

The Harvard Law School Record

VOL. 6 NO. 9

CAMBRIDGE, MASS., TUESDAY, APRIL 13, 1948

PRICE TEN CENTS

NEWS IN BRIEF

PUBLICATION DATE

The RECORD will be published on Wednesday next week instead of on Tuesday, since Patriots' Day, April 19, is a holiday at the School.

NEW YORK H.L.S.A. DINNER

The annual dinner of the Harvard Law School Association of New York, originally scheduled for April 14, has been postponed until May 17. It will be held at the Harvard Club in that city.

AIR FORCE MOS

Professor Leach, in response to queries by Air Force Reserve Officers has received information from the Air Judge Advocate that "they can change their Primary MOS's to the appropriate legal classification by direct application to the Reserve unit to which they are attached, and upon approval of such requests, special orders effecting the change would be issued by that unit."

FORUM

Enactment of the national fair employment practice bill, still unreported from Senate committee, was urged by Senator Dennis Chavez of New Mexico at the Harvard Law School Forum before an audience of 1,000 last Friday evening. Senator Chavez is one of the sponsors of the bill.

The Communist elements of the country have been beaten down, Dr. Leon Birkhead, head of the Friends of Democracy, Inc., said, speaking on the same program of "Race Relations in America" with Senator Chavez and Walter White, executive secretary of the National Association for the Advancement of Colored People. The real danger, according to Dr. Birkhead, is from reactionary, super-nationalist groups.

Mr. White spoke in support of the President's civil rights program.

LINCOLN'S INN ELECTIONS

At the annual meeting, held Tuesday, April 6, Lincoln's Inn Society elected the following officers: President: Davis C. Burroughs; Vice President: J. Welles Henderson; Treasurer: E. N. Zeigler; Secretary: R. E. Traphagen. Members elected to the Board of Governors were: W. Hampton, J. P. Weitzel, R. B. Sheffield, R. W. Maynard, R. B. Perkins, W. S. Moorhead, Jr. The outgoing officers and Board of Governors are T. H. Kingsley, P. F. Perkins, D. C. Burroughs, J. W. Henderson, R. W. Maynard, R. M. Thomas, H. Calkins, D. Vail, E. N. Carpenter, and C. E. Stinson, Jr.

HOOP FINALS

In the basketball finals, the Swishers took the championship for the second straight term, trouncing the 59ers by a score of 64-42. The members of the winning team are Bob Everett, Murray Goetz, Bob Goldman, Bob Reed, Bob Risch, Ed Silberling and Roy Tolles.

BUGLE-BOARD BASKETBALL

Citations and footnotes proved of no avail as the Law Review quintet bowed to the Board of Student Advisers' basketball team by a score of 39-38 in a game that went into an overtime period. Roy Tolles sparked the Board, while Robert Risch starred for the Bugle basketbatters. Olinis led the Review cheering section from the second floor of Gannett House. The victorious Board was scheduled to play Legal Aid next, but cancelled the game when a hasty check of the Legal Aid lineup revealed Ed Matheny, ex-University of Missouri star, and George Munroe, former Dartmouth All-American.

SQUASH WINNER

Professor Braucher won the "B" Squash tournament defeating John Nasikas 3-1. In the "A" tournament Frank Griffin was the victor over Charlie Lord. Lord took the first game 18-17, but was

(Continued on page three)

MOOT COURT CASE IS WON BY HARVARD

Gain Close Decision Over Columbia In Case Argued In N.Y.

In a sortie into intercollegiate territory, three Harvard Law School men were victorious over three from Columbia Law School in a moot court argument on Friday, April 9. The argument was sponsored by the Association of the Bar of the City of New York. Harvard representatives were Lawrence S. Munson 3L and Robert G. Bailey 3L, oral advocates; and Norman H. Brown 3L, of counsel on the brief.



BROWN

MUNSON

Hon. Augustus N. Hand (LL.B. '94), Circuit Judge CCA 2d; Hon. Robert P. Patterson (LL.B. '15); and Harrison Tweed (LL.B. '10) comprised the court which ruled that the plaintiff-appellee (represented by Harvard) could terminate a trust of which she was the settlor. The income of the trust was to be paid to the settlor for life, the principal going to whomever she might appoint on her death, in default of appointment to her mother; if her mother was not then living, the principal was to go to persons entitled to settlor's property under the New York intestate laws. The mother

(Continued on page three)

STUDENTS JOIN FOR DOUGLAS

Eisenhower Group Also Set Up By Democrats

The mystery of the advertisement "LSMFD" on the last page of last week's RECORD was dispelled by the heads of the newly-formed Law School Men For Douglas organization, who will favor the U. S. Supreme Court justice's candidacy for President on the Democratic ticket. Another local group forming to stump for a Democratic candidate is Students-For-Eisenhower.

Jack Bronston 3L, membership chairman of the Douglas group, announced that over 300 Law students have joined that organization since it was formed last week. Plans for a University-wide drive for membership are being made by a steering committee headed by James W. Bell 3L and Arnold Rivkin 3L, co-chairmen. Temporary headquarters are at 39 Hastings Hall.

"Students-For-Eisenhower" has formed for the primary purpose of securing signatures on "Draft Eisenhower" petitions in the expectation that the general will not turn down a popular demand that he run for the Presidency. Led by Acting Chairman Roy F. Gootenberg 2C and Arthur Schlesinger, Jr., of the faculty, the local group has affiliated with the National organization. Headquarters are at 32 Little Hall.

The Eisenhower organization has planned a rally in Cambridge on Monday, April 26th. The speakers have not yet been announced. The only member of the steering committee from the Law School is Carol Bumpers 1L. Only the Democratic nomination will be sought for the general by the group, which has member clubs on campuses in all parts of the country.

FORUM ADVANCE SALE

Because of an anticipated large attendance for the concluding Forum on April 23, on "Which Party in 1948," the Harvard Law School Forum urges non-members and members who may wish to bring guests to buy tickets in advance at Gannett House from 9 to 5 daily.

The Forum will feature five members of Congress. Sen. Brewster of Maine, Sen. Kem of Missouri, and Rep. Isaacson of the Bronx, have so far been scheduled.

Payment Of G.I. Insurance Dividends Hangs On Case Now In Supreme Court

The *Zazove* case, now before the Supreme Court, has aroused unusual interest. Its outcome will affect the amount of coin jingling in the pockets of veterans of World War II.

Out of an estimated \$1 billion to \$2 billion surplus the VA would like to pay what in most instances would be substantial dividends to all veterans who have paid premiums on National Service Life Insurance. But no definite plans for the payment of dividends can be made, according to Harold W. Breining, Assistant Administrator for Insurance, until the Supreme Court renders a decision in the *Zazove* case. If the decision is favorable to the United States, the dividends will be paid as soon as possible. If unfavorable, the VA estimates that an additional potential liability of the astronomic figure of \$89 billion will be imposed on the VA's Insurance Fund, not only wiping out the present surplus but making insolvent the National Service Life Insurance Fund as it is now authorized by Congressional Act.

In May, 1943, Adolph B. Schwartz died, and designated Tillie Zazove, age 54, his beneficiary. The VA refused to pay her on the ground that she was not an eligible beneficiary, despite her contention that she stood in *loco parentis* to Adolph. As time has proved, it would have been far simpler to have paid Tillie Zazove without any contention. Evidently antagonized by the questioning of her in *loco parentis* status Tillie took to the law and proved her relationship to the satisfaction of the Circuit Court of Appeals for the Seventh Circuit.

Beaten on this count the VA immediately offered to settle and pay Tillie in accordance with its Regulation No. 3450, under which it had already paid as of that date without other complaint \$2 billion of matured claims. But flushed with victory Tillie spurned this offer. She could read and she could do simple mathematics as well as the VA. The method for determining the amount of monthly payment due a beneficiary under her option of payment is regulated by §602 (h) (2) of the Na-

BOWE GIVES PLANS FOR REGISTRATION

The Summer Term registration for third-year men will be held sometime during the last week in April, William J. Bowe, Assistant Secretary, announced today. The tabular view for the Summer Term and the examination schedule will be posted early this week.

Mr. Bowe calls the attention of third-year students to a number of factors they should take into account in planning their courses for the summer. Because of the large number of courses being offered during the academic year 1948-49, there are likely to be some conflicts in major courses during the fall term. For example, it is possible that the one-term courses in Taxation and Evidence will be given during the same hours; the same with Federal Jurisdiction and Conflicts. An announcement will be made prior to the summer registration of the anticipated conflicts during the Fall Term, and students now in their fifth term who desire to take courses which will conflict in the fall must take one or the other of them during the summer in order to avoid the conflicts.

(Continued on page three)

GARDNER WINS FINALS IN AMES COMPETITION

The Gardner Club was adjudged the winner of the final round of the Ames Competition last night by a triumvirate composed of the Deans of the Columbia, Harvard, and Yale Law Schools. Dean Young B. Smith of Columbia presided over the U. S. Circuit Court of Appeals for the Ames Circuit. His associate judges were Dean Erwin N. Griswold of Harvard and Dean Wesley A. Sturges of Yale.

George D. McClintock, Jr. and Albert J. Moorman, Jr. of the Gardner Club were the winning oral advocates. Also entitled to have their names enscribed on the plaque in the library are the counsel on the brief, Stephen G. Lax, Herrick K. Lidstone, A. Byrne Litschgi, Ray F. Myers, Jr., Paul H. Roney, and Francis M. Wheat.

The defeated finalists, the Holmes Club, were represented in the oral argument by Charles F. Choate and William P. Homans, Jr., with Roger A. Derby, Jr., Charles N. Foster, Wilnot T. Pope, and Henry A. Preston assisting on the brief. Both clubs were complimented on the high quality of their performances.

The Chief Justice dissented from the Court's opinion. The issue presented to the court involved 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. The case arose as a result of the arrest by F.B.I. agents of the leaders of an organization known as "Mankind United" after indictment for violation of the wartime sedition law. The Ames case was based on the facts of *Bell v. Hood*, 71 Fed. Sup. 813 (D.C.S.D. Calif. 1947), now being litigated in the Federal Courts.

The winning Gardner Club will receive \$300 as a tangible reward for their victory, while the Holmes Club will split \$200.

RECORD ELECTS NEW OFFICERS

Wedeman, Shestack and Tanner Will Head Staff

The RECORD last week elected twelve men to positions on the Editorial and Business Boards. The new officers assume control of the paper with this issue, and will continue through the Fall Term.

The new President is Miles G. Wedeman of Drexel Hill, Pa. (Swarthmore '43). Wedeman, a fifth term student, moves up from the position of Copy Editor, replacing Loren E. Juhl, New Holland, Ill. (Illinois '40).

Jerome Shestack of Philadelphia (Pennsylvania '43) was elected Editorial Manager to succeed Walter Myskowski of Lowell, Mass. (George Washington '44). Shestack is a fourth term student and a member of the Legal Aid Bureau.

Lester J. Tanner of New York City (C.C.N.Y. '42), a fourth term student succeeds A. Byrne Litschgi of Tampa, Fla. (Florida '41), as Business Manager.

Arthur S. Friedman of Brooklyn (Oberlin '46), the present Alumni Editor, will continue to write the Alumni Notes, and in addition will handle the Galleries department and the news of alumni activities.

News Editor is Howard Monderer, New York City (C.C.N.Y. '46), replacing Laurence P. Corbett of Dedham, Mass. (Harvard '43); Articles: Richard A. Holman, New York City (Cornell '43), in place of Milton P. Kayle, Utica, N. Y. (Hamilton '43); Features: Alvin Silverman, Brooklyn (Cornell '45).

Comment: Sydney Rothstein, New York City (C.C.N.Y. '43), succeeding Nathaniel B. Taft, Scarsdale, N. Y. (Fordham '40); and Case: Joseph

(Continued on page three)

30% INCREASE IN FALL DORM RENT

A 30 per cent increase in Law School dormitory room rents will go into effect this Fall, it has been announced. At Hastings the new rents will range from \$97.50 to \$130 a person each term. At Perkins the price will be \$130 a person. However, the rates for those remaining on the accelerated schedule will be 90% of the above.

The present prices will continue through the Summer term. At Hastings they vary from \$67.50 to \$90 a person, while at Perkins the price is \$90. The Business School dorm rates now vary from \$100 to \$200.

A drawing will be held at Lehman Hall the week of May 3 to fill the vacancies expected in Hastings and Perkins this Fall. Law students presently registered at the Law school may be included in the lottery by applying to Lehman Hall up to April 30.

Men who will be here during the Summer Term may apply for a dormitory for that term, but will have to vacate in the Fall in favor of those selected through the lottery. However there are rooms available at the Business School dorms for this summer and these will probably carry a guarantee of keeping the rooms for the 1948-49 academic year. Approximately 100 rooms will be available at the B School for Law students in the Fall. Prices there for the Fall term have not as yet been determined.

The Harvard Law School Record

Published weekly on Tuesdays for twelve weeks of each term by *The Harvard Law School Record Corporation*, Austin Hall, Cambridge 38, Massachusetts. Subscription price: \$2.00 per term mailed, \$4.00 per year (24 issues); student subscription \$1.50 per term mailed, \$1.00 per term distributed at the Law School. Individual copies \$.10 each at the Law School; \$.15 each mailed. Business and Editorial Offices, Austin Hall, Cambridge 38, Massachusetts. Telephone Klrkland 7-7600, extension 133.

MILES G. WEDEMAN President
JEROME SHESTACK Editorial Manager
LESTER J. TANNER Business Manager

EDITORIAL BOARD

HOWARD MONDERER News
ALVIN SILVERMAN Features
JOSEPH SCHURMAN Current Case
RICHARD HOLMAN Articles
ARTHUR S. FRIEDMAN Alumni-Gallery
SIDNEY ROTHSTEIN Comment
PAUL J. KIBBY Secretary

BUSINESS BOARD

RICHARD M. CHAPMAN Advertising Manager
ISADORE M. MACKLER Treasurer

STAFF

George Benedict, William P. Cunningham, Stanley R. Evans, Eugene J. T. Flanagan, Eli Goldston, Loren E. Juhl, Milton P. Kayle, Herbert Lasky, Jules Levinson, Joseph P. Logan, A. Byrne Litschgi, Bernard Marcus, Walter J. Myskowski, Nathaniel B. Taft, Saul Touster, Jerry Wagner, Dick Wincor, Richard Wolford.

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

"Entered as second class matter November 19, 1946, at the post office at Boston, Massachusetts, under the Act of March 3, 1879."

Editorials

For the past decade, and especially since the end of the war, lawyers and legal educators have been considering with increasing seriousness, the problem of change in legal education. Last week's RECORD carried news of some recent and forthcoming changes at Harvard. At Yale another approach is being taken, and Northwestern is attempting a third. Legal educators are questioning the validity of the "pure" case system at least as applied to certain courses and are combining cases with problems, business background, and/or legal history and philosophy. Especially significant is the emphasis on new subject matter being taught in law schools.

Reflecting this trend toward experimentation the Harvard Law School chapter of the National Lawyers Guild instituted a semester seminar course on Civil Rights. This innovation resulted largely from the efforts of the Guild committee, advised by Professor Mark DeWolf Howe, a number of Faculty members, and Osmond K. Fraenkel of the Civil Liberties Union. The results show that they planned well. More than thirty students are voluntarily taking this opportunity of studying under a rotating panel of experts in order to learn more about a subject about which they have a common interest. According to reports from students registered in the course, results have been thoroughly satisfactory.

The Lawyer's Guild and past discussion leaders from among the Faculty and Graduate Students deserve high praise for their participation in the program. Future seminars will be conducted under other members of the Faculty and prominent members of the Bar. Experiments like this should be fostered both for their content and for their ultimate effect upon the law school curriculum of tomorrow.

B. M.

Letters to the Editor

To the Editor of the RECORD:

Upon experiencing eye-fatigue and headache after an evening of study in the reading room and upon being told by others that their reactions were the same, I decided to make an objective study of the lighting. I conclude that it is inadequate.

Most lighting engineers recommend at least 20 foot candles of light for ordinary reading and writing; twenty-five foot candles is the minimum recommended for "intermittent reading and writing" by the U. S. Department of Labor, Division of Labor Standards, in its pamphlet, "Industrial Hygiene and Plant Efficiency Through Good Lighting," 1943.

For prolonged reading, a conservative recommendation is 20 to 50 foot candles, according to "The Science of Seeing" by Luckiesh and Moss. If one must pay close attention to footnotes in small type, the illumination should be correspondingly greater. The recommendation contemplates average normal vision. For those with poor vision the illumination should be greater, and it is estimated that 60 to 80 per cent of students have measurable eye defects. The Department of Labor pamphlet recommends 50 foot candles for prolonged close work and for studying.

A test made in the Austin Reading Room showed that the illumination available at the tables was nowhere greater than 18 foot candles, and that was directly beneath the lighting fixture. Most of the seats had about 15 foot candles. The end tables had 10, and one asso-

cial student in the last seat of the room was studying in the dangerous light of six foot candles.

Conditions in the Langdell Reading Room are practically the same. Directly beneath one of the center fixtures you get 18; if you sit to one side 15, and if you sit at the edge of the room, 10. It may be particularly pathetic that the tables reserved for the *Law Review* enjoy an illumination of six foot candles.

The remedy I suggest is to place individual lamps of some sort directly on the tables . . . light varies inversely as the square of the distance from the source. The quality of the fixtures in the reading rooms may be fine; but the fixtures are simply too far away from the things to be illuminated. In Widener Reading Room, where there are indirect lighting lamps on the tables, the students have 25 to 30 foot candles of light. More light than that is desirable and could be secured from better-type lamps or perhaps from fluorescent table lamps.

The overall cost of electricity need not necessarily be greater, in order for better table lighting to be furnished. In that case, the quantity of overhead lighting should be greatly reduced as in Widener, since it would be unnecessary. Table lamps have the obvious advantage that they may be left off if no one is at that particular seat or table.

. . . under present lighting conditions I submit that the study of casebooks and reference material should not be carried on in our reading rooms at night by those who are mindful of their visual health.

EDWARD A. FRIEND, 2L

To the Editor of the RECORD:

In last week's RECORD article on U.M.T., Professor Casner stated that " . . . 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."

Such phraseology carries a strong implication that through U.M.T. the United States will unilaterally force settlement of world affairs, and overlooks the fact that "settlements" with "certain forces" will be next to worthless if based entirely on a compelled acquiescence—which at most may be only a breathing spell in an arms race.

Even President Truman, in his recent foreign policy speech, left the door open to rational adjustments short of forced acquiescence. But U.M.T. means the end of any attempt to influence friends or rivals by appeals to reason. U.M.T. would heighten hysteria, spread the military caste system, increase the power of the military in education and science, increase taxes and support a mass army instead of air defense.

National security depends upon economic strength, full information, and proper humility towards the magnitude of our world responsibilities, one of the greatest of which is to keep alive the rule of reason to which the lawyer's life is devoted.

Is it too late to channel our efforts to "influence . . . world affairs" through U.N.O.? To act alone, relying solely on U.M.T. "preparedness" to force peace, promises an arms race rather than stabilization.

ROBERT D. HOLMES, 2L

Off the Record

Notes (sic) on reading Morgan and Maguire, *Cases and Materials on Evidence*:

Just when I'm starting to click
Appears the ubiquitous (sic).
But I seldom know wherefore
They put the thing there for;
Perhaps I'm just a bit thick.

RANDOLPH W. McCANDLISH 3L.

The Ax in Tax

The case of *Reinecke v. Heiner*
Might prove to be quite showy.
But, on reflection, here's one finer:
Helvering v. Hoey.

ROGER ANDOVER.

Add Candidates

A second-term student approached us recently wondering if anyone had yet formed a "Black for President" Club. It seems that the dominant appeal that such an idea would have for him, would be the rather fortunate juxtaposition of initials.

Shape of Things to Come

As a woman law student might reply to her love.

How do I love thee, let me count the ways:
I love thee as Cordozo loves the pointed phrase.
I love thee as Leach, his model will
As Andy Casner, the Knutson Bill.
I love thee more than advance reports
More than Seavey loves to state his torts.
I love thee with a passion close to lust
Somewhat like Austin Scott must love a trust.
I love thee tho you flunk—but if you do—
Next time, I'll pick a guy who made *Review*.

J. S.

Gallery

HORACE PLATT MOULTON

State Street Lawyer

Horace Platt Moulton, A.B. Dartmouth '28, LL.B. '31, is one of the few men in present day society who wears a Chesterfield as though he belonged in it. Mr. Moulton, who is a partner in Brown, Field, McCarthy & Field of 15 State St., Boston, is a tall, spare, affable man in his early forties. The day I met him he was neatly dressed in a grey suit and moderately gay necktie, but his appearance conformed neither with Cleveland Amory's Proper Bostonian nor with J. P. Marquand's Late George Apley. Rather it was the appearance of an individualist.

Upon graduation from the Law School in 1931, ex-Reviewman Moulton began clerking for the firm of which he is now a member. His professional life has been built around administrative law, a field in which he can well qualify as an expert.

At present most of Mr. Moulton's time is devoted to the New England Telephone and Telegraph Company, to the point of his maintaining an office there. His work carries him into Maine, New Hampshire, Vermont, Rhode Island and Massachusetts, and he deals with public utility commissions in all of those states. Today most of his emphasis is on increases in telephone rates. Mr. Moulton and his assistants have been successful in convincing all the commissions that have handed down decisions thus far that his quest is valid, with the last one, Rhode Island, scheduled to make a determination this month.

Mr. Moulton feels that Bell is justified in seeking an increase. Although he recognizes that his position as advocate for increased utility rates is not a popular one, it is his opinion that present rates do not result in a percentage profit high enough to attract sufficient investment capital to keep the enterprise in a position to expand. Mr. Moulton understands that state utility boards are naturally reluctant to sanction any increases in telephone rates, and he realizes that before any such action is authorized, the intelligent state commission must be convinced that the increase is absolutely essential to the health of the Telephone Co. As a result he has made himself an expert in every phase of telephone activity so that he can do a complete job of representing their interests. Mr. Moulton would suggest that before the utilities lawyer walks into a committee hearing he marshal at his fingertips all the available arguments, economic, social, and legal, since he will likely find himself in need of at least that much.

In addition to his interest in New England Bell, Mr. Moulton has represented various trucking concerns in this area. Shortly after his admission to the Bar, he was involved in work on the public behalf concerning local electrical utilities. In this latter endeavor he followed in the footsteps of the late Joseph B. Eastman. The Public Utilities Holding Act of 1935 incorporated many of the ideas for which he was fighting in this period. Mr. Moulton represented Associated Gas and Electric in a complex of litigation stretching from 1940 till 1947 when a "settlement satisfactory to all parties concerned was effected." In this case Mr. Moulton's experience with federal administrative bodies was tremendously expanded since Associated's claim was heard by SEC when that body was handling the recapitalization of the New England Gas and Electric Association.

Mr. Moulton in general has a high regard for the administrative bodies before which he has practiced. He especially thinks well of the Interstate Commerce Commission perhaps because it is the oldest and most stable of the regulatory agencies and because of its consistently high caliber commissioners. Of some of the more recent agencies he is more critical and is inclined to think that time should increase their effective impartiality. He practiced extensively before the War Labor Board and found it an interesting and useful experiment in labor relations whose decisions "unfortunately cannot be said to be legal precedent anymore." His praise of WLB was qualified by the fact that the agency, while fair, never was fully able to contain labor's demands when "many times it should have done so." But one could gather that he felt a "liberal business man" like E. A. Filene (See E. A. Filene's *The Way Out*) could carry on peaceful and profitable labor-management relations.

Mr. Moulton recently has practiced exclusively before administrative tribunals. He finds them much to his liking since they combine all the tensions and satisfaction of courtroom work with a degree of informality not possible in judicial proceedings. For example quasi-judicial bodies have dispensed with some of the hamstringing formalities of the rules of evidence that are so dear to the courts. Regulatory agencies also weight economic and social arguments more heavily. He suggests that the neophyte take a crack at trial practice, either judicial or administrative, before settling back to becoming an "office lawyer," since otherwise a great field of law may be overlooked.

B. M.

Notes on Recent Cases

CHARITABLE TRUSTS: RELIGIOUS PURPOSE.

In re Coats' Trusts; 1948 1 Ch. 1; *Time* (Religion Dept.) March 29, 1948. In establishing a trust by deed, Coats said, "If the purposes of the Carmelite Priory, St. Charles Sq., London, are charitable, the trustees are to apply the income to such purposes." But if they were not charitable, the trustees were to apply the fund to the purposes of the Convert's Aid Society. The Priory was a community of cloistered nuns who had no contact with the outside world and the only purpose of their order was to assist mankind by prayer and meditation. This summons was brought by the trustees to determine the effect of Coats's declaration. *Held*: The purposes of the Priory are not charitable within the meaning of the Statute of Elizabeth allowing charitable trusts. Under that statute, the benefit to the public of religious acts must be direct and material as opposed to the purely supernatural. A gift for the saying of prayers and masses would be a valid charitable gift if they were to be said in a public church, but not if, as here, they are to be said in a private chapel.

In the United States it is not necessary that religious exercises affect the public materially in order to be held charitable. The English doctrine, represented by the present case, is still affected by the Elizabethan policy against "superstitious uses," i.e., charitable trusts for purposes repugnant to the Established Church. Although statutes and decisions have practically abrogated this policy, there is still sufficient vitality left in it to require some "material benefit" to the public in any charitable religious trust. There has been no policy against superstitious uses in the United States since the Revolution.

WILLS: EFFECT OF LEGISLATION AFTER EXECUTION.

In Re Thompson, 76 N.Y.S. 2d 742 (Surr. Ct. 1948) Arnold Thompson, a second lieutenant in the United States Army, wrote to Mr. and Mrs. Smith on Feb. 19, 1942, saying "if anything happens to me I want you to have everything I own." An amendment to Sec. 16 of the Decedent Estate Law, making provision for holographic wills for persons in actual military service, became effective May 6, 1942. Subsequently Thompson participated in the death march on Bataan and was taken aboard a Japanese prison ship which was sunk by an American bomb. In 1945 Mr. Smith was informed by the War Department that Thompson had been killed in December, 1944. Probate of the letter as a holographic will was contested by respondent, a distributee in the event of intestacy. *Held*: The letter is admitted to probate as a valid holographic will. Although the statute did not provide that it should have retroactive application, it was procedural and remedial. "The fact Sec. 16 of the Decedent Estate Law limits the duration of the effectiveness of such a will by a soldier or sailor in actual military service is an indication the Legislature intended to have the whole extended privilege apply during all of such service, and not merely after May 6, 1942, the effective date of the statute."

Even when special wartime considerations are not involved, a number of States follow this rule, allowing a will to be cured by legislation subsequent to its execution and prior to the maker's death. Many other states, however, insist that the will meet existing statutory requirements when executed, unless subsequent statutes expressly provide for retroactivity.

CONTRACTS—WAIVER OF STATUTE OF LIMITATIONS.

National Bond & Investment Co. v. Flaiger, 77 N.E. (2d) 772; (Mass. 1948). Flaiger bought an automobile in 1939, giving his note payable in installments. On Jan. 17, 1940, under an acceleration clause in the note, the Investment Co. elected that the whole note should become payable immediately because of a default by Flaiger. The note contained a clause which the court construed as waiving the 6-year statute of limitations. The Company did not bring this action until Sept. 16, 1946, and Flaiger set up the Statute in defence. *Held*: The statute of limitations is a good defence to the Company's action. Citing *Williston on Contracts*, the court said: "It is . . . the 'better view,' and the rule of the majority of jurisdictions, that an agreement contained in the original obligation never to set up the statute of limitations violates the public policy of the statute, and is invalid." The precise point was a novel one in Massachusetts.

Theoretically, the statute of limitations would not run on an agreement not to set that statute up as a defence until the agreement was broken. A promise coupled with such an agreement would thus be enforceable indefinitely, and a few states so hold. However, the majority of the states hold with the "better view" exemplified by the present case, that such a result would defeat the public policy behind the statute.

Alumni Notes

LL.B. '38—*Lawrence E. Hoffman* and *Simon Englander* have formed a partnership under the name of *Englander & Hoffman* at Mercantile National Bank Building, 420 Lincoln Road, Miami Beach, Fla.

LL.B. '40—*George P. Rogers* has opened an office for the general practice of law in the Theatre Building, Mayville, New York.

LL.B. '41—*Carter H. White* has been reappointed corporation counsel for the city of Meriden, Conn., for a two-year term ending January, 1950. He has also been elected director and vice-president of the Meriden Record Company, publishers of the *Meriden Record*.

LL.B. '42—*Henry F. Lippitt, 2nd*, has left his position on the staff of the New York Directed Office of the Atomic Energy Commission to become associated with the firm of *Whitman, Ransom, Coulson & Goetz*, 40 Wall Street, New York City.

LL.B. '43 ('47)—*Alvin Seymour Lane*, formerly with *Davis & Gilbert*, is now with the office of *Stanley W. Schaefer*, 80 Broad St., New York City.

LL.B. '43—*Phil C. Neal* has been appointed Associate Professor of Law at Stanford University. He is a former law clerk of Supreme Court Justice *Robert H. Jackson*, and was President of the *Law Review* for 1942-43.

LL.B. '43—*Lester Rich Rusoff* is teaching Contracts and Code Pleading at the University of Toledo Law School.

LL.B. '43 ('47)—*Herbert George Schoepke* is with *Pruitt, Desvernine & Cousen*, 420 Lexington Ave., New York City.

LL.B. '43 ('46)—*Walter L. M. Lorrimer* is with *Wright & Garrett* at 621 South Spring Street, Los Angeles, Calif.

MOOT COURT —(Continued)

died, and no appointment had been made.

The argument used by the Harvard counsel was based on the theory that in New York, in the absence of a contrary intent by the settlor, the words "to next of kin of settlor" reserve a reversion. (*Doctor v. Hughes*, 225 N. Y. 305). They pointed out that the reservation of the power of appointment did not override this construction.

The court held that the settlor had a reversion and so had all the interests in the trust and could terminate it. Mr. Tweed dissented from the decision, mainly on the authority and reasoning of *Whittemore v. Equitable Trust Co.* 250 N. Y. 298, which he argued before the New York court.

The argument was based on the record in an actual case, *Jane Currier Richardson v. David L. Richardson, et al.*, 71 N.Y.S. 2d 1 (App. Div. June, 1947) which is now on appeal to the New York Court of Appeals.

FIFTH ALUMNI GROUP FORMED Wash., D. C. Chapter Joins National Unit

The organization meeting of the Washington, D. C. group of the Harvard Law School Association was held recently at the Hotel Lafayette. This body thus became the fifth local autonomous unit to become affiliated with the parent national organization. Approximately 150 alumni of the Law School from the District of Columbia vicinity attended the function, largely due to the efforts of *Robert N. Miller*, who was instrumental in planning the meeting.

The Hon. *Kenneth C. Royall*, Secretary of the Army and chairman of the Constitution and Nominating Committees, presented a constitution which was adopted by the group. An election of officers was held, with the following results: *Frederick A. Ballard*, president; *Charles V. Imlay*, vice-president; *Malory R. Smith*, secretary; and *Llewellyn J. Evans*, treasurer. (Mr. Smith's address is 1012 Ring Building, Washington 6, D. C.) *Genson Purcell* was elected vice-president of the National Association from the Washington group.

Guest speaker for the evening was *Robert Lincoln O'Brien*, 85-year old former editor of the *Boston Transcript*, who delivered what *Prof. W. Barton Leach* described as a "fantastically good" after-dinner speech. *Professor Leach* talked about present conditions and future plans for Harvard Law School, and afterwards rendered a performance with his accordion. Also in attendance were Chief Justice *Harold Stephens* and Justice *Evatt Edgerton* of the Court of Appeals of the District of Columbia.

REGISTRATION —(Continued)

Also, there will be only one section of the one-term Tax and BA II courses in the Fall Term. Prior to the registration for the Summer Term, a preliminary registration will be conducted to determine the number who will want to take these courses in the fall. If the number exceeds the space available, some men will be asked to take these courses during the summer, and those who fail to do so may not take the courses at a later time.

When registration for the Summer Term begins, students who will be in their seventh term will be permitted to register first. As a result of this registration, the remaining places (if any) in the larger courses will be offered to the men who will be in their sixth term. Men who will be in the fifth term during the summer will register last, since courses closed to them will be available at a later time.

Famous Wall Street Wizard Attributes Success To Year Spent At Harvard Law

"The trouble with most of you fellows at Harvard Law is that you are not fully aware of the advantages of being members of that noble school," declared *A. Multi Fortiori*, nth richest man in the United States. "Much of my success is attributable to the year I spent there."

Fortiori delivered his paean of praise while seated behind a tremendous desk in his gigantic office, conservatively attired in a hound's-tooth jacket and argyle socks, puffing a Corona-Corona, while a servant fanned away the smoke rings. From time to time the interview was interrupted as the Wall Street wizard manipulated buttons which covered one entire wall, and barked instructions to key assistants in various places of his far-flung empire.

The phenomenal rise in the business world of *Angelo Multi Fortiori* is as familiar to present-day youngsters as were the *Horatio Alger* stories of their fathers' time. The young immigrant boy went into a small stationery store in New Brunswick, N. J., one day in 1898, clutching a two-dollar bill, seeking information about the next bus to Newark. He spoke politely to the shopkeeper, "Excuse me. . . ." had the money snatched from his hand, and, in 10 minutes, received it — and \$500 — back, as *Excuse Me*, a 250-1 shot, romped home first at Empire.

With this nest-egg, young *Angelo* had sufficient capital to start his brilliant career. Throughout it, he has frequently employed similar dexterity, with the result that today, at 63, he is the leading figure in American financial circles, and a director of 114 of the nation's leading industrial systems.

"I was doing fairly well by myself before I went to Harvard Law," he admitted modestly, "but I honestly think that I ascended the heights only after, and as a result of, imbibing of the clear and basic mode of thinking which the law school instills in one. Take, for example, my method of confounding Wall Street and the S.E.C. at one fell swoop: 'Bear with the bull market, and throw the bull into the bear market.'"

NEWS BRIEFS —(Continued)

overcome in the match 3-1. About 40 spectators saw the matches. The winners received Harvard Mugs donated by the sponsoring PBH Law School Committee.

LIBRARY DISPLAY

The current display in the cases at the south end of Langdell reading room consists of early editions of the constitutions of the 21 nations which are members of the Pan-American Union.

The occasion for the display, arranged by the Library staff, is the anniversary of the founding of the Union in April, 1890. Also displayed are three documents relating to the first conference of Inter-American States, held in Panama in 1826.

Present plans call for changing the displays about every two weeks, to give students a chance to observe the Law School's vast collection of valuable documents.

LAWYERS GUILD

Last Tuesday *Osmond K. Fraenkel*, counsel for the Civil Liberties Union, spoke at the Guild seminar on *Procedures Whereby Civil Liberties Issues Are Raised*. He warned that a precise knowledge of procedural requirements was necessary for an intelligent protection of civil rights. The meeting covered civil liberties issues raised in damage suits, injunctions, declaratory judgments and review of habeas corpus proceedings.

At the dinner of the student chapter of the Lawyers Guild that evening, Mr. *Fraenkel* spoke on the outlook of civil liberties in the future. Despite the increasing problems due to the tension in national and international politics, he expressed faith in the encouraging statements of the Supreme Court with regard to protection of personal liberties. Mr. *Alfred Albert*, counsel for Mass. Civil Liberties Union, and *Professor Howe* also spoke.

RECORD —(Continued)

Schurman, New York City (Cornell '45), replacing *Stanley R. Evans*, Evanston, Ill. (Northwestern '46).

Advertising Manager: *Richard M. Chapman*, New York City (N.Y.U. '46), in place of *Tanner*; Treasurer: *Isadore M. Mackler*, Noroton Heights, Conn. (Columbia '41), succeeding *William P. Cunningham* of Cambridge (Harvard '44); and Secretary: *Paul J. Kirby*, Cambridge (Harvard '44), replacing *Eugene J. T. Flanagan*, Pelham, N. Y. (Yale '44).

RACKETS RESTRUNG
ONE DAY SERVICE
Air Pressure Machine
TENNIS & SQUASH SHOP
67A MT. AUBURN ST., CAMBRIDGE

Oxford Grille
"Known from coast to coast as the O. G."

Serving good food and
good liquors at
Reasonable Prices

In Re MacTee
It was Ruled definitely
The Probable Intent of T
Was to go to the O. G.

SITED AT 36 CHURCH ST. 36

TENNIS RACKETS

For stringing the frames listed below add \$3.95 for Dupont Nylon, and \$5.50 to \$9.50 for Star Gut.

SPALDING—WRIGHT & DITSON

Davis Cup, frame only	\$11.50
M. Beasley, frame only	11.50
Kro Bat, frame only	11.50
Kro Flite, frame only	13.50
Trophy, nylon strung	10.95
Columbia, nylon strung	10.00
Comet, nylon strung	7.50
Park, nylon strung	5.95

BANCROFT

Aussie, frame only	\$15.00
Super Winner, frame only	15.00
Wm. Bancroft, frame only	12.50
Winner, frame only	11.00
Forest Hills, frame only	10.00
Streamline, nylon strung	11.50
Champion, nylon strung	10.00
Super Winner, Jr., nylon strung	8.50

Patronage Refund to Members

The COOP

DALTON-ELCOCK BAR REVIEW

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

For Information Write:

DALTON-ELCOCK BAR REVIEW
10 Post Office Square
Room 715 Boston, Mass.

THE MISSES LITTLEFIELD HARVARD SQUARE

PROFESSIONAL TYPISTS

4 Brattle Street Tro. 7495
Harvard Square

HOTEL CONTINENTAL

"One of New England's Best Hotels"
Cambridge, Mass.

VISIT PICCADILLY INN FOR RELAXATION,
REFRESHMENT AND REPAST
Full Course LUNCHEONS—95c and up
Full Course DINNERS—\$1.40 and up
All Beverages moderately priced

Delightfully cool in Summer—Comfortably warm in Winter
Chauncey Depew Steele, Jr., General Manager CALL: KIRKLAND 6100

Imported and Domestic Wines, Liquors, Cordials

HARVARD PROVISION COMPANY, Inc.

92-94 Mt. Auburn St., Cambridge — KI 7-6684

HOURS: 9 A.M.-9 P.M.—MONDAYS THRU SATURDAYS

ALL POPULAR BRAND SCOTCHES \$5.85 A BOTTLE

The HARVARD LAW REVIEW

presents

"Separation of Functions in Administrative Agencies"

. . . an up-to-the-minute analysis of a current problem . . . by *Kenneth Culp Davis* of the School of Law at the Univ. of Texas . . . appearing in two parts in the February and April issues of the REVIEW.

HARVARD LAW REVIEW ASS'N
Business Office
Cambridge 38, Mass.

I wish to subscribe to the REVIEW at \$5.50 per year, beginning with the February issue. Mail issues and bill to:

Name:

Address:

Clip and
mail today!

Calendar

LEGAL WORLD
Holiday

April 19, Patriot's Day, is a holiday at the Law School.

Lawyers Guild

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

Chancery Club

The Chancery Club Formal Dance will be held at the University Club this Friday from 9 p. m. to 1 a. m. Next Monday at 7:30 p. m. there will be a Duplicate Bridge Session at the Club.

Harvard Law School Catalogue

The Law School Catalogue which includes the courses of instruction for the Summer Term 1948 and the academic year 1948-49 is now available for distribution. Students may obtain copies at the West Wing entrance, Langdell Hall.

World Law Group

Mr. Nathan Ostroff, General Counsel for the Office of International Trade, Department of Commerce, will speak to the World Law Group on the subject of *The Government's Role in International Trade* at Kendall House, Friday at 8 p. m. All faculty members and interested students are invited.

Last Day of Classes

Classes for men in the fourth, fifth, sixth and seventh terms will continue up to and including Tuesday, May 11.

UNIVERSITY WORLD
Graduate Forum

The Strategy of the Social Sciences is the topic for discussion next Tuesday, April 20 at the New Lecture Hall at 8 p. m. The speakers will be P. W. Bridgman, Hollis Professor of Mathematics

and Natural Philosophy and Nobel Prize Winner in Physics, and Samuel A. Stouffer, Professor of Sociology and Director of the Social Relations Laboratory. The Chairman will be the President of Harvard University, James B. Conant.

Department of Social Relations

The Department of Social Relations presents Professor A. L. Kroeber, visiting Professor of Anthropology, in a lecture on *Toynbee and Successors*. The lecture will be in Emerson D tomorrow at 8 p. m. Admission is free.

Aspects of the Soviet Union

The John Reed Society presents George Bryan, who will discuss the Government of the Soviet Union in the Foreign Students Lounge at Phillips Brooks House tomorrow at 8 p. m.

H. L. U. Film Series

Our Town, the film dramatization of Thornton Wilder's Pulitzer Prize Winner with Fay Bainter will be shown at the Fogg Museum tonight at 7:30 p. m. and again at 9:30 p. m.

Harvard Dramatic Club

The Harvard Dramatic Club's 40th Anniversary Production, *The Survivors* by Irwin Shaw and Peter Viertel will be staged at the Plymouth Theatre, Stuart St., Boston, April 20 through April 24. There will be matinees on the 22nd and the 24th. Tickets may be obtained at the Phillips Brooks House, Coop and at the Box Office.

Department of Music

Tomorrow, a concert will be given in Paine Hall, at 8:15 p. m., by Mary De Q. Briggs, a senior at Radcliffe College. This concert, which will be given under the auspices of the Department of Music, will be free and open to the public.

INSURANCE —(Continued)

reading it said in substance: "It is clear. It says what Tillie Zazove says it says. True, if a beneficiary were thirty at the time of the death of the insured under the Zazove interpretation the face value of the policy would be completely paid every ten years, and since the payments continue for the rest of the life of the beneficiary, if such beneficiary lived to be eighty years of age he would receive five times the face value of the policy in insurance proceeds. But, if Congress wants to be generous, that is Congress' business and none of my own."

The dissenting opinion pertinently pointed out briefly that Congress in the same Act had limited the amount of insurance to which any one person was entitled to \$10,000.

The case of the *United States, Petitioner v. Tillie Zazove* is now pending hearing before the Supreme Court of the United States. Counsel for the United States, in a detailed, 93 page brief present powerful arguments, including: (1) The section in issue was written to be interpreted by insurance specialists according to its technical meaning; (2) Congress said the Fund was to be self-supporting, and the premiums were based on this premise; (3) The Zazove interpretation would be manifestly unfair to those who had elected other options, for they pay the same premiums but would receive a great deal less valuable insurance.

One additional word in the statute, "equalized," would have prevented this litigation. One yearns to have the C. J. simplify the proceedings by cornering the Chairman of the committee which drafted the statute and whisper in his ear a question: "Didn't you mean . . . ?"

Once the Zazove case is out of the way the veterans will be that much closer to receiving their dividends. The method of dividend payment has not yet been decided. The House Committee on Veterans' Affairs, under the Chairmanship of Mrs. Edith Nourse Rogers has two bills on the subject in committee. These bills propose a simple way for determining the size of the dividends to which each policy holder will be entitled. The premium rates on service insurance are based on the American Experience Table of Mortality which was developed in 1868. These rates are about three times as high for the young age groups as the modern table now generally employed, the CSO Mortality Table of 1941. The tremendous surplus which has accumulated is due to excessive premium rate over the death payment liabilities. The bills H. R. 5045 and H. R. 5088 provide for calculating how much each policy holder would have paid in premiums had the premiums been based on the CSO table. This total would be deducted from the amount of premiums actually paid in under the Old Mortality Table, whether or not the policy is now in force, and the difference between the two would give the size of the dividend in each case. Of the 18,000,000 persons at one time or another insured only about 5,500,000 have retained their service insurance. The proposed bill H. R. 5088, would automatically reinstate all lapsed policies as of the date of the bill, applying the dividend payments for this purpose until exhausted depending in each case on how much in the way of dividends had accumulated upon each policy. For a policy on an 18 year old which had been in force from 1940 to 1941 the premiums would be paid in advance for about two years. Cash dividends would be paid if specifically requested but not otherwise.

The VA opposed these bills in committee hearings on the basis that the actual equitable surplus should be calculated and each person who has paid premiums into the equitable surplus should receive in cash his proportionate share.

What method of dividend payment will ultimately be accepted has not yet been decided. But when they come, the dividends will be appreciated.

G. B.

PROSSER IS VICTOR
IN "THE \$5 CASE"

The case of *Poindexter v. Prosser* (Case of the \$5) went quietly to rest in the Ames Reports as Judge Frederic A. Crafts found for Prosser on all counts. The trial lasted four hours, and was highlighted by the effective cross-examination techniques of the defendant's counsel, Professor Morgan.

The Court found no basis for the first count of Deceit. The Court ruled that "the transaction between the parties was a bailment . . . and finds that both (sic) parties, being well versed in the law, knew it to be a bailment rather than a gift." The count of Conversion failed since the original taking not being wrongful, a demand for its return was a necessary precedent; and this demand had not been made at the time of the bringing of the action. Since an active bailment was in existence at that time, the count for Money Had and Received, likewise failed.

The Judge, in his findings, also stated that the "Court takes judicial notice of the fact that the subject of Bills and Notes is very dry and uninteresting, and finds from the evidence that the Defendant's class on Bills and Notes had reached the stage of boredom," and that

the demonstration with the \$5 was designed to liven up the subject.

In the long run Poindexter fared rather well. It appears that Professor Prosser treated Mr. and Mrs. Poindexter, plaintiff's counsel, and the Judge to a steak dinner. The check was somewhat in excess of \$5.



The Clothing
men want . . .

"LANGROCK"
GABARDINE SUITS

HAND TAILORED IN OUR
OWN SHOPS
\$85.00

LANGROCK
20 HOLYOKE STREET

NEW HAVEN
WORCESTER
PROVIDENCE

PRINCETON
NEW YORK
WASHINGTON

Orders Taken Now
For
Harvard Law School Ring



Delivery in about 8 weeks
For further details
Phone — Write — Contact
PERRY B. LEFF
152 Line St., Cambridge, Mass.
TR 6-9655 or KI 7-5342

In Clothing--

It's Design

It's Durability

It's Duncan Macandrew

Custom Suits at \$56, and \$80, and \$110

Duncan Macandrew

CLOTHIERS for MEN

11 Dunster Street, Cambridge

Attention

LAW GRADUATE GOWNS \$3.00

If you plan to rent a cap and gown
through the Coop, your order must be
placed before May 1st. Cancellation
of orders will be accepted through
May 1st.

The COOP

UNIVERSITY
THEATRE

HARVARD SQUARE KI. 7-4580

Wed., Thurs., Fri., Sat.
Apr. 14, 15, 16, 17

Academy Award Winner

"GENTLEMEN'S
AGREEMENT"

Gregory Peck
Dorothy McGuire
John Garfield

THE MARCH OF TIME
"Cold War"

Starting Sunday, Apr. 18

Jeanette MacDonald
Jose Iturbi

"THREE DARING
DAUGHTERS"

CONTINUOUS DAILY FROM 1:30

TENNIS RACKETS

ALL MAKES ALL PRICES

Sneakers - Shorts - Balls - Shirts

TENNIS & SQUASH SHOP

67A MT. AUBURN ST., CAMBRIDGE, MASS.

LAW OUTLINES

HARVARD BOOK STORE

19 Boylston Street Harvard Square
next to Western Union

JIM'S PLACE

30 DUNSTER STREET

FAMOUS FOR CHOPS
STEAKS, SEA FOOD

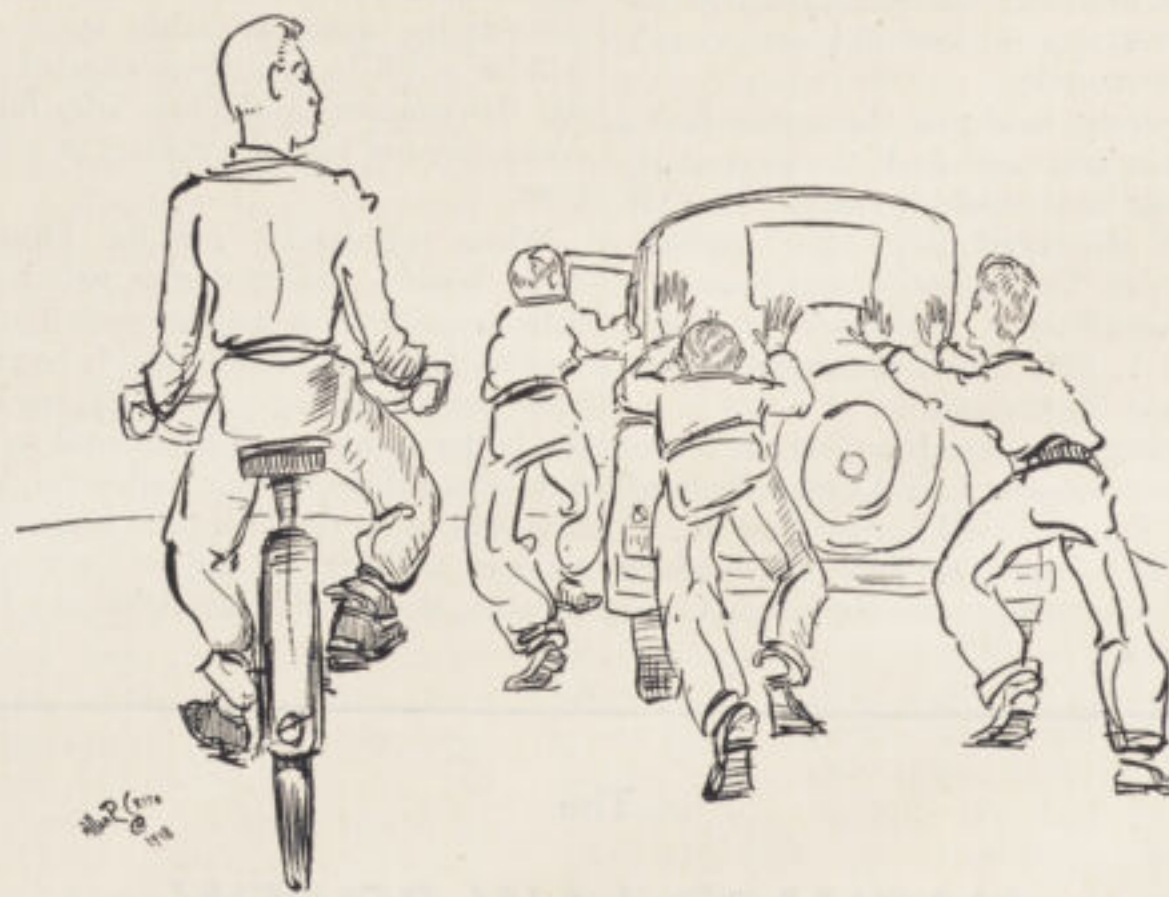
Complete Dinners .50 - 2.00

Visit our new Cocktail Lounge

Complete Air Conditioning

TOURS
CRUISES
AIRLINE-TRAIN
RESERVATIONS
UNIVERSITY TRAVEL CO.
Harvard Square • Kirkland 1650

Do You Suffer from "LOST TIME"



RIDE-A-BIKE
The BICYCLE EXCHANGE 3 BOW ST
KIR. 8535

Catering to the car needs of Harvard men for 20 years

FRANK ELBERY

THE ELBERY MOTOR Co., INC.

(authorized dealer)

sales

FORD

service

offers complete service facilities including a modern body, fender
and paint shop to put your Ford, Lincoln or Mercury in first class
condition.

360 RIVER ST. (near corner of MEMORIAL DRIVE, Cambridge)
TEL. KIRKLAND 3820-21-22