriment of society. It is not for us to strike down New York's brave course in building a society dedicated to the pursuit of man's higher aspirations.

II

The only issue raised in this case is whether the publication can be prohibited. New York makes it a crime to engage in any acts with the motive of making money for money's sake. By an analogy to the statutes making fornication illegal (sex for sex's sake) we have today upheld the statute in a separate case. *Mountebank v. New York*, post. That being so, the question in this case is "whether the words used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress [or the State or City] has a right to prevent." Mr. Justice Holmes in *Schenck v. United States*, 249 U. S. 47, 52 (1919).

In *Davis v. Beacon*, 133 U. S. 333 (1890), this Court per Mr. Justice Field held that no constitutional objection could be interposed to an Idaho statute

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What do you think — some kind of bluff?

THE CHALLENGE OF CHANGE

EDWARD W. BROOKE

Harsh Republican realities—the Party decline in appeal and influence and the overwhelming 1964 defeat—are the critical themes examined.

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Robert Cutler

No-Time For Rest is much more than a public portrait. It is also a warmly human remembrance of a childhood spent as the youngest of five lively brothers in a devoted, happy family, and a nostalgic memoir of college years spent in the twilight of that great era when the term "World War" had not yet been thought of.

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American Ombudsman

(Continued from page 2)

haps best be left to political controls instead of to the judgment of a jack of all trades. He can tidy up a well-built house, but he cannot himself build one."

The administrative law specialist went on to warn of the "danger of insipidity," of need of "a little abrasiveness" as a more desirable alternative than the "flabby carrying out of public policies." A bland administration was characterized as a possible result when "a constant peering over their shoulders causes some servants to become too timid instead of too bold."

He did not consider "the danger of insipidity" a serious threat if the Ombudsman system was properly administered. He further argued that outside criticism might "strengthen, not weaken, public administration by attacking conceded obnoxious behavior—needlessly slow dispatch of business, rudeness in manner, unwillingness to explain decisions, unprincipled inconsistency in handling objectively similar cases."

Again and again he returned to theme of how clumsy judicial review would be for these minor abuses of administrative discretion. Not only are the courts already overloaded, but also it would be too much bother to litigate. With an Ombudsman, a complaint would be made and then the citizen would not have to follow it all the way through the crannies of justice.

The adversary system of judicial review also neglects the important function of an external critic as "preventive medicine," according to Prof. Gellhorn. He stressed that American public servants are typically loyal, hard-working officials and "not beasts to be kept at bay. We should not have the attitude that one is always engaged in beating the bureaucrat over the head for his sins."

Congressmen in Washington are currently serving as unofficial Ombudsmen, a former representative once describing himself to Prof. Gellhorn as "the voter's messenger boy, employment agency, business promoter, war veteran's friend and in general, watchdog of the underdog." Prof. Gellhorn observed that

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HLS Study Probes French Tax Structure

Contrary to popular belief, Frenchmen do pay taxes; in fact, the burden of French taxes is probably the heaviest in the world. The first systematic study in English of the entire French tax structure has recently been published by the Law School's International Tax Program in consultation with the United Nations' Secretariat.

Taxation in France, the eleventh volume in the World Tax Series, is primarily the work of Martin Norr, Research Associate at the Law School, and Pierre Kerlan, Chief of the Treaty Section of the French Ministry of Finance and Economic Affairs. It is patterned after the earlier studies of the tax systems of Australia, Brazil, Colombia, India, Italy, Mexico, Sweden, the United Kingdom, the United States, and the Federal Republic of Germany.

Throughout *Taxation in France* attention is focused on the extensive substantive and procedural reforms of the tax system under the Fifth Republic and on the government's use of tax incentives to encourage investment, research, modernization, and similar activities, within the scope of French plans for economic growth.

The "myth" that Frenchmen don't pay taxes probably springs from the fact that the taxes they do pay are largely taxes other than income taxes. Despite a low yield from personal income taxes, though, French tax collections amount to 44.2% of national income, the highest percentage in the world for a developed country. To produce this revenue, France has relied on a uniquely diversified revenue system.

Chief among the revenue producers is a group of sales or turnover taxes, one of which, the value-added tax, "stands out as the keystone of the French tax system." According to *Taxation in France* this tax is widely regarded as the most modern of sales taxes and "for countries that choose to rely on sales taxation, a value-added tax on the French model seems to be the tax of the future."

Basically, the value-added tax is a tax on

sales where each taxpayer is subject to tax not on the full sales price he receives but only on the portion of the price that represents the value added by him to the product in the course of the manufacturing and distribution process. The tax applies primarily to sales at the production and wholesale levels and does not generally extend to retail sales.

"Value added" is defined as the difference



Martin Norr

between a firm's receipts and its expenditures in buying goods and services from other firms. Unlike turnover taxes used in other countries, the value-added tax is not cumulative and a tax credit mechanism assures that each taxpayer pays tax only on the value he has added.

Extensive investment in France by American business has made these elements of the French tax structure of vital interest in this country. The book reports that between January 1958 and January 1965 more new business ventures were established in France by American firms than in any other country in western Europe. A 1963 estimate put American investment in the French economy at more than two billion dollars.

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Alcoholism and the Law

In March 1965, Superintendent Betty C. Smith of the Massachusetts Correctional Institution in Framingham told a RECORD reporter, "Between 52 per cent and 56 per cent of the inmates here have been sentenced for drunkenness. The rate of recidivism in this group is 62 per cent. The American Medical Association has said that drunkenness is a disease, but it is still a crime in this old Commonwealth." (See RECORD, March 25, 1965) Although the Massachusetts machinery for dealing with alcoholism is unique, Mrs. Smith's observation is quite typical of those familiar with techniques for dealing with this problem. Most states simply have not responded adequately.

In Maryland, 31.4% of all mental admissions during 1964 were alcoholics. In 1960, 14.6% of all first admissions to public mental hospitals in the United States were alcoholics, and there are indications that the percentage is now much higher. It is uncertain whether alcoholics belong in mental hospitals and, even if they do, it is questionable whether they are receiving adequate treatment. (See *Trial*, December/January 1965, pp. 22-3)

One particularly heinous fact is that many states require voluntary patients to give up to 30 days' notice before they are permitted to leave the hospital. The rationalization for such false imprisonment is that it prevents alcoholics from leaving the hospital before they have dried out. Not only may there be a deprivation of the rights of the alcoholic, but there is also the possibility that the presence of the alcoholic hospital population may adversely affect the treatment of the other mentally ill individuals.

There is reason to believe that the alcoholic should be subject to civil or criminal commitment only when he is a danger to the public at large. Confinement of alcoholics on any other grounds may well involve an infringement of constitutionally guaranteed rights.

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TONGUE 'N CHEEK

By Fenno

I was busy mining the Langdell mudflats with Easter Eggs when I spied an old and graduated friend (LL.B. '65) fumbling mason jars.

"See you are all set to preserve some exceptions," I said striking a pose.

"Nothing of the kind," he replied, "I have tissue samples here for a project in medico-legal research."

"How are you doing with the service?" I inquired from behind my 2-S.

"Well, we've been working with them on some new foundation regulations," he said taxing my patience.

"Not IRS—the Armed Services," I shot back.

"Why I'm far too busy to worry about Viet Nam. I mean with meetings on new bail programs and work sessions on defending indigent criminals, and drafting new condemnation rules, I'm too involved in other things to worry about so academic a subject as conscription."

"By the way, Fenno, what's been occupying you this year in this world of rational thought and cunning logic?" he inquired.

"Oh the usual," I replied. "Classes, study group, Ames. I try to fit in at least 6 hours a day of aggressive worry. I have catalogued all army and marine brochures by inverse numbering systems and I write to JAG at least once a day. I figure it's the least I can do for my country."

"Don't you guys think about anything else?" he asked.

"No," I replied uniformly. "What else is there?"

"What about tricky little UCC questions, or revocable trusts or even the latest draft—"

"Ah, ha, so you too think about it?" I interrupted.

—"of the Model Penal Code," he said conclusively.

Letters to the Editor

Student Poet Gets a Shock On Hearing of Pregnant Stock

To the Editor:

There is an anonymous poet in one of my Corporations sections this year whose emanations have delighted both the class and me from time to time. Last Friday, while we were discussing the SEC's Rule 10b-5 and the pending *Texas Gulf Sulphur* litigation, one student wondered whether a non-insider buying on the Exchange just before the release of the news about the rich ore strike on the company's property in Canada would be allowed to keep his wind-fall (the answer is certainly yes) and another student drew an analogy to the case of the sale of the pregnant cow.

On Saturday I found on my desk in LNM "A Poem — Showing My Ravenous Appetite for Corporations." I read it to the class — I hope with appropriate gestures — but it deserves a wider audience, and so I enclose a copy.

I shall leave to you the question whether an anonymous poet can enjoy a common-law copyright.

Sincerely,

Louis Loss

Professor of Law

A Poem — Showing my Ravenous appetite for Corporations

*The mysteries of corporations,
Mergers and consolidations,
Caused my heart some palpitations —
Never such a shock!*

*Yesterday, while Ten-B-Fiving,
We learned of corporate conniving,
At this question last arriving:
What is pregnant stock?*

Through the Langdell stacks I

*roamed,
Treatises and hornbooks combed,
Thumbed through Loss's "Sec.
Reg." tome,
Asked Professor Bok.*

*None of these had ever reckoned
With this child of Rose The
Second;
Curiosity still beckoned:
What is pregnant stock?*

*How much would a share be
worth?
Do you s'pose it has much girth?
To what monstrosities would it
give birth?
The answers are under lock.*

*Somewhere you would think the
law'd treat;
Would the Statute of Frauds
treat;
Maybe someone down on Broad
Street
Knows of pregnant stock?*

*I've heard of "lambs" who lost
their fleece;
Of novice investors led like geese;
Of Bulls and Bears without sur-
cease,
And others of that flock.*

*But this beast stole my sleep last
night;
I sat up and began to write,
Hoping I could shed some light
On what is pregnant stock.*

*For, in the SEC-led revolution,
Corp'rate dividend distribution
Risks a claim of restitution*

From sellers now in hock.

*Directors all would I relieve,
Insiders never would deceive,
If I could only — uh — conceive
Of what is pregnant stock.*

Anon

Vanderbilt Law Profs Clarify Vietnam Position

To the Editor:

I am writing to avoid a potential misunderstanding which could be created by your editorial, "Vietnam and the ABA," appearing in the March 10th edition of the Harvard Law Record on page eight.

In that editorial you indicated that the Lawyers' Committee on American Policy Towards Vietnam was "supported by professors from Vanderbilt, Virginia, and Columbia Law School . . ." Although the structure and capitalization in the sentence should make it clear, merely to keep the record straight I should like to point out that to

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Letters to the Editor

(Continued from preceding page)

my knowledge no member of the Vanderbilt Law School Faculty has officially supported the Lawyers' Committee policy statement.

The facts are that so far as Vanderbilt is concerned any official support which this policy statement may have received from persons on the Vanderbilt faculty has come from individuals in other departments of the University, not from the Law School. This clarification, of course, is not intended to imply either a positive or a negative attitude toward the policy statement on the part of individual Vanderbilt law faculty members.

Sincerely yours,
Paul H. Sanders

Professor of Law, Vanderbilt U.
Harold G. Maier
Assistant Professor of Law,
Vanderbilt U.

Infinitive Disagreement Still Splits Profession

To the Editor:

May this be the last word on the controversy as to whether prepositions are proper things to end sentences with

Today I lost a preposition

I think it hid beneath my hat

I shouted to this high position

*Down From Out Of In Under
That!*

Yours Faithfully,
David M. J. Bennett, LL.M. '65

Thomas Chosen Rights Head

The Law School Civil Rights Committee at its annual elections meeting on Monday, Mar. 7, adopted a new constitution and elected Samuel H. Thomas, Jr., 2L, President.

Other officers elected were: James D. Conahan, 1L, Vice-president; Amanda Hawes, 1L, Secretary; and Robert Schafer, 1L, Treasurer.

Members newly elected to the Executive Council were: Hal R. Lieberman, 2L; John C. Gray, Jr., 2L; David H. Hunter, 2L; and Douglas J. Kramer, 1L.

Juristhespians Also Elect

The Harvard Law School Dramatic Society, producers of the highly successful Law School Show, elected its officers for next year. Heading the "non-artistic" aspects of the organization will be Steve Rosenberg, 2L, the new Executive Secretary. He will be assisted by Ken Wolf, 1L, as Program Chairman.

Next year's Law School Show will be directed by Jeffrey Meldman, 1L, who was the associate director this year, and will be produced by Rosenberg, this year's director. Meldman has requested that any student interested in writing music, book or lyrics for next year's show contact him (868-4686) before the end of the school year.

Bank Recruiters Here

All students who are interested in discussing banking careers in the areas of personal trust administration or commercial banking are invited to attend a meeting at 4 p.m. this afternoon in the Wheeler Room of Holmes Hall.

John M. Stadter, LL.B. '57, trust officer at the Morgan Guaranty Trust Co. of New York, and bank vice-president Martin F. Shea will discuss opportunities in Morgan Guaranty's personal trust department. Leonard C. R. Langer, also a vice-president, will discuss commercial banking activities.

Beer and pretzels will be served, courtesy of the bank.

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Filthy Lucre

(Continued from page 3)

prohibiting proponents of polygamy from voting or from holding state office. "It was never intended or supposed that the [first] amendment could be invoked as a protection against legislation for the punishment of acts inimical to the peace, good order, and morals of society." 133 U. S. at 342.

Clear and Present

We do not think that making money for money's sake is any more immune from attack than polygamy. Nor is it necessary that the clear and present danger be immediate. *Gitlow v. New York*, 268 U. S. 652, 669 (1925).

III

We turn next to the argument that the Act is void for vagueness. We find no merit in appellants' contentions. Although we cannot define "hard work" (the element necessary to negative the presumption that wealth is being sought after for wealth's sake), we know it when we see it, and we do not see it here.

Playing the stock market is not such hard work that New York's proscription of it fails. We reserve the question of the permis-

sible scope of "hard work" for a later case.

IV

It is argued that there is no evidence that the books in question pandered to a "pure pecuniary interest." We disagree. On the cover of the books was a graphic representation of money, riches, and treasure. It bore the legend: "Now you can learn the secrets of Wall Street." (Wall Street, as the lower court informs us, is "unhappily still regarded as the bastion of those who seek money for money's sake.")

The circulars sent for these books "stressed the . . . candor of the respective publications, and openly boasted that the publishers would take full advantage of what they regarded as unrestricted license allowed by law in the expression of" financial matters. *Ginzburg v. United States*, — U. S. — (1966). The intent is clear enough, and evidence enough.

V

It is argued that to sentence appellants to jail for five years "merely" for writing about financial matters is "cruel and unusual punishment," uncon-

stitutional under the Eighth Amendment. But if a man could be sent to jail for the same period for selling pornographic books at a price so high that those who would be adversely affected could never obtain copies other than through libraries to which they never retire, it is inconceivable that these appellants cannot be jailed for selling books at a price so low that almost anyone could afford to purchase them.

Titillation and Eros

Eros Magazine, one of the offensive publications in *Ginzburg*, was titillation for the sophisticate; these books on finance are titillation for the masses. The penalty is not cruel and unusual.

Conviction affirmed.

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Footnote-Grade Correlation Discovered

There is a significant correlation between the number of footnotes and high grades on law school papers, asserted a special study of the phenomenon in the March issue of the Cincinnati Law School newspaper.

A graph in the newspaper showed a trend upward from the low grade of C minus (a paltry 20 footnotes) to the high (a magnificent 156 footnotes) on a 15 page paper assigned in a large administrative law class.

The Pearson product-moment coefficient of correlation was 0.815 on the 59 papers included in the study. This is statistically close to the perfect correlation of 1.0. The actual correlation is high enough so that it could happen by chance less than one time in a thousand.

While the professor of the class was not immediately available for comment, one student reported his technique of copiously footnoting references to Webster's Unabridged Dictionary. Another chortled that the body of his paper was plagiarized from Mark Twain's *Huckleberry Finn* but that it was lost amidst a heavy undergrowth of foot-

notes.

There was also a small correlation between the thickness of the paper and the grade received, as well as the student's membership on the Cincinnati *Law Review*. But a glut of footnotes was clearly the path to success.

The newspaper hinted that the number of footnotes was linked to the amount of time spent anchored to a library chair, leaving open the possibility that rational thought was a significant factor.

The study seems to discredit rumors that law school professors grade papers by standing at the bottom of a staircase and gently wafting the scholarly products toward stairs marked with ascending grades.

Commencement Tickets

Degree candidates who will be accompanied by members of their family must apply for tickets to commencement exercises before May 16th. Applications are available at the Receptionist's Desk.

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Curran Drafts Health Bill

The first comprehensive community mental health act ever offered to a state legislature was presented to the General Court of Massachusetts by Governor Volpe on March 8. The legislation was drafted by Dean William J. Curran of Boston University who is also a Lecturer in Legal Medicine here at the Law School. Dean Curran has taught the Seminar in Medico-Legal Problems for the past eight years.

According to Dean Curran, the new bill in Massachusetts brings together all types of



Dean Curran

mental health and mental retardation facilities under one organizational program on the local and regional levels throughout the state. He indicated that the legislation is particularly significant in that it brings all of the state hospitals and state schools for the retarded under the locally-based program, as well as the smaller clinics and centers.

Other states, such as California and New

(Continued on following page)

Negro Spokesman Insists Irish Cause Boston Bias

By Keith S. Watson

With apparent disdain for recently-honored St. Patrick, a Boston Negro leader asserted that the Irish are principally responsible for the plight of The Hub's non-white population.

"The Irish still think they are a persecuted minority and have a collective defensive mechanism to any suggestion for change that seems to threaten their interests," Mel King, a Roxbury social worker and unsuccessful candidate in the 1965 Boston School Committee elections, told a March 29th meeting of the Civil Rights Research Bureau.

Actually, Mr. King noted, Boston is 70 percent Catholic and the Irish are in firm control of most of the city's public agencies. "But when someone criticizes a group like the School Committee, they take it as a personal insult and a challenge to their power," he said. Thus, the Irish flocked to the polls to vote for Mrs. Louise Day Hicks and her slate for the School Committee, even though a majority of them send their children to Catholic schools.

The School Committee elections also had a great impact on the Negro community, according to Mr. King. "The Negro turn-out was over 80 per cent in some precincts and overall much higher than the city average, and yet in the end even the one incumbent voice of moderation was defeated for reelection. These results created a great feeling of frustration," he continued, "a feeling that there was no power to change conditions." There was even talk of secession from Boston, the speaker observed.

Boston's problems are not much different from those of any large urban complex, he said. Standardized tests show that although most children start out relatively equally in the first grade, by junior high the ghetto students have fallen behind the city average, and Boston students as a whole have fallen under the national average, according to Mr. King. "Thus you have a vicious circle in that the Negro must send his child to a sub-standard school, because he lives in a

(Continued on page 16)

Mental Health

(Continued from preceding page)

York, which enacted so-called Community Mental Health Acts in the late 1950's did not move in such a comprehensive manner and have had considerable troubles attempting to operate two or even three different systems in the state, one for local clinics, one for state hospitals, and another for the retarded. The Mass. legislation sets up entirely new citizen boards on the local and regional levels to represent community interests in establishing and maintaining mental health services.

The creation of these boards was particularly difficult, both legally and politically, because Massachusetts, like the other New England states, does not have a strong system of county government which could be used as the foundation for a community-based system of services. The legislation also reorganizes the Department of Mental Health, providing for a series of Assistant Commissioners in charge of new divisions rendering services in the state.

Dean Curran said he was hoping for bipartisan support of the legislation on Beacon Hill.

Prof. Gellhorn

(Continued from page 6)

the natural self-interest of Congressmen in wishing to be re-elected often leads them to "squeeze the last drop of campaign juice out of these complaints" instead of turning them over to an external official or impartially handling the complaints on the merits. Since the highly personalized American system of congressional candidacies artificially emphasizes the "services" of Congressmen, he did not believe a separate agency would be set up by Congressmen to handle complaints.

Prof. Gellhorn emphasized that a national Ombudsman after the Swedish model would not be feasible because of the "scope and complexity of federal operations, the geographical dispersal and number of persons those operations affect."

The situation is more hopeful and more urgent on the state and local level where an Ombudsman could effectively oversee complaints. Representatives of state legislatures are so underpaid and understaffed that they are not able to perform the quasi-ombudsman function of U.S. Congressmen, he added.

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Crackenthorps Rout Scrod for Basketball Title

By Thomas J. Kelly

The Crackenthorps are the basketball champions of the Law School, the RECORD has learned in an exclusive interview with Eugene "Sparky" Strassburger III, 2L.

Strassburger, Commissioner of the Harvard Law School Basketball Association, also announced his retirement in a dramatic ceremony from behind a graceful steel desk at his spacious office in 318 Ames Hall. Although many have felt that the Commissioner is a cold, machine-like administrator of the five-league complex, it is reported that he actually is a warm, lovable human being who has had to mask his emotions in order to fulfill the awesome responsibilities of his high office.

He will be greatly missed as Commissioner, some observers believe. The fact that Strassburger opposed the championship tournament and refused to post the results in Harkness despite the pleas of many fans is said to have nothing to do with the retirement decision.

The tournament itself was replete with upsets. In the very first game the highly touted Magnolias of the E-league, after building up an impressive 6-4 lead, faltered and succumbed finally to the A-league's Doormats, 73-38. The B-league champs, the Gross Estate, were defeated by the second place team from the C-league, the Taxi Scrod. The Estate, however, was playing without its ace guard — deft, good-looking George Leininger, 1L. "This lack undoubtedly accounts for the loss," explained Leininger.

The second night, the Taxi Scrod became the Cinderella team of the tournament. The scrapping Scrod, led by George Deptula, 2L, with 22 points upset the favored Doormats 47-39. The Scrodmen played hustling, heads-up ball, capitalized on nearly every break and held the cold Doormats to two field goals in the second half en route to this stunning victory.

The final night of the tournament, however, the spell was broken as the second place finishers in the A-league, the Crackenthorps, downed the Scrod 68-39. The Crackenthorps were led by Jon Cook and Gar Hoerschgen, both 2L, with 23 and 20 points, respectively.

So ended the 1966 season. As in all campaigns, some teams were better than others. There were, of course, the champion Crackenthorps. Another ambitious squad failed to win a game in the C-league, received permission to make a mid-season move to D-league — and still finished without a victory. The name of the team was "B and his heirs" but it is reported that they looked more like a shifting freehold interest before the Statute of Uses.

Among many of the players the murmur of "wait 'til next year" is already being heard. Absent in 1967, however, will be Commissioner Strassburger as he retires to his favorite hobby — the law.

Taxation in France

(Continued from page 7)

Yesterday, the Committee for Economic Development (CED) urged that serious consideration be given to the adoption in the United States of a federal value-added tax on business to help meet the need for rising defense expenditures and avert inflation. The Committee describes itself as a non-profit, non-political economic research and education organization supported by voluntary contributions from business concerns.

The CED statement noted that "a partial shift from the corporate income tax to a value-added tax" might stimulate exports and discourage imports, thus improving the balance of payments position. *Taxation in France* reports that the adoption of a value-added tax by all Common Market countries has been recommended by the Commission of the European Economic Community and is also being considered by several countries in the European Free Trade Association.

In addition to its timely and valuable contribution to the current discussion of the value-added tax, *Taxation in France* also analyzes the registration taxes on movements of capital, which are of particular concern to investors and businessmen in France.

The new book is published by the Commerce Clearing House, Inc.

Irish Prejudice

(Continued from page 13)

sub-standard neighborhood, because he has a sub-standard job, because he went to a sub-standard school."

The Negro leader maintained that although the "neighborhood school" issue appeared to dominate the Committee election campaign, the polls showed that racial bias had a great influence on the defeat of the "liberal" candidates. "Another factor," he said, "was that we campaigned where we already had support, not in South Boston — the Irish stronghold. It was an insult to those people that we did not go down there and seek their support."

Mr. King concluded by outlining the ways in which law students could assist the people of Roxbury. They need help in interpreting the complexities of legislation such as urban renewal, he said. Various civic and pressure groups need advice in preparing their pro-

posals and in lobbying for support. He noted that these groups often go to meetings with city officials unprepared and "they get clobbered."

The appeal for assistance is not likely to go unheeded. The recent election for president of the Civil Rights Research Bureau was won by "activist" candidate Sam Thomas, 2L, who pledged to get the group out of the library and into the ghetto.

Realist Editor to Speak

Paul Krassner, editor of the satirical magazine, *The Realist*, will give a talk in Ames Courtroom Friday night at 8:30 p.m.

Descriptions of the controversial editor have ranged from "a modern day Thoreau" to "a peddler of the prurient." Part of his talk will focus on the recent Supreme Court decision in the Ginsberg Case which banned *Eros*.

His magazine is currently financing Madlyn Murray and Lenny Bruce.

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