

The Harvard Law School Record

VOL. 11. No. 6

CAMBRIDGE, MASS., WEDNESDAY, NOVEMBER 8, 1950

PRICE TEN CENTS

NEWS IN BRIEF

OVERNIGHT PARKING

All the overnight parking spaces in the Jarvis Parking Lot, which is expected to be completed today, have been assigned well in advance. The Department of Buildings and Grounds has announced that no openings are available, but that in the event of cancellations others may obtain overnight parking space.

The lot is located west of Langdell North classroom, and the space has been given primarily to students in Hastings Hall in an effort to give them a convenient place to park.

Construction was scheduled to be completed some time ago, but unfortunately there were delays. In the meantime, those assigned space were permitted to park overnight in the parking area off Oxford Street.

No other parking areas are scheduled for construction since the University does not have ground available to allocate for parking.

HARKNESS MURAL

"The Garden of Eden" is the prize winning name selected for the mural in Harkness Commons dining hall. This title submitted by Fred Ringel, 2G, was chosen by Dr. Walter Gropius who acted as judge for the contest.

Sponsored by the International Society for the Propagation of Taste and Discernment Among Intellectuals and Others, the contest was considered by a great part of the graduate student body to be little more than a hoax. However,

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Harvard Law Underwrites HVD Group

After a little more than a year of existence, the Harvard Voluntary Defenders has been given official recognition by the Law School as a permanent student organization with the grant for the coming year of a \$500 budget.

Along with the stipend, according to tentative plans, the group will take over as permanent quarters the office in Gannett House now occupied by the Forum and Yearbook Staff. The latter two groups are expected to move into new offices being completed in the basement of Walter Hastings Hall.

Formed in October, 1949 for the purpose of providing counsel for indigent and worthy persons accused of crime and to further in every possible way the just administration of the criminal law in Massachusetts, the Harvard Voluntary Defenders found rapid acceptance in the Boston community.

Don Paradis, LL.B. '50, when president of the Legal Aid Society, broached the subject of assistance by interested law students to the Boston Voluntary Defenders Committee, which agreed that its overworked staff could use such services.

The student members immediately undertook systematic visits to jail to interview accused persons who could not afford counsel, investigated and searched out facts relating and giving rise to alleged crimes, examined prospective witnesses, and did research on disputed points of law.

Although at first the activities did not

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Opening Issue of Law Review To Feature New Defense Act Appraisal

The Harvard Law Review will open its new volume featuring Professor Richard H. Field's timely article entitled *Economic Stabilization under the Defense Production Act of 1950*. Number 1, volume 64 of the Review will be issued on November 10.

Professor Field limits himself to the wage and price stabilization provisions of the act and concentrates on the legal aspects of the new law. However, he recognizes that the political and economic problems which have made such legislation necessary must be considered to have a complete understanding of the law.

Professor Field is able to bring much personal experience to bear in formulating his conclusions, since he served as General Counsel of the OPA from 1943 to 1946. He concludes that the Act as it stands now has some shortcomings which will impair the Administration's ability effectively to assert economic controls.

In another article, *The Big Case: Procedural Problems in Antitrust Litigation*, Breck P. McAllister of the New York firm of Donovan, Leisure, Newton, Lombard and Irvine, discusses the huge proportions to which records in antitrust suits have grown in recent years. He suggests that the manner and amount of evidence submitted be controlled, in order that the trial judge in such suits may have less difficulty in acquiring a comprehensive view.

The first issue of the year includes two other articles, *Much Ado About Nothing, The Real Effect of Amended 60 (a) on Accounts Receivable Financing* by Allan F. Conwill and William Ellis, Jr., which deals with a recent amendment to the Bankruptcy Act, and *The Tax Treatment of Payments Under Section 16(b) of the Securities Exchange Act of 1934* by Norris Darrell. Professor Scott of the Law School contributes a short comment discussing the extension of the non-resident jurisdiction statutes of the type upheld in *Hess v. Pauloski*.

In line with the successful results of last year, the Review continues the practice of devoting the note space of the first issue to an analysis of the past term's discussions of the United States Supreme Court.

Mass. Bar Stumps HLS Men, Others

Unofficial reports of the Massachusetts bar examination given last July show that 36 Harvard men passed, representing 48 per cent of the Harvard men who applied for certificates to take the exams. The actual number of men who took the exam from the school has not been released by the examiners.

The Harvard percentage is considerably above the less than 20 per cent over-all number who passed in the state. Previous passing percentages for Harvard men has been at the 75 per cent mark.

Of the 740 men and women who took the examination, 140 passed, including five women. In discussing the figures, Dean Erwin N. Griswold said the percentage who passed was the smallest in his memory. He said the school was concerned, and anxious to cooperate with the bar examiners in an attempt to raise the passing percentage.

Results from last summer's New York bar examinations have not been available.

Harvard men have maintained a high percentage throughout the nation in the number passing the various state bar examinations. For the past three years in California, Harvard men have averaged first in the number passing among schools of comparable size outside that state. In 1949, Harvard men placed first in the percentage passing the New York substantive and adjective tests among schools with more than 100 men taking the examinations.

Van Waters To Address Forum Audience Tonight



MIRIAM VAN WATERS

Miriam Van Waters, Superintendent of the State Reformatory for Women in Framingham, Mass., is the opening speaker in this year's series of Legal Programs to be presented under the auspices of the Harvard Law School Forum tonight at 8 in the Langdell Courtroom. Her topic will be *Women Offenders in State Institutions*. No admission charged.

Dr. Van Waters was the subject of a heated controversy a little over a year ago when she was removed from office for instituting modern methods of penology. The public hearing which she requested, with Claude Cross, attorney for Alger Hiss in his second trial, as her counsel, was held in the very same courtroom in which she will speak tonight. After a thorough airing of all the issues involved, Dr. Van Waters was reinstated to her post.

Alumni Group Produces Movie Of Law School

A full-color, twelve-minute motion picture depicting the school in its modern setting is now being produced under the sponsorship of the Alumni Association, and it is expected that it will become available to meetings of alumni groups throughout the country, this Spring.

Intended to take the place of the brochure that had been planned for distribution in honor of the dedication, it is felt that the film will provide a more significant visualization of life at the school to the hundreds of alumni who have not visited Cambridge.

Portions of the dedication ceremonies, views of the Commons and the new dormitories, and scenes inside Austin and Langdell Halls will be featured.

She is a member of many organizations which are working to improve conditions in prisons. They are attempting to put into effect methods for rehabilitating convicts while behind bars. At the present time, Dr. Van Waters is the president of the American League to Abolish Capital Punishment, and a member of the board of directors of the National Probation Association. "Youth in Conflict" (1925) and "Parents on Probation" (1927) are among her writings on the conditions which bring about crime in the young.

Tentative plans are now being drawn up for future Legal Programs, and among these talks are a discussion of the Federal court system, and an analysis of the controversial McCarran Act. On December 6, Adolph A. Berle, Jr. has been scheduled to talk on *The Peace of Peoples and the United Nations*.

Smoke Screen Surrounding "Ames" Lifts Partially Through Research

Of all the as-yet unexplored and uncharted areas of this country, one of the most fascinating is that mysterious region of New England known by the simple name, "Ames."

Ames is, according to informed sources, "one of the states of the United States." See Maguire on *Exams*, 1947, p. 396. While official Washington is silent on this point, there is reason to believe that Secretary of State Dean Acheson is not without some knowledge of Ames, although no mention of it is found in government archives. But then, who ever heard of "Oak Ridge" or "Los Alamos" until a few short years ago?

By turning to the authorities, we have been able to gather some vital data on Ames. It has not been easy. Men have been known to turn white at the mere mention of the "forbidden name," or, as the natives would say reverently, "Hmmm?" But you may rest assured: before securing this information, we signed a paper to the effect that "We are not now, and never have been, members of a finalist club." Once we had thus gotten our clearance from the Un-Ames Activities Committee, our work progressed rapidly.

Like the other mysterious alphabet agencies of government (e.g. O.G.P.U., F.B.I., O.P.A., etc.) Ames has its feared secret society, known as the B.S.A., otherwise known as the Board. This body is a hard-working group of trained agents, who quietly go about their daily business with machine-like efficiency and ruthless determination. They are, in fact, the rulers of Ames. No one can enter or leave Ames without their permission; in short, they are the law in Ames.

But the truth is, that they never have been able to decide what that law shall be. An inner sanctum battle-for-power is believed responsible for this. For example, Professor W. Barton Leach, in his masterful opus *Property I Examina-*

tion, June, 1948, says, at page 186, that the Statute of Limitations in respect to the recovery of real property, is 21 years; Professor E. J. Brown, on the other hand, declares that the period is 20 years. See *Exams*, June, 1946. Brown also says that the period for a promise under seal is 10 years; but cf. *Exams*, June, 1948, p. 176, where another authority, A. James Casner, insists that this period is 20 years.

The capital of Ames appears to be Langdell City, "a large manufacturing center with a population composed predominantly of factory workers." Hart, *Exams*, June, 1947, p. 419. Of the factories, the General Manufacturing Co. is the largest, according to Judge Calvert Magruder. *Exams*, 1948, p. 195. Other large companies are the Amestown Corp. (machine tools), Ames Petroleum Corp. (oil) and Everybody's Emporium, (a department store). See Hart, *op. cit.*, p. 413, and Magruder, *op. cit.* Amesville, Metropolis, Detroit, and Grey are other large cities; all of these are in one or the other of Ames' two counties, Ames county, and Griswold county. See, in general, the above cited authorities. It also appears, from these sources, that Ames is bordered by the states of Austin, Langdell, Thayer, Utopia, Gray, Vinsonia, and Greenleaf. Occasionally, information can be obtained through smuggled-out copies of Ames' two newspapers, the *Amesville Bugle*, and the *Daily Bugle*. Kaplan, *Exams*, June, 1947, p. 254.

With the many problems which beset the citizens of Ames it would be unfair if its courts did not also become involved. The courts have very recently had a difficult problem of tort liability; the case of *Byrnes v. Hastings*. Both trial and appellate proceedings taking place within a period of two weeks, a fact which speaks very highly of the rapid administration of justice in this

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Chafee Attacks Possible Use of Loyalty Oaths as Penalizing Unpopular Views

This is the second and concluding installment of an article by Zechariah Chafee, University Professor, in which he attacks the resolution of the American Bar Association proposing loyalty oaths for lawyers.

The test oath recommended by the ABA with subdivisions inserted, and author's emphasis supplied requires: "an affidavit stating (a) whether he is (b) OR EVER HAS BEEN a member of the Communist party, or (c) AFFILIATED THEREWITH and also (d) whether he is (e) OR EVER HAS BEEN a member (f) OR SUPPORTER of an organization that ESPOUSES the overthrow, (g) by force (h) OR BY ANY ILLEGAL OR UNCONSTITUTIONAL MEANS, (i) of the United States government, or (j) any state government. . . ."

This oath is called an "anti-Communist oath" by the American Bar Association, but it does not stop with Communists or with crimes. Usually it is lawful to advocate the overthrow of the government by any peaceful means, even though "illegal or unconstitutional"; and "espousing" such a purpose is nowhere criminal, so far as I know. This phrase [h] in the oath can be stretched very far. In 1912, E. S. Pillsbury, a distinguished San Francisco lawyer, argued in the Supreme Court that the initiative and referendum "destroyed all government republican in form in Oregon" (223 U.S. at 141), and the Supreme Court did not say he was wrong. Some state court might say he was right, and disbar a lawyer for concealing his membership in a society advocating the initiative and referendum in a new state. Southern judges sharing my belief that an Act of Congress abolishing the poll tax as a qualification for voters is unconstitutional might disbar him for joining an organization favoring such legislation. These examples may seem extreme, but anything can happen under a sedition law.

The greatest evil from this oath is not actual disbarments, but its encouragement of the bringing of disbarment proceedings against lawyers whose views

the community dislikes. It is easy for legislative committees and certain newspapers to call anything these days "Communist-front." Consequently, some lawyers will consider a man's membership in almost any heterodox group—anti-Franco, anti-segregation, pro-share-crop-



ZECHARIAH CHAFEE

pers, to be a ground for investigation of his "conduct and activities" if he admits it, and for disbarment proceedings for perjury if he omits it. Whatever the court says in the end, his professional work will be disrupted for months and his career may be ruined. Mud sticks.

The A.B.A. oath is closely modeled on the oath which the Taft-Hartley Act [29 U.S.C. Supp. §159(j)] requires from labor union officials as a condition of bargaining status. Yet the Supreme Court's refusal to upset the labor oath does not render the A.B.A. oath desirable. The last part (clauses [d] [f] [h] in my summary) is the worst part, and the Court divided 4-4 on the corresponding part of the labor oath. Moreover, most parts of the A.B.A. oath con-

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

Combined Charities Drive

Each year, about this time, all law students are approached for a contribution to the Combined Charities Drive. This Drive, conducted by the Law School Committee of the Phillips Brooks House, is intended to supplant solicitation from funds by diverse charitable groups throughout the school year. The annual campaign affords a convenient time-saving opportunity for us to give substantial contributions in the name of the Harvard Law School to a great variety of worthy causes.

The great success of the Combined Charities Drive in the past reveals the extent to which law school men, who hail from all parts of the nation, have joined with their neighbors in making this community a better place for all people to live in.

There is no necessity to detail the great needs that presently exist in our midst, even among Harvard students. When you are giving, remember that this is the only appeal that will be made during the school year, that many charities and many, many less fortunate people will benefit—and give substantially.

Library Courtesy

A large number of complaints have been received concerning selfish use of the library by students. These practices include: (1) collecting great numbers of books at one's table for long periods of time, (2) not replacing books, (3) taking Shepard's Citations to a table, (4) putting books back in the wrong place.

Although one may understand the frenetic attention that Ames engenders, there is no excuse for ungentelemanly behavior. Anyone on the verge of a case in point can attest to the enormous frustration of being told the book is nowhere to be found.

Criticism of the library in another regard has reached us. Why is it not possible to classify books in some orderly way so that certain books may be withdrawn for longer periods? It seems a great waste to ask a student working on a paper requiring some special, unused book to abide by the same strict rules as a student who needs a glance at Williston on Contracts.

Yesterday's Election

Yesterday was Election Day in most of the states. It was the culmination of an exciting array of campaigns, if the one here in Massachusetts was any criterion. Now that the excitement has subsided and the newly elected officials are in office, we wish to extend our congratulations to those elected.

The Law School can be especially proud of the intelligent, hard-working members of both the Harvard Law School Democrats and the Harvard Young Republican Club who helped campaign for their own particular candidates. As a matter of fact the job has just begun. Now all of us interested in wiser legislation and better administration of the law must maintain interest in those elected to office and be prepared to criticize their activities.

Future members of the legal profession, as an interested section of the electorate, have special qualifications to help evaluate the new adminis-

trations and the new laws which will emerge from yesterday's results at the polls. It is only by keeping our eyes on the outcome of our votes that we may make our votes more effective.

Dialogue For A Saturday Dinner

"The Garden of Eden is the . . . name selected for the mural in the Harkness Commons Dining Hall. . . .

" . . . this title will aid the students in understanding the mural and in explaining it to their guests."—NEWS BRIEF.

"What's that?"

"What?"

"That on the wall."

"A mural."

"Oh . . ."

(Silence)

"What's it about?"

"The Garden of Eden."

"Oh . . ."

(Silence)

"Aah . . . does it look like a garden to you?"

"In a non-objective way, of course. The interesting complex of lines and the subtle shading force a re-evaluation of concepts which gives one a sort of naked perspective through the past and an insight into the future."

"Oh . . ."

(Silence)

"Pass the napkins, please."

Letters to the Editor

All Letters to the Editor must be signed. However recognizing the fact that there are times when a letter writer does not want his name to appear and in the interest of encouraging outside comment the RECORD will withhold a name on request.

We will not divulge a name without specific permission of the author.

To the Editor of the RECORD:

Due to a misunderstanding, 50 or 60 third year men are in grave danger of having their picture omitted from this year's Yearbook. We were laboring under the impression that our first year picture would be used if we didn't have a new one taken. Now we learn that, in order to get our picture in the Yearbook, we will have to get our own picture taken and bring it to Gannett House, along with a penalty of \$1. This will go to this year's photographer as a sitting fee for a picture he didn't take.

As a result of the inability of the staff of the Yearbook to clarify the situation at the time of the sittings (as must be so if 50 or 60 students thought otherwise), many of us may not get our picture in the 1950-51 Yearbook.

Though it seems too late to rectify the situation, this letter may serve as a guidepost to future Yearbook editors as to how not to do things.

An unambiguous statement as to Yearbook policy will, I am sure, be welcomed by all.

NAME WITHHELD BY REQUEST, 3L

Off the Record

The Road to Babylon: An Announcement

The RECORD wishes to announce a forthcoming literary event. Since we are not shy to bruit about our literary third-raters, on the theory that the Law School must nurture even the most hopeless Shelley, in order to save our discipline from the maggots of philistine clarity, we have persuaded with no effort at all, our two most esoteric and youthful poets to cull from their infinite undergraduate files their most piquant poetic infusions of Law School life, and, incidentally to appease their endless attack on the RECORD as a humdrum tower of Babbitt. To stop this shrill nagging, we have allotted them a stark minimum of space and the smallest typeface available ("Squirming Minuscule") so that they may speak and, it is hoped, forever hold their peace. In anticipation of stormy protest, it must be understood that this was a compromise because their propaganda had formerly been concentrated upon the achievement of a Flair-type RECORD in lavender ink, and surrealist summaries of the Dean.

This capalavoro has been entitled *The Charles River Anthology* and has been rejected summarily by every reputable publisher since the early adolescence of our artists. The Botch-of-the-Month Club has been eagerly seeking these men out, however, and we consider it a most fortunate coup to present them as our very own. Of course, their *oeuvres*, for presentation in the RECORD, require some shaping and transliteration from the brown paper bags and menus upon which they have been tenderly inscribed. This process has been going on now for a few weeks. As is true for all works of inspiration, their publication cannot be predicted with certainty. Those with a real taste for the good, the true, the artistic, the beautiful, should keep close to these pages for the coming few months.

Gallery

STANLEY S. SURREY
Professor of Law



A specialist with extraordinary experience in the tax field, Stanley S. Surrey turned professor in 1947 after 14 years of government work. The switch from Tax Legislative Counsel of the Treasury Department to Professor of Law at California Law School provided no problem to this vigorous man of 40 years. And this fall, upon appointment to the Law School faculty, he is teaching sections in Taxation, Legislation and a seminar in Special Tax Problems.

Although he found California a very exciting state that is socially and politically dynamic Professor Surrey was nonetheless induced to leave because—as he defines it—Harvard Law School is a national institution. Moreover, he felt that it would be much easier to keep well informed on tax developments in the East, with proximity to New York and Washington.

While teaching during the summer session at California in 1940, he received an urgent wire from the Treasury Department calling him back to Washington to help write an excess profits tax law. The professor gave his students an assignment sufficient to keep them busy for one or two weeks, flew to Washington promptly, and after a week he was on a plane bound for Berkeley to complete the remainder of the session.

Graduation from City College of New York magna cum laude in 1929 was followed by his enrollment in Columbia Law School. There he finished second in his class and was Managing Editor of the *Law Review*.

Making the Law

His 10 years in the Treasury Department saw a period of major change and development in the tax field. His work brought him into close contact with congressional committees, where it was his task to participate in presenting the Treasury Department's views on tax policy and to aid in the formulation and drafting of the tax law.

A Tax professor's work, in his opinion, requires especially active attention because of the continually changing nature of the field. "Take a look," he said, "at the number of new tax decisions that are handed down each year as compared with other fields. And another thing, when it comes to interpreting new legislation you are in the same position as any lawyer trying to find out what was meant by the draftsmen and legislators. But if you're down in Washington and you help draft it yourself, you know just what you mean—or you think you do. I think the Dean, Ernie Brown and Jack Maguire would agree with me on that."

An objective viewpoint, he emphasized, is important for the student of taxation. It affords the student the necessary scope to appreciate the effects of varied policy judgments and to implement accordingly the changes in the tax law. This is one asset more readily attained by the teacher or student of taxation than the practitioner.

Teaching the Law

"Yet," Professor Surrey says, "teaching taxation is a considerable task, because the student must also be presented with an entirely different approach to the tax problems from the one I'm used to. The student is interested in such things as tax planning for clients, statutory interpretation, and the way taxes can be minimized."

The force of circumstance may very well push the professor on the road to becoming a crack amateur photographer. He was in Japan the last two summers as a member of the American Tax Mission invited to Japan by General MacArthur to recommend a revision of the Japanese tax laws. While there he invested in a large amount of photographic paraphernalia, since high-grade equipment can be purchased there at a great saving. This outfit is rather elaborate and complete, but he does not quite know what to do with any of it yet.

Professor Surrey interprets his choice of life in terms of the opportunity it gives him to work in the field of taxation—policy making, the revision of statutes, and generally maintaining the highest level of scholarship. He has a remarkable vitality, coupled with an unusual seriousness of interest, and the highest level of proficiency. R.H.R.

Sub Judice

SOMETHING TO BROOD ABOUT

Mr. and Mrs. Eldon purchased a dairy farm, as joint tenants. Some time later, Mr. Eldon died intestate and the question arose whether any part of the farm property passed to his heirs-at-law or whether his widow took everything as the surviving joint tenant. The only point of dispute involved calves which had been born after the purchase and before Eldon's death, or, as put by the court, "The question is this: does the natural increase in a jointly owned cow become jointly owned property and become the sole property of the survivors of the joint tenants?"

Held, the young stock goes to the widow as surviving joint tenant. Finding no authority in point, the Surrogate Court made its ruling with the aid of Roman law, Blackstone and general principles of joint tenancy.

Wright, Surrogate:

"Blackstone discusses the subject in this language: 'Of all tame and domestic animals, the brood belongs to the owner of the dam or mother, the English law agreeing with the civil, that *portus sequitur ventrum* in the brute creature. . . . And for this Puffendorf gives a sensible reason; not only because the male is frequently unknown, but also because the dam . . . must be maintained with greater expense and care. . . . The doctrine of property arising from accession is also grounded on the right of occupancy. By the Roman law, if any given corporeal substance received afterward an accession by natural or artificial means, the original owner of the thing was entitled by his right of possession to the property of it under such state of improvement.'"

"While the cow was carrying the calf, the latter was part of the jointly owned cow. At some arbitrary and exact point in the natural process of calving, did there come some change in the nature of ownership in the calf? Since the calf came into being as a part of a jointly owned cow, it would appear that the nature of ownership must continue after birth. A joint tenancy may be terminated by severance through an act of the owner. Since the act of birth was an act of nature no severance of the joint tenancy occurred." In re Eldon, 98 N.Y.Supp. 2d 697 (July, 1950).

CLASSROOM HYPOTHETICAL

One night, A, a truck driver, ran off the road and broke down the fence enclosing B's pasture. B's horse escaped from the pasture through the gap made in the fence by the truck. Early next morning, while it was still dark, C, traveling on the highway in his automobile, collided with B's horse and sustained severe injuries. These were the only facts presented in a suit by C, the injured party, against A, the truck driver. Should C recover? See *Ramsel v. Ring*, 173 F. 2d 41 (1949), for a surprising result.

Professor Seavey was presented with the facts and decision in the *Ramsel v. Ring* case. He calmly countered with the following situation: One night, A left his car parked on the highway without any lights. B, driving on the highway, negligently ran into A's parked vehicle. When C, a bystander, saw B's car in flames, he came to B's rescue. C found a gun in B's car and handed it to B. In a crazed state of frenzy and delirium, B shot C, his rescuer. Thereupon, C sued A, the owner of the original parked car, for damages incurred by reason of the gunshot wounds inflicted by B. Should C, the rescuer, recover from A, the owner of the parked car? For those who say that only seeing is believing, read *Lynch v. Fisher*, 34 7.2d 513; affmd., 41 S.2d 692.

WHRB WEEKLY SCHEDULE

Each week the RECORD will publish a schedule of the highlights to be broadcast during the week by the University's own station at 550 on your dial. WHRB is on the air from 2:00 p.m. to 1:00 a.m. daily.

Daily Features

5:05-5:15—*Sportlite*, a live show featuring interviews.

7:00-8:00—*Ivory Tower*, light piano music for the dinner hour played by Larry Eanet, Harvard '52.

2:00-5:00—Afternoon Concert.

Highlights of the Week

Today—9:30-10:00—*Jazz A La Carte*, visiting Jazz Musicians play in person.

Thurs.—9:30-10:00—*Threshold Series*, live drama, this week "Three Score and Ten" original play by Robert Paul.

Fri.—9:30-10:00—*Author, Book, and Critic*, discussion.

Mon.—8:00 p.m.—Special broadcast of the *Collegium Musicum*, Mozart concert direct from Sanders Theatre.

Tues.—7:00-8:00—Larry Eanet entertains with Ed Sullivan of Television fame.

Alumni Notes

LL.B. '28—William C. Waring, Jr. has retired from the firm of Edwards & Angell of Providence, R. I.

LL.B. '30—Hubert Winston Smith is now a professor of law at Tulane University, and is also taking courses in civil law at the school in order to enable him to qualify for the degree of Master of Civil Law.

LL.B. '33 ('34)—Charles Hill Collison, Jr. is associated with the firm of John W. Stokes & Co., located at 1775 Broadway, New York.

LL.B. '34—William Mertens, Jr., former Assistant District Attorney on the staff of Thomas E. Dewey, is the Republican candidate for justice of the City Court (New York County).

LL.B. '42—Robert T. Gannett, and James L. Oakes, LL.B. '47 announces the formation of a partnership under the firm name of Gannett & Oakes at 139 Main Street, Brattleboro, Vermont.

LL.B. '43—Col. George William Hickman, Jr., Judge Advocate at General McArthur's headquarters in Tokyo, is engaged in the preparation for the trials of the Korean War criminals.

LL.B. '47—Sumner Bedstone has become a member of the firm of Bergson & Adams at the World Centre Building, Washington, D. C.

LL.B. '48—Carl L. Shipley recently opened an office for the general practice of law at 1103 National Press Building, Washington, D. C.

LL.B. '48—Perry J. Martin announces that he has opened an office at 92 Bayard Street, New Brunswick, N. J.

LL.B. '49—Edmund G. Sullivan, Jr. has been recalled to active duty as a Lt. (SG) by the U. S. Navy and is now serving as a line officer in the Pacific.

LL.B. '49—Andrew Perl, Arnold A. Hackmeyer, and Harry S. Tishelman have formed a partnership under the firm name of Perl, Hackmeyer & Tishelman with their law offices at 141 Broadway, New York City.

Demos, GOP Active To Last Minute In Yesterday's Voting

Student organizations of the Democratic and Republican parties played active parts in the political campaign which ended yesterday.

The Democratic Club was given sole responsibility for Ward Seven in Cambridge by local party leaders. More than fifty workers canvassed the entire ward, door-to-door, in the last two weeks of the campaign.

The club supported the entire party ticket, but principal efforts were directed toward the re-election of Paul A. Dever and the three candidates for state representative in the area, Good, Sullivan and Watson.

Yesterday, club members worked at all the polling places in the ward. Particular emphasis was put on keeping a list of those who voted and trying to bring non-voters to the polls. This technique was an important influence on the heavy turnout of voters.

At its next meeting, on Tuesday, November 14, the club will elect officers for the coming year. At that time, further plans will be formulated.

The Harvard Young Republican Club, which includes a Law School Committee, was also busy campaigning. Members canvassed and worked at the polls in wards seven and eight, under the general direction of party leaders. Major efforts were devoted to Copley Amory, Jr., candidate for the State Senate, and the three candidates for representative, Serino, Lindstrom, and Swann.

Last night, the Club held a members-only party at their headquarters in Wigglesworth, D entry. Principal attractions were a television set bringing in election returns and a large supply of beer.

Looking to the future, the club has set up a number of research committees to prepare reports on matters of current interest.

A report on the McCarran Act has already been made. As a result the club has taken an official position on the act. It is opposed to all its provisions with the exception of the registration requirements for Communists.

NEWS BRIEFS —(Continued)

enough of the student body took the contest seriously so as to make Dr. Gropius' task less difficult.

The Society is said to be very pleased with the results of the contests and hopes that this title will aid the students in understanding the mural and in explaining it to their guests.

PARIETAL RULES

Recent decisions of the Dorm Parietal Committee indicate that the loss of privileges resulting from infractions of the parietal rules will be meted out in proportion to the degree of the infraction. Thus in two current rulings by the Committee, a student who both failed to sign in and out, and overstayed the Sunday night deadline by an hour and fifteen minutes lost his room entertainment privileges for 45 days, while another student who overstayed by 25 minutes lost these same privileges for the minimum of 30 days.

MARRIED STUDENTS

On Saturday, November 11, the Harvard Law Wives are sponsoring a Pot-Luck Supper in Harkness Commons at 6 p.m. All married law students and their wives are invited. For further information call: Mrs. Robert Dudley, KI 7-9125 or Mrs. Ishier Jacobson, EL 4-0617.

LEND ART OBJECTS

The Hopkinson portrait of Mr. Justice Holmes and the bust portrait of Mr. Justice Brandeis are on display at the National Gallery in Washington as part of the exhibition there of portraits of personalities who have been prominent in the District of Columbia during the past 150 years.

Upon the close of the exhibition at the end of the year, these two art objects will be returned to the Law School, the Holmes portrait to the north half of the main reading room in Langdell and the Brandeis bust to the Root Room.

QUARTET SING

Each dormitory is urged to enter a group for the quartet sing contest to be conducted during the intermission of the November 18 Dormitory Council dance at Harkness Commons. Interested quartets should contact Francis D. Fisher, 3L (Harvard '47) of Winnetka, Ill. at 302 Holmes.

REGULAR FORUM PROGRAM

The next regular Forum meeting will be held Friday, November 17 in the Cambridge High and Latin auditorium. That evening, James T. Farrell, Budd Schulberg, A. B. Guthrie, and Esther Forbes will discuss *The American Novel*. Professor Howard Mumford Jones of Harvard is to serve as moderator.

LAW REVIEW SUBSCRIPTIONS

Students are reminded that subscriptions to present volumes of the *Law Review* may still be obtained at Gannett House at the special students' rate.

H. L. S. FUND DEFICIT

Some \$350,000 must still be raised if the Law School is not to go into the red on its contribution towards meeting the cost of the new Graduate Center. The total the Harvard Law School Fund agreed to raise was \$1,650,000, more than half of the 3 million dollars figure for the entire project.

Details of the method the Fund will use in overcoming this burden are still to be announced.

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Brooks House Law School Committee Serves Students In Many Ways, Daily

The Law School Committee of Phillips Brooks House was formed in 1909 for the purpose of providing for those needs of the Students not otherwise met. This has led to a widely varied group of activities, all of substantial service.

Socially, the Committee's heaviest responsibility has been the series of dances they have sponsored each year. This year's mixer in October brought two hundred girls from Radcliffe, Simmons, and Wellesley.

The Dormitory Council of the Graduate Center planning Saturday dances, have profited from the moral support of the Committee, not to mention a substantial loan for incidental expenses.

Chief interest of the Law School Committee at present is a program of increasingly popular informal dances. Plans are also being made for the annual Yale weekend informal, to be held this year in the Louis XIV room of the Hotel Somerset.

Aside from sponsoring social affairs, the Committee has made the Annual Combined Charities Drive a familiar feature each year. Last year, nearly three thousand dollars was collected on behalf of local and national charitable organizations. In 1950, the drive will begin in late November.

In maintaining the Law Loan Library for students in straightened circumstances, the Committee uses its own funds together with book donations from second and third year men. Despite an appropriation of seven hundred dollars from its treasury and the issuance of over three hundred volumes this year, de-

mand again exceeded supply, and plans are being drawn for further expansion.

With the publication of the *Student Directory*, the Committee performs its most wide-spread and convenient service to the HLS community. The *Directory* lists the address and telephone number of each student. Publication of the 1950 Edition is expected in three weeks. This year, a tentative schedule of intra-mural sports events will be included. If the manager of any athletic activity wishes to have his group schedule included, he may contact the Committee.

The Committee acts as general promoter for intra-mural sports in general. It arranges the details of contests between dorms, clubs and independent teams in football, squash, and basketball. A football trophy has been provided which will be presented to the winning team at the Yale weekend dance.

The Law School Committee shares its quarters with several other organizations in the Phillips Brooks House, which is open to all University students, and features comfortable reading rooms, a kitchen, and a lounge for foreign students.

The Housing Office, serving the entire University is located on the first floor of PBH. Its personnel also issue an Entertainment Guide each week. This is a short review of the best diversions in the area and is posted in all Law School dorms. There is also a ticket agency.

The Committee has fully earned its place among the student organizations of the School, in providing substantial contributions to student life which would otherwise go unprovided for. D.J.Y.

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DALTON-ELCOCK BAR REVIEW

The Fall Review, preparing candidates for the December, 1950 Massachusetts Bar Examination began September 18, 1950 and will end December 31, 1950. Classes are held Monday, Wednesday and Thursday evenings from 6 P. M. to 9 P. M.

For information write:

Dalton-Elcock Bar Review
Ten Post Office Square, Room 915
Boston, Massachusetts
Telephone HA 6-2850

Calendar

LEGAL WORLD Law and Medicine

Dr. Richard Ford will deliver the next lecture in the series on *Law and Medicine* in Langdell North Middle on November 14 at 5:10 p.m. This lecture will concern *Medical Evidence in Homicide and Suicide*.

UNIVERSITY WORLD

Charles Eliot Norton Lecture

Thornton Wilder, Charles Eliot Norton Professor for 1950-51, will deliver the first lecture on *The American Characteristics of Classical American Literature* this evening at 8 o'clock in the New Lecture Hall. His subject will be *Adapting an Island Language to a Continental Thought*.

Kirkland House Forum

Professor Randall Thompson, Robert Middleton and Allen D. Sapp, Jr., will discuss the subject *What's the Future of American Opera?* in the Junior Common Room of Kirkland House at 7:30 p.m. on Thursday, November 9.

Stage Music

Professor Frederick W. Sternfeld of Dartmouth College will deliver a lecture in the Large Lecture Hall, Fogg Art Museum, on Friday, November 10 at 4 p.m. His topic will be *Music and the Stage*.

OUTSIDE WORLD

Ford Hall Forum

Discussing the question *Is There Political Hysteria in America?* Sunday evening at 8 o'clock will be ex-Congressman Hamilton Fish and Kurt D. Singer.

Brandeis Institute

Speakers in this week's lectures will be Aaron Copeland, tonight; Max Lerner on Thursday evening; Claude Andre Vigee on Thursday evening; Stella Adler on Tuesday, November 14.

International Student Center

Professor Arthur Schlesinger, Jr., will answer the question *What Should We Choose, Left or Right?* on Sunday evening at 8. After the talk and question period, there will be a social hour.

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To be included in this column leave your destination, desired time of departure, and your name, address and phone number, along with 50c with the Secretary of the RECORD, third floor, Austin Hall by the Monday preceding publication.

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VISITING JAPANESE JURISTS TOUR LAW SCHOOL



Shown above are the Japanese judges being conducted on their recent tour of Harvard Law School by Dean Griswold. The eminent Oriental jurists will return with new ideas concerning the administration of Japanese justice along the lines of the United States Federal System.

AMES FEATURE—(Continued)

sanctuary. Great interest was aroused by the action, and many persons attended the proceedings. But, despite the fact that Ames is the center of so much legal activity, and that there is a surplusage of legal talent in most other states, it was necessary to seek counsel, for both parties, from beyond its bounds. Eminent counsel, as well as judges, from various parts of the United States were prevailed upon to try the cause. Editorial, November 1, 1950, *Harvard Law School Record*, 5 at p. 2, col. 1. This action had been closed and the citizens of Ames are once again scurrying about committing their torts, breaches of contract, and various other legal wrongs all of which will be before "eminent counsel," once again, from afar, in January, May and June.

The foregoing, is, in essence, all that is known about Ames. The paper curtain that cuts this land off from the rest

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ABA OATH—(Continued)

tain retroactive provisions, whose absence from the labor oath was one reason why Chief Justice Vinson upheld it (70 Sup. Ct. at 692).

Nor are the situations parallel. A Communist labor union official was put by the Wagner Act into a position of power where he could disrupt the industry by political strikes, and disregard the interests of the workmen who voted against his union as their bargaining agent. A lawyer, on the other hand, has already taken a solemn oath to support the Constitution. Nobody is forced to be represented by him. Unlike the labor official, his political opinions have little relation to his normal professional work. Whatever his radicalism, he may draw will and defend accident suits well. Insofar as representing radical clients gives a disloyal lawyer scope for illegal behavior, the oath is unnecessary. His activities during litigation are constantly watched by government counsel and supervised by courts. Any unlawful acts can be detected.

Finally, the consequences of the expurgatory oath to lawyers are entirely different. The labor official who refuses to sign the oath simply gets no bargaining status before the NLRB. The law does nothing to him. For the lawyer, however, an unsanctified name is indispensable to success. His career will be blasted by his conscientious admission that he belongs to a dubious organization, by an investigation of his activities, by disbarment proceedings for perjury, whatever the outcome.

Another objection to the A.B.A. oath is its retroactive clauses. A reputable lawyer can thus be penalized for what he foolishly did in college. He can be investigated for past membership in an organization which he left years ago and was entirely legitimate when he belonged to it, but which now "espouses" forbidden objects. State bar associations ought to ask whether these provisions conflict with the *ex post facto* clause of the Constitution, which David Dudley Field said (4 Wall. at 288) "was intended to protect every man's right against that kind of legislation which seeks . . . to inflict a new penalty for an old matter. Of what avail will be the prohibition, if it can be evaded by changing forms?"

The punishment in the Resolution is disbarment, about the worst penalty a lawyer can suffer. This can be imposed for much behavior which is not criminal. Of course, some recognized grounds of disbarment are not crimes, e.g., failing to answer the court's letters. But such conduct is intimately related to a lawyer's professional duties, which (as already shown) is not true of his political views. Surely, the bar should be very cautious indeed about disbarring for new kinds of lawful behavior. It is absurd to say that the lawyer who denies membership in any proscribed organization is punished for perjury, not for membership. Suppose some fanatical "dries" during Prohibition had obliged every lawyer to swear he had not patronized a bootlegger, with penalties like this Resolution. This is obviously punishing

lawyers for buying from bootleggers. Perjury is just a trick.

Even if some lawyers are criminally engaged in revolutionary organizations, what a former president of the American Bar Association, Charles Evans Hughes, said in 1920 is very relevant: "If public officers or private citizens have any evidence that any individuals or group of individuals, are plotting revolution and seeking by violent measures to change our Government, let the evidence be laid before the proper authorities and swift action be taken for the protection of the community."

Instead, this Resolution would have the bar imitate the tactics of the University of California Regents. The havoc which such tactics create in the life of any professional group is described by a California dean: "No conceivable damage to the University at the hands of the hypothetical Communists among us could have equalled the damage resulting from the unrest, ill-will, and suspicion engendered by this series of events." Yet the bar of every state is to be thrown into similar unrest, ill-will and suspicion "periodically".

Now a word about any really Communist lawyers. If their membership automatically makes them criminals, the Department of Justice can prosecute them. When the Department thinks it wise to leave radical lawyers alone, why should the bar take over? A good deal can be said for letting radical lawyers go on practicing, for otherwise radical laymen who are prosecuted or held for deportation will have great difficulty in obtaining adequate counsel. Suppose that the English Tory government during the French Revolution had adopted a similar expurgatory oath to get rid of the defense lawyers in sedition trials.

Last, lawyers ought to ask whether the recommended measures do not violate the Fifth Amendment. . . . "Nor shall any person . . . be compelled in any criminal case to be a witness against himself . . ." The effect of the resolution is to condemn a man out of his own mouth. Here, too, Alexander Hamilton and the opinions of Justice Field on test oaths deserve careful study. Once the expurgatory oath becomes established practice, why should it be confined to ferreting out disloyal lawyers? Other activities of a few lawyers are injurious to society. Fanatics might oblige every lawyer to swear that he has never misappropriated a client's money, or fabricated a fictitious residence in a divorce case, or aided a client in violating the antitrust laws or the Robinson-Patman Act. If he answers yes, investigate all his "activities and conduct." If he answers no, prosecute him for perjury.

Lawyers can best serve the American people, in the present crisis as always, by performing their sacred duties of helping to settle disputes and guiding human relations and improving the law. It is no time for them to neglect these tasks in order to turn themselves into prosecutors and policemen for hunting down other lawyers and depriving them of their reputations and livelihood by a purge.

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