

The Harvard Law School Record

VOL. 5 NO. 10

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NEWS IN BRIEF

LAW AND MEDICINE

Last Tuesday afternoon, Dr. Alan R. Moritz, Professor of Legal Medicine in the Harvard Medical School presented the fourth of the law and medicine lectures. In discussing *Deaths Known or Suspected to be Due to Homicide—Evidential Objectives of Medico-Legal Investigations*, Dr. Moritz outlined the scope of the various state statutes authorizing investigations.

Dr. Moritz said that the primary objective of these probes was to prevent homicides from passing unrecognized and to clear innocent murder suspects from suspicion. In addition, such investigations are helpful in revealing hazards to public health.

Professor Moritz sharply criticized the present coroner system on the ground that most coroners whether laymen or doctors have been incompetent professionally. He stressed the political nature of the office and indicated that it placed a severe handicap in the way of attorneys because of the inefficient manner in which coroners accumulate evidence. Dr. Moritz concluded that it was the task of the lawyers and doctors to correct this situation.

ESTATE PLANNING

Commencing a series of three lectures on Estate Planning, Mayo A. Shuttuck, LL.B. '21, addressed an audience in the Langdell Courtroom last Thursday afternoon on the topic of *The Lawyer's Function in Estate Planning*.

Mr. Shuttuck said the most important job of the estate planner is to gather all the facts he can at the outset. He also cautioned that the plan should not be warped out of shape by over-emphasis on certain aspects of the problem, such as taxation.

BASKET BALL

The Law School basketball league is off to a fast start. After two weeks of play, a close race is developing in three out of the four leagues. In the National League, the Swishers have won half the games to be played. The high scoring Chancery team is tied with the Rover Boys in the American League. A scrappy Tiger club has taken over first place in the Coast League by defeating the second place Trover Boys. In the International League, the Legal Eagles, paced by Ed Matheny's 24 points, captured the winning spot by overcoming Lincoln's Inn. Brendan Byrne of the Tigers leads the high scorers with an average of 32 points a game.

Winners of each league will meet in the playoffs scheduled for January 6 and 18.

YEAR BOOK PICTURES

At last reports 37 Law Clubs had elected to have their picture in the Yearbook. Those not appearing on the schedule in last week's RECORD will have their pictures taken on the front steps of Langdell middle as follows.

Date	1:15 p. m.	1:30 p. m.	1:45 p. m.
Dec. 15	Langdell Smith, J.	Pitney	
" 16	Choate	Marshall	Powell
" 17	Storey		

All individual proofs have been returned to Gannett House and should be picked up immediately.

There are still a few remaining copies of last year's Yearbook for sale.

TOUCH FOOTBALL

Last Tuesday, the Benedicts of League No. 2 clinched the Law School touch football championship by defeating the Tigers of League No. 1 by a score of 30 to 0. The winners featured the scat-back running of Bill Bruckel, perfect passing by Bill Leaphardt and Cliff Stevenson, and expert receiving by Cecil Rhodes.

Benedicts lineup included Clint Stevenson, Jim Crolus, Jack Forsythe, Ray Kimball, Bill Leaphardt, Cecil Rhodes, Jim Collins, Jim Walker and Bill Bruckel.

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HOLMES, GARDNER CLUBS WIN

Grotius, Smith Clubs Lose In Semi-Finals of Ames Competition

The Gardner and Holmes Clubs were the winners last week in the semi-final round of the Ames Competition.

On Tuesday a court consisting of Chief Justice Charles E. Wyzanski and Associate Justices Charles P. Curtis, Jr., and Charles A. Coolidge admitted great difficulty in making a decision on the merits of the oral argument and intimated that their award of the victory to Gardner over Jeremiah Smith turned on the superiority of the Gardner Club brief.

Oral counsel for the winners were George McClintock and Albert Moorman, Jr. Of counsel on the brief were Stephen G. Lax, Herrick K. Lidstone, Byrne Litschgi, Ray Myers, Jr., Paul H. Roney, and Francis M. Wheat. Lawrence S. Munsen and Thomas P. O'Boyle were the advocates and Irvine F. Belser, William V. Finn, James B. Grant, Jr., Francis W. McCalpin, and Arthur R. Slade, Jr., worked on the brief for the Jeremiah Smith Club.

On Thursday the Holmes Club, represented by Wilnot T. Pope and Henry A. Preston, defeated the Grotius Club, represented by Charles S. Bridge and Gale A. Christopher. The closeness of the contest was indicated by Chief Justice Carrol C. Hincks' admission that the court split three ways on the merits. H. Brian Holland and Allan H. Higgins were Associate Justices. One justice felt that the Grotius Club's brief and oral were superior; one preferred Holmes Club's brief and oral; and the other gave the edge to the Grotius oral and the Holmes brief. After forty minutes deliberation, the decision in favor of the Holmes Club was announced.

Working on the brief of the Holmes Club were Arthur S. Bartlett, Charles F. Choate, Roger Derby, Charles N. Foster, and William P. Homans, Jr.; on the brief of the Grotius Club were William C. Brunzell, W. Robert Chandler, Richard H. Garner, Irving C. Paul, and Robert P. Yeomans.

Palestinian Administration Favors British Interests, Writer Asserts

By VICTOR A. LEVONTIN

(This article, the second of a series on Palestine, deals with the British position, its effect on administration, and the author's comments.)

The present problem of Palestine obviously transcends any purely legal approach. It runs the whole gamut between keeping and flouting promises and extends from personal ethics to treaty obligations, to racialism, to oil concessions and the nuisance value of desert chieftans who have to be bribed out of harm's way (so that the oil pipeline does not get punched at inconvenient spots along the Syrian Desert) to the strategic importance of Palestine, to the position of Jewish minorities in Arab countries virtually held as hostages by fanatic mobs under Governments curiously passive. At times we may be tempted to regard both Arab and Jew as colorless pawns in a game in which the Big Powers alone matter, but this too is an escapist simplification. Arab and Jew do count. Yet there are other things which also count.

It is arguable that the British position, that they are ready to get out of the country, lock, stock, and barrel, "any old time at all," should be taken, not with a

grain, but, with a sizable bag, of salt. Britain has interests in Palestine not to be lightly dismissed. Palestine is within handy reach of the Suez Canal—still mighty and important, and over which an eye has to be kept constantly. The British Government cannot fail to realize that in this imperfect world, possession is nine-tenths of the law, while anything short of possession may not be worth the paper by which it is evidenced. Also Palestine has lately acquired a great importance as lying right on the intersection of the world's major air-routes. Moreover, what with Alexandria now more than ever possessively possessed by the Egyptians, and Cyprus not measuring up to the necessary specifications, the port of Haifa's offer of facilities and installations is irresistibly attractive. Also, Haifa is the terminus of the crude oil pipeline and the site of the big refineries—and modern navies run on oil. So the British cannot, perhaps, be as disinterested as all that. On the other hand, one may consider that a "territorial" approach to world strategy is now obsolete. But inertia is a law of nature, and the degree to which routine British policy framing may be expected at once to reflect newest de-

(Continued on page four)

LAW SCHOOL FORMAL

Tickets are still on sale at Gannett House for the Winter Formal Dance at the Boston City Club on Friday, December 12, sponsored by the P. B. H. Law School Committee. Burt Edwards orchestra will provide the music. Tickets are priced at \$4.50 a couple including a corsage for each girl.

SMITH WRITES ON DIVORCE

Article Calls For Prevention Of Needless Separations

Reginald Heber Smith, LL.B. '14, Treasurer of the Harvard Law School Association is the author of an article entitled "Dishonest Divorce" which appears in the December issue of the *Atlantic Monthly*. Although his treatment of this confused field of law will be of particular interest to students of conflicts and domestic relations, his constructive suggestions for reforming the divorce laws and procedure should provoke thoughtful consideration by the legal profession.

According to the headnote which attempts to summarize an already compact article, Mr. Smith believes that "instead of seeking to establish guilt and punish it with costly legal entanglements, modern divorce courts prevent many unnecessary separations. A compulsory waiting period, private hearings, and a thorough investigation by case workers could replace methods now too quick or too cumbersome for a right settlement, fair to all concerned." Other problems such as the possibility of replacing the concept of domicile in divorce with residence requirements are also discussed.

Originally, the article was a brief prepared by Mr. Smith for the National Conference on Family Life, which will meet with President Truman at the White House in May. This organization, which is investigating all aspects of family relations in the United States, is composed of several groups, one of which is the American Bar Association represented by Mr. Smith. After having read the brief, the Conference members were enthusiastic about Mr. Smith's proposals and so was Edward A. Weeks, Jr., Editor of the *Atlantic Monthly* who arranged for its publication.

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MEYERS INQUIRY IS DISCUSSED BY LEACH



PROFESSOR W. BARTON LEACH

PROF. FREUND OUTLINES PLAN

Says Program May Become Milestone in Education

At a well-attended court room meeting last Tuesday, Professor Paul A. Freund explained the objectives and advantages of the experimental program in legal writing scheduled for the Spring Term, 1948. He said that the results of the new plan, if successful, might prove to be a milestone in Harvard legal education.

By way of introduction Professor Freund summarized the program announced in a recent issue of the RECORD by Dean Griswold whereby 50 students from the fourth term and upward will work approximately 15 hours a week on projects similar to those undertaken by the *Law Review*. Mr. Freund stressed the three objectives of the experiment: productivity, precision, and problem thinking. He said that the productivity involved in the program would meet the criticism that students in law school do not have enough practice in legal writing. Too often after the qualifying rounds of the voluntary Ames Competition, the only experience students get in written legal expression takes place in the examination room. He suggested that some of the fruits of these experimental labors might be accepted by law reviews or might be published in an intramural law review or might be printed in the RECORD.

"This training," Mr. Freund said, "will be a milestone in education."

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CHAFEE RECEIVES AWARD AT BROWN

Recently Zechariah Chafee, Jr., (Brown '07, Harvard Law '13), Langdell Professor of Law, was awarded the Susan Colver Rosenberger Medal in ceremonies at the Brown University Chapel. The award, established in 1919 "for specially notable or beneficial achievement" by Brown graduates and others, was presented to Professor Chafee "for his knowledge of the philosophy, history and practice of free speech" and as "exemplifying that essential balance between thought, word and deed which typifies man at his best." Mr. Chafee, who is presently a delegate to the United Nations' Subcommittee on Freedom of Information and the Press made a speech at the presentation stressing the importance of whole-hearted support of the U. N. and the Marshall Plan in the U. S. Professor Chafee is the eighth person to be honored with the Rosenberger Medal. Past recipients include former Chief Justice of the Supreme Court Charles Evans Hughes, and John D. Rockefeller, Jr.

Says Public Confidence In Army Is Essential To National Security

In view of Professor W. Barton Leach's well known interest in the Air Forces, the RECORD interviewed the former colonel for his comments on the recent Bennet Meyers Investigation.

While he is convinced, on the present evidence, that Major General Bennet Meyers is guilty of the charges levelled against him, in regard to his activities in Air Force procurement, Mr. Leach is strongly apprehensive of the American public's concluding that such dishonesty is a normal and prevalent condition among the higher echelons of the Armed Forces. Any approach which tended toward generalization of such activities among the high officers he viewed as having but one possible result—a disastrous effect on public confidence in the Armed Forces at a time when this confidence is essential to national security.

"The public must realize," he said, "that misconduct must be expected from a certain small number of men in every profession or organization—the Armed Forces, the bar, the Congress of the United States, the New York Stock Exchange, or the ministry. This realization will lead to a sane, balanced perspective of the over-all problem."

Mr. Leach thought it improbable that, as a matter of the law of averages, the Meyers case would be the last of its kind turned up by the committee, or others, although he felt that subsequent disclosures might not be attended with such widespread newspaper coverage and public interest. In addition to the generally sensational nature of the Meyers investigation, and coming as it did, after the Hughes-Brewster episode, Mr. Leach thought that further interest was stimulated by what he considered a natural aftermath reaction to the war—a desire by many people to "cut the brass down to size."

LOREN JUHL HEADS NEW RECORD BOARD

Last week the RECORD Board elected new officers who will guide the publication through its sixth term in the Harvard Law School. Each term the new Board will take over the last few issues in order to acquaint themselves with their duties while the old members are still available as counsel.

The new corporate officers are: President—Loren E. Juhl (Illinois '40) succeeded Richard H. Wolford (Harvard '43).

Editorial Manager—Walter J. Myskowski (George Washington '44) replaced Joseph P. Logan (Dartmouth '42).

Business Manager—A. Byrne Litschgi (Florida '41) succeeded Marshall J. Deutsch (C. C. N. Y. '42).

Those elected to the Board of Editors were: News—Laurence P. Corbett (Harvard '43); Features—Jerome Shestack (Pennsylvania '43); Opinion—Eli Goldston (Harvard '42); Current Case—Stanley R. Evans (Northwestern '46) replacing Robert W. Culbert (Drexel '41); Articles—Milton P. Kayle (Hamilton '43); Calendar—Sydney Rothstein (C. C. N. Y. '43); Alumni—Arthur S. Friedman (Oberlin '46) replacing Nathan C. Fitts (Amherst '39); Comment—Nathaniel B. Taft (Fordham '40); Copy—Miles G. Wedeman (Swarthmore '43); Associate—Richard H. Wolford, replacing Harvey Karlin (Pittsburgh '39); Associate—Joseph P. Logan; Secretary—Eugene J. T. Flanagan (Yale '44).

Members of the new Business Board (Continued on page four)

The Harvard Law School Record

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Opinions of the Staff

The new plan announced last week by Dean Griswold, whereby the valuable experience of intensive legal research and writing is to be extended to a group of students other than members of the *Law Review*, has been received with great interest by the student body. Initial reactions have ranged from those who consider the plan a satisfactory answer to all of the problems involved, to those who brand it a condescending offer which blandly ignores basic problems involved.

Certainly the new plan offers no answer to the traditional criticisms of the *Law Review* itself. Probably no issue, legal or otherwise, has been the subject of more discussion in student circles than the organization and operation of the *Law Review*. On several occasions, letters have appeared in the columns of the *Record* asking someone to justify or rationalize the methods followed by the *Law Review*, namely, restricting membership to an extremely small percentage of the student body, and then saddling each member with a tremendous burden of work. No one has ever come forward to attempt a reasonable justification for such a policy. Other schools, which offer the advantages of law review work to a much larger proportion of the students, have shown that this need not result in any lowering of quality in the publication. Today, Harvard Law School has an enrollment of 2,111 men, purportedly of high general ability. Fifty-one students are receiving the advantages of work on the *Law Review*. Perhaps there is some rational explanation for this seemingly absurd restriction, but no one has ever made it. In the absence of such explanation, ninety-eight per cent of the students can only wonder if there is such a thing as "exclusiveness for its own sake." Whatever the real reasons, the *Law Review* at present evidently prefers to "coach some intramural squads" rather than increase the "varsity," and the newly announced plan has been arranged accordingly.

The suspicion of unnecessary restriction need not be limited to the *Review*. Participation by students in the work of the Legal Aid Bureau might well be expanded greatly. Articles appearing in the *Record* have shown that other law schools consider this type of activity very helpful to future lawyers. Legal Aid at Yale is open to the entire student body on a voluntary basis. At Northwestern, Legal Clinic work is required of every student. Perhaps there are valid reasons against such wide student participation, but they are not so self-evident as to preclude candid and open-minded consideration of the question. Today at Harvard 37 men, out of an enrollment of 2,111, are participating in legal aid work.

The "new plan" is at least a step in the right direction, and should receive the wholehearted support of all concerned. It represents a realization of the fact that the school can and should provide educational activities of value, in addition to classroom lectures, particularly for students in the later terms. It is hoped, however, that the inauguration of the plan will not prevent a continuing re-appraisal of existing facilities with a view to extending their benefits to a greater proportion of the student body.

STANLEY R. EVANS.

Letters to the Editor

To the Editor of the *Record*:

Fortunately, the parking situation for law students is not as serious as you have made it out to be in your editorial *The Parking Problem* in your last issue. There is a large parking place just behind Conant Hall between Oxford Street and Divinity Avenue, within 1,000 feet of the main entrance to Langdell Hall. Its entrance is on Oxford Street opposite Everett Street.

This parking place is open to all departments of the University. While it does fill up on occasion later in the day, certainly any law student wishing to get to the Law School by 9 o'clock or even 10 o'clock will be able to find a place there.

LIVINGSTON HALL,
Vice Dean

To the Editor of the *Record*:

Recently the Hotel Commander cancelled a farewell dinner for 35 Americans who were returning to Soviet Armenia, after the AMVETS had threatened to picket if the dinner was held.

The AVC wishes to dissociate itself from any connection with the AMVETS or with this incident. Strongly disapproving the cancellation and the loose thinking which brought it about, we wish to protest to the following:

1. Frank Boland, manager of the Commander, who had agreed, according to our information, to go ahead with the dinner despite the threats of picketing, if a statement was prepared outlining the facts explained to him. Overnight and without reading the statement, he changed his mind. The police protection he requested and received—100 fully equipped men, detectives and radio patrol cars—would have been ample to protect the hotel and the Armenians.

2. The AMVETS, for threatening to picket without adequate first-hand inquiry into the motives of the people concerned. The unnecessarily large number of pickets planned (at least 400) was apt, regardless of intention, to create intimidation and danger of mob disorder. Primarily, however, we protest the threat to picket without a thorough examination of the facts.

3. Mayor Lynch of Cambridge, for lauding Boland's action as "rugged Americanism." We protest any equation of Americanism with such discrimination and intolerance.

A thorough investigation has disclosed these facts: The returning Armenians had been cleared by the State Department. The vast majority are not Communists, but are motivated by ties of blood and nationality. The Armenian Progressive League, which sponsored the dinner, is a non-political organization. It had nothing to do with the repatriation movement; it was merely giving those returning a "sendoff." We are satisfied that it is in no way an "Un-American" group. This is corroborated by the fact that, for example, the league was consistently pro-Ally long before the Russians entered the war. Regardless of the truth or falsity of Communist influence, the issue—one of civil liberties—remains the same.

Although the incident is small and local, it is important as part of a growing pattern of uninformed intolerance. If such action continues to be taken, praised or condoned on the community level, national freedom may become restricted to the particular mental horizons of particular groups. We urge all citizens to join in the protection of the liberty of every individual, as this is the only way to preserve it for themselves.

HARVARD CHAPTER, AMERICAN VETERANS
COMMITTEE.

Off the Record

Note to Prof. Maguire

A friend of ours, majoring in English at college, reports that his final exam was based on "Othello, Its Legal Aspects."

Legal Primer: The Student

This is a Student, with a capital S, children. He sneers at "grinds." You can always find him in his classmates' rooms, inviting them to the movies or a ball game. And after he returns home, having impressed everyone with his ability to be a regular fellow, he sneaks into a damp corner and crams 'til 4 a.m.

L'AVOCAT

In Scott We Trust

The trustee in the Ringling affair
Found the res was a grizzly bear.
Res tried to revoke. He
Escaped from the pokey,
But trustee followed the res to its lair.

Then came breach of trustee in great haste.
(Res admired fiduciary's taste.)
In this case, great scott,
Could cestui que not
Somehow surcharge the res for such waste?

E. G.

Gallery

JOHN MacARTHUR MAGUIRE

Professor of Law



Othello, past perception recorded, Desdemona, hearsay exception, Iago, competence of witnesses, and other evidentiary and Shakespearean materials were the potpourri which members of last spring's Evidence class had to review for their final examination. Professor Maguire had announced a month before the test that it would be based on the record of proceedings in the lower court, and that *Othello* would serve as that record.

"My aim," says Professor Maguire, "was to confront the students with a factual situation similar to one they will find in making trial briefs when, as lawyers, they must be able to shape their conduct on the basis of what facts have gone before, and what facts might turn up later in the trial. Most of the blue books showed that it was a rather new experience for the majority of the students."

The *Othello* incident, in a microcosm, is the Maguire philosophy of teaching law. His classroom presentations, as well as examinations, do not deal with purely hypothetical and academic questions. Rather, they are directed at reality, with a cohesive interworking of events as might well exist in practice. *Othello*, telling a complete story from start to finish, afforded many bases for evidentiary questions. Although he believes that the entire examination should be based on one situation, Professor Maguire does not intend to duplicate quizzes of the English literature variety term after term, his present class will be interested in learning.

John MacArthur Maguire is a thin, jolly individual with eye-glasses and a dapper brush mustache. He tackles his classroom work with a relish, smiling so frequently that "Happy Jack" has been his nickname among the students. The first half of the hour is devoted to lecture, following an organized outline. The latter portion consists of a general class-wide discussion on topics previously mentioned, and is generally opened with a "Well, I've said my piece. Now you fellows fire away at it." Spirited question-and-answer periods ensue, during which every facet of the day's material is re-examined. To the charge that such treatment results in students taking jumbled notes, Professor Maguire pleads *nolo contendere*. "The solution," he suggests, "is that each student listen intently during class, taking only a few salient sentences. Then, after class, he should rework his notes, and the ideas he has in his mind, tying everything discussed into an organized pattern."

Although monosyllabic speech is the vogue today, Professor Maguire employs a vast vocabulary, and has a flair for deftly using the word which conveys the precise shade of meaning he desires to communicate. In addition, he occasionally punctuates his lectures with Victorianisms, the most notable of which are "folderol" and "twaddy-twa."

Born in Denver in 1888, John MacArthur Maguire received a Harvard LL. B. in 1911, and became associated with a Boston law firm, of which he is still a member. One of his first big cases was a suit against the sovereign Commonwealth of Massachusetts for tort as the result of an allegedly negligent forest fire caused by men on relief who had been put to work in the State forestry department. Although the suit was unsuccessful, he attracted wide attention by both his handling of the case, and a subsequent law review article on the subject. One result of it was his appointment to the Faculty in 1922.

During both World Wars, he worked for the government. In World War I he worked with the Department of Justice; in World War II he was consulting expert for the Treasury Department.

Professor Maguire has been active in both the American Law Institute and the American Bar Association, serving as assistant reporter for the A. L. I. Model Code of Evidence. He is also co-editor of casebooks on Evidence and Taxation. In addition, since 1926, he has been legal adviser to Committee A of the American Association of University Professors. This committee's job is to prevent violations of academic freedom and tenure.

N. B. T.

Sub Judice

DID JOSE LEAVE VOLUNTARILY? * * *

A recent Supreme Court decision demonstrates once again how vigilant the courts must be in curbing the zealotry of government agents, in order to protect the rights of citizens and even, as in this case, resident aliens.

José Audon Salazar Delgadillo was a Mexican citizen who made legal entry into this country in 1923 and resided here continuously until 1942. In June of that year, when this nation was engaged in hostilities with Germany and Japan, he shipped out of Los Angeles on an intercoastal voyage to New York City as a member of the crew of an American merchant ship. The ship was torpedoed after passing through the Panama Canal on its way to New York City. José was rescued and taken to Havana, Cuba, where he was taken care of by the American Consul for about one week. On July 19, 1942, he was returned to the United States through Miami, Fla., and thereafter continued to serve as a seaman in the merchant fleet of this nation.

In March, 1944, he was convicted in California of second-degree robbery and sentenced to imprisonment for a term of one year to life. While he was confined in the California prison, proceedings for deportation were commenced against him under a section of the Immigration Act which provided in part: " * * * any alien who is hereafter sentenced to imprisonment for a term of one year or more because of conviction in this country of a crime involving moral turpitude, committed within five years after the entry of the alien to the United States * * * shall, upon the warrant of the Attorney General, be taken into custody and deported * * * " The requirements for deportation were satisfied here if the trip from Havana, Cuba, to Miami, Fla., on July 19, 1942, was "the entry of the alien to the United States" within the meaning of the Act. José brought habeas corpus proceedings and was successful in the trial court. The Circuit Court of Appeals reversed, however, and the Supreme Court took up the question of statutory interpretation.

The court conceded that there was in some previous cases "language which taken from its context suggests that every return of an alien from a foreign country to the United States constitutes an 'entry' within the meaning of the Act." These were distinguished as cases in which the alien clearly expected or planned to enter a foreign port or place. In contrast, the court cited the opinion of the Second Circuit Court of Appeals in *Di Pasquale v. Karnuth*. In that case an alien traveled between Buffalo and Detroit on a railroad which, unknown to him, passed through Canada. He was asleep during the time he was in transit through Canada and was quite unaware that he had left or returned to this country. The court refused to hold that the alien had made an "entry," for to do so would impute to Congress a purpose to subject aliens "to the sport of chance." 158 F. 2d 878 (C. C. A. 2d 1946.) The reasoning of that case seemed persuasive to the Supreme Court in the present case, and the decision below was reversed. Expressing sentiments with which one can well agree, the court concluded, "In this case, petitioner, of course, chose to return to this country, knowing he was in a foreign place. But the exigencies of war, not his voluntary act, put him on foreign soil. It would indeed be harsh to read the statute so as to add the peril of deportation to such perils of the sea. We might as well hold that if he had been kidnapped and taken to Cuba, he made a statutory 'entry' on his voluntary return. Respect for law does not thrive on captious interpretations. *Delgadillo v. Carmichael*, 68 Sup. Ct. 10 (November 10, 1947).

THE EXCEPTION THAT DEVOURS THE RULE * * *

A brief exercise in statutory interpretation was recently undertaken by the Supreme Court of Georgia, with results which seem startling to those who incline to the view that a legislature will not enact a futile law. Here's the situation: Clause A of a statute regulating labor activities provides for a thirty-day notice-of-intention to strike. Clause B says: "Nothing in this Chapter shall apply to any labor organization or local in a seasonal industry such as the ladies' garment, hat, and millinery and men's clothing industry, nor shall any provision of this chapter apply to labor unions of railroad employees operating under the national railroad employees act."

The Court holds that (1) since seasonal industries such as men's clothing are excluded, and (2) since men's clothing is not a seasonal industry in the eyes of the Court, (3) all industries must be exempted and the section therefore becomes wholly ineffective.

All the Justices concurred in this *tour de force* and held that the trial court erred in granting a temporary injunction based upon a failure to comply with the thirty-day notice provision. *Local Union Etc. v. Howard Bus Lines*, 43 S.E. (2d), 523 (July 10, 1947).

Alumni Notes

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

Ex. '87—Herbert Solloway died at Cleveland, Ohio, on October 25.

LL.B. '92—Arthur Friend, who was a member of Herbert Hoover's food administration staff during the first World War, died Nov. 17, in New York city. He was long connected with the amusement industry, having served as counsel for the Jesse L. Lasky Feature Play Company, which he helped organize, and as treasurer and counsel of Paramount. He was an expert in copyright and theatrical law, and had recently acted as supervising producer of "Strange Fruit."

LL.B. '94—Arthur D. Hill, senior partner of the Boston law firm of Hill, Barlow, Goodale & Wiswall, died November 29, at Port Chester, N. Y.

LL.B. '14—Harvey H. Bundy has been re-elected chairman of the Boston Metropolitan Chapter of the American Red Cross.

LL.B. '15—William Clark was married to Miss Sonia Tomara in Paris, France. Clark, former judge of the Court of Appeals, Third Circuit, resigned from the bench in 1942 to go on active duty as a Lieutenant Colonel, AUS. He served with the general staff in Australia, North Africa, Italy, Normandy, and Belgium. Miss Tomara was formerly with the foreign service staff of the New York Herald-Tribune.

LL.B. '23—Charles G. Raphael, formerly legal adviser to the United Nations Relief and Rehabilitation Administration, Greek Mission, has resumed the general practice of law at 72 Wall St., New York city.

LL.B. '26—Richmond Keith Kane has been elected to the board of the Homelands Insurance Co. of America.

LL.B. '27—On November 4, Essex County, N. J. voters elected as their state senator Alfred C. Clapp. Clapp lives in Montclair and practices in Newark. He is the author of a much-used treatise, "Wills and Administration in New Jersey."

LL.B. '28—Francis C. Reed, a member of the firm of Hughes, Hubbard & Ewing, has been elected a director of the L. E. Waterman Company. He has been general counsel for the fountain pen company for ten years.

LL.B. '31—William McKelvey Rutter, after serving as Deputy Attorney General of Pennsylvania from 1939 to 1943 and as First Deputy Attorney General of Pennsylvania from 1943 to 1947, is now General Counsel to the Pennsylvania Public Utility Commission. He is also engaged in private practice in Reading, Pa.

LL.B. '40—Donald R. Bryant, of Dover, N. H., has been appointed state chairman of the Junior Bar conference of the American Bar Association for the state of New Hampshire, for 1948. He served as public information director of the N. H. Junior Bar conference for 1947.

LL.B. '40—Miss Margery Ann Brennehan, of New Rochelle, N. Y., was married in October to Richard Worthington Tucker. After serving for four and one-half years with the U. S. Army, Tucker was released with the rank of major. He is a member of the New York bar.

SMITH—(Continued)

ranged to have the material converted into story form.

By way of postscript, it is interesting to learn that unknown to Mr. Smith, Justice Miner, Presiding Judge of the Chicago Divorce Court, busiest divorce court in the world, independently arrived at similar conclusions which he intends to inaugurate so far as possible within his jurisdiction.

FREUND—(Continued)

result in sharpening a student's ability to express himself precisely in an accurate, meaningful, and thorough manner." He said that the three third year *Law Review* editors who will administer the program will bring to the experimental group a tradition of expertness, organization, and experience in legal writing which will be extremely helpful.

Professor Freund said that by "problem thinking" he meant the practice in dealing with new situations which did not fall neatly within the framework of the separate courses taught at the Law School. Such situations, characteristic of those encountered by the practicing lawyer, have to be dealt with fully, by giving consideration to all the possible issues arising from the facts including problems of procedure and statutory construction.

The workings of the program were explained in detail. Because of the small number of *Law Review* editors that can be spared for the project, the students selected by lot from those who signed up at the reception desk last Saturday have been limited to fifty, with preference to sixth and seventh term students who will not have another opportunity to participate. Nevertheless, some fourth and fifth terms have been drawn in order to provide continuity within the group if the experiment is repeated next fall as planned. Perhaps these veteran volunteers will be able to serve as advisers if a full-scale intra mural law review program is undertaken.

NEWS BRIEFS—(Cont.)

J. SMITH CLUB DINNER

At the annual dinner of the Jeremiah Smith Club which was held recently at the Harvard Club of Boston, Justice Felix Frankfurter gave an informal after-dinner talk on his "intellectual genealogy" and included some advice on practice before the Supreme Court. Mr. Thomas P. O'Boyle, 3L, Club Supervisor, and Mr. James B. Grant, 3L, Secretary, arranged the gathering. Prof. Edmund Morgan introduced Justice Frankfurter telling of their 43-year acquaintance beginning when he was Note Editor of the *Review* and Mr. Frankfurter was one of his "slaves" in the Note Department.

In his comments on proper oral advocacy, Mr. Frankfurter stressed knowledge of the record in the case as an absolute necessity though it is something many prominent practitioners fail to remember. He warned advocates against saying "I'm coming to it" in an attempt to deflect a question from the court. This is the easiest way to lose the interest of the interrogating justice. Furthermore, counsel should never try to cover all the points of the brief, but should concentrate his fire on the vital questions.

In discussing his intellectual forebears when student and faculty member, Mr. Frankfurter mentioned six former professors as the dominant influences on his development. He characterized Dean Ames as the foremost gentleman and scholar, and Prof. John Chipman Gray as the acknowledged leader in property law and as a "man of the world." He cited Prof. Wambaugh for his learning, Prof. Williston for his unexcelled teaching technique, Prof. "Joey" Beale for his attempt to unify all law into a logical whole, and Judge Jeremiah Smith for his remarkable open-mindedness at the age of 75.



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Calendar

THE LEGAL WORLD Notice For Veterans

All veterans in training at Harvard under the G. I. Bill or P. L. 16 who have not received their December V. A. checks by December 8 are requested to report the matter to a Veterans Administration training office in Weld 12 during the week of December 10-17, between 10 a. m. and 4 p. m., except Saturday and Sunday. Veterans so reporting non-receipt of checks are requested to notify Weld 2 when missing checks are received.

Law and Medicine

Scientific Evidence in Deaths by Violence will be the topic for today's lecture by Dr. Alan Moritz of the Harvard Medical School. Part of the series on *The Relationships Between Law and Medicine*, it will be held in Langdell North Middle at 4 p. m.

Estate Planning

Mayo Shattuck, Esq., of the Boston bar, will deliver the second in his series of lectures on Thursday, December 11, at 4 p. m., in Langdell Courtroom. The topic will be *A Typical Estate Plan*.

Lawyers Guild

Professor Soia Mentshikoff will speak on "The Successful Practice of Law" on Friday, December 12, at 3:00 p. m. in Langdell North Middle. All students invited. A smoker will be held following Professor Mentshikoff's talk at 4:00 p. m. at Kendall House on Friday, December 12. Members, prospective members and guests are invited. Beer will be served.

A discussion group is being organized to meet with two high-average third year students to discuss study methods, exam technique, and criminal law issues. Men interested contact George Buckler, Prospect 6-1642 immediately.

Ohioans

Ohio students planning to attend the "Ohio Dinner" at the Faculty Club on Monday, December 15, at 7 p. m., are asked to pay for the tickets at the Record Office before 5 p. m., Wednesday, December 10.

Law School Formal

The Law School Winter Formal Dance will be held at the Boston City Club on Friday, December 12, from 9 p. m. to 1 a. m. Tickets are \$4.50 a couple, and may be purchased at Gannett House.

Morgan Club

A Christmas party will be held at Kendall House on Saturday, December 13, at 8 p. m.

THE UNIVERSITY WORLD

German Policy

Prof. Carl Friedrich of the Graduate School of Public Administration will deliver the second in his series of lectures on *The Evolution of Military Government Policy in Germany* on Wednesday, December 10, at 8 p. m., in Littauer Auditorium. This lecture deals specifically with De-industrialization.

Sunday Services

Prof. James T. Cleland of Duke University will deliver the sermon on Sunday, December 14, at 11 a. m., in the Memorial Church.

THE OUTSIDE WORLD

Palestine Problem

Can Palestine Solve the Jewish Problem? will be answered by Saul Padover on Sunday, December 14, at 8 p. m., at the Ford Hall Forum in Jordan Hall, Boston. Take Huntington Ave. car to Opera House.

RECORD —(Continued)

are: Advertising Manager — Lester J. Tanner (C. C. N. Y. '42) replacing Harvey M. Spear (Brown '42); Circulation Manager — Howard Monderer (C. C. N. Y. '46); Treasurer — William P. Cunningham (Harvard '44).

Other members of the staff for the coming term include: Elliot S. Gross (Syracuse '46), Richard A. Holman (Cornell '43), Paul Kirby (Harvard '44), Herbert Lasky (Wisconsin '43), Bernard Marcus (Pennsylvania '45), Alvin Silverman (Cornell '46), Saul Touster (Harvard '44), Kenneth C. Weinberg (Miami '40), Richard Wincor (Harvard '42).

PALESTINE —(Continued)

velopments remains uncertain. It is just possible that Imperial defense is already recognized to depend on means, the maintenance of which does not already require a foothold in Palestine, or, indeed, in any specific territory. Cross-currents in thinking are apparent and there is a tug of war between conceptions already antiquated and others not yet proven. A compromise may be ultimately reached in "leaving" Palestine the way that Iraq or Egypt were "left." However, that for the last quarter of a century, the Administration of Palestine has not acted after the manner of a benevolently disinterested moderator becomes apparent from a concise catalogue of some of the more salient obligations of the Mandate, and how they fared at the hands of those entrusted with their discharge.

Article 5 forbids the Mandatory to cede or place any part of Palestine Territory under the control of any foreign government: The separate and independent Arab Kingdom of Trans-Jordan was proclaimed in eastern Palestine.

Article 6 bids the Mandatory facilitate Jewish immigration: Everything was done to hinder and defeat it, including the forcible removal of refugees from the shores of Palestine back to the old concentration camps in Europe, from which they fled. The Article requires close settlement of Jews on public lands: One of the earliest pieces of local legislation in Palestine made in an offense to go upon waste public land, and altered the old law by making it no longer possible to acquire prescriptive title through occupation of such land.

Article 15 provides that "No discrimination of any kind shall be made between the inhabitants of Palestine on the grounds of race, religion or language": regulations were passed prohibiting the free transfer of land in all but 5% of the area of the country to people other than "Palestinian Arabs." This highly ambiguous phrase was deliberately invented, the law going all out to prevent the courts from cracking down on the enactment, by providing that the question who is a "Palestinian Arab" is to be determined by the High Commissioner, i.e. by the Executive, not by the courts.

Article 27 lays down that "the consent of the Council of the League of Nations is required for any modification of the terms of this Mandate": Not only was there no consent, but the Permanent Mandates Commission of the League of Nations has unanimously held that the White Paper policy, heralding these restrictions, was (in the words of the Anglo-American Report, referred to in the preceding article) "in conflict with the interpretation which the Mandatory Government with the concurrence of the organs of the League, had put upon the Mandate in the past." The League of Nations which was, all told, supreme in the affairs of Palestine had made it clear it would not stand the trustee's attempts to drive a carriage and four through his instrument of trust.

By the far-reaching violations of its mandate, as well as by more indirect

measures, the local Administration has itself created many of the obstacles in the way of implementing its obligations. It is, perhaps, idle to guess whether such accumulation of difficulties (many of them imaginary) was intentional or accidental, or mixture, for the devil himself knoweth not the intent of man; but, judging the performance by appearances, one can hardly escape the close analogy to the man who scuttles his boat, then claims impossibility of performance.

As of the moment, Palestine is under active consideration by the family of nations, and although for some time now the wind has been blowing pretty steadily in one direction, it is still early to foreclose the issue. Meanwhile, back in Palestine, the land is strife-torn and bleeding and some extremists in the Zionist camp have taken to throwing bombs. Not, be it noted, against the Arabs. Why? Well, when a trustee, who falls out with cestui on the feasibility or interpretation of the trust, proceeds to club and incarcerate him before finally putting on a belated show of laying his trust at the feet of the settlor, some people would raise an eyebrow in resentment. Others, whose interest in the matter is more than academic, may feel a deeper shade of resentment; and in some, depending on mental and moral constitution, and on a variety of other factors, resentment may be sufficiently acute to reach the point where it is translated into bomb-throwing. This is both evil and wrong; yet, it is precisely at this point that the outsider may profitably recall Spinoza's admonition—not to decry not to praise, but to try to understand.

Since the writing of the above the United Nations have, by a decisive majority, approved the scheme for partitioning Palestine into Arab and Jewish states. The firm imposition of this solution on the Kaleidoscopic background outlined becomes a crucial test for the United Nations—indirectly, perhaps, for the survival of civilization. It may turn out to be an extraordinarily hard test—but then so are tests which test. One prays that peace may at long last come to the Holy Land, the cradle of all that matters.

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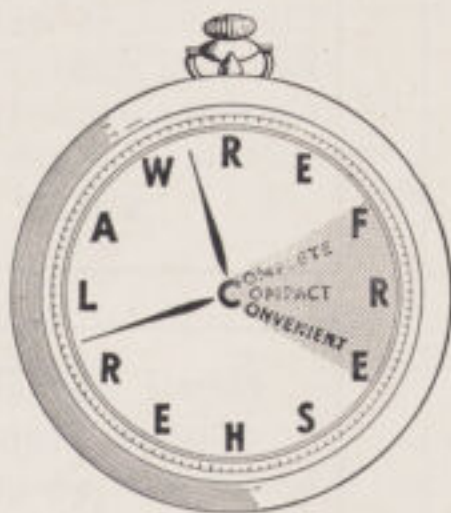
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