

The Harvard Law School Record

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NEWS IN BRIEF

SPRING FORMAL

The Law Committee of Phillips Brooks House announces that the "Spring Formal of 1949," is to be held Saturday, March 26 in the ballroom of the Women's Republican Club, 49 Beacon Street, Boston. This will be the farewell formal for the Class of 1949. Set-ups will be provided and tables will be reserved for everyone. Brad Kent will provide danceable music. Ticket sale will commence in the next few days at \$2.40 per couple.

FIRST YEAR AMES JUDGES

Bernard A. Feuerstein, first year Chairman of the Board of Student Advisers announced that a prize will be awarded to the student judge who writes the best opinion in the third round of the first year Ames competition, which begins March 14th. Another award will be made to the first year club making the best record in this third round.

With many Associate Justice positions to be filled, the Board of Student Advisers requests the co-operation of both second and third year students, pointing out that valuable experience can be gained. Men sitting as student justices will have additional incentive in that a faculty member will be acting as Chief Justice in about 60% of the scheduled inter-club arguments.

All those interested in judging should leave their names with the Secretary of the Board. Judges already signed up should pick up their briefs as soon as possible.

"B" SCHOOL v. LAW SCHOOL

A Law School team will meet a Business School quintet this Friday night in (Continued on page three)

Former Dean Landis Lauds Teachers And Student Life of Early Twenties

(James M. Landis, LL.B. '24, is a former dean of Harvard Law School and former chairman of the Civil Aeronautics Board. He is presently practicing law as a partner in the firm of Landis, Gewirtz & MacLay, Washington, D. C.)

The Harvard Law School in the fall of 1921 was an unforgettable experience. Our entering class went through the traditional rites, registering diploma in hand, before kindly Dick Ames, whom gossip told us was the son of the great Ames. Roscoe Pound was away that year and "Bull" Warren welcomed us in Brooks House with a typical speech on the open door policy of the School open to all races and creeds. "However, gentlemen," he concluded, "it opens both ways."

It was a good group of teachers that we had—Beale, Jesuitical in his exposition of Legal Liability, the "Bull" intent on mental discipline, Scott in Procedure clear and expositive and scornful of modern developments that subordinated preciseness in pleading to substance, Hudson in Torts almost insulting in his cross-examination of the bases of even the simplest statement, and McLean in Contracts battling for Williston. Of course McLean, like every teacher who taught Contracts, was rumored to have gotten his position by having married Williston's daughter. (I learned later that Williston did not have daughters to go around.) McLean was at first not too well liked. He asked too many questions and answered none. But he left a deposit of knowledge that was solid and permanent. Most of us were glad to have him in Sales the next year.

The first year was one of hard work and a multitude of arguments. At the Episcopal Seminary we substantially ousted the theological students, rowing vigorously in the dining room over the

last development in torts or taking sides as between Beale and Warren on the issue of unconscious possession. Examinations finally came and went and a third of us, living up to the prophecy, went.

The second year was essentially dull. Despite the best teaching, who can put life into Bills and Notes, Sales, or Wills? True, Chafee occasionally had a salacious twist to defeat a holder in due course, and Warren II, Gentleman Joe, would pique our curiosity with his com-



JAMES M. LANDIS

mon queries, "What am I thinking about now?" or "What is my next question?" But whatever these courses lacked, Equity under Pound gave us, at least, manual exercise. There were 16 reasons why the doctrine of mutuality of remedy was really not law, all to be transcribed in half an hour. Our notes on Equity bulked larger than all the rest put together and still we had to read Clark's notorious treatise. The fun of the second year was less in class than outside. We knew each other by then and the School no longer had us on a mental griddle. There was the excitement of the Review and the surcease of bridge and poker. Lincoln's Inn, housed in a rambling but comfortable structure on Brattle Street, made for friendly intercourse and occasional hilarious dinners. It was about that time that Plympton's famous "In Personam" made of Lincoln's Inn Christmas Dinners an historic event.

The third year was exciting. Frankfurter in Public Utilities drew a picture of what litigation meant and how the great issues of history lay embedded in apparently dry legal doctrine. The Supreme Court justices that hung on the classroom wall materialized to speak for themselves with all their weaknesses and all their strength. Holmes, of course, led the lot, but there was the powerful but philandering Moody, Peckham whose major premise seemed always to be "God damn," Taney whose piercing wisdom even Leutze had failed to portray. These men were flesh and blood, not the somewhat mythical Nottinghams, Cokes and Eldons of an alien common (Continued on page three)

Students Manifest Preference For Double-Room Dorm Space

Results of voting and suggestions for changes made by students who visited the model dorm rooms, which had been on exhibit in the Biology Building, were considered at a meeting held this week between Dr. Walter Gropius and Benjamin Thompson of the Architects Collaborative and the Student Committee on Building and Harvard Law School Fund.

Guild Gives Talk On "Suffrage and Political Parties"

The second of the new series of seminars on the Law Protecting Civil Liberties will be presented by the Harvard Chapter of the National Lawyers Guild tomorrow afternoon at 2 o'clock in Austin East. At that time Professor Thomas I. Emerson of Yale Law School will discuss *Suffrage and Political Parties*. Professor Emerson served as general counsel in the Office of Price Administration, and is a vice-president of the Guild. The seminar is open to all students. Those planning to attend the session tomorrow afternoon should familiarize themselves with the following reading assignment:

I. Federal Protection Against Interference Through Violence or Fraud: *To Secure These Rights—Report of the President's Committee on Civil Rights*, pp. 35-40, 114-33, 151-66; *U. S. v. Classic*, 313 U. S. 299; *Snowden v. Hughes*, 321 U. S. 1; II. White Primaries: *Smith v. Allwright*, 321 U. S. 649; *Rice v. Elmore*, 165 F.2d 387, cert. den. 333 U. S. 875; III. Educational and Similar Qualifications: *Williams v. Mississippi*, 170 U. S. 213; *Brown v. Baskin*, 80 F. Supp. 1017; IV. Poll Tax: *Breedlove v. Suttles*, 302 U. S. 277; V. Right of "Subversive" Parties to Appear on Ballot: *Communist Party v. Peek*, 20 Cal 2d 536, 127 P. 2d 889.

Professor Emerson will be the guest of the Lawyers Guild at a luncheon meeting to be held 1 p. m. tomorrow at the Coach Grille. All members and other interested students are invited to attend.

Holmes Black Book Discloses Prolific Reading, Profound Problem Approach

When Oliver Wendell Holmes, Jr. died, he left among his papers a notebook, now known as the Holmes' *Black Book*. Approximately 35 reproductions were made of the book, one going to each of Holmes' ex-secretaries, and one to the Harvard Law School Library. The contents of this black book, however, did not resemble those of the usual little black volume. For in this book, the "Magnificent Yankee," in his own handwriting, entered notes on his life, his work, and his readings from 1876 until 1935.

John G. Palfrey, the executor of Holmes' estate, made a request in each *Black Book* that the volume in the possession of each secretary be turned over to the Harvard Law School "when you and yours have no further use for the book."

This writer was fortunate enough to have had the invaluable guidance of Professor Mark DeWolfe Howe of the Law School, in the matter of obtaining and interpreting the *Black Book*. Professor Howe is a former Holmes' secretary, as well as the editor of the *Holmes-Pollock Letters* which were published about seven years ago, and is presently in the process of writing the authorized *Biography of Holmes*.

In the first part of the scrap-book is a list of the books that Holmes read while he was writing his famous *Common Law*. The notes that he took were rather extensive and were obviously meant to be a reminder to him of certain points that he wished to stress in the *Common Law* and other articles and speeches. Among the authors represented are Kant, Savigny, Ihering, Macauley, James Mill, and Sohm. Of the last mentioned writer, Holmes wrote, "His vogue led me to realize that there was fashion in ideas

as well as in bonnets." It is interesting to note that Holmes copied one sentence directly from Mill in a very large and imposing script on the top of one page. It said, "The end of jurisprudence is the protection of rights."

To say that Holmes was a prolific reader is a vast understatement. In the years from 1887 until 1935 he read on the average two books a week. While the courts were in session he averaged only one book every ten days to two weeks, but when he was on vacation the number perceptively increased many fold. Although Holmes generally did not give the exact dates on which he began or finished the books, one can surmise the approximate time because of his great love of nature. Each year he noted in the *Black Book* the first time that he heard the croak of a bull-frog, and the first time he saw a crocus. This appreciation of nature didn't really blossom out until Holmes left Boston to go to Washington where he frequently took long rides in the surrounding country.

Perhaps one of the reasons why he had the time to read so many books can be explained by Professor Howe's statement that Holmes never read the newspapers. In any case, his scope of reading matter was not limited to any field either exclusively or partially. The whole gamut was run—from the more modern and intense philosophy of Morris Cohen's *Law and the Social Order*, which he read in 1933, to the lighter and more easily digestible writings of E. Phillips Oppenheim and Agatha Christie, the works of whom he read until his last days.

Holmes read French, German, Latin and Greek and, taking advantage of this facility, read books by many great for- (Continued on page four)

Amazing Saga of Superlex Succeeds In Stirring Youngsters' Legal Interest

Following the lead of a hot tip from the Placement Office, your reporter was sent to investigate the possibility of law students' getting temporary jobs as Santa Claus, during last year's pre-Christmas season. He was so impressed that he took one of the jobs himself. Of the hundreds of bright shiny faces which he saw in their places, some wanted to be big league pitchers, some wanted to be All-Americans, others wanted to be cowboys, or even Indians, many wanted to be atomic scientists—but none wanted to be lawyers, nor, *a fortiori*, law professors.

Your reporter rose to the clear and present danger to the profession, and decided that ignorance of the law was some abuse. He tried commenting on the Commentaries of Kent, bellowing the best of Blackstone, and even told a story of Story, but the children's interest was not aroused. Finding that he could not *facit per se*, he decided to *facit per alium*. That *alium* was Superlex.

This story of Superlex fascinated the youngsters and brought them, cheering, to their feet. Your reporter offers to relinquish all right, title and interest to this character to any publishing company, which would give it child-wide distribution in the form of a comic book. It would seem, it is submitted, that if the Lawyer's Cooperative really fulfilled the promise of their name, they would do so.

The tale of this legal Paul Bunyan, the kiddies were told, began several years ago on the far-away planet of Bracton, in the town of Coke-on-Littleton. Our hero was the youngest of the Term family consisting of four children. He was named Michaelmas (Mike for short), and his three sisters were named Hilary, Easter, and Trinity. But since Mike had been born after his father's decease, there was a lapse in seisen (this was never allowed for—although contra to Baron Turton—as one of their judges had remarked: "We can never have a

lapse in season for the four must just fill up the estate of a year, and this is undoubtedly true") and he was banished to the planet Earth.

When Mike arrived in the United States, he was found by a member of the old lawyers' home of Snug Habeas, and was immediately quasi-adopted by the home. Due to the fact that the size of the planets differed, the litigational pull was much less here on Earth and Mike found that he could perform outstanding feats. He could run faster than a *scintilla juris*, he could jump beyond the Rule Against Perpetuities, and he had Shepardized vision which could see through to what was going to happen to any case then being litigated. Perhaps most important of all, he could pull himself up by his bootstraps. Having himself been the victim of a legal technicality, he decided to champion the cause of those in need of his extra-legal services. He attired himself in a pair of blue pin-striped tights, a judicial robe, a rather natty wig and then began his crusade *sub nom.* SUPERLEX.

When these were surreptitiously stored in his green bag, he worked as a reporter for the Best Publishing Company. Through his efforts, he saw to it that the children were properly taken care of by getting the Negotiable Infants Law passed in 38 states (including the most prolific, Alaska, Hawaii, and the District of Columbia), as well as having his employers make a set of small reports cited Rep. Jr. These reports included such famous civil cases as "in re Goldilocks' Trespasses q. cc. f.," "Matter of Dumpty's Fall," and the very famous English criminal case of Regina v. Alice, 1 Hearts (Wonderland) Jr. 52.

Some of Superlex's favorite pastimes were vesting contingent remainders, firming up credits for depositors of checks, drawing lines for law students not proficient in draftsmanhood, and dis- (Continued on page four)

Release First Year Crim. Law Grades

The present first-year class registered a marked improvement over the results of the two previous classes in the Criminal Law examination. Figures released by the registrar showed that 212 men of a class of 543, or almost 40 percent, received a grade of "B" or higher this year, while only 24 men, or 4.5 percent failed the examination. Last year 31 percent received "B" or better, while in June, 1947, nine percent of the last accelerated class to take the Criminal Law exam received "B" or higher.

A breakdown of the grades percentage-wise and a comparison with those of the two previous classes are as follows:

	A	B	C	D	E
June, 1947	5	4	67	17	7
February, 1948	10	21	45	18	6
February, 1949	11	28	43.5	13	4.5

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

The Staff of THE RECORD extend their deepest sympathy to the family of Paul A. Nurick, 2L (Harvard '45), a member of the Staff who died Tuesday, March 1st. He is survived by his parents, Helen and Irving Nurick of New York, N. Y. Funeral services were conducted at the Riverside Chapel in New York City, on March 3, by Rabbi Irving Mandel, of Temple Israel, Boston.

Editorials

In the RECORD's current series on the Law School in its earlier days there have appeared some excellent descriptions of Law School greats such as Ames, Langdell, Thayer and Beale. These men, however, would have been far more realistic to us had we been able to hear at least some of their lectures through recordings. Of course absence of recording machinery made that impossible then. But it is not impossible today. Men like Pound, Powell, Seavey, Morgan, Scott, Hudson, Chafee, and colleagues, are men some of whose lectures should be preserved for future generations of law students who will not be able to hear these men in person. The recordings could be kept in the Treasure Room with earphone sets made available to those who would listen to them, and would be a valuable addition to the treasures of that room.

This is a small undertaking. It would not involve much bother on the part of the professors being recorded nor much expense on the part of the Law School. And its value and interest for future classes is apparent.

J. S.

Letters to the Editor

The following letter was received by the RECORD from Mr. Justice Frankfurter in reply to a request for an article on the School in its earlier days, and is reprinted with his permission:

To the Editor of the RECORD:

If I could, I would seize every opportunity that is available to testify to the meaning of the Harvard Law School as one of the most powerful instruments in the history of this country for the promotion of a society ruled by reason and therefore by law, as well as to express my own profound gratitude to the School. And so I would like to respond with alacrity to the kind request of your letter of the twenty-seventh to contribute an article to the series contemplated about the School in its earlier days. But the inexorable fact is that the days are too short to meet the demands of the Court's business adequately. It sounds little enough to ask one to write "800 to 1,500 words," but because of the very fact that the School means what it does to me, this would involve a good deal of reflection, and for one who does not write glibly, it means a good deal of time in trying to put into words what one thinks and feels.

I am sorry, therefore, not to be able to promise to write you a piece. All I can undertake to say is that if, despite the pressure of my work, something wells up in me that I think fit to say, I shall be glad to send it to you.

With good wishes,

Sincerely yours,

FELIX FRANKFURTER

To the Editor of the RECORD:

Judge Learned Hand's question in the February 16th issue of the RECORD, "What was it that brought to the (Harvard Law) School its resplendent fame in the profession?" prompts this letter.

It was my privilege to serve for five years as a member of the Bar Examining Committee for the State of Ohio by appointment of the Supreme Court. During that period hundreds of candidates submitted their written claims for admission to practice. It was never difficult to select those who had received their training at Harvard Law School. Their examination papers were invariably characterized by an intuitive recognition of the exact principle involved in the question and by a direct, concise approach to the problem. There was never any effort to "splurge," nor to make a glamorous display of general legal knowledge. On the contrary, Harvard Law School graduates were instinctively aware that the examiner was seeking to test their powers of logical thought.

And let me say that I was not alone in this impression. My colleagues on the Board of Examiners, who were not Harvard Law School graduates gave unanimous concurrence.

Very truly yours,
ALFRED A. BENESCH, LL.B. '03,
Cleveland, Ohio.

To the Editor of the RECORD:

Having visited the model room, I believe it advisable at this time to question the adequacy of the proposed dormitory accommodations.

While present costs of construction in relation to the size of the building fund do not allow for luxury, yet account might still be taken of the obvious disadvantages of the single room for both sleeping and working where two students are concerned; and the efficacy of multiroom suites (as presently maintained in Hastings and Perkins Halls) alongside the uselessness of a dividing curtain.

The Common Rooms for the purposes of law students, who, unlike their undergraduate brethren, attend lectures at which hundreds may be seated, are psychologically and functionally out of place. I am prompted to write the letter because this predilection for cubicle rooms and lounging places for the masses has proved disturbing to others who, like myself, are rather paradoxically helping to finance it.

ROBERT W. LEINER, 2nd Year

(The following comment on Mr. Leiner's letter was received from Vice-Dean Hall.)

There is no one type of room or suite which meets the desires of all students. The student members of our committee pointed out to the architects several months ago the fact that a great many law students would prefer, as does Mr. Leiner, a suite double instead of the single room double with dividing curtain, and their opinion was borne out by the student questionnaire. The number of suite doubles provided by the architects for the new dormitories, together with those of this type in Walter Hastings, will provide for more than half of the law students to be accommodated in dormitories.

But there is still a need for some of the one room doubles. These were first choice of 9.5% of the students viewing the rooms and offer excellent facilities for student conferences and entertainment.

The Common Rooms are not designed as "lounging places for the masses." They are the size of a one room double and will be tastefully furnished for student meetings and entertainment by those students who prefer the single rooms to live and study alone.

VICE-DEAN LIVINGSTON HALL,
Chairman, Committee on Building
and Harvard Law School Fund.

To the Editor of the RECORD:

The Harvard Law School student spends more than twelve hundred hours in the classroom in the course of his legal education. A substantial portion of this time is devoted to the simple routine of recording on paper the words uttered from the rostrum. I should like to suggest for the consideration of the faculty a change in classroom technique designed to reduce the time and effort now required for this recording process.

The change I propose would affect only those courses which lend themselves to the "lecture" method, such courses, for example, as Real Property, Procedure, Evidence, Federal Taxation, and Business Associations I and II. For use in such courses the student should have in his hands before coming to class a mimeographed "lecture" containing the remarks which under the present system the professor makes in class. Each class could then begin with the recitation of a case or with questions and answers designed to clarify the matters covered by the printed lecture. Additional questions and hypothetical cases could be posed by the professor in class. More classroom time would be utilized for thinking, less for routine stenography. For the purpose of acquiring factual knowledge printed materials are adequate.

(Continued on page four)

Gallery

PAUL A. FREUND
Professor of Law



Professor Freund's classroom sessions are a carefully compounded prescription of brilliant case coverage interspersed with sparkling wit plus the precise amount of straight lecturing necessary to cover the required ground and to fill in the gaps in the case method. His well modulated voice and superbly correct enunciation reach all corners of the classroom without hurting the eardrums of those who occupy the front seats. Freund's examinations are fair, subtle, and rather difficult to obtain a high mark in. In any opinion poll of students his name would be found at or near the top of the list.

Professor Freund was born 41 years ago in St. Louis, Missouri. In 1928 he was graduated from Washington University in St. Louis and three years later from the Harvard Law School where he was President of the *Harvard Law Review*. After a fourth year here at the Law School the coveted S.J.D. degree was conferred upon him.

During the October 1932 term of the Supreme Court of the United States Professor Freund was secretary to Mr. Justice Brandeis. The highlight of this term from the secretary's point of view was the Florida chain store case of *Liggett v. Lee*, 288 U.S. 517 (1933). For six weeks Mr. Freund labored to help Justice Brandeis produce his brilliant dissenting opinion in the case. Working for Brandeis was always a challenge and a stimulating experience because the Justice fostered the illusion, as Mr. Freund describes it, that the law clerk was participating in the judicial process. The Justice encouraged his secretaries to embody their research in draft opinions which generally became unrecognizable in the Justice's tireless process of construction and revision.

In 1933-34 Mr. Freund was with the Treasury Department. The Reconstruction Finance Corporation, then one of the largest law factories, claimed him 1934-35 to work on the briefs in the Gold Clause cases (294 U.S. 240). When Stanley Reed became Solicitor General in 1935, Mr. Freund went with him and remained in that office until the opportunity to teach at Harvard came in 1939.

The first case argued by Paul A. Freund of Washington, D. C. before the Supreme Court of the United States was *White v. Aronson*, 302 U.S. 16 (1937). This case involved the earthshaking question of whether a jig saw puzzle was a game and hence taxable under section 609 of the Revenue Act of 1932. Mr. Justice McReynolds, for the Court, took a dim view of the notion that a jig saw puzzle could be a game. Ouija boards were distinguished by the Court.

During the oral argument Mr. Freund, who had been granted permission to argue the case prior to being admitted to the Supreme Court bar, urged upon the Court that if games required rules, so did jig saw puzzles, though the rules could be waived in the same manner that the Court could waive its own rules. Mr. Chief Justice Hughes, entering into the spirit of the case, then observed that the Court would take a recess under its rules as it was not a game. Mr. Freund replied, "Perhaps it's a puzzle!" This interchange caused a reporter who was short on filler to attempt to persuade our advocate that he should pose for a picture while holding a jig saw puzzle. This publicity was prudently declined as Mr. Freund did not wish to court disbarment on the day of his special admission.

During his stay in the Solicitor General's office Professor Freund worked particularly on PWA and TVA litigation. The fruits of this later experience provided a rich background for courses in public law.

In 1939 he came back to Harvard as a visiting professor and received his permanent appointment the following year. Ever since his appointment he has taught his favorite course, Conflict of Laws. A course which interests him very much is the seminar on Constitutional Litigation. In that course, students examine records and briefs in selected groups of cases and follow them through from beginning to end. Next year, in addition to giving the seminar, he will teach

Sub Judice

NIGHT HORSE RACING OUTSHINES HOLLYWOOD

Amphitheaters, Inc., completed a drive-in outdoor motion picture theater on August 31, 1946, at a cost of \$135,000. Two weeks later Portland Meadows was opened on adjoining land; it was a track to be devoted entirely to night horse racing, and its promoters had spent \$100,000 on lighting alone. Amphitheaters, Inc. had spent a great deal of its investment in guarding against light interference from cars on the highway, and even from moon and star light. Expensive fences and a "shadow box encompassing the screen" proved totally inadequate against Portland Meadows' glaring collection of 350 1,500-watt bulbs. The drive-in theater sued the track for the damage caused to their business by this sea of light. *Held*: The trial court did not err in directing a verdict for the track. A man cannot increase the liability of his neighbor by applying his own property to special and delicate uses, whether for business or pleasure. "The fact that the plaintiff loves darkness rather than light does not mean that light can be classed as a noxious or generally injurious instrumentality." *Amphitheaters, Inc. v. Portland Meadows*, 198 P. 2d 847 (Ore. 1948).

HIGH COST OF LIBEL

Collier's Magazine printed an editorial which implied that Governor Caldwell of Florida was indifferent to a lynching in his state. The Governor sued for libel and asked half a million dollars, promising that the proceeds would go to the Florida Agricultural and Mechanical College for Negroes. At the outset of the trial, Collier's request for a change of venue from Tallahassee was denied. The oratory of counsel was fierce and florid, aimed more at the prejudices of the jurors than their minds: "If you give Governor Caldwell the full \$500,000, it will go a long way toward the solution of a number of our problems. They sit themselves up in New York and take the position that it is necessary to guide the destiny of the South, based on lies, and tell us how our business should be run, and how everything in connection with our lives should be run. We submit that you will return a verdict for the entire amount sued for." The maligned Governor was awarded \$237,500. *Held*: The judgment must be reversed. Not only were the damages beyond all reason, but the trial was allowed to get out of bounds. It was error to allow the Governor to say what he would do with the money; it was error to charge that punitive damages must be given if the jury found against Collier's; and it was error to allow the trial to degenerate into a side show. "Carried away by the sense of unfolding drama presented by the spectacle of a sectional row, a struggle of North against South, Florida against New York, David against Goliath, Ivanhoe against the Templar, litigants, witnesses, lawyers, and jury seemed to regard the contest as a sporting event, a wager by battle, in which the best battler ought to and would win. As to the judge, though he maintained his complete detachment throughout, he held himself a little too aloof from the trial, was a little too much the moderator, not quite enough the administrator, with the result that the trial got and stayed out of bounds."—*Crowell-Collier Publishing Co. v. Caldwell*, 170 F.2d 941 (CA 3d 1948).

two sections of the second year course on Constitutional Law. Professor Freund has been a member of the Committee on Legal Education which worked out the recently proposed curricular changes and is chairman of the Committee on Graduate Studies.

During the war years, Professor Freund went back to the Department of Justice in the War Division and the Solicitor General's Office. During this period he participated in the cases involving the Public Utility Holding Company Act and the constitutionality of rent control. In 9 *Law and Contemporary Problems* 77 appears his article, "The Constitutional Issues of the Emergency Price Control Act of 1942." This spring he will deliver a series of lectures at Northwestern University on the Supreme Court of the United States.

Professor Freund feels that sheer advocacy is less effective in constitutional cases of great moment than in the ordinary small case. In the former, the decision depends pretty much on the philosophy of the judges, although counsel can be of some help in delimiting the issues. In the small case, however, there is usually presented something of a legal puzzle, the very solution of which may turn on the effectiveness of oral advocacy.

In classroom demeanor he ranks well between the poles of the late and beloved E. H. Warren and Samuel Williston. And he has been characterized by Warren as "the mildest mannered man who ever slung a student on the horns of a dilemma."

Alumni Notes

LL.B. '07—Arthur A. Ballantine maintains his active interest in federal taxation. *Nation's Business* for October, 1948 and the *Tax Outlook* for November carried an article by him on *How Should Taxes Be Revised*. On December 15, he addressed the Tax Institute, at its symposium in New York City on the subject: *The Courts and Tax Administration—Back to the Statute*.

LL.B. '30—Samuel Taylor is engaged in the practice of tax law in San Francisco, where his address is 1211 Balfour Building.

LL.B. '30—Edgar R. Peixotto, who served as a Captain in the Judge Advocate's Dept., has now opened an office for the practice of law at Monte Rio, California.

LL.B. '31—Lieutenant Colonel Harold L. Holland has been promoted from acting judge advocate general to judge advocate general for the USAF Air Materiel Command, with headquarters at Wright-Patterson Air Force Base. Holland, who began law practice in Dayton, Ohio, in association with his father, entered military service in June, 1942, with the rank of Captain. He was assistant judge advocate for the Air Materiel Command western procurement district, Los Angeles, from 1943 to 1945. On his return to A.M.C. headquarters, he became chief of the military justice section, chief of the contracts and, in December, 1946, assistant judge advocate.

LL.B. '31—James Conger and James P. Johnson, LL.B. '37, have become members of the firm of Bell, Boyd, Marshall & Lloyd. Walter T. Fisher, LL.B. '17, has withdrawn from the firm to become Chairman of the Illinois Commerce Commission. Joseph E. Nolan, LL.B. '32, has withdrawn from the firm to become General Counsel of Weyerhaeuser Timber Co.

LL.B. '47—Francis E. P. McCarter has become a member of the firm of McCarter, English & Studer of Newark, New Jersey.

LL.B. '47—William S. Barnes, former member of the Recon staff and founder of the World Law Group at the Law School, is now at the Michigan Law School as Research Associate in Comparative Law.

LL.B. '48—Kennedy Smith is with the law firm of Baker & Watts, Pittsburgh. Sidney J. Watts, LL.B. '05-07, is a senior member of the firm, Charles A. Woods, Jr., LL.B. '28, has just been made a member.

Llewellyn Suggests Further Legal Aid

Professor Karl N. Llewellyn delivered a lecture on the Sacco-Vanzetti case and the lessons to be learned from it at this term's first Lawyers' Guild seminar held in Langdell North, Tuesday, March 1. He indicated the value of the case for use in studying our system of criminal procedure.

Professor Llewellyn compared our "Adversary" system with the "Parental" system. In this light he explored the question: Did the safeguards of being represented by counsel, of having a jury trial, of being able to subpoena witnesses and of having appellate review work as they were designed to work?

He argued that the right of being represented by counsel is valueless if counsel for both sides are not evenly matched, and the quality of the work done for the defendant on the appellate review reveals how weak was the work of the attorney who handled the trial. The assumption on which the "Adversary" system is based, that counsel will be equal, acts to damage the defendant immeasurably when his counsel is not competent to present his case to a court functioning as an impartial umpire.

Appellate review similarly failed to function adequately in the Sacco-Vanzetti case. Every exception examined by the court was inspected as one in a series of isolated points, no one of which was sufficient of itself to cause a reversal. The court completely ignored the cumulative effect of many errors.

Professor Llewellyn pointed out that this blindness in appellate review has since been corrected but that much can still be done to see that the ordinary defendant gets adequate counseling. In this respect, he advocated that young lawyers look about them in their home communities to see whether an enlarged Legal Aid Bureau is needed to render high quality legal assistance to those who cannot afford to retain adequate counsel, and who, consequently, are the victims of our "Adversary" system.

NEWS BRIEFS—(Continued)

the second basketball encounter of the season between the two schools. The first game was won by the "B" school aggregation by a wide margin. The second game will be held at Hemenway Gym at 8 o'clock and will be open to spectators.

INDOOR COURT SPORTS

The current squash tournament at Hemenway Gym has attracted a record entry of 94 Law School enthusiasts, including two members of the faculty, Robert Braucher and Kenneth Davis. Registration has now been closed and several matches have already been played.

Thus far, twelve men have indicated their interest in a handball tournament, and the Law School Committee of P.B.H., sponsors of the matches, has indicated that a handball competition will be started soon. Registration for handball is still open.

LABOR BILL ROUND TABLE

Professor Archibald Cox, LL.B. '37, the Harvard Law School; Jesse Freidin, LL.B. '33, New York attorney and former member of the War Labor Board; George Foley, LL.B. '35, regional attorney of the U. S. Dept. of Labor; and Isadore Katz, general counsel for the

Textile Workers Union of America will participate in a round table discussion of *The Administration's Labor Bill* to be heard over the Yankee Network on Saturday, March 12, 1949 at 9 p.m. The moderator will be Robert M. Segal, LL.B. '42, former assistant to the President's Railroad Emergency Board.

POUND SEMINARS

Professor Roscoe Pound held the first of a series of eight seminars on Problems of the Legal Order in Langdell North at 2 p.m. last Wednesday. The series, open to second and third year men, does not carry any credit toward graduation.

Designed as a seminar course to include six to twelve men, the enrollment was so large that the meeting had to be held in Langdell North. Professor Pound remarked, however, that he would continue to use a seminar style of open discussion rather than deliver straight lectures.

Topic of the first meeting was *The Task of the Legal Order*. In the coming seven meetings, the subjects will be:

2. *Theories of "A Law";*
3. *Law and Laws; Law and Morals;*
5. *Interpretations of Legal History;*
6. *Forms of Law;*
7. *Origin of Law;*
8. *The Legal Unit.*

(Continued on page four)



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LANDIS—(Continued)

law. Beale was back again, surprising us daily with further gymnastics in Conflicts. And there was Wambaugh, so stolidly honest that he adjured even the commonest tricks of pedagogy. Joe Warren in Future Interests had come to life and for a year divided and redivided his French roll with powers in trust concealed in every overlap. Taxation then was only rarely visited and more often neglected. We were blissfully unaware of what billion dollar budgets the future was to hold for us, while Labor Law and Administrative Law were luxuries only for those with esoteric interests unconcerned with the bread and butter of the practicing world. The end came only too soon. And yet within three years law had been bred into us to the bone, but more than this, industry, insight, a capacity for relevance and something of a passion for justice.

JAMES M. LANDIS

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HARVARD LAW REVIEW ASSOCIATION
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Calendar

LEGAL WORLD Law Wives

There will be bridge and play practice tonight at 8 o'clock in Kendall House.

UNIVERSITY WORLD Harvard Hillel

There will be a Hillel Purim party tonight at 8 o'clock in Agassiz House, Radcliffe Yard. There will be a one act play, *The Wonder Hat* by Ben Hecht, with original flute background music composed by Jo Heifetz. Max Helfman will give a lecture recital on *Music Israel Loves Best*. Following this there will be dancing and refreshments in the Living Room.

Concert

Under the auspices of the Music Department, Robert Cornman, Leonid Hambro, pianists, and Alfred Howard, Abraham Marcus, percussionists, will present their renditions of works of Beethoven, Schubert, Mozart and Bartok tonight at Sanders Theatre at 8:30. Open to the public without tickets.

Sunday Services

Professor Reinhold Niebuhr of the Union Theological Seminary will hold service next Sunday in Memorial Church at 11 a.m.

Liberal Union Film Series

The Harvard Liberal Union will present *Ivan the Terrible*, in Russian with English subtitles, in the Fogg Art Museum next Tuesday, March 15, at 7:30 and 9:30 p.m. The price is 60 cents.

OUTSIDE WORLD

Ford Hall Forum

Dr. Reinhold Niebuhr, Professor of Applied Christianity at the Union Theological Seminary, will conduct a discussion on *The Responsibilities of American Power in the World Community* in Jordan Hall, N. E. Conservatory of Music Building next Sunday at 8 p.m.

Gardner Museum

The Isabella Stewart Gardner Museum will present the Amphion Club, male chorus, next Sunday, March 13, at 2 p.m.

Veterans Symphony

The American Veterans Committee of Massachusetts will present The First Veterans Symphony Orchestra in their Boston Premiere at Jordan Hall, March 11 at 8:30 p.m.

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Chancery Elects Board; Pound Speaks Tonight

Edward E. Murphy, Jr. (Washington '47) of St. Louis, Mo., was elected president of the Chancery Club at the general elections held last week. Elected to serve with Murphy during the next year were George H. Babcock (Indiana '47) of Logansport, Ind., vice-president; Charles E. Hartman (V.M.I. '47) of Baltimore, Md., secretary; Joseph G. Lynch (Wesleyan '47) of East Orange, N. J., Alumni secretary; Sidney D. Pinney, Jr. (Amherst '47) of Wethersfield, Conn., treasurer; James T. Rhind (Ohio State '44) of Columbus, Ohio, member-at-large; and Edward H. Kurth (U.S.M.A. '39) of Cambridge, Mass., member-at-large.

The newly elected board of governors will be installed tonight at a formal banquet at the Hotel Commander. Roscoe Pound will be guest speaker. Among the guests of honor will be John R. Quarles, LL.B. '27, of Ropes, Gray, Best, Coolidge and Rugg, first president of the Chancery Club.

DORMS—(Continued)

naires further indicated a wide disagreement on the matter of fluorescent desk lamps. One suggestion was for the University to acquire a stock of such lamps and rent them out to those students who like them.

One important suggestion noted on the questionnaires was that connecting doorways might be put in so as to form large suites. This suggestion is now under study. A further decision was taken not to standardize the color scheme but to paint the walls of the various rooms in different colors.

Present plans also call for the common rooms to be separated from the halls by translucent glass and for the dining hall to be so constructed that part of it can be blocked off as a separate grill room to be open in the evenings and to serve as a downstairs lounge.

SUPERLEX—(Continued)

closing all the undisclosed principals who have plagued agency law for generations. It is even reported in one of our books that he succeeded in keeping perpetuities in a nutshell after they had once been placed therein.

After cautioning all the little children to keep away from attractive nuisances, your reporter told them that they'd get a complete set of Best's junior reports for Christmas. As the children left to rejoin their parents, one was heard to cry out: "It's a Judge! It's a Justice! It's SUPERLEX."

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N. Y. C. Placement Report Sees Return Of Normal Activity

Mr. Asher Ruch, LL.B. '48, the new head of the New York City Placement Office replacing Mr. R. Donald Reich, has issued a report for the month of February.

Of the three 1948 graduating classes, there are still 23 men actively seeking employment and 21 additional men in the inactive files. The latter group is composed of men who have not contacted the Office during the month, most of whom do not reside in New York. Of the January 1949 class there are 28 men on the active list, giving a total of 51 men now seeking employment there.

There are 12 openings currently on file as available to recent graduates, half of which developed during the month of February.

In addition, 12 recent graduates were placed in positions during the month, as was one experienced graduate. This figure includes only those men who had previously registered with the Placement Office and who are now working.

LETTER—(Continued)

quate. Classroom time should be devoted to the training of minds capable of applying factual knowledge to new and original problems.

The proposed printed lecture should not contain abstracts of the cases. Learning to read cases rapidly and accurately and learning to recite orally their facts and holdings are essential aspects of legal education. Their importance is not minimized by the proposed change.

The above suggestion it seems to me is quite in line with the tradition of teaching in the grand manner by virtue of which the Harvard Law School has trained generations of fine lawyers.

Sincerely,
RICHARD H. BROWN, 7L.

NEWS BRIEFS—(Continued)

YOUNG REPUBLICANS

The next meeting of the H.Y.R.C. will be held tomorrow at 8 p.m. in the Winthrop Junior Common Room. Representatives from the Mass. A.F.L. League for Political Education will discuss *What Organized Labor Wants From the Republican Party*.

WORLD LAW GROUP

Professor Arthur N. Holcombe of the Faculty of Arts and Sciences of Harvard University addressed the World Law Group of the Law School last Tuesday on the *Political Scientist's Approach to the Declaration of Human Rights*.

Professor Holcombe thought that the Declaration may be too ambitious in view of the current world political situation to succeed in its present attempt to adjust the legal relations between the individual and his own government. A more practical approach, he said, would be to formulate a covenant, which would determine and regulate the legal relations between the individual and the international community as represented by the United Nations.

At the next meeting Professor Harold Berman will speak on the Soviet attitude toward the Declaration of Human Rights. It will take place on Tuesday, March 15, at the Bella Vista Restaurant, at 1 p.m.

Those wishing to attend, should contact William Condrell, PO 7-8388; Bernard Hyatt, UN 4-3109; Paul Monnory, Jim Peabody or William Rayhill.

AMES AWAY

The John Marshall College of Law in Jersey City, N. J., has invited a group of four Harvard Law students to conduct an Ames argument as an exhibition at their school. The Court will consist of three Harvard Law School graduates. Expenses will be paid. The argument will be held on March 18, 19, 25, or 26 at the students' convenience. Any two teams now scheduled to argue against each other in the Ames Competition, Third Series, are eligible to participate. Those interested will please contact George Schmidt at the Board of Student Advisers, immediately.

HOLMES—(Continued)

eign authors in their native tongues. On numerous occasions he made notes using the language of the author to retain the real flavor of what he had read. His acute sensitivity in the literary vein was proved by his reading and tempered approval of Freud in 1915, many years before the master of modern psychology became renowned in the United States.

He read the works of Marcel Proust in French in 1920, and it was not until the late '20s that Proust scaled the heights of intellectual acceptance in this country. In a letter to Sir Frederick Pollock, written on August 25, 1920, Holmes said of Proust, "He is all there on the nuances of feeling and has a little talk about music that makes me wish I could hear him expound a sonata."

Long before the translation was released to the American public, Holmes had read much of the work of Spengler in the original German. Writing of Spengler's totalitarian concepts expounded in his *Decline Of The West*, Holmes called it, "an odious animal who must be read," and of Spengler, "He has as swelled a head as man can have and live, but the beast has ideas . . . I wish he were dead."

After his retirement from the Supreme Court, Holmes turned to lighter reading materials, for the most part. He still managed to read much more than the average man's share of such authors as Spinoza, Laski and Santayana, but the names of S. S. Van Dine, Agatha Christie, Mary Roberts Rhinehart, E. Phillips Oppenheim, P. G. Wodehouse and A. Conan Doyle turned up much more than they had in the previous years when he was a member of the bench.

During his last years a great many of the books listed were read to him by his wife while he sat and played solitaire. After her death in 1929, his secretaries, including both Alger and Donald Hiss, continued this practice.

In determining just what manner of man Holmes really was, a general reflection on his reading tastes would have to be made. An investigation of the *Black Book* points out his insatiable appetite for all forms of philosophic literature, ranging from abstract treatises on psychology, philosophy and law to novels concerning people and why they act as they do. In a letter to Pollock, dated May 26, 1919, Holmes said, "I hate facts. I always say the chief end of man is to form general propositions—adding that no general proposition is worth a

damn. Of course, a general proposition is simply a string for the facts and I have little doubt that it would be good for my immortal soul to plunge into them, good also for the performance of my duties, but I shrink from the bore—or rather I hate to give up the chance to read this and that, that a gentleman should have read before he dies."

With Holmes' typical admiration for the subtly dramatic, it is interesting to note that the very last book read and recorded by the "Yankee from Olympus" was Thornton Wilder's *Heaven Is My Destination*.

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