

The Harvard Law School Record

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NEWS IN BRIEF

THE \$5 CASE

The first stage in the famous *Poin-dexter v. Prosser* case commenced last night when Judge Frederic A. Crafts of the Waltham District Court heard arguments on motions and demurrers.

The trend on the merits will be held on Tuesday, April 6, at 8 p.m. in the Langdell Courtroom. The court will be open to spectators.

ARBITRATION EXPERIENCE

Students desiring an opportunity to participate in a model commercial arbitration before an experienced arbitrator should see E. L. Tolles, chairman of the Board of Student Advisers this week. Students will act as clients, counsel and witnesses. The arbitration will be held about the middle of April.

This experiment is occasioned by the growing interest in commercial centers, particularly in New York, in arbitration as a substitute for court litigation.

AMES PRIZES

The Board of Student Advisers announces the book prizes for the first round of the Ames Competition, fall term 1947-48. Prize for the best brief was awarded to Edward E. Murphy, Jr., of the Jeremiah Smith Club; Alan E. Schwartz of the Dodd Club received honorable mention. In the competition among the student judges, Theodore M. Newman 3L wrote the best opinion.

Six men tied for the best oral and for that reason no prize has been awarded. Those who finished in the dead heat were Hans H. Angermueller of the Pow-Wow Club, Hunter M. Bennett of the Pound Club, Norman S. Fink of the Burton Club, Robert L. Marchman of the Wilson Club, William E. Poe of the Wilson Club, and Isaiah F. Shotkin of the Freund Club.

DUPLICATE BRIDGE

A series of team-of-four duplicate bridge matches between Chancery Club and the Faculty was inaugurated last Wednesday night at Professor Field's home. Participating were Professors Field, Leach, Casner, and Prosser, and third year students Glenn McGee, Cushman Dow, John Bass, and Ralph Buck.

Chiefly as a result of an inopportune double by Professor Leach the students won last week's match by 930 points. In his defense Leach stated: "I think you could make out a jury case in an indictment against me for that double, but I still think the bidding was misleading." On the other hand Casner was caught whispering to partner Prosser re Messrs. Leach and Field: "We had six men playing against us!" It might be noted that Goren and Mrs. Sobel blanched with terror when the prospect of their meeting a picked faculty twosome was suggested.

ATHLETICS

In the squash tournament for experienced players, John A. King is the first competitor to qualify for the semi-finals. Theodore Brophy, Frank Griffin, Charles Johnson, Charles Lord, Thomas Quintrell and Ogden Williams are the remaining quarter-finalists.

Out of 68 entries in the B tournament, the following have reached the quarter-finals: Professor Robert Braucher, William Brewer, James Case, John Chafee, John Grunow, Cloyd La Porte, John Nassikas, and Charles Taylor.

Final matches will be played on Thursday, April 1, in Hemenway Gym.

SOFTBALL

The P.B.H. Law School Committee requests all students interested in softball to form teams and have their manager sign the book at the Hemenway Gym desk. Games will be informal during the remainder of this term but a regular league schedule will be published in the summer.

(Continued on page four)

YEAR'S WORK IS REVIEWED BY YEARBOOK

Hennessey Reports Need For New Men On Publication Staff

The Harvard Law School Yearbook Committee last week submitted a copy of its 1946-47 balance sheet for RECORD publication, recorded a total net profit of \$1820.88 on this venture, and reported that the 1947-48 edition would be ready for distribution on May 15. In regard to recruiting committee members for the 1949 album, Editor Paul Mishkin 3L expressed his desire to interview any first-year men who were interested.

Publication of the Yearbook began in 1937 and has continued annually since that time except for a wartime hiatus. It is operated under the supervision of the Phillips Brooks House and its editorial and business management work on a salaried basis.

During the academic year 1946-47, the Yearbook sold for \$6 a copy. Because an identification photographer was employed last year, instead of a portrait photographer, the committee was able to allow \$1 credit to those who paid to have their pictures included in the book. With this as the major source of income, a net profit of \$1820.88 was realized.

In return for agreeing to underwrite all losses that might be sustained, the Phillips Brooks House was guaranteed 30 percent of the net profits. Last year this amounted to \$546 or roughly 48 cents on the price of each book sold. P.B.H. segregates this money in a special Law School fund which is used to operate a book lending service for needy law students. Although the service has,

(Continued on page three)

SPRING FLING

On Saturday, April 10, from 8 to 12 p. m., the Law School Committee will present the last of this season's dances. Named the "Spring Fling," the dance will be informal, and will be held at Cowie Hall at the Business School. The price will be \$2.40 per couple, which the committee says is the "break even" level. Set-ups and beer will be available at the dance.

LAWYERS GUILD TO HEAR SMITH

Legal Service Offices To Be Discussed In Talk

The Student Chapter of the Lawyers Guild announces a lecture by Reginald Heber Smith LL.B. '14, prominent attorney, this Thursday afternoon at 4:30 P.M. in Langdell North Middle. His subject will be "Legal Service Offices for Persons of Moderate Means."

Mr. Smith has done extensive work on a plan for integrating legal services for the community. The purpose of the plan is two-fold: to assist people of moderate means who have not had access to legal counsel in any form (the estimate runs into millions), and to provide organized and worth-while apprenticeship for law school graduates. In addition to acquainting young counselors with the human facts which constitute such an important part of a lawyer's work, this plan satisfies the communal needs of the bar and will remove one of the main causes for the demand to "socialize" the profession.

In supporting this proposal, Mr. Smith can call on his past experience with the formation of legal aid clinics, the armed services legal assistance offices, lawyer reference plans and neighborhood law offices. He is also the author of the well-known book, *Justice and the Poor*.

(Continued on page four)

"New Look" On Ellesmere's Portrait Stresses Form As Well As Substance

Spring came a'bustin' out all over at Harvard Law School last week—especially in Langdell South Middle.

Keeping abreast of the mood created by the long-awaited advent of soft spring breezes, two law students introduced their own inimitable version of what a young man's fancy turns to when it strays from the seamless web.

Succumbing to the voice of the turtle at dawn last Wednesday, the two gallants smuggled a modest substitute (see picture next column) into the empty frame reserved for Sir Thomas Egerton Baron Ellesmere, one-time lord chancellor of England, the said Sir Thomas being for the time away at the local portrait cleanery. Immediately upon viewing the substitute, the expressions on the neighboring portraits of my lords Hardwicke and Macclesfield, were seen to brighten perceptibly.

The semi-nude Portia, clad only in what might be termed a "new look" in judicial robes, was painted by Mrs. Vera Chvany Hussey, a scholarship student at the Museum of Fine Arts School on The Fenway, and more recently, a bride of some 16 days standing. Painted in two afternoons, the portrait captured, not only the musty gold-black background of the other portraits in the room, but even managed a look of judicial reflection on the young lady's face that would have done equity to Ellesmere.

The students who engineered the maneuver, however, preferred to remain unrevealed as yet. In a secret interview with a RECORD reporter, one of the students said that he thought "Discretion was the better part of valor." The other student was immersed at the time in a copy of the "Secret Life of the Lord Chancellors," but paused long enough to remark that "Discretion was also the



Harvard Crimson Photo

Above an artistically inclined student takes time out from Equity class to appreciate a temporary visitor to the Langdell gallery.

better part of a general power of appointment."

Meanwhile the picture remained for four hours, evoking admiration from the professors and students and affording ample opportunity for classic wit, to wit: Dean Griswold's statement in his 10 o'clock class in Langdell South Middle: "I'm glad I don't have to face it through the lecture." The statement received a robust cheer from the class. Another professor was heard to say that this was the best gag that had been pulled on the School since nine Harvard Law men founded Yale Law School in 1824.

Professor Field asked his class to bear with him while he read the anonymous

(Continued on page four)

AMES SEMI-FINALS TO BE ARGUED THIS WEEK

LEGAL EDUCATION

Professor Fuller, Chairman of the School's Committee on Legal Education has announced that questionnaires are being prepared, designed to ascertain student attitudes and views on various problems of education. The Committee would welcome suggestions as to the formulation of the questions as well as any general criticisms or recommendations on legal education.

THREE CLUBS WIN IN QUARTER-FINALS

Three Ames quarter-final arguments were held last week on March 23, 24 and 25, leaving only the Pitney Club v. Blackstone Club argument to be heard tonight, March 30, before the Honorable Jesse W. Morton of the Massachusetts Superior Court who will act as chief justice.

On Tuesday, March 23, the Kent-Scott Club, represented by Roswell B. Perkins and William S. Moorhead, Jr., as oral counsel, defeated the Madison Club. The Chief Justice was the Honorable Walter L. Collins of the Massachusetts Superior Court.

The Pow Wow-Marshall Club was victorious over the Morgan Club on Wednesday, March 24. The Honorable John V. Mahoney of the Suffolk County Probate Court presided as Chief Justice. Cornelius Peck and George Hasen were oral counsel for the winning club.

In the third quarter-final argument on Thursday, March 25, oral counsel Douglas Stevenson and Nelson Taylor clinched a victory for the Gardner Club over the Langdell Club before the Honorable Frank J. Donahue of the Massachusetts Superior Court, who was the Chief Justice.

All three arguments won warm praise from the Bench, both for excellence of oral argument and effectiveness of briefs. The consensus seemed to indicate that the arguments matched a high professional standard.

Fairbank Asserts Conditions in China Not Misrepresented in American Press

(In the RECORD of March 2, we published some observations by Dean Pound on the current situation in China. The following comments on Dean Pound's article were written by John K. Fairbank, Associate Professor of History at Harvard College and Associate Chairman of the Committee on International and Regional Studies, in charge of the China program.)

BY PROFESSOR J. K. FAIRBANK

It is not a pleasant task to comment upon Dean Pound's article on China, printed in the RECORD on March 2. To criticize, in his absence, a world-renowned scholar who, has ventured out of his field of competence, or who has been victimized by a clever manipulation of his own honorable sentiments, seems hardly fair or properly respectful. Yet with all due respect I believe it is incumbent on a student of China like myself to indicate certain points of disagreement with him, not on the subject of the law or Chinese legal codes and codifiers, but within the realm of politics and politicians.

The most vulnerable of Dean Pound's statements is his attack, headlined in the RECORD, on the reliability of American press reporting on China. "There is by no means," he says, "the general condition of demoralization, corruption, and inefficiency which is portrayed in American newspapers." This, of course, not only disregards the testimony of a host of correspondents, but also denies the

Pitney Club To Face Blackstone In Last Quarter-Final Case

The semi-final arguments of the Ames Competition will be presented Thursday and Friday at 8 p. m. in Langdell Courtroom. In the quarter-final argument which will be held tonight, the Pitney Club will meet the Blackstone Club.

The Casner Club will oppose the Hughes Club Thursday evening in a case dealing with liability under wrongful death statutes. The plaintiff brought an action in tort under the wrongful death statute of Ames to recover for the death of her husband caused by the negligence of the defendant. The latter denied liability in tort and claimed that either the Workmen's Compensation Act of Pennsylvania or Alabama should apply.

The bench will consist of the Hon. Harold P. Williams, '06, Associate Justice of the Supreme Judicial Court of Massachusetts, Stuart C. Rand, Esq., '12, of Choate, Hall & Stewart and Elliott V. Grabill, Esq., '35, of Grabill-Ley-Mason.

Oral counsel for the Casner Club are Richard R. Baxter and Walter M. Robinson, Jr. Of counsel on the brief are John R. Alexander, Arthur Medow, Frampton W. Toole, Seth A. Abbot, John A. McMahon and Herbert W. Irwin. Oral counsel for the Hughes Club are George W. Foley and Raymond M. Torkildson. Louis Hindenlang, Jack C. Briscoe, Seymour S. Sussman, Burton M. Blum and James M. Sullivan, Jr. are counsel on the brief.

The Jeremiah Smith Club and the Blackstone Club will argue Friday evening on a petition to review action by the Securities and Exchange Commission requiring submission of the petitioner's plan of reorganization to the commission for approval. The J. Smith Club, representing the petitioner, contends that the Commission, acted under

(Continued on page three)

public statements of both Marshall and Wedemeyer.

Dean Pound also states flatly that in China, "there is no censorship of the press." Having been in charge of the United States Information Service in China and studied the Chinese press both during and after the war, I have had occasion to verify numerous instances of Chinese government coercion and intimidation of the press, including abduction and murder of reporters and editors. I can only conclude that this observation of Dean Pound's is as over-optimistic as his remark after returning from China last year, that the people in Shanghai looked well-fed and busy and there was no malnutrition. Actually, several liberal newspapers have been suppressed, not for being pro-Communist, but for criticizing official corruption and protesting against the police methods used on students and all other critics of the Kuomintang.

In the same vein Dean Pound seems to pooh-pooh the Communist problem. "In truth," he says, "there is no 'Communist Party' in China generally, as a political party in the American sense. There are scattered Communist agitators and conspirators here and there, and in the North there are Communist armies led by generals who recall the old war-lord governors whom the National Government, after 15 years of struggle, finally overthrew." This would seem to deny the tight Marxist organization now so loudly asserted in Washington.

(Continued on page three)

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Editorials

A news story summarizing the financial statement of the Harvard Law School Yearbook Committee for 1947 appears on page one of this issue. Part of the report dealing with editorial and business management should be of particular interest to first and second year students since the task of planning the 1949 edition is their responsibility.

The most controversial matter for their consideration is whether a percentage of the purchase price of each album, in the event there is a profit, should be allocated to a salary fund for the top executives of the Yearbook committee. Last year three members of this committee received \$425 apiece and the advertising manager netted over \$300 in commissions.

Some students feel that this tedious, time-consuming, non-legal chore is a service which should be rewarded by allowing the hardest workers to share in the profits up to a \$500 limit for each individual. They point out that the job probably wouldn't be done unless the participants were compensated. Moreover, they suggest that the executive committee could be selected on a competitive basis with emphasis on efficiency, financial need, and apprenticeship on a preceding edition. Other students believe that in spite of the lack of interest previously displayed, the number of Yearbook workers could be increased so that there would be a greater division of labor and a greater willingness to contribute services without requiring compensation. This, they say, would evince a spirit of public service which Dean Pound maintains should result from a thorough Law School education. Advocates of this view cite examples of other Law School non-profit organizations which are not directly connected with the pursuit of legal learning: the Forum, the RECORD, and the Phillips Brooks House Committee.

However, it is not the role of the RECORD to play counsel for the first and second year classes in this matter. Rather, its function is to publish an accurate report of Yearbook operations, to afford a forum for discussion in the letters column, and to print the result of any subsequent student action.

L. C.

Letters to the Editor

To the Editor of the RECORD:

The article on Prosecution of Malpractice Suits in the RECORD of Feb. 25, 1948 is an unusually well written presentation of one plaintiff's point of view regarding his own experience in bringing a suit for malpractice to court. It stresses not so much the outcome of the case—which notwithstanding the jury verdict appears to be still in doubt—but the plaintiff's difficulty in preparing his case for trial. Citing only one case, and only one alleged aspect of that one case, it by-passes the presumably relevant body of fact and experience on which present legal and medical practice rests and raises the question of reform.

Any doctor can be brought into court by subpoena to testify to question of fact as distinguished from questions of opinion. Would the ends of justice be furthered by extending the subpoena system to include expert testimony? Probably not. Competent and honest expert

medical opinion is available to lawyers outside of court, just as competent and honest legal opinion is available to doctors. For an attorney to bring his client's malpractice case into court in the face of a consensus of honest medical opinion would appear detrimental to the client's best interests. To be sure, every client has a right to his day in court if he insists on it, but what client would insist on it against good legal advice? What lawyer would insist on having an operation against good medical advice, and what kind of a surgeon would be willing to perform it?

The good faith and special knowledge of both a lawyer and a doctor are essential if the prospective malpractice client is to be fairly guided. The lawyer is familiar with the four elements of proof: duty, dereliction, damage, and direct causal relationship. The doctor is familiar with what constitutes reasonable care and skill under the circumstances. The facts are as well, and perhaps better, known to both as they can be made known to a jury. On this basis most bona fide cases are settled out of court, and most bogus cases are dropped. Malpractice cases which come to trial must represent either fanaticism, bad faith, or an honest error of judgment on someone's part. It would be difficult to conceive of any reform which could eliminate those factors from human affairs.

Doctors are fond of publishing reports of interesting and unusual medical cases in their professional journals, and such reports naturally stimulate speculation as to how similar cases might be recognized and better treated. The Rines case appears to qualify for such a report in a legal journal because of the unusual qualifications of the parties concerned, but to use it as a source of generalizations sufficient to support wide-reaching reform of our existing system of laws would seem unwarranted.

HARVARD MEDICAL SCHOOL, '23.

To the Editor of the RECORD

In 1922-23 I became aware of the liaison between limerick and law. I was then living in Gannett House which was converted that summer to uses which inhibited the production and emission of light reading matter. Here is my last:

A timid young man in La Jolla
Owned a breath-taking nude done by Golla.
When girls came to call
It was turned to the wall,
On advice from his old family lolla.

ELI FRANK, JR., LL.B. '25.

To the Editor of the RECORD:

My nephew, Robert Taft, has called my attention to your issue of Tuesday, March 2, 1948, in which you quote me on "Information Please." I realized that the education provided at Yale Law School was far better in law than that provided at Harvard, but I did not realize that there were deficiencies in hearing also involved in learning the law at the Harvard Law School.

What actually happened was as follows:

Q. Name a former President of the United States who served as Dean of a law school.
A. (By Charles Taft): William Howard Taft.
Q. What school?
A. (By Kieran, I think): Yale.
A. (By Taft): No, Cincinnati.
A. (By McGrath): Yale did not have a law school then.
A. (By Taft): Oh, yes, it did; the law school at Yale was founded in 1824.
A. (By McGrath): Yale does not have a law school yet.

Of course, you have to make allowances for these Democrats!

CHARLES P. TAFT.

Off the Record

Harrison Tweed, LL.B. '10, has forwarded to the RECORD the following excursion in rhyme by Professor Karl N. Llewellyn of the Columbia Law School concocted during a session of the Council of the American Law Institute:

Though silly fools do often draw
A contradictory indication,

It is not true that Harvard Law
Prevents a legal education.

A student who can find good friends
And has an agile lucubration

Can find that private work forbids
The law professor's obfuscation.

The rumor therefore has a flaw:
Regardless of its reputation,

It is not true that Harvard Law
Prevents a legal education.

Full Coverage

Trial Judge refusing requested instruction:
"It's not the law and besides I've already covered it in my other instructions."

Gallery

LLOYD KIRKHAM GARRISON
Government Administrator



"A series of odd chances" is how Lloyd K. Garrison, A.B. '19, LL.B. '22, summarizes his distinguished career as lawyer, law teacher, public servant and government administrator. "The first occurred in 1923 when Judges Learned and Augustus Hand were looking for young men to act as receivers in small bankruptcies. The Hands found out that I was not long out of law school and was working in Root, Clark, Buckner and Howland in New York City and asked me to help out. The New York City Bar Association happened to be interested in the reform of bankruptcy administration, and got me into the work. Later Solicitor General Thacher persuaded the government to launch a nationwide investigation, and he put me in charge of it.

"In 1932 the University of Wisconsin Law School, looking for a Dean, and wanting a young lawyer with a dash of public experience, took a shot in the dark and I was selected. My academic appointment coincided with the advent of the New Deal and its consequent demand for bright young men (Dean Garrison was 35 at the time) to staff the expanding civil service. Naturally professional schools were a primary source for new administrators, and I found myself with an added academic challenge."

Currently a member of the newly organized New York City law firm of Paul, Weiss, Wharton and Garrison, Mr. Garrison spends much of his time at his East 64th Street apartment. Amidst volumes of exhibits and testimony piled on every available large window sill and table, the visitor finds Lloyd Garrison busily working away. His working clothes include dungarees, sports jacket, bow tie and slippers. Since December, 1945, when he left permanently the Wisconsin Law School, Mr. Garrison has been acting as Special Master for the United States Supreme Court in a suit by the State of Georgia against the Pennsylvania Railroad and 19 other railroads.

For Mr. Garrison, his part in organizing and his service on the first National Labor Relations Board in 1934 (the N.L.R.A. predecessor of the present Board) was "the most challenging job I ever had. The whole subject was so completely new that it was really pioneering." In 1935 when the Wagner Act was passed it "incorporated the substance of the N.L.R.A.'s Section 7-A, (under which the original Board was set up) interpretative principles that we on the Board had worked out case by case."

During the war years Dean Garrison was general counsel and later the outgoing chairman of the War Labor Board which had the dual task of avoiding strikes and administering the wage stabilization program, under which no wage increases could be made without the Board's approval. "The wonder of this attempt to stabilize wages in a democracy," he stated, "is that it worked at all."

Lloyd Garrison measures a lawyer's success not in money and clients but in helpfulness as a citizen. He is, among other things, president of the National Urban League.

He finds the practice of the law "fascinating because of the range of legal, human, and public policy problems which are constantly brought to the lawyer." Commenting on measures such as the New York Fair Employment Practices Act, he said that "their chief value is in shocking people into re-examining their premises. And they make it easier for the employer who wants to quit discriminating, but who previously has followed the prevailing pattern, to do the right thing."

Professor Garrison who has been teaching Corporation Law at New York University Law School since 1945, has very definite ideas on the present inadequacy of the legal education process. Last summer, while speaking before the National Law Student Conference on Legal Education, he advocated a return to the study of law in the "grand manner." Garrison, an ex-President of the Association of American Law Schools, put the burden on the law schools to reduce case-study time to an aggregate of two years and to increase proportionately the number of hours spent in utilization of text materials, including

Sub Judice

BETTER LUCK NEXT TIME * * *

The Lea Act, an amendment to the Communications Act of 1934, was aimed particularly at James C. Petrillo, President of the American Federation of Musicians. It provided in part that "(a) It shall be unlawful, by the use or express or implied threat of the use of force, violence, intimidation, or duress, or by the use or express or implied threat of the use of other means, to coerce, compel, or constrain or attempt to coerce, compel, or constrain a licensee—(1) to employ or agree to employ, in connection with the broadcasting business of such licensee, any person or persons in excess of the number of employees needed by such licensee to perform actual services; . . ."

Radio station WAAF in Chicago employed three union members as librarians, the great bulk of its programs consisting of recorded music. The contract between the union and WAAF having expired, Petrillo wrote to the station, asking that it take on three additional staff musicians. After some unproductive correspondence between the parties, Petrillo called a strike of the three librarians. At the same time, Petrillo announced publicly that he was intentionally violating the Lea Act in order to test its constitutionality.

Charged with violation of the Act, Petrillo moved to dismiss, claiming the Act was unconstitutional. The Supreme Court upheld its validity, however, and remanded the case to the District Court, where the trial went forward. Held: Not guilty. Although the evidence seemed to show that the radio station did not in fact need the additional employees, prosecution had not proved that Petrillo knew this. "There is no evidence whatever in the record to show that defendant had knowledge of or was informed of the lack of need for additional employees prior to the trial of this case."

Petrillo's public statements were not important. "Defendant's conclusion that his actions in this case constituted a violation of the law . . . is not determinative of his guilt . . . any more than would have been his conclusion that he had not violated the law if, in fact, his actions constituted a violation." U.S. v. Petrillo, 75 F. Supp. 176 (N.D. Ill. 1948).

Notes on Recent Cases

AGENCY: LIABILITY FOR TORT OR INDEPENDENT CONTRACTOR.

Szymanski v. Great Atlantic and Pacific Tea Co., 79 Ohio App. 407, 74 N.E. (2d) 205 (1947). Mrs. Szymanski finished shopping in one of Toledo's A & P stores and was about to leave when she was accosted by the store detective, who charged her with stealing two articles of canned goods. Questioned by the detective and the store manager, she claimed to have paid for the goods, but was detained until local police arrived. She was booked and released on \$25 bail. A few days later the detective agency employing the store detective filed an affidavit charging Mrs. Szymanski with petit larceny. At the subsequent trial, however, she was acquitted.

Mrs. Szymanski next brought this action against the A & P for false imprisonment and malicious prosecution, and won a judgment in the trial court. Held: Affirmed. Under the Municipal Code the store detective lacked authority and detention of plaintiff was illegal. Furthermore, defendant was responsible for the detective's tortious conduct, even though the detective was not a servant. "Duties of a personal character performed by a store detective . . . cannot be . . . delegated to an independent contractor and thereby relieve the store owner for illegal acts of such detective to the injury of the store's customers." The court emphasized that this was not a case of a contractor doing his work negligently. "Negligence does not enter into the tort of false arrest."

The decision exemplifies the trend toward broadening the liability of a principal for torts committed by agents who are not servants.

extra-legal materials, so as to give the lawyer a more rounded view of the "law in society" (title of a course he pioneered at Wisconsin) and a broader concept of the applications of sociology, psychology and economics to the law.

Aside from observing that almost two-thirds of the Wisconsin Law graduates had successfully gone into various forms of office-sharing arrangements in their home state, Mr. Garrison refuses to advise graduating law students. "The controlling consideration should always be the way of life you want to lead, for after all your practice must be subordinate to your life. When you decide what kind of an environment you want to grow up in, your practice will develop partly according to your own inner urges whose nature you probably will not understand until long after they have led you along paths you never foresaw and never consciously planned to tread."

A.S.

Alumni Notes

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

LL. B. '21—William E. Fuller is now judge of the Probate Court of Bristol County, Mass.

LL. B. '33—Governor Bradford has appointed Jacob Lewiton as associate justice of the Municipal Court of Boston. The appointment was confirmed on March 10, and the induction took place on March 11.

Lewiton served as special counsel to the Governor from January, 1947, until the end of the last legislative session, and had previously been an Assistant Attorney General in charge of the Division of Advisory Opinions. He also participated in the drafting of Mass. emergency wartime legislation, and had charge of drafting Executive orders issued by the then Governor Saltonstall. He is a past editor of the *Law Review*.

LL. B. '42—Robert M. Segal has been appointed Mass. member of the Committee on Relations with Law Students and Mass. Director of the Public Information Program of the Junior Bar Conference of the American Bar Association.

In the past he has served as an assistant to the President's Railroad Emergency Fact-Finding Board, Examining-Analysis for the War Production Board, Price Specialist and Economist for the Office of Price Administration and economist for the U. S. Steel Corporation. He is also the author of "Relations of Lawyers to Economists," "The New Labor Law and Obligations of Labor Organizations," and "The Demand for Steel by the Railroad Industry."

Presently, Segal is lecturing on "The Labor Contract" at Northeastern University Labor Institute, and on "Administrative Law" at the law school of that University.

He was also a fellow at the Brookings Institute in Washington, D. C.

LL. B. '44 ('47)—Thorp Lanier Wolford is with the firm of Bullitt & Middleton, 1700 Kentucky Home Life Building, Louisville, Ky.

LL. B. '45 ('47)—Chester Nicholas Johnson is with the Aetna Fire Insurance Company in Hartford, Conn.

Fairbank Gives Views On China

(Continued from page 1)

From his personal observation Dean Pound is naturally able to testify to the competence and high character of Chinese officials with whose work he is acquainted, and he has favorable comments to make on China's legal codes and legal scholars. In other fields of observation, however, his testimony seems open to some question. For example, concerning the very light number of votes cast in the first elections of late 1947, he explains that banners, trucks, posters and loud-speakers "could not bring out a large number who were perfectly satisfied with the government." As regards agrarian reform he says, "It should be remembered that the percentage of farm tenancy is less in China than in the United States." Should it not also be remembered that roughly four-fifths of the 450 millions in China are farmers, whereas the corresponding figure in the United States is between one-quarter and one-third? Comparisons of China and the United States in one single respect alone can hardly be other than specious.

In the same upside-down fashion, among all the Nanking leaders, some of whom are the finest men in China, Dean Pound reserves his highest praise for Dr. Chen Li-fu, wartime Minister of Education and now Minister of Organization of the Kuomintang. I doubt whether the other officials mentioned in Dean Pound's article would subscribe so wholeheartedly to his praise of Chen. No one, I am sure, would accept the statement that during Mr. Chen's term of office as Minister of Education from 1938 to 1944, "he reduced illiteracy from 75 per cent of the population to about 50 per cent." This would be equivalent to the teaching of perhaps 100 million persons during the period of Japanese aggression. I think this estimate can safely be challenged.

Since Dean Pound writes with such particular appreciation of this one man, Chen Li-fu, describing him at length as "well-known for deep love of the country and its people, thoroughly acquainted with the problems, zealous . . . possessed of ability and determination . . . a thoughtful, conscientious, diligent scholar . . . (who) will long be known and honored for his work when Minister of Education . . .," perhaps we can take

this point as a test case of Dean Pound's observations as a whole. Who is Chen Li-fu and what does he represent in China?

Chen has been for more than 20 years a loyal political organizer for Chiang Kai-shek. His Western training was confined to a year or two at the Pittsburgh University School of Mines. With his elder brother, Chen Kuo-fu, he has specialized in party personnel management. The elder brother has been the patriarch of the Central Political Institute for the training of civil servants. He is also a devotee of old-style Chinese medicine. Together the Chen brothers have led the "CC" clique which dominates the right wing of the Kuomintang, and the secret party police. It is true that Chen Li-fu is a quiet, small, benign-looking man, of undoubted moral earnestness. Because he manipulates Chiang Kai-shek's party organization, his ideas take on particular interest.

Chen's ideas are little known in the West, though played up last year in *Time* magazine. He stands for the fusion of Western technology and Confucian social values, the use of Western methods to maintain the outworn Confucian system of government by the few, from the top down. He has presented this view in many statements and publications in China. But few of them have been translated, for American journalists seldom read Chinese and American scholars seldom come up to date. Chen argues that ancient Chinese culture is the cure for modern China's ills. "The spirit of Confucianism," he says, "is the means of adjusting our culture to the modern age." He urges that moral maxims of famous Confucian scholars be systematically arranged and explained to the people.

In active politics Chen has concentrated on the struggle against both liberalism and Communism, which he classes together and so drives into the same camp. His efforts at thought control over Chinese students in American universities were publicly denounced by a representative group of Harvard professors in 1944. Undoubtedly he contributed heavily to the breakdown in 1946 of the Marshall negotiations for a coalition government. To compete with Communism on the plane of ideology, he has been the proponent of a theory of "vitalism." This ideology he has set forth in a work cosmology entitled *Weisheng-lun*, first presented as lectures at the Central Political Institute in 1933 and reprinted many times since. I hope it is correct, as Dean Pound states, that a translation is now being published in New York under the title *Philosophy of Life*. Nothing could more effectively illustrate the backwardness of Kuomintang thinking.

This work, which Dean Pound evidently admires, tries to synthesize the ancient Chinese values with the conceptions of modern science. The Chinese text runs the gamut of knowledge, beginning with the singular point that "Einstein's discovery of the fourth dimension" (sic) was anticipated by the ancient Chinese idea of the universe of space and time (*yu-chou*). The book then proceeds through an eclectic analysis of the atom and hydrogen nucleus, the life principle—animal, vegetable and mineral, the true, the good, and the beautiful and the six ages of man; and then describes the six stages of political development, which are curiously listed as leadership, feudalism, monarchy, democracy, party dictatorship, and finally "government of all the people."

In short, Dean Pound's hero stands in the Chinese scene for the growth of political controls through local gendarmerie, secret police, press censorship, control of education, and other devices of the Kuomintang, accompanied by a reversal and reinterpretation of Sun Yat-sen's ideas and the revival of traditional Confucianism.

Sympathy for Chinese officials and understanding of their problems in these times should be our constant aim. And Dean Pound mentions several Nanking leaders worthy of all praise. But it is singularly disconcerting that his article shows the greatest regard for the one man whose view of life and whose political record are most antithetical to everything that Harvard stands for.

YEARBOOK—(Continued)

to a large extent, become temporarily unnecessary through G.I. Bill provisions, it was extremely helpful before the war. At the present time the fund is being increased in anticipation of expanding demand a few years hence when the student body will be preponderantly non-veteran.

The *Yearbook* Editorial Board includes Chairman John B. Hennessey 3L, Editor Paul Mishkin 3L, Business Manager Wesley E. Bevins, Jr., 3L, and Advertising Manager Wilbur Newstetter 3L. With the exception of Newstetter the same committee served last year. The editor, chairman, and business manager split the profits remaining after the P.B.H. percentage was subtracted. Each member of the committee was limited to a \$500 maximum and the individual earnings last year amounted to \$425. The advertising manager works on a commission basis which last year amounted to around \$300.

"Although the salary appears to be rather high," Hennessey said, "the job is worth it." He told of the difficulty of getting other men to assist in the work, the non-legal character of the venture, the drudgery of checking biographical data and organizing material—not to mention the difficulty of getting everyone to have his picture taken. In addition, Hennessey said that the book often entails 40 hours of work a week, necessitates working during between term vacations, and cuts into study time particularly during the spring exam period when the books are distributed. However, it should be noted that this year the committee's load is relatively light between March 13 and the time of distribution.

Editor Mishkin said that he did not feel that anyone would undertake the job unless it was on a salaried basis. He said that he was especially anxious to see first-year men who were interested in trying out for the committee. What he would like to do is to build a "self-succeeding staff on a merit basis" so that second year workers could qualify for editorial positions in the third year after having had a year of experience.

SEMI-FINALS—(Continued)

a rule which resulted in the arbitrary classification of their client since it is the only company to which this rule can apply. Counsel seek a stay of the commissioner's order on the ground that procedural due process was denied. The

Blackstone Club will represent the Commission.

Comprising the bench will be the Hon. Frank R. Kenison, '32, Associate Justice of the Supreme Court of New Hampshire, Francis G. Goodale, Esq., '07, of Hill, Barlow, Goodale & Wiswall and Henry Parkman, Esq., '18, of Hemenway & Barnes. Oral advocates for the J. Smith Club are William C. Murphy and Charles H. Weiland. Of counsel on the brief are John P. Egan, Jr., Merton R. Nachman, Jr., James E. Thomas, Jacob A. Walker and George D. Webster. Representing the Blackstone Club as oral advocates are Frank D. Padgett and Dow Votaw. Acting as counsel on the brief are James H. Barnett, III, Theodore H. Eberley, Otis W. Erisman, and Walter B. Williams.

The Pitney Club will oppose the Blackstone Club in the last quarter-final argument tonight at 8 p. m. in the Langdell Courtroom in a case involving restrictions on the alienation of shares of corporate stock.

The bench will be comprised of the Hon. Jesse W. Morton, '05, Justice of the Massachusetts Superior Court, John Richardson, Esq., '11, of Ropes, Gray, Best, Coolidge & Rugg, and Donald T. Field, Esq., '34, of Brown, Field, McCarthy & Field.

Oral advocates for the Pitney Club are Ralph D. Buck, Jr. and John H. Bass, Jr. Of counsel on the brief are Charles B. Gates, Jr., Phillip B. Green, Jr., Robert U. Holden, Richard J. Jennings and Gurdon W. Wattle. Oral advocates for the Blackstone Club are W. Scott Calderwood and Harry Tyson Carter. Of counsel on the brief are Philip J. Murphy, Herbert L. Gurnee, Clarence C. Young and Harold S. Wright.

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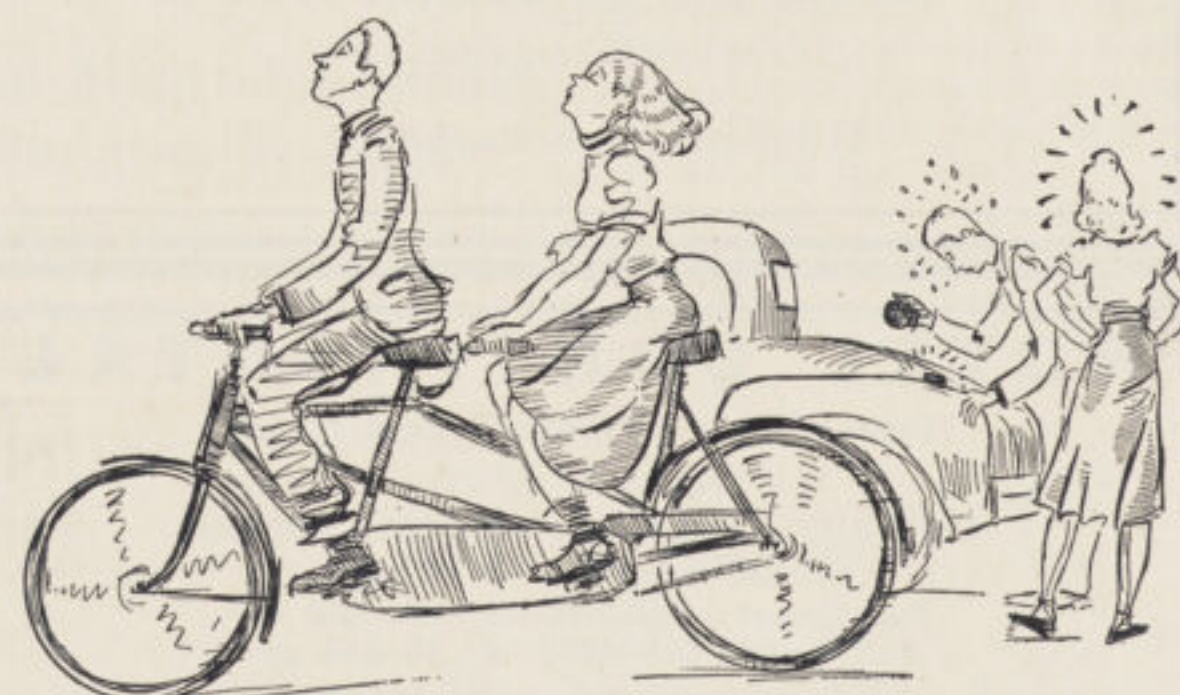
This review, preparing candidates for the Massachusetts Bar Examination, is given twice a year: October through December, evenings, and in June, days.

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Calendar

LEGAL WORLD

Ames Arguments

Tonight at 8 p.m. the Pitney and Blackstone clubs will meet in the last round of the quarter-final arguments.

The semi-final rounds begin Thursday at 8 p.m. with an argument between the Casner and Hughes Clubs and concludes on Friday at 8 p.m. with the Jeremiah Smith Club facing the Blackstone Club.

Harvard Law Wives

Dr. O. Hobart Mowrer, Associate Professor at the Graduate School of Education and acting director of the Psycho-educational Clinic at Harvard will discuss in his talks entitled, *Discipline and Mental Health*, the importance of discipline in the normal character development and mental health of children. The meeting will be held at Kendall House tomorrow at 8 p. m. All law wives are invited.

World Law Group

Mr. Blum, of the legal department of Lever Bros., will discuss problems of international patents this Wednesday evening. The meeting will be at 7:30 p. m., March 31, in Langdell South.

Griswold Club

The Griswold Club luncheon will be at the Oxford Grille tomorrow at 1:10 p. m.

Glueck Club

All members who attended the Spring party held at Kendall House March 20, are requested to attend a general business meeting at Kendall House, Monday, April 5 at 4:30 p. m.

King's Bench Dance

A *Kiddie Dance* will be held for members and guests of King's Bench Saturday evening at Cowie Hall.

Lawyers Guild

The Lawyers Guild Civil Liberties Seminar will be held in Seminar Room 4 this afternoon from 2 to 4 p. m. There will be a meeting in Langdell North on Thursday from 4 to 6 p. m.

UNIVERSITY WORLD

Agassiz Theater

The Idler Players of Radcliffe present Tennessee Williams' *Lord Byron's Love Letter* and Christopher Fry's *A Phoenix Too Frequent*. The latter play, is presented by special arrangement with Florida Friebus, and is directed by Mrs. Mark deWolfe Howe. This will be its American premiere and a pre-Broadway try-out. The plays will be given at the Agassiz Theater April 7, 8 and 9 at 8:40 and Saturday, April 10 at 2:40. Tickets are on sale at Phillips Brooks House and The Coop. The opening night funds are for the benefit of the Harvard-Radcliffe camp for undernourished children in France.

Institute of Geographical Exploration

The Institute of Geographical Exploration presents an exhibition of 40 paintings that depict various subjects and lighting in the Arctic. These paintings are by Commander Dayton R. E. Brown, United States Navy, and William Walter, of Washington, D. C. The exhibition will be open to the public from 9 a. m. to 5 p. m., Monday through Friday, and from 9 a. m. to 12 noon on Saturday.

Hillel Discussion

Three law students will participate in a panel discussion on Jewish Life in America, to be held at 8 p.m., Friday, April 2, at Hillel House, 5 Bryant St.

OUTER WORLD

Music at Gardner Museum

Mildred Mueller, mezzo-soprano and Elizabeth Scher, pianist, will be heard at the Isabella Gardner Museum, 280 The Fenway, Boston, today at 2:45 p. m. Arthur Schoip, baritone; George Zilzer, pianist, and Dolores Rodriguez, accompanist, will give a recital tomorrow at 2:45 p. m. Marian McCree, soprano and Buckner Gamby, pianist, will be presented Friday at 2:45 p. m. The Gordon String Quartet will give a recital on Sunday at 2:00 p. m.

FORMER SCHOLARS SET HIGH RECORD

The Harvard Law School Association announced in a recent issue of the *Record* that it would increase its financial support of the Law School's National Scholarship program. Although available quotas from the four geographical divisions were not filled during the war years, these scholarships will become especially important to students who do not have the benefit of the G.I. Bill.

Some idea of the unusually high quality of intellect and character which a successful applicant must have is illustrated by the uniformly impressive past and current success of National Scholarship holders. Four former Scholars who have been graduated are Arthur Taylor von Mehren (Minnesota) President of the *Law Review*, now assistant Professor in the School, on leave for study in Europe; Robert Brandt von Mehren (Minnesota) who succeeded his twin brother as President of the *Law Review*, later secretary to Judge Learned Hand, and now secretary to Mr. Justice Reed of the Supreme Court of the United States; Percy Don Williams Jr. (Texas), Treasurer of the *Harvard Law Review*, now Assistant Professor in the University of Texas School of Law; John Marion Naff Jr. (Texas), an editor of the *Harvard Law Review* who taught during the summer of 1947 in the University of Texas School of Law and is now studying abroad at Oxford as the holder of a Henry Fellowship.

The remaining recipients of National Scholarships are Gilbert Dudley Seton 2L (California) and Marvin Arthur Finkelstein 1L (Tennessee) who have so far maintained scholarship rank.

PORTRAIT—(Continued)

contribution of a student who had penned his views on the nude belle, as follows:

Ellesmere, Ellesmere, on the wall,
Hardly fully dressed at all;
What immortal hand or eye
Did paint thy beauteous symmetry?
What the student, what the brain,
Put thee in thy cheerless frame?
Ellesmere, Ellesmere, tell us, do—
Would women students dress like you?

Ellesmere, Ellesmere, on the wall,
Who is barest of us all?
Sally Rand is bare, 'tis true—
But barer, thou—and smarter, too!

The whereabouts of the picture are at present unknown. However, it appears that the faculty meeting room has been locked since Thursday afternoon. Whatever the final disposition, a member of the *Record* has suggested the following caption for the picture:

"If Ellesmere really had this look,
No wonder James neglected Coke."

This, however, evoked protest from another member of the staff who claimed that the correct pronunciation of Coke's name was Coke, not Coke. Hence the caption should be:

"If Ellesmere looked like this, sans cloak,
No wonder James did not choose Coke."

The controversy was still going on when I hopped into a cab for the Old Howard. J. S.

SMITH—(Continued)

Vice-Dean Livingston Hall will introduce the speaker. Background material on some of the problems involved in a blue print for Legal Service Offices are available at the main desk of the Langdell reading room.

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NEWS BRIEFS —(Cont.)

POLITICAL SCHOOL

Over 50 law students participated in the sessions of the New England School of Political Action Techniques which met March 20-21. After a plenary session during which some 500 people heard lectures by nationally prominent political experts, the students divided into workshops where the experts dealt with the details and techniques of political action. Lee Kreindler 2L directed the School and Edward Rothman 2L was on the planning board.

• • •

CHANCERY CLUB ELECTIONS

Recently elected officers of the Chancery Club are: President, Bert H. Early, 2L, succeeding Glenn W. McGee, Jr., 3L; Vice-president, Carmie R. Dafee, Jr., 3L, replacing Arthur R. Slade, Jr., 3L; Treasurer, Francis J. Milligan, Jr., 3L, in place of Wesley E. Bevins, Jr., 3L; and Secretary, B. Frank Taylor, Jr., 2L, succeeding Kennedy Smith, 3L.

New members-at-large of the Board of Governors are: Charles Fredericks, Jr., 3L, Raymond M. Torkildson, 3L, and Richard H. Brown, 2L, replacing George M. Burditt, Jr., 3L, Harry T. Carter, 3L, and Early.

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