

The Harvard Law School Record

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PRICE TEN CENTS

Dean Griswold Thanks Students

To the Students of the Harvard Law School,

Almost a thousand of you have subscribed \$27,327.50 to the Harvard Law School Fund. I want to take this means, through the RECORD, to extend thanks on behalf of the School to every donor.

I would like to send an individual letter to each one of you, as I have done to alumni and others who have subscribed to the Fund. But there are so many of you, and I did not think that you would want to receive just a form letter. So, through the kindness of the RECORD, I am taking this opportunity to give you thanks and appreciation for your generous support of the Fund.

Subscriptions from the student body and the Faculty total more than \$55,000 from those now at the School. This seems to me to be a remarkably fine expression of faith in our enterprise, and I hope that it will prove a stimulus to others to give to the Fund.

The School is made up of many elements—the buildings and books, the traditions and standards of the past, and all the people connected with the School, alumni, students, and Faculty. It is a great enterprise, with a great opportunity and a large responsibility. The success of the undertaking depends upon the active cooperation of many persons. That almost a thousand of you have joined with us not merely in your studies but in these subscriptions to the Fund is an expression of faith in the School and its work and its future which is most encouraging.

On behalf of my colleagues on the Faculty, and for the School as a whole, I send very real thanks to each of you.

Faithfully yours,

Erwin N. Griswold, Dean

NEWS IN BRIEF

BOARD ALUMNI

The Board of Student Advisors is anxious to complete its lists of Board members for the years 1910 through 1923. Any alumni who were members of the Board for those years or who know of fellow alumni who were Board members are asked to drop a card with such names to the Board of Student Advisors, Austin Hall, Cambridge 38, Mass.

PUBLISH STUDENT ARTICLE

Theodore Propp (C.C.N.Y. '43), 3L, of New York City has written an article on *Depreciation of Buildings Held in Testamentary Trusts* which appears in the March issue of the *New York Certified Public Accountant*. Mr. Propp wrote the article last term as the major undertaking of his work in the Legal Research Program. It concerns a problem of fiduciary accounting, and consists of an analysis of the New York "general rule" which forbids a deduction for depreciation of buildings in the computation of trust income.

LAWYERS GUILD

The Harvard Chapter of the National Lawyers' Guild announces the election of new officers for the coming year. Melville B. Nimmer, 2L (Calif. '47) of Los Angeles, Calif., was elected president; Alan F. Westin, 1L (Fla. '48) of Miami Beach, Fla., vice-president; Lawrence D. Shubow, 1L (Harvard '44) of Dorchester, Mass., secretary, and Leonard W. Schroeter, 1L (Chicago '48) of St. Petersburg, Fla., treasurer.

The Guild is now opening membership.

(Continued on page three)

Press And Air Censorship Is Forum Theme

Mauldin, Capp, Mullins, McDonald To Discuss Sponsor Interference

Al Capp, Bill Mauldin, Irving T. McDonald and William E. Mullins will discuss the question, *Does Sponsorship Mean Censorship?* at the Harvard Law School Forum this Friday, 8 p. m., in Rindge Tech auditorium. Professor Robert Braucher of the Law School will act as moderator.

Mr. Capp is the creator of *L'il Abner* and the *Schmoo* and is a member of the Boston Museum of Fine Arts. Last summer he acted as guest radio commentator, replacing Drew Pearson who was on vacation. He is expected to criticize the radio industry in general.

Bill Mauldin, a former editor of *Stars and Stripes* and 1944 Pulitzer Prize winner, is the author of *Up Front, Back Home* and of several other illustrated volumes. Following the war he was a syndicated cartoonist and was recently a cartoonist for the *New York Star*. At present he is doing a series of cartoons and columns, comparing the present army with the army during the war years. He is expected to criticize the American press and attack the effect of advertising pressure on editorial and news writers.

Mr. McDonald, news analyst for Boston Edison on radio station WEEI, will defend a number of aspects of the radio industry and will describe his own experiences regarding sponsorship. He has served at various times as teacher, sailor, dean of dramatics at Holy Cross, theater executive and movie commentator.

Mr. Mullins, political editor of *The Boston Herald*, will defend the newspaper industry. He is a frequent contributor of articles and research to national periodicals. As a radio broadcaster and analyst for all election broadcasts, it is expected that Mr. Mullins will also contribute to the discussion of radio.

The program was arranged on the inspiration of Al Capp. Last summer as substitute commentator for Drew Pearson who was on vacation, Mr. Capp had difficulty in expressing his views over the air without censorship.

(Continued on page three)

Smith Speaks Today On Uniform Divorce Laws

Reginald Heber Smith, LL.B. '14 Chairman of the President's Conference on American Family Life, will speak at 4:25 this afternoon in the courtroom of Langdell Hall on *Uniform Divorce Law*.

This lecture is one of the series of conferences on legal topics which are currently being sponsored by the Harvard Law School Forum.

In the lecture Smith, who has been Treasurer of the Harvard Law School Association for the past 28 years, will discuss the various states' attitudes towards divorce and analyze proposed uniform legislation in this field.

Smith, the senior partner in the Boston firm of Hale & Daw, is active in bar association work, and serves as one of eight Editors of the *American Bar Association Journal* and as Secretary of the American Bar Association Committee on Peace and Law through the United Nations.

He is the author of the book *Justice and the Poor* which is considered an authoritative treatise in this special field of law reform.

Shortly after his graduation from the Harvard Law School, Smith was for a time General Counsel of the Boston Legal Aid Society.

Weygandt, Fuld, Duncan Will Judge Labor Case In Ames Final Argument



STANLEY H. FULD



CARL V. WEYGANDT



LAURENCE I. DUNCAN

The chief justice of the Supreme Court of Ohio and judges of the highest courts of the states of New York and New Hampshire will comprise the court which will hear the final argument of the Ames Competition between the Choate and Mentschikoff Clubs next Wednesday night. The Honorable Carl V. Weygandt, LL.B. Western Reserve '18, of the Ohio Supreme Court will act as Chief Justice, and the Hon. Stanley H. Fuld, LL.B. Columbia '26, of the New York Court of Appeals and the Hon. Laurence I. Duncan, LL.B. '30, of the Supreme Court of New Hampshire will act as associate justices. The case to be argued, *Fredericks Brothers v. Local 208 et al*, deals with the interpretation of a state Norris-La-

Decision In Van Waters Hearing Shows Need Of Changes In Penal Legislation

The decision of the Governor's Commission, of which Dean Erwin N. Griswold was chairman, to reinstate Dr. Miriam Van Waters to her post as superintendent of the Reformatory for Women at Framingham, culminated a series of two public hearings beginning on January 11, 1949. In addition to the interesting procedural questions raised, the hearings involve an unusual background and a perplexing question as to the motives behind the prosecution. Supporters of Dr. Van Waters have made accusations of personal animosity of the prosecutors towards the accused, which

are slightly hinted at in the Commission's opinion. But these accusations formed no material part of the hearing before the impartial Commission, which resolved the appeal on a factual background something like this.

Dr. Miriam Van Waters, a noted penologist, succeeded Mrs. Jessie D. Hodder in 1932 as superintendent of the Reformatory for Women. Mrs. Hodder, who had been superintendent since 1911, had an outstanding reputation as a progressive penologist, and Dr. Van Waters continued this tradition, putting emphasis on rehabilitation rather than punishment. In February, 1948, when Commissioner McDowell took office, he appointed Deputy Commissioner Frank A. Dwyer to make an investigation of the reformatory for the purpose, according to some newspaper accounts, of examining into the death of an inmate which had occurred in November, 1947. After his investigation, Dwyer submitted to McDowell a report on the institution at Framingham, which made charges of maladministration and rampant homosexual activities uncontrolled by reformatory authorities. This report resulted in an investigation by a legislative commission and a letter on January 7, 1948, from McDowell to Dr. Van Waters informing her of her removal and stating 27 reasons for this action.

Before 1946, the commissioner of correction could have removed Dr. Van Waters, and that would have been the end of it. Chapter 125, Section 2 of the General Laws of Massachusetts (Ter. Ed.) provided that the superintendent of the Reformatory for Women shall be appointed by the commissioner of correction and "hold office at his pleasure."

In 1946, Chapter 30 was amended by Section 9B which was entitled, *Protecting Certain Public Officers and Employees of the Commonwealth against Arbitrary Removal*. This section included persons employed under the Department of Correction and not holding civil service positions, and provided that such persons may not be removed after six months of satisfactory service "except for just cause and for reasons specifically given him in writing at least seventy-two hours prior to such removal." Section 9B then allows the person sought to be removed a hearing if he requests one in writing, to be public or private as requested. The section provides that the hearing will be "by the appointing authority whose action affected him as aforesaid" clearly indicating that the legislature intended the firing

(Continued on page four)

Guardia Act, and its application to an effort to enjoin the picketing of self-employed plumbers. The case also raises the question whether the free speech amendment to the U. S. Constitution protects this type of picketing.

The plaintiff plumbers are represented by the Mentschikoff Club. The oral arguments for the plaintiff will be presented by Milton A. Dauber (N. Y. U. '47), and Rhodes G. Lockwood (Williams '41). Of counsel on the brief are Sean Flavin (Stanford '46), A. Linwood Holton, Jr. (Wash. & Lee '44), Herbert Katcher (N. Y. U. '45), Gabriel B. Schwartz (N. Y. U. '47), Jerome J. Shestack (U. of Pa. '43), and Donald D. Webster (U. of Va. '42).

Oral counsel for the Choate Club, (Continued on page three)

Miscegenation Case Listed For Quarter-Finals On Tuesday

The Powell and Pitney Clubs will argue the case of *United States v. Glen Berry* in their quarter-final argument in the Ames Competition next Tuesday night, March 29.

Oral counsel for the Powell Club, representing the United States will be Wm. J. Holloway, Jr. (Okla. '47), and James C. Gibbens (Yale '47). Mr. Holloway received a grade of 80 on his oral argument, the highest grade given to any oralist in last term's qualifying round. Of counsel for the brief are Joseph E. Bare, Jr. (Rochester '47), Charles F. Harrington (Rochester '47), Frank A. Howard (U. of Miami, Fla. '47), Duncan E. Lennon (Illinois '42), Alfred M. Naff (U. of South '47), and Burton C. Wood (Okla. '47).

Representing the defendant will be the Pitney Club, whose oral counsel will be Robert E. Bradney (Illinois College '47) and James T. Rhind (Ohio State '44). Counsel on the brief are Harold K. Fish (Rutgers '47), Richard C. Johnson (Dartmouth '47), Richard G. Kleindienst (Harvard '47), John G. Kristensen (Ursinus '47), Julius A. McIntosh (Cornell '47), and Sidney D. Pinney, Jr. (Amherst '47).

The argument will deal with the question of whether a state official may be indicted under the Federal Civil Rights Act for enforcing a state miscegenation statute. The most recent case concerning the constitutionality of a state miscegenation statute under the United States Constitution is *Perez v. Lippold*, 198 P. 17 (Calif. 1948). The question of the intent required was discussed by

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The Harvard Law School Record

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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.

Letters to the Editor

To the Editor of the RECORD:

Reading Mr. Justice Frankfurter's letter to you in the March 16 issue of the RECORD reminds me of a conversation I had with him one evening in my Senior year there on the subway between Cambridge and Boston. Mr. Frankfurter asked me where I intended to practice law. I told him a certain southern city. He asked me about this city. I told him that it was an aristocratic place, and that I might find it hard as a newcomer to get established. His reply was, "Oh, the thing to do about that is to establish an aristocracy of your own."

W. WRIGHT ABBOT, LL.B. '16,
Louisville, Ga.

To the Editor of the RECORD:

A suggestion which might stimulate the interest of and participation by alumni — invite the alumni subscribers to contribute interesting situations they meet in their private practice. It seems to me that this would make exceptionally interesting reading, both for students and for other alumni.

I want you to know that I very much enjoy reading the RECORD and put everything else aside when it arrives. You are doing more than any other single medium to keep alive the interest of the alumni in the Law School.

ROBERT C. BARAB, LL.B. '40,
Wilmington, Del.

(The RECORD invites contributions from alumni readers according to Mr. Barab's suggestion.—Ed.)

To the Editor of the RECORD:

With reference to the *Superlex* article in the RECORD of the 16th, it is possible that the enclosed is one of the reports included in "Rep. Jr. In re Goldilocks' Trespasses, q.c.c.f.?" I had supposed that I was the author . . .

Tresspass for Twilight

or

How a Law Professor Tells his Children the Story of the Three Bears

Once upon a time (the exact date is not known, but it is not likely to be put in issue, since the memory of man runneth not to the contrary), a little girl (about whose parentage there is no issue and who will be presumed therefore to be legitimate) named Goldilocks wanted to visit her grandmother (whether paternal or maternal is immaterial) who lived on the other side of the forest (the exact location of which may be determined by metes and bounds by consulting the records of the Registry of Deeds in the county in which the said premises are located.) Little Goldilocks was given permission by her parents. Throughout this narrative the parents will be presumed to be reasonable and prudent parents because they warned little Goldilocks of all known and foreseeable dangers and instructed her to be guided accordingly.

When little Goldilocks was perambulating the perimeter of the forest, she was attracted by a single dwelling of unusual construction set back from the highway in a manner which conformed exactly to the zoning regulations lawfully enacted and promulgated. This was not, as you will note, an attractive nuisance since the object

was one with which all children are familiar and the dangers of which, if any, are obvious.

Disregarding the instructions of her prudent parents, she entered the land by crossing over the imaginary white fence which Blackstone says surrounds each parcel of realty. For this she became guilty of trespass quare clausum fregit pedibus ambulando. Knocking at the door and receiving no reply, she turned the knob, gave a good push and entered. This, as you know, was trespass quare clausum fregit vi et armis.

She saw on the table three bowls of porridge. The first was too hot and the second was too cold. The third was just right so she ate it all up. This was trespass de bonis asportatis.

Inside the house she spied three chairs. She sat in the big chair, which belonged quite obviously to the Daddy bear, but it was too hard. (Since she did no harm this could be no trespass.) The medium sized chair was too soft, so she sat in the little chair, which, she assumed, belonged to the baby bear. Since her weight exceeded the capacity of the chair, she broke it all down. Harm being done, she committed an ordinary trespass to personal property.

By that time little Goldilocks was tired. She found a bedroom with three beds. She tried the first and found it too hard, the second was too soft but the third was just right. So she lay down in the third, or baby bear's bed, and soon was fast asleep. It is not so easy to tell what kind of a wrong this happens to be, and it may well be that on this point there are two schools of thought. It is not however trespass quare clausum fregit vi et armis ab initio since this misfeasance did not follow an entry under license of law.

While she was fast asleep, the proprietors of the premises returned. Angered and aroused at the torts and trespasses they sought out the tortfeasor. Baby Bear found her in his own little bed and raised a hue and cry. Just then little Goldilocks woke up, realized her predicament and ran home as fast as she could with the three bears in fresh and hot pursuit. She got home just in time to slam the door in the faces of three angry bears. It is a good thing she did too because now we do not have to decide if a bear can be guilty of assault and battery.

And now I think it would be a good idea for you to go to sleep before you make the discovery, made by judges in the courts before which I practiced, once upon a time, that most of what I have to say is incompetent, irrelevant and immaterial.

EDWARD A. HOGAN, JR., LL.M. '35,
Dean, School of Law
University of San Francisco

Off the Record

Practical Thoughts Aroused By Bailey Aldrich's Poetry?

You stay up nights, you can't be lazy
You drive your secretary crazy;
You don't have time, you don't eat lunch
On chocolate bars you can only munch;
You're such a stranger to your children
When you do come home it's quite bewildering;
You let the case so rule your life
You find yourself without a wife;
You go to trial, be it crime or tort
You're always in contempt of court.
You sweat and strain and what do you get
Colitis, arthritis or ulcers yet;
At last you're through and your client's free.
You really work to collect your fee.

ALBERT J. SCHMALHOLZ, LL.B. '32

Skills In The Classroom

One of our classmates who attends classes told us of a recent incident in his class. It appears that one of the students asked the professor a question on some odd point of law rather unrelated to the discussion. Immediately the professor launched into a comprehensive, analytical answer. He traced the law on the subject from the early English precedents which he cited by volume and page number to the latest case in the Superior Courts of Pennsylvania. He even cited a point in the *Maine Law Review* of some 20 years ago. Naturally the class was much impressed by this learned and brilliant exhibition.

Our "enlightened skepticism" led us to a bit of investigation into this classroom incident. Upon close questioning of a number of students in the class we learned that the question had only been about two-thirds asked by the student before the professor began his answer. On further investigation we learned that no one in the class had ever before seen the "student" questioner. We then checked with a few alumni friends and discovered that the same kind of incident had occurred and impressed them when they had taken the course with the same professor. After searching their memory they also recalled that the same question had been asked and that the "student" who asked the question was not known to anyone in the class. Apparently this has been going on for some 15 years.

Gallery

ROBERT PORTER PATTERSON

Lawyer — Jurist — Soldier



A short erect man stepped briskly through the reception room of Patterson, Belknap and Webb. He nodded a friendly "good morning" to a young clerk, turned to this reporter and asked him into his office. He sat behind his desk and began to talk in an unexpectedly deep voice. The square jaw, drawn cheeks, balding head and the small frame wrapped securely in a single-breasted coat buttoned top to bottom gave an impression of compactness and efficiency. This somewhat austere appearance was supplemented by a warm smile and easy friendliness.

As Robert Patterson unfolded the story of his life, two themes became evident: the major theme of the successful lawyer and eminent jurist, and the minor theme of the soldier. Twice within 25 years he was to leave the legal world and enter the military; the first time to serve in the ranks and the second time to serve in the high echelons of the civil administration of the largest army in history.

Robert Patterson was born in 1891 in Glens Falls, New York. After having attended the local schools he went to Union College where he was elected to Phi Beta Kappa. He graduated in 1912 and came to Harvard Law School. He was elected to the *Review* in his second year and became president in his third. He was also marshal of his class.

After graduating in 1915 he started clerking in a New York law office. This was soon interrupted when in 1916 he was called as a member of the National Guard to serve six months of active duty as a private in the infantry. During this time he was stationed in Texas to help guard the Mexican border. This was in many ways an important period in Mr. Patterson's life. As he said, "Although the life was dull, I learned some things that were very valuable. I learned that the life of the private is a life of hard labor. It gave me a feeling for the man who has the lot of the private. That is something I never got over." Shortly after end of his stint in Texas, the United States was at war with Germany. Robert Patterson became a "90-day wonder" was commissioned captain in the infantry and was sent to the front in France. He distinguished himself by winning the Distinguished Service Cross, Purple Heart and Silver Star. His service in France gave him an opportunity to evaluate the German as well as the American soldier. "The German is a very stout fighting man. It will not do to underestimate him. He is a dangerous enemy. But I think the American soldier is, of course, the greatest soldier in the world. He has self-reliance, a sense of humor, and a sense of personal responsibility and loyalty to the men around him. He will not let his fellows down. He fights for immediate objectives, for his company, his comrades; those are very near to him."

He went on to talk about the infantry. He spoke in a tone of sincerity, almost fatherly anxiety. "I think the people at home don't know what an infantry soldier has to take. The infantry suffers the highest rate of casualties. They are in close combat with the enemy. It's a hard life. Only young men in their prime can stand it. I'm a little sentimental about the infantry; they certainly take the gaff."

The Armistice marked the end of this phase in Patterson's life. He returned to New York and there started practice with the firm of Root, Clark, Buckner and Howland. In 1922 he helped establish the firm of Webb and Patterson. He carried on a general practice until 1930 when he was appointed to the Federal District Court for the Southern District of New York. In 1939 he moved up to the Court

Sub Judice

IS WRESTLING RISKY?

Klausa had a front row seat at a wrestling bout staged on the fair grounds of the Nebraska State Fair under the authority of the Nebraska State Board of Agriculture. Dusek, who was battling Kuusisto, made a flying tackle at Kuusisto, missed him, and struck Elmer Snodgrass, the referee, knocking him out of ring into Klausa's lap. Klausa sued the Nebraska State Board of Agriculture and all the participants in the exhibition to recover damages for the injuries he sustained. One of the issues involved was whether Klausa had assumed the risk or had been contributorily negligent. The trial court submitted this question to the jury and a verdict for the defendants was returned. Klausa appealed, claiming as one of the errors of his assignment that where there is no evidence of contributory negligence or assumption of risk, it is error for the trial court to submit the question to the jury. *Held*: Reversed and remanded. The court found that there was no evidence of contributory negligence or assumption of risk. "All that Klausa did," said the court, "was to sit in the seat to which his ticket entitled him. . . . He did not move from his place until after he had received his injury. There is nothing to indicate that he was in a place known to him to be dangerous." Klausa could have been contributorily negligent, according to the court, if the incident which caused his injury was a common occurrence at wrestling exhibitions, but the court said, "There is nothing to indicate that flying tackles by participants, the effect of which is to knock referees into the laps of spectators, is a characteristic of wrestling, or if it is, that under the circumstances of this case it could have been avoided in the exercise of care by the plaintiff. While it is shown that participants and referees often get out of the ring, yet it is not shown that a known characteristic of such a departure from the regular wrestling precincts is the knocking of the referee into the laps of the spectators."—*Klausa v. Nebraska State Board of Agriculture*, 35 N.W. 2d (Nebraska 1948).

of Appeals for the Second Circuit. He found the work on both of these important courts very stimulating. The work became tedious only when he was confronted by a verbose advocate or an unnecessarily long brief. Mr. Patterson gave the following advice. "Brevity is the key. The greatest blunder that lawyers commit is undue prolixity. The prime elements of a case are very simple or can be reduced to very simple points. The most successful lawyer in court is he who presents the main points clearly and succinctly. The same goes for briefs. The tendency of lawyers is to make them too long. When they do so the judge's interest flags."

In July, 1940, in response to President Roosevelt's urgent call, Robert Patterson left the Circuit Court to become Assistant Secretary of War under Stimson. This decision, made in a spirit of public service, must have entailed considerable self-sacrifice. It meant leaving the secure, comparatively peaceful life of the judge, a life in which he had become engrossed, only to step into the top ranks of a rapidly expanding, crucially important department in frenzied, pre-war Washington. Mr. Patterson moved up shortly to the newly created post of Under Secretary of War in 1940 where he remained until 1945. In that year he became Secretary of War. It was in 1947 that Mr. Patterson left the War Department to return to the practice of law in New York.

Mr. Patterson's legal training and his experience in the army and in the War Department more than qualify him as a commentator on military justice. He spoke emphatically about the system of army courts martial. "Many of the critics overlook the place of military justice in the army or the navy. An army is organized to win victory in war and the organization must be one that will bring success in combat. That means singleness of command and the responsibility of the field commander for everything that goes on in the field. The army has other functions such as feeding, medical care and justice, but they are subordinate. You cannot organize an army to carry out those functions principally. And when critics say that you ought to have a completely independent judiciary, they overlook the primary purpose of the army, namely safeguarding the nation and winning the war."

Now only 52, Robert Patterson has rendered to the nation services which many statesmen do not render in a lifetime. In the future he will undoubtedly be called on again and will acquit himself in as distinguished a manner as he has in the past. Harvard Law School and the legal profession may well number him among their most eminent representatives.

F. R.

Alumni Notes

LL.B. '29—James E. Newton, who since 1936 has been assistant to Day Karr, administrator of the regional office of the Securities and Exchange Commission in Seattle, will succeed Karr when the latter retires on March 1. The Seattle regional office covers activities in Washington, Oregon, Idaho, Montana and Alaska.

LL.B. '38—Philip C. Scott has become a member of the law firm of Root, Ballantine, Harlan, Bushby & Palmer, 31 Nassau St., New York City.

LL.B. '39—W. Harvey Small has been appointed general attorney of the Western Maryland Railway. William C. Purcell LL.B. '27, is vice-president and general counsel of the railway.

LL.B. '41—The law firm of Bannister, Carpenter and Ahlers has announced the admission of James E. Cooney, as a partner. The firm will continue the general practice of law at 1012-1020 Bankers Trust Building, Des Moines, Ia., under the title of Bannister, Carpenter, Ahlers & Cooney.

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AUTOMATIC ELECTRONIC ALIGNMENT

QUARTER-FINALS—(Cont.)

the Supreme Court in *Screws v. United States*, 325 U. S. 91, 88. L. Ed. 1495, 65 S. Ct. 1031.

Judges for this argument will be the Honorable Simon H. Rifkind, LL.B. Columbia '25, of the U. S. District Court, Southern District of New York, chief justice; and Benjamin Levin, LL.B. '23, and Ralph G. Boyd, LL.B. '25, both of Boston.

JOBS—(Continued)

a number of small offices have been known to take summer help in prewar days. The only sure method of approach is through general canvassing of the offices.

Placement Office information shows that while a number of firms consider summer employment an advantage for the student, many other offices and lawyers question the merits of such work. They base this view on the ground that summer legal activity is light, thus giving a distorted picture of practice, as well as on the ground that a vacation from law work may never come after graduation so that students should take advantage of today's chance.

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FORUM—(Continued)



BILL MAULDIN

Tickets for this Forum will be available until 5 p. m. Friday at Gannett House and will also be on sale for 60 cents at the door.

FINALS—(Continued)

arguing for the union will be George E. Lee (Talladega '42) and George J. Zazas (Harvard '47). Counsel on the brief are Robert A. Goldman (U. of Cincinnati), Daniel D. Haber (Brooklyn '42), Jean C. Hiestand (Wesleyan '46), Marcel S. Kistin (Wisconsin '35), Grover W. Radley (Colgate '37), and William R. Van Gemert (Harvard '44).

Chief Justice Weygandt was born in Wayne County, Ohio in 1888. He received his Ph.B. from Wooster College in 1912 and his LL.B. from Western Reserve in 1918. He practiced law in Cleveland after graduation until 1920 when he was elected to the state legislature. He was elected to the Court of Common Pleas of Cuyahoga County in 1924 and occupied that office until 1930 when he moved up to the Court of Appeals of Ohio. He was elected Chief Justice of the Supreme Court of Ohio in 1933 and is now serving his third six-year term in that office. His record on the Supreme Court has been such that Chief Justice Weygandt has received little opposition in running for re-election. The Chief Justice was dean of the Lake Erie School of Law for a short time and holds Doctor of Laws degrees from a number of universities.

Judge Fuld was graduated from City College of New York in 1923 and received his LL.B. from Columbia in 1926. He served as Assistant District Attorney of New York County and as Special Assistant Attorney General of New York State before his appointment to the New York Court of Appeals in 1946.

Judge Duncan, a graduate of Dartmouth, received his LL.B. from Harvard Law School in 1930. He practiced law in Concord, New Hampshire, and was a delegate to the New Hampshire Constitutional Convention in 1938. Judge Duncan received his appointment to the Supreme Court of New Hampshire in 1946.

NEWS BRIEFS—(Continued)

ship to all second and first-year men. Those interested may get further information at either the next Guild luncheon (to be announced next week), the Civil Liberties Seminar, or by calling TR 6-0623. All third-year members who have not as yet applied to the Guild job placement service are requested to contact Martin Tucker at EL 4-7474.

The next seminar in the Civil Liberties series will be held next Tuesday at 2 p. m. in Langdell North. At that time Mr. Louis Sohn will speak on the United Nations Declaration of Human

Rights. All students are invited to attend.

BERMAN

Soviet criticism of the United Nations Declaration of Human Rights is directed chiefly to the "abstract" and "formal" character of the Declaration, and particularly to its failure to provide for "social-economic guarantees" of the various rights proclaimed. Visiting Professor Harold J. Berman told the World Law Group at its luncheon meeting on Tuesday, March 15.

Comparing the Declaration with the Soviet Constitution, Professor Berman indicated that the Soviet emphasis is on social security and racial equality. While freedom of speech and press and assembly is also declared in the Soviet Constitution, these freedoms are explicitly limited "in conformity with the interests of the working people, and in order to strengthen the socialist system." The Soviet delegates to the Commission on Human Rights carried this basic philosophy to the international sphere, as exemplified particularly in their proposed prohibition of all fascist propaganda.

The Russians should perhaps have been taken up on their proposal to prohibit all racial, religious and national

propaganda constituting a call to violence, Professor Berman suggested, and a counter-proposal made by us that class propaganda be included within the prohibition.

NEW DORMITORIES

The Law School Committee on Building reports that the revised distribution of rooms in the new Graduate Center Law School Dormitories calls for the accommodation of 146 students in 73 two-room double suites and of 80 students in 40 one-room curtained doubles. In addition there will be 160 single rooms. Adding to these numbers the 204 men who will be accommodated in double suites in Walter Hastings and the 9 single rooms in that dormitory gives the following percentage distribution:

Two-room double suites: 50%
One-room curtained doubles: 34%
Single rooms: 16%

ERRATUM

Last week, the RECORD incorrectly stated that the Brandeis Club would argue against the Cardozo Club in the quarter-finals Ames round scheduled for April 15. The club opposing the Cardozo Club is the Morgan Club.



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Calendar

LEGAL WORLD First-Year Students

Students entering the second year in September, 1949, will be assigned to a specific section and will be notified of the section at the time a preliminary registration is held in May.

Any students who wish to continue in study groups during the second year and be assigned to the same section may leave their names, in writing, with the Receptionist not later than April 23.

Kings Bench

A Hobo Hangover Dance will be given by the King's Bench at Memorial Hall, Friday evening from 8:30 p. m. to 1 a. m. A fine will be imposed on all who do not turn up in old and tattered clothes. Members may bring guests. Setups will be available, but bring your own bottle.

Law Wives

Dr. Earl H. Ballou, recently returned from thirty years in China, and who is intimately acquainted with the plagues, problems, wars and politics of the Far East will speak at the regular Wednesday meeting of the Law Wives. The meeting is open to all students of the Law School. Kendall House, 8 p.m. sharp.

UNIVERSITY WORLD

Sunday Services

The Rt. Rev. Henry K. Sherrill, Presiding Bishop, Protestant Episcopal Church, will conduct services next Sunday at Memorial Church at 11 a. m.

Monty Woolley

The Harvard Dramatic Club announces that tickets for *The Man Who Came to Dinner* with Monty Woolley will go on sale today at the Coop and PBH for performances on April 13 through April 23.

VAN WATERS—(Continued)

official to sit as judge. After this hearing, if the person removed so requests in writing, "he shall be given a hearing before an impartial commission of three members to be appointed by the governor. . . . The impartial commission of three shall have full authority to affirm or reverse the decision of the appointing authority by a majority vote of said commission." Section 9B in addition provides that the decision of the commission is to be final and conclusive among the parties and "if the removal is found to be without just cause, the employee shall be reinstated without loss of compensation."

The hearing before Commissioner of Correction McDowell took 18 days, filled 2,257 pages of evidence and produced 285 exhibits. It was cumbersome and at times assumed the atmosphere of a scene from Dickens. Untrained in legal procedure, McDowell presided uneasily, sincerely attempting to preserve an impartial attitude, but requiring often the whispered legal advice from Assistant Attorney General Rowell who sat beside him, while the audience alternatively applauded, booed or hissed.

In the hearing before Dean Griswold, Mrs. Caroline J. Putnam and Assistant District Attorney Robert G. Clark, Jr., the Commission appointed by Governor Dever, the proceedings at once took on the decorum of a legal action. Dean Griswold held the respect of the audience that attended the hearings to such an extent that a ripple of laughter was quieted by a slight raising of his hand. A possible aid to the dignity of the second hearing was the impressive atmosphere of the Court Room in Langdell Hall, which was used for the last few

sessions, and for the first time in its history as the scene of an actual legal battle (with all apologies to *Poindexter v. Prosser*). The efficiency of the second hearing resulted in its completion within 10 days, producing 987 pages of evidence and 107 exhibits.

De Novo Hearing

The Commission appointed by Governor Dever conducted a hearing *de novo*, and made no use of the record of the previous hearing except for certain stipulated facts. The function of the Com-



DEAN ERWIN N. GRISWOLD

mission was to determine whether there was "just cause" for the removal of Dr. Van Waters "for the reasons specifically given her in writing." McDowell's 27 charges were resolved by the Commission into 10. These were: Visits by inmates outside the institution; Private manufacture within the institution; Homosexuality in the institution; Use of keys by inmates; Failure to comply with Commissioner McDowell's June directive; Employment of prior inmates of the reformatory; Illegal indenture contracts; Failure to provide officer personnel; Assignment of employees contrary to classification, and Child placement work violations.

In the Commission's opinion, Dean Griswold said that the words "just cause" were not too precise "and appear to leave the Commission considerable room for the exercise of its judgment." Since McDowell did not question "the reputation, character or veracity" of Dr. Van Waters, Dean Griswold went on to say that the issue of just cause became significantly narrowed. Holding that "it is clear that an irregularity in administration or error in judgment, made in good faith, is not a proper basis for removal," the Commission in determining the issue of just cause took into consideration Dr. Van Waters' ability as a penologist, the approval of her prior commissioners and the applicability of archaic statutory provisions in the light of modern understanding and progress. The Commission concluded unanimously on March 11, 1949, that there was not just cause for the removal of Dr. Van Waters.

The charges involving homosexuality were held to be "wholly unproved and completely inadequate to provide a basis for just cause for the removal of Dr. Van Waters." The Commission said "We do not find that there was no homosexuality in the reformatory. Indeed, it would be naive to suppose that such problems did not exist in any penal institution. We find, however, that any suspicion of homosexuality was always carefully considered and provided for by the proper officers of the reformatory staff including qualified psychiatrists."

On the charge that Dr. Van Waters allowed certain inmates to have keys, the Commission said, "One of the tasks and responsibilities of any senior administrator is to know when to relax the rules. Anyone who is engaged in any field of public administration knows that practices often develop more rapidly than

rules can be changed to meet them. It is not suggested that any harm ever came from the use of keys by inmates. The violation is technical, not substantial, and is adequately covered by the approval of prior commissioners."

Indenture Contracts

The Commission devoted a major part of its opinion to the charges involving indenture contracts, a form of release for the prisoner to do work for a period not exceeding the term of his sentence. The statute involved limits the employment to domestic work. The charge made was that inmates were released to do work other than domestic work. The Commission conceded that Dr. Van Waters expanded the indenture system beyond the proper limits of the statute, but said that this "grew out of prior practice and was in accordance with the recommendations of experts who had made a comprehensive study of the institution." In explanation of the technically improper expansion of the indenture system, the Commission said, "No institution can be static. Development will occur despite individual administrators and despite rules and regulations and even statutes. Many bits of progress in the law have come about because the practices get ahead of the law and it has been necessary to change the law to catch up with what is being done. The whole history of equity is one of necessary developments because the law was too static and too rigid. Even statute law is not necessarily confined in its operation to the precise words as written."

Nine of the charges made by McDowell were not discussed in detail, because they "appeared to be trivial and indeed captious." Their chief importance, according to the Commission, was "to be found in the light they cast on the general basis of the Commissioner's action."

Aside from reinstating Dr. Miriam Van Waters to her position as superintendent, the Commission's decision will of necessity have other important results. The Commission pointed to some of the rules of the reformatory as being outmoded, and a revision of these rules may be forthcoming. Claude B. Cross, attorney for Dr. Van Waters, predicted recently that another effect of the decision might be to bring about a change in the statute

under which the hearings were conducted, at least to the extent of allowing the removed official the option of bypassing the hearing before the firing authority, and going directly before the impartial commission appointed by the governor. The hearings did serve to spread Dr. Van Waters' philosophies on penology before a public, which showed an increased awareness of the need for applying modern methods in our institutions of correction.

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