

The Harvard Law School Record

VOL. 11 No. 8

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PRICE TEN CENTS

Red Feather Drive Aids Harvard Men With Medical Care

Harvard University students benefit directly from Boston Red Feather Agencies, Vice Dean Hall, chairman of the Harvard Unit of the 1951 Red Feather Campaign, noted in a recent statement.

In urging all members of the Law School to contribute to the Combined Charities Drive at the school, he called attention to several facts which may have been overlooked by students.

Boston hospitals, for example, in the past year, made available more than \$17,000 of free medical services to students at Harvard, he said. Last year 220 students spent a total of 2,129 days in hospitals, not including Stillman Infirmary. The cost to the hospitals was at least \$8 per day more than what they received from Harvard through the medical fee proceeds. The deficit was made up by Red Feather money, 24.3 per cent of which went to Boston hospitals.

New Activities

There are other reasons why contributions are more needed this year than in the past few years, Dean Hall said. In addition to the more than 300 services already included in the Red Feather campaign, there are new activities to be financed which are a direct result of America's increased mobilization efforts. A new U.S.O., the Associated Services for the Armed Forces, to aid service men and women has been organized. About \$280,000 has been provided for it. About \$195,000 has been

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Writer Protests Discrimination Against Feathered Friends By Administration

This diatribe was inspired while watching workmen fix small steel spikes on the ledges of Langdell Hall presumably to keep the pigeons from sitting there.

A crisis is occurring in the legal profession which it behooves every man-jack of us to combat. We are not displeased by the number of failures of the Massachusetts Bar examination, nor are we the least bit injured by the entry of women into the hallowed recesses of Harvard Law School. A greater danger has come to our attention, one which Harvard Law School can be ashamed of: the reduction in the number of legally educated pigeons this year.

We have been mulling over some recent statistics published by the Massachusetts Ornithological Society of Scollay Square which are indications of the problem. Up until the school year 1949-50, Harvard Law School provided free legal education for approximately 30,000 pigeons per year, most of whom were residents of Massachusetts. Comparing these with figures gleaned from an old almanac published by the American Association of Bar Examiners, we come up with the startling report that 75 per cent of all H.L.S.-educated pigeons passed their respective bar exams each year.

But alas, we are forced to hang our heads in shame and remorse. With much beating of breasts and tearing of hair we importuned the Administration to forego the insidious plan of destruction which it had envisioned, but to no avail. As a result of the Law School's decision to impale our feathered friends and colleagues on iron spikes surrounding Langdell Hall, the Ornithological Society, of which we have spoken, has reported that, in the last fiscal year, attendance of pigeons at Harvard Law School has slumped to some twelve or thirteen thick-skinned old birds who are working for their S.J.D.'s. The rest have departed to seek their legal education thanking us for our understanding of the problem before us, and also wishing to convey its thanks to the Administration for allowing so many pigeons the privilege of a free education at Harvard

NEWS IN BRIEF

DORM SUGGESTIONS

Assistant Dean Bevins announced this week that attempts are being made to find solutions to problems posed by the Dormitory Council. His office is trying to find the necessary funds for the suggested furnishings.

Drinking fountains and sinks for washing clothes will be procured when the necessary funds are found. Curtains for the double rooms in Holmes Hall are on order, and bicycle racks are on the list of improvements.

Members of the Architects Collaborative are working with school officials to find some solution to the transom problem which allows too much light from the halls into the rooms.

The post office department was asked to place a mail box for letter posting in the new graduate center, but the officials refused stating that there were too many boxes in Cambridge at the present time.

YEARBOOK PICTURES

Ira Bartfield, 3L, and Ted Taubeneck, 3L, co-editors of the *Law School Yearbook*, have announced that third year men who have not had *Yearbook* pictures taken by the regular photographer may submit glossy prints by other photographers for use in the *Yearbook*.

This unusual procedure, for which there will be a one dollar fee has been made possible by a special arrangement

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Lattimore, Linebarger To View Asian Crisis At Law School Forum Friday; UN Business May Keep Pandit Away



MADAME PANDIT



OWEN LATTIMORE

Chinese Communist Aim In North Korea, Tibet To Be Discussion Topic

Two of the world's foremost authorities on the Far East will bring a vital and timely discussion of *The Struggle in Asia* to the fourth Harvard Law School Forum this Friday at 8 p.m. in the Cambridge High and Latin auditorium. Owen Lattimore and Paul M. Linebarger will speak on the critical Asian situation. There is a possibility that Mme. Pandit also will speak on the program, although her appearance which was announced previously has been made doubtful by pressing U.N. matters.

Mme. Pandit, sister of Indian Prime Minister Jawaharlal Nehru, is the Indian ambassador to the United States. She formerly served as Ambassador to the Soviet Union. Former editor of *Public Affairs*, Lattimore is director of the Walter Hines Page School of International Relations at Johns Hopkins University. Author of more than a dozen books on China and Manchuria in a long career as a traveler and scholar in Asia, Lattimore was the recent target of Congressional critics condemning his participation in an alleged administration "sell out" of China to the Communists under Mao Tse-tung.

Linebarger, educated in China and the United States, since 1946 has been professor of Asiatic politics at the School of Advanced International Studies, Washington, D. C. During World War

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Influence of Contemporary Problems On Law Is Subject of New Casebook

This article was written especially for the *Record* by Julius Stone, S.J.D. '32, Professor of Jurisprudence and International Law at the University of Sydney Law School, Sydney, Australia, where he teaches the new course referred to in his article.

The Harvard Law School, I have seen it written,

"is where you have large classes
Where you talk to men in masses
And your canny Casebook-Makers
Make the Books that find the Takers
Since the Makers have the Takers
In their classes in large masses."

T. R. POWELL

No Casebook-Maker without these advantages would be prudent to compete in such a situation, even apart from questions of taste. But the Editors have asked me urgently for an article about the new course on "Law and Society" based on the Casebook of that name by the late Professor Simpson and myself.

The plan for *Law and Society* dates from the early '30's when I was teaching Jurisprudence at the Harvard Law School. Law under-graduates were not then thought fit for Jurisprudence; nor perhaps Jurisprudence for them. Why that should have been, was a puzzling question, especially since, as I then saw it, this subject might well hold one answer to the deadening hand of over-specialization in Law Schools.

Here, it seemed to me, better than in any course, we could both whet and somewhat satisfy the thirst of the young lawyer to see his legal world as a part of the real world. Here we could let him

see how the beginnings of law emerge slowly and painfully in kin groups, from the tangled web of customs, taboos, supernatural beliefs and the plain common sense of daily experience. He could see that the law can operate even without institutions of enforcement, without the existence of lawyers, and without legislatures, and how the beginnings of these go along with the appearance of a new basis of social groupings—the territorial politically-organized unit.

And then, again, if it was business he was interested in, he might glimpse how merchants and their ways can burst the shackles of a tight-knit feudal hierarchical system; and recreate the law in the image of a bona fide holder for value without notice. How the very appeal to reason in the trial process was in its time a newfangled invention to which men were weaned from the judgment of the gods only by tender care and persistence. And how principles of good faith and reasonableness struggled hazardously to their central place in advanced legal systems.

And, I felt, even if the law student was dull enough to be interested only in his own world, what exciting excursions he could have into the wide-ranging impact of the industrial and the democratic revolutions on the common law as Blackstone had systematized it in 1765! Wouldn't he be excited by the struggle of early entrepreneurs against the restraints of the Elizabethan poor law, the usury laws of church and state, and the mercantilist system. How could

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Law Firm Donates Gray Room Funds; Professor Honored

In honor of John Chipman Gray, a Professor of Law during the early years of the School, the third meeting room in Holmes Hall will henceforth be designated as the Gray Room, Dean Griswold announced last week. A memorial plaque is now being prepared for this purpose.

This dedication of the Gray Room is also in recognition of gifts made to the Harvard Law School Fund by the firm of Ropes Gray Best Coolidge & Rugg, of Boston.

Professor Gray graduated from Harvard College in 1859 and received his LL.B. from the Law School in 1861. Eight years later he became a lecturer, and in 1875 was appointed Story Professor of Law. In 1883 he was named Royall Professor of Law, continuing in that position until his retirement in 1913, when he became Royall Professor Emeritus.

Altogether, his association with the Law School extended over forty-four years of service, but Professor Gray was at the same time active in the practice of law. The present firm of Ropes Gray Best Coolidge & Rugg has grown out of the partnership of Ropes & Gray, of which he was a founder in 1865.

Dean Griswold has referred to him as "one of the great teachers of the Harvard Law School." While not teaching, Professor Gray sat at a large table in an alcove opening out of the students' reading room in Austin Library, which with his friendly and helpful ways made him much resorted to by the students. He felt a deep affection for his old students, and dedicated one of his books to them.

Professor Gray was a prolific writer of law review articles, but he is best remembered for his "Cases on Property," and for "The Rule Against Perpetuities," which went through three editions before his death.

(Continued on page four)

RECORD Elects Lyons President, Trachtenberg Editorial Chief, Reiss Business Manager, Paven Associate Editor

Sidney Lyons, 3L (Northwestern '48) of Fort Wayne, Ind., was elected president of the *RECORD* last Wednesday night as the 13 members of the *RECORD* Editorial Board chose their successors.

The new Editorial Board will assume control with the next issue and remain in office through the Spring Term.

Lyons, formerly news editor, replaces Arthur Smith, 3L (Harvard) of Cambridge.

Harold Trachtenberg, 3L (U. of Wisc. '48) of Brooklyn, was elected editorial manager, succeeding Jules Ritholz, 3L (Brooklyn '48) of Brooklyn.

Jerome Reiss, 3L (Brooklyn '48) of Brooklyn, will take over as business manager, replacing Joseph Indick, 3L (N.Y.U. '48) of Elizabeth, N. J.

Nathan Paven, 3L (Harvard '46) of Cambridge, was elected associate editor to succeed Henry C. Caron, 3L (Brooklyn '48) of Brooklyn.

News editor for the coming year is

Martin Barr, 2L (N.Y.U. '49) of Newburgh, N. Y., succeeding President Lyons, Nathan Siegel, 3L (Cornell '48) of Utica, N. Y., replaces Lauren Rachlin, 3L (Buffalo '48) of Buffalo, N. Y., as advertising manager.

Joseph Thalhoffer, 2L (Harvard '50)

PBH Yale Ball Frolic This Saturday Evening

Traditionally the biggest dance of the year for the law school, the Yale Ball will be held this Saturday evening from 8 until 12 in the Louis XIV Ballroom of the Hotel Somerset in Boston.

George Graham and his twelve piece orchestra will provide the melodies for the informal dance, which is sponsored by the Law School Committee of PBH. During the course of the evening, mixed

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of Prineville, Ore., takes over as copy editor for Editorial Manager Trachtenberg, while Stanley Golden, 2L (Vermont '49) of Stamford, Conn., replaces Paven as features editor.

William Hack, 3L (C.C.N.Y. '48) of Brooklyn, was re-elected to handle Current Case.

Other department heads taking office are Jerome Fisch, 3L (C.C.N.Y. '48) of the Bronx, replacing Reiss as treasurer; Irwin Markowitz, 2L (U. of Wisc. '49) of Newark, replacing Siegel as gallery editor; Eugene Feldman, 2L (C.C.N.Y. '48) of the Bronx, succeeding Robert Ehrenbard, 3L (Vermont '48) of New York City, as alumni editor; and Frank Brenner, 3L (Lehigh '48) of Forest Hills, N. Y., succeeding Thalhoffer as articles editor.

RECORD editorial and department head positions are changed every twelve issues.

The Harvard Law School Record

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Swan Song

This is the last issue of the RECORD written and composed by the officers and staff as named in the Masthead. We have made a genuine effort to inform and entertain both alumni and student readers. In this endeavor, we have been greatly assisted by the intelligent comments of the faculty, fellow-students, and alumni.

The RECORD has always been guided in its presentation of news, articles and features by the desires of the readers, and a good part of whatever success they have achieved is due to the helpful suggestions on all sides.

We have tried to accommodate ourselves to reader demand without abdicating the right and duty to exercise editorial discretion in choosing what to publish. Discrimination among available material is a serious responsibility and on this count our plea has been for reader understanding where we have not evoked satisfaction.

As departing officers of the RECORD, we would like to express the wish for sustained offers of that constructive criticism which we have found to be so beneficial.

World Law School

We heartily approve of the projected world law school. Such a school has long been needed to provide a broader approach to world legal problems.

Lawyers in the international field are beset with a host of special difficulties not encountered by national lawyers. There is no legal international framework. Lawyers must come to understand the basic concepts and ways of thought of those trained in alien systems of law. Special training and skills are required. Present law schools do not do an adequate enough job.

Experimentation with new courses and techniques will pay big dividends. A world law school, by attacking international legal problems from a world viewpoint can do much to improve the present situation. The proposal is an important step in this direction.

Happy Thanksgiving

Our Holiday Menu

Liens, Feoffee flakes and Replevins Marinated
With Remittitur Sauce
Renvoi Bread and Tolzey Sandwich

Caveats Facias
Taylor's Haut Scintilla

Consomme Continuance with Escrow in Esse

Broiled Filet Fee Tail with Fresh Hilary Sauce

Baked Estoppel with Bread Crumbs
Creamed Laches Dower Rissole

Mixed Trover Salad with Knob Seisin
and Green Retainer

Cy Pres Dressing Process Cheese Wafers

Bollinger Extra Dry Certiorari
Frozen Assumpsit
Petits Plea Fours

Demi Tax AREM

Gallery

HAROLD O. DANCKWERTS English High Court Justice

"It is a nice voice, but the answer is wrong." So, the famous Edward "Bull" Warren introduced the Harvard Law School to a young English student who 38 years later was to become a justice of the Chancery Division of the High Court of Justice of England.

Sir Harold Danckwerts was interviewed this summer in his room in the Royal Courts of Justice in London. A very friendly person, fairly heavy set, and dignified in stature, he was most willing to discuss himself and his two years, 1910 to 1912, at the Harvard Law School.

After spending a year in the study of Jurisprudence at Balliol College, Oxford, where he already had taken a degree in Modern History, Sir Harold decided that his legal education would be greatly enhanced by attendance at an American law school. Apparently his choice was a happy one, for he remarked that he learned all his law at Harvard.

Little doubt was there that Sir Harold would enter the legal profession. His father was a leading member of the English Bar who earned quite a reputation as a lawyer. He was a formidable character about whom many stories remain current.

Sir Harold was able to pass part of his bar requirements before commencing his law school training. In England, applicants for admission to the bar are required to eat a specified number of dinners at the Inns of Court. This delightful method of gaining admittance to the bar was fulfilled by Sir Harold by eating at Lincoln's Inn. In his final written examination he gained a certificate of honor and a first class.

His days in Cambridge, Mass. proved immensely enjoyable to the Justice. He liked especially teaching his fellow students how to play rugby. In fact, he claims that after the boys

had become fairly proficient they had many lively contests on the Cambridge Common.

One of his close friends in the Law School was Hon. Harold M. Stephens, Chief Judge of the Washington, D. C., Court of Appeals. Sir Harold still keeps an autographed picture of Judge Stephens on a table in his chambers.

Of the present Law School faculty only Professor Scott was then teaching. He was, Sir Harold said, a young fellow at that time who had yet to make his great reputation. The fiery Scott we know in our classes today had yet to emerge.

Although assured of a position in his father's chambers, Sir Harold "devilled for" another prominent barrister in London. Upon his return from serving four years in the army as a captain in World War I, Sir Harold resumed his practice with this barrister because his father had died during the war years. In addition he took a position as Reader to the Law Society.

In 1941 he became a Benchet, one of the senior and governing members of Lincoln's Inn, and also Junior Counsel both to the Treasury and Board of Trade in Chancery Matters and to the Attorney General in Charity Matters.

The greatest single honor of Sir Harold's life came in June, 1949, with his appointment to the High Court of England. As is customary, the person so appointed is knighted in a special ceremony. Sir Harold said that he found the half-hour private audience granted with the King at that time an impressive and enjoyable experience.

In commenting on why American cases are seldom cited in the English reports, the justice said it was not because the English courts look down on American decisions but because there are no complete sets of American reports available to members of the bench and bar.

Sir Harold's interests are not confined solely to the law. He is president of the National Whippet Association. In addition he is very fond of building scale model ships. Over the fireplace in his chambers at the time of the visit was an excellent example of his handicraft.

Unfortunately, Sir Harold has not returned to this country since his Law School days. He does hope, however, to return in the near future to attend one of his class reunions.



Off the Record

Legal Limericks Based on Famous Cases I Palsgraff v. Long Island RR Co.

A lady, one Palsgraff by name,
Has achieved a most wondrous fame,
By being the victim
Of a Cardozo dictum
She's won world-reknown and acclaim.

S.L.G.

L.D.R.

Letters to the Editor

To the Editor of the RECORD:

Your recent study (11 H.L.S.R. No. 6, p. 1) of the Commonwealth (or State) of Ames has fascinated me. I should like to add one fact. Ames is extraordinary in having very few native born citizens. But there have been some, I think at least three. They were born in Walter Hastings, children of the janitor. One of them, Lawrence Donaldson, is a radio technician in a Harvard laboratory. I have at least once had the distinction of advising him about his taxes.

An interesting jurisdictional point arises with respect to these native citizens. At the time of their birth, the Graduate School of Arts and Sciences exercised substantial jurisdiction over Walter Hastings. Still, I think it is correct to deal with the cases as those of persons born in the territory and under the sovereignty of Ames.

JOHN M. MAGUIRE,
Professor of Law

To the Editor of the RECORD:

Bravo to J. Edward Thornton for injecting a quantum of common sense into the discussions concerning the admission of women.

I happen to prefer strictly male tennis to mixed doubles. My wife is quite vehement on the subject but it hasn't yet occurred to her to accuse me of "discrimination." It happens that some of us studied much harder at Harvard Law School than at co-educational institutions and are under the impression that the absence of women at the Law School may have had something to do with this. Certainly some of us, purely as a matter of personal preference, choose to do some things without women. It is to be hoped that some schools may cater to this preference without being considered guilty of "discrimination."

If there be some who believe that Harvard is

so much better than other schools and that merely being barred from this one school denies women "equality of opportunity in legal education," I can find no fault with their logic. I merely compliment them on their touching faith—and, if such do graduate from Harvard Law School, I pity their first clients.

GEORGE D. JAGELS, LL.B. '32

To the Editor of the RECORD:

If a decent organization knows that certain of its members are making appeals to low prejudice in an effort to sway the result of an election, it will certainly dissociate itself from such members, and eject them if such a course is possible under the particular constitution and by-laws of the organization. If such an organization hears such a charge aired, it will not try to cover up with dilatory tactics and cheap legalisms, but will engage in serious investigation of the activities of its members, plus deep soul searching. This is true because failure of charges do not add up to exoneration. . . . It would be reassuring if our Democratic friends would indicate that they are seriously concerned with the possible correctness of Mr. Amory's allegations rather than yell foul.

. . . to me at least, the most powerful point in Professor Amory's letter is that the young [Democrats] should select the one district in the state where local issues were of overriding importance in the election of state legislators to do their bit.

Many students of this school will be comforted if a few months hence the Harvard Law School Democratic Club publishes (with equal publicity) the results of an introspective survey of its campaign techniques and objectives.

TIMOTHY J. HOWES, 2L

Sub Judice

JUDGES TAKE NOTICE!

Just as a patient father may finally lose his temper in dealing with the repeated misconduct of his wayward son, so did an appellate court in California recently deliver a thorough verbal lashing to a lower court judge for persistent misconduct while sitting on the bench. Throughout the particular trial in question, the judge indicated a clear favoritism for the plaintiff. Examples of this favoritism may be seen in two rulings by the court when defendant's attorney objected to some of the questions asked by plaintiff's attorney.

1:—"The Court: All right, I will sustain the objection since you do not want the jury to know the truth about that."

2:—"The Court: The objection is sustained. Anything that counsel do not want you [the jury] to know I do not want you to know. If that is the way they want to try the case that is all right. If you do not want the jury to know the truth, I will sustain your objection."

After judgment for plaintiff, defendant appealed on the ground that the court's misconduct constituted prejudicial error.

Held, on appeal, judgment reversed.

McComb, J.:

"In the ordinary case we would be constrained to reprimand Judge Burnell for his flagrant disregard of the canons of judicial ethics and for his nonjudicial and outrageous conduct. However, we refrain from doing so for the reason that the reported cases show that from time to time during twenty years the appellate courts of this state have directed Judge Burnell's attention to the impropriety of conduct similar to that which occurred in the present case—all to no avail. [The court then cited five cases in which the judge had previously misconducted himself.] Fully appreciating Judge Burnell's ability as a lawyer and at the same time recognizing his determination to indulge in conduct unbecoming a judicial officer, and realizing that anything we may say will have no effect upon his future course of action, we make the following comments for the purpose of calling to the attention of the profession the fact that the appellate courts of this state neither condone nor approve such conduct. . . . Trial judges should bear in mind Socrates' admonition:

"Four things belong to a judge: to hear courteously, to answer wisely, to consider soberly, and to decide impartially."

"Also Lord Bacon's comment:

"Judges should be more learned than witty." "By striving to attain the foregoing ideals they will serve more efficiently and at the same time attain greater eminence even though they fail to justify the immortal bard's comical description of judges:

"In fair round belly, with good capon lin'd,
With eyes severe, and beard of formal cut,
Full of a lawsuit is a serious matter . . ."
"The trial of a lawsuit is a serious matter, and the courtroom is not the forum in which the buffoon should ascend the bench to display his wares. Misconduct resulting in the reversal of cases costs the taxpayers large sums of money, is an utter economic waste, and often results in guilty persons escaping justice. Judge Burnell's conduct in this case is to be condemned without reservation. The judgment is reversed." *Etzel v. Rosenbloom*, 189 P. 2d 848 (Dist. Ct. of App., 2nd Dist., Calif.)

WHRB WEEKLY SCHEDULE

550 on the Dial

Daily Features

5:05 P.M.—*Sportlite*—News and interviews of local and national sports.
7:00 P.M.—*Ivory Tower*—Live cocktail piano music played by Larry Eanet.
12:05 A.M.—*This World of Music*.
Nov. 22—Vaughn Williams: Oboe Concerto
Mozart—Piano Concerto No. 5.
Nov. 23—Marcello: Oboe Concerto in C minor
Geminiani: Concerto Grosso
Couperin: L'Imperiale
Nov. 24—Bach: Violin Concerto No. 2
Handel: Concerto Grosso No. 12
Foote: Suite for Strings

Highlights of the Week

Today 9:30 P.M.—Jazz a la Carte.
Thurs.—9:30 P.M.—*Balladeers*—Featuring Liz Menzel.
Fri.—9:30 P.M.—*Author, Book, and Critic* with Richard Wilbur.

News Programs

5:00 P.M.—WHRB News
8:00 P.M.—Wired direct from THE NEW YORK TIMES
12:00 P.M.—Harvard News supplied by the *Crimson*

Alumni Notes

LL.B. '12—*Harold J. Baily*, who for nearly forty years has practiced law at 32 Liberty St., New York City, recently announced the removal of his office to 165 Broadway. Mr. Baily was appointed to the Governor's Committee on State Aid for Libraries in the Spring of 1949, and was reelected as Secretary of the Brooklyn Public Library in February of 1950.

LL.B. '16—*Floyd G. Blair*, vice-president of the National City Bank of New York, has been elected president of the Philharmonic Symphony Society of New York. Mr. Blair is also treasurer and a trustee of the society.

LL.B. '16—*Paul V. McNutt*, whose most recent governmental position was High Commissioner of the Philippines, has currently been elected chairman of the board of the United Artists Corp., motion picture producers.

LL.B. '23—*Nochem S. Winnet* has resigned as judge of the Philadelphia Municipal Court, and returned to private practice, associating himself with the law firm of Fox, Rothschild, O'Brien & Frankel, of that city.

LL.B. '27—*William H. Armstrong* is the first elected president of the newly-organized Harvard Law School Association of Missouri; he is also state chairman of the Harvard Law School Fund Campaign.

LL.B. '30—*Professor Hubert W. Smith* of Tulane Law School has been chosen by the National Association of Claimants' Compensation Attorneys to deliver the lectures on the rights of injured workers under Railroad Law.

LL.B. '41—*William F. Sullivan, Jr.* is a labor law specialist, practicing with the Boston law firm of Ropes Gray Best Coolidge & Rugg. Recently he was elected president of the National Association of Cotton Manufacturers.

LL.B. '49—*Robert G. Hennemuth* has been appointed to the faculty of the Northeastern Law School. He will teach Conflict of Laws, and assist in legal research and in the administration of the Law Club program.

LL.B. '50—*Derk R. TeRoller*, of San Francisco, joined the firm of McCutcher, Thomas, Matthew, Griffiths & Greene, of the same city.

Rainmaking Briefs Argued By Three Schools In Boston

Law students of three New England Law Schools, Boston University, Northeastern University, and Boston College, discussed ownership of rain clouds and hazards of rainmaking ventures in the first annual Phillip A. Hendrick Memorial Moot Court Competition on Nov. 17.

A distinguished panel of five judges heard argument without rendering a decision in the U. S. District Court Room, Federal Building, in downtown Boston.

Members of the panel were: Chief Justice Calvert Magruder, of the U. S. Court of Appeals for the First Circuit; Justice James J. Ronan, of the Supreme Judicial Court of Massachusetts; Justice Charles E. Wyzanski, Jr., of the U. S. District Court, District of Massachusetts; Samuel P. Sears, president of the Massachusetts Bar Association; and Charles C. Cabot, president of the Boston Bar Association.

Walter Powers, Esq., prominent Boston attorney, delivered the memorial address and awarded prizes of law books to Northeastern University Law School, winner of the trial competition. Law book prizes were also awarded to Boston College Law School for the best briefs submitted.

The case involved plaintiff John Fayerweather, a farmer, and his neighbor-defendant, Henry Wetmore, a timber-grower. Because of the local terrain, plaintiff's land received more annual rainfall than did defendant's. Defendant engaged co-defendant, Rain Control, Inc. to remove moisture from rainclouds passing over defendant's land by "seeding" them with dry-ice dropped from airplanes. Defendant thereby reduced plaintiff's rainfall by 50 per cent, caused a serious drought and injured plaintiff.

Plaintiff brought an action in the trial court to enjoin defendants from further "rainmaking," and demanded recovery for damages suffered. The trial court granted the requested injunctions, and awarded plaintiff \$16,000 in damages. On appeal, the Superior Court reversed the decision of the trial court on the ground that the acts complained of did not constitute a legal wrong, and dismissed the suit. Plaintiff appealed to the Supreme Court upon the issue whether, as a matter of law, the acts of defendants gave rise to a cause of action in favor of plaintiff.

Appellant contended that his problem should be adjudicated on the basis of such legal concepts as *respondeat superior* (agency), nuisance (strict tort liability), riparian rights, interference with an economic advantage, and "ultra-hazardous" ventures.

Defendants - respondents asserted the applicability of such legal doctrines as the law of percolating waters, and the theory of natural rights of a person to receive air and light above his own land. Neither of the litigants claimed exclusive ownership of the rain-clouds.

NEWS BRIEFS—(Continued)

with the photographer so as not to leave anyone out of the *Yearbook* who wishes to be included. Despite announcements that the regular photographer, who is from out of town, would be unable to take individual pictures after the regular sitting period, many third year men failed to have their pictures taken at the required time.

Until last year, the *Yearbook* required new pictures of all students annually. At that time a change was instituted. First year pictures were used for second year men. This year, the *Yearbook* tried to make it clear to third year men that they would have to have their pictures taken again. Despite these efforts, some men failed to comply. Consequently, the *Yearbook* has made this special arrangement for their benefit.

HARVARD LAW WIVES

Harvard Law Wives will give a bridge and canasta party tonight at 8 in the Wheeler Room, Holmes Hall.

CAL. AND STANFORD ALUMNI

Third annual private-wire broadcast of BIG GAME: Common Room, New Graduate Center, Saturday, Nov. 25. Kickoff at 4:30 p.m. Drop in after the Yale game.

FOREIGN LEGAL RESEARCH

With a view to determining the potentialities of foreign legal research and ways of realizing them, the Law School this year has instituted the Foreign Legal Research Study, of which William S. Barnes, LL.B. '47 (Yale '40), is Director. Mr. Barnes, after graduating from Law School studied abroad and later served as research associate in comparative law at the University of Michigan Law School. Foreign legal research activities and the proposed school would complement one another in many respects.

SETTLEMENT HOUSES

Students are needed to work in the settlement houses in the Boston area, doing such work with children as coaching and supervising social activities. Interested law students are asked to contact Dave Nathan or John Merrick, KI 7-7600, Ext. 576, between 3-5 p.m.

R. S. V. P.

The following appointments have been made for members of the second and third year classes and graduate students Monday, Jan. 22:

9:00 a.m.—Insurance
2:30 p.m.—Corporations II A & B
Tuesday, Jan. 23:

9:00 a.m.—Security
Special Tax Problems
2:30 p.m.—Unfair Competition
Wednesday, Jan. 24:

9:00 a.m.—Domestic Relations A
2:30 p.m.—Creditors' Rights B

Thursday, Jan. 25:

9:00 a.m.—Creditors' Rights A
2:30 p.m.—Accounting
Municipal Corps.

Friday, Jan. 26:

9:00 a.m.—Labor Law B
2:30 p.m.—Restitution

Saturday, Jan. 27:

9:00 a.m.—Conflicts
2:30 p.m.—American Legal History
Comparative Law
Jurisprudence
Legislation
Soviet and American Law
World Organization

Monday, Jan. 29:
2:30 p.m.—Corporations I, Section (3)

LOWELL INSTITUTE

Friday evening at 10, Professor Stanley S. Surrey will join Professor Howard Bridgman of Tufts, Dr. Samuelson of MIT, and Robert M. Segal, LL.B. '42, in a discussion of *Who Shall Pay for "Defense Taxes?"* broadcast by Station WEEL.

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Fulbright Committee Receives 27 Bids From HLS Men For Foreign Studies

FORUM—(Continued)

If he served in the China-Burma-India Theater as an intelligence link with both the Kuomintang and Chinese Communist groups.

The speakers are expected to discuss such topics as the effect of the Chinese Communist military thrusts in Tibet and North Korea; the role of India as an Asian "third power" balancing the forces of the United States and the U.S.S.R.; and long-term United States policies directed toward gaining the economic rehabilitation and the political friendships of the nations of Asia.

Five years before his Congressional committee "trial" at the instigation of Senator Joseph R. McCarthy (R., Wisc.), Lattimore had detailed in *Solution in China* many of the problems facing the United States in the Far East. He became political advisor to Chiang Kai-Shek in 1941, a job which landed him in the midst of the controversy between the supporters and the critics of State Department China policy.

The Situation in Asia, published in 1949, intensified Lattimore's warning, and a third book published this year, *Pivot in Asia*, attempts to indicate a workable United States policy toward the Far East.

Linebarger began his education in Shanghai in 1920 and has spent 30 years of study in China and this country. In 1942 he took part in the formation of the Office of War Information before his transfer to the Military Intelligence Service. He has written widely on Chinese affairs, especially with relation to Generalissimo Chiang. Among his books are *Government in Republican China* and *The China of Chiang Kai-Shek: A Political Study*.

Mme. Pandit has led an active political life. She joined the Gandhi movement in 1932 and three times was imprisoned for civil disobedience. Mme. Pandit took part in the formation of the Indian Government, and led the Indian delegations to the United Nations General Assembly in 1946, 1947 and 1948. Much of her comment is expected to be directed toward the pivotal position of India, which Prime Minister Nehru has sought to style a rallying point for "third power" countries.

One of Lattimore's most recent books, *Trial by Slander*, followed the Congressional inquiry and occupied late summer best seller lists. It is a criticism of the techniques employed against him when his Asian policy was under fire.

Moderator for the Forum will be Associate Professor E. O. Reischauer, of the Harvard University department of history.

Give Generously —

H C C D

Twenty-seven men in the Law School have applied for Fulbright awards this year, it was announced recently.

Of these men, the largest number, fifteen, are applying to study in England. Three want to go to France, two each to India, Egypt, and the Philippines, and one each to Holland, Burma, and Thailand.

The range of studies outlined in the applications is as diverse as list of countries applied for. One man wants to study civil law in France and do research in planning for the unification of Europe. Another wishes to study in the general field of international trade regulations.

Many of the applications to England stated general subjects for study, such as English administrative law and procedures, state planning problems, the socialization program, constitutional law, conflicts of law, the British Electricity Act, and methods of controlling the international use of resources.

Applications to the Oriental countries turn to comparative law (Burma), "point four" reasons (Egypt and Thailand), as well as study of the possibilities for private investment abroad (India).

Last year three Harvard Law students received Fulbright awards. Since more awards are to be made this year than were made last year, it is believed that as many grants may be given Harvard law students for 1951-52. Notification is not usually received until late spring or summer.

Forum Stars Schulberg, Forbes, Guthrie, Farrell In Literary Discussion

The American Novel received a somewhat un-novel treatment last Friday night before a rapidly disappearing audience at the third Law School Forum at Cambridge High and Latin.

Novelist James T. Farrell discussed the topic and expressed his confidence in the future of the American Novel. Novelists Esther Frobies and A. B. Guthrie, Jr. sprang to the defense of the historical novel, preparing for an attack that never came.

Budd Schulberg expressed his concern for the novelist who makes so much money he stops writing. Moderator Howard Mumford Jones, professor of English at Harvard, remained neutral throughout the proceedings.

The audience showed surprise and dismay that such articulate writers as Messrs. Guthrie and Schulberg and Miss Forbes, who evidently had a great deal to say, were quite inarticulate on the platform.

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Calendar

LEGAL WORLD

Legal Medicine

Dr. Richard Ford will deliver the next lecture in this series on Tuesday, November 28 at 5:10 p.m. in Langdell North Middle. This week's subject will be *Forensic Psychiatry*.

UNIVERSITY WORLD

Drama Lecture

Eliot Norton, *Boston Post* drama editor, will discuss *The Theater Today* in the Lecture Hall at Fogg Museum, Friday afternoon at 4. This lecture is in conjunction with the current exhibit at the museum of the works of Robert Jones, Donald Oenslager and Lee Simonson, noted American stage designers and Harvard alumni.

Glee Club Concert

The traditional Yale weekend concert of the combined Harvard and Yale Glee Clubs will be held in Sanders Theatre, Friday evening at 8:15.

OUTSIDE WORLD

Brandeis Institute

This week's lecturers include: Irving Fine, Wednesday evening, and Harold Clurman on Tuesday, November 28. There will be no lectures tomorrow evening due to the holiday. All lectures start at 8:15.

Mr. Irving Fine will continue the series in the *Anatomy of Twentieth Century Music* this evening at 8:15 at Brandeis University. His subject will be *Music in Europe Today*. Monday evening, Nov. 27, Dr. Gregory Zilboorg will deliver the last lecture in the series on *Psychoanalysis*, discussing *Cultural Problems in the Light of Psychoanalysis*.

Tuesday evening, Nov. 28, Harold Clurman will conclude *The Survey of the American Theater* series with a look toward *Future Trends in the American Theater*.

Places To Go

Jazz continues to create the big excitement in Boston as the various combos try to outdo each other. At the Rathskellar Room, Jimmy McPartland holds forth. At Wally's Paradise, it's Dixieland v. Swing with Sabby Lewis and J. C. Higginbotham. Storyville has Bob Wilbur.

GRAY ROOM—(Continued)

"The Centennial History of the Harvard Law School," after mentioning Gray's success as a business man, commemorated his contributions to the School, when it said: "This combination of scholarship with familiarity with affairs and common sense in all his conclusions was Gray's most remarkable intellectual distinction. 'And none of his remarkable qualities and capacities,' says Justice Holmes, 'remained isolated or futile, but they all united to give character to the stream of his thought.'"

Give Generously —

H C C D

DANCE—(Continued)

drinks and beer will be sold at a bar set up in the ballroom.

The dance will also be the occasion for the awarding of the intramural football trophy to the winner of the playoff game. Jim Jenkins, chairman of the Law School Committee, will present the trophy to the captain of the championship team.

Tickets are now on sale in Langdell South and Austin foyer, and will be sold in Harkness Commons during the noon-day meal tomorrow. The price is \$2.40 per couple. As tickets are also being sold at Yale Law School, the co-chairmen of the dance, Robert R. Reid, Jr., 2L, and Charles F. Wheatley, Jr., 3L, expect as many as 300 couples to be on hand for the affair.

Law School Democrats

Vote Taichert President

Robert Taichert, 2L (New Mexico '48) of Sante Fe, N. M., was selected to head the Democratic Club of Harvard Law School at elections held last week.

With him will serve Jim McDowell, 3L (Florida '43) of Auburndale, Fla., vice president; Arnold Nemiroff, 3L (C.C.N.Y. '48) of Brooklyn, recording secretary; Howard Levitt, 2L (N.Y.U. '49) of New York City, corresponding secretary; and Alan Goldstein, 3L (C.C.N.Y. '48) of New Brunswick, N. J., treasurer.

Elected to the executive council were George Ruditz, 3L (Brooklyn '48) of Brooklyn, Harry Spanos, 3L (Harvard '48) of Newport, N. H., Robert S. Persky, 2L (N.Y.U. '49) of Jersey City, and John Dalton, 2L (Missouri '49) of Kennett, Mo.

Retiring President Bob Ehrenbard, 3L (Vermont '48) of New York City, thanked the members of the club for the work they had done during the past few months. In declining to run for re-election he emphasized that the Democratic Club must be an organization for all law students at Harvard and not merely a small self-perpetuating group.

Plans are under way for the School for Politics, scheduled to start during the spring term. Leaders in all levels of politics are expected to attend and lecture. Saul Sorkin, 3L (Brooklyn '48) of Brooklyn, and Executive Councilman Dalton, will handle the preparations.

CHARITIES—(Continued)

set aside for civilian defense preparations, he added.

In these days of increasing costs, Dean Hall observed, the usual private community services will find it more difficult to survive unless they are given a chance to grow to meet community demands. These well-known services include the Boy and Girl Scouts, the Y.M.C.A. and Y.W.C.A., various Boys' Clubs, the Boston Legal Aid Society, the Society for the Prevention of Cruelty to Children, and many other service organizations in Cambridge, Brookline, Arlington, and other cities in the Boston area.

Shaw Dorm Team

Takes Top Honors

In PBH Tourney

In a hard fought, wind-blown game last Monday afternoon, Shaw Dormitory scored one touchdown against the Lincoln's Inn team and thereby captured the intramural football league trophy. Both Shaw and Lincoln's Inn, representing the Law and Equity leagues, respectively, had been unbeaten and untied prior to Monday's contest.

The sole tally of the afternoon came early in the first half, after Shaw had obtained the ball on downs. Dave McGiffert, 1L, the backbone of Shaw's team and the outstanding player of the afternoon, threw two successful forwards.

As a result of this victory, representatives of the team, of which Kingsley Jarvis, 1L, is captain, will receive the trophy at the Yale Ball this Saturday evening.

The final standings of the teams in both leagues, in terms of wins, losses, and ties, is as follows:

EQUITY LEAGUE		
Lincoln's Inn	5	1
Chancery Club	4	1
Oxen	3	2
King's Bench	1	3
Frogs	1	4
Clowns	0	4
LAW LEAGUE		
Shaw	6	0
Ames	3	1
Hastings	2	2
Story	2	2
Holmes	1	3
Dane	0	5

PIGEONS—(Continued)

feathered friends. The education they received was, and we speak from the heart when we say this, strictly for the birds."

Never let us forget this blot upon our record. It is too late to make amends to the pigeons, but we can, with courage and foresight, with hope for the future, protect other unfortunate from falling from grace here at HLS, for example, the squirrels. Let us bow our heads and give one minute's somber thought to the memories of those stolid pigeons who, refusing to believe that they would be discriminated against, died nobly on the ramparts and spikes of Langdell Hall.

When Darkness Hit

Where Were You?

Sunday night the power failed in the Boston area. The neon signs flickered fretfully, the street light grew dimmer and dimmer and gracefully the city faded into darkness. A weak, cold moonlight filtered through the low clouds and Cambridge seemed to hang timeless in a grey-blue haze.

In seeking the cause one must separate out all the excuses, recriminations, and technical jargon to come upon the plausible conclusion that an overload was placed on a generator. And while one remains in a curious mood he will find it easy to conclude that generators weren't the only things overloaded that night.

For Harvard the blackness proved to be a rich communal wine and it was drunk deeply. Here was the release, desired or undesired here it was. And to one extent or another it swept up everyone . . . into a swirling mob blundering aimlessly through the Radcliffe Quadrangle, into a frantic, book-carrying safari looking for an emergency light and subsequent eye strain, into a quiet group huddled complacently in a dorm room smiling stupidly into the night.

As the bulbs slowly began to brighten the air of levity evaporated. In the yellow glow everyone hurriedly put on his old face, his old thoughts and neck and neck with the return of the voltage skidded back into this world. For a while there were a lot of naked people running around Cambridge.

CASE BOOK—(Continued)

he not be interested in the way in which land, and labor and capital, were marshalled for that gigantic assault on the bounty of nature which has culminated in the awful potentialities of our age.

From Laissez-faire to Welfare State

And if he is in the least politically conscious, would he not want to understand why and how the complex economically-organized society of our day was led to turn upon its own ideological progenitors. How, notably, the power of contracting, the nineteenth century crown of the free adult man, sustained repeated setbacks at the hands of social concern for the lives of individuals. How the increasing pressure of the rank and file of the community for a minimum of economic security operating through the manhood franchise, led by various courses to some of the central political problems of today—the establishment of collective bargaining between employers and workmen, the extension of the insurance principle through the field of torts into that of social insurance generally. The rise of the taxing power bound up in these changes, and the growing restrictions on the appropriation and use of natural resources and raw materials which have come with full awareness of their exhaustibility, are the focus of other central political issues of our times.

They would draw the inquiring student into a view of the forces lying behind the incursions of the public power into previously inviolate domains of private property; of the deep lying changes in the concept of property flowing from the separation between ownership and control in the modern large corporation; of the self-assertion of State power as against the major economic institutions on the side both of capital and labor, and indeed of the increasing entry of the state directly into large-scale economic enterprise.

Advent of Administrative Law

In those days of the early '30's, law students were already being tantalized, as governmental functions spawned, by the blurring distinctions between the legislative, administrative, and judicial functions, and by the constitutional necessity of separating powers, which in life are too often inseparable. Judges and lawyers were in those days only just working themselves loose from the fiction of mere law-finding by courts, to recognize the wide field of creative decision. They were still scarcely conscious of the complications raised by such recognition. Those consequences, indeed, are still not worked out.

These then were some of the thoughts which led originally to the design of our Casebook on "Law and Society." As the design progressed, we found that we would not be able to resist the students' interest in even more contemporary phenomena, the growth alongside the older democratic power systems of the power systems of Fascism and Communism. The democracies of England and Western Europe have moved from *laissez-faire* towards economic collectivism, whilst on the other hand, the American democracy, still remains predomi-

nantly *laissez-faire*, or at least free enterprising. Yet despite this, the fundamental similarities between the two working concepts of democracy contrast with the closely regimented systems of Soviet Russia and of Fascist regimes.

So our inquiring young lawyer would, we felt, want to look at the assumptions, ideals, and institutions of our democratic legal systems against the background of the revived totalitarianism of our day, where the State is conceived as an organic entity transcending the men and women composing it, identified with one political party, with final absolute authority concentrated (openly and *de jure* in Fascism, *de facto* in Communism) in a few "leaders." He would want to see how these basic traits of totalitarianism are worked out in the state-controlled and planned economy; in the enthrallment of other social and cultural institutions to the needs of the State; in the radical revamping of the roles of administration, legislation and the judicial process; in the suppression of dissent, a crucial point which joins together the Fascist and Communist regimes better than, perhaps, their professed economic ideals divide them. How, finally, the "true liberties" of these regimes (i.e. economic liberty and security for the Communist, and exaltation of the Volk for the Fascist) stand apart from the old-fashioned civil liberties.

Questions Encountered

Ultimately such a study confronted us with the really critical questions of the day. Must Western democracy, by tolerating dissent, court its own overthrow? How far can our democracies, consistently with their essential nature, depart from this tolerance, to meet the challenge of Fascist or Communist systems? How far is the apparently irreversible trend towards economic collectivism assimilated into the democratic body politic? How far, on the other hand, must the enforced orthodoxy of totalitarianisms lead to the extinction of intelligence in their societies? How far does the concentration of power and responsibility in "leaders" invite breakdown, especially when "leaders" have to be replaced? Questions, all of them, the more urgent and fascinating, as the processes foreshadowed by the unveiling of the source of atomic power threaten changes in the social, political and economic fabric no less far-reaching than those of the earlier industrial revolution.

All this, we know, is the very stuff of contemporary social life. For that reason it is also the very stuff of the law, and, we felt, eminently fit for the modern law student. It remained but to gather the legal data, and to mould them to the students' interests and needs. That took fifteen years. Not long really! Intelligent lawyers want to ponder such matters all their lives. They might want to start early, and even to be informed at the start!

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