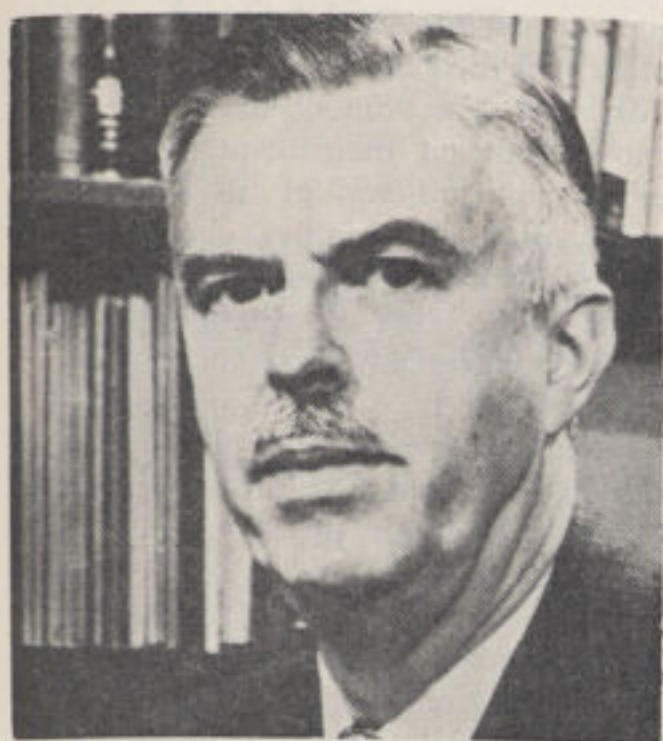


The Harvard Law School Record

VOL. 15 No. 9

CAMBRIDGE, MASS., WEDNESDAY, NOVEMBER 26, 1952

PRICE TEN CENTS



David Cavers

Cavers Announces Openings In 1953 For Teaching Aides

Associate Dean David F. Cavers has announced that six teaching fellowships will be open in the academic year 1953-54.

The positions will be full-time posts, beginning the day after Labor Day in 1953, at a salary scale that Cavers reports is comparable to that obtaining in law offices in large cities.

Dean Cavers, who directs the teaching fellow program, wishes to have some teaching fellows who have had experience with the program—i.e., recent Law School graduates. However, Cavers feels that there are advantages to be gained by having at least one member of the staff from another law school.

Third-year students interested in applying should see Professor Cavers or his secretary and obtain a checklist information application. Applicants will be interviewed by a faculty committee which recommends the applicants for fellowships. Prof. Warren A. Seavey is chairman of the committee.

In evaluating applicants, the committee considers scholastic record, experience in non-academic activities, personality, and aptitude for teaching.

Most, but not all, teaching fellows have been graduated cum laude, and none have been appointed who have had less than a B average.

(See FELLOWSHIPS on page four)

Press Must Have Moral Responsibility In Addition To Freedom, Chafee Says

(Printed below is a summary of an address given by Prof. Zechariah Chafee, Jr., University Professor, at a meeting of the Associated Press Managing Editors Association on November 14, 1952, at the Sheraton-Plaza Hotel in Boston. Prof. Chafee's subject was "An Outsider Looks at the Press." Prof. Chafee is well known as an expert in the field of civil rights.)

Five years ago the privately constituted Commission on Freedom of the Press, of which Robert M. Hutchins was Chairman and I was a member, issued its report in a small book, *A Free and Responsible Press*. The press, which is ready to criticize everybody else, does not enjoy being criticized itself. This is natural. Lawyers are equally sensitive about condemnation from laymen. Nevertheless law is ever so much better than it used to be because of the enormous reforming energies of Jeremy Bentham, who never practiced law, and medicine is what it is today because of Louis Pasteur, who was not a doctor. Every profession can learn something from outsiders.

STUDENT DIRECTORY

The 1952-53 edition of the PBH Student Directory has been received from the printers and is now available for distribution. Copies of the booklet will be obtainable at the Receptionist's desk in Langdell Hall. This edition continues the practice of listing telephones in the dormitories of women's colleges, the top officers of campus organizations, a listing of the faculty, and a telephone directory for Law School dormitories.

Cardozo, Scott, Two Casner Clubs Meeting In Semifinals To Climax Fall Ames Schedule

Two topics of vital current interest will be considered in next month's semi-final arguments, which will climax the fall season of Ames Competition, according to Faculty Assistant Charles Randall, LL.B. '50.

More than half of the 36 clubs engaged in the second-year qualifying round have already completed their arguments, while more than 30 per cent of the first-year class has already had its first taste of the moot court work.

In the first semi-final, to be argued on Dec. 9, Cardozo will appeal an administrative ruling excluding an alien from re-entry into the country. Casner Law Club will argue the case for the government.

Gambling Case

Casner Equity Club will represent a gambler convicted of violation of the government gambling tax statute in the second case, which will be heard on Dec. 11. The government's position in this case will be argued by Scott Club.

Stephen Crasov, the excluded alien, has resided in this country since his migration here from Hungary in 1921. He left the country with a re-entry permit in February 1950 in order to visit his father and brothers in Rumania, but was unable to gain admittance to that country.

Upon his return in February of this year his re-entry permit was cancelled without a hearing, on the grounds of his alleged membership in the Communist party.

Alleged gambler Anthony Cavaressi was convicted of violation of the gambling tax statute that was enacted as an

aftermath of the Kefauver investigations. He failed to pay the tax attempted to be levied on him, and also failed to comply with the registration provisions of the Act.

Federal Judges to Preside

Two Federal Circuit Court judges will act as chief judges in the appeals. Associate judges have been chosen from among prominent members of the Boston Bar.

Oralists in this semi-final will be Marcus Aaron II of Pittsburgh, and Richard J. Graving of Duluth, Minn., for Cardozo, and Murray Drabkin of Port Chester, N. Y., and Robert I. H. Hammerman of Baltimore, for Casner Law.

On brief for Cardozo are W. Louise Florencourt of Arlington; Theodore M. Gamberling of Marseille, Ill.; Nathan

Hershey and Ronald Marsching of New York City; Hugo J. Melvoin of Highland Park, Ill.; and George S. Parlin of Glen Ridge, N. J.

Brief writers for Casner Law include D. Broward Craig of New York City; William Samore of Sioux City, Iowa; Donald Malin of Brighton; Walter Rothschild of New York City; Edward Genn of Pittsfield; and Melvin L. Zurier of Providence.

Oliver S. Oldman of Buffalo and Julian Singman of Washington will be the oralists in the second argument for (See AMES on page three)

Parietal Rules Poll Set By Dorm Council

Law dormitory residents will be polled in the near future to find out their opinions of parietal regulations, Dormitory Council officials have announced.

The survey will not be intended as a vote for or against the present regulations, but merely as a survey of student opinion on the entire subject.

Three major topics will be considered by the formal questionnaire: (1) weekday rules operative from Sunday through Thursday; (2) weekend rules enforced on Friday and Saturday; (3) guest privileges on holidays or days preceding holidays.

Comments Asked

The questionnaire will also provide a space for comment on changes in the present rules, but no changes are promised, informants on the Council were quick to point out. The Council will look on the answers as expression of personal opinions. The poll is not intended either as a petition or the basis of a petition to the administration for changes in present rules.

The Parietal Code now in effect in Law School dormitories is the result of agreements between the students and the administration. The initial regulations have been amended on the basis of recommendations by the Dormitory Council at different times.

Authors Split Words On 'Natural' Novels

Three experts discussed the American naturalistic novel at the Law School Forum Friday evening, but were no closer to agreement after two hours of discussion than they were at the beginning.

The speakers on the fifth Forum panel



Erskine Caldwell

of the Fall were Prof. Thomas F. Dunn, head of the English department at Drake University, novelist Erskine Caldwell, and Ludwig Lewisohn, novelist, literary critic, and currently professor at Brandeis University; the moderator of the Forum was Mrs. Vachel Lindsay, of Lesley College. The discussion was held in the New Lecture Hall.

(See FORUM on page four)

Braucher Replies To Lawyer's Charge That Professors Fail To Do Good Job

In the November issue of the *American Bar Association Journal*, Arch M. Cantrall of the West Virginia bar asks the question, "Is Legal Education Doing Its Job?" His answer is a ringing "No" and he concludes that the cure "seems to be up to the practitioners."

As a law professor, I am not entirely happy about the phrasing of Mr. Cantrall's complaint. He says that I am "after all, society's employee, hired to do a certain job," and implies that I am not doing it. "What is wrong," he says "in requiring me to do it?" Apparently, in his view, the educational activities of the armed services during World War II, which I remember with tempered enthusiasm, were far superior. "Of course," he adds, "there was in those schools no nonsense about academic freedom . . ."

Thesis Merits Attention

But my present thesis is that Mr. Cantrall's complaint, stripped of such argumentative verbal decoration, is worthy of the serious attention of the law teacher. He uses an analogy: we turn out a product, and he occupies the dual role of stockholder and customer.

I reject his notion that stockholders and customers know more about how to set up the production line than do the factory managers. But the factory managers should not, and indeed cannot safely, ignore cries of outrage from stockholders and customers.

(See REPLY on page 3)

A CORRECTION

(Due to careless proofreading on our part, a portion of Prof. Louis L. Jaffe's letter to the editor on the recent death of the late General Counsel of the United Nations, Abraham Feller, LL.B. '28, appeared in a garbled version in last week's RECORD. We here reprint that portion correctly and hope the correction will overtake the misstatement.—THE EDITOR.)

" . . . He was never guilty of closing his eyes to or underestimating the enormous threat of the Soviet system. But his mind and his experience taught him the futility of attempting to slay the Evil Giant with lazy, hysterical denunciation.

"The tragedy is that in this time of great peril and perplexity his abundant gifts should have been thrown away. Because the dangers are so immense,

(See CORRECTION on page three)

'Big Firm' Lawyer Topic Of Garrison Opening SBA Talks

Lloyd K. Garrison, LL.B. '22, addressed the Harvard Law School chapter of the Student Bar Association yesterday, as the first speaker in a series of six lectures on opportunities in various aspects of legal practice. He was introduced by Louis A. Toepfer.

Under the title "The New York Lawyer," Mr. Garrison spoke on the office and private life, practice, and opportunities for advancement of a lawyer in a large metropolitan firm. He is a partner in the firm of Paul, Weiss, Rifkind, Wharton, and Garrison, of New York City.



Louis Toepfer

A bright financial picture for graduates who get placed in a large or middle-sized New York firm was painted by Mr. Garrison.

He commented that the young lawyer (See SBA on page four)

Fraenkel Says S. Ct. Rights Stand Weak

At an overflow meeting sponsored by the local chapter of the National Lawyers Guild, Osmond K. Fraenkel reviewed the 1952 decisions of the Supreme Court on civil liberties last Friday afternoon in the Wheeler Room of Holmes Hall.

Mr. Fraenkel, who has been active in civil liberties cases for many years, was not enthusiastic about the Court's decisions, especially in the field he called "Freedom of Expression." He concluded that the "court's position on this area has been of no pattern."

He analyzed most of the principal cases of the past year under three principal headings, Due Process, Equal Protection, and Freedom of Expression.

Basic Freedoms Kept

"On the whole," he commented, "the Court has preserved the basic freedoms" in the Due Process area.

In Equal Protection, it was his opinion that the Supreme Court is "slowly and steadily trying to break down segregation in the South, but so far is consistently afraid to say segregation as such is a violation of equal protection." Cases now awaiting decision by the Court may force a clear-cut decision on this question, he added.

In his third main subject, Freedom of Expression, he found the decisions to be heading in all directions at once. He was distressed by the New York Fein-

(See FRAENKEL on page four)

CHARITIES DRIVE

Students are reminded that the PBH Charities Drive is continuing and that contributions in cash or by check will be accepted at the Law School Committee office at 23 Everett St. For students wishing their donations to be billed to them, additional Bursar's slips are also available there. Men on the mailing list who did not receive return envelopes with the covering letter may pick one up at the Library desk.

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Legal Education

"Society looks to the law schools to train young men and women to be, upon graduation, lawyers to whom the people can look for adequate, competent lawyer-services. Society's contract with the law schools is to train lawyers, not to produce half-lawyers, taught some of the theories of the law but not how to put those theories into practice. . . ." With this indictment, Arch M. Cantrall begins his discussion of the topic "Is Legal Education Doing Its Job" in the November, 1952, issue of the American Bar Association Journal.

The gist of Mr. Cantrall's argument is that law school professors do not "know best which subjects and which content provide the best material for training purposes." The result is that law students probe deeply into theory they seldom use and fail to learn how to practice law. Law professors should be "regimented," feels Mr. Cantrall, so that "within the present three-year limit the law schools can do a better job of teaching theory and at the same time can teach at least the basic skills of practice." Concrete proof of what can be accomplished when "no nonsense about academic freedom" slows things down is offered in the experience of the General Staff College, which found it could do in ten months what it used to do in twenty-four. "Certainly more than 13 or 14 hours a week for 35 or 36 weeks a year can be put to profitable use," argues Mr. Cantrall. "Our brothers of medicine and engineering have found they cannot qualify their students to cope with the complexities of the modern world at any such gentle pace."

Granting that the idyllic picture Mr. Cantrall paints of Army schools is somewhat exaggerated his article still would seem to raise a very real challenge to present methods of legal education. Leaving to one side the numerous barbs launched at the legal teaching profession, which materially hamper and confuse the thrust of his argument, Mr. Cantrall has posed questions going to the very root of the present system of legal education.

The trouble is, Mr. Cantrall himself doesn't really appear to believe all he has said. In discussing the "basic skills" Mr. Cantrall says "The knowledge of 'how-to-do-it' learned in acquiring competency in the elementary or minimum skills . . . will give the young lawyer confidence and will enable him rapidly to acquire skill in other areas." Presumably these "other areas" where no formal legal training need be given include such things as practice in "appellate courts, for only in rare instances will a young lawyer appear in those courts." Nor will it include instruction in "international law or the higher problems of government policy, no matter how attractive these vague subjects may be to the members of the law faculties."

It would appear to us that law students trained in the theoretical complexities of International Law and Anti-trust Law should be able to find out for themselves "where you go to get the form," as Mr. Cantrall puts it. That students drilled in where to go to get the form should rapidly acquire skill in the theoretical complexities of the above subjects is quite another matter.

Though Mr. Cantrall has failed in his answer, he has, none-the-less, raised difficult questions. It is to be hoped that others will begin where Mr. Cantrall left off.

Gallery

LOUIS LOSS
Law Professor



The feature article in the Nov. 4, 1946 issue of *Life* magazine contained one of the infrequent references to law school moot courts which appear in the nationally circulated press. Midway through the article, which was devoted to Judge Learned Hand, the author pauses to consider the reaction of counsel to his presence and says, "Only the most hardy retain their composure, and once, during a Yale Law School Moot Court at which he presided, a prize student rose to address him, took one look and promptly keeled over in a dead faint."

There was no mention made of the outcome of that case, which one might say had collapsed before it had begun. But Professor Loss remembers it well, for it was he who was that prize student's colleague and it was he who promptly proceeded to argue the case alone and to win it. "I have been in many courtrooms since then," he says, "and while some of the cases may have been more important, certainly none has been as dramatic—and I keep hoping that nothing like that will happen again."

The promise of successful advocacy which showed so brightly that day in the Yale courtroom was to be fully realized during the next 15 years as Professor Loss successfully argued many of the leading cases of the Securities and Exchange Commission and participated in the development of many of its important policies and procedures.

Cases for the S.E.C.

One of his first cases was *Todd v. S. E. C.*, 137 F. 2d 475 (6th Cir. 1943). The case arose from the Commission's order requiring that the International Hydro-Electric System liquidate and dissolve in compliance with Section 11 (b)(2)—the so-called "death sentence"—of the Public Utility Holding Company Act of 1935. Not only was the constitutionality of this provision at issue but as in all such cases, the fact situation was enormously complex. The Companies in the System totaled 74. Their assets amounted to \$87,000,000. Outstanding in the System were 121 separate issues of securities. Seldom is such an opportunity given a recent graduate of a law school; more commonly, they are just emerging from the Police Court stage of their careers. However, Professor Loss was again equal to the challenge, and the dissolution order was upheld by a unanimous court.

It has been said that it takes 10 years to make a lawyer out of a law school graduate. How was it, then, that such responsibility fell on the shoulders of a young man?

CRISES IN LEGAL HISTORY



THE LAW CLERK CONFRONTED BY A SUPERVENING IMPOSSIBILITY

ders of a man who had hardly begun his legal career? "The answer," says Professor Loss, "is mostly one of timing. The years of the middle '30s were years when the new Government agencies like the S. E. C. were in the full flower of growth, and consequently young men who went down to Washington in those days found opportunities awaiting them which were unrivalled in private practice. For the young lawyer, the wage scale compared favorably with the best offers from private law firms, but it did not attract experienced lawyers of the same caliber. This resulted in a staffing of Government agencies largely with young men who, almost by default, were left to carry on the job alone. And in the S. E. C., at any rate, they performed splendidly."

S.E.C. Record of Accomplishment

The Hoover Task Force reported that the S. E. C. was "an outstanding example of the independent commission at its best." The verdict of the courtroom is equally impressive. In its first 10 years the S. E. C. was a party to 87 decided appeals. It lost only one in whole and two in part. And, of its 250 pages of finely printed statutes, no provision has yet been declared unconstitutional.

In 1944, at the age of 29, Prof. Loss became Chief Counsel to the Division of Trading and Exchanges, and in 1948 the Commission's Associate General Counsel. At the time Professor Loss received his appointment from Harvard, he had been active for four years as Chief Counsel for the Commission, and he was participating in the Kaiser-Frazer litigation with Oatis & Co. This protracted case has involved about 20 separate proceedings, has been to the Supreme Court twice, and has brought Professor Loss into the courts in Cincinnati, Cleveland, Detroit, New York, and Washington. As chairman of the Commission's legislative committee, he has also appeared frequently before committees of both the Senate and the House. "Regardless of party affiliation," says Professor Loss, "the committees for the most part have been sympathetic to the principles of S. E. C. legislation."

Began Teaching in 1947

Aside from one year of part-time teaching of Property I at the Catholic University of America in 1941-42, Professor Loss' teaching career began in 1947, when he was appointed Visiting Lecturer in Law at Yale. There he inaugurated a seminar in "S. E. C. Aspects of Corporate Finance," a course which he subsequently offered at the Law School of George Washington University.

Since there was no teaching material available, Professor Loss was forced to provide it himself. His casebook for the course, which came to be used in about a dozen other law schools, became the foundation of his widely acclaimed treatise, *Securities Regulation*, published in late 1951. Little, Brown & Co., the publishers, report that it is the first book in their history to be adopted by the Law Schools of Harvard, Yale, and Columbia. A sampling of the reviews which it has received—not only in many American periodicals but in such widely scattered publications as the *Australian Law Journal*, *The Modern Law Review* (London), *Commerce* (Bombay) and *La Revue internationale du droit compare*—would seem to be sufficient justifications. Judge Jerome Frank has said of the book: "I venture to guess that it will be the *Wigmore* in its field."

A Yale Combination

Professor Loss was born in Lancaster, Pennsylvania. He did undergraduate work at the University of Pennsylvania where he was graduated from the Wharton School of Finance and Commerce at the head of his class in 1934. He received his law degree *cum laude* in 1937 from Yale where he was Note Editor of the *Law Journal*. Along with his LL.B., Professor Loss acquired his wife, the former Bernice Segaloff. "She is more of a Yale man than I am," he says, "since she has an undergraduate degree from the Yale School of Fine Arts." Some of her work may be seen in Professor Loss' office and she looks forward to continuing her painting career in Cambridge. The Loss' have a daughter and son and are temporarily living at 24 Highland Street in Cambridge until they move into their own home at 39 Meadow Way in January.

This year Professor Loss is teaching Corporations I, Administrative Law, and Regulatory Aspects of Corporate Finance. In addition, he will give a two-week course entitled "The Federal Aspects of Corporation Law" beginning Aug. 10, 1953, dealing primarily with the impact of statutes administered by the S. E. C. upon corporations generally. The course will be offered as part of a program to be given by the School in conjunction with the annual meeting of the American Bar Association in Boston.

Paraphrasing the conclusion drawn by one of the reviewers of his book, it seems clear that the students in all his courses will certainly profit with Loss.

W. W.

Sub Judice

BACK PARLOR ROMANCE

Mr. and Mrs. Smoot were married in 1931. In order to save a bit in the early days of their marriage the Smoots went to live with the wife's parents. In 1935 Mrs. Smoot's younger sister married and moved into the same house. Mrs. Smoot's father had died between 1931 and 1935. In 1940 Mr. and Mrs. Smoot and their two children moved out on their own. However, Mr. Smoot lost his job and at his suggestion they moved back to her mother's house.

Conditions back at the old homestead were very crowded. Since the sister had converted the second floor into an apartment, the only sleeping quarters for the Smoot family and her mother were the living room and dining room.

This situation continued even after 1946 when Mr. Smoot returned after three years in the Navy. "He slept in a day bed in the living room, where she occasionally joined him . . . whenever he asked her."

After an argument one night the parties separated. Mr. Smoot claims that he left because he could not tolerate the crowded conditions and the domination of the mother-in-law. Mr. Smoot filed for a divorce on the ground of constructive abandonment.

The Chancellor in the lower court said, "No husband should be required to sleep over a period of years in a day bed in a parlor. . . . He is certainly entitled to have his wife in the bedroom with him and have the privacy that every married couple is entitled to." Mr. Smoot was granted a divorce. Mrs. Smoot appealed. *Held*: Decree reversed; bill dismissed.

The appellate court felt that the conditions were largely of his own creation and not grounds for divorce. It was also felt that the wife had no duty to return to her husband after he left her mother's house unless he provided an acceptable alternative. *Smoot v. Smoot*, 88 A.2d 465 (Md. May, 1952.)

Letters to the Editor

TO THE EDITOR:

I have just read your letter from R. Howard Bland, '05, concerning the column *For Stevenson*. I voted for General Eisenhower and was one of the early Eisenhower men in Florida. However, I agree with Mr. John Sexton's statement and more could be added.

Mr. Bland seems like a very nice elderly man, and I know exactly how he feels.

HOPE ROOT, LL.B. '28

* * * * *

TO THE EDITOR:

In your issue of Nov. 13, you published a letter from R. Howard Bland. Mr. Bland states that John J. Sexton's statement about General Eisenhower in the Oct. 30 issue ("mumbles meaningless platitudes, endorses the worst elements in the Congress, including acknowledged slanderers, and worst of all, plays politics with our historic effort in Korea") smacks of libel.

Surely Mr. Bland must recall, from his knowledge of libel law, something about fair comment, that admirable doctrine designed to prevent, among other things, the mass incarceration and bankruptcy of the losing side in an election. Furthermore, I wonder whether Mr. Bland's implication that Mr. Sexton may not have "any knowledge of the law at all" does not tend to hold Mr. Sexton up to ridicule and perhaps qualify him as a plaintiff rather than a defendant.

I regret that Mr. Bland tried to make his point by "pulling rank" on Mr. Sexton. I hope Mr. Bland will live up to the standard of those two Harvard degrees he is proud of and offer Mr. Sexton an apology.

EDWARD LANE-RETICKER, '52

* * * * *

TO THE EDITOR:

I have just read your editorial, "A Market Place of Ideas," in which you conclude by asking alumni opinion. I would like to take the liberty of commending you on your policy as expressed in the editorial. I am not a doctor, but I am inclined to diagnose the case of the letter writer of the Class of 1905 as hardening of the arteries.

W. WRIGHT ABBOT, LL.B. '16

Off the Record

Biography of a Taxpayer

- Income tax exemptions
- 0 Life with father.
 - 1 On your own.
 - 2 "I do."
 - 3 A fine boy.
 - 4 Little sister.
 - 3 "Write often, son."
 - 2 Father of the bride.
 - 3 Time to retire.

(Thanks to "What's Happening," the Prentice-Hall Weekly letter of Oct. 27, 1952.)

REPLY—(Continued)

Two alternatives are open: to improve the advertising and the packaging and distribution, and to improve the product. In my view, the law schools should do both.

Product Is Superior

Despite Mr. Cantrall's complaint we turn out a pretty fine product. Our Grade A line sells itself, and needs no merchandizing technique. It already



Robert Braucher

commands a premium price. I am not sure that we can take very much credit for the making of the Grade A product, but even Mr. Cantrall would have to give us some credit for sorting it out.

Occasionally a "second" gets by unlabelled, but we are sensitive to charges of misbranding, and do not miss too often. We do not advertise even our best as fully ready "upon graduation," to give "adequate, competent lawyer-services," as Mr. Cantrall suggests we should. We recommend seasoning with experience and association. But the product has often stood the test of immediate emergency use.

'Economy-Size' Schools

I suspect that Mr. Cantrall is complaining more about our large, economy-size, utility model than about the premium priced, Grade A product. Here it is even more important to realize that a law school cannot supply actual experience, that a simulated trial is not the real thing.

We tell our young men to take a good bar-review course before they take the bar examination, and I for one urge them to begin practice in association

with older and more experienced heads. But the law school should do what it can to make them ready. And Mr. Cantrall may be right in saying that it does not do enough.

At Harvard we have tried. Before revising our curriculum after World War II we consulted large number of our graduates, seeking just such complaints as Mr. Cantrall's. We brought into our regular courses more documents drawn from real life. Classroom discussion deals more than it once did with planning for litigation and with family, commercial and public planning to avoid litigation as well as with appellate argument and opinion-writing.

Chances For Practice

Our students get practice not only in making out tax returns and working out estate plans but even in making journal entries for corporate accounts.

Some courses, and our first-year group-work program, are designed to acquaint the student with the realities of practice, including problems of trial, of ethics, and of drafting legal instruments. We have made a beginning at a formal competition in draftsmanship in the second and third years.

Perhaps we have not done enough. Drafting exercises are hard to conduct in our large classes, which are a matter of the budget. And our national character makes it hard to give detailed practical instruction in local peculiarities of trial practice, of title search, of laws affecting small business, and of other matters on which Mr. Cantrall insists.

This last point seems to me trifling. Surely it is a waste of precious time to drill students on such matters as the physical location of particular public offices or the number of days allowed for answering a complaint.

Attack Academic

Much of Mr. Cantrall's attack is, if he will forgive the word, academic, directed at abstract propositions about the competence of law teachers and the extent to which a teacher's discretion should be curbed by a dean's supervision.

In some of the military courses I attended, the instructor had no discretion; he read aloud from an approved manual while most of us slept soundly. The Harvard Law School is at the opposite extreme, and our diversity of method has its own lesson to teach to the student, perhaps more important than any particular rule of law.

But even if more supervision were to be introduced, it should be done in a less flamboyantly radical spirit than Mr. Cantrall seems to suggest. Leadership is not shown by beating men into submission, nor by dragging them about in

chains. A dean who wants a faculty which is worth having will be wise to be tactful in any attempt at supervision. There have been teachers who knew more about their subjects and how to teach them than their deans.

When Mr. Cantrall turns to such matters as the number of hours of classes per day, he is on ground which is even more slippery. Our theory is that students learn much more than anyone teaches them; they educate themselves, and they educate each other. Our function is not to pour information into an empty receptacle, but to provide incentives, stimulate interest, make information available, correct errors, and guide the process of organization and rationalization.

"Gentle Pace"?

Our students do not seem to find it a "gentle pace" to prepare for 12 to 14 hours of class a week, and Mr. Cantrall's suggestion of 30 class hours a week sounds to me like a recipe for rote learning. His suggestion that the academic year be lengthened has more appeal, though I doubt that a law school can diverge very widely from the rest of its university in this respect.

It seems to me, then, that Mr. Cantrall is at his best when he sticks to his role of customer. He should not tell us how we should do things that we have been doing for some years and that he has not done at all. Specific suggestions on teaching methods are welcome, but hardly authoritative; they are best advanced with some humility, even by a teacher who has tried them out.

But the customer's dissatisfaction with the product is authoritative. If there were a combination in restraint of trade which prevented any school from trying to provide the customer with a satisfactory product, the public would have a grievance. As it is, there is competition at work. And the producer who misjudges the market may be lost.

Criticism Is Important

What is the nature of the dissatisfaction, and what can we do about it? The grievance seems to be that our young men are not ready to practice law when they graduate. If we do not find a remedy, we may expose them to the kind of exploitation young doctors are subjected to as internes.

We have tried; we must try again, and harder, and keep trying. Maybe we should do more of what we have already tried. Or perhaps we need an organized program of summer work in law offices. Perhaps our legal aid work can be expanded; perhaps law students can assist lawyers working under lawyer-reference plans.

I suspect that Mr. Cantrall's complaint is more serious in the smaller communities than the large; if so, perhaps we can develop better practice courses in the third year for those planning to go to such communities. In any event, we should welcome this type of criticism as a symptom of malfunctioning, even while we reject the accompanying brickbats and panaceas.

NEWS IN BRIEF

BULL AND BEAR

Prof. Ralph J. Baker will speak at the Bull & Bear Club meeting in the Mallory Smith Room at 1 p.m., Friday, Nov. 28. He will discuss the importance of balance sheet ratios of corporations, using the Filene-Federated Stores Case as a basis for his talk.

ADMEN WANTED

Three positions are open on the advertising staff of this paper. Students interested in soliciting advertising for the RECORD are invited to attend a meeting Monday, Dec. 1, at 5 p.m., in the RECORD offices at 23 Everett st.

LAW DEMOCRATS

The Law School Democratic Club will meet next Tuesday, Dec. 2, at 3 p.m. in the Wheeler Room, Holmes Hall. Election of officers and discussion of future club activities are on the agenda.

AMES SCHEDULE

Assignments in the First-Year Ames Competition are as follows:

Round 7: Brief exchange, today.
Round 8: Brief exchange, Friday.
Round 5: Argument, Mon., Dec. 1.
Round 6: Argument, Tues., Dec. 2.
Round 7: Argument, Wed., Dec. 3.
Round 8: Argument, Thurs., Dec. 4.
In the Qualifying Round of the Competition the following assignments have been announced:

Round 5: Brief exchange, today.
Round 6: Brief exchange, Mon., Dec. 1.
Round 7: Brief exchange, Wed., Dec. 3.
Round 8: Brief exchange, Fri., Dec. 5.
Round 5: Argument, Fri., Dec. 5.

RECORD DANCE CANCELLED

The Dormitory and Graduate School Councils announce that the Nov. 29 record dance scheduled for Harkness Commons has been cancelled. The Commons has been reserved for that evening by the Harvard Law School Wives.

AMES—(Continued)

Casner and Evan Galbraith of Toledo and James S. Gratton of Pittsfield will argue for Scott.

Brief writers for Casner Equity include David T. Bryant of Sherman, Tex.; John A. Curtiss of Garret Park, Md.; Robert H. Huntington of Fayetteville, Ark.; Robert E. Mansfield of New London, Conn.; Robert C. Prem of Baltimore; and James E. Ryder of Charleston, W. Va.

On brief for Scott are Milton C. Boesel, Jr., of Toledo; Donn W. Carlsmith of Onahea, Hawaii; Thomas R. H. Howarth of South River, N. J.; Paul C. Lambert of Middletown, N. J.; and Charles G. Wright of Woodstock, Ill.

LAW WIVES MEETINGS

At the Dec. 3 Law Wives meeting, Mr. Louis Toepfer, Dean of Admissions and Placement at the Law School, will speak on "Opportunities and How to Find Them," or "Knock on Any Door." The meeting will be at 8 p.m. in the Harkness Commons.

This Saturday night, Nov. 29 at 7 in the Commons, there will be a pot-luck supper party, followed by square dancing and singing. Al Latman and his guitar will be featured. All planning to go should contact Mrs. Donald Conley, KI 7-9537 before Saturday evening to tell her the dish they intend to take. Wear something suitable for square dancing, she cautioned.

HARKNESS COFFEE

The Dining Hall Committee of the Dormitory Council reminds the students that coffee is sold in Harkness Commons during the day. Coffee will be dispensed from the urns at the South end of Harkness. The exit stairway nearest Langdell is to be used.

DUPLICATE BRIDGE

Tomorrow night at 7:30 the Harvard Law School Duplicate Bridge Club will hold its regular weekly tournament in the Wheeler Room of Holmes Hall.

CORRECTION—(Continued)

because the hostilities are so violent the pressure upon our top men is merciless and unceasing. In these circumstances a responsible government and public opinion would do everything in its power to ease this pressure. But we have recklessly intensified it and not for the first time. I do not for a moment suggest that the presence of American communists in the UN does not propose a great problem. It must be solved if the UN is to be acceptable to the public opinion of this country. But there are many ways of solving that problem; and we must put first things first. A few Communists in inferior jobs in the Secretariat is not an immediate threat to our security. There is every reason to suppose that the problem can be dealt with effectively by quiet negotiation and discreet administrative procedures. Yet while our top men have been standing at their post in one of the most crucial crises in our history we have harried them with attacks from the rear, we have embarrassed them before the common enemy. * * *

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PRESS—(Continued)

American people needed information from the press which would enable them to make for themselves "the fundamental decisions necessary to the direction of their government and of their lives." Every member of the press will, I believe, find fresh and fruitful meanings in the 106 pages of this book if he will reread it now.

Our main conclusion, as the book's title indicates, is that the press ought to be responsible as well as free. We did not mean legal responsibility, we meant moral responsibility. So far as there are shortcomings in the press, the remedy for them will have to come almost entirely from the profession itself, not through formal codes but through professional spirit.

Press Is Free From Control

There are two startling paradoxes about the American press. First, it comprises the only large, wealthy, and powerful business enterprises in the country which are subject to very little legal accountability. In the last one hundred years little news sheets issued by obscure printers have turned into enormous plants, in each of which a handful of men can inform and influence millions of citizens.

Other business enterprises which have grown from small beginnings to great power during the same period, like the Standard Oil Co., the New York Stock Exchange, chain stores and chain banks, have eventually aroused public alarm and been put under substantial governmental control to restrain public abuses. They can no longer run loose. Yet it is the first principle of our Bill of Rights that the government must let all the powerful enterprises in the press run loose. I am as sure as I am of anything that this ought to be so. My point is that this freedom from legal responsibility throws on the owners and managers of newspapers and press associations the heavy moral responsibility to do for themselves what the law does for other enterprises. It is the task of the press itself to prevent abuses of power and to make sure that it increasingly performs the services which the American people need from the press.

The other paradox is that newspapers and press associations are carrying out two oddly assorted purposes. They are something like schools and colleges in supplying to the American people indispensable facts and ideas, and at the same time they exist to put money into the pockets of a few owners.

Owners Are Few

Indeed the ownership of newspapers is much more concentrated than the ownership of any other kind of large business enterprise. The death of a single owner of the *Chicago Daily News* has more than once changed the character of that paper, and a single owner killed the *New York Sun*. When we turn to smaller cities, it is obvious that the quality of the facts and ideas conveyed to

the particular community from its single newspaper depends on one man or a handful of men.

Suppose that this were also true of the facts and ideas conveyed through a school or a college. I am not saying that this situation ought to be changed. Certainly the law must not try to change it. What I am saying is that these few men have a weighty and difficult moral responsibility to adjust the demands of a profitable business to the demands of an educational enterprise of the highest importance.

Improvement Up to Press

There is no sense in blaming anybody for these situations. As with the serious problems our nation faces in foreign affairs, the real question is what shall be done about them. And the only men who can do anything about the basic problems of the press are the men who are actively engaged in the press. An outsider can suggest problems, but only an insider can handle them.

To be more concrete, I should like to develop three matters discussed by the Commission on the Freedom of the Press.

In stating what our society needs from the press, the Commission put first of all "a truthful, comprehensive, and intelligent account of the day's events in a context which gives them meaning." I greatly admire the care and competence with which newspapermen observe and report facts. I believe that there has been a great increase in the determination to identify fact as fact and opinion as opinion. The policy against editorializing news is cherished among you. Still I should like to raise some questions about this policy. Begin with headlines. They are the portion of a newspaper which is most read. I appreciate that headlines have to be written in a great hurry. Yet do they sometimes have the effect of editorializing the news underneath them more than is either necessary or fair? For example although I think that Mr. Truman did not maintain so high a level in his campaign speeches as the President of the United States should, I felt several times that what he said was not nearly so bad as the headlines made out.

When Is 'Truth' Enough?

A more difficult question relates to the news column itself. Sometimes a fact is accurately printed and yet it leaves an altogether incorrect impression on the reader unless its significance is evaluated at the time it is printed. The Commission wrote that in simpler times a reader could do this for himself by comparing the newspaper statement with his other sources of information. "Today this is usually impossible. The account of an isolated fact, however accurate in itself, may be misleading and, in effect, untrue."

We went on to point out that a single crime by a member of a racial minority may easily be accepted as a sample of group action unless the press has enabled the reader to fit this single event in its proper perspective. Similarly

international antagonisms can be harmfully aggravated by playing up the action of individuals, without giving the reader the means to judge whether these are simply bad men who happen to come from a particular country. We wrote of the responsibility of the press to report events "in such a way that they can be understood." It is no longer enough to report the fact truthfully. It is now necessary to report the truth about the fact.

Corrections Instead of Suits

Secondly, it might be worthwhile for newspapermen, perhaps with the help of lawyers, to consider the possibility of finding a better corrective than libel suits for mistakes in the press which are harmful to individuals. The idea of getting money for harm to your reputation is a crude idea at best. It no longer works well in this country as a remedy. It is too expensive and harassing for the plaintiff, and may lead to a divided jury or a small verdict in the end. The Commission felt that it would be a far more civilized remedy for the newspaper which has made the mistake, often unintentionally, to insert a corrective statement with equal prominence.

We explored the desirability of a law, like that long used in France and Germany, to compel the newspaper to publish free of charge a short reply written by the injured person. Some discussion at meetings of newspapermen about the desirability of such a law was suggested. Still, its operation might be a good deal of a nuisance. It would be still better if all newspapers would make it a regular practice, as many of them now do, to insert a retraction written by themselves as soon as their attention is called to the mistake, or else give the defamed person the opportunity to make a counter-statement as soon as possible.

Lack of Local Viewpoint

Third, the Commission was disturbed by the fact that so many cities have only one newspaper. In foreign and nationwide affairs, readers can obtain a different point of view from columnists in the same newspaper or from metropolitan dailies which come into a great many cities promptly. The biggest lack of that competition in ideas which promotes sound judgments comes in the area of local affairs. Neither columnists nor metropolitan dailies are likely to say much about these. I see very little chance that this gap will be filled by the starting of new newspapers. Is it not right for the single newspaper to make some attempt to fill it? Could there perhaps be local columnists, or solicitation of articles from leading citizens who have a different viewpoint than the editors? The Commission was firm that the law should not make newspapers be common carriers for all political positions, but we did think that they have a moral obligation to present to the public all the important viewpoints in their respective communities.

Free Speech Endangered

Finally, the cause of freedom of speech in the United States is in greater danger than it has ever been since all the Jeffersonian newspapers were suppressed by the Sedition Act of 1798. What is the press doing to protect against the rapidly increasing penalties on all sorts of heterodox ideas? It is not just a question of communists. More and more ideas are getting stigmatized as "disloyal" and "subversive." You do not agree with those ideas, I know, but their suppression is your concern. As a great New York judge, Cuthbert Pound, said years ago:

"Although the defendant may be the worst of men . . . the rights of the best of men are secure only as the rights of the vilest and most abhorrent are protected."

FORUM—(Continued)

Dunn's viewpoint was that naturalism is an outgrowth of the scientific discoveries of the 19th Century: the naturalistic author attempts to use objective methods in reporting life as he sees it, the naturalistic writer regards environment as the great controlling factor in life.

Pessimism in Literature

Professor Dunn concluded that the discoveries of scientists combined with the world wars have given mankind an essentially gloomy and pessimistic frame of mind, which is reflected in literature. Mr. Caldwell implied that all talk about "schools of writing" was unrealistic. He reported that he has been classified in three different schools, and doesn't consider himself a member of any of them. He prefers to think of himself as "just a simple story teller from Georgia," he told the audience. He suggested that the critics look up from "the contemplation of their navels," an essentially sterile task. It was his unqualified opinion that American writing was healthy and vigorous.

"Tired of Zola"

Professor Lewisohn deplored the lack of vigor of American novelists, and said "I'm tired of reading Zola," by which he meant that there had been no advances in novel-writing in the last 70 years.

He blasted naturalism as out-worn and based on scientific ideas that had been discredited since the turn of the century. He called for a retreat from "glorifying the common man" and urged that novels be written about the great personalities who "give meaning to the aspirations" of the ordinary people.

Mr. Dunn attempted to set the pattern of the discussion by outlining what he thought were the origins and characteristics of naturalism in literature, and indicating its effects, as he saw them, on American writing and mores.

Mr. Caldwell, as a working author, did not feel that a discussion of literature in terms of "schools" was particularly profitable, and had some hard words for critics. He said, however, that the "naturalistic" American authors had been a beneficial influence.

Professor Lewisohn found himself unable to agree with either of his colleagues. He disputed Professor Dunn's analysis of naturalism's origins and development, and found that it had not contributed anything worthwhile to American literature.

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SBA (Continued)

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Outlook Seems Good

In other ways, Mr. Garrison pointed out, the outlook seems good, though perhaps a little less appealing. The young lawyer will be employed in various capacities depending upon the firm he works for. Some may mire men in the "bullpen" to do paper work for a couple of years, he warned.

Future talks will deal with the lawyer in the armed forces, the small city lawyer, openings in middle-sized cities, work in the legal department of a corporation, and the lawyer in government.

Club members are still in the process of contacting prominent alumni to speak on the other topics, but the next talk will not be given until after the Christmas vacations.

FRANKEL (Continued)

berg law decision (which he argued against), forbidding schoolteachers to be Communists, by the decision in the Illinois group libel cases, and by decisions involving the rights of aliens.

'Miracle' Case

Fraenkel seemed pleased by the decision that New York could not ban the showing of the movie, "The Miracle," on the grounds that it was sacrilegious, but criticized the opinions of the justices, for some of the reasoning of the opinions. He forecast continued litigation on movie censorship, centered about "The Miracle."

Mr. Fraenkel was introduced by Prof. Mark de Wolfe Howe. Fraenkel is an officer of the National Lawyers Guild and of the American Civil Liberties Union.

FELLOWSHIPS—(Continued)

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