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TRIAL

The Harvard Law School Record

VOL. 5 NO. 5 CAMBRIDGE, MASS., WEDNESDAY, NOVEMBER 5, 1947 PRICE TEN CENTS

NEWS BRIEFS

Forum Program

Columnist Thomas Stokes deplored the transfer of free-press responsibility to big business publishers while publisher Lawrence Spivak told the Harvard Law School Forum last Friday that the right to be "irresponsible" within the limits of the law was the most important aspect of the free press.

Observing that the press enjoys an independence and immunity from the federal government unknown to any other powerful business organization in this country, Professor Zechariah Chafee, Jr., made it unanimous with Stokes and Spivak by opposing governmental intervention by legislation to remedy the abuses in American journalism. Both Stokes and Chafee felt something must be done to develop in our press a realization and fulfillment of its responsibilities while Spivak felt that despite its faults the American press, with its "irresponsibility" manifest by the right to criticize accepted beliefs was the best and freest now and should be kept that way.

Student Advisers

The Board of Student Advisers announces the appointment of Bernard Feuerstein, 2L (NYU '46). He replaces Robert G. Bailey, 3L (UCLA '44), who resigned.

Legal Aid Appointments

The Harvard Law School Legal Aid Bureau, selected nine high ranking students for its staff. Joseph T. Fahy (Holy Cross '41) and Richard D. Solo (Harvard '44) were the two sixth term students invited to join. Franklin N. Cunningham (Harvard '41), Edward I. Rothschild (Harvard '42), and Charles T. Munger (Michigan '42) represent the fifth term. Third term members chosen for the staff were Jerome J. Shestack (Pennsylvania '43), Maxwell E. Greenberg (UCLA '41), Ed-

(Continued on page three)

AMES WON BY THORPE

Meisel and Temple Receive Top Honors In Finals Argument

Arguing before the bench of the Ames Circuit Court of Appeals in the first competition final since the war, the Thorpe Club, with George I. Meisel and Paul N. Temple handling the oral, won a decision on both the advocacy and law from their opponent Taney Club. Robert W. Culbert and James F. Lovett represented the losers in the oral argument.

In handing down the decision to the packed courtroom in Langdell, Supreme Court Justice William O. Douglas, speaking also for his two brethren, Circuit Court of Appeals Judges Calvert Magruder and Herbert F. Goodrich, emphasized that the court had encountered great difficulty in reaching its conclusion because of the exceptional merit and skill demonstrated by both clubs in the briefs and orals. He added, however, that the decision on the law was not reached without dissent, and while he failed to mention any name he attributed the minority view to the "Washington influence."

By virtue of the court's decision, the competency and jurisdiction of the district court to intervene with equitable relief in the administrative process of the National Labor Relations Board at the certification stage was denied. Since no opinion was given with the decision, it cannot be said upon which of the grounds presented by the Thorpe Club the case was made to rest.

NOTICE

All RECORD readers—undergraduate and graduate students, faculty, and alumni—are invited to submit articles on any subject of interest to legal readers. Length may be from 1,500 to 3,000 words. Material previously published in other periodicals will be considered if copyright clearance is possible.

WASHINGTON INVESTIGATIONS HAVE FIRM STATUTORY BASIS

Prof. Chafee Warns Against Infringement Of 'Common Decency'

The RECORD obtained comment on congressional investigations from Prof. Zechariah Chafee, Jr., this week.

Professor Chafee suggested that Congress itself set up a regulatory system of rules to curb any harmful effects of the publicity given to such inquiries. "There are, essentially, two questions involved," he declared. "Are these inquiries constitutional? And, whether or not they are constitutional, are they doing the decent thing?"

Professor Chafee pointed out that an action that is constitutional is not necessarily right, in that it may be unwise to carry powers to the full limit of the constitutional grant where they violate the common rules of decency.

"The American sense of fair play," he continued, "would seem to require a committee to inform an individual of the charges made against him at the inquiry, to permit him to issue his reply to the charges at the same time, and to give him the right of appearing later to answer those charges."

While the committee should have the right to call any witness it desires, Professor Chafee remarked, it should surround him with specific safeguards. These would include the privilege against self-incrimination, the right of confrontation by opposing witnesses, compulsory process for obtaining witnesses in his own behalf, and advice of counsel on such matters as cross-examination, objections on points of law, and making a summary of his case.

"Specific charges should be framed," he added, "so that the accused may know what he has to answer, and so that 'judges' may know what they are deciding."

In regard to the present investigation of Hollywood, Professor Chafee said the result might be that producers will veer away from films about social and economic problems, for fear of being accused of Communism.

RECORD REPORTS ON SQUASH COURTS

In response to student inquiry, the RECORD has investigated the prospective availability of squash courts at Hemenway once the Harvard College squads turn out in full for varsity and freshman competition.

Vice-Dean Hall's office reports that Linden, with four regulation-size courts, and Hemenway, with twelve courts, are the only College owned gymnasiums offering squash facilities for team competition. The Athletic Department has announced that since the coaches work together in training varsity and freshman teams, both squads must work out in the same gym. Since only four courts are available at Linden, Hemenway must be used.

When Hemenway was first renovated, the Law School and the Athletic Department agreed that six courts would be reserved for team use three hours a day and four courts one hour a day. Dean Hall has stated that present arrangements with the Athletic Department call for a return to that schedule after Christmas when the teams will have been cut to regular size. The exact hours of that schedule are not yet known.

Until then there will no doubt be a serious inroad on the availability of courts throughout the day, with possibly eight courts reserved for team use at certain hours.

(Continued on page three)



PROF. ZECHARIAH CHAFEE, JR.

ALUMNI ASS'N REORGANIZES

New Constitution Aims At Wider Representation

The Harvard Law School Association adopted a new constitution at the annual meeting on June 3, 1947. The purpose of this reorganization was to make the Association representative of its active or paid-up membership and to command wide, interested support from the graduates of the School in attaining the objects of the Association.

Some of the results of the plan, the drive for active members and the need for increased dues, were explored in the last issue of the RECORD. Yet, in addition to what the Association wants to accomplish and what return an active member will receive, many alumni want to know how the organization is going to be run and how various geographical sections will be represented. The answer is found in the new constitution.

The affairs of the Association are controlled by the Council made up of the officers and 12 alumni. The officers for the coming year are elected at the annual meeting by the Council. Therefore, the problem which the framers of the constitution had to solve was the method by which a Council could be chosen with the least expense and with the most democratic results. Experience had shown that selection at the annual meeting was not representative of the Association. To meet this challenge, the framers provided for a Committee of Five which each year would elect three of the twelve alumni on the Council for a four year term.

The Committee of Five reflects the interests of the graduates, the School, and the Association: the President of the Association selects the chairman; the Dean of the Law School names a member; and the class secretaries of the 10th, 20th, and 30th classes of a given year fill the remaining three vacancies. Since the secretaries of the classes change each year, the other two appointees remain in office for an indefinite period to give continuity to the Committee and to avoid the difficulties of annual reorganization. For example, this year, President Robert P. Patterson designated Frank L. Hinckley '94 as Chairman; the Dean named Charles P. Curtis '17; the other members are Cecil E. Whitney '18, John R. Quarles '28, and Joseph Warren '38.

There is no provision for making petitions to nominate a graduate of the Law School for the Council; a suggestion to the Chairman or to any member of the Committee of Five is enough to entitle a candidate to consideration. At the annual meeting in June, the three members elected to serve on the Council until 1951 were: Abraham Feller

(Continued on page three)

Criticism of Inquiries Directed at Questions Involving Civil Rights

Primarily because of the circulation value of the famous names involved, the American press has spotlighted the procedures used in the recent hearings before the House Committee on Un-American Activities. The RECORD has endeavored to investigate and publish some of the legal aspects of Congressional investigations in general.

Legally, congressional investigating committees have broad powers. Although the Constitution nowhere expressly grants power to either House to make investigations and compel witnesses, the courts have found this power so necessary to the legislative function as to be implied. *McGrain v. Daugherty*, 273 U. S. 135 (1927). This result found support in the practices of the British Parliament and the colonial legislatures before the Revolution, although Parliament is itself also a judicial body.

Statutory provisions involved include:

(1) One summoned before Congress or one of its committees "who makes default, or who, having appeared, refuses to answer any question pertinent to the question under inquiry" is guilty of a misdemeanor and subject to a fine and jail sentence. 2 U.S.C.A. §192. This provision, derived from the Act of 1857, was held constitutional. *In re Chapman*, 166 U.S. 661 (1897).

(2) "No witness is privileged to refuse to testify to any fact or to produce any paper, respecting which he shall be examined by either House of Congress, or by any committee of either House, upon the grounds that his testimony to such fact, or production of such paper, may tend to disgrace him or otherwise render him infamous." 2 U.S.C.A. §193. This provision, derived from the Act of 1862, has not been passed upon by the Supreme Court. It was provided in the Code that Sections 192 and 193 were separable.

(3) Testimony given at such hearings "shall not be used as evidence in any criminal proceeding." 28 U.S.C.A. §634. The section expressly excepts official papers or records from the privilege.

It is further provided, 2 U.S.C.A. §194, that on a failure to testify, Congress shall report to the district attorney for the District of Columbia, "whose duty it shall be to bring the matter before a grand jury."

These provisions notwithstanding, certain limits appear to exist, although not too clearly. Where the committee was not actually performing a legislative function, it lacked power to punish for contempt. *Kilbourn v. Thompson*, 103 U.S. 168 (1880). Where the act complained of was not held to be one of such a character as to obstruct the legislative process, the committee lacked power to punish for contempt. *Marshall v. Gordon*, 243 U.S. 521 (1917). The *McGrain* case, *supra*, points out also that committees have the implied

(Continued on page four)

Harvard-Princeton Party

If you plan to attend the cocktail party at Kendall House after the Harvard-Princeton game on November 8, you are advised to buy your ticket now, as only 50 couples will be admitted and there are a limited number of tickets left.

The party will last from 5 to 7:30 and dancing and a light supper will be included. Tickets are \$2.00 a couple and all students are invited.

The Harvard Law School Record

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Editorials

The surface results of the first week's hearings by the House Un-American Activities Committee are well summed up in a *New York Times* dispatch of Oct. 25, 1947. "After five days of hearings featuring only witnesses sympathetic to the committee's inquiry, one committee member, Rep. John McDowell (R., Pa.), observed that he had heard no evidence of Communist propaganda actually present in movies except that bankers were sometimes villains, and that he did not regard that as subversive."

Results of the second week's sessions were as meager: ten writers cited for contempt on grounds of refusal to state whether they were Communists or not, still no evidence of Communist propaganda actually present in the movies. On this note, the Committee adjourned for an indefinite period.

To accomplish these results the Committee used methods which have been characteristic of it in the past.

Actors and writers are labeled Communist on the vaguest of rumors, on hearsay ten times compounded. Executives testify that they have fired writers for un-American writings. Yet witnesses are not asked how they determine that a person is a Communist, nor what standards they use in differentiating between what is American and what is un-American. Men's careers are ruined by uncorroborated testimony taken as truth without opportunity for cross-examination or refutation. All this to the accompaniment of banner headlines throughout the nation.

So, an efficient instrument for the ascertainment of truth is badly abused. For the implications of the probe run deeper than would appear on the surface.

One is inevitably drawn to the conclusion that the committee is not seeking evidence of subversive activities in Hollywood. Signs of other objectives were clear on the first day of hearings when Mr. Louis B. Mayer and Mr. Jack L. Warner came crawling to testify of their efforts to keep the screen untainted by un-American ideas. Scripts were carefully combed, suspected writers fired, they stated. Unheard but implicit in what they said were their promises for the future: "We will redouble our efforts to keep the screen unspiced by such ideas. As we reach each sentence of a script we will ask ourselves: Would Mr. Thomas consider this idea un-American? Could any member of Congress possibly think this script contains a trace of un-Americanism? If one possibly can, we shall discard that sentence. We can't afford to be subjected to this treatment."

So, Mr. Thomas wins whether he finds what he is ostensibly seeking or not. And the warning to newspaper owners, book and magazine publishers, broadcasters, is clear. If the world wide empire of the movie industry can be brought to its knees with such dispatch, what of them with their comparatively small resources. Better fall in line.

It is perhaps too late to point out that the fault lies with the voters who elect men like Thomas and the Congressional supporters of his tactics. More especially blame should be placed on that segment of the population composed of the well educated and influential citizens who, in a great measure, possess and fail to exercise the power to make sure that decent, honest and capable men are elected.

It is hoped that, in the legal profession at least, these activities, foreign to the Constitution and the traditions of the American heritage, will be recognized for what they are, and that voices clear and strong will be raised against them.

H. K.

Letters to the Editor

To the Editor of the RECORD:

I'm sure the finals of the Ames Competition arguments held last Thursday in the courtroom were very inspiring and educational to those fortunate persons who were able to get into the courtroom. Such an activity represents the culmination of many semesters of elimination rounds, an event drawing the interest of the entire Harvard Law School, an event that to be fully appreciated requires not only a basic understanding of legal procedure but also a certain amount of preparation such as reading copies of the briefs. Why does such an occasion need to be turned into a mass meeting of local citizens, undergraduate rah! men, a women's knitting society, and just the spot to bring that especially intellectual blond gum chewing date "Maz-zie"?

In glancing in the barred door to the courtroom at 7:30, one-half hour before the proceedings began, the above persons seemed to be occupying many of the seats while sizable crowds of students were being turned away. Although it probably provided an inexpensive evening out, I seriously doubt that it presented the little lady with very much entertainment, and as far as any intellectual stimulation is concerned, an evening of bridge should present a much more active form of mental exercise for her.

E. V. LADD, JR., 2L

(THE RECORD has received several other letters concerning the crowded conditions at the Ames argument last Thursday, but the limited space available here prevents us from printing them.)

To the Editor of the RECORD:

The RECORD's characterization of Negro Benjamin J. Davis, Jr., in the "Gallery" as a man who has spent his career protecting the civil rights of Negroes and promoting Communism is in effect a great tribute to the strategy of the Communist Party. The Party's well-known line of taking up the cause of any minority group no matter how opposed this cause is to Communist dogma, is paying off handsome dividends. Anyone who has even sniffed at Marx's technique, knows we must give up our civil rights to achieve economic equality (and the Socialists are damned liars).

Let Communist lawyer Davis embark for Russia where he can defend the 14,000,000 slave laborers who are being worked to death for exercising their civil rights.

If the Negro wants to end race discrimination, he should avoid further antagonism by allying himself with a foreign power, and above all, he should come to realize that race hatred does not end with Communism—only the civil rights which now give him at least some protection come to an end. Bilbo could have been a Commissar, and white laborers who refused to work with Negro laborers would hardly change if a Communist management moved in.

ALAN G. GRANT, JR., 2L

To the Editor of the RECORD:

Rattle those skeletons!

Your biographical sketch of a certain avowed Communist alumnus was objectively presented and had high interest value. The fact that to most thinking people the title "Communist" is synonymous with "public enemy" and that the very word now seems to be basis for libel in the Federal Courts did not deter you. I presume, however, that in dredging out the more smelly corners of our alumni files you will continue to be objective. Just to keep things in balance I nominate for your next column an alumnus presumably of the opposite persuasion, Judge Karl Otto Arndt of the Nazi's Berlin Superior Court. Or perhaps an interview could be arranged more conveniently with another successful alumnus, former Representative Hamilton Fish of New York. If you plan any more Commie sketches I trust you will balance them off with life accounts of several Harvard Law men said to be serving prison sentences. I am even told that one of our alumni was hanged. Communists and Fascists, murderers and thieves—let's keep an open mind and an open Rogue's Gallery.

There is no more sorry spectacle than a lawyer who invokes the Bill of Rights out of one side of his mouth and out of the other champions a movement sworn to destroy that same Bill of Rights. I take comfort, however, in knowing that if we lose the next war we'll have a Harvard trained legal quising to preside over the American liquidation.

Go to it, RECORD. Drag out those skeletons. The readers love it.

ROBERT BRACKEN, JR., 3L

Gallery

EDWARD EAGLE BROWN

Chairman of the Board



Edward E. Brown, Harvard College, 1905, Harvard Law School, 1908, was born in Chicago in 1885 and returned there upon graduation from Law School to work with his father's old law firm, from which he drew the magnificent sum of five dollars per week. Mr. Brown's merit was not long hidden from his superiors, for two years later he was making \$2500 a year as assistant attorney for the First National Bank of Chicago, which at that time had a separate legal department.

From that point on he rose rapidly. Three years later he was made general counsel for the bank, his practice at that time being largely reorganization work. In 1923 Mr. Brown became senior vice-president of the bank, succeeding the president in 1934. From 1934 until January of 1945 he was president, the bank having no chairman in that period. In 1945 he became chairman of the board with a president under him but continued as chief executive officer of the bank, delegating some of his duties in order to reduce his burden of work.

In entering the banking field, Mr. Brown followed very closely in the footsteps of his father who was of the class of 1867 at Harvard Law School. The elder Brown was counsel for the First National from 1872 to 1903, and tried most of its cases during that time. Later he became a Judge on the Appellate Court of Illinois, serving in that capacity for some twelve years.

Outside of his banking house, Mr. Brown has also had an active and distinctive career. After being graduated from Law School, Mr. Brown lived at Hull House in Chicago where Miss Jane Addams was actively engaged in bettering conditions of the underprivileged. In the field of government service Mr. Brown is president of the Federal Advisory Council of the Federal Reserve System and was one of the American delegates at the Bretton Woods Conference. Under President James Conant of Harvard, Bernard Baruch, and Karl Compton, President of the Massachusetts Institute of Technology, he worked on the rubber reserve program during the summer of 1942. He has also served on Treasury Department committees. In alumni circles Mr. Brown at one time was vice-president of the Harvard Alumni Association.

To Mr. Brown a legal education is today a vital and necessary thing, for the "growing complexity of law and society makes it necessary to know law or be a lawyer in order to get along." To him a legal education is a distinct advantage even when not applied in pursuit of a lawyer's life since almost every important problem arising today in financial and business circles has a legal angle connected with it.

In starting a legal career, a young lawyer would be wise to start in a community he knows and in which he has a background, Mr. Brown believes. By doing this the fledgling has the advantages of previous contacts, a local reputation, and an insight into the community, its

Sub Indice

VOTING RIGHTS IN SOUTH CAROLINA ••

The District Court for the Eastern District of South Carolina recently declared that Negroes were entitled to be enrolled and to vote in the primaries conducted by the Democratic Party of South Carolina. Thus a further step is taken in the tradition of *U. S. v. Classic*, 313 U. S. 299 and *Smith v. Allwright*, 321 U. S. 649, for the District Court reached its result in spite of the fact that the General Assembly had, after the decision in the *Allwright* case, expunged from the statute books every vestige of regulation of the Democratic Party by the state. It was expected that this action would remove the party from the status of "state agent," with the desired result that Federal interference under the Civil Rights Act, and analogous laws, would be avoided. The then Governor of the state (now U. S. Senator) Olin D. Johnston made it clear, for he said in his 1944 message to the General Assembly, "After these statutes are repealed, in my opinion, we will have done everything within our power to guarantee white supremacy in our primaries of our State insofar as legislation is concerned. Should this prove inadequate, we South Carolinians will use the necessary methods to retain white supremacy in our primaries and to safeguard the homes and happiness of our people. White supremacy will be maintained in our primaries. Let the chips fall where they may!"

This District Court balanced this stirring utterance with a quote from President Truman and went on to say, "It is time for South Carolina to rejoin the Union. It is time to fall in step with the other states and to adopt the American way of conducting elections."

Since the Democratic Party was no longer under state control, the question was whether it should be treated as a private club, with power to determine its own membership. Both sides presented detailed schedules of the changes made in the rules of the Democratic Party since the repeal of the state laws pertaining to it. The plaintiff argued that the changes were in form only while the defending election officials argued that they were substantive changes. One of the changes was to go through the rules striking out the word "election" wherever it appeared, substituting for it the word "primary." Another change was to lower the voting age to 18; another, to give discretion to party officials as to whether voting machines would be used.

The Court was not impressed by the defendants' arguments. "To say that there is any material difference in the governance of the Democratic Party in this State prior, and subsequent, to 1944 is pure sophistry." The Court therefore held that the Democratic Party was acting as a matter of custom and usage on behalf of the people of South Carolina, and that since the only material and realistic elections were clothed with the name of "primary," the plaintiff was entitled to vote there. *Elmore v. Rice*, 72 F. Supp. 516 (July 12, 1947.)

industries and businesses, and its people, all of which should prove of advantage in cultivating a practice. By and large a lawyer's first years should be in a law firm with a considerable volume of business so that he becomes familiar with the actual handling of legal problems as they arise, something that he does not learn in law school. After developing an acquaintance with the actual practice of law, the lawyer is then ready to decide what he wants to do, start in practice for himself or work for somebody else.

In smaller cities and towns Mr. Brown thinks that an independent practice will work out successfully, but in the larger cities it generally does not work and often results in virtual economic suicide. But whatever he does, or wherever he goes, there is one thing that he may be sure of, according to Mr. Brown, and that is, he will have to work and work hard to be successful.

SEWARD SNELL, 3L

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Alumni Notes

Alumni are especially invited to forward contributions to this column to the Record office, Austin Hall, Cambridge (38), Mass.

LL.B. '25—Robert G. Page retired from the New York firm of Debevoise, Plimpton & Page on October 8, to become President of Phelps Dodge Corporation, 40 Wall St., New York City. The firm will continue under the name of Debevoise, Plimpton & McLean.

LL.B. '26, S.J.D. '30—Carl F. Farbach has been appointed consultant to the International Bank for Reconstruction and Development. He is associated with the New York law firm of Cravath, Swaine & Moore and will return to that firm when his work with the bank is completed.

LL.B. '31—Frederick B. Lee has been appointed deputy administrator of the Civil Aeronautics Administration.

LL.B. '35—Elliott Vincent Grabill and Miss Martha Emily Loomis were married in Boston on September 5. During the war Grabill served with the Navy for four years, and was released to

inactive duty with the rank of lieutenant commander.

LL.B. '36—On October 31 Charles R. Denny will leave the Federal Communications Commission, which he has headed since February of 1946, to become vice-president and general counsel of the National Broadcasting Company.

LL.B. '40—Solomon Friss and Gilbert S. Levitt have announced the formation of a partnership for the general practice of law under the firm name of Levitt and Friss, with offices at 812 Fox Building, 1612 Market St., Philadelphia.

LL.B. '43—Charles F. Barber was married on August 30 to Miss Lois H. La Croix of Honolulu, Hawaii. The wedding took place in Balliol College Chapel, Oxford, England, where Barber is a Rhodes Scholar. He was formerly with the Washington law firm of Covington, Rublee, Burling, Acheson & Shorb.

LL.B. '43 ('47)—Francis William Brennan is now associated with the Newark, N. J. firm of Pitney, Hardin, Ward & Brennan. Offices are at 744 Broad St., Newark.

LL.B. '43 ('47)—Frederick Earl Walter, Jr. is with Young, Shanley, Foehl & Fisher, 810 Broad St., Newark, N. J.

LL.B. '44—Asher Louis Wheeler, formerly associated with Roberts & McInnis, Washington, D. C., has opened his own offices for the general practice of law, at Suite 709, Barr Building, Washington.

LL.B. '47—Robert S. Burns was married to Miss Betty Learned on August 30 in Cambridge, Mass. He is associated with his father in the firm of Burns & Burns, Kansas City, Mo.

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American Divorce Law Is Complex

(Continued from page 1)

crease may be good for the law business, but it is tough on the social fabric. Or maybe it is old fashioned to sound the alarm. Maybe the argument that marriage, like private property, is a keystone of our western culture is an old wives' tale. Maybe the concept of the permanency of marriage which so flourished in the era of the common law is headed for the ash-heap in the era of the common man.

Anyway, in America, where church and state are separated, the individual states have always exercised control over the marital status. The power of a judicial court to decree a divorce is purely statutory, and courts have no power to grant divorce on other than the grounds prescribed by the statute. In order to get an absolute divorce there must be some ground established by statute in the state wherein the action is brought. The law varies with the state, from adultery as the sole ground in New York to indignity as one of many in Wyoming. It is generally considered an equitable or quasi-equitable proceeding, and the statutory regulations concerning divorce are not considered to come within the constitutional restraints against impairing the obligation of contracts. The power of legislatures to grant divorce is pretty much obsolete, and more than forty states have statutes preventing such divorces. Divorce proceedings are civil and not criminal, and when *ex parte* the action is similar to *in rem* proceedings (although the Supreme Court has stated that it isn't *in rem*). Where the defendant appears and property rights are involved, the action is clearly *in personam*.

In order for a state to have jurisdiction to grant a divorce one of the parties must be domiciled therein. However, domicile is a jurisdictional fact, and thus the question of whether the state granting the divorce had domiciliary jurisdiction is open to question in *ex parte* divorces. (Williams v. North Carolina, 325 U. S. 226). In the Williams case the Supreme Court added this fourth dimension to the already topsy-turvy world of divorce. Now those spouses who rush out to Reno

when they are through with love face new possibilities of polygamy, polyandry, and even bastardy.

There are various ways of shaking off a spouse who doesn't wear too well. Divorce is the usual way, it comes in two models. First there is the absolute divorce, a *vinculo matrimonii*. It is a full and complete dissolution of the marriage tie which for practical purposes (such as taking on a new wife) restores both parties to the status of single persons. The second, and not so popular model, is separation from bed and board, a *mensa et thoro*. This type neither dissolves the marriage tie nor gives either party a right to re-marry. However, marital relations are presumed to have ceased and any children born subsequently are bastards until the contrary is shown. Such qualified divorces are thought by some to be a hazard to the morals of the parties. They are an anachronism left hanging over from the time when absolute divorce was thought an offense against God. Swift, J., of Connecticut, has said divorce *a mensa et thoro* places the parties in a situation where there is an irresistible temptation to commit adultery, unless they possess more frigidity or more virtue than falls to the lot of most humans. In any event only a minority of states have this second model or so-called partial divorce.

In addition to divorce there are a couple of other strings to the beleaguered spouse's bow. Sometimes the parties can iron out the marital wrinkles short of a divorce with a device called a separation agreement. The parties agree to separate and to settle their property rights without the aid of a court. Such contracts are recognized universally, except perhaps in New Hampshire. In order to be valid the separation agreement must have been made at or after separation and must

provide for adequate support for the wife. Curiously enough such agreements contain no implied covenant that either party will remain chaste, so adultery is no defense to an action on the contract. The other device is called a separate maintenance, which is allowed to a wife for the support of herself and children while living apart from her husband. If a wife is without fault and living separately, an action for separate maintenance can be brought without any divorce action.

For those sensitive souls who take umbrage at the fast and loose divorce methods now in full bloom in some of our commonwealths there seems little to hope for in the early future. Perhaps the answer will be found in federal legislation, or a constitutional amendment, or an interstate compact, or an acceptable uniform law. Or, in a less official way, the American Bar Association might establish a canon in the code of ethics making it unethical for any lawyer to aid in any divorce action which did not meet a uniform standard as to domicile and grounds. Any new seed should be welcome in the American weed-patch of divorce.

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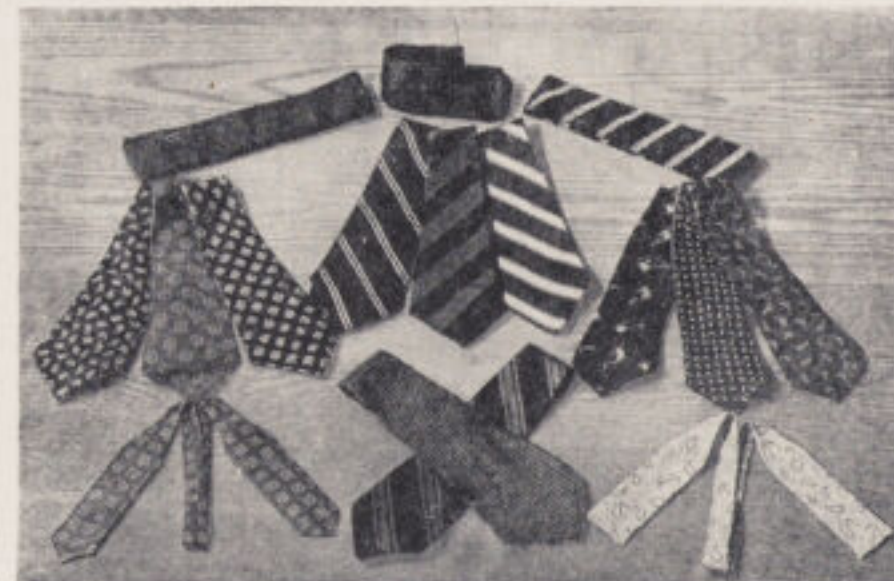
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NEWS BRIEFS — (Cont.)

ward T. Matheny, Jr. (Missouri), and Donald C. Lubick (Buffalo '45).

P.B.H. Committee

The Law School Committee of Phillips Brooks House announces the selection of Borden F. Beck, II, of Portland, Ore., and Arthur K. Swanson, II, of North Easton, Mass., for the Committee.

Mr. James H. Walker, 3L, of Raleigh, N. C., has been named chairman of the Red Cross Blood Drive in the Law School.

Lincoln's Inn Elections

The Lincoln's Inn Society, now established at a new clubhouse on Follen Street, Cambridge, recently elected officers to serve for the fall term. Thomas H. Kingsley was chosen as President of the Society, with Davis C. Burroughs as Treasurer, Paul F. Perkins as Vice-President, and J. Wells Henderson as Secretary. The Board of Governors is now composed of six members: Donald Vail, Edmund N. Carpenter, Robert N. Thomas, Hugh Calkins, Charles Simpson, and Robert Maynard.

Touch Football

Fourteen Law School touch football teams have been in action for the last three weeks. They are divided into two leagues and the winner of each circuit will clash for the championship in early December. Schedules, rules, and playing field information are posted on the corridor wall of Langdell South.

Legal Ethics Lecture

Speaking before a large audience a week ago yesterday afternoon, at a meeting sponsored by the Harvard Chapter of the Lawyers' Guild, Professor Edmund Morgan advocated the practice of law in the "grand manner." In the long run, he said, the scrupulous observance of legal etiquette and ethics is good business and also gives the practicing lawyer the deepest satisfaction from his work.

Calendar

THE LEGAL WORLD

Oral Advocacy

A lecture on oral advocacy will be given by Professor Leach this afternoon at 4 in Langdell Courtroom. All first year men are invited to attend. Prof. Leach will direct himself particularly to the Ames Competition.

Cocktail Party

A cocktail party, dance and light supper will be held at Kendall House after the Harvard-Princeton game on Saturday, sponsored by the Harvard Law Wives. All students and guests are invited. Tickets are \$2 a couple, and can be purchased at Kendall House.

Judicial Remedies

A Judicial Remedies class will be held instead of a Property I lecture for Section 3, Term I, on Friday, November 7, at 9 a.m. in Austin East.

Southern Students

The Southern Law Students Club will hold a meeting tonight at 7:30 in Phillips Brooks House.

Harvard Law Wives

All bridge players are invited to An Evening of Bridge at Kendall House on Wednesday, November 12, at 8 p.m.

Lincoln's Inn

A dance will be held Friday for members and guests at the Inn from 8 p.m. to 1 a.m.

Weekly Lunch and Punch is scheduled for this Saturday between 11:30 and 2 p.m. at the Inn.

Gardner Club

The Gardner Club will hold a dance at Kendall House this Saturday at 8:30 p.m.

THE UNIVERSITY WORLD

Glee Club Concert

The Harvard and Princeton Glee Clubs will give a concert this Friday at 8:15 p.m., in Sanders Theatre. Tickets may be purchased at the Glee Club Office, Music Building.

Picture Storage

Dr. F. Ian G. Rawlins, scientific advisor to the trustees of the National Gallery of London will speak on *The War-Time Storage of Pictures Belonging to the National Gallery, London* at the Fogg Museum of Art on Thursday, November 6, at 4 p.m.

Flemish Painting

Early Flemish Painting: Its Origin and Character will be the topic of the first of the Charles Eliot Norton Lectures this term. Erwin Panofsky, Princeton professor, will deliver this illustrated lecture tonight at 8:30 at the Fogg Museum of Art.

Psychology Lecture

The fourth of the William James Lectures will be delivered by Professor B. F. Skinner of Indiana University this Friday at 4:15 p.m. in Room D, Emerson Hall. The topic is *Multiple Sources of Verbal Strength*.

Fogg Art Museum

Exhibitions now open include drawings and watercolors by William Blake, etchings by Jacques Callot, and "The American Scene in Graphic Art."

Chapel

Dean Willard L. Sperry of the Divinity School will officiate at the Sunday services in the Memorial Church on November 9, at 11 a.m.

Harvard Zionist Society

Major Aubrey Eban, Jewish Agency liaison officer at the U.N. and U.N.S.C.O.P., will speak on "Proposed Forms For a Jewish Government" at Phillips Brooks House Sunday at 8 p.m. All are invited.

INQUIRIES—(Continued)

power where their only purpose is to provide for passing a law.

Justification for the denial of the right to counsel has been sought on the ground that the investigations are not criminal proceedings (required by the Fifth and Sixth Amendments), but rather akin to hearings before a grand jury. Is this a proper analysis? Grand jury hearings must be secret and must pertain to one specific act or series of acts. Rather than secrecy, congressional committees obtain publicity by issuing statements of proceedings to the press, as the investigations progress. And the immunity provision has been held to preclude suits for damages against both the congressmen and the witnesses. In *re Chapman* supra. Invasions of personal rights may result from types of committee activities other than name-calling, e.g. the seizure of telegrams by the Black Committee in the 1930s. That they are not confined solely to Communist investigating is evident from the history of the committees; one of the first to appear in the public eye was the Pujo Committee, which at the turn of the century investigated United States Steel.

It is the procedure of condemning an individual in the public eye, if not in a judicial proceeding, which has resulted in widespread criticism of the committees. At various times, it has been contended that the system violates the following amendments to the Constitution: The First (freedom of speech, the press, religion and assembly), the Fifth (privilege against self-incrimination and due process), the Sixth (confrontation, compulsory process for obtaining the accused's own witnesses and advice of counsel), the Ninth (rights not enumerated in other provisions of the Constitution), and the Tenth (reservation of state power).

As for the constitutional provisions involved, there can be no answer until the Supreme Court has weighed, in a controversy before it, the merits of the opposing claims: the alleged invasion of personal rights, and the benefit to the nation which results from congressional investigations, e.g. serving as a check on the executive branch, and resulting in constructive legislation, an example of which is the Securities and Exchange Commission, coming as an aftermath of the Pecora Investigation in the 1930s. A clear-cut determination of the issue may be complicated; if the petitioner in a controversy makes unwarranted claims as well as valid contentions, the court may decide to deny relief because of the unfounded charges of unconstitutionality.

Arriving at the truth is essential in a judicial hearing, which treats with past events. Arriving at the truth would appear to be equally essential in a legislative hearing, which prescribes a course of conduct for the future. It is questionable indeed if the truth of the matter under inquiry is found by committees which deprive the witness of the right of cross-examination.

N. B. T.

ALUMNI—(Continued)

'28, Robert Cutler '22, and Charles O. Porter '47.

The Council elected the following members as officers during the 1947-48 term: President, Robert P. Patterson '15; First Vice President, Calvert Magruder '16; Second Vice President, Joseph N. Welch '17; Secretary, Frank W. Grinnell '98; Treasurer, Reginald Heber Smith '14; Assistant Treasurer, Paul F. Hellmuth '47. Provision is also made in the constitution for the election of a Vice President by an affiliated local Harvard Law School Association. Such a Vice President is entitled to vote on the Council when he is in attendance.

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