

The Harvard Law School Record

VOL. 6 NO. 8

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NEWS IN BRIEF

AMES QUARTER-FINALS

In the last quarter-final round of the Ames competition, the Pitney Club defeated the Blackstone Club. Oral counsel for the winning organization were Ralph D. Buck Jr. and John H. Bass Jr. Blackstone oral counsel were Harry Tyson Carter and W. Scott Calderwood. Both clubs were praised for their advocacy by a bench composed of the Honorable Jesse W. Morton, LL.B. '05, Associate Justice of the Massachusetts Superior Court; John Richardson, LL.B. '11; and Professor Henry M. Hart, Jr., LL.B. '30.

MARYLAND ALUMNI

Glenn C. Bramble, LL.B. '26, President of the Harvard Club of Maryland is formulating plans along with other Maryland lawyers for organizing a local Harvard Law School Association. In the interest of this project, he intends to call a meeting of Law School graduates sometime this month.

AMES COMPETITION PRIZE

The Ames Competition prize for the best brief in last term's semi-final round has been awarded to the seventh term members of the Holmes Club. Authors of this brief were Charles F. Choate, Roger A. Derby, Charles N. Foster, William P. Homans, Wilmot T. Pope, and Henry A. Preston.

HARVARD FOOD RELIEF DRIVE

In the light of the critical shortages abroad, the Harvard Relief Committee has reorganized under President Samuel M. Robbins, Harvard College '45, and will conduct a University-wide drive to raise \$20,000 between April 6 and 10 for supplying food to students of foreign universities. The money will be remitted to the World Student Service Fund and it is planned to distribute the sum as follows: \$5,000 each will be sent to East Punjab and Peking Universities, \$3,000 each to the University of Athens and Heidelberg, and \$4,000 to Salzburg.

HARVARD-COLUMBIA MOOT COURT

An Inter-Law School Competition between students representing Harvard and Columbia Law Schools sponsored by the New York City Bar Association will be held at the House of the Association, 42 West 44th Street, New York City, on Friday, April 9 at 8 p.m.

The bench will be comprised of Judge Augustus N. Hand, LL.B. '94, C.C.A. 2d; the Hon. Robert P. Patterson, LL.B. '15, former Secretary of War; and Harrison Tweed, LL.B. '10, President of the New York City Bar Association. Representing Harvard Law School will be Lawrence S. Munson 3L, and Robert G. Bailey 3L, oral advocates; Norman H. Brown, of counsel on the brief. Counsel for Columbia includes Herbert I. Silverman, Robert J. Kirkland, and Robert L. Steward.

SQUASH

Finalists in the two Law School squash tournaments will meet this afternoon on the Hemenway courts at a time to be posted on the gym bulletin board. In the A tournament, Charles Lord and Frank Griffin have emerged victorious from a field of 46 experienced players. Out of the 68 entries in the B tournament, Professor Robert Braucher and John Nassikas alone remained in the competition.

BASKETBALL

The 59ers nosed out the favored wishers in a 40-39 upset last Saturday evening in one of the most exciting games of the playoffs. This photo-nish win for the 59ers means that they will meet the Swishers again this afternoon at 2 p.m. in the final and deciding contest of the Law School basketball championships.

NEW COURSES, PROFESSORS, ANNOUNCED

Eminent Visitors To Teach Here In Summer And Fall

New professors and new courses for the summer term and for the academic year 1948-49 are listed in the April 5, 1948 edition of The Law School Register, now available for distribution in the west wing entrance in Langdell.

Included among the visiting professors for the summer term are: Charles T. McCormick (LL.B. '12, LL.D.), Dean of the University of Texas School of Law, who will teach Evidence; George W. Stumberg (LL.B., J.D.), Professor of Law at the University of Texas, who will teach Conflicts and Admiralty; William R. Woodward (LL.B. '38), patent expert in the legal department of the American Telephone and Telegraph Company, who will lecture on Patent Law; and Murray Seasongood (LL.B. '03), prominent Cincinnati attorney, who will again give his course on Municipal Corporations.

Visiting professor for one year commencing July 1 will be Karl N. Llewellyn (LL.B. Yale '18, J.D. Yale '20), Betts Professor of Jurisprudence at Columbia Law School. Professor Llewellyn will teach Jurisprudence in the fall term, and will teach a section of second year students in the new Commercial Law course during the 1948-49 academic year. This course, which replaces Bills and Notes and Sales in the second year curriculum, deals with the business practices and law affecting sales, banking and security transactions, including the concept of negotiability, with emphasis on the techniques of statutory construction, and counselling and drafting of simple business agreements. Professor Llewellyn's wife, Soia Mentschikoff, also

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TRIAL TODAY IN "THE \$5 CASE"

Poindexter v. Prosser Reaches Final Stage

At 4:30 this afternoon in the Langdell Courtroom, the crier will shout: "God save the Commonwealth of Massachusetts. . . . The Court is now in session," and the long-awaited trial of *Poindexter v. Prosser* will get underway.

This trial, better known as "The \$5 Case," arose from an incident in Professor Prosser's Bills and Notes Class. Poindexter claims that the Professor asked him for \$5 to illustrate a point of negotiability, and that although the Professor later gave him another \$5 as a gift, the original \$5 has never been returned. The Professor claims that Poindexter gave him the money as a gift in the first place and that furthermore it was returned.

Poindexter is now suing for the \$5 plus \$5 damages. Whether he can maintain his action, to what extent a professor can illustrate his lecture, just how negotiable is money—these are among the issues to be decided today before Judge Frederic A. Crafts of the Waltham District Court. The trial will begin at 4:30 and adjourn for supper at 6 p. m. The Court will then reconvene at 8 p. m.

The trial is being conducted with all of the detail of a trial in the courts of Massachusetts, and affords the spectators an opportunity to see close at hand the techniques and procedures involved. Last week the Judge heard arguments on motions and demurrers. Prosser lost his motion for an indorser for costs when he was unable to prove that Poindexter

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DEANS FROM HARVARD, COLUMBIA, AND YALE WILL JUDGE AMES FINAL



DEAN ERWIN N. GRISWOLD



DEAN YOUNG B. SMITH



DEAN WESLEY A. STURGES

The Deans of Columbia, Yale, and Harvard Law Schools will be on the bench of the United States Circuit Court of Appeals for the Ames Circuit next Monday at 8 p. m. in Langdell Courtroom to hear counsel from the Gardner and Holmes Clubs argue in the final round of the Ames Competition.

Professors Casner And Katz Give Views On Issue Of Universal Military Training

In light of current Congressional discussion of Universal Military Training, the RECORD presents the following observations of Professors Casner and Katz on this vital issue.

BY PROFESSOR A. JAMES CASNER

The unsettled conditions in the world make it essential for our own national security that we be strong. Also our influence in settling world affairs is directly related to our strength because certain forces which are now loose in the world have no respect for anything but strength. The issue then is what steps should we take to attain the strength necessary for our national security and to preserve our position of influence in the settlement of world affairs.

An integrated program designed to give us the strength we require involves a comprehensive intelligence service so that we will know what is going on in the world, a program of scientific research and development to maintain our leadership in this field, a plan for industrial mobilization that will meet any foreseeable emergency, an unparalleled striking air force to spearhead any needed offensive measures and a manpower training program which will supply our

armed forces with the needed regular and reserve personnel. Universal military training is the main element in the manpower training program and should be judged not by itself but as an element in the entire program for national security.

The temporary revival of selective service which is now contemplated is not a substitute for universal military training as the method of providing the trained manpower. Selective service is designed only to provide for the regular armed forces the manpower they have failed to obtain through voluntary enlistments. It is not designed as now contemplated to provide a large body of trained personnel in reserve to serve as the source of supply for our National Guard and other reserve units and who can be quickly mobilized in the event of an emergency to expand our regular

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RECORD HOLDS ANNUAL DINNER

Judge Magruder Speaks At Banquet Tonight

The second anniversary of the founding of the RECORD will be observed by the paper's staff, guests, and their wives at a dinner tonight at the Hotel Continental.

Principal speaker at the dinner will be the Hon. Calvert Magruder, senior judge on the First Circuit Court of Appeals and a professor at the Law School. Judge Magruder is also first vice-president of the Harvard Law School Association, a judge on the Emergency Court of Appeals, and former general counsel for the NLRB.

The faculty will be represented by Dean Erwin N. Griswold, Vice-dean Livingston Hall, and Professors Milton Katz, Warren A. Seavey, W. Barton Leach, and Soia Mentschikoff.

The Harvard Law School Association will be represented by Paul F. Hellmuth, assistant treasurer of the Association and former President of the RECORD. During the current academic year, the RECORD has been sent to all active members of the Association under a plan arranged last summer.

Besides the present staff of the RECORD, guests will include all men who have worked on the paper since the first annual dinner was held last spring, and former members of the board.

Certificates of membership on the RECORD will be presented to the men who will be graduated this or next term.

Dean Young B. Smith of Columbia, Chief Judge, and Deans Wesley A. Sturges of Yale and Erwin N. Griswold of Harvard, Associate Judges, will hear a case involving the question of whether the scope of the protection afforded by the Fourth and Fifth Amendments of the Federal Constitution against deprivation of liberty without due process and unreasonable searches and seizures includes the right to recover in the Federal Courts money damages for violation of the rights guaranteed.

Representing the Gardner Club as oral advocates will be George D. McClintock, Jr. (Minneapolis, Minn.) and Albert J. Moorman, Jr. (St. Paul, Minn.). Of counsel on the brief for this club will be Stephen G. Lax (Philadelphia), Herrick K. Lidstone (Pelham, N. Y.), A. Byrne Litschgi (Tampa, Fla.), Ray F. Myers, Jr. (Council Bluffs, Iowa), Paul H. Roney (St. Petersburg, Fla.), and Francis M. Wheat (Palo Alto, Calif.).

The Holmes Club will be represented by Charles F. Choate (Boston) and William P. Homans, Jr. (Canton, Mass.), who will handle the oral argument. Acting as counsel on the brief for the Holmes Club will be Roger A. Derby, Jr. (New York City), Charles N. Foster (Leominster, Mass.), Wilmot T. Pope (Boston), and Henry A. Preston (Lake Forest, Ill.).

The case to be argued next Monday night is based on the facts of an actual case currently in litigation in the Federal Courts. *Bell v. Hood*, 71 F. Supp. 813 (D.C. S.D. California 1947).

The case arose as a consequence of the arrest by F.B.I. agents of the leaders of an organization known as "Mankind United" after an indictment had been

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HUGHES, J. SMITH WIN SEMI-FINALS

The J. Smith and the Hughes Clubs qualified for the final Ames Competition which will take place late in July by emerging victorious in the semi-final rounds last week.

In the first semi-final argument the Hughes Club defeated the Casner Club on Thursday, April 1. Oral advocates for the Hughes Club were George W. Foley and Raymond W. Torkildson. Counsel for the Casner Club were Richard R. Baxter and Walter M. Robinson, Jr. The Chief Justice was the Hon. Harold P. Williams, '06, Associate Justice of the Supreme Judicial Court of Massachusetts.

The J. Smith Club, represented by William C. Murphy and Charles H. Weiland as oral advocates, defeated the Blackstone Club, which was represented by Frank D. Padgett and Dow Votaw, on Friday, April 2. The Hon. Frank R. Kenison, '32, Associate Justice of the Supreme Court of New Hampshire presided as the Chief Justice.



SHIPLEY

now on sale at Gannett House.

The committee urges all students to seek relief from thoughts of impending examinations by coming to this last school-wide social event of the season.

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Editorials

In the 1946-47 *Yearbook*, Professor Leach forecast two possibilities for the present age of the Harvard Law School. One of these was that the experimentations of Dean Griswold would result in a dismal failure and the glories of the School fade into obscurity. The other possibility was that the School would move to "new heights of accomplishment, adapting itself to changing needs of the times."

With the publishing of the catalogue for the next three terms, it appears evident that the last of the above prophecies is the most likely of fulfillment.

What does the Law School offer for coming years? The catalogue answers with a variety of courses designed to prepare the student for the current and changing needs of the country and the legal profession. Seminars on the Civil Aeronautics Board, the Federal Communications Commission, Commercial Arbitration; courses in Public Utilities, Patent Law, Constitutional Litigation, Unfair Competition; all new courses, presenting to the law student the broadest possible range from which he may choose his fields of interest.

Likewise in teaching methods and approaches, there has been progress. Harvard gave the legal world Langdell's case method. Harvard has also been willing to recognize that there is no particular divinity to this system. Hence the student has been introduced to a variety of methods; he has been shown that the law may be approached from many roads. The problem method of Professor Cavers, the economic approach of Fuller, the integration of courses in Casner's documents, the statutory emphasis of Mentschikoff, the discussion techniques of Hart and Bowie furnish examples. Let those who accuse Harvard Law School of treading the ancient paths look above.

And in coming years, the presentation of new approaches will continue. The catalogue announces Visiting Professors of the calibre of Professor Karl N. Llewellyn, with his emphasis on counselling and advocacy techniques, and Dean Charles T. McCormick of the University of Texas Law School.

The approval heard from the student body on the program set forth in the new catalogue is the most practical form of congratulations that the Administration can receive.

J. S.

Letters to the Editor

To the Editor of the RECORD:

Judge Wyzanski's review of my *Life of Roscoe Pound* in your issue for March 9 was most generously detailed and extensive. I think it is usual in reviewing a biography, however, to say something about whether the biography is readable, contains interesting material and valuable insights into the character of its subject. But Judge Wyzanski says not one word on these primary functions of any review of a biography. He does purport to quote from the book itself and from these quotations he purports to deduce fantastic assertions on my part. Since in my view his quotations give an inaccurate and unfair impression of what I actually said, I have written to you in this matter.

For instance, he says:

Had President Theodore Roosevelt had more "prescience" in 1902 he would have nominated to the Supreme Court not Holmes but Pound (p. 107) . . .

But in fact, the actual passage is as follows:

What if Theodore Roosevelt had had prescience to reach out for this amazing young judge on the Supreme Court of Nebraska and had appointed him to the Supreme Court of the United States on the death of Horace Gray in 1902?

This was preceded by a clear statement that I was supposing about how things might have been if Pound had gone on the court, just as it was the fashion some years ago to write essays on what would have happened if certain great battles had been won by the defeated instead of the victors. Nowhere have I said or intimated that Pound should have been appointed as against Holmes. I mention 1902 merely because there was a vacancy then, and it was the first time that Pound had any general notice. But Holmes had served on the Supreme Court of Massachusetts since 1883 and might well have been appointed to the Supreme Court when McKenna was appointed in 1897, or upon some other vacancy. As in the case of the other quotations from my text, I submit that the deduction made here is an unpleasant one to my discredit, as well as one not fairly involved in the words or the thought I actually expressed.

I will add that I must agree with Judge Wyzanski in deploring the typographical and other errors in the text for which I think I really was not personally to blame in fact, though I am responsible for them and I deeply regret them. Also there are sins of omission and commission which, though innocent, I also greatly regret. For instance, in speaking of Justice Frankfurter's gallant part in the Sacco-Vanzetti case, I fail to state the important fact that it was Frankfurter's gallant protection of Pound and the law school so far as responsibility for his writings went, that caused him not to mention to anyone his plan to write his famous article and book on the justice of the trial.

The general import of Judge Wyzanski's comment seems to charge in the role of an accuser, that I am fervently devoted to Roscoe Pound. If I may do so without presumption, to this I must plead guilty.

PAUL SAYRE, LL.B. '25
College of Law,
State University of Iowa.

To the Editor of the RECORD:

Since I "worship him this side of idolatry," perhaps I cannot qualify as an impartial judge of Dean Pound's attainments. Some years ago in the New York University Law Quarterly, however, an appraisal was undertaken by this writer. The review of Mr. Sayre's book by Judge Wyzanski is disappointing. As to Dean Pound's administrative ability, President Lowell in his *Harvard Law Review* article (50 Harv. L. Rev. 169, 1936) has written authoritatively. In recruiting the law faculty one must acknowledge the Dean's rare acumen as a whole. As to his pursuit of truth, one would be as rash as Charles Kingsley was in his assault upon John Henry Newman, were one to raise such an issue. I hope you will publish this in the interest of fairness.

LEWIS C. CASSIDY, S.J.D. '30,
Faculty Research Fellow, 1936-37.

To the Editor of the RECORD:

My recent experience as foreman of the Grand Jury here in Cincinnati, Ohio, has aroused this writer, housewife and former teacher to intense appreciation of the American judicial system.

A forceful charge was delivered to our jury on being sworn in. It came from Judge Alfred Mack (LL.B. '83), 86-year-old patriarch of the Cincinnati bench. His solemn words stressed the absolute importance of "legal evidence and only legal evidence." He gave strong emphasis, also, to fair play, and the brotherhood of man.

As pathos and comedy walked hand in hand across the stage of the Grand Jury room, these words were ever before us.

Grateful for this experience, I am urging my friends, if summoned to jury duty, to accept the task as an opportunity to share participation in the majesty of the Law, and so reaffirm their pride in their America.

SIBYL H. LINDE.

Off the Record

Miles H. Draper, LL.B. '22, writes in that the recent episode in regard to Lord Ellesmere's portrait recalls to his mind an incident which happened when he was taking Evidence from Professor Chafee:

On the morning of the day of one of the big football games one of the boys in class had a pint in his hip pocket which became practically horizontal in his sitting position. The man behind him reached over and pulled the cork whereupon the entire contents leaked out with reeking fumes that shortly enveloped the entire room.

Professor Chafee spoke up, "That, gentlemen, is a perfect example of circumstantial evidence."

Gallery

SOIA MENTSCHIKOFF
Visiting Professor



Even the imaginative Mr. Leach, in his reflections on the Seventh Age in the Harvard Law School *Yearbook* for 1947, failed to appreciate the extent to which the Law School was "adapting itself to the changing needs of the times." No sooner had the last war orphans recovered from their initial legal immunization than Miss Soia Mentschikoff appeared in Cambridge. Besides being the first non-male to don the rather tweedy faculty robes, she came armed with unique techniques in the way of legal education.

A product of the New York City public school system, Miss Mentschikoff moved steadily downtown, from Hunter College to the Columbia Law School and then to Wall Street. After receiving her LL.B. in 1937, and passing the bar exam after only two attempts at the Adjective Law part, she became affiliated with Scandrett, Tuttle and Chalaire. Interested in expanding the trial experience she had started by directing moot court work at law school, she was fortunate in participating in labor and appellate brief work during the first few years, her office enjoying the distinction of getting the Supreme Court of 1938 to uphold an injunction against all picketing in the *Busch Jewelry* case. In 1941 considerations more easily understood around Wall Street than at Harvard led her to accept a position as general counsel for a manufacturer of mannikins. Despite all efforts, the War Department could not be convinced of the military value of the mannikin, and it fell as an early casualty, causing Miss Mentschikoff to relocate herself, this time with Spence, Windels, Walser and Hotchkiss, of which firm she is still a member.

During the war she devoted most of her time to the field of labor law, arguing arbitration cases for the Curtiss-Wright Aircraft Corporation. Commenting generally on the greatly expanded role of the lawyer in the labor relations field during the last ten years, she feels the burden is on the lawyer to overcome the initial distrust which exists against the use of paper technicalities to solve human problems. Techniques used in solving these problems, and arguments to be used before an arbitrator, must vary with the problem, the level of management at which it arises, and the policy considerations within and without the particular industry.

Finding that labor arbitration work and reading detective stories failed to occupy more than seventy plus hours per week, Miss Mentschikoff persuaded the firm to grant her a four-month leave of absence late in 1942 so that she could assist in drafting the Uniform Revised Sales Act. When in May, 1943, the Commissioners on Uniform State Laws and the American Law Institute promulgated the treaty which set up the framework for an integrated Commercial Code, embracing Sales, Negotiable Instruments, and related fields, her temporary chore was parlayed into an undertaking which according to present hopes is scheduled to be completed by the spring of 1950.

As a consequence of this venture, which is under the overall direction of her husband, Professor Karl N. Llewellyn of Columbia, Professor Mentschikoff found herself, in the fall of 1947, guiding some 380 students through the use of the Sales and Tentative Revised Sales Acts. Thoroughly convinced that the "spoon feeding" technique heretofore employed, whereby applicable sections of the appropriate statute are interspersed throughout the casebook, failed to equip the lawyer with an understanding of, or the tools with which to apply, statutory material, she abandoned the use of cases. Being forced to solve custom-made problems solely on the basis of statutory interpretation, the student soon found that a statute must be used as a well knit coherent whole rather than as a mere catalogue of common law case dogma. Having advanced this far, she continued her departure from the case method, utilizing the study group as a unit in drafting form contracts, and preparing procedural motions involving the substantive and statutory material of Sales. These devices, combined with the realistic recognition of the func-

Notes on Recent Cases

SCHOOLS: DISCHARGE OF MARRIED WOMEN TEACHERS.

State ex rel. Wood v. Board of Education of City of St. Louis, 206 S.W. 2d 566 (Mo. 1947). In 1941 several women school teachers married, and shortly thereafter were removed from their jobs, under Board of Education rules dating back to 1897. Ten citizens and householders of the city sought review of the board's action, asking that the court prohibit the board from removing a woman teacher in the future solely because of marriage. The trial court dismissed the petition. *Held*: Reversed and remanded for a declaratory judgment in conformity with the relief sought. The board has discretion in employing and removing teachers, but this action constituted an abuse of discretion, discharge solely because of marriage being unreasonable and arbitrary. "All the studies which have been made of this controversial issue point conclusively to the fact that married women are equally as efficient as their unmarried sisters, and in some respects are better able to cope with the problems of youth." Furthermore, a section of the applicable tenure statute provided that a teacher's appointment becomes permanent after a period of probation and she may not be removed except for stated causes, marriage of women teachers not being specified as such a cause. "The board's rule requiring the removal of women teachers solely on the ground of marriage is unreasonable and arbitrary and violated the intent of the then applicable statute."

CITIZENSHIP: RENUNCIATION BY MINOR

Inouye v. Clark, 73 F. Supp. 100 (S. D. Cal. 1947). The Nationality Act of 1940, 8 U.S.C.A. 801 (i), allows native born Americans to renounce their citizenship by a written document during wartime, provided the Attorney General granted his approval. While in a detention camp for persons of Japanese ancestry Inouye executed such a document. He was only 17 years old at the time. After his release, Inouye sued the Attorney General to cancel the renunciation. *Held*: The document was void because Inouye was a minor. Section 803 of the Act lowers the age at which minors can forfeit and renounce their citizenship under other subsections, but is not applicable to 801(i). The court felt that it must have been the intent of Congress to restrict renunciation under 801(i) to persons of full age. Furthermore, "Under the Constitution citizenship can only be lost or changed by the act of the party when arrived at majority and with the consent of the government."

The Nationality Act of 1940 contains the first attempt of Congress to provide that a minor may renounce his citizenship. This decision, in line with *dicta* in earlier cases, casts doubt upon the power of Congress to do so under the provision of the Fourteenth Amendment that "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States."

tion of the lawyer as counsellor and advocate apart from litigation, when universalized, should eventually be reflected by court decisions using, rather than ignoring, applicable statutes. As a matter of incidental intelligence, she feels the extensive development of study groups by the students here is a very important educational advantage, though she doesn't feel general comparative evaluations of Harvard and certain other schools and student bodies prove very much.

Presently she helps support the New York-Boston transportation facilities, commuting weekly between her Advanced Commercial Law Course and her New York office. The primary objective of the former involves an investigation of the security devices appropriate for the financing of air freight shipments, a problem which is a major factor retarding the expansion of such shipments.

Still another problem confronts Professor Mentschikoff: finding a four-room apartment or house. Next year will find Prof. Llewellyn a visiting member of the Harvard faculty, so it would seem the present first year students have some sort of a vested interest in making sure the Llewellyns have a comfortable place to live.

Tentative plans include a fully integrated year course in Commercial Law, embracing the material currently covered in Sales and Bill and Notes, and more. The stress on statutory interpretation will be continued, with a great advantage accruing in that each type of commercial transaction will be analyzed as a whole, rather than postponing discussion of financing and other phases for later courses.

Professor Mentschikoff's work schedule on the Commercial Code precludes many additional interests during the next few years, but it seems a good bet her contribution will be progressive as well as impressive.

IRWIN E. SCHLUSSEL 2L.

Alumni Notes

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

LL.B. '22—Lloyd K. Garrison is one of three new trustees of the New School for Social Research, New York City.

LL.B. '26—Martin P. Chworowsky has been appointed Professor of Education and head of a new intergroup and intercultural education program which will commence next fall at Teachers' College, Columbia University.

During the past year, he has been associate director of the Commission on Educational Organizations of the National Conference of Christians and Jews, the group which will finance the new program at Columbia.

Chworowsky received an A.M. and Ph.D. from the University of Pittsburgh, and was Associate Professor of Education and Psychology at Carnegie Institute of Technology from 1939 to 1945.

LL.B. '36—William A. Coolidge was elected a special term member of the corporation of the Massachusetts Institute of Technology. He is a member of the Boston investment firm of Jackson & Curtis.

LL.B. '37—Thomas M. Raysor is Chairman of the Junior Bar Section of the District of Columbia Bar Association. During the war he was employed as an attorney by the U.S. Corps of Engineers, and later worked on the atomic bomb project in Oak Ridge. He was awarded a special citation by the War Department in connection with the latter work.

At present he is associated with the firm of Cromelin, Townsend & Kirkland.

LL.B. '41—The formation of a partnership for the general practice of law has been announced by Robert E. Hardwick, Jr. and his father, at 1210-1214 Sinclair Building, Forth Worth, Tex.

LL.B. '42—George L. Haskins was recently promoted to Associate Professor of Law at the University of Pennsylvania.

ALUMNI PLAN HARVARD DAY Graduate School Clubs To Meet in Philadelphia

The 1948 Annual Meeting of the Associated Harvard Clubs will be held in Philadelphia on May 14, 15 and 16. It is an all-Harvard University affair with a program designed for alumni of the College and Graduate Schools alike. In an effort to make this an outstanding meeting, the Philadelphia Graduate School Clubs of Law, Medicine, and Business are working in close cooperation with the Harvard Club of Philadelphia.

Friday, May 14, might be called "Graduate School Day." At 12:30 p. m. the lawyers will meet for luncheon in the Junior Ballroom of the Ritz-Carlton Hotel; the medical men will meet in the Mirror Room of the Warwick Hotel; and the Business School men will meet in the Ballroom of the Barclay. Each group is arranging for speakers. From 5 to 6 p. m. there will be a cocktail party in the Clover Room and Red Room of the Bellevue-Stratford Hotel for all Harvard University alumni. Following this, a buffet supper will be served from 6 to 8 p. m. in Houston Hall, University of Pennsylvania. The program for the day will be concluded by a symposium in Irvine Auditorium where President Conant will deliver an address.

William B. Walker, M.B.A. '28, is Chairman of the Graduate School Committee. Assisting him as Vice-Chairmen will be Judge J. Cullen Ganey, LL.B. '23, representing the Law School; Dr. E. L. Bortz, M.D. '23, representing the Medical School; David N. Hausman, M.B.A. '35, representing the Business School.

Graduates of the Law School who will serve on the committee with Judge Ganey are Joseph W. Henderson, LL.B. '13, Howard C. Kellogg, LL.B. '37, Eric A. McCouch, LL.B. '23, C. Brewster Rhoads, LL.B. '15, Francis H. Sheetz, LL.B. '21, John B. Shaw, LL.B. '13, Lewis M. Stevens, LL.B. '23, Hon. Nochem S. Winnet, LL.B. '23.

Many Legal Entanglements Forecast For Man In New Role As Rain-Maker

Mark Twain's observation, "Every one complains about the weather but no one does anything about it," became obsolete on July 12, 1946. That day Vincent J. Schaefer, a General Electric Co. chemist, produced snow by passing a dry ice pellet through an artificial cloud in a home-type deep freeze unit. Outdoor experiments followed, and then on Dec. 20, 1946, a Schaefer outdoor experiment coincided with an 8-inch snowfall in upper N. Y. and Vermont. The Weather Bureau forecast had been "fair and warmer." Schaefer modestly declined credit for the storm, but G.E.'s legal staff hurriedly called a halt to outdoor experimentation. Although direct legal precedent was lacking, there could be a deluge of *trespass q.c.f.* suits with possibility that some of them might establish genuine consequential damages of property injury and personal inconvenience.

G.E. stumbled into the artificial precipitation field while engaged in wartime research on military smoke screens. Their present attitude is that the whole matter properly belongs to the government, and that the government by suitable legislation should both regulate the inducing of rainfall and indemnify for loss any contractor acting on the government's behalf. Meanwhile G.E. has been trying to get a "save harmless" clause in its contract with the government. Contracting officials have refused because the clause would commit the government to indeterminate amounts, possibly exceeding authorized appropriations. In order to keep the Army-Navy-G.E. experiment (known as "Project Cirrus") operating, G.E., with a worried glance at the law of agency, has accepted the contract without the clause but forbids any employee to handle the apparatus in outdoor experiments.

First of all, it is quite clear that existing tort law makes actionable intended trespass to property or negligent harm to it, even though the defendant merely sets in action a sequence of events resulting in the legal injury. Thus the Arizona Date Institute, representing growers who require a dry season from August to December for a good crop of fruit, could have backed up its public warning to would-be rainmakers that they would be subject to heavy damages if either wilfully or carelessly they harmed the date crop. A large mid-western newspaper induced rain for a publicity stunt and "almost landed it on the demonstration farm." They are reputed to have settled out of court in full the claim of a neighboring farmer whose seeds were drying where the rainfall did land. Of course, the problem of proving factual cause in this instance was considerably simplified by the defendant's own public admissions.

The argument that in a dry area the balance of interests requires that rain-making harm (like the danger from grade crossings) be *damnum absque injuria* is inapplicable when the rainmaking is incidental to a newspaper publicity scheme rather than a continued effort to relieve drought. Indeed, courts may well hold that weather tinkering is an extra-hazardous activity and impose strict liability. In many ways the rain-making situation is similar to blasting operations where defendants have been held liable without fault in direct trespass for casting debris on plaintiff's lands. Especially when airplanes are used is absolute liability likely since the *Restatement of Torts* still considers aviation extra-hazardous.

A particularly interesting tort problem arises in the proposed "triggering" of snow storms outside metropolitan limits in order to save expensive snow removal. Irving Langmuir, Nobel laureate, at the 1948 Institute of Aeronautical Sciences reported that within 3 years enough basic knowledge will have been accumulated to divert most heavy snowfall from our cities and that it should be an established practice in 10 years. An 1884 English case (13 Q.B.D. 131) has already posed the basic problems involved. Rainwater from an unusually heavy storm piled up behind defendant's embankment (the jury found no negligence in this) to relieve the water pres-

sure, and the escaping water injured plaintiff's property. Although defendant was found liable, the court suggested that it would have been perfectly all right to divert the flood to the plaintiff's land by diking defendant's boundaries in self defense against the flood, citing the famous case of the squib in the market (95 E.R. 1124). Would the court follow its dictum in a case involving diversion of a hurricane? Last November irate Savannah officials claimed that dry icing by Project Cirrus had shunted a hurricane to Georgia from 500 miles at sea. "Project Cirrus" dug up records of a 1906 hurricane which had behaved similarly and denied any effect of their efforts on the storm.

In the long run, however, these tort problems are much less important than the property issues. G.E., which has developed a second means of precipitating rain by silver iodide crystals blown aloft from the ground, has suggested that it could tremendously increase rainfall in certain areas near mountains. The difficulty lies in the fact that changes advantageous to one area may be disastrous to others.

A tentative start on the property problems was made by a Nevada ranch owner who tried to register his appropriation of water rights in overhead clouds. Such an antique *cujus est solum, ejus est usque ad coelum et ad inferos* approach could lead weather control law into the same morass which the first important English case on the subject (12 M. & W. 324) created for underground water. The wholly unscientific "flowing" versus "percolating" distinctions which were there drawn have plagued municipal water companies and well-diggers for more than 100 years.

It is important that courts recognize that the legal concept of "natural water-course" must be extended to cover the entire precipitation - evaporation cycle—surface waters, subterranean waters, and celestial waters. Within recent years courts have increasingly applied surface water rules to problems involving subterranean waters, and also have tended to unify the formerly conflicting "riparian rights" and "appropriation rights" doctrines. By taking the best of present water-course law, rather than treating celestial water as some mineral *ferae naturae* or as an incident of ownership of underlying lands, courts could begin with a fairly complete framework for handling the conflicting interests.

For the most part, the problems presented by weather control can be handled by the common law without legislation. When law-making runs ahead of scientific development as it did in the subterranean water cases, much harm results from the application of unsound rules. The genius of the common law is its case by case development. However, some legislation is necessary to facilitate intelligent experimentation. Immediate needs would be satisfied by a statute along the lines of the 1910 act which limits patent owners to legal action for damages in the Court of Claims against the United States Government when patents are infringed by a government contractor. Thus G.E. would be unhampered in its "Project Cirrus" operations and at the same time a fairly coherent body of law would be developed by a single court. The possible expense should be of no great concern when the potential economic value is considered. Modification of hail storms alone could save farmers \$13,000,000 annually.

As long ago as 1891 Congress appropriated \$9,000 for a rainmaking experiment in Texas. Today "Project Cirrus" has an annual budget of \$750,000 from military and naval funds because of its war implications—bogging down enemy troops in snow and rain, clearing airfields of fog at lowest cost, and infecting induced storms with bacteriological and radiological materials. The Battle of the Bulge, in which the Nazis mobilized and attacked under supercooled fog, could have been much altered by a few pounds of dry ice.

Fortune Magazine has well summarized future prospects in Weather Bureau style as "high legal winds followed by better climate."

E. G.

FORUM SPEAKERS WILL DISCUSS RACIAL ISSUES



WALTER WHITE



DR. LEON M. BIRKHEAD

A program on "Race Relations in America" will be featured by the Harvard Law School Forum on Friday evening at 7:45 o'clock in Rindge Tech Auditorium, near Harvard Square in Cambridge. Speakers include United States Senator Dennis Chavez of New Mexico, Walter White, executive secretary of the National Association for the Advancement of Colored People, and Dr. Leon M. Birkhead, clergyman and director of the Friends of Democracy, Inc.

Each of the speakers will sharply bring into focus the issues involved in this controversial subject, which has recently been spotlighted in American domestic policy by the Southern "revolt" against the President's civil rights program.

Senator Chavez is probably the nation's best informed statesman on the problems of the Spanish-Mexican-Indian populations in our great Southwest. He served for many years as State Legislator and Congressman for New Mexico before being elected Senator and National Democratic Committeeman from that State.

In his speaking bouts from pulpit and platform, Dr. Birkhead once took on Clarence Darrow as opponent in 1925 on the necessity of religion. Genuinely alarmed at what he saw in Germany on

a visit, Dr. Birkhead founded the Friends of Democracy in 1937, and today its files on the subversive, anti-democratic forces in America are among the most nearly complete in the nation. They have proved an invaluable source of information for many government agencies and countless publications.

As an official of the NAACP, Walter White has made investigations of 41 lynchings and eight race riots. He also was able to secure first-hand knowledge of the important part Negro soldiers played in World War II. White was born in Atlanta, Ga., and lived in the South until 1918.

Tickets for the Forum may be purchased in advance at the Forum's office in Gannett House from 9 a. m. to 5 p. m. daily. Admission is 50 cents to non-members.

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PATRONAGE REFUND TO MEMBERS

Casner And Katz Give Views On Universal Military Training

(Continued from page one)

forces. As the body of trained manpower is built up over the years through universal military training, it is reasonable to anticipate that voluntary enlistments in the regular armed forces will increase sufficiently to permit the elimination of selective service.

Some people have advanced the view that the atomic bomb and other scientific developments have eliminated the necessity of a large body of trained manpower so far as our national strength is concerned. This assumes that we are ready and willing to use these instruments of devastation wherever it becomes necessary to take a stand. Even if we are ready and willing to use such instruments of devastation it is submitted that the need for trained manpower to meet the conditions of havoc that will be wrought will be greater than in any previous conflict.

Universal military training is a long range program to build up and keep built up a reservoir of trained manpower. The belief is quite widespread in other countries that are depending on us for guidance and leadership that we are not going to see the thing through. The adoption of universal military training with its long-range implications will have an enormous psychological effect on the world. It will be interpreted as a conclusive commitment of the use of our strength and influence in the settlement of world affairs.

Report of President's Commission

The report of the President's Commission, commonly referred to as the Compton Report, discusses the various elements in an integrated program of national security. This Report states 12 benefits which the President's Commission thinks will flow from the adoption of universal military training. These benefits are worth repeating in connection with this discussion. They are as follows:

1. It would shorten the time in which our effective fighting force could be mobilized in case of war.
2. It would give our young men the essentials of military training that would be the basic prerequisites for technical, specialized, or unit training in an emergency; and training saves lives.
3. It would make possible an effective National Guard and Organized Army, Navy, Air, and Marine Reserves capable of rapid absorption into the professional military establishment in time of war.
4. It would improve the efficiency, quality, and alertness of the regular forces in peacetime.
5. It would help produce qualified reserve officers in numbers that would assist in meeting the officer requirements of the regular services and the civilian components and to staff the forces needed after M-day in any future crisis.
6. It would present additional opportunities for inculcating spiritual and moral ideals in support of the American democracy.
7. It would establish a pool of young, physically fit, and trained reserves who could be mobilized if a future crisis arose.
8. It would provide a large trained group in every community capable of withstanding and dealing with the problems of civilian defense and mass disaster resulting from severe bombing attacks.

9. It would provide a mechanism that could be converted immediately into a wartime selective service system, and it would make possible a continuous inventory of military skills, aptitudes, and leadership qualities that could be used advantageously in making military assignments should war come.

10. It would help to channel qualified young men into programs of scientific and vocational training in fields important to national defense.

11. It would bring together young Americans from all parts of the nation to share a common experience and to fulfill a common obligation to their country, thus contributing to national unity, the foundation of our security.

12. It would give greater military strength at less cost than would be provided by exclusive reliance on a large standing military force, since it would be impossible to obtain enough volunteers for the professional force required for adequate defense and since the cost would overburden the national economy even if such a force could be raised.

BY PROFESSOR MILTON KATZ

At the threshold, I should like to set forth the premises upon which this statement of views is based, the approach to the problem which it reflects, and the thesis which it undertakes to maintain.

The premises are these: That (1) the central current objective of American foreign policy is the establishment and maintenance of a peace based upon justice and freedom; (2) the effective mobilization in adequate degree of our political, economic and military power is an essential prerequisite to the achievement of the objective; and (3) the successful execution of the policy will require wisdom, skill, tenacity and patience.

The approach is this: The effective pursuit of such a policy should proceed from a comprehensive and thorough appraisal of the means and steps required for its accomplishment, and the resources available to meet these requirements. When the estimates of requirements and of resources have been assembled, aggregated, and evaluated as a whole, it may appear that the total of the requirements as tentatively assessed for a stated period of time significantly exceeds the resources available to meet these requirements during the same period. In such a case, it would become essential to make reasoned choices among the requirements in order to determine which take precedence. Failing such reasoned choices, there would tend to be a selection governed by accident, group pressures and fragmentary policies, which would not be likely to bear much relationship to the objectives and needs of the program as a whole.

The thesis is this: In the aggregate, the requirements for the various measures which have already been put forward as necessary in the next year or two to the accomplishment of our national policies, together with those which are taken for granted, may already significantly exceed the resources likely to be available in the next year or two. Specifically, there may be a serious shortage in personnel qualified by ability, training and experience for all of the executive, planning, staff or technical

jobs which have to be done. This is one of our primary national resources to which too little attention has been given. There may be other shortages as well, in such things as particular materials or categories of skilled labor. To keep this brief statement within bounds, however, account will be taken herein of only two potential shortage problems—the problem of executive, staff and technical personnel, and the budgetary problem.

The Requirements as a Whole

What are the requirements which have already been put forward on one occasion or another by responsible people, or which are so basic as to be taken for granted? A paramount necessity is the effective internal conduct of the economy, in all of its aspects, in the factories and banks and stores and utilities and farms and labor unions, and in the various branches, departments and agencies of government. The fiscal problems, the labor problems, the price problems and the problems of scientific research and technical development are basic, will continue basic, and will continue to require first-rate people. Equally fundamental is the need to repair, strengthen and extend the public school systems and, more broadly, the entire educational system of the nation, upon which we ultimately depend for all our trained personnel and the advancement of our knowledge. As we continue to strengthen and extend this economic and educational foundation, we must build many things upon it. To enumerate only those which have already been proposed and which are most directly relevant, there are: ERP; the administration of occupied Germany, Austria, Japan, and Korea; the foreign aid programs in Greece, Turkey and China; a new program of military lend-lease; the effective implementation of the program of the National Security Act of 1947 for the "operation (of the military services) under unified control and for their integration into an efficient team of land, naval, and air forces"; the development of an ascendant Air Force in accordance with the recent recommendations of the President's Air Policy (Finletter) Commission; the adaptation of the Navy to current factors such as atomic energy and the military characteristics of other nations today; programs for scientific research and the development of new weapons and their tactical use in the Army, Navy, and Air Force; the expansion and intensification of the work of the Atomic Energy Commission; maritime and air transport; the development of an effective foreign intelligence service; the expansion and strengthening of our information services abroad; the development of effective instruments for political and psychological warfare; Selective Service; and UMT. All have been put forward by responsible sponsors, as requiring prompt attention; all are difficult; all would need men of skill and judgment for their execution; and almost all require a great deal of money.

The Budgetary Problem

Against the fiscal background of recent years, there is a widespread tendency to discount in some measure the significance of dollar expenditures for purposes as serious as these. In a time of inflation, the writer finds it difficult to understand how one may dismiss as unimportant great additions to the dollar expenditures of the government. For the purposes of this brief statement, however, I should like to pass over the economic aspect of this question and direct attention to the political implications of such a budgetary prospect. As a practical matter of political behavior, consider what is likely to happen if these various needs should be put successively before the Administration and the Congress for attention. As expenditure piled on expenditure and budgetary totals mounted, is it not foreseeable that a point would not be long in coming when the Administration or the Congress, or both,

would balk? Thus, the programs which would first be put forward might receive their appropriations in full, while those which followed might be curtailed or refused altogether. The consequence would be a piece-meal selection, determined largely by political accident and group pressures, rather than by the needs of the situation appraised as a whole.

The Problem of Personnel

The problem of qualified personnel is perhaps even more fundamental. America is immensely rich, and the dollars can be found. But the nation does not have readily available an overabundant supply of the type of personnel needed for the executive, planning, staff and technical jobs—not only at the top but down through the working levels—which must be carried out with intelligence, judgment and vigor to make these programs work. Even if the supply practically available within the nation as a whole might be deemed adequate, in the large, to meet all the competing needs, there may be very grave difficulty in bringing the supply to bear at the particular points needed within the time available. The shortages within particular services of the government, military or civil, may therefore be far more acute than the shortage overall. Apart from this affirmative need, there is a negative aspect to the problem which has a significance of its own. Many of these programs are of such a nature that, if they should be mishandled, the consequences might be worse than if they were not undertaken at all. This is particularly true of any program which touches so directly and deeply upon the personal lives of people as UMT. In this connection it is timely to recall the difficulties of morale in the training camps in 1941; the talk of "going over the hill"; and the fact that the Congress of the United States, only a few months before Pearl Harbor, while shooting wars raged in Europe and Asia, with France conquered and Britain in dire straits, came within one vote of repealing the Selective Training and Service Act of 1940.

In consequence, in the judgment of the writer, UMT—or, for that matter, any other single factor in the complex of requirements currently pressed upon us—cannot be intelligently appraised except in the context of a conspectus of all the requirements and all the resources, assembled and viewed as a whole. Such a comprehensive analysis of all the factors at this time seems to the writer to be vital to the safety and welfare of the nation. As far as one can judge from the reported actions and statements of the Administration and the leaders of the Congress, it is not yet clear that this has been done.

NEW YORK HLSA HOLDS DINNER

Annual Affair Will Be Staged Next Wednesday

The Annual Dinner of the Harvard Law School Association of New York will be held Wednesday, April 14 at 7 o'clock in the Main Dining Room at 27 West 44th Street. At 6:30 p.m. cocktails will be available in the Biddle and North Rooms on the third floor of the building. Speakers at the dinner will include the Honorable Robert Patterson, former Judge of the 2nd Circuit Court of Appeals and recently Secretary of War, and the Dean of the Law School, Erwin N. Griswold.

This dinner serves as the annual meeting of the Association at which officers and a new class of trustees are elected. In addition there are brief reports concerning the Association activities during the year and the operation of the Placement Bureau.

In accordance with custom, a card has been sent to each member indicating the cost of the dinner, requesting payment of the annual dues of \$2 and affording the opportunity for contribution to support the Placement Bureau, the Loan Fund, and other Association activities. Since the attendance was particularly heavy in 1947, the Harvard Club has recommended that reservations be limited to 340. Members are urged to return as soon as possible their reservation cards, dues cards, and checks covering dues, cost of the dinner, and contributions.

Present officers of the Harvard Law School Association of New York who are directing this annual meeting include John B. Marsh LL.B. '10, president; Elihu Root, Jr. LL.B. '06, Franklin E. Parker LL.B. '22, Bethuel M. Webster LL.B. '25, vice presidents; Walter R. Mansfield LL.B. '35, secretary; William D. Gaillard, Jr. LL.B. '29, treasurer.

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Calendar

LEGAL WORLD

Spring Fling Dance

The Harvard Law School Committee of Phillips Brooks House presents the Spring Fling, the final dance of the season. This is an informal dance and will be at Cowie Hall (near the Stadium), Saturday, from 8 to 12 p. m. Setups will be available. Admission is \$2.40 per couple. Tickets are on sale at Gannett House.

Lawyers Guild

Osmond K. Fraenkel, counsel for the Civil Liberties Union and a Vice President of the National Lawyers Guild, will speak this afternoon at 4 p. m. in Langdell North on "Procedures by Which Civil Liberties are Raised." This is the student chapter's ninth seminar and will be open to all students.

The Lawyers Guild Civil Liberties Seminar will be held today in Seminar Room 4 at 2 p. m.

World Law Group

There will be a meeting this Thursday, April 8, at 11 a. m., in Seminar Room 2. Mr. John Eastman, manager of the Boston Regional Office of the American Arbitration Association, will discuss international arbitration procedures. We would welcome some first year men as members.

Veterans' Attendance Cards

Veterans' Attendance cards may be signed in the main lobby of Langdell Hall between 9 a. m. and 5 p. m., until April 15.

Griswold Club

There will be a smoker at Kendall House on Friday at 4:30 p. m.

Morgan Club

There is a party at Kendall House on Saturday from 8 to 12 p. m.

UNIVERSITY WORLD

Lecture

Vera Micheles Dean, Research Director of the Foreign Policy Association and visiting lecturer on Regional Studies at Harvard and Radcliffe, will lecture on current events and developments in the Russian situation tomorrow at 8:30 p. m. in the Belmont High School auditorium. Tickets at \$1.50 per person will be sold at the door for the benefit of the Radcliffe Seventieth Anniversary Fund. Take the Belmont bus from Harvard Square.

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\$5 CASE—(Continued)

was not domiciled in the Commonwealth. Prosser then demurred to Poindexter's third count which alleged a cause of action for mental distress under the principle that this "new emerging tort" had finally emerged. Professor Prosser started the argument supporting his demurrer by picking apart the flaws in the allegation. Sheldon Guren, arguing for the plaintiff, then tried to prove that the action stated should be recognized as the tort of mental distress; Guren used Prosser's Hornbook on Torts in support. The Professor then explained that the sections of his book quoted, were "inadequate," and proceeded to quote other sections from the text to support his own position. Guren countered by explaining that he had only undertaken to quote the "relevant sections from the Professor's text." Judge Crafts however was convinced by Prosser's masterful argument and sustained the demurrer with leave to amend. Poindexter, however, has decided to allow the demurrer to stand.

In this afternoon's trial, Professor Prosser will continue to defy an old maxim and conduct his own defense. On the interrogation of witnesses, however, the defendant will be assisted by Professor Edmund Morgan, who has some experience in matters of evidence. On Poindexter's legal staff, are: Jerome Hyman, LL.B. '47; Sheldon Guren, 3L; John Casey, 3L; Saul G. Marias, 3L; and Jerome Shestack, 2L. Advisor to Poindexter's staff is Edward B. Hanify, LL.B. '36 of Ropes, Gray, Best, Coolidge and Rugg, well known as a leading trial lawyer in the courts of New England.

It is expected that the decision in the case may go down in the reports along with other classics like the *Palsgraf* case, *Dobson v. Commissioner*, and the Salem trials.

NEW COURSES—(Continued)

a visiting professor of law, will teach one of the other sections in the Commercial Law course.

For third year students, a number of new courses are listed, in addition to the courses on Municipal Corporations and Patent Law, to be offered during the summer term.

During the fall term, Professor Mentschikoff will be the instructor in a Commercial Arbitration Seminar; Professor Freund will teach a course on Problems in Constitutional Litigation; Professor Seavey will offer a course on Restitution; and a Seminar on the Civil Aeronautics Board will be conducted by Professor Bowie.

New courses for the spring term include: Public Utilities, with Professor Cavers as the instructor; Professor Bowie's Seminar on the Federal Communications Commission; Unfair Competition, to be taught by Professor Chafee; and a Commercial Law Seminar with Professor Mentschikoff as the instructor.

AMES FINALS—(Cont.)

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Above are pictured the oral counsel in the finals of the Ames Competition.

returned against them on charges of (wartime) sedition. Warrants for the arrest of the leaders of the sect were issued in the Southern District of California. Some of the leaders were arrested in the Southern District, and some in the Northern District. In the Northern District, the agents acted on telegraphic information that warrants had been issued and made the arrests without possession of the warrants.

The F.B.I. agents did not have search warrants, but in almost every case they made a thorough search of the premises where the arrested leaders were found, taking as much as four or five hours in the search, meanwhile holding the arrested persons incommunicado on the premises. At the conclusion of the search, the agents removed large quantities of pamphlets and documents pertaining to "Mankind United," and in some cases personal papers of the arrested persons and their wives.

As a result of these facts, plaintiffs brought suit in the District Court against the F.B.I. agents as individuals, claiming damages for "violation by the defendants of the rights of the plaintiffs under the Fourth and Fifth Amendments to be free from deprivation of liberty without due process of law and to be immune from unreasonable searches and seizures."

The District Court dismissed for want of federal jurisdiction, on the ground that the action was not one that arises under the Constitution or laws of the United States, as required by 28 U.S.C. § 41 (1). The Ninth Circuit Court of Appeals affirmed (150 F. 2d 96 (1945)). The Supreme Court of the United States reversed and remanded the cause to the District Court, stating that the District Court must assume jurisdiction for the purpose of deciding whether the complaint states a cause of action, since the cause has sufficient merit to warrant the exercise of federal jurisdiction for the purpose of adjudicating it (327 U. S. 678 (1945)). The District Court then assumed jurisdiction and dismissed the case on the ground that neither the Constitution nor the Statutes of the United States give plaintiffs a cause of action on the facts alleged. (71 F. Supp. 813 (1947)).

In the Ames Court, the litigants will argue the case on appeal from the dismissal by the District Court "on the merits." The Gardner Club will represent the plaintiffs-appellants, and the Holmes Club will argue for the defendants-appellees.

The Board of Student Advisers has announced that because of expected overcrowding of the court room, no women except wives of counsel will be admitted until 7:45 p. m. in order to give all students who desire to attend an opportunity to secure a seat.

The record in the case is now available at the library reading room desks, and the briefs will be available later this week.

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May 31, 1948 to July 31, 1948

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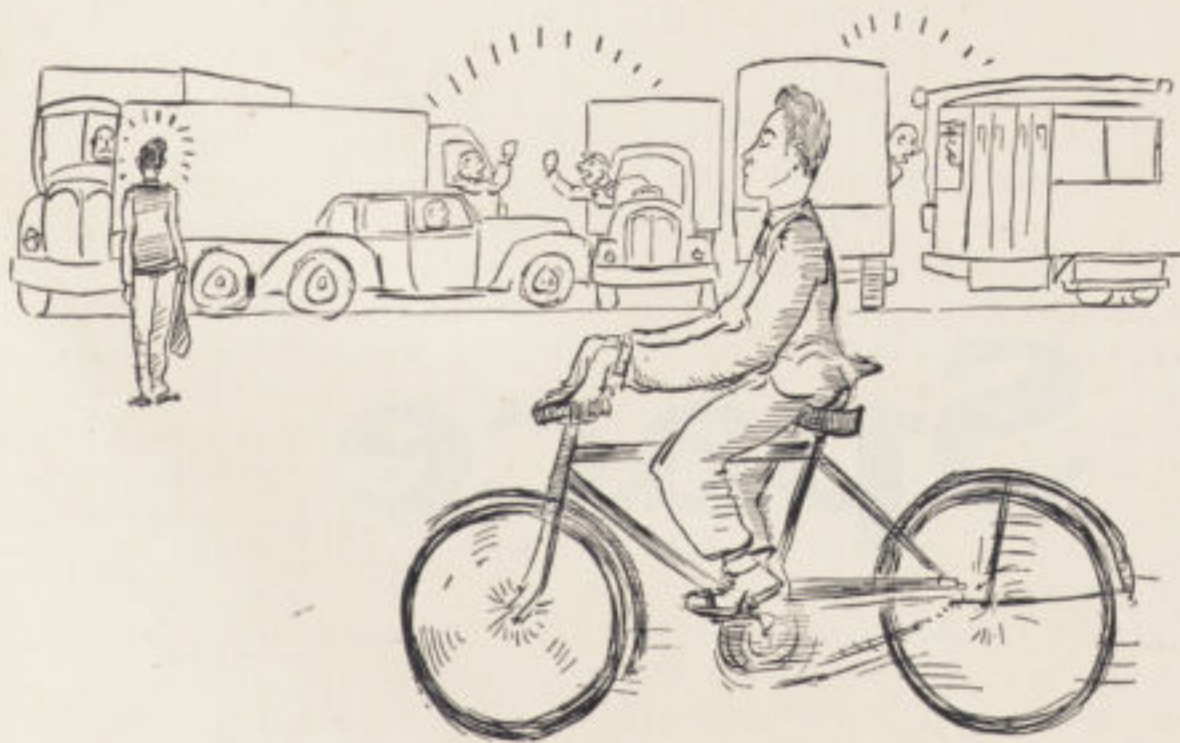
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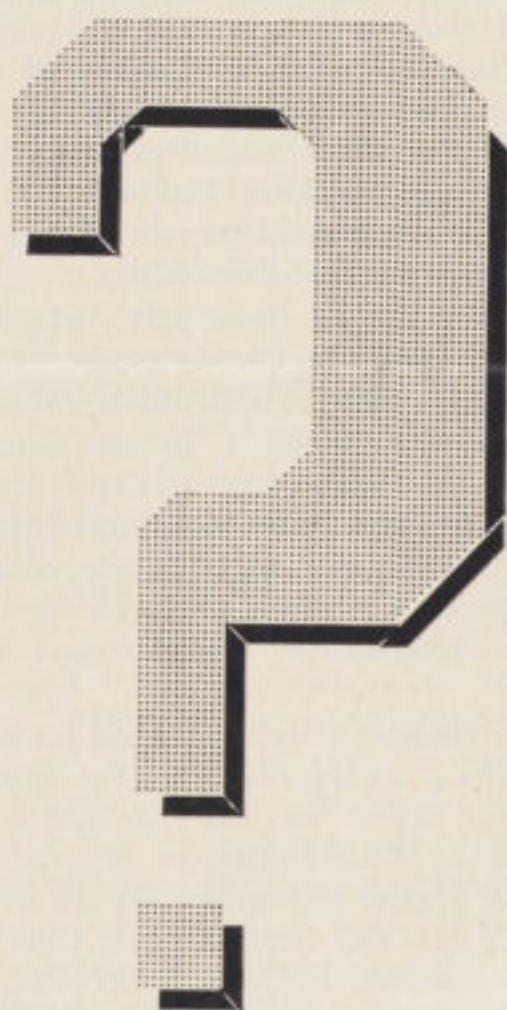
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