

The Harvard Law School Record

VOL. 6 NO. 1

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PRICE TEN CENTS

NEWS IN BRIEF

NEW PROFESSOR

Prof. William L. Prosser, who was appointed to the Harvard Faculty last spring, is teaching here this term. As professor and practitioner in the field of torts and author of the popular *Hornbook on Torts*, Prof. Prosser has taken over the instruction of Section I, 2nd term, in his specialty.

Prof. Prosser was a member of the Minnesota Law School faculty from 1930 to 1942. He left to become Counsel for the O.P.A. in Minnesota and has recently been engaged in practice with the Minneapolis firm of Dorsey, Coleman, Barker, Scott, and Barber.

SHELDON PRIZE

John R. Alexander, 3L, (Princeton '41), has been awarded the Sheldon Prize for the best oral argument in the quarter-final round of last term's Ames Competition. The prize was made available under the will of William D. Sheldon and it permits the winner to select any book of his choosing up to a \$20 limit.



SHATTUCK "HANDBOOK"

Mayo Adams Shattuck, LL.B. '21, Boston attorney, whose lectures on estate planning last term at the Law School evoked wide interest among RECORD readers, has announced the proposed spring publication of his book, "An Estate Planner's Handbook." The work, which will be published by Little, Brown and Co., treats comprehensively all phases of estate planning and in appendices presents the views of other leading writers on special subjects.

JOURNAL OF LEGAL EDUCATION

The Association of American Law Schools will found a new legal journal which will be published by the West Publishing Company and the Foundation Press. It will be edited by the faculty of Duke University Law School and will serve as a forum for legal educators throughout the nation.

Brainerd Currie, professor of law at Duke Law School has been named as editor-in-chief. The members of the editorial board who will determine the editorial policy of the journal will be David F. Cavers, professor of law at Harvard Law School; Elliott E. Cheatham, professor of law at Columbia Law School; and Albert J. Harno, dean of the University of Illinois Law School.

LAW WIVES OPERA CLASSES

The Harvard Law Wives as a result of many requests are sponsoring a second series of Opera classes for law students and their wives. These classes are conducted by Mr. Benjamin Kimball who plays the recordings and draws from his long operatic experience to interpret each work. The admission charge is \$1.50 for the series of six classes or 35 cents for each class. The next meeting will be held at Kendall House at 8 p.m., Feb. 26.

YOUNG REPUBLICAN CLUB

Last Thursday night over station WHDH in Boston, four Law School students participated in a debate involving the Taft-Hartley Act. The program, which was broadcast from 9 to 9:30 p.m., was one of WHDH's weekly series of student forums, "This Is Your Business."

Defending the much-disputed statute were two members of the Speakers Bureau of the Harvard Young Republican Club, John L. Casey, Jr. (Director of the Bureau), and Chester B. McLaughlin, Jr.; opposing them were John MacMeekin and Duane Beeson.

H.L.S. ALUMNI IN INDIANA ORGANIZED

\$20,000 Is Pledged By Membership For School's Use

The Harvard Law School Association of Indiana, following in the wake of three other local associations, Philadelphia, Northern California, and Southern California, is the fourth Alumni group to be granted affiliation status with the national Harvard Law School Association. Its well-attended initial dinner party—its pledge of almost \$20,000 for the benefit of the Law School, and its active steps in establishing a local placement bureau to aid graduating students in securing positions bear witness to the enthusiasm and loyalty of the Indiana Alumni.

Kurt F. Pantzer '17 and Joseph J. Daniels '14 of Indianapolis were the chief organizers of the new Association. Through their efforts, a dinner and business meeting to which all Indiana Alumni were invited was held at the Claypool Hotel in Indianapolis on December 15-16, 1947. In spite of a severe snow storm, over 75 of approximately 200 Alumni in the State were present. Mr. Pantzer was Toastmaster; speakers included Mr. Daniels who explained the aims of the new organization, Governor Ralph F. Gates of Indiana, and Professor W. Barton Leach whose address concerned "The Challenge of Harvard Law School." At this meeting, the Indiana group was the first local chapter to exercise a prerogative granted by the new

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ANNOUNCEMENTS

Due to the intervening holiday the next issue of the RECORD will be published on Wednesday, Feb. 25, instead of on Tuesday, Feb. 24.

This term, the RECORD plans to expand its staff through the addition of men to the business and editorial departments.

If you feel that you might be interested in joining the staff, we invite you to climb up to the RECORD offices on the third floor of Austin sometime during the next week and talk it over. We would prefer to have you come between the hours of 11 a.m. and 1 p.m., but there will be someone in the office at all times during the day to discuss the matter with you.

DEAN REVEALS TRAINING PLAN

Third Year Men To Work With Faculty

As a further step in the School's efforts to provide supervised legal training outside the classroom, Dean Erwin N. Griswold has announced a plan, to be conducted on an experimental basis during the spring term, whereby a number of third-year men will be given an opportunity to work with Faculty members as legal assistants.

Full details of the plan are contained in announcements now posted on the bulletin boards. Eligibility requirements are third-year standing and an average of 68 or higher in either first or second-year work, or both. Editors of the *Harvard Law Review*, members of the Board of Student Advisers and of the Legal Aid Bureau, and participants in the written work project, are not eligible.

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Writer Recalls Terror, Hope, Despair That Are Fate of First Year Class

In 1933, Lyttleton Fox, LL.B. '34, now a New York lawyer, wrote an article for the magazine, *Forum and Century*, called "Harvard; Incubator of Greatness." Mr. Fox developed the thesis that the Harvard Law School training entailed such an ordeal that those who did survive naturally took prominent positions of responsibility in government and business upon graduation. The RECORD, with the publisher's permission, reprints portions of the article to remind alumni of victories well won and to show students that their present travail is just an old story.

The opening lecture in any course is likely to be a geyser of advice. With each new filip to industry, the gospel of terror takes firmer root. Multiplicity of advice from different sources is confusing. "Don't take down the whole lecture; you mustn't suspend your thought and make yourself a mere stenographer. It is of the first importance to learn to select your material." Another urges the wisdom of putting everything the instructor says in your notebook. "What seems trivial now and is easily forgotten may be badly needed at a later stage. It doesn't pay to take chances by trusting your own, inexperienced selection."

On swings the term, and up swings the advice market until it is glutted and tottering. But it never quite collapses. A second-year man who barely muddled through the examinations pours out precepts with the glibness and sublime self-trust of Solomon. And men who would not have faith in the speaker's common sense to plan a picnic take it all with hungry humility. Formulas for success stuff the air.

Everyone knows that the big chance depends heavily on the intensity of his work and in general the industry of law students is saintly. They plant themselves in the gigantic reading room of the law library day after day, meticulously annotating. (Nothing adds to the appearance of unremitted effort like a green vizor.) Many will not desert the procession even for badly needed

sleep. Though their eyelids may tell them they will endure no more, they force themselves ahead. You can see them at the reading tables any afternoon—their poor, weary heads heavy on their folded arms, eyes shut as if they would never open.

There are men who grudgingly con-

(Continued on page three)

PROFESSOR E. S. THURSTON DIES

Professor Emeritus Edward S. Thurston '01 who taught at the Law School from 1929 to 1942 died on Feb. 10, at the age of 71. Still actively engaged in legal work, Professor Thurston was teaching at Hastings Law School until the time of his death. His last appearance before the alumni was on February 2 when he attended the meeting of the Harvard Law School Association of Northern California.

Professor Thurston was graduated from Harvard College in 1898, received his A.M. from Harvard in 1900, and took his LL.B. in 1901. After 5 years of practice in New York City, he began his teaching career which brought him to Indiana, Illinois, Minnesota, and Yale Law Schools before he came to Harvard.

Professor Thurston was the author of several text-books, among them "Cases on Torts, 1942," which he did in collaboration with Professor Seavey.

"MUST WE STOP RUSSIA" WILL BE FORUM TOPIC



JOSEPH ALSOP



I. F. STONE

The future for Russo-American relations will be examined for the Harvard Law School Forum by two journalists, Joseph Alsop of the *New York Herald Tribune* and I. F. Stone of the *Nation* and the newspaper *PM*, who will consider the question, "Must We Stop Russia?" Law School Professor Milton Katz, wartime OSS officer in Europe, will moderate at the meeting scheduled for 7:50 p.m. this Friday, Feb. 20, at Rindge Technical High School Auditorium.

LAW STUDENTS ON BROADCAST

Will Appear on A.B.C.'s 'World Security' Series

Professors and students of the Harvard Law School will serve as judges and counsel respectively for the next four trials of important issues in the "World Security Workshop" series, broadcast coast-to-coast each Sunday from 12:30-1:00 p.m. by the American Broadcasting Company Network. Listeners in the Boston area can hear a transcription of the program on WCOP, the local network station, starting this Sunday, Feb. 22, at 2:30 p.m.

Consideration of current world problems (Continued on page four)

STUDENT BOARD TO SHOW NEW MOVIE

The Board of Student Advisers plans to show its newly completed moving picture, "Case in Point," in the Court Room on Wednesday, Feb. 18, at 8 p.m., for first-year students, and on Thursday, Feb. 19 at 8 p.m. for upper classmen. The film is a 50-minute color and sound production covering the use of legal research materials. It portrays a Student Board adviser conducting a group of new law students through the library and showing them how to use the available tools. The concluding part of the movie shows the methods employed by a first-term student in gathering material for his particular Ames case.

The film script was written by John McNaughton 3L, Eastman Birkett 3L, Cyrus Newman 3L, and Stanley Freedman 3L; Freedman was also the producer. As a result of showing the movie to the Convention of American Law Schools, there have been numerous requests for the film by law schools throughout the country.

Since the initial sets of facts for the second-term courts will be issued on Feb. 24, the Student Board hopes to give second-term men the first opportunity to see the film. These courts will be in session during the third and fourth weeks in March.

The facts for the quarter-final and semi-final arguments were issued last week and the cases will be tried during the last week of March and on April 1 and 2 respectively. At the end of the first week in April, the Gardner Club will meet the Holmes Club in the final argument in the Ames Competition.

Author, columnist, and a former Harvard student, Alsop has covered Russia and interviewed Joseph Stalin. Though he does not believe that war with Russia is inevitable, Alsop favors a strong policy of resistance to Russian expansion along the lines of our present State Department stand. During the war, Alsop resigned from the Navy to serve with the Flying Tigers in China. He was captured by the Japanese at Hong Kong in 1941 and a year later was exchanged. After this, Alsop returned to China as head of Lend Lease mission in Chungking, and he later served with the 14th Air Force in that theater. With Turner Catledge, Alsop authored "The One Hundred and Sixty-eight Days," and he also wrote "Men Around the President" in collaboration with Robert Kintner.

In opposition to Mr. Alsop's view and our present official attitude towards Russia, I. F. Stone, long a critic of American foreign policy, will attack the European Recovery Program and Greek intervention policy among other facts of official action. Stone has recently returned from an extensive tour of Europe and the Middle East, and is presently Washington Editor of the *Nation* and Foreign News Editor for *PM*.

P.B.H. ANNOUNCES SPRING PROGRAM

The Phillips Brooks House Law School Committee announces a full calendar of dances during the coming spring term. There will be two informal dances and one full dress affair.

On Saturday, Feb. 28, the first informal dance will be held from 8 p.m. to 12 in Memorial Hall with Lou Tobin's Orchestra providing the music. There will be tables for everyone and set-ups will be available at the bar. Tickets will go on sale Friday, Feb. 20, and each afternoon thereafter from 1 o'clock until 5.

Several weeks before final examinations, the formal dance will take place in the Imperial Ballroom of the Hotel Statler. The date has been set for Friday, March 19. Later in the season, the Committee plans to promote another informal dance.

In addition to these social functions, the P.B.H. Law School Committee performs many other useful functions for law students. It was instrumental in establishing the Harvard Legal Aid Bureau, the Law School Forum, and the Law School Yearbook; these organizations have since become autonomous. At the present time, it publishes the Law School Directory free of charge for the students; it publishes a monthly

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CHANGES OF ADDRESS should be sent to the RECORD office, Austin Hall, Cambridge 38, Massachusetts, at least three weeks in advance to insure prompt delivery.

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Editorials

With this issue, the RECORD begins its sixth term of publication at the Harvard Law School. The time thus seems propitious for a brief re-statement of our objectives and policies.

The paper's initial objectives, which have been continued, were to provide a reliable source of school news (to replace the always present but often inaccurate grapevine); to offer an outlet for student writings and opinion; and to provide a regular and effective link between the student body and the alumni.

On the subject of school news we have received few complaints, although we, with a proper showing of modesty, prefer to suspect that this is due to inertia rather than to any high degree of accomplishment on our part. In this connection, we are anxious to receive comments as to how this part of our service may be improved.

We began with some degree of doubt as to the quantity and quality of student writings we might receive, but of late our fears on this score have begun to disappear. Students who have written for the RECORD have been pleased to note references to their work by prominent alumni, by news commentators, and by various publications, ranging in character and locality from the *New York Times* to the *California Appeal News*. At present, we are attempting to concentrate on articles dealing with the legal aspects of current topics, and invite students to talk with us about undertaking individual or co-operative efforts along this line. We also hope to interest a number of students in doing research concerning current cases, not for the purpose of doing an exhaustive analysis of the particular opinion involved, but rather for the purpose of calling the attention of the profession to significant cases as they appear.

During the current academic year, our alumni circulation has been boosted over 6,000 through an agreement with the Harvard Law School Association whereby the RECORD is sent to each active member of the Association. Letters from alumni readers, which have arrived in quantity, have indicated a widespread interest among the graduates in the current activities at the school. We hope that the prospective alumni in the student body will find a similar interest in the news of alumni activities, which we plan to use in increasing quantity. We know of no better way to carry out our objective of bridging the gap between students and graduates.

L. E. J.
W. J. M.
A. B. L.

Letters to the Editor

To the Editor of the RECORD:

I want to say how much I have enjoyed your paper in the past year and the pleasure I have obtained in comparing the present day activities recorded therein with my own pursuits 37 years ago!

May I be allowed to correct a trifling inaccuracy in the article of Richard Wincor on Dickens' Works in the issue of Dec. 16, 1947?

Serjeants-at-law were, in fact, not abolished by the Judicature Act of 1875. The monopoly enjoyed by them in the Court of Common Pleas, during term time, after an ineffectual attempt in 1834 to abolish it by Royal Warrant (see *In*

the Matter of the Serjeants-at-law (1840) 6 B. N. C. 235, was abolished by statute in 1846. Judges of the Common Law Courts were formerly required to take or to have taken the degree of Serjeant-at-law and it was only this requirement which, in the case of anyone appointed a High Court Judge or a judge of the Court of Appeal, was abolished by section 8 of the Judicature Act of 1873. In fact since 1868 no one other than a judge designate had taken the degree. The degree has become obsolete but has never been formally abolished.

In Ireland, the degree of Serjeant persisted till a later time and, though now obsolete in that country also, we have still among us a much loved survivor, Serjeant A. M. Sullivan K. C., who, having left Ireland on account of "the troubles," practices as a King's Counsel at the English Bar.

With my best wishes for 1948,

Yours faithfully,

H. O. DANCKWERTS, Esq. '12.
Lincoln's Inn, London, England.

To the Editor of the RECORD:

In his recent address to Harvard Law School students, Mr. Justice Frankfurter emphasized the "expertness in relevancy" developed by education in law, in contrast to that in other fields. In illustration he cited the accomplishments of Robert Abercrombie Lovett. Is it irrelevant to point out that Mr. Lovett, after spending one year at Harvard Law School, transferred to Harvard Business School for a similar period?

Perhaps if the problem of preservation becomes too onerous, which seems improbable, the law school should send the business school a petal (even one would be appreciated) from Mr. Justice Frankfurter's or some other wayward orchid.

TWO HOPEFUL BUSINESS SCHOOL GRADUATES.

To the Editor of the RECORD:

In reply to Mr. A. C. Hugin's letter in the Jan. 6 issue of the RECORD:

Dress design patents were not discussed in the article because they are a negligible factor in the dress design problem. Design patents, like mechanical patents, require a high standard of originality—but women have been wearing clothing for many thousands of years, and radical innovations in the style of their garments are unlikely. Practically all "new" designs are admittedly not patentable visions of the future but rather unpatentable remembrances of times past. Even when the patent office does relax and register a not-so-original design, the courts refuse to enforce the monopoly. (See 83 F. 2d 475.)

The Princess' gown merely combined the traditional "sweetheart neckline" with the currently popular tight sleeves and extremely full skirt. None of this was so striking an innovation that copying should be enjoined. Per the article's prediction, N. Y. newspapers which carried wedding photos as fresh news also carried ads offering immediate delivery of "replicas" of the Princess' gown.

ELI GOLDSTON, '2L.

Off the Record

Legal Primer: Lesson Plans

Look at the students tear their hair, bite their nails and ink their fingers, as they frantically flip pages, children. The professor began the course by burying them in the middle of the casebook, and they must work their way out to both covers by May.

L'AVOCAT.

Introduction of the Speaker at Recent Annual Luncheon of Harvard Law School Association of Northern California

(With footnotes for the illiterate by the author)

Let's clear away the fruit and yogurt¹

And listen to the poor man's Bogert,

A man who in the law of Trusts

Stands out like Rita Hayworth's busts.²

A man who's ineluctable,³

Whose trusts are indestructible,

Whose wit is inescapable,

A man we found quite capable.

But hold—enough—knock off this rot

Lend ears to Austin Wakeman Scott.

DONALD G. MCNEIL, '38.

1. A type of Balkan sour cream popular in fruit bars patronized by law clerks and other members of the demi-monde.

2. I confess them singular, but the rhyme necessitates the plural (Poetic License No. 141984).

3. Look this up yourself.

(The RECORD is happy to see that Mr. McNeill is still pursuing the literary efforts which won him fame as co-author of the "Langdell Lyrics" while he was here at the Law School.—Ed.)

Exam Hangover

Had Moses been a Harvard Law School professor, he would not have accepted the Ten Commandments as The Law unless God gave him reasons therefor.

C. MANN.

Gallery

HAROLD H. BURTON

U. S. Supreme Court Justice

The suggestion of Horace Greeley—"Go West Young Man"—probably was not the motivating force behind the movement of Harold Burton from his birthplace in eastern Massachusetts to the Midwest, but certainly the prophecy of success which those words foretold was seldom as fully realized as in his case.

Born at Jamaica Plain, Mass., on June 22, 1888, Justice Burton embarked upon a career of public service interspersed with interludes of successful private law practice, culminating—at least for the present—in appointment to the highest court in the land. Justice Burton graduated from Bowdoin College in 1909 where his roommate was now Senator Owen Brewster. He graduated from Harvard Law School in 1912, one year ahead of Robert Taft, who was in later years to become Justice Burton's colleague in the Senate, both representing the State of Ohio.

Justice Burton was married in 1912, and his wife is an energetic participant in public affairs. The Justice practiced law in Cleveland with Gage, Wilbur and Wachner from 1912 to 1914. From 1914 to 1916 he was assistant attorney for the Utah Power and Light Company at Salt Lake City. After a year's service as attorney for the Idaho Power Company and the Boise Valley Traction Company at Boise, Idaho, he returned to the practice of law in Cleveland.

In 1929 the Justice embarked upon a long career of public service, starting as a member of the Ohio House of Representatives. He served as Director of Law of the City of Cleveland from 1929 to 1932; and, following a brief period as acting mayor, he served as mayor of Cleveland from 1935 to 1940. In 1941 Justice Burton entered national politics and was elected to the post of United States Senator. He held this position until his appointment by President Truman as Associate Justice to fill the seat left vacant by the resignation of Justice Roberts.

As the Justice now reflects upon his first few weeks in his new job, he states that the most memorable thing was the change from the hustle and bustle of the office of a Senator to the more quiet surroundings of the chambers of a Supreme Court Justice. Although his chambers in the dignified marble Supreme Court Building are not so well visited as were his offices in the nearby Senate Office Building, there seldom is a day that the guest book in the chambers does not add two or three signatures. And, as in the days when the name on the door was "Senator" in place of "Justice," the great majority of the addresses are from Ohio. However the names of many other States and often foreign countries also appear, especially that of Switzerland, which may be explained by the fact that Justice and Mrs. Burton spent last summer's vacation there. The Justice welcomes visitors and it is difficult to understand how he finds time to greet personally as many as he does. The only explanation lies in the fact that he is willing to work much longer hours in order to meet friends and talk to them personally—an event which no one who knows him can deny he thoroughly enjoys.

The Justice works extremely hard. Often the lights in his chambers burn well past midnight. Whether that habit is attributable to the training at Law School or to the amount of work which faces a Supreme Court Justice, one cannot say; but it certainly does indicate a painstaking and careful treatment of all the cases that find their way to the Supreme Court. To the Justice no case is less important than another. The case involving the indigent prisoner proceeding as his own lawyer and alleging some sort of illegal detention receives the same careful consideration and scrutiny as the complex anti-trust case having a record running into thousands of pages.

The Justice, although he realizes any member of the court will probably be remembered primarily for the style and content of his written opinions, considers the votes that are cast upon the cases that have been argued before the court and upon the all too numerous petitions for certiorari to be of equal importance. No doubt such a view is based upon sound reason when it is kept in mind that in the all-important questions which come before the court, one may decide the issue, or keep the case from being heard at all if the vote is upon a petition for certiorari. The Justice states that this was quite startling at first since one vote either way in the Senate usually was not decisive.

One last tip about the Justice may prove valuable to future lawyers who some day may be arguing cases before the Supreme Court. Justice Burton relies to a great extent upon the oral argument to resolve any doubts which he may have as to the weight that should be accorded the various legal arguments on both sides. Thus a carefully prepared oral argument may mean the difference between losing and winning the case, since questions in the Supreme Court are more than likely that close.

Sub Judice

CHECK YOUR PARTNER'S AIM * * *

Defendant operated in Worcester a range for the driving of golf balls. On a Sunday afternoon plaintiff visited the range with one Mintz and another man. From 50 to 70 people were on the range. Plaintiff paid 25 cents to an attendant and received a golf club and a bucket of balls, as did each of his companions.

After the plaintiff and his companions had hit a number of balls, Mintz, who was on the left of the plaintiff, dropped back to a position about six feet to the rear, and two or three feet to the left of the plaintiff. When Mintz drove off from that position his ball hit the plaintiff in the eye and severely injured him. Plaintiff sued the defendant operator, charging negligence in not furnishing safety instructions and supervision.

The trial judge directed a verdict for the defendant, on the ground of assumption of risk. In affirming, the Supreme Judicial Court of Massachusetts added another fact to the list of those which courts may judicially notice without receiving evidence. "It is common knowledge that a golf ball does not always fly straight toward the intended mark, especially when hit by an unskilled person. Mintz was not an experienced golfer. . . . On all the evidence we think that the plaintiff voluntarily assumed the risk of such an injury as he received." *Katz v. Gow*, 75 N.E. 2d 438 (Mass. October 30, 1947).

ONE FOR ALL AND ALL FOR ONE * * *

Defendant was engaged in operating a cafe under written articles of general partnership with Corsino, who had originally furnished the largest amount of the firm's capital. At a time when the firm was heavily in debt defendant withdrew \$1,000 from the firm checking account, which contained part of the proceeds of the business, and retained the money for his own use. Defendant was subsequently indicted and convicted of grand larceny, under a statute which read in part, "Every person who shall feloniously steal, take, and carry away . . . the property of another, of the value of fifty dollars or more shall be deemed guilty of grand larceny. . . ."

On appeal to the Supreme Court of Nevada, defendant successfully argued that he had not violated the statute since he had not taken property "of another." The court reviewed the peculiar characteristics of the partnership relation and concluded, "As each partner is the ultimate owner of an undivided interest in all the partnership property, none of such property can be said, with reference to any partner, to be the 'property of another' . . . it seems plain that the statute relied upon by the State does not apply where, as in this case, partnership property is appropriated by one of the partners during the existence of the partnership." *State v. Elsbury*, 175 P. 2d 430 (Nev. 1946).

Notes on Recent Cases

EVIDENCE: PRIVILEGE AGAINST SELF-INCRIMINATION. *People v. Den Uyl et al.*, 29 N.W. 2d 284 (Mich. 1947). Hemans was called as a witness at a preliminary examination concerning a group of defendants. Although granted immunity against prosecution for any offense revealed by his answers, he refused to answer questions on the ground that they might tend to incriminate him in a pending federal prosecution. *Held*: The refusal to answer was correctly sustained. The privilege against self-incrimination embodied in the State Constitution exonerates from disclosure whenever there is a probability of prosecution in state or federal jurisdictions. Although other States take a contrary view, "It seems like a travesty on verity to say that one is not subjected to self-incrimination when compelled to give testimony in a State judicial proceeding which may forthwith be used against him in a federal criminal prosecution."

Most States refuse the claim of privilege in similar circumstances. The federal courts deny a claim of privilege based on possible State prosecution, adhering to the decision in *United States v. Murdock*, 284 U.S. 141 (1931).

CONFLICT OF LAWS: CHOICE OF LAW GOVERNING BURDEN OF PROOF. *Buhler v. Maddison*, 176 P. 2d 118 (Utah 1947). Plaintiff, employed by defendant to work in Nevada, was injured in the course of his employment. Under the Nevada Compensation Act the employer was presumed to have caused the injury by his negligence, the presumption having the effect of shifting the burden of proof. Upon trial in Utah the court applied the presumption and directed a verdict for plaintiff. *Held*: Affirmed. Although all matters of procedure are generally governed by the law of the forum, where a substantive right based upon foreign law is so inseparably connected with matters procedural in nature that such procedural matters must be enforced in order to preserve the integrity of the substantive right, the court will apply the foreign law in determination of such matters even though procedural in nature.

Alumni Notes

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

LL.B. '10—Archibald M. Hillman has been elected president of the Worcester County, Mass., Bar Association.

LL.B. '12—On January 1, Vincent M. Brennan began his fifth six-year term as Circuit Judge for the Third Judicial Circuit of Michigan, which includes the city of Detroit.

LL.B. '15—Harold A. Andrews has been appointed an associate justice of the Superior Court in Providence, R. I.

LL.B. '17—The appointment of James McGovern as general attorney for the United Fruit Co. and its subsidiaries has been announced. He has been a member of the company's legal staff since shortly after World War I.

LL.B. '24—William L. Marbury has been elected a Fellow of the Harvard Corporation, succeeding the late Henry James. A former associate editor of the *Harvard Law Review*, he began the practice of law in Maryland, and in the early 1930's was Assistant Attorney General of that State for a year and a half.

During the war he served in many capacities with the War Department, for which work he received the Medal of Merit, the highest award given to civilians in recognition of war service.

Currently he is a member of the Council of the American Law Institute, a director of the American Judicature Society, and for the past several years, a member of the *ad hoc* committee on appointments of the Law School.

LL.B. '28, S.J.D. '32—The Chancellor of the University of Buffalo has announced the appointment of Louis L. Jaffe to the deanship of the Law School. He had been assistant dean for a year, and a professor on the law faculty for 11 years.

One-time secretary to Supreme Court Justice Louis D. Brandeis, Dr. Jaffe has served with numerous Federal agencies, including the Agricultural Adjustment Administration, the National Labor Relations Board, and the War Labor Board.

LL.B. '29—Jerome I. Hyman has withdrawn from partnership in the firm of Friedman & Bareford, and has opened his own office for the general practice of law at 1501 Broadway, New York City.

LL.B. '43 ('46)—John L. Simonds is now with the firm of Deland & Rockwood, 22 Beacon St., Boston.

LL.B. '47—Herbert Berman, former Editorial Manager of the RECORD, has become associated with the firm of Tenzler, Greenblatt, Fallon & Kaplan, 1501 Broadway, New York City, for the general practice of law. He was admitted to the New York Bar in December.

Writer Recalls Terror and Despair

(Continued from page 1)

cede the salutary powers of exercise. But they take care not to misuse important time. . . One member of the class prized his time so jealously that he put on a track suit in his room every afternoon and ran vigorously in place before an open window.

Law school is such a distressingly accurate test of general intellectual ability, so much is staked on the examinations, which are never for an hour out of mind, that many a faltering ego builds up a defense mechanism against too raw exposure in the event of failure. Obviously if a man is known to be straining to the limit of his capacity and gets slim results, he is in an embarrassing position indeed. A pose of nonchalance is the most common defense. Whatever the outcome, it caters to the poser's vanity. If he loses, there has been no test of his power. His character may be indictable, but his reputation for ability is saved. If he succeeds, it sets the imagination reeling to think what he might have accomplished by taking pains.

Discouraged by uncertainty, law students welcome the voice of authority. Quiet men who tortoisied their way in college through obscurity to distinguished scholarship at last come into their own. Their most hesitantly offered opinions are accepted with reverence.

Long before it comes, the end of the term profoundly affects the first-year class. Although they have been passing examinations for fifteen years, have practiced by the hour in little gatherings writing answers to old questions, their self-confidence has been frightened into a gelatinous thing. . . There is ferocious annotating and reviewing, heated search for the answer to a trivial problem as if continuance of life depended on it. The class is easily amused in these latter days; it takes next to nothing to set them going in stertorous, mass laughter—an answer slightly jumbled, an over-ardent voice.

The actual arrival of the first examination cannot be fully comprehended. You simply wake up that morning and your viscera begin to melt. Breakfast, newspaper, cigarette—all as insensate as reflex motion. Not daring to open note-

books still strewn about the floor from last night's session in fear that some cancerous ignorance will be revealed too late.

At every other seat in the room is a blue book, a blotter, an examination paper. There are no voices. The shuffle of men still entering is the only noise. Most of them have already sat down and begun studying the printed sheet.

Ten questions, twenty-four minutes for each.

CONTRACTS. An uncle wrote to his favorite nephew: "If you make an aver-

age of ninety in all your studies and don't play on the varsity baseball team, I will give you five hundred dollars." The nephew put forth an unusual effort, made the required average and tried strenuously to play on the baseball team but failed to do so. Has he any claim against the uncle?

"The important thing here must be whether the nephew intended to accept. How can you be expected to answer the question without knowing the nephew's mind? He must want both possibilities discussed. Didn't we have a case about an uncle and a nephew? Yes, *Hamer v. Sidway* (124 N.Y. 538) where the nephew was promised a reward for not smoking, drinking, or play-

ing cards for money until he was twenty-one. But that's not exactly like this. My God, it will take forever to go over all the possibilities here. Twenty minutes gone already. I've got to put down something. If it's too awful, I can always tear out the page. This case is perfectly simple; I'm making it too complicated."

"Seven minutes left for the last question. No time to go back and patch the others. . ."

"This examination is now over. Please hand in your books immediately." Distracted to panic, you keep on writing. Wrist muscles begin to rebel. "I'm sorry"—an exasperating, smiling voice, and the book is snatched away.

Announcement

Yale Law School Summer Sessions for Advanced Study in Law and Allied Social Sciences

Beginning with the 1948 summer, the Yale Law School will offer a Summer Session for advanced study in law and the policy sciences. The Summer Session will be divided into two separate terms of six weeks each. Each term will consist of five weeks of instruction and one week for examinations. Applications may be made for admission to either term or to both terms.

The program is designed to afford opportunity for advanced study of law with emphasis upon its relation to the social, economic, and political aims and problems of the contemporary world. Those sciences which are concerned with the understanding of the policy forming process, or which contribute significant knowledge about the substantive problems of public policy, are contemplated in the agenda.

The Session will bring together judges, lawyers, law teachers, law students, and faculty members and graduate fellows in fields allied with law (including economics, history, international relations, political science, public health administration, psychology, and sociology) to carry on studies and research which may bring to light how well law and its administration serve the purposes of their being.

Formal instruction will be resolved into seminars which, in so far as practicable, will be limited to thirty students. In addition to the formal seminar instructions, candidates registered for an advanced degree in law will be required to carry on individual or small group research leading to the preparation of a paper which, after it has cleared the supervising instructor, shall be submitted to the editors of the *Yale Law Journal* for publication. It is planned to have two experienced *Yale Law Journal* editors on the staff each term of the Summer Session to aid in the initiation and carrying out of the individual or small group research work.

PERSONS QUALIFIED TO APPLY FOR ADMISSION

1. Persons who qualify for admission to the Graduate Curriculum as provided in the current bulletin of the Yale Law School.
2. Graduates of the Yale Law School and of any other accredited law school who maintained a weighted average of not less than "B" for their law school course.
3. Students currently registered in the Yale Law School, or in any other accredited law school who graduated from an accredited college or university before beginning their law work, if—(1) they have completed at least one academic year of law school work, and (2) they have, according to the latest available record of the law school at the time of application for admission, maintained a weighted average of not less than "B" in their law school work.
4. Persons who are candidates for the advanced degree of Ph.D., or its equivalent, in the Graduate School of Yale University or in any other accredited college or university.
5. Teachers in colleges and universities who have been awarded the advanced degree of Ph.D., or its equivalent.

The completion of six terms of Summer Session work may qualify a student for the advanced degree of LL.M., and the work done in Summer Session may be credited by the Yale Graduate School toward the requirements for the degree of Ph.D., or its equivalent, to such extent as may be arranged with the particular graduate department. Candidates who earn LL.M. degree may, upon submission of a thesis approved by the faculty, be awarded the J.S.D. degree without further residence.

SCHEDULE 1948 SUMMER SESSION

First Term

Begins: Tuesday, June 22.
Instruction Ends: Monday, July 26.
Examinations: Tuesday, July 27—Monday, August 2.

Second Term

Begins: Tuesday, August 3.
Instruction Ends: Monday, September 6.
Examinations: Tuesday, September 7—Monday, September 13.

TUITION AND OTHER COSTS

Tuition: \$150.00 per term
Health Fee: \$5.00 (whether registration is for one term or both terms)
Living accommodations for unmarried men students will be available in the Law School dormitories. Rentals per person in single rooms will range from \$22.50 to \$32.50 per term (six weeks occupancy) and from \$28.50 to \$34.50 in double rooms. Unmarried women students will be accommodated in a University dormitory at comparable rates. It is expected that accommodations for married students will be readily available during the Summer Session. It is also expected that the dining services in the Sterling Law Building will be in operation during the Summer Session. They will be available to students and their wives; arrangements may be made in advance for guests.

For further information write to the
Registrar, Yale Law School, New Haven, Connecticut.

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Calendar

LEGAL WORLD LAWYER'S GUILD

Lawyers Guild Business Meeting in Langdell North at 4 p.m. tomorrow. Short but important. All members should be there.

BLOOD DRIVE

The Mass. Department of Health, in connection with the American Red Cross will have a unit at Phillips Brooks House on March 4 and 5 to accept donations of blood for the National Red Cross Blood Bank. Law students are urgently requested to make an appointment by obtaining slips at the downstairs office of P.B.H. or at 43 Hastings Hall.

UNIVERSITY WORLD

Harvard Christian Fellowship

Bible study and discussion groups meet in the Shepard Room, Phillips Brooks House each Wednesday evening at 7:30.

BROADCAST—(Continued)

lems is handled as a trial with the audience as jury. Each student counsel presents one expert witness whom he examines and opposing counsel cross-examines. Following examination of witnesses, each counsel presents a summation of his case to the jury. The entire trial is under the supervision of a law professor as judge.

Since its inauguration three months ago, the program has been produced from Columbia and Yale Law Schools, and in this relatively short time has become one of the most popular public affairs programs on the network. Details for the four programs from Feb. 22 to March 14 to be broadcast from Harvard are being handled by the Harvard Law School Forum.

Professor Howe will be the judge on the program this Sunday which will consider the question *Should the United States Advocate Enforcement of the Palestine Partition Plan?* Counsel for the affirmative will be Thomas P. O'Boyle (Holy Cross '42) and his witness will be Arnold W. Rivkin (Brooklyn '41). Counsel for the negative will be William B. Webb (Wash. & Lee '42) and his witness will be Bushrod B. Howard, Jr. (Williams '42).

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United Nations Council of Harvard

The United Nations Council of Harvard is sponsoring a series of lectures, entitled *The Theory and Practice of One World*, to be given in the Littauer Auditorium at 8 p.m. tonight, next Tuesday and March 1. The lectures will be open to the public without charge. Professor William Y. Elliott, Leroy B. Williams Professor of History and Political Science, Harvard University and Staff Director of the House Committee on Foreign Affairs, will present the second lecture entitled *The Politics of One World* tonight at 8 p.m.

Fogg Art Museum

An exhibit of 19th and 20th century drawings and water colors from the collection of John S. Newberry, Jr., will be on display until March 31. There is also an exhibition of early Flemish painting to accompany the lectures by Erwin Panofsky, Charles Eliot Norton Professor of Poetry. The first in the series of lectures on *Early Flemish Painting: Its Origin and Character*, will be given Wednesday evening, February 18, at 8:30 p.m.

TRAINING—(Continued)

The assignment of students to Faculty members and the general arrangements in connection with the project are being handled by Mr. Bowe, who should be contacted by eligible students who are interested.

Although the nature of the duties of a "legal assistant" will vary, depending on the needs of the particular Faculty member to which a student is assigned, students contacted by the RECORD who have worked with professors in the past attest to the many advantages of such an arrangement, including: the opportunity to work on legal problems under a degree of supervision not otherwise encountered at the Law School; the presence of an incentive to do first-class work; and the tremendous importance which prospective employers attach to training of this kind.

While this newest of the school's plans to better the training of its students is getting under way, the program announced last term to train students in legal writing is now in full swing. About 50 students selected for the project have begun their training under the direction of Dean Griswold, Professor Paul A. Freund, and *Law Review* editors Robert M. Loeffler, Murray Cohen, and Norman W. Colquhoun.

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Speakers at Indiana H. L. S. A. Meeting



Seated at the speakers' table at the organization meeting of the Harvard Law School Association of Indiana are, from left to right: Cleon H. Foust, '33, Attorney General of Indiana; Joseph J. Daniels, '14, Principal Speaker; Ralph F. Gates, Governor of Indiana; Kurt F. Pantzer, '17, Toastmaster; Professor W. Barton Leach, '24, representing the Law School; and Paul F. Hellmuth, '43 ('47), representing the parent Harvard Law School Association. James A. Emmert, '23, Chief Justice of the Supreme Court of Indiana, was absent from the speakers' table at the time this picture was taken.

INDIANA—(Continued)

national Harvard Law School Association constitution; it elected Mr. Daniels as its representative on the national Association where he will hold the office of vice president.

One of the objectives of the new Indiana Association in addition to promoting social and business friendship among Alumni is to help the Law School. In the organizational membership-pledge campaign, almost \$20,000 was subscribed for the coming five-year period. The 1947 contributions are to be used for the Treasure Room; the contributions during the subsequent four years will be made available for the general purpose of the Law School. Moreover, by establishing a placement bureau or committee, the local chapter fulfilled a requirement for affiliation with the national Harvard Law School Association. This bureau will work closely with the Law School Placement Office; in fact, Langdell Hall bulletin boards now carry an Indiana announcement resulting from this collaboration.

In subsequent issues, the RECORD intends to publish a survey of the various Harvard Law School Associations and the work that they are doing. If alumni are interested in forming similar local chapters in their areas, they can obtain help and information from Mr.

KAPLAN AND FIELD NAMED PROFESSORS

Two visiting professors, Benjamin Kaplan and Richard H. Field, have been appointed to the permanent rank of Professor of Law at the Harvard Law School.

Professor Field '29 was treasurer of the *Law Review*, worked for 12 years as a member of a Boston legal firm, and served as general counsel of the O.P.A. during the war. Professor Kaplan (Columbia '33) was editor-in-chief of the *Columbia Law Review*, practiced with a New York Law firm, served as Lieutenant Colonel in the Army of the United States and in 1945 was assigned as assistant to Mr. Justice Jackson in the Nuremberg trials.

UNIVERSITY THEATRE

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Wed., Thurs., Fri., Sat., Feb. 18, 19, 20, 21

Tyrone Powers - Jean Peters

"THE CAPTAIN
FROM CASTLE"

Selected Short Subjects

Sun., Mon., Tues., Feb. 22, 23, 24

June Allyson - Peter Lawford

"GOOD NEWS"

Walter Brennan - Charlotte Greenwood

"DRIFTWOOD"

CONTINUOUS DAILY FROM 1:30

LAW WIVES ELECT NEW OFFICERS

A new slate of officers, elected at the closing meeting last term, will direct the Harvard Law Wives for the remainder of 1948. Mrs. Herbert E. Hansen of Kansas City, Mo., was elected president. Other new officers are: Mrs. Richard Staples, first vice president and social chairman; Mrs. Charles G. Rodman, second vice president and program chairman; Mrs. Robert Poore, third vice president and hospitality chairman; Mrs. Stanley Remelmeyer, treasurer; Mrs. Lewis Lawrence, assistant treasurer; Mrs. Robert Miller, corresponding secretary, and Mrs. Robert Hawley, recording secretary.

A change in the meeting dates of the club was announced at a bridge party for Wives and husbands last Wednesday night. In the future, the Wives will gather at Kendall House on alternate Wednesday evenings. The next meeting will be held Feb. 18 at 8 p.m., when Louis A. Toepfer, assistant dean and director of admissions, will discuss job opportunities for Law School graduates.

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