

The Harvard Law School Record

VOL. 6 NO. 4

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NEWS IN BRIEF

VETERANS SUBSISTENCE

New subsistence rates for veterans will go into effect April 1, 1948, and will be payable after April 30, 1948. The new monthly rates are as follows: \$75 for single veterans, \$105 for veterans with one dependent, and \$120 for veterans with two or more dependents.

No additional papers need to be submitted to the Veterans Administration for the increases to \$75 and \$105. However in order to obtain the increased subsistence of \$120, a photostatic or certified copy of the child's birth certificate, stating the parents' names, should be turned in at once to the Counsellor for Veterans' Office in Weld Hall. Veterans desiring increased subsistence for a dependent parent must file the special V. A. affidavit of dependency to establish this claim.

The subsistence allowance for certain P. L. 16 veterans has also been increased. Pertinent information is available in Weld Hall 11.

LAWYERS GUILD

Walter Oberer, 3L, (Ohio Wesleyan '42), former Articles Editor of the *Harvard Law Review*, was elected National Vice President of the newly organized Student Division of the National Lawyers Guild at the recent Guild convention in Chicago. The Student Division,

created by representatives of nine of the 14 student chapters, is the first national law students' association to be organized as an integral part of a bar association. The Student Division discussed problems of academic freedom in addition to considering the accomplishment of its organizing purpose.

STUDENT BOARD MOVIE

The training film *Case in Point* recently completed by the Board of Student Advisers is currently being shown at the University of Wisconsin, after which it will travel to the Baylor Law School and then to the University of Kansas. No further showings have been scheduled for this term.

FRESHMAN HANDBOOK

A committee composed of members of the Board of Student Advisers, headed by David I. Wendel 3L and including Bernard Nimkin 2L and George Solomon 2L, has undertaken the preparation of a handbook for entering Law students. The booklet will include an account of the various honor societies and activities, a glossary of common legal terms, locations of reference materials, and general information which will be useful to the first-year men. It is expected that the handbook will be ready for distribution in September.

WENDEL

The meeting has been called by a provisional committee of students headed by Walter E. Oberer 3L. In addition to the above named speakers, there will be an open discussion of activities to be undertaken by the group in support of Henry A. Wallace's candidacy.

WALLACE COMMITTEE

John A. Ciardi, poet, and Briggs Copeland instructor in English Composition will address an organizational meeting of the Harvard Law School Committee for Wallace this afternoon at Langdell North from 4 to 6 p.m. Mr. Manny Margolis, regional chairman of Students for Wallace, will also speak.

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SCHOLARSHIP PLAN TO GET H. L. S. A. AID National Program Will Be Expanded During Coming Year

The Harvard Law School Association has assured Dean Griswold of increased financial support in awarding National Scholarships during the next two academic years. In 1948-49, there will be available at least three National Scholarships in each of four separate geographical sections of the country. The amount of the individual stipend will vary according to financial need of the students selected, but in no case will it exceed \$850 for the academic year of two semesters. Where no financial need can be shown, a successful applicant will be awarded a prize stipend of \$100.

The National Scholarship program which was announced by Dean Landis in 1941 was the result of faculty planning and the promise of Harvard Law School Association support. During the war years, applicants were few and some men who were named for awards withdrew to join the armed forces. Today, because of the increase in living expenses and transportation costs, the recent tuition raise, and the diminishing availability of G. I. support, the Association has offered to increase its contribution to meet the greater need for scholarship assistance. The objective of the plan is "to maintain and extend the national usefulness of the School by reaching students of outstanding quality

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OHIO VETERANS

The Harvard Chapter of the American Veterans Committee has the forms required to be submitted for compensation under the Ohio State bonus.

Ohio veterans may obtain these forms at the A. V. C. office in Phillips Brooks House.

PLANS SET FOR FORMAL DANCE

Tickets Go On Sale For Affair at Statler

Three hundred tickets went on sale for the Law School Spring Formal, top social event of the spring term, which will take place Friday evening, March 19, at the Hotel Statler. Tickets priced at \$4.20 including tax may be purchased at Gannett House from 1 until 5 p.m. and at tables in the Langdell corridors during the morning.



CHRISTOPHER

Gale Christopher 3L and Kenneth Swanson 1L are in charge of arrangements for the dance. It is expected that many faculty members and other distinguished guests from surrounding schools will be present.

In an effort to provide plenty of space for tables and dancing, the committee has selected the Imperial Ballroom of the Hotel Statler, the largest of its kind in the Boston area. Music will be furnished by the Marshard 12-man prom orchestra from 9 p.m. until 1 a.m.

Table reservations for the dance may be made at Gannett House on Wednesday.

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Judge Urges Preliminary Procedures To Reduce Volume of Divorce Actions

(In the December 1947 issue of the *Atlantic Monthly*, Reginald Heber Smith, LL.B., '14, prominent Boston attorney, advocated changes in modern divorce practice, including a compulsory waiting period after filing of suit, private hearings, and investigations by case workers. Last term the *RECORD* presented a resume of the article written by this lawyer. We here publish the following observations of Judge Julius H. Miner of the Circuit Court for Cook County, Illinois, one of the nation's busiest divorce courts, on the vital issue of American divorce procedure.)

By JUDGE JULIUS H. MINER

The casualties in American life are constantly mounting. Practically one out of every three marriages in the United States ends tragically for the married couple and their children, if any. Statisticians claim that approximately 359,000 divorce decrees were granted in 1943, 400,000 in 1944, 494,000 in 1945, and 620,000 in 1946. These do not include the avalanche of suits for separate maintenance everywhere. According to Dr. Carle C. Zimmerman of Harvard University if the trend continues its present course the number of divorces will equal the number of marriages by 1957.

The courts all over the country have been worried without end by the situation. The publicity that this social malady has received has created a state of mind, in a large part of the community, which holds the courts responsible for the conditions which lead to the dissolution of family life. Few stop to realize that the courts have nothing to do with the breaking up of homes—that when a case reaches the courts the destructive elements within the family circle have already reached the culmination point, and all that the court is asked to do is to legalize the dissolution and, here and there, make such meager provi-

sion for the support of the wife and children as the nature of the case will allow.

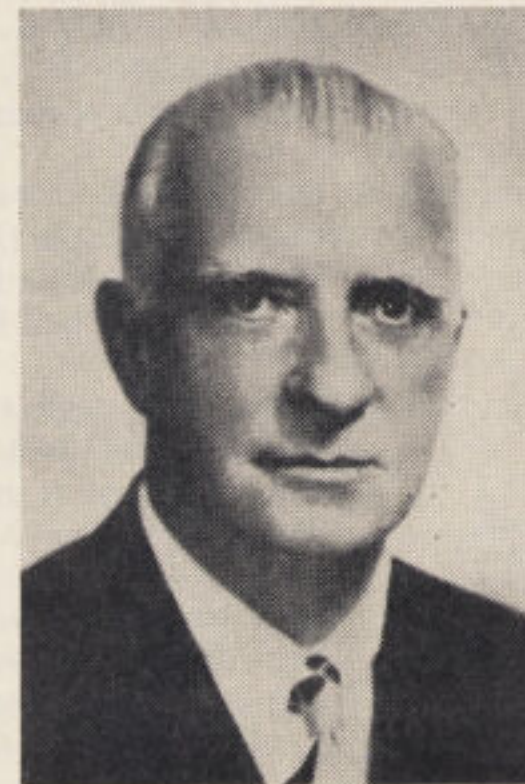
The judges sitting in our divorce courts have long been conscious of the fact that they are dealing with one of society's most malignant diseases. Within the sphere of their limited powers they have earnestly and conscientiously tried amelioration and occasionally succeeded in reconciling the contending parties. But, from the little experience that I have already had in that morbid chamber called the "Divorce Court," I am fast coming to the conclusion that, valuable as the courts' efforts at reconciliation may be, at best they will fall far short of what can be achieved, unless some way is found to exert those efforts before the family skeletons have been bared to the public by the commencement of a lawsuit.

It is my guess that in those instances where the family unit can be saved, the chance of saving it is lost in at least 75 per cent of the cases by the filing of court action. With the strain upon the relationship drawing to the breaking point, the added bitterness which results from the making of public charges of cruelty, infidelity, drunkenness, desertion, threats, etc., is almost always heavy enough to make the break complete. Here and there, it is true, reconciliation may be effected even after the break, but if we evolve a system of conciliation before the break is complete, rather than reconciliation after the troubles have been publicized, those cases which are capable of being salvaged would be saved.

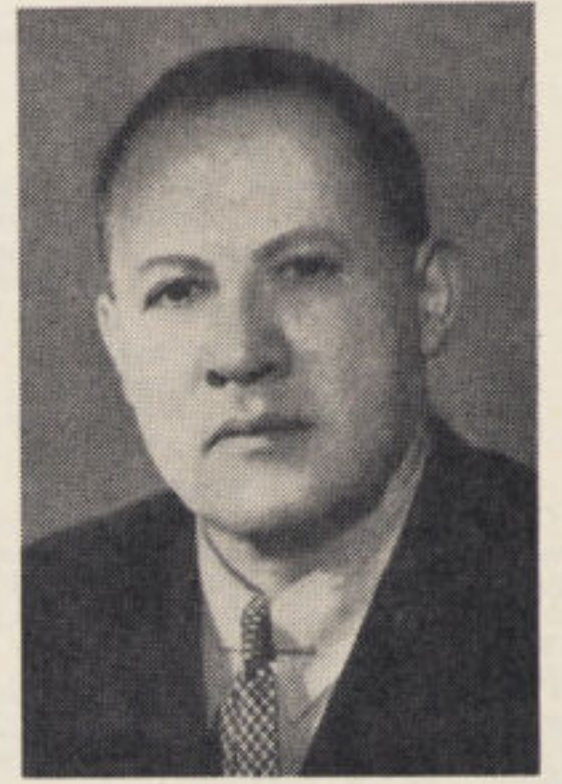
Much too much effort has been exerted in the field of "reconciliation" of parties to divorce proceedings. The plain truth is that despite the astronomical figures cited by the reconcilers,

(Continued on page three)

FORUM SPEAKERS WILL DISCUSS BOSS POLITICS



EDWARD J. FLYNN



ROBERT S. ALLEN

Democratic Boss Edward J. Flynn of New York and Robert S. Allen, newspaper man and former co-author of the "Washington Merry-Go-Round" will consider the role of the political machine in American life when they speak on "Boss Politics and Democracy" before the Harvard Law School Forum Friday night. The meeting is scheduled for 7:50 p. m. and will be held in the Rindge Technical High School Auditorium.

LABOR IS TOPIC FOR "ON TRIAL"

Political Contributions By Unions To Be Argued

One of the most controversial aspects of the Taft-Hartley Act will be considered in litigating the question "Should Trade Unions Be Allowed To Make Political Contributions?" for the fourth in the ABC network "On Trial" series of Sunday broadcasts produced by the Harvard Law School Forum.

The program is heard locally Sundays at 4 p.m. on WCOP.



SHIPLEY



OLIENSIS

Counsel for the affirmative will be Sheldon Oliensis 3L (Pennsylvania '43), president of the *Harvard Law Review*.

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Former Student Returns From Palestine After Cyprus Ordeal, Haganah Service

A former law student who left School at the end of his first year after having attained a B average returned to Cambridge this week to give an account of his experiences in getting to Palestine where he served as a member of Haganah, the Palestinian Jewish defense organization. Harold Katz (Harvard '43), a member of the Harvard Law School class of 1948, and a veteran of three years of naval service in the Pacific told of sailing for Palestine on a Jewish refugee ship in an effort to run the British blockade. His experiences include capture by the British, three months' detention in a Cyprus internment camp, and six months in the service of Haganah following his illegal entry into the country.

Katz joined the Haganah while he was still in Law School, and after finishing his first-year examinations, he embarked as mate on a reconverted Coast Guard vessel bound for Europe to pick up a group of refugees to take to Palestine.

The ship, built to carry a normal complement of 120, started for Pales-

tine from a European port with 1500 men, women, and children on board. Two days from shore, they were spotted by British aircraft. After 24 hours of maneuvering, the ship was overtaken by six destroyers and a cruiser. Fierce hand to hand fighting followed when British marines boarded the refugee vessel, but eventually passengers and crew were subdued. Two nights later, while the ship rode anchor two miles outside of Haifa, Katz jumped overboard in an attempt to swim to shore.

He was picked up by British patrol boats, and taken to shore for what he calls a "somewhat physical interrogation," but managed to conceal his American citizenship from his captors. He was then trans-shipped to Cyprus to wait for the usual 20-month period before entering Palestine under the legal quota.

At Cyprus, all incoming internees were searched and their personal possessions confiscated. Another American, captured under the same circumstances as Katz and likewise concealing his

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Letters to the Editor

To the Editor of the RECORD:

As you probably know, the students of the late Professor Thurston felt an unusually close personal bond with him. Although we had little opportunity to know him outside of his classroom and his office, his sudden passing seemed like that of a lifelong friend and counselor.

In my first year of law school, I had the rare good fortune to be in his class in torts. His gifted teaching, his brilliant way of piercing clouded facts, and his complete command of his field will make many of his former students better lawyers, judges, and teachers than we might otherwise have hoped to become.

But far more than this he brought to his classroom. His warm understanding, his gentlemanly polish, and his keen sense of humor added a deep affection to our great respect for him. Knowing him enriched our lives, and we are grateful.

JAMES R. BANCROFT,
San Francisco.

To the Editor of the RECORD:

For the past few weeks one meandering through the halls of Langdell and Austin is aware of the occurrence of one of the Law School's favorite pastimes known as "parade the grade." This avocation of the student body consists of comparing grades and averages achieved in last semester's examinations. This constant preoccupation on the part of the students with grades and numerical performance is a source of concern to the faculty and administrative body of the school who frequently decry such an outlook. This is fine sentiment—but I suggest that it is mere lip service and it is they who in reality foster this predicament.

Look to any bulletin board and what do you find?

1. Men desiring to work with members of the faculty must achieve an average of 68.

2. For those seeking commencement parts in June the requirements are a little higher. These aspirants must have a 72 average.

3. Dean Griswold informs the members of the second term class that a certain graduate of the school who offers his tutorial service to them had an overall average of 59 during his student days.

4. Professor Hall reports to the first term men in the form of a statistical analysis of their performance in the Criminal Law examination.

The RECORD also periodically takes up this spirit and recounts, in terms of figures and percentages, a complete breakdown of performance. After, or near graduation, the law student at Harvard is still not liberated from the influence of the all-mighty numerical grade. The Harvard Law School Association's placement records are replete with requests for graduates of the school with specific mention of averages before certain firms will interview men. All too well is the student body made aware of the fact that perhaps some fraction of a point spells the difference between passing and failure, between recognition in some honor group and relative anonymity.

To those who would censure the outlook of others, let them first examine their own. It is

time that the all-mighty thing known as the grade was relegated to obscurity and that both the faculty and student body realize that in a world already filled with false standards as a measure of merit and success there is need to eliminate those which would add undeserving fuel to an already useless flame.

ELI MINATE GRADES, 3L.

Off the Record

TORTS

They are making Torts too easy
We now as 3L's say
'Twas tougher when we went to school
Than what it is today.

One problem put to first-year men
Concerns a simple fact
This guy descends into a well
"A" says he'll haul him back.

'Course "A" neglects to do his part
'What Torts?' as it now stands
But they gave us another fact
The well was on "A's" land.

It's a cinch to answer nowadays
Just "False imprisonment"
But the question put to us was
Could "A" charge this guy rent?

—THE SAD WOOLSACK.

The Book Shelf

Paul Sayre, *THE LIFE OF ROSCOE POUND*, Iowa City College of Law Committee, State University of Iowa (1948). 412 pages. \$4.50.

Paul Sayre is one of the considerable band of American teachers who believes that Roscoe Pound is the greatest living American jurist. To Sayre, Pound was not only dean during "the Golden Age of the Harvard Law School" (p. 208), but his 1906 speech before the American Bar Association "introduced a new epoch in law teaching, far more significant than the introduction of the case method." (p. 146). Had President Theodore Roosevelt had more "prescience" in 1902 he would have nominated to the Supreme Court not Holmes but Pound (p. 107) because "Pound is not giving a single *coup d'oeil* or indulging in brilliant paradoxes as Holmes felt free to do. Pound feels morally bound to see the whole picture, and consider everything fairly." (p. 93). Of course, nothing was lost to the world by Pound's remaining a teacher. After all at Harvard "he was the only member of the faculty generally available in his office throughout the day" (p. 214). And he remained free to play the decisive, central role in so many outside affairs. When he was appointed to the Wickersham Commission "he did the actual work of the entire Commission" (p. 254). In the days when the New Deal threatened to flood the country with administrative law and those who battled for the Lord proposed a check in the form of a Federal Administrative Procedure Act, "due partly to circumstances, but mostly to his own amazing courage, undoubted learning and untiring energy, Pound really carried this last battle almost alone" (p. 321). Even in the field of international affairs Pound has made "the very greatest contribution" through his "vast knowledge and sweet reasonableness." (p. 368).

This adulation finds its only possible justification when weighed in the scales against the unjustifiably low esteem in which Pound's contributions as a thinker and as a man are sometimes currently held not only in New Haven but among the younger men in Cambridge.

All of us stand in the shadow of a scholar so much bigger than ourselves that it is hard to measure with accuracy the place he ultimately will be accorded in American jurisprudence. But Sayre with all his extravagance has probably come nearer to the mark than Pound's detractors. Three decades of Harvard SJD's have gone out to teach stimulated by the classroom discussions whose spirit, indeed whose very language, have been realistically recorded in the first half of Sayre's ninth chapter. (see pp. 170-182). They have heard him expound his theories of law as social engineering and as a method of "weighing social interests in terms of definite jural postulates" (p. 354). And a host of men who have never taken a course under Pound have had their horizons widened by reading lectures such as those he gave in the 1920's at Dartmouth (*The Spirit of The Common Law*), Yale (*An Introduction to the Philosophy of the Law*), Cambridge University (*Interpretations of Legal History*) and North Carolina (*Law and Morals*). Pound's prodigious learning has been recognized by the highest as well as the lowliest. It was Mr. Justice Holmes who prodded the Harvard Corporation into giving Pound an honorary degree. (p. 278).

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Gallery

STUART CRAIG RAND

Trial Lawyer

The office of Stuart Craig Rand, Yale '09 and Harvard Law '12, on State Street looks like the office of an eminently successful Boston attorney. Through windows on two sides you see the Boston financial district. One wall is lined with law books. On another wall hangs a print of the famous photograph of Daniel Webster which also adorns Langdell North. "I'm told it was taken the morning after a binge," says Rand, and that Webster threw the photographer down the stairs when he came to collect his bill." Over the corner fireplace is a framed note on White House stationery.

Stuart Rand, himself, looks like one of Boston's leading trial lawyers, which he is. Friendly eyes with "smile wrinkles" in the corners, greying hair perfectly brushed, a conservative grey suit with solid color tie, and a straight thin mouth with a cynical drop at the corners which can instantly break into a quizzical smile. He controls the volume and tone of his voice like a master thespian and enunciates his words with effortless precision.

Although he always wanted to be a trial lawyer, Rand did not engage in more than a moderate amount of college forensics nor was the Ames competition yet organized when he was in Law School. At graduation, after considering the district attorney's office, he started a clerkship at Choate, Hall, and Stewart where he is now a senior partner. This was, then as now, one of New England's leading trial firms. It was founded by the late Charles F. Choate, an acknowledged leader of the trial bar of New England.

For his first five years, Rand did the spadework for older men—writing briefs, interviewing witnesses, taking trial notes, etc. The ordinary trial, he finds, requires four or five times as many hours of exhaustive preparation as hours of court time—and sometimes it is 50 or 100 times as many out-of-court hours for an important trial—even though you know that only a small percentage of what you prepare will ever be needed.

"Why did I choose trial law? Well, it's exciting. A trial is a drama, and trying a case well is akin to the stage and painting. Your material is words and a few exhibits—mostly spoken words. A trial is essentially an inquiry into the truth, but the conduct of a trial is more of a fine art than a science because you are dealing with emotions and people. Movies and novels, of course, overlay the tour de force cross examination. Much actual cross examination is a waste of time, however, because unskilled lawyers rely to too great an extent on attempting to discredit an unfavorable witness and ignore any attempt to elicit from the witness facts which he probably knows and will be favorable to his side. There's some drudgery, yes, but in trial work you're almost always dealing with some of the interesting stuff of life."

Rand's career at Choate, Hall, and Stewart was interrupted by service in World War I. When he returned to the firm, he started trying the smaller cases himself and gradually worked toward the large ones. Today he is defense counsel for insurance companies and the Boston transportation system in many important tort trials, and he also has defended the local newspapers in libel suits. Much of his time is spent in trying commercial cases such as a current one in which a large shipment from South America arrived in what the buyer considers below merchantable quality. Just as the trial bar is fairly well specialized in metropolitan areas between the civil and the criminal bar, within the civil trial bar there is a tendency for men to become plaintiff's or defendant's lawyers. Being the latter is somewhat less taxing, says Rand, in that the ordinary corporate client is not too adversely affected if an attorney should lose a few of the many cases he defends, but considers the judgments a business expense. The plaintiff's lawyer, however, is constantly faced with the heart-rending situation of knowing that his crippled client may be left wholly destitute if the tort liability of the corporate defendant cannot be established.

The young lawyer planning to specialize in trial practice should, first of all, have a firm grasp of procedural and substantive law. Your mistakes in drafting a bond indenture may not be revealed for years, if ever, but opposing trial counsel are waiting to catch up instantly any opening. "The fellows you try against teach you lots of law," says Rand, "and you'd better learn fast because when it comes to a trial clients judge by the results." A smooth smile or family relationship may get a client to accept a poorly drafted will, but an unfavorable trial decision just can't be glossed over. People certain enough of their positions to go to trial want to win and they select winning counsel. Rand

Sub Judice

MORALITY ISSUE LEFT OPEN * * *

Plaintiff, operating a motion picture theatre in Rochester, New York, exhibited a motion picture entitled "Forever Amber." Defendant, Commissioner of Public Safety of Rochester, attended a showing of the picture and immediately ordered plaintiff to withdraw the film from public exhibition, under authority of a municipal ordinance which empowered the Commissioner to withhold approval of motion picture deemed obscene, indecent, immoral, or tending to "debase, corrupt, or deprave the minds or morals of people." Plaintiff sued to enjoin the Commissioner from interfering with exhibition of the picture.

The court granted the injunction, but managed to avoid a detailed consideration of Amber's moral standards or absence thereof. The picture had been duly approved and licensed by the State of New York for exhibition throughout the state, and the municipal ordinance of Rochester must give way to the statutory law of the state. "The action of the Commissioner of Public Safety was . . . unwarranted and illegal, and ineffective legally to prohibit the plaintiff from showing and displaying the motion picture 'Forever Amber'." *Monroe Amusements, Inc. v. City of Rochester*, 75 N.Y.S. 2d 807 (Sup. Ct. 1947).

Notes on Recent Cases

INSURANCE: INSURABLE INTEREST OF CONDITIONAL DONOR.

Ludeau v. Phoenix Ins. Co., 204 S.W. 2d 1008 (Tex. 1947). After taking out an all-risk insurance policy on a diamond ring, Ludeau made a gift of it to his fiancée, on the implied condition that she marry him. The ring was stolen from her and Ludeau sued to recover under the policy. *Held*: Directed verdict for defendant affirmed. At the time of the loss Ludeau had no insurable interest in the ring. Although title might have vested in him, had his fiancée refused to go through with the marriage, she had not done so. Thus, she held a complete title, and she alone could claim an insurable interest.

In general, the courts have held that any person who might suffer a pecuniary loss through injury to an article has an insurable interest therein. This decision excludes the interest of a conditional donor as too nebulous to constitute an insurable interest therein.

CONTRACTS: DAMAGES FOR BREACH OF CORRESPONDENCE SCHOOL CONTRACT.

Refrigeration & Air Conditioning Institute v. Rine, 75 N. E. 2d 473 (Ohio 1946) Rine signed a contract with the Institute for a long term correspondence course. After paying for about one-seventh of the course he refused to continue, whereupon the Institute sued for the balance of the contract price. It made no proof of any specific damages other than the breach itself. *Held*: The school can recover only nominal damages. In this situation the school can recover only for actual loss suffered, not the balance of the contract price. "It is common knowledge that many contracts to take correspondence school courses and that relatively few complete them." Furthermore, the burden is upon the school to prove such loss (since the facts are within the exclusive knowledge of the school) and failure to do so limits it to recovery of nominal damages only.

Two other rules have been used in the United States:

1. If the student refuses to continue the course he must nevertheless pay the full contract price.
2. The student must pay the full contract price unless he can establish mitigation of the school's damages.

suggests would-be trial advocates read Marjoribank's biography of Sir Edward Hall (*For the Defense*) and note how Hall's practice fell off precipitously when he antagonized an influential part of the judiciary. An oral memory as opposed to a visual one is also important—you just must be able to remember on Friday what was said Monday and how it conflicted with the Wednesday testimony.

As for the financial rewards of trial practice, "on the top levels trial work can be very lucrative, though not so much so as corporation law. At the bottom levels, well, there are few ways to starve more quickly. Incidentally, a young fellow not too deeply rooted in his home town and interested in a chance to establish an important practice might well consider the possibilities of Texas. There he can grow along with their bustling towns and developing industry."

E. G.

Alumni Notes

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

The American Bar Association in cooperation with the Yankee Network Institute has been presenting a series of weekly round table discussions on topics of local and national interest. Participants in a recent broadcast on the topic, "Are Third Parties Necessary?" were Oliver Allen, LL.B. '35, Chairman of the Mass. Wallace for President group, LaRue Brown, LL.B. '06, former United States Assistant Attorney General, and Loomis Patrick, LL.B. '30, former secretary to Governor Bradford of Massachusetts.

Moderators of the series, heard Saturday nights at 7 over station WNAC and the Yankee Network, include Kenneth W. Brown, LL.B. '38, Lawrence E. Corcoran, LL.B. '39, David D. Scannell, Jr., LL.B. '40, Asa E. Phillips, Jr., LL.B. '38, Robert M. Segal, LL.B. '42, and Robert D. Price, LL.B. '40.

LL.B. '15—The March 2 issue of *Look* Magazine, in its feature entitled "Look Applauds," cited Thomas J. Hargrave for his contributions to victory during the war, and his efforts for preparedness in peacetime. Hargrave is president of Eastman Kodak Company, and has recently been appointed chairman of the U. S. Munitions Board.

LL.B. '30—Lewis H. Weinstein has resigned as chairman of the Mass. State Board of Housing, and will devote his full time to the practice of law with the firm of Foley, Hoag & Eliot, 10 Post Office Square, Boston.

LL.B. '37—A book entitled "The Background of Administrative Law" by Milton M. Carrow, has just been published. The author is engaged in the practice of law at 225 Broadway, New York City.

LL.B. '38—Herman Teufel Van Mell has been elected secretary and general counsel of the Sunbeam Corporation of Chicago. He will continue in general practice with the firm of Hay, Morton, Finn & Van Mell of the same city.

LL.B. '41—Walter P. Armstrong, Jr., has been admitted to partnership in the firm of Armstrong, McCadden, Allen, Braden & Goodman, 800 Commerce Title Building, Memphis Tenn.

Judge Miner Urges Divorce Reform

(Continued from page 1)

divorce dockets are cluttered with litigation between "reconciled" couples and the chancellors divorce them daily by the score. Their second enforced honeymoon (after the filing of suit for divorce) is of brief duration, soon to end in another courtroom.

Marriage is the most personal and intimate of all human relations. Its success depends, in almost every instance, upon the willingness and capacity of the spouses to compromise and adjust.

Accordingly, I desire to suggest an experiment which I firmly believe holds out great promise of considerable success. Thoughtful men agree that the exertion of the proper influence, at the moment when the married couple is on the verge of giving up, could, in a considerable number of cases, check the process. But the method of applying this remedy has not thus far been suggested, since the greatest of these influences is that of the judge clothed with a measure of authority. The question has always been—how can the judges step in in due time, and before the strain of a public charge has been added to the dissolving union? Since the courts do not concern themselves with family relationships before the lawsuit is filed, how could they use their good offices before the filing occurs? But must the court wait until the home is broken? We should remember that under the law the plaintiff can't come to court at all while in the same house with the defendant. Unless an answer is found to the above question, no help can come from the court—the State's representative in guarding the sanctity of the home—until the home is destroyed. In all modesty, I believe that the answer is simple and conclusive.

In judicial procedure there are types of cases which cannot be filed as a matter of right, but leave of court must first be had. No class of cases so much needs this type protection as do cases seeking the dissolution of marriage, particularly those involving children. If, before filing a suit which, in many instances is, so to speak, the straw which breaks the camel's back, the parties had to obtain leave of court, the judge would promptly be put in a position where he

could say, "Before leave is granted I want to talk to the parties." Here the judicial machinery looking toward conciliation would be set in motion before the irreparable harm is done. It could become a great social institution and, being a procedural matter, could be written into the law by the simple process of a Supreme Court rule, or an act of the Legislature, not restricting but merely deferring the filing of the action for 30 or 60 days, except in cases of emergency, to afford the State, admittedly an interested party, an opportunity to inquire into and safeguard its rights. As to the validity of such rule or legislation, the law is firmly established throughout the country that there are three parties to every divorce suit, including the State; that divorce and separation proceedings are fraught with vital concern to society; that the Court, representing the State, may, of its own motion, investigate facts not even contested by the parties. It should be allowed a reasonable time to ascertain the respective rights and interests of all concerned.

Because of our vast experience I suggest that the judges should take the initiative, looking toward that achievement, but, pending the adoption of this mode of procedure, we should offer our time and services to all those unhappy mothers who, after passing through many internal struggles, conclude that they cannot with their own strength, conquer the disease gnawing at their family relationship. We should arrange to hold unofficial conferences on certain days, and give whatever aid we could before the fatal step of filing a lawsuit has been taken. We might even succeed in holding "clinics," that is to say, have the contending parties sit in court and observe what happens after the suit is filed. There they will recognize the conduct that leads to misery and suffering, not only to themselves but to their innocent children.

It will be argued that our courts are too busy; that our dockets are already overcrowded; that too many women will apply for help; that our primary functions are to adjudicate controversies in litigation. These, I respectfully urge, are without merit. A court must not concern itself with the element of time when it is rendering beneficial service to society. The more time it is called upon to give, the greater its contribution. Only wasting time on non-essential and non-productive matters is a public loss. I firmly believe that the services here suggested will help clear the jammed divorce dockets by materially reducing the divorce rate. I also believe that we can reverse the direction of the alarming divorce condition.

The law is but a form of social and economic expression which changes with the procession of time. Courts should forsake narrow formalisms for an ever progressive development in jurisprudence. The fact that no precedent can be found where a court of equity has acted as here proposed, is no basis for abstention. It is our solemn duty to act.

SCHOLARSHIPS —(Cont.)

whose homes are far from New England."

In view of the unusually high quality of intellect and character demanded to qualify a student for a National Scholarship, the full quotas from each section may not be filled. However, Dean Griswold hopes that the entering class next September will include at least eight National Scholars who will be selected by the School and approved by the Harvard Law School Association.

Approximately three scholarships will be available in each of the following regions: *Region 1.* — California, Idaho, Nevada, Oregon, Utah, or Washington; *Region 2.* — Arizona, Colorado, Kansas, Nebraska, New Mexico, Oklahoma, or Texas; *Region 3.* — Michigan, Minnesota, Montana, North or South Dakota, Wisconsin, or Wyoming; *Region 4.* — Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North or South Carolina, Tennessee, West Virginia, or Virginia.

BOOK SHELF—(Continued)

Sayre knows the canards now spread about Pound—that as dean he lacked courage, that he undervalued candor, that his choice of men was dictated by their admiration of him, that he was wanting in administrative skill. And some of these points Sayre demolishes. Pound fought the pressure which the profession brought against the retention of Arthur D. Hill and Felix Frankfurter as members of the Harvard faculty (pp. 273-274.) He was outspoken in his view that Sacco and Vanzetti were denied not merely fair procedure but a just verdict. (pp. 221-222.) Yet no detached critic could say that Pound was a satisfactory administrative leader of the Law School. Nor would all of Pound's colleagues share the opinion constantly reiterated by Sayre that love of truth was the most impressive quality of Dean Pound.

Perhaps Sayre should be forgiven his blindness, for Pound is after all a man of dazzling gifts. As botanist, as Mason, as specialist on civil war battles, as leader in Nebraska politics, as state judicial officer, as spokesman to the bar, as expositor of Lucretius, as teacher to college undergraduates, as author of juristic writings, as redactor of Chinese law, he has been and at 77 still is one of the chief civilizing influences of the learned world. And indeed for more

than the learned world. He will put his talents to serve the intellectual growth of any deserving man, no matter how humble or how young. Sayre tells us of Pound's lectures to trade union groups. And Dorothy Canfield Fisher recites how he crossed the ocean to give "an intellectual feast" to 12 summer students in Austria. (p. 381).

It must be a source of embarrassment both to Dean Pound and to Professor Sayre that this biography has been published by a printer so indifferent to accuracy in spelling simple words as well as proper names and Latin quotations. Perhaps these multitudinous errors will lead the author to bring out a second edition. From that he might without appreciable loss withdraw a number of dull and uninformative letters including those written by anonymous friends and offered in complete disregard of not merely the pettifogger's but the historian's hearsay rule.

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Calendar

LEGAL WORLD

Lawyers' Guild

The Harvard Chapter of the National Lawyers Guild is cooperating with the Massachusetts Civil Liberties Union in furnishing speakers on civil liberties and related topics to local organizations. Anyone interested in this program should inquire from the Civil Liberties Union as to their current needs.

Morgan Club

There will be a St. Patrick's Day Party this coming Saturday, March 13, at 7:30 p.m. at Kendall House.

UNIVERSITY WORLD

House Concert

The Harvard Music Club presents Walter Schenkman, pianist, who will play selections from Bach, Mozart, Beethoven, Chopin and Prokofieff at Winthrop House on Sunday, March 7 at 8 p.m.

Sunday Services

The Rev. William Brewster of St. Mark's School will deliver the sermon at the Memorial Church on Sunday, March 14, at 11 a.m.

Fogg Art Museum

Erwin Panofsky, Charles Eliot Norton Professor of Poetry, will deliver another in his series of lectures to accompany

the exhibit of early Flemish painting now on display at the Fogg Museum, on Wednesday, March 10.

University Library

The current exhibitions at the Widener and Houghton buildings of the University Library are as follows: Widener Memorial Library: Printing in the United States from the Day Press to modern times; some American costumes and bindings and works of Vicente Huidobro. Houghton Library: A selection of the works of Thomas Wolfe from the William B. Wisdom collection and other sources, autograph letters from Keats' correspondence with friends and publishers concerning his work, and presentation copies of his books.

OUTER WORLD

Symphony Hall

Christopher Lynch, tenor, will sing at the Symphony Hall, Sunday, March 14 at 3 p.m. Tickets are on sale at the box office.

Ford Hall Forum

David Seabury, psychologist, will discuss *Sense and Nonsense in Psychology*, Sunday, March 14 at 8 p.m. in Jordan Hall, Boston. Subjects to be covered in the discussion are *The Importance and Place of Psychology in the World Tomorrow* and *What is Useful and What is Injurious in the Realm of Psychology and Analysis*.

DANCE —(Continued)

day, Thursday, and Friday of next week. Tables for parties numbering as many as 10 persons will be available and ticket numbers will be marked to correspond with the table reserved. Waiter service from the hotel bar will be provided.

Since only a limited number of tickets will be sold, prospective purchasers are advised to buy early and avoid the disappointment that resulted last March when tickets were exhausted several days before the formal at the Somerset. The male uniform for the evening will be tuxedo or tails.

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PALESTINE —(Continued)



Harold Katz (right) studies Bigelow on Real Property with another American friend while marking time in a camp for displaced persons on Cyprus. The picture was taken by camera and film made by Cyprus internees.

American identity, had with him a copy of Bigelow on Real Property, which, he finally succeeded in convincing a dubious officer, he planned to use to learn English. Although the officer didn't see "how anyone could learn much English from that," the book got through and the two Americans spent the next few months boning up on the law of future interests (see cut).

After three months of confinement at Cyprus, Katz was smuggled into a quota shipment bound for Palestine, where he was taken to a prison for final processing for legal entry. With the aid of the Hagana, Katz escaped (in order to avoid using up one of the available quota places) and spent the next four and a half months on duty with the Hagana in all parts of the Holy Land. He returned to the United States by way of Greece, Italy, and France.

His stay in Palestine has convinced Katz that there is no basic enmity between the Arabs and the Jews. The present situation, he believes, is due in large measure to the British, who are deliberately fostering such an illusion for their own ends, and to the Arab chieftains whose feudal organization is threatened by the modernizing force of the Jews.

Katz readily admits the existence, particularly among student groups, of a fairly strong Arab nationalist movement. But he feels certain that the Arabs and Jews could reach a satisfactory solution of their differences if left to their own devices.

Katz's next stop is California, where he continues his coast to coast speaking tour. He plans to go back to Palestine in a month but hopes to return in time to resume his Law School studies in September.

BROADCAST —(Continued)

His witness will be Harvard Law School graduate Robert Segal, New England counsel for the A. F. of L.

Counsel opposing political contributions by labor unions will be Carl Shipley 3L (Georgetown U. '42), editor of the Law School Directory and a member of the Forum Board. His witness, Professor Robert Braucher, LL.B. '39, served as an air forces pilot in India during the war.

Former general counsel for the OPA, Professor Richard H. Field, class of '29, will act as judge.

In last Sunday's trial on financial and military aid to China Professor Ernest J. Brown acted as judge. Counsel for the negative Stanley R. Evans 3L, (Northwestern '46) and witness James P. Grant 1L (U. of Cal. '43) argued against extending further aid because there was no reasonable chance that such help would accomplish its aim.

James M. Wilson, Jr., 3L (Swarthmore '39), counsel in favor of military and financial aid, and his witness William M. Chamberlin contended that aid to China now would stop the rise of Communism there and save vast amounts of money in the long run.

The broadcasts are being conducted under the immediate supervision of Frank B. Boyce 3L and Joseph H. Flom 3L.

FORUM —(Continued)

work which carefully scrutinized the activities of big-city political machines in our major cities.

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