

The Harvard Law School Record

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PRICE TEN CENTS

Criminal Defendants, Without Funds, Unfairly Treated Says Hollingsworth

This article was written especially for the RECORD by Wilbur H. Hollingsworth, LL.B. (Suffolk '32), Chief Counsel of the Voluntary Defenders Committee of Boston since that organization's inception in 1935.

I am, in many instances, unimpressed by the vocalizing of groups that seek to protect the civil liberties of others in general, or the rights of some particular person. I say this, having practiced criminal law exclusively for the past fifteen years, in the attempt to protect the rights of some ten thousand individuals. I am obviously sympathetic with the thought that the constitutional rights of each individual must be protected, but I can think of no more fundamental right than that of fair trial. I believe in free speech, I believe in free worship; but I also believe in free freedom.

Candidates For '51 Class Offices Told Petitions Due Fri.

Candidates for permanent class offices for the Class of 1951 must submit their nominating petitions not later than Friday, March 16, at 5 p.m., according to rules adopted at an organizational meeting of the class held last Monday in Langdell Hall courtroom. The permanent officers to be elected include class secretary, treasurer and marshal.

Petitions may be submitted by leaving them in the Harvard Law School RECORD boxes either in Austin or Langdell halls. According to the adopted rules, the petition must contain not less than ten nor more than 12 valid endorsers. A candidate, to make the petition effective, must sign a statement that he has read the rules and that he will serve. The official nominating petition appears on Page 3.

Petitions will be checked and any person signing for two or more candidates for the same office will have his name removed from all the petitions. Candidates will be given an opportunity to amend their petitions by the addition of valid signatures if some of the endorsers are invalidated. Such amended petitions must be refunded by 5 p.m., March 19.

Balloting for the offices will begin Wednesday afternoon, March 21, and will continue until 5 p.m., Friday, March 23. A plurality of the votes cast for a given office will be sufficient to elect the candidate. Only a tie vote will necessitate a run-off, and the candidates tied.

The class secretary is the ranking officer. He plans reunions and other events. will be the only ones in the new election.

(Continued on page three)

Law School To Present Mobilization Program For Members Of Bar

The Institute for Practicing Lawyers, sponsored by the Harvard Law School, will present a forum on *Legal Problems of Mobilization* on Friday, April 6, and Saturday, April 7.

Initiated at the suggestion of Dean Griswold, the Institute will present, in this, its first program, a discussion, over the course of four sessions, of the following: *Production Controls, Price Controls, Wage Controls and Disputes, and Coordination of Controls.*

The intention of the Law School is to present to the members of the Bar information and analysis of matter similar to that which the School is offering its students in the new course on *Legal Problems of Mobilization*. Many practicing lawyers have expressed an interest in this course.

The fee for the four sessions will be \$10.00, which includes dinner on Friday evening and lunch on Saturday in Harkness Commons. Enrollment will be limited to the capacity of the Court Room in Langdell Hall.

I find myself in no mood to buy impassioned oratory about freedoms when I consider the criminal courts of Massachusetts, a supposedly enlightened state.

I am not criticising the courts of Massachusetts; I think they rank with the finest in the country. I am criticising the lackadaisical system here and everywhere under which men without funds are arrested, pushed through the courts without benefit of counsel or assistance of witnesses, and wind up behind bars, usually guilty but not infrequently innocent.

I do not become enthusiastic at the sight of huge defense funds available for Jennie, who is sued for saying something nasty about someone, when I think of Joe at the jail charged with robbery or rape and realize that all Jennie can lose by an adverse verdict is two of her three town cars, while Joe is playing marbles for keeps—blindfolded and with square marbles. It is a lovely thing to spend large amounts to protect the right of a nice lady to say nasty things, but the same amount could also protect the rights of two thousand forgotten men.

Unfair Practices In Prosecution

What are the weak points of the present method of criminal prosecution? There are no strong points. The rules in everyday use would be repugnant to the members of the first grade if applied to their games at recess. This article is not intended as a brief for the criminal but is an attempt to point out unfair practices which quietly rot away the foundation on which all of our freedoms rest—the equality of individuals.

Criminals are spoken of as though they constituted a special, isolated, un-

(Continued on page four)

Lifland New Head Of Harvard Review For Coming Year

At the annual election held over the weekend, William T. Lifland (Yale '49) of Jersey City, N. J., was named president of the Harvard Law Review for next year, succeeding James Vorenburg (Harvard '48) of Cambridge, Mass.

The Review also elected the following men to the new editorial board: Matthew G. Herold, Jr. (Yale '48) of Scarsdale, N. Y., as Note Editor, succeeding Leonard B. Sand (N. Y. U. '47) of New York, N. Y.; Frank E. A. Sander (Harvard '48) of Brookline, Mass., as treasurer replacing H. James Sheedy (Swarthmore '48) of University Heights, Ohio; Richard E. Shapiro (Yale '49) of Beverly Hills, Cal., as Case Editor replacing James T. Lynn (Western Reserve '48) of Euclid, Ohio; Richmond Prescott (Harvard '50) of South Dartmouth, Mass., as Articles Editor, succeeding Richard L. Watling (Harvard '48) of Oak Park, Ill.; John J. Cound (George Washington '49) of Washington, D. C., as Note Editor to succeed Detlef F. Vagts (Harvard '49) of Sherman, Conn.

New Developments Editor will be Samuel A. Stern (Penn. '49) of Philadelphia, Pa., replacing Robert E. Mertz (Lehigh '48) of Pittsburgh, Pa. William T. Kirby (Harvard '47) of Kewanee, Ill., is new Book Review Editor, succeeding Jerome P. Facher (Penn. State '46) of Wilkes-Barre, Pa. Herbert Stoller (Wisconsin '49) of Baltimore, Md., is now Director, Legal Research, replacing George B. Gelman (Rutgers '48) of Pompton Lakes, N. J., and Ben C. Fisher (Illinois '48) of Washington, D. C.

Justice Jackson To Preside At Ames Final Arguments



JUSTICE ROBERT A. JACKSON

The Hon. Robert H. Jackson, Associate Justice of the Supreme Court of the United States, will preside as Chief Justice of the Supreme Court of the Commonwealth of Ames, when that body hears the final argument of the Ames Competition on April 5. The two associate judges will be announced at a later date.

Mr. Justice Jackson graduated from the Albany Law School and was admitted to the New York bar in 1913. He has been a member of the United States Supreme Court since July, 1941. He served as Chief Prosecutor for the United States at the Nuremberg War Crime Trials in 1945-46 and is the author of *The Case Against the Nazi War Criminals* and *The Nuremberg Case*.

The case before the Ames Court is *Capp Food Co. v. U. S.*, which involves the question whether or not the United States can purchase wholesale meat at the ceiling price when that ceiling price is below the wholesaler's cost. The Kent Club will be representing the Capp Food Co., plaintiff, and the Holmes Club will represent the United States, defendant.

Arguments for the Ames Quarterfinals will begin on April 9 with a federal income tax case argued by the second year courts of the Kent and Scott-Powell clubs. On April 11 the J. Smith and Coke clubs will argue a contract case to which New York Personal Property Law will apply. On April 13 estoppel in a patent infringement suit will be argued by the Marshall and Brandeis clubs. The final argument in the Quarterfinals will be on April 24 with the E. Warren and Casner Equity Clubs arguing a question under the Federal Civil Rights Act. No judges for the Quarterfinals have as yet been announced.

Oralists for the Kent Club will be George C. Caner, Jr., 3L (Harvard '46) of Boston, and Harold M. Wilcox, 3L (Yale '47) of Philadelphia, Pa., and for the Holmes Club, Robert P. Bass, Jr., 3L (Harvard '46) of Peterborough, N. H., and Roberts B. Owen, Jr., 3L (Harvard '48) of New York, N. Y.

Prof. Fuller To Air Position Of Unions

The "Coffee Hour" will hear Professor Lon L. Fuller of the Law School on *What Labor Unions Do and Do Not Do*, at 1:30 in the Harkness Commons. Professor Fuller has had wide experience as a labor relations arbitrator.

Last Thursday the "Coffee Hour" heard Erwin Canham the editor of the *Christian Science Monitor* appraise the function of the United States in the present world crisis. Despairing of the "atrocious" picture America had painted of itself for the rest of the world, Mr. Canham called for an accurate projection of America's real contribution to the world.

If America could succeed in impressing the rest of the world with its progress in freeing man from all types of subjugation, he thought we could convincingly demonstrate that it is the United States who is truly the "progressive" state.

Admitting that this was a long range plan, Mr. Canham also proposed a more immediate program for maintaining peace and restoring stability within the world. He advocated that we: (1) continue with our present policy of re-establishing a "power equilibrium" by preventing the flow of Russia and her allies into the vacuum caused by the collapse of Germany and Japan; (2) make a formal declaration to the Soviets that we intend certain limits upon her expansion; (3) set about convincing our allies as well as the Soviet-bloc that we believe in the possibility of co-existence within the same world by demonstrating our willingness to mediate differences.

Religious Leaders In Friday's Forum To Discuss Aid To Parochial Education

Public Aid to Parochial Education, one of the issues on which Federal aid to schools and colleges was defeated, will be the forum topic Friday evening, March 16, at 8:00. Speakers will include Bishop G. Bromley Oxnam of the Meth-



BISHOP G. BROMLEY OXNAM

odist Church, Brooklyn College Professor James M. O'Neill, Dr. George Huntston Williams of the Harvard Divinity School, and Dr. Vincent A. McCrossen of Boston College.

Although the title of the forum specifically names parochial schools, the issues for and against aid to all schools supported by religious groups will be debated as part of the program. Dr. Robert Ulich, Professor of Education at Harvard University, will moderate.

Dr. G. Bromley Oxnam, Bishop of the Methodist Church in the New York Area, heads the panel of distinguished speakers, which is evenly divided between representatives of the Protestant and Catholic faiths. An educator in his own right, Bishop Oxnam's views on Federal aid to parochial schools have raised further controversy, and his opinions should make for a searching discussion of the issues involved in this problem.

Bishop of the New York Area since 1944, Dr. Oxnam is also one of the presidents of the World Council of Churches, president of the Division of Foreign Mis-

sions of the Methodist Church, and secretary of the Council of Bishops. He served as Bishop of the Boston Area from 1939 to 1944, when he was named to his current position. He is a member of the general board of the National Council of the Churches of Christ in the U. S.

James M. O'Neill, Professor of Speech at Brooklyn College in New York, is a Catholic layman who has frequently expressed his opposition to any Federal plan of aid to education which excludes parochial institutions. He is the author of *Religion and Education Under the Constitution* published in 1949, and he is also a lecturer on civil liberties.

Joined with him is a professor of languages at Boston College, Dr. Vincent A. McCrossen, who, in sharing the views of Professor O'Neill, is expected to show how public aid which ignores the important body of parochial schools can be said to defeat the purposes which Fed-



DR. VINCENT A. MCCROSSEN

eral support is supposed to foster.

A lecturer in church history, Dr. George Huntston Williams of the Harvard Divinity School, a Unitarian minister, may be expected to discuss the historical consequences of combining Church and State, which many see as one of the major objections of subsidizing parochial education with Federal money.

Lawyers Guild Talk By Fraenkel Heard By Large Audience

More than 100 students heard Mr. Osmund K. Fraenkel lecture on *Searches and Seizures* last Friday afternoon. Two weeks ago, approximately 25 attended the first Harvard Lawyers Guild guest lecture. Mr. Fraenkel's appearance had been heralded in the local press as a result of the charges made by Mr. Samuel P. Sears, Massachusetts Bar Association president, that the Guild was a "Communist front."

Mr. Fraenkel was introduced by Alan F. Westin, 3L (Florida '48) of Miami Beach, Fla., who told the audience of Mr. Fraenkel's experience before the Supreme Court of the United States, and commented that "long after 'Sears' is no more than a name on a mail order catalogue, Osmund Fraenkel's effect on civil liberties will be well-remembered."

The discussion of *Searches and Seizures* which followed was a historical survey of the succession of cases involving the Fourth Amendment which have come before the Supreme Court and how the Court has handled them. Mr. Fraenkel's talk brought the subject up to date with a discussion of the Coplon case and another he had just argued before the high court.

While Mr. Fraenkel was speaking the Harvard Law School Republican club met in closed session and passed a resolution endorsing the position of Dean Griswold in refusing to accede to Mr. Sears' demands that Guild members be banned from the Law School.

In the question period that followed Mr. Fraenkel's talk, he was asked for his opinion on the Court's possible action concerning the "11 Communists" case. He answered that his "wild guess" would be that the Court would uphold the Smith Act's constitutionality, but reverse conviction on the grounds that the "clear and present danger" test had been misapplied.

Three Officers Elected By Legal Aid Members

The Harvard Legal Aid Bureau recently announced the addition to its roster of three new officers: one third-year man, Sol Neal Corbin (Columbia '48) of Brooklyn, N. Y., as Senior Director, and two second-year men, David Gambrell (Davidson '49) of Atlanta, Ga., and Ralph Jefferson (Yale '49) of Rochester, N. Y., as Junior Directors.

The annual report of the Bureau which will detail its activities for the past year, will be issued shortly.

The Harvard Law School Record

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Education For Lawyers

Educational institutions have responsibilities to the public beyond that of solely training their student bodies. For this reason the April Institute for Practicing Lawyers to consider the legal problems of mobilization, production and price and wage controls represents a realization of this duty by the Law School.

The two-day program will give alumni and other practicing lawyers a concise treatment of those important current legal topics and an opportunity to hear an outstanding group of men experienced in these problems. The forum is designed to give information similar to that provided by the more thorough mobilization course added to the Law School curriculum this year.

Since all third year students and some second year men who are interested in these topics are able to study them in detail, the fact that space limitations will probably bar student attendance at the forum may not be too serious. However, if there is enough interest among members of the student body who for various reasons may have been unable to enroll in this new class, perhaps a similar special program for students could be planned by the Harvard Law School Forum.

No Comment

At the first lecture sponsored by the Harvard Lawyers Guild, twenty-five students attended. When Mr. Osmond K. Fraenkel spoke last Friday, over 100 students came to hear him.

Letters to the Editor

The following is a statement by the Harvard Lawyers Guild as to their position in the recent Griswold-Sears controversy.

To the Editor of the RECORD:

To judge the recent attacks upon the Harvard Lawyers Guild by Mr. Sears, one needs to understand the real significance of this attack for the organized bar.

Mr. Sears' charges were not really directed at the local Guild chapter. In four years of activity here, we have presented comprehensive civil liberties seminars. We have held forums, conducted court tours, published a civil liberties case note series, and done research for the Massachusetts Civil Liberties Union. We stand ready to be judged on all our activities.

Neither can Mr. Sears' charges be directed against Osmond K. Fraenkel, a noted constitutional authority. Nor can any responsible American, with more than a superficial knowledge of communism, consider the National Lawyers Guild a "Communist Front." The Guild was formed in 1936 to meet the need for a bar association which did not discriminate against Negroes, which had a positive bias toward civil liberties, which recognized the lawyer's right and duty of advocacy, and which believed that economic and social reforms were a vital part of the law and the lawyer's role. These needs and the Guild's function remain wholly unchanged today.

Mr. Sears chose not to state a mere disagreement with this program, but to further the un-

The man who has often been called the "Godfather" of Harvard Law graduates in Washington, D. C., is Robert N. Miller, LL.B. '06, for over thirty years a practicing attorney in our nation's capitol. Mr. Miller has been given that title by the many fledgling lawyers he has aided and counselled in their search for positions in Washington. Through his untiring efforts in their behalf he has gained their gratitude and has provided himself with one of his main "extra-curricular" activities.

One of his main reasons for taking such an active interest in the problems of the Law School and Harvard students in Washington is that he feels deeply indebted to the Law School. Attending school here has proved an invaluable help in practicing law in the "unnatural" city of Washington. The lawyer there must rely on clients from all over the country and the many friendships made at law school have served him well in that respect, particularly in his early years of practice.

On being questioned about placement prospects in Washington Mr. Miller was optimistic. "In normal times," he says, "the number of reasonably attractive places in Washington for newly graduated lawyers is quite a little smaller than the number of applicants. Recently, however, an encouraging reversal has been reported by the placement chairman. There is an improved market for talent of this kind, more particularly for legal work in the Government, but also to some extent in private firms here."

Mr. Miller took his undergraduate work at Rice Polytechnic Institute and then taught high school for two years. Becoming interested in the law, he came to Harvard Law School where he left a distinguished record having served on the *Law Review* with Professor Edmund Morgan, Justice Felix Frankfurter and Elihu Root, Jr. Graduating *cum laude*, Mr. Miller started a modest law office in Louisville. After twelve years of practice there he moved on to Washington where he later became the head of the legal unit of the Bureau of Internal Revenue.

Mr. Miller's present firm specializes in taxation. It is this field that has commanded the greater portion of Mr. Miller's life in the law.

founded *value judgments* of the House Un-American Affairs Committee in regard to it. And here the real significance of the Sears position becomes clear. It is nothing better than an effort to deprive today's unpopular and often hated dissenter of his right to earnest and competent advocacy in a fair trial. Which of you readers would take the legitimate case of a Communist or one accused of being a Communist if Mr. Sears' view were to become the dominant one? What would remain of the long cherished independence and freedom of the bar if one adopts the House Committee's conclusion that defense of the *civil liberties* of unpopular defendants makes the Guild "The legal bulwark of the Communist Party?"

No, this is not a minority organization under attack. Much more is at stake: free expression, fair trial with effective counsel, dissent in difficult times.

HARVARD LAWYERS GUILD

To the Editor of the RECORD:

The Record for February 28th contains a letter from Ulys A. Lovel, which is very interesting. The substance of his letter can be summarized in his statement: "Most of the Law teachers I have known have had no practical experience in the practice." This is a point which is frequently made, and it is undoubtedly of real importance.

There is no room here to present a full discussion of the question. I would like, though, to venture three observations.

1. Probably the greatest law teacher of modern times was James Barr Ames. Certainly those who were his students speak of his teaching in uniform highest terms. Mr. Ames never had any experience as a practitioner.

2. Actually, the amount of active practical experience represented on our Faculty is very considerable. Without attempting a full catalogue, I can refer to Professor Richard Field who practiced in Boston for 13 years, and then had 4 years' experience with the Government, finally as General Counsel of the O. P. A.; Professor Arthur Sutherland who practiced in Rochester for 15 years, and then had 5 years' experience

Gallery

ROBERT N. MILLER
Washington Godfather



He is a former chairman of the American Bar Association Committee on Taxation and is now a member of the Advisory Committee of the Taxation Section. Currently he is working with Dean Griswold and Professor Surrey on the American Law Institute's tax project. Though busy with such projects, Mr. Miller has maintained a close touch with the Law School serving as regional director for the Harvard Law School fund for Maryland and the District of Columbia.

Tax practice has been especially stimulating to him in that he feels that it encompasses all phases of law, and requires continual alertness

due to the variety of tax situations and the constant changes in the tax law. He believes that the main function of the tax lawyer is not merely litigation since only about two-tenths of one percent of all the tax dollars collected are concerned in tax court cases. Mr. Miller says that administrative officials in the tax field are "able, well informed, and, to a degree not generally realized, open-minded."

If a lawyer has the invaluable quality which enables him to pick from a great mass of facts a few of them on which the result ought to turn, he is doing his client an injustice if he gets into court too quickly. The real test of a tax lawyer's ability to serve clients is how far he can get sound results without litigation.

Mr. Miller has shown deep interest in the success of the government's tax system as a smooth-working producer of large revenues, and he believes it to be the best conducted in the world considering the difficulties here. But he feels that increased appropriations for the discovery of deficiencies are badly needed and would be recovered many times over in additional collections, not involving mainly fraudulent omissions but growing out of the decision of a great many argumentative points of law.

To provide a change from legal matters, Mr. Miller has a dairy farm about fifty miles from Washington although he is able to spend little time there. After forty years of practice, Mr. Miller has found that his interest in tax policy problems, the Law School, and his farm serve to round out a very interesting life.

MARVIN WEINSTEIN, 2L

with the Army; and Professor Benjamin Kaplan, who practiced in New York for more than 9 years, and then had 4 years doing legal work in the Army.

Three years ago, our Committee on Legal Education made a tabulation of the practical experience of our Faculty. It showed that the average of such experience was 4.3 years for each faculty member. The average is not any lower now. Two of our Faculty members have been drafted for important, very practical jobs in Europe.

3. The lawyer who knows only his paper work and know-how—important though they are—may miss things which are of very real practical importance to himself and his clients. Cases are sometimes won on theories as well as on so-called practicalities. And the lawyer who has some basic understanding of what he is doing may get more fun out of life, along with occasionally doing a better job—sometimes a crucially better job.

ERWIN N. GRISWOLD, Dean.

To the Editor of the RECORD:

In determining a name for the steel form in the Graduate Center I feel that a monstrous mistake would be made in trying to attach to it a temporal meaning. Actually, as has been suggested it defies meaning and belongs to that realm of phenomena in which the emotive and sensory reactions of one's mind should be allowed free reign. To name it would be to categorize it and destroy the creativeness of each person's subjectivity. It belongs to the celestial order of intangibles and inscrutables and should be allowed to remain unburdened and free from a crude tag. However, if the inevitable must come I pray that it be given an incomprehensible name so people will not sternly stare at it and say, "It doesn't look like that," and then dismiss it.

My reluctant suggestions.

"La Philoxia."

"De Koloom."

"The Consol-dynama."

FREDERICK BLUMBERG, 1L.

Sub Judice

CURIOSITY CRIER

Jordan was employed as a mechanic by the Dixie Chevrolet Co. One day, he sat down in the front seat of a police car which had been brought to the garage for repairs. His idle curiosity sent him rummaging through the glove compartment, where he found a tear gas bomb. Not knowing what the object was, he pulled the cotter pin, thereby releasing the contents. He then threw the bomb to the ground where it exploded, causing injury to his eyes and impairing his sight. Jordan's claim for workmen's compensation was denied by the Industrial Commission on the ground that the injury did not "arise out of or in the course of his employment." The Hearing Commissioner found that Jordan "had no duties to perform in or about the police car at the time of the injury; his handling of the tear gas bomb was merely to pass the time and his pulling of the cotter pin was in the pursuit of natural curiosity." Jordan appealed.

Held: On appeal, judgment reversed; cause remanded.

This was the first "curiosity" case to come before the court and study was made of some cases decided in other jurisdictions. A New York case was cited in which a janitor, while cleaning, discovered and lighted a firecracker; and was able to recover compensation for injuries sustained. Another New York case allowed recovery where an employee's curiosity was aroused by an object which he struck with his hammer, only to discover that the object "proved to be a torpedo." A third case cited involved the legendary curiosity of a woman. A female defense worker left her riveting machine for a drink of water. On the way to the fountain she noticed an open dumb waiter shaft into which she poked her head to see what was going on. She was hit by the descending dumb waiter and was allowed to recover workmen's compensation under the federal law. The court concluded that "the defense of 'deviation' or 'curiosity' is borrowed from the common law, and workmen's compensation meant to discard narrow common law theories. The defense, therefore, should rarely be upheld and must be limited to acts so foreign to the employment (used in its widest sense) as not to 'arise out of' even a reasonable incident thereof." *Jordan v. Dixie Chevrolet Co.*, S. C., 61 S.E. 2d 654 (Oct., 1950).

OUT FOR A STROLL

One night, two police officers saw a man wearing dark clothes and walking suspiciously down a secluded street in a residential neighborhood in North Elizabeth, N. J. They asked him where he was going and what he was doing in the neighborhood; but the man refused to answer all questions. They searched him and found in an outside pocket of his overcoat two cotton gloves, a "jimmy" inside one of the gloves, a small flashlight and a small mirror. They also found a slip of paper with certain numbers on it, which were identified as catalog numbers for a Kenney-Bead revolver, and a receipt for a room in the Mills Hotel, New York City. This was the only evidence produced by the State in a prosecution for "knowingly" having possession of burglar's tools in violation of the statute.

Held: On appeal, conviction reversed.

"An essential element of the crime is the intent to use or employ the tool or implement, or to allow the same to be used or employed in cutting through, forcing or breaking open any building, room, etc., in order to steal therefrom any money or property. . . . There must be proof, at least, of some circumstance or circumstances, in addition to proof of the possession of the tool itself, from which the jury could draw a legitimate inference of the required intent. Here there was neither direct proof nor proof of any such circumstance or circumstances." *State v. Walsh*, N. J., 74 A. 2d 613 (July, 1950). [If Walsh was out taking his evening constitutional, he certainly wandered a long way from his hotel room in New York City.]

Off the Record

ONE NIGHT STAND

One of the students in Professor Morris' class on Conflicts was reciting the case of *Fisher v. Fisher*, a New York case involving the validity of a marriage performed on board ship.

Prof. Morris: On what basis is the marriage valid?

Student: By authority of Congress, the Captain was authorized to consummate the marriage.

Morris: You mean celebrate.

Student: I must have been confused by the English "first night rule".

ANNOUNCEMENT

After many months of pain and anguish, the bubbler in the Langdell South side of the reading room has been repaired so that no extra pressure is needed to operate it.

Alumni Notes

LL.B. '13—*Armstrong A. Stambaugh*, senior vice-president of the Standard Oil Co. (Ohio) has been elected chairman of the board.

LL.B. '21—*Frederick H. Spotts* has been elected a life trustee of Lafayette College.

LL.B. '29—*David Miller* has been made vice-president and general counsel of Young & Rubicam, Inc., New York advertising agency.

LL.B. '27—*Albert C. Clapp* of Montclair, state senator from Essex County, New Jersey, has been appointed dean of the Rutgers University School of Law in Newark. Clapp also will be in charge of the South Jersey Division of the law school at Camden, and is expected to continue in his Senate post.

LL.M. '35—*Edward A. Hogan*, former dean of the University of San Francisco is now vice-dean at Hastings College of Law, 515 Van Ness Avenue, San Francisco, California.

LL.B. '40—*Theodore Propp* has opened an office for the general practice of law and the specialized practice of tax law at 40 Worth Street, New York.

LL.B. '49—*Bertram Glosky* is practicing law in Rochester, N. Y., where he is associated with John Van Voorhis.

Lawyers Earn Less Than Doctors, Government Income Study Reveals

With an income greater than a dentist's, and smaller than a doctor's, the lawyer's average income in 1948 was \$8,121, 69% above its 1929 level. This encouraging statistic and many others on the income of the profession for the period 1929-1948 have recently been collected and analyzed in a study prepared for *Current Business*, a U. S. Department of Commerce periodical.

Though the above figure is the mean of lawyer's incomes for 1948, the median income, \$5,719, might perhaps be a more accurate indication of what the average lawyer is earning, since it is not thrown askew by the very large incomes earned by a very few lawyers. As might be anticipated, incomes fluctuated directly with the economic condition of the nation, and though at its highest level in 1948, the ratio of net income to gross income was only 64.1%; in 1929 it was 69.2%.

A closer examination of the figures reveals that two-thirds of all lawyers were engaged in independent practice, while the remaining one-third were salaried persons, whose mean income was slight-

ly higher than that of the independents. Only one-quarter of those lawyers practicing independently were associated with partners; and only three percent of this group was composed of firms larger than two members. The independent lawyer gave 47.9% of his service to "business" and 52.1% to individuals. However, those lawyers handling a greater volume of "business" clients earned a much greater income than those working for individuals.

Geographic area also played a large part in determining average incomes, with the lawyers in the Middle East and Far West earning greater amounts than the national average. New England and the Central States were in an intermediary position, while the Southern and Northwestern lawyers were the poorest. Salaried lawyers tended to concentrate in large cities, and most attorneys practicing in large cities were earning incomes above average. These facts can give you some basis for determining where you ought to establish your practice—and a firm in Cleveland seems to be a natural!

Quarterfinal Squash Pairings Readied; Reveal Basketball League Standings

Except for one match not yet played, the quarterfinal pairings are complete in the 1951 Harvard Law School Squash Tournament. Defending champion and topseeded Audley Clarke, 2L (Princeton '49) of Hartford, Conn., will meet unseeded Wallace R. Baker, 2L (Harvard '48) of Lake Bluff, Ill., in the first bracket.

Lucius H. Biglow, Jr., 2L (Yale '48) of Old Lyme, Conn., ranked sixth, will tangle with the winner of the unplayed match between Professor Robert Braucher, LL.B. '39, seeded fourth, and Joseph K. Godfrey, 3L (Wesleyan '47) of Williamsville, N. Y., unseeded.

Number three man, A. Lane McGovern, 3L (Harvard '46) of Winchester, Mass. will play Gael M. Mahony, 2L (Yale '49) of Boston, ranked seventh. To complete the pairings, Hugh N. Scott, LL (Princeton '50) of Philadelphia, number two in the rankings, meets Samuel W. Murphy, 3L (Wesleyan '48) of Short Hills, N. J., who is seeded eighth.

The tourney attracted 64 entrants this year, and under the guiding hand of Clarke, got off to an early and fast start. Clarke expects the finals to be played about March 23. Except for Martin C. Carroll, 3L (Notre Dame '48) of St. Louis, who was seeded number five but lost to Baker, and Professor Braucher, who has yet to qualify, all the eight seeded players have qualified for the quarterfinals.

According to Coleman Volgenau, 2L (Colgate '49) of Clarence, N. Y., who is in charge of securing trophies for football, basketball and squash, a permanent trophy, to be inscribed each year with the squash champion's name, has been ordered by the Law School Committee of Phillips Brooks House. The trophies stand about 20 inches high and are gold with a dark base. They will be displayed in Harkness Commons.

The Law-Graduate School Basketball League, organized by Fred Shand, 1G, as co-chairman of the Law-Grad Dorm Social and Athletic Committee, is now in the closing games of regular competition.

The two divisions are composed primarily of law students with individual Graduate School students on several of the quintets. The "Dicks" is the only team composed entirely of Graduate students.

League contests began shortly after the opening of the second semester.

Every team usually competes twice a week. Those in Division 1 play their games at 4 p.m. in Hemenway Gymnasium, while Division 2 squads take the court beginning at 5:15 p.m. Following the intra-divisional competition, there will be an inter-league playoff among the top four teams in each division.

On Monday night, March 12, the Division 1 leadership was thrown into a two-way tie when Gothams beat Chancery "A" 37-35.

The current standings and last week's results are:

DIVISION 1			
	Won	Lost	Pct.
Chancery "A"	8	1	.889
Gothams	8	1	.889
Effoes	6	3	.667
Lincoln's Inn	3	6	.333
Chancery "B"	3	7	.300
Legal Eagles	2	7	.222

Last Week's Results
Lincoln's Inn over Legal Eagles by forfeit
Gothams 43, Effoes 42
Effoes 87, Chancery "B" 30
Chancery "A" 74, Chancery "B" 40

DIVISION 2			
	Won	Lost	Pct.
Cowboys	9	0	1.000
Jaspers	7	2	.778
Cagers	6	3	.667
Lakers	5	5	.500
Dicks	2	7	.222
Sturdlees	0	10	.000

Last Week's Results
Lakers 36, Dicks 23
Jaspers 100, Sturdlees 60
Cowboys 48, Dicks 39
Jaspers 45, Cagers 35
Lakers over Sturdlees by forfeit

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DALTON-ELCOCK BAR REVIEW

The next Massachusetts Bar Examination will be held July 10 and 11, 1951. The Dalton-Elcock Bar Review, preparing candidates for this examination, will be held at The Republican Club, 46 Beacon Street, Boston, Massachusetts, beginning June 1 and ending July 6. Classes will be held Monday through Friday from 9 A.M. to 12 Noon and from 1 P.M. to 3 P.M.

For information write:
Dalton-Elcock Bar Review
Ten Post Office Square, Room 915
Boston, Massachusetts
Telephone HA. 6-2850

THIRD YEAR CLASS ELECTIONS

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Address
Telephone No.
Office Applied For

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1 7
2 8
3 9
4 10
5 11
6 12

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| IV. Coordination of Controls | Saturday Afternoon |

Speakers and commentators from Government service, private law practice, the University, and the Law School.

The sessions will be held at the Harvard Law School in Cambridge. The registration fee will be \$10.00, which includes dinner on Friday evening and lunch on Saturday in Harkness Commons, the dining hall for law and graduate students at Harvard University.

Registrations will be accepted in order of receipt and will be limited to the capacity of the Court Room in Langdell Hall. To register, send check for the \$10.00 fee (payable Harvard Law School) to:

Assistant Dean Russell H. Peck

Harvard Law School
Cambridge 38, Mass.

Calendar

UNIVERSITY WORLD Concert of Organ Music

Dr. Carl Weinrich, Horatio Appleton Lamb Visiting Lecturer, will present a concert of organ music on Monday, 8:30 p.m. in the Memorial Church. The concert will be free and open to the public.

Higher Education in U. S.

A discussion on higher education in the U. S. will be held on Tuesday evening, 8-9:30 p.m., Phillips Brooks House. The discussion will center around inter-university organizations in the U. S., American colleges and universities, and the International Student Exchange. All interested graduate and foreign students are especially invited to attend.

OUTSIDE WORLD

Lowell Institute Broadcast

What is Labor's Fair Share in the Mobilization Program? will be discussed on the Lowell Institute program, *America at the Crossroads*, Friday evening at 10 p.m. over WEEL.

Ford Hall Forum

Leo M. Cherne, writer, and authority on industrial mobilization for war will discuss the topic *Is World War III About to Begin?* on the Ford Hall Forum, Sunday at 8:00 p.m. The lecture is free and open to the public.

Social Tip

Those students who seek a pleasant evening of "bob-cat" music, food, and entertainment will find their search rewarded in a visit to the Music Box in the New Copley Square Hotel, Huntington Avenue, Boston. The Music Box is now featuring Bobby Hackett and his Dixieland jazz band. There are no cover, admission or minimum charges.

CRIMINAL—(Continued)

wholesome segment of our society. I have never found a satisfactory definition of the term "criminal." If a criminal is a person who violates one of our numerous laws, regardless of whether he is caught and punished, then I presume that practically every man, woman and child over ten years of age is a criminal. If the test is the apprehension of the law breaker, I presume that the law of averages will allow some of us to escape being so labeled.

In theory, a man charged with a crime is presumed to be innocent until he is proved guilty. In practice, the mere fact that he is arrested is satisfactory proof of his guilt until he can show otherwise. For purposes of investigation to prove a man's guilt, any hamlet can call on the police force of the entire Commonwealth; a defendant behind bars is powerless to assemble anything helpful to his case. A prosecutor has the check-book of the Commonwealth for expenses; a defendant may not have the price of a postage stamp.

Safeguards To Arbitrariness

Again and again, articles have been written about the safeguards erected to prevent unreasonable arrest and unjust conviction. On only rare occasions are any of them effective. In order of procedure, some of them are: (1) Search warrants; (2) Preliminary district court hearings to decide if the evidence is sufficient to hold the prisoner for grand jury deliberations; (3) Grand jury hearings; (4) Power of the prosecutor to dismiss if he feels there is not sufficient evidence on which to prosecute; (5) Trial before an impartial judge; (6) Right to the assistance of counsel and the attendance of witnesses.

Even a casual consideration of these

safeguards will indicate how inadequate they are under most circumstances. After more than fifteen years of criminal practice, I have yet to handle a case where a search warrant was obtained by police before making an entry and search. District court hearings of seri-



WILBUR G. HOLLINGSWORTH

ous cases are one-sided affairs wherein the judge, who has no power to decide guilt or innocence, hears only enough evidence from the prosecution to show that a crime has been committed and that the defendant probably committed it. About the only benefit the defendant derives from such a hearing is the opportunity to be informed of the nature of the charge against him, and in Middlesex County even this slight benefit has been practically abolished by the simple expedient of requesting a continuance of the district court hearing and then surreptitiously presenting the case directly to the grand jury.

Evaluation of Safeguards

Grand jury hearings are also one-sided affairs. Conducted in secret, only such evidence as points to a defendant's guilt is heard. While a district attorney, after an indictment has been issued, has the right to refuse to prosecute, most of these officials are understandably loath to exercise this power, feeling that frequent use of the *nol pros* provides an opponent with dangerous political ammunition.

Trial before an impartial judge rolls nicely off the tongue, but even the most impartial judge is in no position to weigh the merits of a prisoner's defense when all he hears is the bare, unsubstantiated story of a man who has been confined awaiting trial and is in no position to offer more. I have yet to see a judge halt a trial, climb down from the bench and wander into the South End of Boston looking for witnesses to establish the defendant's innocence.

It is obvious that a poor person who is charged with a crime, and then held in jail until the day of trial, cannot collect his witnesses and present his story without the help of someone on the other side of the bars. While no one seriously disagrees with the generosity of the Constitution, which guarantees him the right to the assistance of a lawyer, we proceed to prosecute him under a system which very effectively prevents him from obtaining counsel unless he has sufficient funds to pay for such services.

Articles of this nature are usually brushed aside as exhortations to "coddle criminals," however that is done. Actually, I doubt very much that I could maintain a warm feeling of love for my fellow man if I came out of the local pub to find my car stolen. Personally, I don't care if we go back to the bygone days when the punishment for over four hundred crimes was death, so long as the punishment is handed out to rich and poor alike.

I am terribly afraid that if I close my eyes to the infringement of the rights of the beggar without friends, some day I'll find my own rights disappearing and it will be too late to protest. If the right to a fair trial is not secured for the beggar, some day I might want a fair trial myself and find that I exist in a society which has a perpetually closed season in some sections on moose and caribou, and a perpetually open season on man.

NEWS IN BRIEF

THE LLEWELLYNS

Karl N. Llewellyn, professor at Columbia Law School for 26 years, who served as Visiting Professor at Harvard Law School for a year in 1948-49, has accepted a professorship at the University of Chicago Law School to commence next fall.

Also accepting a professorship at Chicago is his wife, Miss Soia Mentschikoff. Miss Mentschikoff was the first woman professor of law at Harvard Law School when she was a Visiting Professor with her husband in 1948-49.

THIRD YEAR PAPERS

If any candidate for the LL.B. degree in June, 1951, has not yet adequately planned his written work, he is instructed to consult Miss Quinn in the Secretary's office immediately and, if necessary, Professor Maguire.

DORMITORY ROOMS

There are several vacancies in the graduate center dormitories. Students can go to the Dormitory office, and the rooms will be assigned in the order in which they are applied.

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Congressional Record Gives Wide Circulation To 'Rainmaking' Series

A recent example of the considerable national interest in the two-installment article on *Rainmaking* by Ralph E. Corey, LL, which appeared in the *Record* of February 14 and February 21, 1951, is the introduction of both installments in full in the *Congressional Record* by Sen. Clinton P. Anderson, Democrat, of New Mexico.

Senator Anderson commented that the reprinting of these articles was desirable to give them a wider national circulation among businessmen, farmers, cattlemen, and others who recently have become interested in rainmaking.

Many other requests have been received for copies of these articles and for the citations that are available to all those wishing them. The Law School of the University of Texas, in a recent letter asking for the citations to Mr. Corey's article, volunteered the information that there is a movement in the Rio Grande area for the farmers and citrus growers to pay \$1.00 per acre into a fund to finance rainmaking in the Valley by a California corporation. The cost is \$60,000 per year or \$15,000 for three months.

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SBLI With so many uncertainties ahead, this may be the time for some "stop-gap" life insurance. The monthly cost for each \$1,000 of Savings Bank Five Year Term life insurance at age 25 is only 59¢; age 30, 67¢; age 35, only 79¢. Later it can be converted to more permanent insurance WITHOUT medical re-examination. Get the rates for your age here. If you plan to live or work outside of Massachusetts, YOU MUST APPLY NOW, while attending Law School.

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