

The Harvard Law School Record

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PRICE TEN CENTS

Diplomat, Writers Discuss European Struggle Fri. Night

"The Struggle in Europe" will be discussed by four noted observers at the second program in the spring opener of the Harvard Law School Forum this Friday evening, at Rindge Tech High School, Cambridge. Those participating will be: author William Henry Chamberlain, radio commentator William L. Shirer, Congressman Chester E. Mowrow (Rep., N. H.), and the Deputy Foreign Minister of Yugoslavia, Dr. Ales Bebler. Donald C. McKay, Professor of History at Harvard College, will moderate the discussion.

Presented as a sequel to last year's successful Forum program on the clash of interests and ideas in Asia, this forum presents three speakers who are acquainted with trouble spots in Europe and a Congressman who, as a member of the House Foreign Affairs Committee, can tell how the government is preparing and what our long-term plans may be.

Dr. Ales Bebler, permanent delegate to the United Nations from Yugoslavia, and representative of his country on the Security Council during the meetings this past summer in the first weeks of the Korean controversy, speaks as a member of a government that challenged Russian domination and set up its own social system, patterned after that of the Soviet Union, but acting independent of Moscow directives.

Considered by some experts the kingpin of the Balkan peninsula, Yugoslavia, according to many American experts, may become one of our most important allies. Dr. Bebler's views on his country's stand in the present lineup of nations is expected to indicate to what extent anti-Russian communist lands sympathize with the principles of America and Western Europe.

William Henry Chamberlain, author of several books on Russia and on Europe, is an editorial contributor to the *Wall Street Journal*, an associate editor of the *New Leader*, and a lecturer at Harvard. Among his writings are: *Russia's Iron Age*, *European Cockpit*, *The Russian Revolution 1917-1921*, and *America: Partner in World Rule*.

Of the current problem, Chamberlain says in paraphrase of Benjamin Franklin, "The nations outside Stalin's empire must hang together, or they will certainly hang — separately." His latest volume, which has already aroused sharp criticism and praise from different quarters, (Continued on page four)

HVD Selects Eleven Second Year Men

It was announced yesterday by the Harvard Voluntary Defenders, after the conclusion of a two-week period of review of applicants for membership, that 11 members of the second-year class have been selected for membership.

The successful candidates are Brockman Adams (U. of Wash. '49) of Seattle, Wash., Maurice Chayt (B'klyn '49) of Brooklyn, N. Y., Anthony F. De La Pena (U. of Cal. '49) of Berkeley, Cal., Alvin H. Goldstein, Jr. (Colgate '49) of New York, N. Y., Irving L. Kessler (U. of Ohio '48) of Rochester, N. Y., Earl J. McHugh (Buffalo '49) of East Aurora, N. Y., Richard A. Norris (Lehigh '49) of Atlantic City, N. J., Richard L. Perry (Harvard '49) of Jefferson, Ohio, Daniel Sklar (Colorado '49) of New York, N. Y., Richard W. Wallach (Harvard '49) of New York, N. Y., Herbert M. Weiss (Wesleyan '49) of Kingston, Pa.

The new members will attend a social gathering at the Wheeler Room on Friday evening, Feb. 23; at that time they will have an opportunity to meet the present members of the group and, at the same time, to receive preliminary instructions regarding the assumption of their new duties.



WILLIAM H. CHAMBERLIN

Representing 15 Nations, 45 Schools, Grad Students Enjoy Harvard Law

According to Forest H. O'Neal, Dean-on-leave of the Walter F. George School of Law, Mercer University, Macon, Ga., "Graduate students like it here at Harvard Law School. We were put to work as soon as we arrived and we had no time to find things to complain about."

Mr. O'Neal, who has an LL.B. from Louisiana State and a J.S.D. from Yale, is the only dean among the grad students, but there are eight others who are now or have been on law school faculties. Two of these, Leonard Oppenheim from Tulane (A.M., LL.B., M.C.L., Tulane) and Kenneth B. Hughes from U.C.L.A. (LL.B., U.S.C.) agree with O'Neal that the lot of the graduate student here is a fairly happy one although after the first few weeks of the fall term, "We began to catch the anxiety of the law undergrads."

Mr. Oppenheim is chairman of the Graduate Student Association which was

Reischauer To Air Politics Of Korea At Coffee Session

Professor Edwin O. Reischauer of the Far Eastern Department of Harvard University will speak this afternoon at 1:30 on "The Political Aspects of the Korean Situation" at the third in the series of Law School coffee hours.

Professor Reischauer was born in Japan in 1910 of missionary parents. He has written several books on Japan and the Far East. He served with Military Intelligence in the Pacific during the last war. This meeting will be held in the downstairs lounge of Harkness Commons.

At the second coffee hour last Thursday afternoon, Professor Walter Gropius insisted that architects must stop "reviving revivals." The 68 year old, German born designer of the Graduate Center declared, "Architecture must move or die."

"We must reflect our own culture, not imitate the classic period of Greece, or the Gothic towers of the Middle Ages," said Gropius. Before this can be done, however, he went on, students must learn to regard art as a dynamic process, not a set of inviolate rules laid down in the past to which we blindly adhere. Architecture depends as much on an "understanding public" as visionary creators, he explained. "After all," he continued, "we do not walk around in period clothes, so why should we go to school in period buildings?"

After his remarks, Professor Gropius was the target of numerous questions and criticisms regarding the Graduate Center. Do the transoms admit too much light into student rooms? They will probably soon be painted over. Is there too much noise in the dormitories? Well, there wasn't enough money for more substantial walls and sound-proofing de-

(Continued on page three)

Dorm Council Dance

Following close upon its success of last Saturday with the semi-formal Valentine Ball, the Law School Dorm Council will present another record dance this Saturday evening in the downstairs lounge of Harkness Commons.

As previously announced admission will be by Law School Activities Card only. This card may still be purchased for \$1.00. Due to the large response to its first semi-formal the Council is considering sponsoring another, for which this activities card would also be the admission.

The record dance will be from 9-12 and set ups will be available. B. Y. O. L.

Develop Habits Of Thought Advises Justice Frankfurter

Speaking to an overflow audience in Langdell courtroom, Mr. Justice Felix Frankfurter said last Thursday afternoon that in the restless and troubled times which exist in the world today, it is vitally necessary that students discipline themselves to maintain serenity in the face of matters over which they have no control.

He said that the fears, jitters, and anxieties of today can be counteracted to a great extent through the undogmatic pursuit of truth and reason. Institutions such as the Harvard Law School, he said, develop these habits of thought and the three years spent here in seeking "intellectual responsibility" lay up an "undiminishable, unassailable capital" which cannot be overestimated.

The celebrated jurist said that under a federal system of government practically every major question becomes a question of law thus placing the lawyer in the position of "a great mediator and adjuster." He said that while these questions are extremely varied and complex and inadequacies become apparent in attempting to solve them, they are part of our society and we must adjust ourselves to them.

The most important task of the lawyer, he said, is to "master his case," and that this is the criteria of the good argument. He went on to say that his experience on the Supreme Court had shown him that the best arguments do not come from the most eminent and



JUSTICE FRANKFURTER

celebrated counsel but from obscure lawyers who have "mastered their case and are not mastered by their case."

He stated that he has never heard a bad argument from Negro or women lawyers. He attributed this to the intense sifting process through which they must go. He concluded from this that "perhaps a little handicap is a good thing."

Rainmaking Calls For U. S. Control Is Corey's Conclusion In Final Article

This is the second and concluding installment of an article by Ralph E. Corey, 1L (Wis. '42), LL.B. (La Salle U. '48), dealing with Rainmaking — Twentieth Century Legal Phenomenon. The first installment of Mr. Corey's article appeared in the RECORD, Vol. 12, No. 2.

One of many issues which a court might be called upon to settle in an artificial rainmaking case is: What is the liability for intentionally or negligently diverting rain away from another's land, or for causing rain to fall upon another's land, without his consent? In most agricultural regions of this country, the presence or absence of rain can spell prosperity or disaster. Rain may not always be considered a benefit.

Once the court has solved this initial issue, a further question might arise:



RALPH E. COREY

Does one have a legal right to normal rain fall, free from human intervention or control? This is a most difficult issue to solve, since private property rights in clouds have not yet been established. Furthermore, how is a court to determine whether or not a cloud would normally have dropped its rain, had not human control intervened?

If the second major question should be answered in the affirmative, still other issues might arise to test the judicial temper: Should defendant be liable irrespective of fault, or only if he was negligent? Should he be liable only for the results he intended, or for those which were unintended as well?

Another factor is also important. If rainmakers and weather control experts are stopped from carrying on their ex-

perimentations by restraining injunctions and tests of absolute tort liability, progress in this important field is likely to stop. Whether this will be salutary or not will depend upon the inherent value of weather control to the national community. There seems to be little doubt that experimentation should continue in this field. But some responsible, over-all control may be necessary.

Adjudication Or Legislation?

In September, 1950, the Office of the Attorney-General of the State of California submitted to the State Water Resources Board a progress report dealing with the legal responsibilities and liabilities involved in artificial rainmaking. The report also dealt with the power of the State to regulate and control such activities. In the opinion of the writers of this report, there seemed to be little difficulty in sustaining the broad power of the State to regulate artificial rainmaking, both for the purpose of preventing damage to property, and to conserve the water resources of the State. This opinion was based upon the reasonable exercise by the State of its police power in the general fields of public health, safety and morals, and the preservation and promotion of the field of weather control.

If adjudication of weather control issues is left to state and local courts, the answers promise to be slow in coming. Almost five years have passed since Schaefer's snow-making experiment took place. Yet only a single artificial rainmaking case has been brought before a court for adjudication. Goldston observes that when lawmaking runs ahead of scientific development, as it did in the subterranean water cases, much harm may result from the application of unsound rules. He reasserts that the genius of the common law lies in its case-by-case development. Whether the science of weather control can afford to wait for deliberate case-by-case adjudication is the question. If weather control problems are left to the courts for solution, it is also doubtful that a uniform, nationwide solution will result. Divergent statutes and judicial interpretations, which can seriously inhibit progress in this field, may result within different jurisdictions.

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No Time For Apathy

Since the completion of the January mid-term examinations an attitude of indifference seems to be sweeping the Law School. With final examinations for the school year now only some three months distant, this is hardly a time to slacken preparations or review. The new military regulations assure almost all of us that we will be permitted to finish this school year.

But it would be a most unfortunate error to adopt an outlook which focuses all attention on courses in which we are to be graded. An integral part of Law School work is the Ames Competition. Yet the difficulty which has appeared in the wholesale dropping of first year men from the program and in finding upperclassmen to judge Ames arguments highlights the apathy.

Undoubtedly the major cause of this apathy towards anything outside the minimal work necessary to pass is the world situation, which makes the future uncertain. Too many students feel that they will not be returning to school next September anyway, and, therefore, their plan is to do the least amount of work necessary and to concentrate upon the learning of substantive principles.

Ames is deeply rooted in the tradition of the Law School. But it is far more than mere tradition that makes it valuable. The procedural technique of finding and applying legal principles to a specific problem is an integral part of the lawyer's life. And it is certain that the knowledge of how this is done will remain with a student long after substantive rules are forgotten. The specific benefits of the training in research and in logical and persuasive organized presentation will be attested to by all who have ever participated in the Ames competition.

Men who have had the benefit of Ames work and upperclass judging should now give first year students equally competent judging and should avail themselves of this very valuable experience. As for the first year students who have dropped the Ames work, arrangements could and should be made for arguments even at this late stage if those students will show good sense and reconsider.

Letters to the Editor

To the Editor of the RECORD:

The Pylon? Why, of course
THE SKELETON IN ARMOR
Speak! speak! thou fearful guest!
Who, with thy hollow breast
Still in rude armor drest,
Comest to daunt me!

J. M. MAGUIRE
Professor of Law

To the Editor of the RECORD:

My hypothesis is that the thing isn't a tree at all. It's a derrick mast—like they carry on ocean steamers to sling the freight.

GEORGE K. GARDNER
Professor of [Admiralty] Law

To the Editor of the RECORD:

Those of us who have lockers in the tunnel connecting Austin to Langdell have to be moles to find our lockers and then to open them. Every few days someone decides that only every other light in the tunnel has to be turned on, so that between lights, there are large dark gaps. The unfortunate locker-holders who are caught between the lights are forced to open the lockers relying on a "Jimmy Valentine-like" feel of the tumblers. On Sundays, quite often none of the lights are switched on and then the student wanders forlornly through the dark searching for his locker. I would suggest that switches be installed which the student can operate for himself instead of having to await the favor of the custodians.

A. MOLE, 3L

Off the Record

From the explanatory card beneath the picture of Dean Langdell in the current exhibition of portraits in Fogg Museum:

29. Frederick P. Vinton, 1846-1911

Christopher Columbus Langdell

1892

Lent by The Harvard Law School

The sheer physical size of works commissioned by the newly rich and institutions for commemorative purposes, exemplifies the extensive conspicuous spending that goes with new wealth. The concentration of this uneducated class on physical specificity in the likeness reflects the untutored tastes of the group.

Aw, g'wan!

Ames Competition



"Overruled"

WHAT PRICE LOVE?

(George F. Fox LL.B. '41 sent in the following AP dispatch from the San Francisco Chronicle).

SAN JOSE, Jan. 31 — The law looked at love here today and the law was not impressed.

The law, as interpreted by Superior Judge W. T. Belieu of Glenn county, held that love in an automobile is inherently deficient as compensation for the owner or driver of said vehicle.

Judge Belieu took his back-handed swipe at Venus in the case of Dolores Monsees of Mountain View, who is suing Donald Jensen of that city for \$54,500 in damages. She alleges she suffered serious injuries on the night of Sept. 9, 1949, when Jensen's car smashed into an embankment on the Los Gatos-Santa Cruz Road.

Originally, Miss Monsees charged Jensen with gross negligence and willful misconduct. Then she filed an amended complaint, charging him with ordinary negligence.

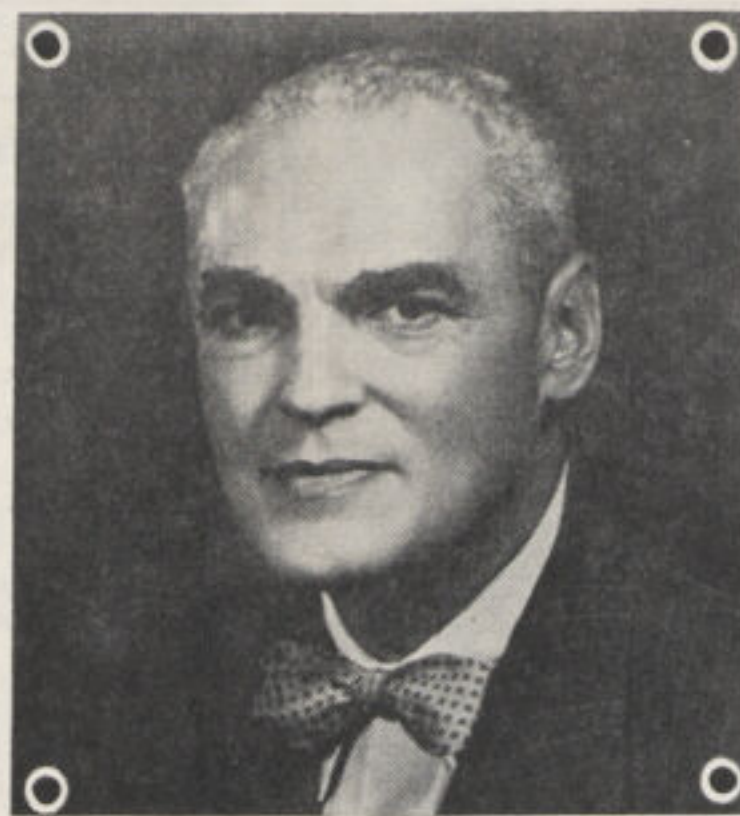
If Miss Monsees was a guest of Jensen at the time of the accident, she must, under California law, prove him guilty of gross negligence or willful misconduct in order to collect damages; but if she was a passenger—that is, if she offered or gave him some consideration for the ride—then she need only show any kind of negligence.

As a matter of fact, counsel for Miss Monsees argued today, Miss Monsees got into the car as a guest and rode from Mountain View to Santa Cruz as a guest. There, the attorney argued further, her status abruptly changed. Jensen there made it known, the attorney said, that he expected compensation for the use of his car. He made certain romantic proposals, said the lawyer and, even though rebuffed, they constituted a demand for payment, which made his guest a passenger.

Judge Belieu said he considered this argument "the most curious" he has ever heard. He said it was his considered opinion that love "as a prospective benefit" was not precisely the kind of compensation the law had in mind when it talked about "passengers" as distinguished from "guests." He ruled out "ordinary negligence" as a cause for action.

Gallery

HARRY C. MARKLE
Administrator



The Boulevard Building, a rather plain structure located at the busy intersection of Woodward Avenue and East Grand Boulevard in Detroit houses, what may well be described as the flywheel of Michigan's vast industrial machine, the Michigan State Unemployment Compensation Commission. As Harry C. Markle, LL.B. '21, Director of the Commission puts it: "The task of the Commission is essentially to absorb the economic shocks which the pulsating manpower demands of industry tend to inflict upon the individual worker. Efficient administration of our 300 million dollar trust fund contributes substantially to the maintenance of stable living conditions in America's industrial capital."

Powerfully built, gray, Harry Markle was born in McKeesport, Pennsylvania, December 20, 1896. While he was a junior in pre-law at the Pennsylvania State College his education was interrupted by World War I. He enlisted and served in the Navy for two years. After the war, he returned to Penn State and received his A.B. degree before moving on to the Harvard Law School.

Grim Days At the Law School

Recalling his student days at the Law School, Mr. Markle described them as strenuous and far grimmer than the curriculum of today. "During World War I, the school had been completely shut down. After the war, the school went to the opposite extreme of total acceleration. There were no vacations at all from the first day of classes until graduation. In those days, 40% of the first year class, 20% of the second year class and 10-20% of the third year class were dropped out of school apparently as a matter of policy."

Fondly and with great reverence, he recalled the great teachers under whom he studied: Roscoe Pound, "Bull" Warren, Ed Warren, and Samuel Williston. Professor Scott, already then known affectionately as Scotty, was relatively new to the faculty.

As the happiest and proudest moment of his Harvard Law School career, Mr. Markle recalls an experience one day in "Bull" Warren's property class. The "Bull", glowering with rage after going through an entire row of students without eliciting a satisfactory answer, finally pounced on Markle. Shaky and pallid, Markle managed to stammer out the right answer. The "Bull's" eyes gleamed. "Rise young man," he ordered Markle, and after a moment of haughty surveyance of the silent class, he exclaimed, "Note carefully, gentlemen, there is a lawyer in our midst!"

Approves Present Curriculum

Compared with the curriculum offered today, Harry Markle finds that the legal training which he received in the early twenties was rather dry and theoretical. "Our diet consisted mostly of the classics like Future Interests, Equity, and Contracts. We didn't have the benefit of training in specialized fields of public law, like Labor or Taxation. The first job I had to handle when I began to practice in Pittsburgh was a bankruptcy case. Imagine how I felt on that first assignment never having had even a scintilla of training in Creditor's Rights!"

Initial difficulties such as this, however, failed to deter him. Following his marriage to a Detroit girl in 1923, he opened his own offices in Detroit and continued to practice there for 20 years or so. A man of the soil at heart, in 1933 he bought a 110-acre farm in Rochester, a rural suburb of Detroit, where he, Mrs. Markle, his son, and his daughter have lived ever since. Eventually, he hopes to retire there and devote himself to his hobby of landscaping and raising flowers, a skill for which the Markles are well noted. It was this hobby which in 1946 drove Markle into business as a manufacturer of lightweight garden tools.

Rejected by the Navy in 1942, then 46-year-old Harry Markle left his Detroit practice for

Sub Judice

PIGEON FOOD

Defendant was convicted of selling "a bag of pigeon feed" before 10 a.m. on a Sunday, in violation of a provision in the N. Y. Penal Code which prohibits generally the sale of property on Sunday. He claimed that the sale of pigeon food came under the following statutory exception: "Articles of food may be sold."

Held: On appeal, conviction reversed.

Per Curiam: "Food" is uniformly defined by lexicographers as including nutriment for animals as well as humans. Inasmuch as the legislature has not limited the word 'food' to that meant for human consumption only, we may not impute to it an intention to render the act charged a crime. Acts otherwise innocent and lawful do not become crimes, unless there is a clear and positive expression of the legislative intent to make them criminal. The citizen is entitled to an unequivocal warning before conduct on his part which is not *malum in se*, can be made the occasion of a deprivation of his liberty or property." *People v. Shifrin*, N. Y., 94 N. E. 2d 724 (Oct. 1950).

* * * * *

IT'S A DOG'S LIFE

The will of George P. Searight contained the following clause:

"I give and bequeath my dog, Trixie, to Florence Hand of Wooster, Ohio, and I direct my executor to deposit . . . the sum of \$1,000 to be used by him to pay Florence Hand at the rate of 75 cents per day for the keep and care of my dog as long as it shall live. . . ."

The lower court held that the bequest was valid and that since "the said dog inherits the sum of \$1,000 with power to consume both the interest and principal at a limited rate," there was no succession tax on "any property passing to an animal". The Dept. of Taxation of Ohio appealed on the ground that there was no bequest to the dog, but rather to Florence Hand—who ought to pay a succession tax on \$1,000; that even if there was a bequest to the dog, it was really the creation of an invalid trust because it violated the rule against perpetuities.

Held: On appeal, bequest valid, no tax incurred.

On the perpetuities question the court agreed that unless any power to be exercised under an "honorary trust" were limited to human lives, "we will have honorary trusts established for animals of great longevity, such as crocodiles elephants and sea turtles" but then the court points out that \$1,000 deposited at a 6% rate (compounded semi-annually) would be expended in four years, 57½ days, "much less than the maximum period allowed. . . ."

On the question of the succession tax: "This statute determines that a tax shall be levied upon succession to all property passing to a person, institution, or corporation. Certainly, a dog is neither an institution nor a corporation. Can it be successfully contended that a dog is a person? A 'person' is defined as '3. A human being', *Webster's New International Dictionary*, Second Edition." *In re Estate of Searight*, 87 Ohio App. 417 (June, 1950).

the duration to accept the Directorship of the Akron regional office of the War Manpower Commission. Rapid labor turnover exerted an ever-increasing inflationary pressure on the price-wage structure of the nation. The problem confronting his new field office was to put through a labor-freeze program for the entire rubber industry which was then also suffering from severe shortages of material. "Our task there required constant adjustments between the conflicting interests of labor and industry. One of our big problems was the amendment of private collective labor agreements to yield greater productive output without injury to the price-wage structure."

Expert On Unemployment

An expert on employment and manpower matters, Harry Markle was Governor Williams' logical choice for the executive directorship of the Michigan State Unemployment Compensation Commission. To cope with the problem of peace-time unemployment, Markle innovated joint government-industry Full-employment Committees.

To the prospective young lawyer, Harry Markle has this to say: "If you have the necessary breaks, connections, or funds to start either a practice for yourself or as a clerk to someone else—that's one thing. But if you are in the shoes of the man who has little in the way of these things, don't be discouraged over difficulties which may confront you. As a lawyer trained to think on your own two feet, you can accept any and every job, and by reason of qualifications far superior to the people among whom you will work, rise to a position of leadership within an amazingly short time."

G. VERNON LEOPOLD, 3L

Alumni Notes

INDIANA BAR MEETS

At the Indiana State Bar Association Second Annual Mid-Winter Meeting, which was held this past January on *Corporation vs. Partnership*, several alumni were featured. Their picture appears in this issue.

The papers on subjects discussed at the meeting presided over by William Klieg, LL.B. '32 plus additional writings on the subject have been published by Bobbs-Merrill Company, Inc. of Indianapolis under the title of *Corporation vs. Partnership*.

Among the contributors are: H. Earl Capehart, Jr., LL.B. '48, Edward B. Raub, Jr., LL.B. '29, Merle H. Miller, LL.B. '30, Robert B. Coleman, LL.B. '24, Charles B. Feibleman, LL.B. '38, and Harold H. Bredell, LL.B. '32.

CLASS OF JUNE '50

Auslander, Maurice Arthur, with Martin Auslander (CPA) N.Y.C.

Barclay, Robert Grant, Chase Nat'l. Bank, N.Y.C.; Barrett, John Watts, Jr., Associated with Dodson J. Butterfield, Bethlehem, Penn.; Battisti, Frank J., Temporary Nov. '50-'51, Office of Attorney General of Ohio State House, Columbus, Ohio; Bennett, Hunter McCauley, Jr., Hunter M. Bennett, Sr. (father), Weston, W. Va.; Bernard, Burton C., Illinois Commerce Comm., Chicago, Ill.; Boluch, Myron, Navy; Brody, Arthur, Clausen, Hirsch & Miller, 135 South La Salle St., Chicago, Ill.; Brotman, Stanley S., Active Duty; Brown, Rowland C. W., Economic Stabilization Agency, Washington, D. C.

Callas, Louis Johnson, Robert Morrison, Esq., Boston, Mass.

Farrow, Richard S., Delano E. Rockwood,

Boston, Mass.; Finklestein, Marvin A., Hermosa Beach, California, working for an individual; Frisch, Robert E., Teaching Fellow, Harvard Law, Dwight, Rogall, Harris, Koegel & Caskey, N.Y.C.

Gneshin, Benjamin, Lawrence D. Unger, Esq., N.Y.C.; Greenberg, Herbert W., Pomerantz Levy, Schreiber & Handel, N.Y.C.

Hess, George M., Jr., Greevy & Greevy, Hughesville, Penn.; Higgins, George Thomas, Chrysler Corp., Detroit, Mich.; Horton, Elliott 3d., Beach, Keating, Wilcox & Dale, Rochester, N. Y.; Hupp, Robert Bellarmie, Joseph T. Ryerson, Inc., Chicago, Ill.

Jackson, Arthur G., own office, Philadelphia, Penn.

Katz, Lester, Ribicoff, Ribicoff & Kotkin, Hartford, Conn.

Lopatnikov, Phillip H. G., Harvard Business School, M.B.A., June '51.

McIntosh, Julius Allen, Walter R. Bender, Esq., Middletown, Ohio; Malchman, Irving, Claims Division, Dept. of Justice, N.Y.C.; Murphey, Richard R., Jr., Farm Bureau Mutual Automobile Insurance Co., Columbus, Ohio; Newberger, Edward Louis, Ass't. District Attorney, D. A. Office, N.Y.C.

Ostwald, Arnold, Wosserman, Behr & Shogan, N.Y.C.

Peabody, James B., U. S. Dept. of State, HICOG, Frankfurt, Germany.

Reycraft, George Dewey, Jr., U. S. Air Forces Assistant Wing Legal Office, Connally A. E. B., Waco, Texas; Rigrish, James William, Landis, Ferguson, Bresler & Crier, Dayton, Ohio; Robinson, James, Kennedy, Hixon, Hargrove, Middleton & Devans, Rochester, N. Y.

Schoenfeld, Charles, Gainsburg, Gottlieb, Levitan & Cole, N. Y.; Sharlitt, Joseph H., Office of Property, Dept. of Justice, Washington, D. C.; Stuart, George Calvert, U. S. Government, Washington, D. C.

Thomson, Thomas D., Legal Position-Firm, Pittsburgh, Penn.; Tabe, Sheldon, Allen Goodman, Esq., Philadelphia, Penn.

Waller, John, Gibson, Dunn & Crutcher, Los Angeles, Calif.; Wehrmann, Bernard, Economic Stabilization Adm., Washington, D. C.; Weiser, Ralph R., Lotterman & Zepper, N.Y.C.; Wells, Richard L., Gibson, Dunn & Crutcher, Los Angeles, Calif.; Wenger, Raymond J., Jr., Army '51; Wollaeger, Frank A., McBride & Baker, Chicago, Ill.

AT INDIANA BAR ASSOCIATION MEETING



Front Row (l to r.): H. Earl Capehart, Jr., LL.B. '48, Edward B. Raub, Jr., LL.B. '29, Merle H. Miller, LL.B. '30, Robert B. Coleman, LL.B. '24. Back Row (l. to r.): Charles B. Feibleman, LL.B. '38, William H. Krieg, LL.B. '32, Harold H. Bredell, LL.B. '32.

NEWS IN BRIEF

MILITARY JUSTICE

Students are reminded that if they wish to attend the four lectures on "Military Justice in the Armed Forces Under the New Uniform Code" to be given by Mr. Warren F. Farr, they must give their names to the receptionist in Langdell Hall not later than today.

JUDGES NEEDED

All second and third year men who are interested in judging one or more first year doubles arguments should leave their names with the Receptionist of the Board of Student Advisors in the first floor office, Austin Hall.

LAWYER'S GUILD

The Harvard Lawyers Guild has announced its plans for a series of programs this spring dedicated to a re-evaluation of the Bill of Rights at mid-century.

On Feb. 23, Professor Thomas Emerson of the Yale Law School and President of the National Lawyers Guild, will open the series with a talk on the Federal Civil Rights Act.

The next three programs have been scheduled for the month of March. On March 9, Osmond K. Fraenkel, Vice President of the National Lawyers Guild, will speak on a fourth amendment problem, the protection of the individual against unlawful searches and seizures. He will be followed on March 20 by Benedict Wolf, of Wolf, Popper, Ross and Wolf, whose subject will be, the "Privilege Against Self-Incrimination." On March 27, Harold Cammer, LL.B. '32, a New York attorney who has had a large experience with civil liberties litigation will discuss the jury system.

WANT A WOMAN?

Women are being imported from Radcliffe, Simmons and Wellesley for an afternoon mixer dance, Saturday, March 3, announced the P.B.H. Committee recently. The dance will be held in Harkness Commons, and will

COFFEE HOUR—(Continued)

vices. Why the puddles of water in the walks? Faulty cement.

Then came the inevitable question concerning the "World Tree." Gropius was ready. The tree is a problem in "beautiful form," he explained, and then added, "Wait a year before you make up your mind about it. All new abstract art seems 'queer' at first." As for himself, Gropius said that he regarded the tree merely as a "pleasing form" without much thought about its "meaning."

Concluding, Professor Gropius analyzed the modern architectural trend as one of "regional stylizing." Architects like Frank Lloyd Wright, he explained, examine the location, the temperature, climate, sun, wind conditions, and so on, and then they attempt to fit the building to its environment. This, he indicated, is true national art.

be limited to 150 men, and 100 women. If this affair is successful, others may be scheduled for future dates.

LAW WIVES HEAR HOWE

Professor Mark DeWolfe Howe will speak informally at 8 tonight at the Law Wives' regular weekly meeting.

CYRUS A. WARNER SPEAKS

The Cambridge Center for Adult Education, 42 Brattle St., Cambridge, will present Mr. Cyrus A. Warner, former director of the Minnesota United Nations Association, who will give a lecture on the "United Nations of the World Today", on Monday evening, February 26, at 8:00 p. m. A discussion period will follow the meeting. There will be no admission charge.

Hutchins Hits War Hysteria, Big Army

"Since the next war will mean the end of civilization, we cannot let it come. We must be ready to conciliate with anybody over anything at anytime. By conciliation I do not mean appeasement, however." This outline for our future conduct was offered by Robert M. Hutchins in his address at the Law School Forum last Friday night.

Appearing with Mr. Hutchins were Professor William Y. Elliott and Mr. McGeorge Bundy, both of the Harvard Department of Government, who acted as interrogators. Prof. Arthur E. Sutherland, Jr., of the Law School was moderator.

Choosing his words carefully, the former chancellor of the University of Chicago said that our present rush toward rearmament is the irrational aftermath of a wave of hysteria that has gripped the U. S. since that time, fifteen months ago, when "our monopoly (of atom-bombs) went up in a mushroom cloud" somewhere in Russia. He went on to insist that we cannot hope to achieve security either by military means or by suppressing civil liberties, but only by deciding to live sensibly in the same world with the Soviet Union.

As a result of the widespread "crusade" attitude, said the Chancellor, "Senator McCarthy and his friends are engaged in proving to the Russians that we are as bad as they say we are."

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UNIVERSITY WORLD

Higher Education Discussions
The second in a series of six discussions on Higher Education in the United States for the benefit of foreign students in the University will be held Tuesday evening at 8 p. m. in the Phillips Brooks House. The two main topics of the discussion will be "Student Life in American Colleges and Universities" and "Curriculum Problems in American Liberal Arts Colleges."

OUTSIDE WORLD

Lowell Institute Broadcasts
"The Secret Life of Walter Mitty," the famous short fantasy by James Thurber, can be heard on Friday evening at 9:30 p. m. over station WNAC. The story will be told by Professor Donald Born, Boston University.

Another in the series of *America at the Crossroads* discussions may be heard on Friday evening at 10 p. m. over WEEI. The discussion on "How Must the West Change to Meet the Challenge of Communism?" will include Harvard professors Daniel S. Cheever and Dr. Sigmund Neumann; Charles Malik, Minister from Lebanon to the United States; and Professor Donald Born of Boston University.

Ford Hall Forum

Novelist Merle Miller, author of *That Winter* and *The Sure Thing* will discuss "What is Wrong with American Magazines?" at the Ford Hall Forum on Sunday evening at 8 p. m.

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FORUM —(Continued)

America's 2nd Crusade, gives his interpretation of the patterns of world events from the time after World War I to Korea, analyzing what he believes has brought America to its present position.

William L. Shirer, presently a member of the editorial board of *United Nations World*, wrote the popular account of Hitler's preparations for war in his correspondent's report, *Berlin Diary*. After the war he returned to Europe to observe the German people in defeat, and graphically brought that survey to the attention of American readers in *End of a Berlin Diary*.

Now a commentator for the Mutual network and a frequent contributor to magazines, Shirer's familiarity with the German people will enable him to speak with some authority on the support we may expect from West Germany.

In addition to being a member of the House Foreign Affairs Committee, Republican Congressman Chester E. Merrow of New Hampshire was a congressional adviser to the first conference of UNESCO in 1946 and a member of the U. S. National Committee for UNESCO. In Congress since 1943, Representative Merrow will speak for at least a portion of the nation's legislators when he outlines the measures being taken to arm America and Western Europe.

On Friday, March 2, the Harvard Law School Forum will present the third evening in its spring series when it brings together Senator Russell Long (D., La.), Senator William Langer (R., N. D.) and Representative Jacob Javits (Rep., N. Y.), to discuss "The Realignment of Parties."

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WEATHER —(Continued)

It appears, then, that a possible answer lies in the realm of federal legislation and adjudication. Legislation by the federal government would tend to foreclose possible controversies between the states regarding interstate liability for rainmaking and weather control damage. Federal legislation would bring into play the vast resources and specialized civil service manpower of the federal government. Undoubtedly, such legislation would also establish uniform licensing requirements and regulations defining and limiting liability for rainmaking damage. Federal courts would exercise jurisdiction over litigation arising out of violations of the federal weather control statutes.

Weather Control Act of 1951

An example of such suggested legislation is the federal Weather Control Act of 1951 (S. B. 4236) submitted to the U. S. Senate on December 8, 1950, and sponsored by Senator Clinton P. Anderson of New Mexico. This proposed legislation generally follows the outline of the Atomic Energy Act of 1946. It effectively places weather modification and control activities exclusively under the control of the federal government. Senator Anderson observes that, from a scientific standpoint, it is just as important to deal with weather modification and control at an early stage in its development as it was necessary to deal with atomic energy in 1946. In his mind, the issue is relatively clear: it is a question of intelligent federal regulation now, with weather by private experimenters, with no central authority to channel the course of its development in the national interest.

The bill provides for four major programs: (1) a program of assisting and fostering private research and development; (2) a program of federally-conducted research and development; (3) a program for government control of experiments and operations; and (4) a program of administration. These four programs will be supervised and administered by a Weather Control Commission, assisted by a General Advisory Committee, Military Liaison Committee, and an Interdepartmental Advisory Board. The Commission is directed to exercise its powers in such a manner as to insure the continued conduct of research and development activities in the field of weather modification and control by private and public institutions or persons. It may also conduct its own research and experimentation.

Assumption Of Liability

The Act also provides for government assumption of the liability of its contractors growing out of the performance of their weather control contracts. The factors of liability are stated in Section 10 of the Act, which, among other things, provides that:

With the approval of the Commission, any contract with a Government agency relating to weather modification or control may provide that the Government will assume and will become solely responsible for either or both of the following, to the extent that they arise out of the performance of said contract, are not compensated by insurance or otherwise, and do not result from a willful violation on the part of the contractor of any regulation or order established by the Commission pursuant to section 8 (a) (2):

(1) All liability on account of claims by third persons, including employees of the contractor, for death, bodily injury, or loss of or damage to property, whether due to the negligence of the contractor or otherwise; but any contract so providing shall also contain appropriate provisions for notice to the Government of any claims made against the contractor, with respect to any alleged liability for death, bodily injury, or loss of or damage to property; and

(2) Loss of or damage to property of the contractor arising as a result of a risk defined in the contract as unusual.

The Act further provides that: No cause of action with respect to any such claims may be maintained against the contractor, but such third person's sole cause of

action and only remedy shall be by suit against the United States in the Court of Claims for the recovery of his reasonable and entire compensation with respect to such claims.

Another provision specifies that the United States may avail itself of any and all general or special defenses which might be pleaded by the contractor, were he to be a defendant in the suit.

There seems to be lacking in the Act the designation of a liability factor which would aid adjudication in this hypothetical case. Suppose that Bingling, a circus owner, schedules a three-day show stand in Ames City, located deep in the heart of the Upper Grande Valley, an irrigated, agricultural region of great economic value to the nation. Government rainmakers seed clouds in the region. A heavy, three-day down-pour results, and farmers in the Ames City area rejoice. However, Bingling angrily folds his tents after three days of "no show," steals away and sues the United States in the Court of Claims for damage to his economic interest. What is the liability, and what are the factors of liability?

What appears to be lacking in the bill is the presence of a factor of liability which is based upon an express authority to balance relative economic and social interests which might be damaged or benefitted by government weather control activities. In the hypothetical case just stated, the farmers' collective need of rain would seem to overbalance the private right of the circus owner to three rainless performances. With an express statutory authority to "balance the interests," the Court of Claims would be aided in deciding the case above-cited.

The Constitutional Issue

Congress should be able to find constitutional authority to support its legislation in this field. The authority granted to Congress by the federal Constitution to legislate in matters involving interstate commerce furnishes the basic

authority. Clouds are valuable and usable properties which move freely in interstate and international commerce. Weather control substantially affects the commerce between the several states. Current federal regulation in analogous fields may be cited in the cases of migratory birds, radio waves, federal regulation of airways and navigable waterways.

If irrigation, water-power, flood-control and navigation projects are considered to be objects worthy of federal subsidization, it seems evident that weather control, with its foreseeable saving of human lives and property, should also be supported by public funds and efforts. It has previously been pointed out that the federal government is logically more able than private individuals or local governments to bear the huge burden of scientific research, personnel expense, or extensive damage claims.

When the period of strict federal regulation has run its course, and when a conclusive control of weather has been achieved, it might then be feasible to amend or curtail the federal statute in such a way as to grant state governments concurrent powers over supervision, regulation and licensing of weather control activities. Federal funds could still be made available to the several states for experimentation and regulation, either on a *pro rata* or total basis.

Rainmaking, the legal phenomenon of the twentieth century, is rapidly losing its phenomenal characteristics. If such legislation as the proposed Weather Control Act of 1951 becomes law, most of the legal problems discussed will no longer exist. The ultimate extent to which weather control may be utilized in the public interest is still speculative.

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