

The Harvard Law School Record

VOL. 8 No. 9

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NEWS IN BRIEF

OFFICIAL REGISTER ERRATA
PROPERTY II. The description of PROPERTY II on page 29 properly belongs on page 21 with the description of courses for the Second Year. Page 6, line 7, should read: "for the academic year 1949-50]."

POWELL CLUB WINS

The Powell Club advanced to the semi-final round of the Ames Competition by defeating the Pitney Club in the quarter-final argument on March 29. Oral counsel for the Powell Club were William J. Holloway (Okla. '47) and James C. Gibbens (Yale '47). Those for the Pitney Club were Robert E. Bradney (Illinois College '47) and James T. Rhind (Ohio State '44).

LAW SCHOOL FORUM

The next meeting of the Law School Forum will take place on Thursday, April 14 at Cambridge High and Latin Auditorium. James B. Conant, President of Harvard, and Henry M. Wriston, President of Brown University, will discuss *Federal Aid to Education*. Dean Erwin N. Griswold of the Harvard Law School will serve as moderator. All proceeds from this meeting of the Forum will go to the Harvard Law School Fund.

LAWYERS' GUILD

The Harvard Lawyers' Guild will present the Hon. Clifford J. Durr, newly elected president of the National Lawyers' Guild, tomorrow afternoon at 3 o'clock in Langdell North. Mr. Durr was a Rhodes Scholar and has served with the R.F.C. and on the Federal Communications Commission. In 1948 he returned to private practice in the District of Columbia. In addition, he now teaches Legislation at Princeton.

Mr. Durr will address the group on aspects of *Public Policy and the Airwaves* and will also make some general observations on the role of the progressive lawyer today. The speech will be followed by an informal smoker in Kendall House. The Guild extends a special invitation to any first year men who are

(Continued on page three)

Pace Honored At Anniversary Record Dinner

Second Annual Banquet Will Be Held At Gallatin Hall Friday Evening

Frank Pace, Jr., Director of the Bureau of the Budget of the United States will be guest of honor at the annual anniversary banquet of the HARVARD LAW SCHOOL RECORD this Friday, April 8.

Mr. Pace was named by President Truman as Budget Director last January to fill the vacancy created by the selection of James E. Webb as Under Secretary of State. Mr. Pace is one of the youngest men now holding a top administrative post in the government. He was graduated from Princeton University in 1933 and from the Harvard Law School in 1936. After leaving the Law School, Mr. Pace returned to his home in Arkansas where he shortly became an assistant district attorney of that state. In 1938 and 1940 he was general counsel for the Arkansas Department of Revenue. He entered the Army in 1942 and served four years with the Air Transport Command. After his Army service Pace came to Washington, D. C., where his rise in the government service was extremely rapid. For two years, he was executive assistant to the Postmaster General. In January, 1948, Mr. Pace became assistant budget director. One year later he was named to his present post.

This banquet marks the end of the third year of publication for the RECORD. The RECORD, which in spite of its youth is the oldest law school newspaper in the country, was started at the beginning of the summer term of 1946. Starting with a circulation of some 1200, the RECORD now has a circulation of 8700, which includes the 48 states and 10 foreign countries. It is received by all members of the Harvard Law School Association.

Professor W. Barton Leach will introduce Mr. Pace at the banquet, which will be held in Gallatin Hall of the Harvard Business School. Among the guests will be Dean and Mrs. Griswold, members of the faculty of the Law School, Business School and Littauer School of Public Administration, and officers of the Harvard Law School Association.

Teaching Fellows Named For Next Year; Will Aid In Adjustment of First Year Men

TEACHING FELLOWS



R. CUNNINGHAM



T. G. EDWARDS



R. GARRETT, JR.



D. C. LUBICK



F. B. MACKINNON



J. P. MORRAY

Group Made Up Of Three Prospective, Three Recent Grads

The faculty has recommended to the Harvard Corporation that six men be appointed as full time Teaching Fellows for the year 1949-50. The men recommended are Roger A. Cunningham, Thornton G. Edwards, Ray Garrett, Jr., Donald C. Lubick, Frederick B. MacKinnon, and Joseph P. Morray.

The Teaching Fellows will be needed to round out the Law School's new first year teaching program. Their job will be to decrease the pressure on first year students by helping them to cope with unfamiliar problems and to acquire new study techniques. In addition to supervising several weekly group meetings, the teaching fellows will be available for individual consultations in their offices. Mid-year examinations, which will not be counted in determining students' grades, will be marked by the teaching fellows in order to give the first year students an idea of their progress.

Roger Cunningham (Harvard '42) started anew at the Law School in 1946 although he had completed one term prior to serving in the Navy during the war. Graduating *cum laude* in June, 1948, he has since been working for Nutter, McClellan & Fish of Boston.

Thornton Edwards (Tufts '45) has been a member of the Harvard Legal Aid Bureau for four terms. Prior to entering the Law School, he taught for a short time at the University of Massachusetts.

Ray Garrett received his Bachelor of Arts degree from Yale in 1941. After his release from the Army in 1946, he enrolled at the Harvard Law School. During the summer of 1948, he was on active duty as a Field Artillery instructor at Ft. Riley, Kansas. Garrett, Edwards and Lubick are members of the June, 1949 graduating class at the Law School.

Donald Lubick (U. of Buffalo '45) taught during part of his Army service, and for a short time prior to coming to the Law School was a high school instructor. At the Law School, in addition

(Continued on page four)

Professor Bowie Describes Methods, Organization of Hoover Commission

Professor Robert R. Bowie has just completed an assignment as director of the "task force" assigned to study Independent Regulatory Commissions for the Hoover Commission.

In the last two months, the Commission on Organization of the Executive Branch (popularly called the "Hoover Commission" after its chairman), has submitted some 18 reports to Congress on the administration of the Federal departments and agencies. In view of this, the Editors of the RECORD has suggested that an article about the Commission might interest its readers.

The Commission is unique in its composition. Created by Congress in July, 1947, the 12-man group is bi-partisan: four members were named by the Senate, four by the House and four by the President, with each group equally divided between Democrats and Republicans, officials and private citizens. As a result the membership is unusually representative of the various shades of political opinion. Ex-President Hoover was elected Chairman, and Dean Acheson, now Secretary of State, was made Vice-Chairman. Other members included such men as former Secretary of Defense James Forrestal, Joseph P. Kennedy, Professor James K. Pollack of Michigan, James H. Rowe, Jr., formerly an assistant to President Roosevelt, and four members of Congress. Further to assure that its work would be non-political, the Commission was directed by the statute to report to Congress after the election of last year.

In making the studies for its reports, the Commission adopted a method differing from those previously used in such surveys. Instead of recruiting a large staff of its own to work under its immediate direction, the Commission appointed a series of "task forces" to investigate and report to it on specific parts of the job. Some were asked to study a single department (such as the Post Office or Agriculture), some a specific field of activity (such as Foreign Affairs, Welfare Activities, or Medical Services), others a type of agency (such as Independent Regulatory Commissions, or Statistical, or Lending Agencies), and still others a general function cutting across agencies (such as Personnel, Budgeting and Accounting, or Departmental Management).

All told 24 of these "task forces" were named. While they included research agencies like the Brookings Institution, or professional management or accounting firms, most were committees of two to more individuals who had training or experience qualifying them for the work. Each task force was responsible for planning its own study, recruiting its staff

and preparing its report and supporting materials.

Inevitably this meant that various techniques were used by the different task forces. Some were able to depend mainly on published and other materials; others relied heavily on on-the-spot investigations of the agencies by staff interview; still others used hearings to obtain much of the necessary data and opinions; and many, of course, combined several methods. Whatever the method the objective was to obtain the facts essential for intelligent evaluation and recommendations.

The actual process can be illustrated by the procedure used in preparing the report on Independent Regulatory Commissions (with which I happen to be most familiar). This field was taken to include nine commissions: The Civil Aeronautics Board, Federal Communications Commission, Federal Trade Commission, Federal Power Commission, Maritime Commission, Securities and Exchange Commission, Interstate Commerce Commission, National Labor Relations Board and Federal Reserve Board.

In view of the thorough study of the administrative procedure of these agencies by the Attorney General's Committee

(Continued on page four)

New Register Announces Curriculum And Faculty Changes for Next Year

Faculty changes and a new curriculum for the academic year 1949-50 are announced in the latest edition of *The Law School Register*, now available at the receptionists' desk and the west wing entrance of Langdell Hall.

Professor Milton Katz, *Byrne Professor of Administrative Law* will return from leave. Professor Arthur T. Von Mehren returns to active teaching presenting two comparative law courses. Lately appointed Assistant Professors Harold J. Berman and David E. Watts will teach comparative law and property respectively.

Richard Ford, A.B., M.D., Research Fellow in Pathology succeeds Professor Alan Moritz as visiting lecturer on Law and Medicine, the series to be given during the Fall semester. George Minkin, present *Faculty Assistant in Charge of the Ames Competition* is to be succeeded by John Winfield Scott, Jr., A.B., LL.B.

Faculty Chairmen after July 1, 1949 will be: for the third year, Professor Maguire, for the second year, Professor Amory, for the first year, Professor Cox.

Those members of the present faculty who will not be at the Harvard Law School next year include Professors Karl N. Llewellyn and Soia Mentschikoff, visiting professors from Columbia University Law School. Professor Thomas Reed Powell, *Story Professor of Law*, is

retiring from active teaching at the Harvard Law School after a distinguished and lengthy tenure. On leave for the academic year, 1949-50, is Professor George K. Gardner.

New courses appearing in the bulletin include Property III, a research course listed in the Graduate Courses; Constitutional Litigation, a course using no casebook but rather the records, briefs, and legislative data bearing upon a few of the major constitutional controversies; and two comparative law courses, given by Professor Von Mehren, one for the second year, and one a graduate course, in which the French legal system is examined.

Courses which will not be given are Domestic Relations, Public Utilities and Lucius Ward Bannister's lectures on Water Rights. Ohio students will meet the bar requirements for Domestic Relations and Conflicts of Laws by taking the full course in Conflicts.

First year and second year schedules have been revised in accordance with the advance notice given several weeks ago by the Committee on Legal Education.

In order to meet the problems of the transition from the seven-term program to the revised three-year curriculum, a group of Transitional Courses has been

(Continued on page three)

Cambridge Board Bars Laski Speech From Local School

By a four to two vote, the Cambridge School Committee Monday night refused the Law School Forum permission to use Cleveland Auditorium, Cambridge High and Latin School for the program to be given on April 26 at which Dr. Harold Laski, noted British economist, will discuss "The Role of Labor Unions in Politics." The Forum hopes to obtain the use of Sanders Theater as a substitute hall, but Sanders Theater does not have as large a seating capacity as Cleveland Auditorium.

Professor Laski is a leader of the Labor Party which is now in power in Britain, and a Professor at the London School of Economics. He spent several years at Harvard, the school year 1918-19 as an editor of the *Harvard Law Review* and the following school year as a lecturer in history and government. He is the author of numerous books, two of the more well known in the United States being *The American Presidency* and *American Democracy*.

The program will be co-sponsored by the Forum and the Sidney Hillman Foundation, the organization under whose auspices Dr. Laski has come to this country. Dr. Laski's itinerary includes Columbia University, Howard University, Roosevelt College, and the University of Denver.

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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

(The following letter was written at the request of the RECORD by Rowland Brown, President of the Law School Forum, after the decision of the Cambridge School Committee not to allow Dr. Harold Laski to speak at Cambridge High and Latin School.)

To the Editor of the RECORD:

We feel that the action of the committee has been unfortunate. This meeting will be no departure from the Forum's policy of presenting diversified opinion on important issues of the day—and as a leader of the British Labor party, Mr. Laski is a man whose ideas must be reckoned with. The meeting will afford the members of the audience an opportunity to question and criticize Mr. Laski's stand. In conclusion, we of the Forum do not consider Mr. Laski as a Communist or fellow traveller in the sense used by Mayor Neville of Cambridge. [Neville is a member of the School Committee.] We believe all of the above factors were not considered by the committee when it refused its permission to use Cleveland Auditorium.

ROWLAND BROWN, 2L
President, Harvard Law School Forum

To the Editor of the RECORD:

An interesting biography of Judge Robert P. Patterson appeared in the edition of THE HARVARD LAW SCHOOL RECORD of March 23, 1949.

In this article there appeared Judge Patterson's views on military justice. . . .

I have known and admired Judge Patterson for many years and, as your article states, know him to be an able lawyer, an eminent judge and a fearless public servant. I am also aware of his views on military justice and I believe them to be totally and demonstrably erroneous. No one will deny the correctness of the Judge's remarks that "an army is organized to win victory in war . . ." and that "the army has other functions such as justice, but they are subordinate." Agreement with these propositions does not, however, as Judge Patterson believes, lead to the conclusion that the present system of military justice as well as that proposed in the new Uniform Code of Military Justice now before Congress requires or indeed justifies continuation of the present system.

The Judge says that "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." If "an independent judiciary" could in any possible manner endanger the safeguarding of the nation or the winning of a war I could agree with the Judge's suggestion that the present antiquated system should be continued, but I do not believe that reform of military justice has any connection with or can in any way endanger the winning of a war.

Court-martial procedure has two functions: (a) the maintenance of discipline, and (b) the dispensation of justice. The former is a command function, the latter cannot be a command function if the word "justice" is to have any meaning.

The maintenance of discipline is one of the most important functions of command. When the commanding officer has referred the charges and has appointed the prosecutor the command function of maintaining discipline has been fulfilled. The trial of the accused and the sentence meted out to him, if convicted (subject to the

commander's right to mitigate) are neither a part of discipline nor a command function. Is a citizen merely because he is in the armed forces to be deprived of a fair trial?

Under existing and proposed law the commanding officer prefers the charges, appoints the prosecutor appoints the defense counsel, appoints the court and reviews the sentence. The court is composed at present entirely of officers from the commanding officer's command and the court looks to the commander appointing them for promotion, assignment, leave and quarters. It is too much to expect that they will not do his bidding and experience in the past has shown that they are almost if not entirely subservient to his will. The idea that the person who prefers the charges should pick the jury and fix the sentence is abhorrent to any idea of American justice. Such a system adds nothing to the enforcement of discipline, rather it destroys morale.

What the advocates of court-martial reform desire is to take from command the power to appoint the court and defense counsel and place that power in the hands of the Judge Advocate General's Corps. Officers of the same army will be chosen as under the present system but they need not be subject to pressure from command.

No commanding officer would suggest the proper method to be followed by the Medical Corps in performing delicate operations. Similarly, no commanding officer should be permitted to dictate the manner in which the delicate operation of administering justice should be performed. It should be left to those qualified to perform it; i.e., the Judge Advocate General's Corps or in the Navy the legal specialists. Only by controlling the authority of command in the field of justice, leaving it unhampered in the enforcement of discipline, is justice possible in the armed services. Unjust conviction or fantastic sentences procured through the influence of command over the court cannot in a democracy be justified as the enforcement of discipline. If there be those who believe to the contrary, then let us be honest with ourselves and abolish courts-martial leaving to the commanding officer the power to punish without trial those accused of military crimes in such manner as he sees fit. This suggestion may be, and I believe it is, a shocking one. It is no more shocking than many of the results achieved by courts-martial in World Wars I and II under the domination of command. The finding of a just verdict and the imposition of a fair sentence without the interference of command domination will increase rather than decrease the "safeguarding the nation and winning the war."

GEORGE A. SPIEGELBERG, LL.B. '21,
Chairman, Special Committee on Military Justice, American Bar Association.

Off the Record

The Black Scintilla

With deference due to this lad Superlex,
He never will capture the hearts of the young.
For there is a crown he will never annex,
A figure whose shadow will keep him unsung.
Ostensibly cast as a student of law,
This king of adventure with cunning and guile
Does perpetrate deeds that fill laymen with awe,
And causes the pulses of children to rise,
And thus he displays the charm Super' does lack,
This king of all villains, Scintilla in Black.

Deep in the dungeons of Langdell's great hall,
Each night he there plots, as he dons his dark cloak,
Of fictions so legal that he will install,
Reminders destroyed, and the contracts' revoke.
For he is the genius behind Talt'rums' Case,
The man who inspired the renowned Shelley's Rule,
Divided the pearls so that someone must trace,
And prompted the phrase of "an ass, a fool."
Yes, the man who invented internal attack
Is this evil villain, Scintilla in Black.

The technical pleader or drafter applauds
Admitted parol for this master of might,
Who excepts with great skill from the Statute of Frauds,
And clouds all the titles while winging through night.
What child could resist the great powerful lure
Of wizardry strong that discerns every flaw?
Do-gooders and kind ones are always the boor,
The child of today wants to thwart all the law.
Thus Super' is destined to be just a quack
Beside this arch villain, Scintilla in Black.

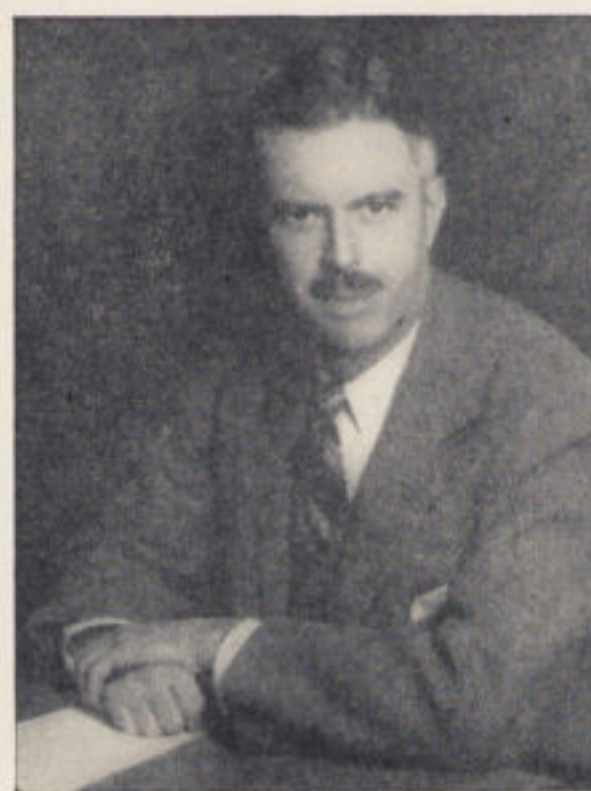
OMAR

Lumley v. Wagner

This theatrical manager Lumley
Was treating Miss Wagner crumm'ly
So her roving blue eye
Found a much nicer Gye.
But she was stuck with Lumley, glumly.

Gallery

DAVID F. CAVERS
Professor of Law



It may well be that the early bird catches the worm, but it was a late application for a scholarship for graduate study at the Harvard Law School that gave Professor David F. Cavers his first teaching assignment. When he applied in the summer of 1929, all scholarships had already been awarded and he was offered an opportunity to teach Conflict of Laws from November until March while Professor Beale was abroad. This position was offered Cavers in recognition of a brilliant undergraduate career at the Harvard Law School which brought him the Sears Prize for top scholastic honors two years in a row and culminated in the presidency of the *Harvard Law Review*, Volume 39.

School lore has it that Professor Cavers accomplished the Herculean feat of guiding the destinies of the *Law Review* while taking top honors in the Ames Competition, but he modestly explains this additional claim to immortality, evidenced by the bronze tablet in Langdell, by pointing out that after his third term he was strictly noncombatant. Be that as it may, a promising aptitude for things legal was reflected in his immediate acclamation in the teaching field. Assistant professorships at the University of West Virginia in 1930 and at Duke University in 1931 led to a full professorship at Duke from 1932 until 1946 when Mr. Cavers returned to Harvard Law School for the summer session, some seventeen years after his fortuitous introduction to the teaching profession.

After earning a B. S. in Economics degree in 1923 at the University of Pennsylvania, where he edited the campus daily, Cavers immediately came on to the Harvard Law School, and in 1926, with two more years of editing behind him, set out with diploma in hand to gather in the grain in the lush New York City law fields. A three-year period of association with a firm now known as Mudge, Stern, Williams and Tucker, brought two trips abroad in connection with foreign bond issues, a field of endeavor that went the way of all flesh with the virtual cessation of foreign lending in 1928. Only a few months before the crash of 1929, Mr. Cavers decided to return to the comparative serenity of academic pursuits.

His association with Duke University found Mr. Cavers once again enlisted in activities that capitalized on his editorial talents. The law teaching profession has long recognized the fact that the legal significance of a particular problem can be fully appreciated only if considered along with the social, economic, and administrative factors involved in the same problem. In an attempt to afford a medium by which this difficult integration could be achieved, the Law School of Duke University was induced by Mr. Cavers to inaugurate in 1933 a quarterly publication, *Law and Contemporary Problems*. Each issue is devoted to one main subject—housing, price control, labor legislation—and contains the contributions of legal scholars, government officials, business men, economists, political scientists and other specialists, all writing on various aspects of the problem. Law students at Duke also contribute articles to the quarterly. The difficulties encountered in nursing and editing a pioneer enterprise of this magnitude are obvious, and today Mr. Cavers with justification looks upon this well established publication at Duke with a fatherly eye of keen satisfaction.

It was through work on the first issue of *Law and Contemporary Problems*, dealing with food and drug regulations, that Mr. Cavers was given his initial taste of government work, serving as one of the draftsmen of the food, drug, and cosmetic bill introduced in Congress in 1933. This began a series of intermittent diversions from teaching at Duke for assignment as special counsel on eminent domain problems to the T.V.A. in 1933, member of the North Carolina Commission for the Revision of the Law Relating to Estates in 1935, consultant to the OPA in 1942,

Sub Judice

BARMAIDS BARRED

Irate female bartender aspirants took offense at a Michigan statute which provided that no female may be licensed as a bartender unless she be "the wife or daughter of a male owner" of a licensed liquor establishment. Section 19a of Act 133 of the Public Acts of Michigan 1945, Mich. Stat. Ann. section 18.990 (1) cum. supp. 1947. Claiming the provision to be a violation of the equal protection of the laws clause of the Fourteenth Amendment, and the result of an unchivalrous desire of male bartenders to try to monopolize the calling, the female applicants attempted to get an injunction to restrain the enforcement of the Michigan law. An injunction was denied by the district court, and a direct appeal was taken to the Supreme Court of the United States. *Held*: Affirmed. The court found that the purpose of the Michigan law was the protection of women from the "hazards that may confront a barmaid." There was no unreasonable discrimination between wives and daughters of male owners of liquor establishments and all other women, according to the court, because the legislature might have reasonably believed that the supervision of the husband or father was an adequate safeguard for the morale of the barmaid. "Beguiling as the subject is," said Mr. Justice Frankfurter, "it need not detain us long. . . . We are, to be sure, dealing with an historic calling. We meet the alewife sprightly and ribald, in Shakespeare, but centuries before him she played a role in the social life of England. The Fourteenth Amendment did not tear up history by the roots." Declaring that Michigan could forbid all women from working behind the bar, despite the vast change in the social and legal position of women, Justice Frankfurter said, "The fact that women may now have achieved the virtues that men have long claimed as their prerogatives and now indulge in vices that men have long practiced, does not preclude the states from drawing a sharp line between the sexes, certainly in such matters as the regulation of the liquor traffic. The Constitution does not require legislatures to reflect sociological insight, or shifting social standards, any more than it requires them to keep abreast of the latest scientific standards."—*Goesaert et al. v. Cleary et al.*, 69 S. Ct. 198 (1948).

Assistant General Counsel for Price to the OPA from 1943 to 1945, and Associate General Counsel for Price from 1945 to 1946. In 1943 he also became a member of the Research Advisory Board of the Committee for Economic Development, a post he still holds. These accomplishments in private and public law, together with visiting professorships at Yale Law School in 1936 and at the University of Chicago in 1940 are indicative of the wealth of experience Mr. Cavers brought to his present position at Harvard.

Since his return to Harvard, Mr. Cavers has served on several important Law School committees, such as the one formulating the recent curricular changes. He is at present occupied as chairman of the Committee on International Legal Studies and as faculty supervisor of the proposed Teaching Fellow Program.

The major function of the Committee on International Legal Studies is to explore the feasibility of establishing an institution for graduate study and research in legal problems of international import. This proposed adjunct to the Law School will have a student body drawn from countries throughout the world, and the project may be fairly described as "a world school of law." Substantial financing independent of the Law School Fund would be required, however, before the plans under construction could be put into effect.

As faculty supervisor of the Teaching Fellow Program, Mr. Cavers is deeply involved in planning the program with the recently recruited teaching fellows and a faculty advisory committee under the chairmanship of Professor Seavey. Mr. Cavers believes, however, that the success or failure of the program will depend basically on the team of six teaching fellows. He recognizes that the work is necessarily experimental, but has great confidence that it will enable first year students to develop an understanding of the study of law earlier than has heretofore been possible. In addition, the program will provide, as a valuable supplement to large class instruction, the advantages of working in small groups which have been available only in the third year seminars.

In the classroom Professor Cavers has been aptly described as "looking the way an Englishman ought to look." Some less charitable students with seats in the far corners of the room have blamed his well-trained mustache for offering an unnecessary obstacle to clear oral delivery. To still the critics without sacrificing the mustache, Professor Cavers has determined to limit his pedagogical activities to rooms equipped with lapel microphones.

CURRICULUM—(Continued)

announced. These are two-hour courses of which the student is only allowed to select two. Those listed include: Conflict of Laws T, Constitutional Law (a) and (b), Corporations II-B, and Evidence T, an abbreviated but stepped-up course for students not anticipating trial practice.

Taxation is now a required course for the LL.B. degree. A written work is again required for graduation; courses in which this requirement may be satisfied are indicated. Students choosing to do this work outside of a course must do it under supervision arranged through Vice-Dean Hall.

Second and Third year students will be required to register prior to the close of the preceding year in June. This means that course cards will have to be filled out prior to the summer vacation.

Incidental information disclosed by the new Law School Register includes the announcements that the Stillman Infirmary now can be used two weeks expense free per semester compared to the previous one week, and that Columbus Day (October 12) will be recognized as a holiday by the Harvard Law School this fall.

NEWS BRIEFS—(Continued)

interested in the Lawyers' Guild, since this will be a first-hand opportunity to find out about the organization from its national president.

LAW SCHOOL BASKETBALL

The Lincoln's Inn basketball team won a tight overtime game from the Chancery Club in Hemenway Gymnasium last week in the finale of the playoffs for the Law School Championship. Ed Bragdon, coach and manager, guided the champions in a league which, because of the high spirit and its many former college players, produced fast basketball. The Lincoln's Inn retained the championship it won last semester.

ERRATUM

In the March 23 issue, the Record incorrectly stated that the double suites in Hastings Hall will accommodate 204 men and that the percentage distribution of rooms when the new dormitories are in operation would be 50 percent in double suites, 34 percent in one-room curtained doubles, and 16 percent in single rooms. The correct figures are: 104 men in Hastings, 16 percent in one-room curtained doubles and 34 percent in single rooms.

Alien Secret Trust Argued by Taney, Frankfurter Clubs

Tom C. Clark, Attorney General, as successor to the Alien Property Custodian v. June B. Strong et al is the case to be argued tonight in the quarter final round of the Ames Competition between the Frankfurter and the Taney Clubs.

The case will be argued before a bench composed of the Honorable James P. Leamy, LL.B. '15, United States District Court for the District of Vermont, Rutland, Vermont; Charles W. Blood, LL.B. '02, of Carter and Blood, Boston; and Bradley Gilman, LL.B. '28, of Worcester, Mass.

The principal point of law presented is whether a constructive trust will be raised in favor of the beneficiaries of a secret testamentary trust.

Oral advocates for the Frankfurter Club are twins Buddy W. and Buster C. Hart who as a team debated for several years for Iowa State College; of counsel on the brief are Martin D. Cohn (Penn. State '45), Norman S. Fink (Dartmouth '47), Fred M. Kecker (Penn. State '47), Albert J. Marks (Harvard '46), Melville B. Nimmer (U. of Cal. '47) and Joseph B. Quigley (U.S.N.A. '46).

The Taney Club is orally represented by Robert A. Behrman (Yale '47) and C. Lee Hickerson (Ohio State '47); of counsel on the brief are Theodore N. Goble, Jr. (Drew University '47), John R. Haire, Jr. (Brown '46), Walter B. Hall (Texas A. & M. '44), David Orlin (Syracuse '47), Robert N. Shamansky (Ohio State '47) and J. H. Wade (M. I. T. '46).

Casner, Mansfield Clubs In Quarter Final Friday

The last of the Ames quarter final arguments, between the Casner and the Mansfield Clubs, will be heard this Friday night, at 8 o'clock, before a court composed of the Honorable Francis J. W. Ford, LL.B. '06, United States District Court, Boston; Norris Darrell, LL.B., Minnesota, of Sullivan and Cromwell, New York City; and Wilson C. Piper, LL.B. '42, of Ropes, Gray, Best, Coolidge and Rugg, Boston. The case will be *Larkin v. Commissioner of Internal Revenue*.

Oral advocates for the Casner Club, representing petitioner Larkin, are Julius N. Berg (St. Louis U. '47) and Marvin A. Finkelstein (Harvard '47). Of counsel on the brief are Burton C. Bernard (Wash. U. '47), Robert F. Coogan ((Fordham '47), Edward W. Franklyn (Harvard '47), Taylor W. Hanavan (Fordham '47), Lee B. Ledford, Jr. (U.S.M.A. '41), Walter S. C. Rogers (Fordham '47). Respondent Commissioner of Internal Revenue is orally represented by William W. Dunn (Harvard '46) and Val S. Schoenthal (Iowa '46) of the Mansfield Club; while William C. Bumpers (Arkansas '47), Lionel C. Epstein (N.Y.U. '47), Reuven J. Katz (Cincinnati), William B. Patrick (The Principia '47), James W. Rigish (Ohio State '47) and Harold W. Smith (W. Va. '39) are of counsel on the brief.

FINAL—(Continued)

in this case was guaranteed by the Fourteenth Amendment.

Lockwood argued that the union demands would force the independent plumbers out of business and that this was an unlawful objective. Dauber argued that the Anti-Injunction Act was not intended to apply to the fact situation being argued and that the Fourteenth Amendment did not prevent enjoining an unlawful labor objective. The court did not give a decision on the merits, but questioning from the bench appeared to indicate that the court thought that decisions of the United States Supreme Court interpreting the Fourteenth Amendment would prove a fatal obstacle to the case of the independent plumbers.

Alumni Notes

LL.B. '25—At the February meeting of the board of the Russell Sage Foundation, New York, Eli W. Debevoise was elected president. He succeeds Morris Hadley, LL.B. '21, president since 1944. A partner in the law firm of Debevoise, Plimpton & McLean, Debevoise is a trustee of the Bank of New York, and Fifth Avenue Bank, and a member of the Judiciary Committee of the Association of the Bar of the City of New York. He is also president of the New York Association for the Blind, and a trustee or board member of a number of social and civic organizations, including the State Charities Aid Association, the New York Legal Aid Society, and the Greater New York Fund.

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LEGAL WORLD Scholarships

Students entering the second and third years in September, 1949, who wish to apply for scholarship aid, may secure the necessary forms from the Receptionist at Langdell Hall. Applications with supporting statements must be received in the Secretary's Office, Langdell Hall, not later than May 1.

Lawyers' Guild Seminar

The Harvard Lawyers' Guild will present the last in this year's Civil Liberties Seminars next Wednesday, April 13, when Professor Edmund Morgan will speak on *The Writ of Habeas Corpus*. The seminar will be held at 2 p.m. in Langdell North.

FELLOWS—(Continued)

to being President of the Harvard Legal Aid Bureau, he was elected to the *Harvard Law Review*, from which he resigned after a short time because of eye strain. Following graduation in June, 1949, he expects to work for Hodgson, Russ, Andrews, Woods and Goodyear of Buffalo, N. Y. before taking up his duties as a teaching fellow in the fall.

Frederick MacKinnon (U. of Chicago '42) after graduating from the Harvard Law School in June, 1948, joined Nutter, McClennan & Fish of Boston. He spent one year of his service time as an instructor in the Navy.

Joseph Morray (U. S. Naval Academy '40) returned to complete his interrupted course at the Law School after the war and graduated *cum laude* in the September, 1948 class. Since that time he has been at the University of Paris Law School.

BOWIE—(Continued)

tee in 1940, and in connection with the Administrative Procedure Act of 1947, it was decided to avoid duplication of this work and to concentrate on the organization and administration of these agencies as contrasted with the fairness of their procedure.

Accordingly the study was to focus on two main issues: (1) Was the commission well organized and managed so as to do its assigned jobs efficiently? (2) How far did its activities overlap or conflict with those of other agencies of the government? Did its independence create serious problems?

One member of a small staff was designated to investigate and report on each of the commissions. In addition to collecting the facts, he was asked to recommend changes to correct any deficiencies he found in both areas. Recruiting and planning the job took over two months. The staff members began work at varying dates during April and May, and completed their draft reports during August and September.

In preparing their reports the members of the staff obtained material from many sources. They had the benefit of books and articles about each commission and previous studies were available. Heavy reliance was placed on interviews with members of the agency and its key staff, supplemented by analysis of its records. In each case efforts were also made to obtain the views of persons in the regulated industry or formerly connected with the agency. From this mass of documents and notes each staff member prepared a report of 150 to 300 pages containing his findings and his recommendations.

Each report was then submitted for comment to the agency studied and to 15 to 25 experts who were familiar with its activities. These included former members of the Commission and its staff, practicing lawyers, other officials and academic students of the agency. Many of these individuals devoted substantial time to studying the draft reports and giving us the benefit of their experience and judgment both with respect to the present operation of the agencies and the recommendations for change. In general the agencies were also helpful in commenting on these reports. Ideally if time had permitted, it would undoubtedly have been desirable to have held informal conferences or hearings to solicit further views and suggestions, but the limited time for completing the project made this impossible. The written comments were supplemented, however, to a limited extent by discussions with a few individuals about most of the agencies.

On the basis of these separate studies of the nine agencies and the comments on them, the task force undertook to arrive at its conclusion and to prepare its report. This meant reaching general conclusions as to the independent agencies as a type, and as to each agency so far as that seemed useful.

The report of the task force, together with the supporting staff studies, was submitted to the Hoover Commission at the beginning of December. As has been said, this was one of over 20 such reports on different topics. The Commission faced the colossal task of mastering these many reports and arriving at its own conclusions. To the extent that the task forces had dealt with related topics they had attempted to iron out differences while their reports were in preparation. Where such conflicts were not fully eliminated, the Commission had to make its choices between the different points of view. With a 12-man group, the process of preparing its own reports for submission to the Congress was naturally time-consuming.

In general the Commission's reports have been kept reasonably concise and have dealt primarily with the main issue. Along with its reports the Commission has submitted to the Congress the supporting task force studies. Thus Congress will have available not merely the conclusions of the Commission but the underlying materials on which they were based.

The reports of the Commission cover far too wide a range to allow any summary here. In general the Commission concluded that the executive branch could be made more efficient and more effective by simplifying its structure, clarifying lines of authority, combining and rearranging agencies, and strengthening the tools of administration. In its separate reports, the Commission specified how these objectives could be realized as to the various departments and agencies.

Converting these recommendations into actual reforms raises difficult practical problems. The sheer size of the Federal Government creates a tremendous inertia to shifts in methods or organization. Changes which impair the prestige or authority of particular agencies or bureaus inevitably arouse strong opposition from interested persons both inside and outside the government. On the other hand, the public generally pays little attention to these matters and seldom generates pressures to push them through.

Legally, many of the proposals can be

put into effect by the President or heads of departments or agencies without special legislation, but the more basic changes require statutory authority. To provide the basis for most of these, the Commission has urged Congress to grant the President broad powers to reorganize the executive branch. Under its proposal the reorganization plans would be submitted to Congress, but would become effective unless disapproved by concurrent vote of both Houses.

This procedure for reorganization is not new. Since 1932, Congress has granted the President such authority five times in various forms. Generally the enabling acts have been subject to limitations of time and exemption of some agencies. For example, the 1945 Act, the most recent one, extended for only three years and exempted at least seven agencies completely, and exempted important functions of certain other agencies such as the independent commissions.

The President and the Commission on Organization have both urged that the new statute should not include similar limitations. They have recommended that the legislation be permanent and apply to all agencies without exception. Their view is that the power of Congress to disapprove of plans by concurrent resolution would be an adequate safeguard against arbitrary action by the President.

The House of Representatives acted promptly on the proposed bill by passing it, on February 7, in a somewhat

modified form by a vote of 356 to 9. Its version makes the authority permanent and exempts no agencies but does require that any plans affecting specified agencies must be presented separately and not combined with other plans. This is intended to enable Congress to disapprove such plans more easily. The Senate has not yet acted on the legislation.

Certain of the recommendations will require special legislation in addition to the Reorganization Act. This is necessary, for example, to increase salaries of the heads of departments and other agencies, and to carry out some of the changes in the Department of State and National Military Establishment. Bills for these purposes have also been introduced and are under consideration.

How far the recommendations will ultimately be carried out, it is obviously much too early to guess. Improvements in these fields come slowly at best and the results of the Commission's work can be judged only after a substantial period. The last few weeks have, however, seen one step designed to promote action on the proposals. The formation of a nation-wide Citizens Committee to work for their adoption is a healthy sign. It is a recognition that the opposition of special groups must be countered by organized activity on behalf of the general public if results are to be attained.

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