

The Harvard Law School Record

VOL. 9 NO. 7

CAMBRIDGE, MASS., WEDNESDAY, NOVEMBER 16, 1949

PRICE TEN CENTS

NEWS IN BRIEF

HOWE GIVES AVC LECTURE

Mark DeWolfe Howe, Professor of Law, will speak on the constitutionality and the wisdom of the Smith Act, this evening, at 8 p. m. in Littauer Auditorium. This meeting, sponsored by the Harvard Chapter of AVC, is open to all who have an interest in this controversial subject.

Professor Howe, a former secretary to Justice Oliver Wendell Holmes, will talk on the Act itself and its relation to the recent Communist trial and Judge Medina's charge to the jury. He will look to see if we are accomplishing desirable ends in a democratic manner. Questions are in order and invited.

NIEBUHR FORUM

Tickets are now available to students of the Law School for the Forum program on Saturday evening, December 3, at which Reinhold Niebuhr and Clare Booth Luce will discuss the question, "Are Christianity and Capitalism Compatible?"

According to Richard Fink, President of the Law School Forum, tickets are being offered to students of the Law School before general sales commence. This is being done because the Forum feels that as a Law School function it should endeavor to assure all members of the school tickets, and the program is expected to be a sellout.

KINGS BENCH

Kings Bench will hold a smoker on Tuesday, November 22 from 4:00 to 6:00 p. m. at Kendall House. And on Wednesday, November 23 from 9:00 p. m. to 1:00 a. m., Kings Bench will hold a formal dance at the University Club.

STUDENT PASSES N. J. BAR

Seven months before graduation, one member of the present third year class has passed his state bar examination. Edward Pesin, 3L (Rutgers '47) was

(Continued on Page three)

ABA President Urges Spirit of Public Service

Gallagher Closes Forum Young Lawyers' School; Stresses Organized Bar

American Bar Association President Harold J. Gallagher closed the Forum's School for Young Lawyers with an address, *The Lawyer's Debt to His Profession*, Friday night at the Rindge Technical High School Auditorium.

President Gallagher made concrete recommendations to the assembled law students as to what they can do now and in the very near future as young lawyers toward participating in organized bar activities and in helping to solve the problems faced by the organized bar. He said that law students were aware of their duties and quoted at length from an editorial in the *RECORD* of October 26 as being indicative of it. The editorial had called for students to learn the ways of public service while still in school so that they would be more familiar with it and therefore more willing to undertake such work. President Gallagher said that students could become familiar with organized bar work by reading the *American Bar Association Journal* and the *Journal of the American Judicature Society*. Free subscriptions to the latter can be obtained by writing to the Society at Hutchins Hall, Ann Arbor, Michigan. The ABA President also suggested that students take an interest in their local bar activities while home at vacation time and get hold of copies of their publications.

Here at the Law School he suggested that he knew of three organizations, the *Law Review*, *RECORD* and *Forum*, which are closely connected with the organized bar and its problems. Along these lines he said that he hoped that there would soon be a chapter of the American Law Student Association here. Such an organization would be ideal for providing the right sort of introduction to the prob-

(Continued on Page three)

STATION WHRB

The Harvard Radio Network has finally announced the estimated time of its completion of the installation of facilities to "pipe" its radio program to Austin and Hastings Hall. The installation, which had been held up by a lack of coaxial cable, is expected to be finished by the end of the Christmas vacation, when the Harvard University Department of Buildings and Grounds will have wired the station's transmitting apparatus to the University electrical system.

The station, WHRB, which broadcasts at a frequency of 820 kilocycles, is now building tuning units to tune the co-axial cable to that frequency. WHRB broadcasts from 8 to 10 a. m. and 7 to 12 p. m. and from 4 to 8 p. m. on Saturday. Tuesdays and Thursdays broadcasting ends at 1 a. m.

Morgan To Leave Under Forced Retirement Policy



EDMOND M. MORGAN

Twenty-Seven Years At HLS To End This June; To Teach At Vanderbilt

After thirty-six years as a teacher of law, Edmund M. Morgan, Royall Professor of Law since 1938, will retire at the end of this year. Despite his admitted reluctance to "go on the shelf," Harvard's compulsory retirement policy doesn't permit the 71-year-old expert on procedure and evidence to remain on the faculty. (The rule has already been stretched for five years, since the normal retirement age is 66.) He has accepted an appointment as Professor of Law at Vanderbilt University School of Law, and expects to finish up here in June, complete his revision of his Evidence casebook, and then move on to his new "adventure."

Professor Morgan, who was born in Mineral Ridge, Ohio, received his LL.B. degree at the Law School in 1905, having previously received an A.B. in 1902, and an A.M. in 1903 from Harvard University. While at law school, he was Note Editor of the *Law Review*, and a member of the Parsons Law Club.

After graduation, he returned to Ohio, contemplating practice there, but moved to Minnesota, where he eventually became the chief trial attorney for the firm. When he left private practice in 1912 to join the faculty of the University of Minnesota Law School, a prominent jurist of that state is reported to have said, "Ed Morgan is a splendid man, but we are not sorry to see him leave. Now perhaps, we can try a case on the merits rather than on procedure."

Professor Morgan left Minnesota to teach at Yale, but had to postpone this job for a stint in the Army during World War I. By the time this chore was finished

(Continued on Page three)

Shestack Suggests Expansion Of Law Reviews To Extend Writing Training

This article was written especially for the RECORD by Jerome Shestack, LL.B. '49, member of the faculty at Northwestern University School of Law, where among his other duties, he supervises student writing in the first and second years. While at Harvard Law School Mr. Shestack was president and editorial manager of the RECORD, and member of the Legal Aid Bureau.

During the last ten or fifteen years most aspects of the law schools have undergone a greater series of apparently salutary changes than during any period since Christopher Columbus Langdell wielded his brilliant influence. Singularly aloof from these modern tides have been the law reviews. For the *Harvard Law Review* has provided a mold from which 60 odd years of law reviews have seldom departed. Volume I Number 1 of the *Utah Law Review* to be published this winter, will follow, I am told, substantially the same pattern as Volume I Number 1 of the *Harvard Law Review* published in 1887. But the fact that the law reviews seem to have reached an institutional stage is not in itself cause for complaint if the sameness is best suited for the job the law reviews are to perform.

At the outset, therefore, we must ascertain the function of the law reviews. Mr. John Jay McKelvey, LL.B. '87, the first president of the *Harvard Law Review*, in an article written for the fiftieth anniversary of the *Review*, concludes from a survey of student editors of numerous law reviews, that the function of the reviews is a twofold one: to supplement the legal education of the student members and to be of service to the legal profession.

Subject Matter of Law Reviews

How well have these two purposes been served?

Consider first the subject matter with which student editors deal. From the viewpoint of legal education, the reviews in their choice of student material have

AEC Physicist Outlines Plan For Atom Control

The World Law Group held the first in a series of luncheon seminars on Atomic Energy Control, Tuesday, November 8, at the Hotel Commander.

Dr. F. L. Friedman, professor of physics at M.I.T. and consultant to the Atomic Energy Commission, discussed: *The Technical Problems and a Scientist's Solution*. He pointed out that air-tight control of atomic energy utilization would be feasible only at the source of the raw material, but at any later stage in production control would be very difficult. He added that attempts at checking the other ingredients of the bomb, aside from uranium itself, could be made in an effort to get cross checks on information, if we are forced to use inspectors at intermediate levels of production.

(Continued on Page three)

fallen far short of what might be accomplished. Professor Fuller contends that the primary objective of legal education should be to convey an understanding of the basic processes of the lawyer, namely the adjudicative and the legislative process. Under the adjudicative process, Professor Fuller refers to all forensic methods of deciding disputes, including proof of facts, work of arbitration and administrative tribunals and the counselling function of the lawyer. Under the legislative process he includes such matters as the planning and drafting of statutes and the negotiation and drafting of private instruments. Accepting Professor Fuller's contentions as sound, it appears that the law reviews touch a minimum of the essential lawyer's processes. For the raw material of the student editor is the appellate case (if indeed it can be called a raw material); research and expression are the only skills developed; the other processes and attendant skills are almost wholly ignored.

Suggestions by Cavers

There would seem little reason for ignoring many of these other processes. In an excellent address at the recent conference of law reviews sponsored by Northwestern's *Illinois Law Review*, Professor Willard Wirtz, LL.B. '37 (who incidentally is a former editor of the *Harvard Law Review*), suggested that the law reviews might greatly enlarge the educational benefits to their members by spreading their wings to include materials such as an analysis of a new statute, a note on a legislative proposal, a problem in estate planning, a discussion of a case at the trial stage, and so on. Professor David F. Cavers, LL.B. '26, also speaking at the Northwestern conference, likewise suggested a number of projects whereby reviews might enlarge their scope. (Professor Cavers has long been an advocate of a wider outlook for law reviews. His article, *New Fields for the Legal Periodical*, 23 Va. Law Rev. 1 offers what is probably the best analysis of the subject; I would make it required reading for law review editors.) Legal research, stated Professor Cavers in his address, has been devoted too exclusively to the law libraries, unrealistically missing all that lies beyond.

As a typical project Mr. Cavers suggested a study of the mental hygiene laws of a given state. One might analyze the statutes on the subject and the decisions antedating and interpreting them with hardly more than a superficial understanding of the reasons behind them and the problems involved. But research that would also involve a check of how the legislation has operated in various institutions, the problems facing doctors, nurses and officials in working under the legislation, and similar material, might give a far better insight into the value of a piece of legislation.

(Continued on page four)

Teaching Fellow Group Work Program Gives "Know How" To Study Methods

The Teaching Fellow Program, most important of the revisions of the first year curriculum that were announced last Spring, has been in operation and under close examination since the start of the school year. Under the guidance of Professor David F. Cavers, Faculty Adviser to the Teaching Fellow Program, the 1949-50 plan of group work featured the presentation of a model jury trial and appellate argument early in the term. Current and future work to be conducted by the teaching fellows, as well as a review of accomplishments to date, were indicated last week by Professor Cavers.

Following the model jury trial and appellate argument in the now famous case of *Starr v. Keene*, the group work program turned to an analysis of the case of *Buchman v. Millville Mfg. Co.*, 17 F. 2d 983 (C.C.A. 2d 1927), Fuller, *Bank Contract Law*, p. 926, in order to develop in the students, careful reading habits and analytical processes. These goals are in line with the main objectives of the group work program, namely the reduction of pressure on first year students by enabling them to acquire effective techniques of analysis and study. By the elimination of the misdirected effort that has characterized the work of first year students in the past, Professor Cavers hopes that the actual time burden imposed on the students will be reduced.

During this week, the recurring question of "state of mind" and its proof as encountered in torts, criminal law, and contracts cases is undergoing examination in the group meetings. Cases involving issues as to "state of mind" have been drawn from among those already

taken up in class, and comparisons made of the subjective and objective standards used in proving "state of mind."

The group work program next week will turn to the course in criminal law for its assignment. Each group will be confronted with a state of facts of a homicide, as such facts typically reach the office of the District Attorney. Looking at these facts in the position of the District Attorney, the first year men will decide for what crime the state will seek an indictment. Insight will thereby be gained into criminal law, and the discretionary powers of the District Attorney in determining offense to prosecute. For this problem on criminal law, criminal cases previously considered in class and the New York homicide statutes will be relied on.

At the end of the first semester, a trial examination will be given to the present first year class, so that they may experience the rigors of a law school examination prior to the June examinations. The mid-year examination will be composed by faculty members currently teaching the respective first year courses. Grading, however, will be done by the teaching fellows, and will reflect criteria given them by the Professors who composed the individual questions. In addition to grading the papers, the teaching fellows will undertake to diagnose weak spots in each student's performance, and will offer aid to individual students in meeting such difficulties as their papers reveal.

Discussing the problems encountered by first year men, Professor Cavers believes that new students tend to see

(Continued on Page three)

Griswold Releases Names Of Winners Of 15 Scholarships

Dean Erwin N. Griswold has announced the award of the Harvard Law School National Scholarships to 15 outstanding students in the Law School.

The National Scholarships are awarded to men of exceptional ability whose homes are far from New England, their purpose being to maintain and extend the national usefulness of the School. The eleven states represented this year are California, Florida, Kansas, Kentucky, Nebraska, Nevada, North Carolina, Tennessee, Utah, Washington, and Wisconsin.

The recipients of National Scholarships, all first year men except as noted, are: Brockman Adams (Washington '49) of Seattle, Washington; Anthony Faustino de la Pena (University of California at Berkeley '49) of Berkeley, Calif.; Charles Dennis Dixon (North Carolina '49) of Belmont, N. C.; Marvin Arthur Finkelstein, 3L (Harvard '47) of Chattanooga, Tenn.; Clarence William Kerr (Princeton '47) of Glendale, Calif.; Edward Arthur Mullery, 2L (M.I.T. '48) of Omaha, Nebr.; John Stephan Nolan, 2L (North Carolina '47) of Miami Beach, Fla.; Edward Cornelius Reed, Jr. (Nevada '49) of Reno, Nevada; Alfred Carl Schmidt, 2L (Wisconsin '48) of Red Granite, Wis.; Richard Campbell Solibakke 2L (Washington '48) of Seattle, Washington; and Scott Cameron Whitney (Nevada '49) of Reno, Nevada.

The recipients of the National Prize Scholarships, all first year men, are: Theodore Christian Geisert (McPherson '49) of Elmo, Kansas; Glendon Elwood Johnson (Utah '48) of Salt Lake City, Utah; Robert Raymond Reid, Jr. (Washington and Lee '49) of Winchester, Ky.; and John Rodger Schorger (Harvard '48) of Madison, Wisconsin.

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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. Individual copies \$.10 each at the Law School; \$.15 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."

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

Editorials

"Why should I want to practice in a big New York firm, in a small firm, or in a small town? Is it possible to get started on my own? How can I get a job with the government and what would I do there? What is this divorce practice one hears about? How does a lawyer fix his fees?" These are just a few of the questions that the Forum's *Schol* for Young Lawyers attempts to answer for those who attend. If it does not answer these questions, in good law school tradition, it does even better by making future lawyers think about them. Nowhere else in the Law School are these questions ever raised. The two days of the *Schol* are the only time that students get a chance to drop everything and ask themselves, "What do I want to do when I leave the Law School, and what is the best way of preparing for my goal?" Most students here have only a vague notion that they are going to practice law and need those two days to consider just where they are headed and to get the guidance of men who are active in the fields that interest them.

With all that it offered, this year's *Young Lawyer School* was a fiasco, if considered solely on the basis of attendance. Many reasons have been advanced for its failure, but none of them seem weighty enough to have made students ignore this fine opportunity for getting practical information to use in planning their careers. Evidently most students are content to let their futures take care of themselves.

B. A. F.

During the *Getting Started on Your Own* panel in last week's *Schol* for Young Lawyers, Henry J. Smith, LL.B. '49, of White Plains, New York, who had been in active practice a total of eight weeks, told of how he got his first client through a referral from a classmate in another city. Mr. Smith was lucky, he had a friend who knew how to get in touch with him. But how many of our own fellow students will we be able to contact for business purposes, or for other purposes for that matter, during the first five years after leaving the Law School? Granted, the RECORD does publish the list of addresses of members of the various classes eight months to a year after a class has left the Law School, and the *Quinquennial* does come out from time to time. But by and large, will we be able to help and be helped by other members of our class during those first five years when we are the most fluid, geographically, and when we need most to get clients of our own or to bring clients into the office in which we are working?

We therefore believe it would be a wise idea for class organizations to be firmly organized before leaving the school so that we may get to know the other members of our respective classes, and so that the class organization can be the focal point for interchange of information. To do this best, we suggest that the class officers be elected much sooner than a few weeks before graduation, as has been the custom for at least the last few graduating classes. Furthermore, plans should be made to issue annually, if not more often, an individual class directory until such time as the *Quinquennial* can adequately serve the purpose.

D. S.

Letters to the Editor

To the Editor of the RECORD:

The Yale Law School Student Association wishes to extend a hearty invitation to any Harvard Law students who are coming down to New Haven for the Harvard-Yale game on November 19th to make the Yale Law School their base of operations for any pre-game or post-game social activities. In particular, they are invited to attend the dance which will be held in the Law School student lounge from 10 p. m. to 3 a. m. Saturday evening. Tickets to the dance may be purchased at the door for \$3.00. Dress will be informal. Guests must provide their own women and bottles, but free set-ups will be available at a bar conveniently located near the entrance to the lounge. In addition, Harvard Law students are welcome to partake of a buffet supper which will be served in the Law School dining hall from six to eight that evening—price \$1.75. Those who, through direct or indirect contacts, can wangle entree to any of the innumerable private post-game cocktail parties which will be in session intermittently for roughly twelve hours after 4 p. m. that afternoon should find the company stimulating and the liquor, if not palatable, the same. With respect to those visitors of serious bent of mind who come encumbered with academic obligations, we are sorry to have to announce that our law library will be closed from 6 p. m. Saturday until 2 p. m. Sunday.

JOHN G. BURNETT, President

Yale Law School Student Association

To the Editor of the RECORD:

Supplementing the recent suggestions of Judge Murdock to law students who wish to specialize in taxation, I wish to bring to the attention of such men the possibilities of tax work in accounting organizations. I speak from the experience of more than thirty years in this work. Accountancy is a comparatively young profession which, largely in the last twenty-five years, has come into intimate and continuous association with the many problems of business. Tax matters are among the most vital problems of business, both large and small. The most advantageous disposition of these problems often depends on an adequate knowledge of both the related law and accounting. It is not at all too difficult for a man with law school training in a few years of experience and some study to qualify as a Certified Public Accountant. He then has a most valuable background of specialized knowledge particularly as to income tax matters. Moreover, in any well equipped accounting office it is essential to have one or more men with legal training to advise in regard to many accounting problems that come up in the routine practice of the office in the preparation of accounting statements and other phases of the work.

I commend to the attention of prospective graduates of the law school the possibility of satisfactory and reasonably lucrative careers in tax work in and for accounting organizations.

EDWIN E. WAKEFIELD, C.P.A., EX '03-'05
Marshfield Hills, Mass.

Off the Record

The Perfect Squelch

Reprinted from the November 12 issue of *The Saturday Evening Post*:

"My law associate and I were trying a civil lawsuit in the New York Supreme Court shortly after the war. Opposing counsel placed a doctor on the stand and proceeded to qualify him as an expert witness. For fully ten minutes the doctor really laid it on, telling very boastfully of his high standing in school, college and medical college; his honorary degrees, hospital connections, published works, and so on.

"When he finally paused, opposing counsel said, 'Now, Doctor, please tell us about your war record.'

"Instantly my associate was on his feet.

"'Your Honor,' he snapped, 'We'll concede he was a hero.'"

FRANK W. FORD

Hot Tips From The Papers

The following information was gleaned from a biographical sketch in one of the local newspapers.

"That [Ames] final in the University along the Charles attracts a great number of New England and New York attorneys and representatives from law firms all over the country. The members of the winning club are literally swamped with offers for positions in the best law firms in the nation. Mr. X doesn't recall how many he got, but they were numerous and it just about made him sick to have to turn them down."

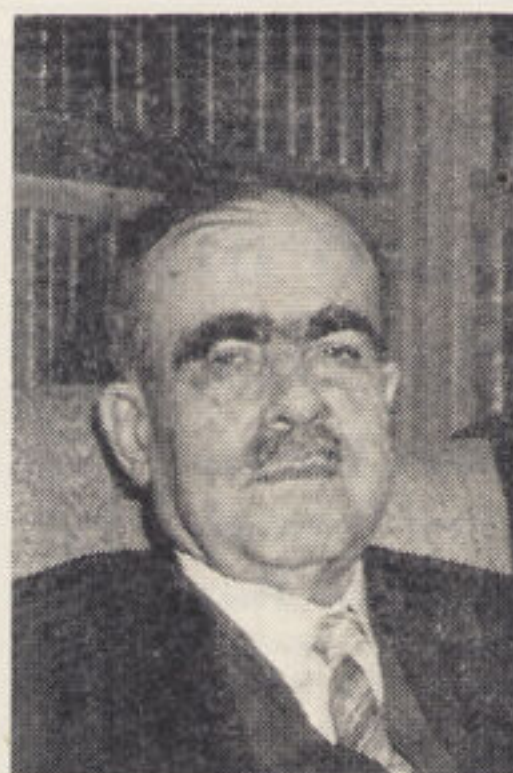
Note on Correlation Between Car Ownership and Grades at the Law School

It's easier to get the School's highest mark Than park.

H.

Gallery

ROLAND GRAY, SR.
Lawyer, Author, Scholar



To the right, as the visitor enters the small, comfortable library in the little white house at 36 Larch Road, Cambridge, hangs a posthumous portrait of John Chipman Gray, distinguished author of a foot-note-famous tome on the "Rule Against Perpetuities," the bane of the existence of many a second-year law student. Subtract the full beard and the resemblance to his son Roland, a partner of the Boston firm of Ropes, Gray, Best, Coolidge & Rugg, is at once apparent.

Roland Gray, Sr., born in Boston on the first of April, 1874, had an education that followed a familiar pattern—Hopkinson School; A.B., Harvard, 1895; LL.B., 1898. Being Note Editor of the "Harvard Law Review," and the fondly-remembered hours spent under the tutelage of Professors Ames and Williston, the latter being the sole survivors of that late 19th century teaching staff, form the basis of Mr. Gray's nostalgic recollections of days in the Law School.

After clerking for his uncle, Justice Gray of the Supreme Court, for a year, Mr. Roland Gray accompanied Chief Justice Fuller to Paris when the latter served on the Anglo-Venezuelan Arbitration Tribunal. Shortly thereafter he joined the firm which his father had founded, and with which he was to spend the remainder of his days of active practice, now practically at an end.

Contrary to his advice to young lawyers, Mr. Gray immediately entered into three fields of specialty, Wills, Real Estate, and Trusts, following his father's tracks, but "at quite a distance." "General practice should come first" is his advice to the neophyte, as he surveys a long career, in which his accomplishments have been in special topics, for "later there is time enough for a specialty." Mr. Gray never tried a case before a jury. However, from his earliest experience, assisting his father in many of his most famous cases before the highest tribunals in the land, Mr. Gray has found the intellectual challenge of arguing subtle points of law and the fascinating intricacies of brief writing much more to his liking.

From 1911-13 Mr. Gray returned to the Law School in a pedagogic capacity, where he instructed classes in Wills and Property III, which he found he thoroughly enjoyed. The scholarly propensity displayed itself later when, after his father's death in 1915, Mr. Gray invested the next 25 years, in addition to his other legal chores, in preparing a fourth edition of his father's weighty work on the "Rule Against Perpetuities," which was published in 1940.

In recent years, Mr. Gray has been much interested in the American Law Institute's Restatement of the Law of Property. The balance of his time is largely consumed in cataloging old coins for the Fogg Museum, and in pursuing his interest in wild flowers, an outgrowth of frequent visits to the mountains of New Hampshire.

On the topic of entering the legal profession, Mr. Gray has a word of caution for those who enter the field primarily for economic reasons. Regardless of the individual's aptitude in the field, he should be prepared for a life of hard work, prime requisites for success being the proverbial "legs of iron and stomach of leather."

As to the ultimate goal of retirement, which he has now practically reached, the large firm offers advantages due to the greater ease with which one may slip away from an active part in the firm's activities. The intelligent lawyer is the one who knows enough to slacken the pace as the years roll by, according to Mr. Gray. He quotes a New York friend whose lament is that he would "be content to do half as much for one-fourth as much." Whereas most men who have led active lives find that they must abruptly drop all professional activity in order to drop any, Mr. Gray's withdrawal was a gradual process.

Main among Mr. Gray's writings is his article entitled "International Tribunals in the Light of the History of Law," published in Volume 32 of the "Harvard Law Review" (1919). Written with the League of Nations as the case in point, much

Sub Judice

UNLAWFUL COMMANDMENT

Several policemen visited the Zion Tabernacle Church in Durham, North Carolina, and found there a large gathering of men, women and children engaged in religious services. During the services they saw the defendants, while standing in the pulpit, take into their bare hands poisonous snakes of the copperhead or highland moccasin variety and hold them within view of the congregation. No one was harmed by the snakes. The snakes were later tested by placing healthy rats with them which they immediately struck with their fangs, and the rats died within a few minutes. The defendants were charged with and convicted for the violation of a city ordinance prohibiting the handling of poisonous reptiles in such a manner as to endanger the public health, safety and welfare. The defendants appealed on the ground that the ordinance was void as against them since it impinged on their freedom of religious worship. *Held*: Affirmed. Holding that the public safety is superior to religious practice, Stacy, Chief Justice, said: "The defendants say, however, that the handling of poisonous snakes without harm to themselves or others is the power which they are commanded to show to the people, and to extract the venom from the snakes renders them useless for such purpose. It was suggested on the argument by the defendants in person that in all probability we would not understand this. Even so, as a matter of law the case comes to a very simple question: which is superior, the public safety or the defendants' religious practice? The authorities are at one in holding that the safety of the public comes first." *State v. Massey et al.*, 51 S. E. 2d 179 (North Carolina 1949).

L'ETAT, CEN'EST PAS MOI

A California testator bequeathed his entire estate of \$22,000 to "The United States Government U.S.A." The surviving members of the Burnison clan, however, were in a position to invalidate the gift. Three brothers, a sister, and 13 nieces and nephews, whose love for country was tempered with the realization that \$22,000 divided by 17 provides a more satisfactory and more immediate supply of money than the same sum divided by 130 million, claimed that the government cannot take under a will executed in California and that the estate should be distributed to the heirs at law of decedent. The State Probate Code prescribed that "a testamentary disposition may be made to the state . . . to counties . . . to natural persons . . . to religious corporations (etc.) . . . No other . . . can take under a will . . ." The lower court upheld the devise.

HELD: Bequest is void and order denying distribution of decedent's estate to his heirs is reversed. The Court noted that testamentary provisions have never been equated to inherent rights and that such provisions are always subject to legislative enactments. The Court stated that "rights of succession to property . . . are of statutory creation, and the dead hand rules succession only by sufferance." The right of testamentary disposition is within the control of the state having jurisdiction of the property in question, and "there is no constitutional requirement that the state allow the United States to take under a will." Counsel for the government argued that California law did allow the federal government to receive the gift, and when the Solicitor General took the position that the statutory designation of "the state" as a proper recipient of a testamentary disposition embraced the United States, the Court answered that "although it must be recognized that historians and other writers frequently use the literary or rhetorical expression and refer to the nation as 'the state,' the draftsmen of legislation as a rule employ language notable for its precise and definitive character rather than for its elegance. So it would appear that if the legislature had intended to include the United States within the purview of the statute, 'the ordinary dignities of speech would have led' to its mention by name." *In re Burnison's Estate* 204 P. 2d 330 (Calif. 1949).

of what was there written has application today to our experience with the United Nations. Drawing analogy from the development of the system of courts in medieval times, Mr. Gray then predicts that, as the weak courts of the Middle Ages developed a solid system of law, this same might well be happening in the field of international law. While such experiments along these lines may end in total failure, they also have a substantial chance of ultimately terminating in complete success, for which Mr. Gray sees hope today. Efforts to set up a world state are still premature in his opinion, but each experiment in international co-operation, built upon the ruins of past failures, is made far richer by such experience, and offers greater hope for the success of the next endeavor—and ultimate world peace.

CHARLES E. GENNETT, 3L

Alumni Notes

LL.B. '08—W. Trevor Holliday is one of the winners of the 1948 World Government News Awards, which are given "for outstanding service to the cause of world federation." He has been honored for the widespread influence which his writing for world government has had upon the minds of millions of people throughout the world. More than 35,000,000 copies of this treatise, *Our Number One Job: World Peace*, was distributed in original, digested, and abridged forms in more than thirty countries. Holliday, chairman of the board of the Standard Oil Co. of Ohio, is vice president of the United World Federalists.

LL.B. '09, S.J.D. '16 — Gustavus H. Robinson, Professor of Law at Cornell Law School, retired from that post last summer.

LL.M. '30—William M. Hepburn since 1930 Dean of the University of Alabama School of Law, has been appointed Dean of the Emory University School of Law (Ga.), effective January 1, 1950. An authority on labor law and co-author of *Cases on Torts*, Hepburn has twice been granted leave from Alabama to serve in important posts. In 1943-44 he went to Atlanta as vice-chairman of the War Labor Board for Region 4. In 1940-41, he went to Washington, D. C., as national associate secretary of the American Association of University Professors. He has served as a trial examiner with the National Labor Relations Board, Commissioner of Conciliation with the U. S. Department of Labor, and as a public member of the War Labor Board. He has been chairman of the Labor-Management Advisory Committee for Region 4 since 1946.

GALLAGHER—(Continued)

lems of the legal profession and the means by which they are handled by the organized bar.

President Gallagher called on students to join the ABA as soon as they passed the bar and to participate in its Junior Bar Conference, which is a separate organization for all lawyers in the ABA under 35 years of age. They should also join their local bar associations and work for close coordination with the ABA, he said.

In the words of Dean Roscoe Pound, President Gallagher characterized the legal profession as "A group of men pursuing a common calling as a learned art and as a public service, nonetheless a public service because it may incidentally be a means of livelihood." He emphasized a necessity for this spirit in the profession and showed that lawyers are engaged in a public service by the very nature of their work.

He emphasized that there are many problems facing the legal profession today and that it takes an organized bar to solve them. The more representative of the legal profession the organized bar is, the more shades of opinion are available, and the more actions taken by such a group would truly represent the views of the bar.

President Gallagher cited some specific problems with which the organized bar must deal. Some of these dealt with improving administration of justice and the judiciary, teaching people the duties and obligations of citizenship as well as their rights and privileges, and broadening the base of people served by lawyers for the benefit of the general public as well as lawyers.

FORUM BUFFET LUNCHEON



The luncheon given by the Harvard Law School Forum on Friday, November 11, at the Faculty Club for its guests at the School for Young Lawyers is pictured above. Of those facing the camera, reading from right to left, are Harold J. Gallagher, '19, President of the American Bar Association; Lucien R. LeLievre, LL.M. '38, LL.B. '43; Charles O. Porter, LL.B. '44 ('47); Herbert W. Vaughan.

MORGAN—(Continued)

ished, he was Lt. Col. Morgan, Assistant to the Judge Advocate General, U.S.A.

After the war, Professor Morgan finally reached Yale, where he taught for four years before coming to Harvard. While at Yale, he initiated the law club plan which he considers an invaluable adjunct to classroom work. Yale students are good, thinks Professor Morgan, but they don't work as hard as they could. As for Harvard law students, he thinks they're "the best student body in the world—and I don't mean maybe!"

Having taught at various summer sessions all over the country, from Texas—where he did not flunk the whole class, as rumor has it—to Colorado, Professor Morgan concludes that "Everywhere you go, there are a lot of top men in the law schools—and the law schools are the top schools in the campus."

Among the many honors that have come his way, the professor has been A.L.I. Reporter of Model Code of Evidence, Member of the Supreme Court Advisory Committee on Federal Rules of Civil Procedure, co-editor of two casebooks, author of the *Introduction to the Study of Law*, and has been acting dean of the law school on two occasions.

Professor Morgan has nothing to add to the story of his thirty-six-year teaching career. After all, he says, "Nothing ever happens to me."

NEWS BRIEFS—(Continued)

notified that he successfully passed the New Jersey State Bar Examination. Pesin was among the 194 successful candidates out of a total of 435 who took the examination. To qualify for the examination, the new attorney worked in New Jersey law offices during the last two summers to meet the clerkship requirements.

TAX COURT SESSIONS

A division of the Tax Court of the United States is holding sessions in Courtroom 4 on the twelfth floor of the Federal Building. Sessions are held daily from approximately 10 a.m. to 12:30 p.m., and from 1:30 to 5:30 p.m. The sessions are expected to continue until Friday of this week and, perhaps longer. Judge Bolon B. Turner of the Tax Court of the United States is presiding. The next Boston term is expected to be in February, 1950.

POST OFFICE JOBS

Applications are being taken from disabled veterans for temporary Christmas post office work in Boston and vicinity. Those men who wish to apply should do so at Room 1, General Post Office, Boston.

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GROUP WORK—(Continued)

their objectives as merely learning rules of law. All too often this is carried on to the exclusion of learning how to utilize these rules in the solution of new problems. Basically, most students know the rules when they enter the examination room. The men who do well, know both the rules and how to use them. These men, says Professor Cavers, have the "know how," coupled with an understanding of the processes in which the rules are employed.

Professor Cavers believes further, that this essential understanding cannot be taught, but has to be learned by the individual through work with the rules and processes of law in different fact situations. The aim of the group work is to advance this achievement of "know how and understanding," and so to increase the student's ability to cope with legal problems.

The teaching fellow program, as presently conducted, is handled by six full time teaching fellows, all of whom are recent graduates of the Law School. Each instructor handles five groups of between eighteen and twenty men, with each group meeting for one eighty minute session per week. During the Spring term, students will be assigned to a different teaching fellow, so as to be given the opportunity to benefit from the viewpoints of two different men during the year.

Studies made of class participation in the group meetings have been most encouraging and indicate wide participation. During the weekly class, between forty and eighty contributions to the subject under discussion have been offered from the group. Even more encouraging is the fact that these responses include offerings made by between 50 per cent and 100 per cent of the members of the class.

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Round 5, Argument, today, November 16.

Round 6, Argument, Thursday, November 17.

Round 7, Argument, Friday, November 18.

Round 8, Argument, Monday, November 21.

Second Year

Round 5, Argument, Tuesday, November 22.

Round 7, Brief exchange, Tuesday, November 22.

Law Wives

There will be a meeting of the Harvard Law Wives tonight at 8 p. m. in Kendall House. Mrs. John G. Kristensen and Mrs. Julius H. Berg, two law wives who are occupational therapists, will give instructions in Christmas card and cloth stencilling and in copper tooling.

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SHESTACK—(Continued)

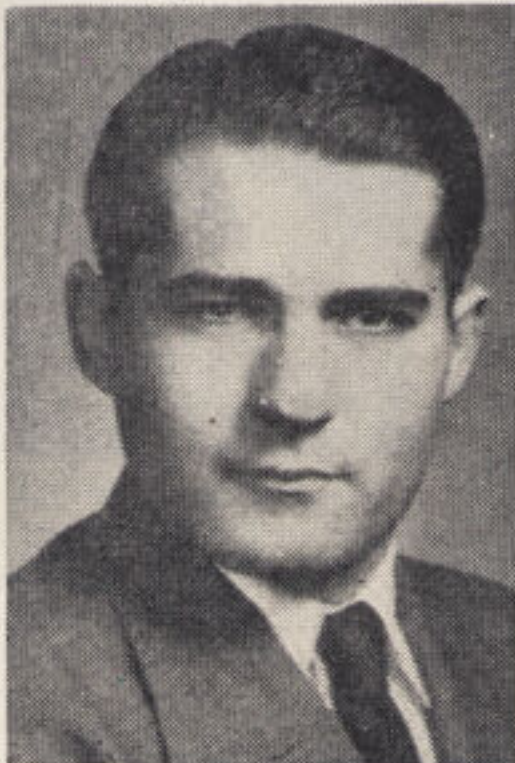
As Professor Cavers points out in his article: "... the lawmaker is the surgeon, and it is one trained in law who can best determine whether a legal operation is indicated and how it is to proceed. . . . What he might and should have is the opinion evidence, the commonsense judgments of those informed by experience, and such aid in analysis and appraisal as the economist and the sociologist can afford. And it is only by excursions into the legal hinterland that these can be procured."

Specialized Student Periodicals

It should, of course, be pointed out that a number of schools have progressed along these lines. *Law and Contemporary Problems* of Duke University Law School devotes each issue to a symposium on a particular problem such as secured transactions, public housing, etc. Northwestern Law School also concerns itself with the *Journal of Air Law* and the *Journal of Criminal Law and Criminology* as well as the *Illinois Law Review*. There are also a few others. These periodicals, however, largely use the symposium type in which each article is a typical leading article and few of them are written by students. There is still room, as Mr. Cavers ably points out, for the kind of periodical that will attempt to develop as student work all of the aspects of a field of activity of concern to the lawyer, client, judge and legal scholar. The effect of this kind of work

upon legal education would seem important.

From the point of view of the legal profession as well, the subject matter of the review may be questioned. For one thing, it is dull. Second, what statistics there are, indicate few readers among lawyers. Lawyers certainly do not sup-



JEROME SHESTACK

port the law reviews; most reviews have been losing money for years. As for law reviews molding judicial opinion in any appreciable degree, the evidence is considerably less than the speculation. On the other hand, there is no reason to believe that if the reviews would broaden their educational benefits in the manner suggested, they would not also find a more welcome reception in the profession. However, even if a choice were compelled between serving legal education and serving the legal profession, I would hesitate but little in choosing the first master.

Size of Law Reviews

Consider next the important question of size of the reviews. At present law reviews average about fifty members. Percentages, of course, vary with the size of the school. Thus Harvard, generally taking only "A" men, has about three percent, and Northwestern, taking "B" men, has over 15 percent. (Northwestern's list of 72 members includes competitors for the review. Even unsuccessful competitors, however, get the benefit of some training.) The question of size involves two major considerations. First, how many should be given the review type of training. On this most legal educators now agree that the review type of training should be considerably extended. Certainly there appears little reason for limiting it to the upper three percent.

The second consideration is whether the extension of the review type of training should be accomplished by the reviews themselves or by the faculty through classes, seminars, etc. Professor Wirtz believes that the burden of giving such training to most of the student body should fall upon the faculty, and that the law reviews themselves should remain the product of the select few. One practical disadvantage of this system to a school such as Harvard lies in the hiring practices of many law firms which definitely favor review men. A man from a smaller school who has made his review, perhaps low "B" average, has a distinct advantage in job hunting over a Harvard Law School graduate who may have had a middle or high "B" average but did not make the review. Those who are skeptical have only to speak with some recent graduates who went through the job-hunting paces.

Increase in Membership

Although not opposing extension of the law review type of training under faculty supervision, Professor Cavers sees an opportunity for its expansion under the direct sponsorship of the law reviews. Thus, he would have the reviews father some of the research projects mentioned above, in which students not board members might participate. The Harvard Law Review's handling of the Legal Research program ("Basement Review") he considers another step along these lines.

This proposal appears desirable to me

if two important points are added. First, instead of just having the law reviews supervise projects among the rest of the students, it would seem advisable to have the reviews extensively enlarge their membership and embrace these projects as part of themselves. This has been done to a large extent at Northwestern Law School. There a Board of Publications includes students working on the *Illinois Law Review*, the *Journal of Air Law* and the *Journal of Criminal Law and Criminology*. One important advantage of these students all being on the school's board of publications is that the incentive to participate appears greater than where the other journals or projects are treated like "Basement Reviews." (It might be noted in this connection that after the first term of the Legal Research Program at Harvard there was a sharp decrease in the number expressing a willingness to participate in the program.) Likewise morale among the student body seems higher where more students have the opportunity to identify themselves with the school's publication.

Increase in Faculty Supervision

Second, there should be increased faculty supervision of these various review projects. If law reviews are to be effective organs of legal education, it seems rather strange that faculty members should leave them wholly in the hands of students untrained in the methods of legal education. I am not suggesting that professors direct reviews as they do their classes, but certainly they might exert more positive guidance and direction than is generally found at present. Professors often complain that the processes of the lawyer, sociological jurisprudence, functionalism, realism or what you will, cannot be effectively used within the confines of the classroom. In law reviews they have superb testing grounds for their ideas on legal education. Yet they are content to allow the reviews travel along their autonomous and ancient ways. If a change is to come, it is not likely it will come from the law reviews themselves. The interests of law review editors are vested, their time short, and their experience lacking. Left alone by the faculty, the old system continues.

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