

The Harvard Law School Record

VOL. 8 No. 10

CAMBRIDGE, MASS., WEDNESDAY, APRIL 13, 1949

PRICE TEN CENTS

McKusick Elected President Of Law Review For Next Year

Appoints Lipson, Simon, Trautman, Denison And Green New Officers

Vincent Lee McKusick (Bates '43), of Guilford, Maine, has been elected the President of the *Harvard Law Review* for the next academic year. He replaces Abram J. Chayes (Harvard '43), of Chicago, Illinois. Mr. McKusick has named the heads of the various editorial departments of the *Review*.

Note editors will be Leon S. Lipson (Harvard '41) of Newton, Mass., and David Simon (Cornell '44) of Brooklyn, N. Y. They replace G. Blandon Colburn, Jr. (Pomona '42) of Fresno, Calif., and Weaver W. Dunham (Harvard '47) of Paxton, Illinois. Donald T. Trautman (Harvard) of Cleveland Heights, Ohio will be case editor, replacing Alexander M. Bickel (C.C.N.Y. '47) of New York City. Articles editor and Book Review Editor will be Watt Denison, Jr. (Tenn. '43) of Lexington, Tenn., and Lewis Green (Harvard '45) of St. Louis, Mo., respectively. The former articles editor was Louis E. Smart, Jr. (Harvard '45) of Columbus, Ohio; and Mr. Green will succeed Donald W. Ingle (Bradley U.) of Washington, Ill.

All the new officers are second year men, those going out of office are candidates for graduation in June.

This election was a hard fought, seventeen and a half hour affair. The editors met for the election on Saturday afternoon at 1:30 and it was not until 7 a. m. Sunday that they emerged with McKusick as head of the *Review* for the next volume.

Reverting to the prewar practice, the new officers will hold their positions throughout next year. It was felt that such a move would tend to give the *Review* a more stable administration.

NEWS IN BRIEF

AMES QUARTER FINALS

By winning their arguments in last week's quarter final rounds of the Ames Competition, the Cardozo, Frankfurter, and Mansfield Clubs joined the Powell Club as the clubs which will be represented in the semi-final round next fall. They defeated the Morgan, Taney, and Casner Clubs, respectively. Oralists for the Cardozo Club were Ray Eder (Harvard '46) and Robert E. Frisch (Harvard '47). Twins Buddy W. and Buster C. Hart (Iowa State '47), were oral counsel for the Frankfurter Club, and the Mansfield Club was orally represented by William W. Dunn (Harvard '46), and Val S. Schoenthal (Iowa '46).

Oral representatives of the Morgan Club were Theodore W. Glocker, Jr. (Tenn. '47) and David D. McKenny (Yale '47). Those for the Taney Club were Robert A. Behrman (Yale '47) and Lee Hickerson (Ohio State '47), and oralists for the Casner Club were Julius N. Berg (St. Louis U. '47) and Marvin A. Finkelstein (Harvard '47).

FORUM ELECTION

The Harvard Law School Forum has announced the election to its Board of Directors of the following students:

David Alter, 2L (C. C. N. Y. '47); Robert E. Doane, 1L (Amherst '48); Allen Klein, 1L (U. C. L. A. '48); James C. McDowell, 1L (Florida '43); John F. Monroe, Jr., 1L (Marquette '48); Donald C. Osmond, 1L (Ohio State '48), and Theodore D. Taubenech, 1L (Princeton '48).

YOUNG REPUBLICANS

Fred Lewis True, Jr., 2L (Bowdoin '45) was elected College Vice-Chairman (Continued on page three)

NO RECORD NEXT WEEK

There will be no issue of the *Record* next week, Wednesday, April 20, 1949, due to the Spring vacation. The next issue of the paper will be published on Wednesday, April 27, 1949, and will be the next to the last issue of the current semester.

Laski To Speak On Role Of Labor Unions In Politics

Dr. Harold J. Laski will discuss *The Role of Labor Unions in Politics* at the Harvard Law School Forum meeting Tuesday, April 26, in Sanders Theater. The program was originally to have been held at Cleveland Auditorium, Cambridge High and Latin School, but permission to use the building for the meeting was refused by the Cambridge School Committee. The change was facilitated by the cooperation of the Harvard-Radcliffe Orchestra, which moved its April 26 rehearsal in Sanders Theater to the 25th; and the Massachusetts Medical Society, which moved its Monday meeting from Sanders to the New Lecture Hall.

After being introduced by Professor Seymour E. Harris of Harvard, Professor Laski will deliver a prepared speech. He will then be interrogated by a panel of instructors from schools in the Greater Boston area. Following questions from the panel, it is expected that the audience will be given an opportunity of posing questions to Professor Laski.

The Forum yesterday named as a member of the panel William Yandell Elliott, *Leroy B. Williams, Professor of Government* at Harvard Graduate School of Public Administration. Professor Elliott was staff director of the House Committee on Foreign Affairs. He is known to be quite adverse to Dr. Laski's philosophy.

(Continued on page three)

Ames Competition Prizes Announced By Student Board

The Board of Student Advisers today announced its awards for the 1948-49 Ames Competition. *Scott on Photographic Evidence* was awarded to each member of the Anonymous Club for the best brief in last term's semi-final round. The books were donated by The Boston Law Book Co. In the Qualifying Round, the Marshall Club prize for the best brief was won by C. Lee Hickerson (Ohio '47) and John R. Haire, Jr. (Brown '46) of the Taney Club which lost its quarter final argument against the Frankfurter Club last Wednesday night.

The Frankfurter Club, which advanced to the semi-final next fall by winning the quarter-final argument on April 6, won the prize for the first place club in the qualifying round with four wins and an average of 141.4. Members of the club are Buddy W. Hart (Iowa State '45), Buster C. Hart (Iowa State '45), Fred M. Kecker (Penn. State '47), Joseph B. Quigley (U.S.N.A. '46), Norman S. Fink (Dartmouth '47), Albert J. Marks, Jr. (Harvard '47), Martin D. Cohn (Penn. State '45) and Melville B. Nimmer (Calif. '47).

Mr. William J. Holloway (Okla. '47) also received the Scott Club Prize for the best oral advocacy, an autographed copy of Professor Williston's autobiography *Life and Law*.

In the first series of the first year Ames, Haven E. Simmons (St. John's '47) of the Kaplan Club and Clarence C. Ferguson (Ohio '48) of the Taney Club tied

(Continued on page three)

Conant, Griswold, Wriston to Discuss Federal Aid To Education in Forum



JAMES B. CONANT



ERWIN N. GRISWOLD



HENRY M. WRISTON

Federal Aid to Education will be the topic discussed at the special program of the Harvard Law School Forum tomorrow at 8 p. m. in Cleveland Auditorium, Cambridge High and Latin School. President James B. Conant of Harvard University and Henry M. Wriston, president of Brown University, will be the speakers. Dean Erwin N. Griswold of the Law School will act as moderator.

Judge Leibowitz Praises The Criminal Lawyer, Denounces Lawyer Criminal

Judge Samuel S. Leibowitz of the Kings County Court, New York, wrote this article especially for the *Record*.

The title of this article, *Why Be a Criminal Lawyer?*, forms the substance of a series of questions recently propounded to me by the Articles Editor of *The Record*. The editor seemed apologetic in presenting them. He quoted Professor Sheldon Glueck's observation to the effect that none of the outstanding students at the Harvard Law School intended to practice criminal law upon graduation, for many apparently labor under the conception that "too much of the practice involves dealing with unsavory persons and using immoral tactics." I somehow gathered that, underneath his polite and urbane inquiry, the editor was saying something like this: "Our student body has been brought up to believe that criminal lawyers are the cohorts of Hades. Yet, when you, Judge Leibowitz, appeared here recently to address our students, we noticed that you do not have horns and a cloven hoof, although you are supposed to be reasonably representative of the species. How do you get that way?"

This misapprehension about criminal law practice is not confined to law school students. It besets even the practicing members of the bar. His professional brethren in the rarefied atmosphere of the civil courts—insofar as they deign to recognize him at all—peer at the criminal lawyer over their eyeglasses with that long, deprecating look that the tolerant

—or not so tolerant—parent reserves for the errant child. If by some chance he is successful in his calling, his own colleagues in the criminal court are loathe to give him credit for ability or integrity. They would rather suspect that, vis-a-vis themselves, he is at his old business of "putting something over." This being the all too prevalent situation right in the profession, it is not surprising that the public at large also labors under a delusion as to his methods and his aims. Small wonder then that the student has misgivings and determines early and readily to have no part of the criminal courts.

This is a pity. Nowhere in the profession—nor indeed, in any profession—are ability and integrity greater assets than in the practice of the criminal law. And nowhere will the fortunate possessor of these attributes find a more rewarding field for their employment in the service of his fellows. It ought to be made clear that by "rewarding," I distinctly do not refer to financial emoluments. If the sole interest of the law student or the lawyer is to make money, by all means let him turn his back on the criminal court. Let him abandon the occasional innocent accused whom his talents might have saved. Let him repair instead to the security of some plush corporation law office and remain there. Do not be misled—as the public has been misled—by the ersatz glamour with which Hollywood invests the criminal lawyer. Few could afford the sumptuous quarters the movies provide for him. Fewer still have that extraordinary intuition, that omniscient detective skill, that infinite capacity for inventing legal loopholes which Hollywood substitutes for hard work and application to duty. And none—I say this categorically—gets as clients the gorgeous, blonde, curvaceous eye-fillers and the elegant men-about-town who pre-empt the services of his photogenic counterparts of the screen.

It is true that occasionally criminal lawyers become the slaves of money or of perverted ambition. Such men can become the devotees of sharp practice and the "mouthpieces" of unsavory characters. Their ideal of professional success is the so-called legal mastermind—actually the tool—of some criminal combine. Such men are not criminal lawyers, but lawyer criminals. They are traitors. They do not represent the great unsung body of honest, hardworking, patient lawyers who daily strive to preserve their professional and personal dignity in the criminal courts any more than the abortionist represents the medical profession. These shady mercenaries are not successful lawyers. Hollywood and

(Continued on page four)

All proceeds of the program will go to the Harvard Law School Fund. The Fund is presently collecting \$2,400,000 for the new Law School dormitories, library, teaching fellow program, scholarships and research. Forum season tickets and faculty complimentary tickets will not be honored at this special meeting.

President Conant, a world renowned educator and scientist, has been president of the University for the past 16 years. His most recent book, *Education in a Free Society*, has stamped him as an outstanding authority on the question under discussion.

Mr. Wriston, who will oppose federal aid, has been the president of Brown since 1937, and was formerly president of the Association of American Colleges. He is a trustee and member of the executive committee of the Carnegie Foundation for the Advancement of Teaching and a trustee of the Carnegie Endowment for World Peace. Among President Wriston's books is *The Nature of a* (Continued on page three)

Pace Asserts Need Of Competent Men In Federal Posts

Frank Pace, Jr., LL.B. '36, Director of the Budget of the United States, packed a triple message into his address as guest of honor at the HARVARD LAW SCHOOL RECORD banquet on April 8. Primarily he emphasized the need today for skilled and conscientious men in government, particularly the Federal government, pointing up the extent of the present demand for public servants by references to the size of today's budget, and the enormous growth of Federal activity in the last ten years. Secondly, he developed the idea that the budget mirrors the life of the country, both past events and future plans, and gave his listeners some idea of the problem of integrating the multitude of demands on the Federal government into one document.

His third message was rather the man himself than what he said. As he described his first day in court as an assistant district attorney in his home town of "Small Rock," Arkansas, and a recent week of hectic activity, what was brought home sharply to his listeners was the short space of thirteen years which separated Mr. Pace from graduation and his present position. His success put deeper meaning into the words he used to describe the satisfactions of public service, and the opportunities therein.

While most of Pace's speech was addressed to his listeners as citizens, he ended with a particular message to people in this and other law schools. Since the government will necessarily be large for many years, professors and stu-

(Continued on page three)

The Harvard Law School Record

Published weekly on Wednesdays for twelve weeks of each term by *The Harvard Law School Record Corporation*, Austin Hall, Cambridge 38, Massachusetts. Subscription price: \$2.00 per term mailed, \$4.00 per year (24 issues); student subscription \$1.50 per term mailed, \$1.00 per term distributed at the Law School; \$1.50 each mailed. Business and Editorial Offices, Austin Hall, Cambridge 38, Massachusetts. Telephone Kirkland 7-7600, extension 447.

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

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.

IN MEMORIAM

Fifty-seven years of continuous, faithful service mark the career of John J. McCarthy, Law School librarian who died on April 8, 1949.

In November, 1883, the year in which Austin Hall was opened, he went to work as one of the "boys" in the library of the Law School, retiring on September 1, 1940, as assistant in charge of the Langdell Reading Room. It is Mr. McCarthy's picture that hangs at the main desk in Langdell Library. He was probably known personally to more graduates of the Law School than any other person connected with the School.

Editorials

Some minor officials in this country have taken it upon themselves to tell their constituents what is proper for them to hear and what is not. Such paternalism is the very essence of totalitarianism. When Stalin does it we sneer and say that he fears that if his people could hear about other systems they would not be satisfied with their own. It seems that the Cambridge School Committee has the same fear. Those of us with more faith are sure that in a battle of ideas democracy and capitalism can prevail over other ideologies. However, we can not beat down threats that we refuse to meet. No one can answer adequately a declaration that he has never heard. No one can stop a rising tide by turning his back on it. Those who have faith in and understanding of our system should be willing to listen to what its opponents have to say and give counter arguments which will discredit those opponents. Becoming totalitarian in defense of our system only shows a lack of such faith and understanding.

If we must listen to our enemies to understand them so that we may better oppose them, we must also listen to and understand the friends that will help us in this fight. If the British Government and those as close to it as Harold Laski are not our friends, what friends have we?

B. A. F.

Letters to the Editor

The following letter is reprinted from the April 9, 1949 issue of The Boston Herald, with the permission of that publication and Professor Howe.

To the Editor of The Herald:

Mayor Neville and a majority of his associates have determined that the school property of Cambridge should not be made available to a distinguished English scholar for the discussion of significant issues of our time. Many quiet spirits, persuaded that tolerance and indignation play a role of diminishing importance in our society, will let this act of arrogant stupidity go down their overburdened drains of despair. One affiliated with Harvard would probably do well to let his indignation settle, for his protest may easily be given a disgraceful label with the same facile irresponsibility as that with which Life delights its barber-shop clientele in bespattering the reputations of men and women of integrity and honor.

Yet it is important on occasions created by such studied clumsiness as Mayor Neville's that all persons, regardless of their affiliation, should express their outrage. If the governors of our public educational institutions have reached the point of labelling those with whom they are in political disagreement as anti-Catholic, it is, perhaps, time for those who question the intelligence of such men as Mayor Neville to label

their stupidity and intolerance as "Catholic." One would prefer not to put the issue on that level, but the Mayor in choosing to deal with it in those terms has indicated that the standards of his faith are to be imposed upon the community for which he takes official action. It is the responsibility of all persons who do not share his conception of intolerance to repudiate his act of arbitrary power.

MARK DEWOLFE HOWE

To the Editor of the RECORD:

We fully agree with Professor Howe in his condemnation of Mayor Neville and the Cambridge school committee majority for their denial of a public school auditorium to Harold Laski. However, labelling as "Catholic" the "stupidity and intolerance" of Mayor Neville and his colleagues is most unfortunate. If the label is meant to say that Catholics in general are opponents of free speech, it is an indefensible generalization and overlooks the dissenting vote in the committee of the most prominent Catholic member, Professor Thomas H. D. Mahoney of M. I. T.—a frequent contributor to the *Jesuit review*, *America*, and last year a pilgrim from this archdiocese to Rome. If, however, the label of "stupidity and intolerance" is attached to the Catholic religion itself because of the unsound political judgments of a few individual Catholics, we can only say that the school committee is not the best source of instruction in the Catholic faith. At any rate, if Professor Howe aimed his blast at the opponents of free speech, he has hit a good deal more than he was aiming at.

ROBERT KIRTLAND, 3L

NEIL J. MCCARTY, 3L

LAWRENCE W. KEEPNEWS, 2L

To the Editor of the RECORD:

... Communist reactionaries are no exception to the general run of reactionaries who have always feared Laski's bristling and penetrating candor. We guess the school committee had not got wind of the arrival of Norman Thomas at the last Law School Forum.

In a letter to the HARVARD LAW SCHOOL RECORD of April 6, 1949, Rowland Brown, president of the Harvard Law School Forum, wrote, "We of the Forum do not consider Mr. Laski as a Communist or fellow traveller in the sense used by Mayor Neville of Cambridge." We submit that Mr. Laski is not a Communist—at all. Surely one would not expect a Communist to head a committee whose report resulted in the banning of Communists from the British Labor Party. No other but an anti-Communist would write a devastating anti-Communist pamphlet entitled *The Secret Battalion*.

Indeed Mr. Laski's ideas "must be reckoned with." And if we mean to war upon men—other than in debate—whose ideas are similar to Harold Laski's—it is beyond our understanding why the United States Government has recently joined in a military alliance with states, many of which have socialist governments.

JOSEPH AND STEPHEN WAHRHAFTIG, 1L

Gallery

MANLEY O. HUDSON

Bemis Professor of International Law



Manley O. Hudson has been Bemis Professor of International Law at Harvard Law School since 1923. Before that he taught at the University of Missouri School of Law, until 1918, following his graduation from Harvard Law School in 1910. He received a call to Harvard in 1919. Professor Hudson has been associated with many international organizations over a period of years, the most important being his position as Judge of the Permanent Court of International Justice at the Hague from 1936 to 1946.

Judge Hudson's interest in International Law was first aroused through his interest in furthering world peace. In 1918 he was appointed to the American Commission to Negotiate Peace, which went to Paris. While there he was a member of various committees, including the Commission on the Protection of Minorities. For several years after the formation of the League of Nations he was a member of its Secretariat. He was legal advisor to the International Labor Conferences in 1919, 1920, and 1924 and a member of the American delegation to the Conference of Codification of International Law held at the Hague in 1930. In 1933 and again in 1939 he was appointed an American member of the Permanent Court of Arbitration. In 1946 he was a member of the United Nations Commission on an International Administrative Tribunal. He is now a member of the *Institut de Droit Internationale*.

His recent work in international problems has been particularly heavy. Professor Hudson is helping to direct regional conferences of the American Bar Association for the consideration of Human Rights. He is now preparing to assume his duties on the International Law Commission of the United Nations, which has as its function the promotion of progressive development of international law and its codification. He was appointed for a three year term as the

Sub Judice

ARTIFICIAL IN EVERY RESPECT

After five years of unconsummated marriage, caused by the husband's psychological inability, the wife left her husband and began proceedings for nullity. A few months prior to her leaving, the wife had artificial insemination of her husband's seed by an expert, which resulted in the birth of a son during the time she was seeking to have the marriage annulled. The husband claimed that his condition was improving because of treatments from Doctor L—. He also argued that the birth of the son was an approbation by the wife of the abnormal marriage. A further question before the court was whether public policy would require the marriage to continue since an annulment would bastardize the son. *Held*: Decree of nullity granted. The court held that there was no approbation of the marriage, stating the test of approbation to be whether the wife so acted as to make it inequitable for her to get a decree. The court said, "Her letters and her evidence show she never intended to appropriate an abnormal marriage. Until the end she made it clear that she decided and intended to have a normal marriage. I do not regard the conception of the child, serious as it is, when done with the dominant intention of producing normality in their sex relations, to be approbation of an abnormal marriage." Countering the husband's claim that he might improve, especially after the birth of a child, the court said, "In my view this marriage has broken down hopelessly, and she could never endure to go back to her husband. Dr. L— claims that success in the husband was in sight, and says that his treatment succeeds in 50 percent of cases, though I gather that the patients, who unlike this husband, were strongly sexed, were the better subjects. After considering the evidence, I feel that the only normal sex life of the husband would be some far more thorough treatment, and probably with some other wife." As to the effect of the decree bastardizing the son, the court considered that there was even a greater public policy against compelling the continuance of this abnormal marriage. "The future holds better augury for the child," the court said, "if I grant the decree, than if he is brought up by an embittered mother who may be tied for life to a marriage that has never been a real marriage, and which only through the unnatural aid of science, has produced the fruit of a real marriage. That the child should be made illegitimate is most regrettable, but the stigmas of birth are of less effect than they were and sons are not now judged by the errors of their parents." *L. v. V.*, (1949) All E. R. 141.

(This case is now on appeal before the House of Lords.—Ed.)

representative from the U. S. on this 15-member nation group.

His writings have been numerous. He has been editor of the *American Journal of International Law* since 1924, has edited the casebook on International Law used by his classes, *International Legislation* (8 vol.), four volumes of *World Court Reports*, and is co-editor with Fournoy of *Collection of Nationality Laws*. He has written a series of 27 annual articles on the Permanent Court of International Justice and is the author of the standard treatise on that court.

He is Director of the Harvard Research in International Law, and also heads a group of 200 which prepared *The International Law of the Future*, published in 1944. In 1944 he also published a book on *International Tribunals*. It was recently translated into Russian and published in the Soviet Union, where it was reviewed very kindly, but called "bourgeois." Professor Hudson is now serving as Reporter for the American and Canadian Bar Associations on "Development of International Law." His research has carried him over most of the world.

In his classroom Judge Hudson insists on very accurate wording of answers and definitions. Often he waves his hands and shouts, "I won't have that. Won't have it at all. Won't have it in this room," when a word is inaccurately used. He moves rapidly from case to case, and more than is possible in most classes, the students in his class in International Law participate in the discussion. Judge Hudson invites his students to write notes to the material in the casebook for possible publication in a future edition.

Professor Hudson was born in St. Peters, Missouri in 1886. He was married in 1930 and has two sons, Manley O., Jr., 17 and Peter, 11.

To men who are wondering about opportunities in International Law, Professor Hudson says: "International Law may present unusual opportunities in the next 25 years to men with general legal experience and practical background. There is also a growing demand for teachers who are qualified in International Law. However, few men can be taken on by the International Organizations themselves."

Spring Vacation



Alumni Notes

LL.B. '12—John G. Buchanan of Pittsburgh was recently elected a charter trustee of Princeton University. Buchanan served as an alumni trustee at large of Princeton from 1939 to 1943. He is also a member of the Council of the Harvard Law School Association and co-chairman for Pennsylvania for the Harvard Law School Fund; second vice-president and member of the executive committee of the American Law Institute; chairman of the Committee on the Judiciary of the American Bar Association; and president of the Pennsylvania Bar Association Endowment, Inc.

LL.B. '26—John C. Kunkel, member of the U. S. House of Representatives since 1939, has been elected to a five-year term on the board of trustees of Wilson College, Chambersburg, Pa. Since his admission to the Pennsylvania bar in 1926, Kunkel has been engaged in banking, farming, and politics.

LL.B. '31—Ernest A. Gross was recently appointed by Dean Acheson as Assistant Secretary of State in charge of Congressional liaison. His main job will consist in seeing that Congress as a whole is well-informed about the foreign situation.

PRIZES — (Continued)

for the best oral argument. James M. Fletcher (San Diego '48) of the Ames-Gray Club won the prize for the best brief.

In the second series, Robert P. Bass, Jr. (Harvard '46) and Robert E. Schneider, Jr. (Harvard '46) of the Holmes Club won the prize for the best brief. G. C. Caner (Harvard '48) of the Kent Club won the prize for the best oral argument.

In the third series, the winner of the Roscoe Pound prize for the first place club was the Kent Club with four wins and an average of 139.2. The Root Club finished second.

Each member of the Kent Club will get a copy of Roscoe Pound's *The Spirit of the Common Law*, inscribed by the author. The members of the club are R. C. Tschudin (Harvard '48), H. M. Willcox (Yale '47), L. H. Campbell (Harvard '48), D. A. Demarest (Harvard '48), H. W. Minot, Jr. (Harvard '46), G. C. Caner (Harvard '48), B. Watts, Jr. (Chicago '47), and R. S. Emmet, Jr. (Harvard '46). The winners of the prize for the best brief in the series, were Melvin A. Dow (Rice '48) and Philip A. Shiekman (Penn. '48) of the Dodd Club; and R. A. Wiley (Bowdoin '48) of the Kaplan Club was winner of the prize for the best oral argument.

Marshall Law School Hears Ames Argument

At the invitation of Dean Alexander F. Ormsby of the John Marshall Law School, a first year Ames argument was held between the Dodd and Scott Clubs in Jersey City, New Jersey, Friday, Mar. 25. Edward H. Snyder and Edwin J. Jacobs of the Dodd Club were the winners by the score of 139 to 138, over Gordon P. Small and Richard H. Webster. The three judges were Harvard Law School graduates: Wesley L. Lance, LL.B. '35, professor of law at John Marshall and judge of the Hunterdon County Court; Archibald S. Alexander, LL.B. '31, a partner in the law firm of Carter, Ledyard and Milburn in New York, and the Democratic candidate for United States Senator from New Jersey in the 1948 election; and John L. Milton, LL.B. '36, of Jersey City, New Jersey.

The two clubs had been invited to conduct their argument by John Marshall in order to stimulate student interest in the moot court competition at that law school. Dean Ormsby congratulated both teams heartily and said that he looked forward to another visit from Ames teams from this Law School. He said that he believed that the demonstration of the Harvard moot court system at John Marshall would encourage and stimulate more extensive arguments at John Marshall in the future.

sentatives Committee on Education against the proposed Sullivan Bill "to prevent the teaching of atheistic communism and safeguard the Christian ideals of American education."

The Guild testimony, concentrating primarily on the questionable constitutionality of the proposed measure, pointed to the Massachusetts constitutional provisions guaranteeing free speech and forbidding ex-post-facto laws, and claimed that the measure was unconstitutional under both of these provisions, in addition to being void under the Fourteenth Amendment of the Federal Constitution.

LASKI — (Continued)

Professor Laski is a professor at the London School of Economics, and a member of the National Executive Committee of the British Labor Party. He was a student at the Harvard Law School during the school year 1918-19, and was an editor of the *Harvard Law Review*.

Tickets for this program, for which there will be a limited seating capacity, may be obtained at the Forum Office in Gamett House.

PACE — (Continued)

dents of law must consider three things: either acquainting themselves sufficiently with government so as to exercise leadership locally which will insure representation in Congress of those capable of dealing with problems of government, or go into local government to get operational experience, or go into federal government. The need for competent men is great, and without prior government experience, it is difficult to handle or be selected for a top job.

Other speakers on the program were Dean Erwin N. Griswold, Professor W. Barton Leach, Charles Porter, the RECORD's first president who represented the Harvard Law School Association, retiring President Jerome Shestack and new President Isadore Mackler.

FORUM — (Continued)

Liberal College. He is a frequent contributor to journals and periodicals and has written numerous articles defining what he believes should be the role of the federal government in education.

Dean Griswold has taught at the Law School since 1935, and has been dean since 1946.

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NEWS BRIEFS — (Continued)

of the Mass. Council of Young Republican Clubs at its annual meeting in Boston recently. True will represent the college clubs on the executive committee of the Council and will inform the committee of the college clubs' activity and problems.

CHAFEE LECTURE

Professor Zechariah Chafee, Jr. will deliver the Thomas M. Cooley Lectures at the University of Michigan on April 18-22. The subject of his first lecture is *Going Into Equity With Unclean Hands*.

CLASS OF 1949

The class of 1949 will hold its first official function with a smoker at Memorial Hall on Thursday, April 28, between 8:30 and 10:30 p.m., according to an announcement this week by Casimir de Rham, Secretary of the Class.

Features of the smoker will be all the beer you can drink, and the *Last Will and Testament* of the Class of '49, a document that is rumored to bequeath to the faculty just deserts. Present plans call for Professor W. Barton Leach to display to the class some of his renowned extra-legal talents with the accordion. The faculty of the Law School has been invited to the affair.

There will be no charge for the smoker. However the smoker will only be open to members of the Association of the Class of 1949. Membership tickets in the Association will cost one dollar and will be sold in the Law School halls between April 25 and 28. These class dues will go into a class fund to provide for this and other class expenses.

Those members of the Class of 1949 who were graduated last January are welcome and may purchase membership tickets at the door of Memorial Hall.

LAWYERS GUILD TESTIFIES

The Harvard Chapter of the National Lawyers Guild moved last week to implement its study and interest in civil liberties. Together with the Harvard Student and Graduate Councils, the American Veterans Committee, Mr. Henry Shattuck, trustee of Harvard University and other groups and individuals, the Lawyers Guild testified before the Massachusetts House of Repre-

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LEGAL WORLD

Law Wives

The Law Wives will be the guests of the Business School Wives tonight at Baker Library of the Business School. The program will be a Peck & Peck fashion show. Members are requested to meet at 7:30 p.m. at Kendall House.

AVC Meeting

Tomorrow at 7:30 p.m. in Phillips Brooks House parlor the Harvard chapter of AVC will make nominations for next year's executive committee, take action on disposal of the \$850 Carlson Fund, and take chapter stands on the Western Alliance, proportional representation in AVC, and AVC projects for next year.

UNIVERSITY WORLD

Littauer Lecture

The United Nations Council of Harvard will present Professor Bruce C. Hopper speaking on *The Atlantic Community—A Going Concern?* III. Military Aspects at Littauer Center on Thursday, April 14, at 8 p.m.

LEIBOWITZ — (Continued)

popular impressions notwithstanding, legal legerdemain is rarely a forensic match for careful, methodical preparation of evidence and argument or for honest presentation of documented fact. This is why the clients of the "mouthpieces" sooner or later always get their just deserts. This is why the "mouthpieces" themselves, if they do not follow their clients to jail, at least wind up in ignominy, oblivion, or disbarment.

He who would assume the mantle of "Counsel for the Defense" must put his faith in other gods than Mammon. But faith he must have, especially in himself. He has the right, which every professional man enjoys, to expect that financial success and professional prestige and public acclaim will one day accrue to him. But if he is a lawyer at heart, he may not expect them on a basis of opportunism or operational dexterity in politics or the courts. Least of all may he try to achieve them by exploitation of the anti-social predilections of his clients or by devious manipulation of his special relationships with them. This sort of thing now and again brings glitter. It does not bring gold. Rather, the young lawyer must proceed on the same principle that animates the makers of mouse-traps. For genius is as rare in the law as elsewhere.

The real rewards I speak of are mainly on the spiritual side. And they are needed there, because the first and foremost quality that an aspirant for the criminal bar must possess is an inner spiritual strength. Brilliance in the law, agility in its use, a capacity for relentless pursuit of logical sequences, are not enough. They must be fortified by a belief in the majesty of one's mission and an abiding sense of the essential dignity of man. This and this alone can compensate for the aura of disdain, which, unfortunately and unjustly, often surrounds the criminal courts.

Why be a criminal lawyer? If true professional fulfillment may be attained only by hard work, and even then is uncertain, what justifies the students in forsaking the safer, more "respectable," and certainly more promising precincts of the civil bar? The answer may be found in a single phrase: "A spiritual kinship for the job." It would be banal, espe-

cially for a "representative of the species," to translate this phrase into what it really means, but the reference is to the very same motivating forces which



SAMUEL S. LEIBOWITZ

drive the fortunate and the strong in many lines of social endeavor to seek their happiness and their vocational goals in the service of the unfortunate and the weak. Why be a criminal lawyer? One might ask with as much propriety, "Why have a sense of duty or a spirit of public service?"

The great tragedy of the contemporary criminal law is that many of its practitioners are attracted not so much from these motives, as because it offers the easiest, most uncritical milieu in which to begin. It is true that some men, who enter thus fortuitously, remain to acquire a spiritual kinship for the job and to bring credit—and sometimes lustre—to themselves and to the law. There are those, however, who use the criminal bar as a stopgap, a means to acquire a little "experience," or as the shortest negotiable straight line to a civil practice and the nucleus of some sort of clientele. Either that, or they remain to become legal hacks and drudges, who "dis-serve," more than they serve, their clients. Perhaps it is this latter phenomenon, rather than any real or fancied cognizance of skulduggery in the practice, which causes the civil lawyer to look down his eyeglasses at his less successful brother across the legal tracks.

Do I recommend the practice of criminal law to young men about to leave law school? That would depend on the young men. Offhand, one might say that no young lawyer should enter the criminal courts, if prompted only by economic consideration. If he wants only to earn a living, he ought to stick to his last wills and testaments, to his torts and liens and contracts. If he cannot find clients—paying clients, that is—with interests such as these, he would do far better to bury his sheepskin in mothballs. The world needs bankers and bricklayers too. Nor should he enter the criminal courts, unless he is prepared to wage an unending battle against vice and crime and the conditions which breed them. Note that the battle is *against* these evils; not *for* them, as is erroneously and too commonly supposed. The criminal lawyer is to crime as the physician is to disease. The flaws in the analogy relate only to dramatis personae, but the parallel is none the less precise.

Surely, a criminal practice involves rubbing shoulders with "unsavory persons." Not every client is innocent. If the lawyer is to do any business at all, he must expect his fair share of thugs and thieves, con-men and conspirators, dips and degenerates, muggers, maimers, and murderers. Does our young man have so little faith in himself that he cannot hope to leave even such as these at least a little bit better than he found them? Does he fear that he cannot deal with them without getting soiled? If he does, by all means let him go with "clean hands" to Equity. A morbid fear of contamination is more debasing than contamination itself.

But let the young man seriously consider the criminal bar, if he is able and unafraid. Ability signifies much more than technical competence. Academic brilliance and a commanding court room presence are not enough. Still less does

a reputation for moral and intellectual probity alone suffice. The book-learning of the scholar and the technique of the trial specialist must be buttressed by an extraordinary perception of the nature and purpose, generically speaking, of the criminal law; by a deep and discerning appreciation of the institutions and services with which the modern philosophy of salvage and correction implements the substantive and procedural criminal law. The intellect must be fortified especially by a creative concern for the rights and obligations of all men, even though the focus is on the delinquency and dereliction of the law.

We have come a long way from the *lex talionis*; from the ancient concept of a retributive or purely punitive justice. But it is not to our credit that the trail has been blazed by the pioneers in other professions than ours. We have lagged far behind the sociologists in the humanizing of our own specialty. The law cannot even claim credit for so illustrious a contributor to penological progress as Harvard's Sheldon Glueck. The good doctor would, I fear, contend that he is a social scientist first and a lawyer after. I refer to this not as an indictment, but as a challenge. It is a challenge especially to the Harvard which gave to American letters an Emerson and a

Thoreau, and to jurisprudence a Holmes, a Brandeis and a Frankfurter.

To the young man of talent who is well grounded in the law and has what Solomon called "an understanding heart," I would say, "For you the criminal law is a public duty." For the "understanding heart" encompasses the internal fortitude and the personal probity I have referred to heretofore. It comprises above all, a capacity for sympathy and a background of knowledge of human relationships and motivations, together with faculties of tolerance and patience in the common-sense adjustment of human difficulties. To such a man neither fame nor fortune will matter much. His contribution to our expanding tradition of individual liberty and to the advancement of our social institutions will matter a great deal. The student thus endowed has as much business in the civil law as an African big game hunter has in shooting a rabbit in some pasture. He would be doing himself, his profession and the community at large a service if he would paraphrase the stuffy sentiment of Henry Clay and say to himself, "I would rather be right in the middle of the deep drama of life and liberty in a little country courthouse than president of the tallest temple of the civil law."

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