

Mr. Pulling

The Harvard Law School Record

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PRICE TEN CENTS

Armed Forces Have Openings For Legally Trained Personnel

The announcement of an Air Force program for legal officers was the highlight of the conference on commissions held in Langdell Courtroom last Thursday. The meeting, which featured talks by representatives of five armed services, was sponsored by the Law School Committee of Phillips Brooks House.

The Army also has special opportunities for legally-trained persons, and the Marine Corps representative promised legal positions to lawyers, although they would have to get their commissions through the regular channels. In both cases the requirements for acceptance into the program were more stringent than in the case of the Air Force.

Coast Guard and Navy representatives told the audience, which half-filled the Courtroom, that there were no special opportunities in those services for lawyers.

Air Force Requirements

To be considered for admission to the Air Force as a staff judge advocate, the candidate must be a graduate of an accredited law school. Upon approval of his application by an Air Force Board of Review, he will be conditionally accepted. After admission to a state or Federal bar, the acceptance becomes final and the man will receive a commission as a first lieutenant.

Two years of active duty and six years on reserve status are required of men receiving such commissions. The Army requirement is for three years of active duty, while the Marine Corps requirement is two years including seven months of basic and officers training.

In all three services legal officers are assigned to duty as law members and counsel in court martial proceedings. They also advise base commanders on all legal matters, and aid military personnel in their civil legal problems.

(See also the letter from Richard Norris, LL.B. '52, on page three.)

Morality And Law Crux Of Wu Talk

On Friday, December 12, Dr. John Wu delivered a talk on "The Capehorn of Legal Jurisprudence," sponsored by the St. Thomas More Society. Dr. Wu was introduced by Prof. Seavey who explained Dr. Wu's background and gave a brief outline of his varied career.

In explaining the title of his subject Dr. Wu remarked, "the name comes from the fact that the area is such a stormy sea of confusion and difficulties." He was referring to morality in law and the difficulty that many people have in resolving the two concepts. Most courts will not entertain the idea of morality while they are considering the legal aspects of any case. That is the wrong approach, according to Dr. Wu. He praised the late Justice Cardozo because he introduced morality into his legal jurisdiction.

Legal And Moral Division

Morality and law have been separated by the courts to a large extent because judges feel they are not absolutely the same. This might be true, but at the same time, they are not generically different. "The sheriff can compel you to pay your debts," said Dr. Wu, "but he cannot compel you to pay them cheerfully." There is a moral and legal duty to pay your debts, but there is only a

(See WU on page four)

LAST ISSUE

With this issue the RECORD ceases publication for the fall semester. Our next regular issue—Vol. 16, No. 1—will appear on Thursday, Feb. 5. The editorial board and members of the staff of the RECORD wish to thank our readers for their continued interest in our publication and to wish them a happy holiday season.



A. James Casner

Two Casner Clubs Will Meet In Final

An all-Casner-club Ames final was assured Thursday night, when oralists Oliver S. Oldman of Buffalo and Julian Singman of Washington led the Equity Court of the club to a victory over Scott Club.

A week ago Tuesday the Law court had defeated Cardozo Club in the other semi-final argument.

Judge Harrie Chase of the second circuit and his two colleagues on the bench decided for Casner Equity solely on the quality of presentation of the orals and the brief. They made no decision on the merits of the gambling tax controversy which was in issue before them. The validity of the tax and the circumstances surrounding this case were argued before the United States Supreme Court on the following day.

Three questions were presented to the court in the orals and the briefs. First, is a federal gambling tax constitutional under the tenth amendment, or does it encroach on areas that are reserved to the states?

(See AMES on page four)

Dorm Council Defeats Move For Television Set Purchase

At a special meeting of the Dormitory Council on Monday evening, Dec. 15, the purchase of a television set for the law dormitories was voted down. A second motion, that a set be rented to test student demand for television, was also defeated.

Information received from Council

members indicates that purchase plans had been under committee consideration for several weeks. It was hinted that the Council's failure to ratify a purchase stemmed from the refusal by the administration to allow the placing of a unit in Harkness Commons.

Finances Limited

On the basis of the administrative restriction, the Council deemed it unwise to expend its limited finances to install a set in a smaller room which could not accommodate large numbers of viewers. Hopes for the acquisition of big screen television for the law school dormitories seem to rest now on the possible donation of a unit.

Among the locations suggested for the placing of a television set, Holmes Hall and any one of the several basements of the dormitories were mentioned most frequently at the meeting. However, the lack of adequate space and the possible disturbance of study areas in the dormitories led them to reject these proposals.

Suggestions Needed

Council members requested that any suggestions toward the acquisition and placement of a television set be directed to the following students who have authority to deal with them and present them to the Council at its regular session: Stanley Rothenberg, Hastings 34; Burton Resnic, 3L of Hastings 2; Harris Cohen, 3L of Hastings 22; Herbert F. Murphy, 2L of Perkins 85.

Books Discuss Lawyer As Intermediary Between Individuals And Government

Federal Administrative Law by Rinehart John Swenson. New York: Ronald Press. 353 pp. \$6.00.

Mr. Swenson, Professor of Government at New York University, has written a good, brief survey of the field of federal administrative law. He of course does not have room to go into the field exhaustively but he does cover it well.

The basic problems of administrative law are all covered: the way in which

administrative law works, the conflict between the administrative and judicial systems, with emphasis on judicial supervision of administrative actions in enforcement proceedings. The author also notes the crucial function of the great prerogative writs in controlling administrative action.

Development by the courts of the concept of the rule of law as a check on administrative discretion is explored, with particular reference to the concept of sovereign immunity and the liability of public officers. The basic doctrines are also set forth: primary jurisdiction, exhaustion of administrative remedies, presumption of validity to administrative action.

Congressional Supervision

In the final chapter the author explores an area which is usually part of a political science approach to administrative law but which is sometimes ignored in a legal approach: the importance of Congressional supervision of the federal administrative process. Resort to the courts is not the only way to limit administrative discretion, a fact which lawyers seems to be prone to forget. By using the sanctions of the spending power and the investigative power the Congress can and does have a good deal to say about how the agencies are run.

J. J. S.

The Washington Lawyer by Charles A. Horsky. Boston: Little Brown & Co. 172 pp. \$3.75.

This volume consists of three lectures delivered under the Julius Rosenthal Foundation at Northwestern University School of Law in April 1952.

The title may be somewhat misleading since Mr. Horsky is really discussing the lawyer whose practice is largely the result of the impact of the federal government on the interests of his clients. The author explores the function of lawyers as interpreters between the fed-

(See BOOKS on page four)

Italian Prof. Studies Constitutional Law While Traveling Through United States

Prof. Vincenzo Gueli comprises a one-man team doing research on Constitutional Law in the United States. There are two reasons for conducting this study. First, Prof. Gueli is gathering material for further writings and lectures when he returns to Italy; and second, he hopes that the fruits of this study will help Italy solve some of its problems.

The Italian Constitution and government are in a stage of development at the present time. Prof. Gueli is hopeful that a study of this sort will help guide the development along tried and proven lines. Many parts of the Italian charter are modeled after the United States Constitution, therefore, a comparison might lead to beneficial changes in the Italian counterpart.

Comparison Profitable

Prof. Gueli is of the opinion that the theory of legal method in Italy can be interpreted in such a way that it will

search but he feels that more scholars are becoming aware of the importance of such a study.

Research of this kind is demanding of a person's time but the Italian lawyer, in the short while he has been here, has been able to make several astute observations of American life. He is very much impressed by the careful balance

(See SCHOLAR on page three)

BUSMAN'S HOLIDAY:

Impressions On Visiting European Courts

(The following article was written for the RECORD by William G. Rice, LL.B. '20, S. J. D. '21, Professor of Law at the University of Wisconsin Law School.)

When I was traveling in Europe last year I frequently found myself visiting the courts, sometimes hard for the traveler to find, because usually considered of no interest to vacationists. I liked to get some impression of judicial administration by actually seeing the places where it is carried on, even though in midsummer when visiting appellate courts this usually meant calling on the janitor rather than the judge.

In contrast to the United States, where the court generally gives its name to the building in which all the activities of county government are carried on, and where the highest state court is rated as of equal importance with the legislature and the governor, one feels in continental countries that judicial administration is merely one division of government, with standing much like a department of education or a department of labor. The legislative authority is so decidedly preponderant in the democracies of Western Europe that it is not surprising that courts do not stand out as distinctively as they do in the United States.

Offsetting this in a way, there is an institution in many great cities of Europe almost without parallel in the United States, namely, the legal book store.

Perhaps the large enrollment of the law schools (faculties of law) of European universities, together with the generally inferior quality of public law libraries, accounts for the prominence of the shops specializing in books on law and related subjects. In London, Edinburgh, The Hague, Geneva, and Paris I remember with much pleasure hours spent in such "libraries," as they are called in France.

Saw Swiss Federal Court

It was not until I visited Lausanne, the seat of the Swiss Federal Tribunal, that I saw a continental court in actual operation, and it was first in Switzerland that I found a court established in a style that gave it the appearance of great authority. Switzerland is the oldest federal government, except for the United States, and the problems of federalism undoubtedly tend to enlarge the significance of courts. Certainly Switzerland, by establishing its national court in Lausanne at some distance from the parliamentary capital, Bern, has emphasized the distinctiveness of judicial administration from other governmental activities.

The administration of justice in Switzerland is a function of the cantons except in those controversies entrusted by the constitution and federal laws to the single federal court. Helvetia has not, indeed so far as I know, no country has, the system of largely parallel state

(See COURTS on page four)

SPRING SOCIALS

The Dormitory Council and the Graduate School Council have released a schedule of dances to be held in Harkness Commons in the rest of the 1952-53 school year. Dormitory Council activities cards will admit law students to all dances except the Formal Dance on May 9.

Jan. 10 Graduate record
17 Law School record
24 Graduate record
31 Law School record

Feb. 7 Graduate record
14 Law School band
21 Graduate record
28 Open Date

Mar. 7 Law School band
14 Graduate record
21 Law School record
28 Graduate record

Apr. 4 Law School band
11 Graduate record

May 2 Law School Formal
9 Graduate School Formal



Vincenzo Gueli

not differ essentially from conceptions prevailing in the United States. An interchange of methods is impossible but comparison itself becomes profitable when terms of the comparison are similar. Prof. Gueli regrets that he does not have more time to spend in this re-

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Manners And Morals

Recently hearings have been conducted by a House Select Committee on Current Pornographic Materials. In the last session of Congress a bill which would have made it a felony to transport "obscene material" across state lines by any means whatever was passed by the Senate but not considered in the House. We may expect that as a result of this hearing a similar bill will be proposed in the House next January.

All will agree that obscene matter does not deserve the protection of the Constitution, but where control of what passes over state lines through the mails or "by any means whatever" is placed within the power of administrative officials, potential infringement of civil liberties is immediately raised.

Administrative boards are subject to the demands of pressure groups; further, if their members are appointive they are under the penalty of possible loss of employment and are thus subject to the demands of the appointive body; also, if their members are chosen by competitive examination, the phobias, frustrations, and maliciousness of some of the officials chosen would be perpetuated in office under systems of tenure. Thus what constitutes obscenity will be a variable; in attempting to avoid that imputation for their product, publishers would be forced into stricter censorship than the law required.

The Select Committee presented as evidence of extensive pornography in current publications "marked passages" from numerous works. Underlining words and phrases or "blue-penciling" a paragraph shows industriousness, but it seems to us that writing which attempts to deal with life honestly cannot avoid what worrying or prurient minds consider its sordid aspects, and such writing therefore would fall before the censor because the authors did not choose to write of the never-never land, where children are brought by the stork, everyone lives in cloud palaces, and want is unknown.

Many of our greatest literary treasures cannot escape what may become "obscenity" under a federal law. If we must excise "bad" passages, consider what would be left of Shakespeare's *Hamlet* or *Henry VI* or even *Romeo and Juliet*. A good portion of the Bible will not meet the test either; it is not 99 and 44/100ths % pure. But it is no answer to say that these and similar works are classics and thus are excused; otherwise, the censorship boards will be in the position of deciding what makes a classic and what our children's children will be reading one hundred years from now.

We do not view the situation with alarm, nor do we see the moral decline of our nation almost upon us. Moral looseness, if such it be, can be seen in every age. History does not reveal a gradual descent from supposititious purity; suggestibility and curiosity are natural to human beings. Federal laws will not change this.

Just as we cannot eradicate the problem of Peeping Toms by shuttering the windows of the nation, nor abolish backyard romances by decreeing that all haystacks be burnt, so we cannot legislate obscenity out of existence. These evil thoughts and deeds—if they are—are for the educative process in the long run; immediately, our safety, and continuing freedom of expression lie with the judicial process. For hundreds of years we have committed the lives of accused persons to a jury. Thought and expression as well should remain in the care of twelve good men and true.

Gallery

JOHN BIGGS, JR.

Chief Judge

Court of Appeals for the Third Circuit



In John Biggs, Jr., are blended the qualities of both a first-rate judge and a talented writer. Sitting on the bench of the Court of Appeals for the Third Circuit since 1937, Judge Biggs has displayed in the more than 875 opinions he has written a writing style commensurate with the law embodied in them.

Judge Biggs is a graduate of the class of 1922, an unusually large class due to the increased post-World War I enrollment.

As an off-spring of a long line of lawyers, Judge Biggs entered private practice in his father's firm in Delaware. His father, a leading Delaware attorney, 40 years his senior, was chairman of the Constitutional Convention of Delaware of 1897.

Travel as a Referee

From 1925 to his appointment to the Circuit Judge Biggs was Referee in Bankruptcy for the Federal District Court of Delaware. As the only referee in the home of the "Delaware Corporation," Judge Biggs found himself "traveling all the way from Scotland to Central America to rule on various proceedings in bankruptcy."

His "most interesting" case as referee was the *Hawkeye Oil Co.* case. This was one of the earliest proceedings involving participating operating certificates. In Delaware these certificates are called "Delaware slow-notes: one half payable when you die and the other half when you come back."

President Roosevelt appointed Judge Biggs to the Circuit bench in 1937. "Within the time lapse of 13 months I became Senior Judge. Every one else died or retired."

Opinion in *Hague v. C.I.O.*

As Circuit Court Judge he wrote the opinion for the Third Circuit in *Hague v. C.I.O.* This decision was handed down less than two years after Judge Biggs had come onto the bench. The Supreme Court "technically reversed the de-

cision, but it was really a modification with Justice Roberts writing the majority opinion." The majority decision held invalid as a violation of the due process clause of the Fourteenth Amendment repressions of free speech and assembly for the purpose of discussing rights guaranteed by the National Labor Relations Act.

Another leading civil liberties case Judge Biggs has decided is the "Independence Square" case. The City of Philadelphia attempted to require a license for speeches or meetings in the Square. Judge Biggs writing for the Third Circuit held the requirement invalid.

Trend Away from States

After 15 years on the bench, Judge Biggs comments that "the trend of cases is more and more into federal courts and away from the State courts and States' rights."

One reason for this trend away from States' rights has been "the inability and reluctance of the States to step out on their own. The history of the 'Safe Harbor' case is an example of this." In this case Judge Biggs held that the public utilities commissions of Maryland and Pennsylvania "could get together and regulate utilities in interstate commerce." Three years later nothing had been done. Judge Biggs gave permission to the Federal Commission to regulate these utilities.

Mr. Biggs' contributions to the legal profession have not been limited to work on the Third Circuit bench. He has sat on the bench of the second and ninth circuits on different occasions. He also makes frequent appearances before congressional committees as an official representative of the Judicial Conference of the United States.

As chairman of the Committee on Supporting Personnel of the U. S. Court of the Judicial Conference of the United States, Judge Biggs travels throughout the country reviewing court personnel conditions. "This committee handles all supporting personnel of the federal courts except the Supreme Court."

Judge Biggs is an author of several novels and short stories including *Seven Days' Whipping*. Further, he is a contributor to *Scribner's*. With his former law partner, Stuart Lynch, he is co-author of *Delaware Laws Affecting Delaware Business Corporations*.

Notes Few Changes

From the time he first sat as a judge in the Ames Competition, in 1938, the "physical changes of the Law School have been astounding. Harvard has the best set-up of any law school. The new living quarters unify the student body. In my day we were all over the place."

Outside of the physical changes Judge Biggs finds the Law School fundamentally the same.

Married in 1925, he is the father of two sons and a daughter. One of his sons, John Biggs, III, is a 1st Lieutenant and flash observer for the Field Artillery in Korea. He has been accepted by, and hopes to start at Harvard Law School next year. It is Judge Biggs' fondest wish that John may continue the outstanding contribution that the Biggs family has made to the legal profession. D. L.

Sub Judice

WALTZ ME AROUND AGAIN WITTER

Arthur Murray Dance Studios of Cleveland, Inc., sued Clifford Witter to enjoin violation of an employment contract covenant restricting post-employment competition. The trial court held that the evidence did not establish such threatened harm of irreparable damage as would entitle Arthur Murray to the relief sought. Arthur Murray appealed.

Held: Decree affirmed.

[This opinion is replete with language which demonstrates the enthusiasm of a court apparently faced with an old problem and for which it was able to cite not less than 300 authorities. Ed.]

"When the defendant, Clifford Witter, a dance instructor, waltzed out of the employment of the plaintiff . . . into the employment of the Fred Astaire Dancing Studios, the plaintiff (Arthur Murray) waltzed Witter into court. . . . At the time Witter took his contentious step, Arthur Murray had a string attached to him—a certain contract prohibiting Witter after working for Arthur Murray no more, from working for a competitor. That Arthur Murray and Fred Astaire are rivals in dispersing Terpsichorean erudition is not disputed. Now Arthur Murray wants the court to pull that string and yank Witter out of Fred Astaire's pedagogical pavilion.

Such Complications

"No layman could realize the legal complications involved in Witter's uncomplicated act. This is not one of those questions on which the legal researcher cannot find enough to quench his thirst. To the contrary there is so much authority it drowns him. It is a sea—vast and vascillating, overlapping and bewildering. One can fish out of it any kind of strange support for anything, if he lives so long. This deep and unsettled sea pertaining to an employee's covenant not to compete with his employer after termination of employment is really Seven Seas; and now that the court has sailed them, perhaps it should record those seas so that the next weary traveler may be saved the terrifying time it takes just to find them."

The "Seven Seas" of citation are listed by the court to be: "the sea of periodicals; . . . the sea of annotation; . . . the sea of encyclopedias; . . . the sea of treatises; . . . the Restatement sea; . . . the digest sea; . . . and Ohio's own sea."

Do Teachers Have A Following?

In arriving at the legal conclusion to the case the court was not averse to bringing in the Harvard Law School by way of analogy: "If two teachers exchange colleges, do their students automatically exchange colleges? If the dean of the Harvard and Yale Law Schools exchanged chairs it might be very unflattering to see how few, if any, of their students would try to follow them. As every school knows their is such a thing as an 'institutional hold' that may be greater than the hold of one teacher, such as the hold it exercises through such things as loyalty, tradition, reputation, the campus, classmates, friends, fraternity brothers, other teachers and the girl who wears one's fraternity pin." *Arthur Murray Dance Studios of Cleveland v. Witter*, 105 N.E. 2d 685 (Ohio, Feb. 1952).

Letters to the Editor

TO THE EDITOR:

Last month, the Supreme Court again refused to grant a writ of certiorari to Ethel and Julius Rosenberg, the first American citizens sentenced to death for conspiring to commit espionage. As a law student, I feel that the death sentence was not warranted by either the facts of the case or by judicial precedent. I think that a study of the issues involved will show that clemency should be granted by the President.

An element of doubt still exists as to the guilt of the Rosenbergs, who have always asserted their innocence. The government's case was based primarily upon the uncorroborated testimony of Ethel's brother, a confessed spy, who said he gave Julius atomic data for transmittal to another spy. Unable to produce the data, the prosecution had the brother draw sketches from memory of the information given. No top-level scientist attested to the importance of the information shown by the sketches, which were characterized by *Time* magazine as making little sense. Yet, it was for the alleged delivery of these sketches in 1944 and 1945 when the Soviet Union was an ally of this country, that the Rosenbergs were convicted.

Even assuming that the Rosenbergs were guilty, a question remains as to the propriety of the death sentence. A Congressional report, *Soviet Atomic Espionage*, did not mention the Rosenbergs as being among the four spies who did the most damage to the national security of the country in the field of nuclear physics. None of these confessed spies who have been convicted received a sentence of more than 15 years, while the Rosenbergs were given the death penalty for acts, which if committed, were much less damaging to the security of this country. When one realizes that spies who gave aircraft secrets to the Germans in World War II were

given sentences ranging between five and 15 years and that "Tokyo Rose" and "Axis Sally" got off with ten year terms, the severe sentence imposed upon the Rosenbergs seems even more unjust.

Thus, we have a situation where two American citizens with known radical views have been sentenced to death for the commission of acts which were less serious than those of other persons who received much lighter sentences. An attempt is being made to implant in the minds of the American people the idea that all persons with unorthodox views are a menace to this country. Let us combat this attempt by writing the President and urging him to grant clemency.

STUDENT'S NAME WITHHELD ON REQUEST

TO THE EDITOR:

Your issue of Nov. 26 discusses the "intrinsically interesting" subject of legal education.

I submit that we need not apologize for the education we received at the Law School. Yet, while I arrived at the same conclusion as Professor Braucher, I am somewhat amazed to find myself, in his eyes, a branded can of tomato paste. Still more startling is Mr. Cantrall's suggestion that I should have been a tin soldier.

Further experience at the bar may change my views, but it seems to me that the basic skill of practice still is the power of analysis. Mr. Cantrall would have us jettison Professor Seavey's "tiger-buying" agent for a ten-hour study of bargain and sale deeds with covenants against the grantor's acts. I find this neither appetizing nor fruitful.

It would appear, that in pointing his finger at our law schools (and I must confess that I am concerned with the thumb at Harvard), Mr. Cantrall has picked the wrong volunteer for the right job.

MARVIN V. AUSUBEL, LL.B. '51



Civil Liberties Cases, Actions Reviewed On 161st Anniversary Of Bill Of Rights

One hundred and sixty-one years of Constitutionally protected American civil liberties was commemorated by Bill of Rights on Tuesday. It was on December 15, 1792, that the first ten amendments to the Constitution were ratified. Numerous cases were decided in the past year in which the Constitutional rights granted to Americans by these ten amendments were given protection by state and federal courts.

One of the most important of these was the federal court decision that free-lance writer Anne Bauer had to receive a hearing before her passport to travel abroad could be revoked.

It was also held during the year that a federal employee cannot be fired solely because he belongs to an organization on the Attorney General's "subversive" list.

Rights of Indians

Perhaps the most interesting of the controversies involving "due process of law" has been the struggle of American Indians to be allowed to choose their own counsel. The Commission of Indian Affairs has insisted that he be given the right to veto the Indians' choices for a great many more reasons than had been allowed in the past. In a hearing last January before Secretary of the Interior Oscar Chapman the Indian leaders and heads of non-Indian groups were unanimously opposed to Commissioner Myer's new rules. Secretary Chapman ordered that the rules not go into effect. The bureau over which Myers presides is one of the major parties with which Indians have litigation.

Indians were granted citizenship as a group in 1924, and were given the vote in 1948.

The Well-Known Cases

Some of the other cases involving the Bill of Rights (through the 14th Amendment) have already been discussed widely—the Supreme Court forbidding the use of a stomach pump to extract morphine capsules, the Court's decision that movies are entitled to the guarantees of free press, etc.

A remarkable, but lesser-known, incident was an attempt by the state attorney general of Pennsylvania to investigate an assistant district attorney, Mrs. Marjorie H. Matson, on charges of unfitness that the attorney general had originated. The supreme court of the state forbade this procedure, and the accused official was later cleared by a committee of lawyers appointed by the court. The charge was that Mrs. Matson was unfit for office because of Communist associations.

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President Discusses Regional Exchanges

In an address to the Bull & Bear Club about "Problems of the Regional Exchange" on Dec. 12, Harry W. Besse, president of the Boston Stock Exchange, stressed the importance of regional stock exchanges in the national economy.

Mr. Besse said that the greatest problem of the regional exchange is the "absolute inequality between the regulation of listed and unlisted securities,



Harry Besse

created by the Securities Exchange Act of 1934."

Under present regulations unlisted securities need not meet with the stringent regulations of the S.E.C. As a result many New England businesses have either withdrawn their securities from the Boston Exchange or have refrained from listing new issues.

As a remedial step Mr. Besse endorsed the passage of the Frear Bill, which would require corporations with \$3,000,000 of assets and 300 security holders to comply with many of the regulations presently applicable to listed securities.

In discussing the advantages of the regional exchange Mr. Besse said that regional exchanges are secondary markets which deal in many of the same securities as the national exchanges in New York. Due to the adoption of the "three minute rule," developed by the Boston Exchange, a purchaser or seller in the regional market will be assured of the same price as they would get in New York.

The Boston Stock Exchange, founded in 1834 as a primary exchange, financed most of the first transcontinental railroads. In 1900 at its peak of predominance a seat in the Boston Exchange cost more than one in New York.

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NEWS IN BRIEF

LEGISLATIVE BUREAU

Tedson J. Meyers, 3L of Bayonne, N. J., was elected president of the Harvard Student Legislative Research Bureau at an organizational meeting Monday. David Landau, 3L of Union City, N. J., was named director of research, and Greta Wortsell, 2L of Columbus, Ohio, was chosen secretary.

Meyers announced that the Bureau has received requests for service on several new projects. Among the organizations submitting requests are "The Baby Hoover Commission" of Massachusetts, the Counsel of the House of Representatives of Massachusetts, and the Housing Association of Metropolitan Boston.

PBH PICKS CHAIRMAN

Warren M. Goidel, 3L of Brooklyn, was elected chairman of the Law School Committee of Phillips Brooks House at a special meeting of the group. Goidel succeeds Tedson Meyers, who resigned to work with the legislative research committee.

KINGS' BENCH ELECTION

C. Peter Gossels, 2L of Caracas, Venezuela, and George Roumell, 2L of Grosse Pointe Park, Mich., were elected Chief Justice and Associate Justice respectively of Kings Bench last Thursday.

Elected to the Council of Justices of the club were Elihu Fier, 1L of Belle Harbor, N. Y., Herman M. Levy, 2L of Johnstown, Pa., Irving T. Nelson, 1L of Kings Ford, Mich., Lawrence Newmark and Jack Polish, both 2L of Brooklyn, Eugene Underwood, Jr., 1L of New York City, and outgoing Chief Justice Tedson Meyers, 3L of Bayonne, N. J.

SCHOLAR—(Continued)

between political authority and individual freedom which we have achieved in this country. This is made possible, he believes, by the stability of the well-organized institutions which guide people's lives in the United States.

Social Isolation

Yet the rugged individualism, he asserts, leads to a social isolation among the people which is not found in Europe. Prof. Gueli feels that action is stereotyped in the United States partly because of the environment in which we live. He is amazed by the unification achieved in this country in spite of our great size and the multiplicity of tasks that face us. He praises the wisdom of our forefathers who were responsible for establishing this stable and peaceful society.

Before coming to Harvard, Prof. Gueli spent several months at Yale where he did much the same type of work that he is doing now. When asked for a comparison, from a foreigner's standpoint, of the two schools he was only willing to comment upon their respective libraries. He mentioned that the Sterling Memorial Library at Yale was very well organized and easy to use, but that the Harvard Library was richer in material. He also stated that from his limited observation, Yale seemed to have a slightly better football team than Harvard.

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Lieut. Norris, '52, Tells Of Experiences As Legal Officer With U. S. Air Force

(The following letter was received by Assistant Dean Louis A. Toepfer from Richard A. Norris, LL.B. '52, a 2nd Lieutenant in the Air Force, and is reprinted here as an aid to students interested in the opportunities offered by Air Force legal work.)

After four months here in the Air Force I thought it would be appropriate for me to compile a little report for your (Dean Toepfer's) office. I'm sure that there must be many of this year's third-year class who feel the hot breath of their draft boards and who are curious as to what "deals" are available in the service. I well know the feeling of utter futility as one contemplates hanging up his law degree over his foxhole in Korea.

Looking back I remember that several of my classmates and myself made inquiry and application into many commissions and programs offered by each and all of the branches of the service, although in most cases we actually knew nothing about the particulars of the commissions.

'I Was Lucky'

In my case I was lucky, but several others found themselves irrevocably committed in jobs which were not as nice as expected. With this in mind I decided to send back to you all that I know about the place of the recent law graduate in the Air Force, as a member of the Judge Advocate Division.

I was pleasantly surprised to find that the role of the judge advocate is in most respects no different than that of the attorney in civilian life. In the Air Material Command (the commercial arm of the Air Force) the Judge Advocate Division is divided into several more specialized segments. (For purposes of explanation it must first be understood that the AMC is primarily concerned with the production, purchase, and supply of equipment, resources, and facilities for the AF, dealing directly with private industry.)

Specialization

AMC for the most part is located here at Wright-Patterson, where at the headquarters there are JAG branch offices, each of which specializes in one of the following: contracts review, patents and royalties, or appeals and litigation. These offices operate in conjunction with the contracting officers and legal officers of the Procurement Division of AMC.

In a typical simple situation, for example, a procurement buyer might negotiate with a commercial contractor for the purchase of, let us say, 50,000 parachutes. A procurement legal officer would aid the buyer in negotiating a contract, which would be reviewed by the contract branch of JAG for legal sufficiency. The patent office might also be called into the picture, checking to assure that there are no infringements or questions of royalties. Finally, the deal would be closed, and the parachutes would go into production.

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The contract would be performed under the watchful eyes of the production and quality control divisions of AMC, and any legal problems arising through revision, reformation, failure to perform, etc., might be referred back to the offices previously concerned.

Furthermore, if one of these issues reaches the proportion of a lawsuit the appeals and litigation office would be called in. (It might be of interest here to insert the astounding fact that the volume of business so transacted annually by AMC surpasses the total of that transacted by GM, Westinghouse, Sears-Roebuck, and Penn. R. R. combined.)

Wide Range of Practice

Within the last month I have had cases on my desk which have involved principles of torts, contracts, agency, wills, trusts, property, domestic relations, taxation, conflicts, constitutional law, corporations, criminal law and procedure, and evidence. My duties fall roughly into four categories.

As a legal assistance officer I advise and aid military personnel in their private legal problems. In this capacity I have organized non-profit corporations, drafted contracts, submitted insurance claims, collected debts, helped draw up and file pleadings in divorce actions, and given advice in countless other situations.

As claims officer I have advised the Comptroller General on claims submitted against the Air Force by civilians and military alike, and have prepared claims for the Air Force against other parties.

Is Bingo Legal?

As military affairs officer I have written memos to the Base Commander on questions ranging from the legality of life insurance solicitation on the base, to the jurisdiction of federal and state authorities on the state-owned highway which runs through the federally-owned reservation, to the legality of the weekly Bingo games at the Officers' Club.

As a military justice officer I have prepared courts-martial for trial, reviewed others for legal sufficiency, made recommendations to the appellate tribunals, and in the very near future I expect to be made trial counsel (prosecuting officer).

Pass A Bar Exam.

Concluding, it is hoped that this will be of interest to any third-year student who expects to be entering the armed forces next summer. In the Air Force, I am told, there is presently a fair demand for lawyers, both as judge advocates and as contract officers, so he may be assured that there is an opportunity to make full use of his legal training. My one word of advice is to take a bar exam, any bar exam, as soon as possible, for as a member of the bar (or even as one who has passed a bar but has not yet been admitted) his chances of receiving a commission in a legal capacity will be substantially greater.

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COURTS —(Continued)

and national courts that we have in the United States. The Swiss Federal Tribunal is a court of original jurisdiction but with such powers of control over both judicial and executive administration of the cantons as to make it practically also a court of appellate jurisdiction.

I do not mean to describe the Swiss courts in any technical manner—even if I were competent—but only comment, quite superficially, on what I saw and heard in attending a number of sittings of the Swiss Federal Tribunal and talking with judges, clerks, attorneys and law professors, to whom I am grateful for much help and hospitality.

Swiss Court Divided

The court, which consists of 26 judges (with alternates on per diem salary that replace regular judges unable to sit, so that there is always a "full court") is divided rather permanently into sections dealing with particular branches of law. For instance, there are two "courts" of civil law, one of public law, etc. Each of these chambers has its own procedures and consists of from three to seven judges.

Oral argument is relatively insignificant. I remember attending an oral argument by very able counsel to which, it seemed to me, the judges scarcely gave attention. Questions are never addressed by the court to counsel and on this occasion, at least, the judges proceeded without recessing at the close of the oral argument to public consultation and decision of the case.

An Empty Courtroom

In public law cases there are no oral arguments and even in the civil law cases where they do occur they attract but little attention. A few newspapermen were the only audience at any of the sittings of the court that I attended.

In the United States the public meetings of a high court are, of course, largely devoted to argument of counsel and reading of opinions. As I have already stated, in the Swiss Federal Tribunal there is much less argument of counsel.

No Judge Written Opinion

There is no reading of opinions. In fact, there is no writing of opinions by the judges, for the writing of opinions is a function entrusted by law to the court's scribes. The Swiss Federal Tribunal announces for publication but one opinion in any case. (This, I believe, is universally the practice in non-English speaking countries.) This opinion is prepared by the scribe assigned to a particular case who attends the consultation of the judges and harmonizes as best he can their several written memoranda or oral views concerning the disposition of the case.

Public Scrutiny

One might think that this would make the administration of justice by the Swiss Federal Tribunal a wholly secret affair, but a public supervision of judicial action is provided by the rule that the judges' consultations are public. In such meetings each of the judges in order of seating (not in order of seniority) gave his views on the disposition of the case before the court while the scribe who was to write the opinion sat in the well of the courtroom and took notes on the opinions so expressed.

After all the judges had given their say, the president entertained a motion for the disposition of the case, which was voted on by a show of hands. Since judges of the majority may have differing or even conflicting reasons for their common conclusion, the scribe has considerable leeway and must exercise extraordinary diplomatic caution in writing the opinion. Perhaps this is one reason why most of the opinions are filed but not released for publication.

Roughly, one opinion in 10 appears in the official reports, and a very few more are reprinted or quoted in part by law journals.

Language Problems

Switzerland being a tri-lingual country, the judges need to be linguists as well as lawyers. A particular case is always presented in a single language (as determined by the rules of court—usually the language of the lower court or, in cases that really originate in the Federal Tribunal, in the language of the defendant party), but the discussions in the open consultations are in both German and French. The opinions are written in the language of the case. Each of the scribes and secretaries attached to the Tribunal writes in one, or occasionally two, languages only.

In Paris I had a momentarily uncomfortable surprise when I attended a sitting of a branch of the Court of Cassation. Learning that a case was scheduled to be heard in about 15 minutes, I went into the courtroom and seated myself on the front bench of the tier reserved for spectators (where I was alone.) Gentlemen in robes sauntered in by one until about 20 were seated on the front benches of the similar tiers on the three other sides of the gilded hall. The president without any formality called on his next neighbor.

Recite the Facts

This gentleman read at some length and in a very low voice what I took to be a report of his investigation of a case. (This, at least, was the procedure which I had frequently witnessed in the Swiss Federal Tribunal.) At the close of his reading, which I could hardly believe the other participants could hear—certainly I could not—a gentleman at one end of the line arose and addressed Court in a very clear but informal manner, advising the other robed gentlemen that the case before them raised a point which had already been decided by them but that in this and other cases the (intermediate) appellate courts had decided otherwise. (This is permissible under French judicial practice.) He therefore suggested that the court might wish to consider very carefully whether its previous decision should be repeated. The question at issue was one of the construction of a statute regarding the acquisition of French citizenship by inhabitants of Alsace-Lorraine at the close of World War I.

"Not Prepared"

After these remarks the president, noting that I appeared to be very attentive, pointed his finger at me and said, "And you, sir, have you anything to say?" Amazed by this informality of procedure, I probably would have been unable to speak even if I had known more about the case than I could gather from the mumbled report and the oral statement. As it was, I could offer the Court only my profoundest regrets that I was not able to contribute to the deliberations.

My confusion was somewhat allayed after adjournment when I talked with the gentleman who had addressed the Court. He was a procurer general, roughly an assistant attorney general attached to this section of the Court, who, upon instructions from the attorney general, would present an official point of view to the Court, but who was an oral *amicus curiae* in cases such as this, in which the attorney general had given no instructions. I surmised that the president of the Court had heard in the corridors that an American law professor had inquired about its sitting and had concluded that I might be an expert on the question of law that was involved in this case and so had invited me to speak.

So, if you attend a French court, be prepared!—at least as well as for a class in an American law school.

Yuletide Poesy

(A holiday salute to the Faculty, with the usual apologies to Lewis Carroll and to Alice in Wonderland, who, on hearing the original, said: "It seems very pretty, but it's rather hard to understand!")

*'Twas Griswold and the Seavey bands
Did Leach and Jaffe in the Freund;
All Chafee were the Sutherlands,
On a Field of Casner joined.*

*"Beware the HardeeScott, my son!
The Gluecks that bite, the Howes that
Parry!
Beware the Baker bird, and shun
The Cavers KaplanSurrey!"*

*He took his Bowie sword in hand:
Long time the Braucher foe he
sought—
So rested he by the Amory tree,
And Loss-ed awhile in thought.*

*And as in Fuller thought he stood,
The HardeeScott, with Hart of flame,
Came Brewstering through the Toepfer
wood,
Maguiring as it came!*

*One, two! One, two! And through and
through
The Bowie blade went snicker-snack!
He left it dead, and with its head
He went Magruder back.*

*"And hast thou slain the HardeeScott?
Come to my arms, my Hudson boy!
O Gardner day! Wollett! Wollay!"
He Bevinsed in his joy.*

*McCurdy-wise he strode the Hall,
MacLachlaning the Berman;
Ah, Sohn the Dimmitt! Haar the wall!
And Peck the Brown Von Mehren!*

*'Twas Griswold and the Seavey bands
Did Leach and Jaffe in the Freund;
All Chafee were the Sutherlands,
On a field of Casner joined.*

J. S. GRATTON, 3L

AMES —(Continued)

Secondly, do the registration and information provisions of the statute violate the fifth amendment privilege against self-incrimination? Finally, the court was asked to decide whether newspaper stories implying the defendant's guilt prevented him from getting a fair trial.

In the second year qualifying round, three clubs won four arguments each to lead the eight clubs that were selected for the quarter-final round.

The three undefeated courts are Griswold, with an average of 143.000, Marshall Law, 141.375, and Jaffe, 139.750.

Qualifying clubs that won three while losing only one include: Frankfurter Law, 140.500, Gardner, 140.125, Casner Equity, 139.500, Story, 139.375, and Gladstone-Webster, 138.500.

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WU —(Continued)

moral duty to pay your debts cheerfully.

Dr. Wu emphasized that both law and morality are derived from natural laws and that "the absolute ultimate origin is from God." It is impossible to isolate the study of morality and law, but that is what the "technical jurist" tries to do. He approaches the problem with a closed mind and in doing so is defeating the aim of law. The open-minded jurist masters the technique but knows the



John Wu

aim of law and is always cognizant of the philosophy and ethics in law.

Common law draws heavily from Christian ethics. This gives a starting point when statutes fail to cover a situation. "In such cases," said Dr. Wu, "demand is to be made of equity and justice." This is true in both common law practice and civil law practice.

Natural Justice Supreme

He remarked that "not to know the rules of equity and natural justice is not to know a large part of the law." If a statute is capable of two meanings, one consistent with natural justice and one not, then the judge should rely upon the meaning consistent with natural justice.

For this reason it is important to know the origin of the law but we must always remember that the goal is the main thing. "There is no wisdom" said Dr. Wu, "in choosing a path unless we know where it leads." He concluded his talk by remarking that, "there can be no true understanding of the goal if the origin is not known, just as the past cannot be understood if the goal is not known."

Dr. Wu studied under Dean Roscoe Pound and was doing research when he wrote an article on morality and legal jurisprudence. In commenting on the article he said, "since it was not considered apropos to criticize one's professor it was thought best not to print it in this law review, so we sent it to the *Illinois Law Review*."

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Alumni Notes

LL.B. '38—Samuel Efron has been appointed Assistant General Counsel in Charge of Internal Matters for the Department of Defense.

LL.B. '41—Paul Dobin, formerly Chief of the Rules and Standards Division, Broadcast Bureau, Federal Communication Commission, is now associated with the Washington firm Cohn & Marks.

LL.B. '48—Kenneth G. Weinberg has become associated with Ray T. Miller, practicing in Cleveland.

LL.B. '51—Erwin I. Grant, formerly associated with the New York firm of Lane, Winard & Robinson, is now practicing in Hollywood, Calif., with Freedman, Merdink, Levin & Kales.

LL.B. '52—Murray Weinstein, advertising manager of the RECORD last year, has become associated with Alfred E. Herz, attorney, of New York.

BOOKS —(Continued)

eral government and private individuals.

The first lecture discusses the judicial and legislative fields. The latter area includes a number of rather different tasks: lobbying, drafting legislation for private groups, testifying, and advising clients who are to testify.

The second lecture turns to the executive and administrative area, which is the chief field of activity of the "Washington lawyer." Such a practice involves knowledge of a vast amount of material, much of it not orthodox legal cases. In addition, the lawyer must often seek the advice of his potential opponent, the government, as well as try to master the thinking of relevant agencies.

It is not enough for the lawyer to keep his client out of litigation. He must also keep track of administrative proceedings which do not immediately concern his client, but which may affect them significantly.

The final lecture contains reflections on the role of the Washington lawyer, both as representative of individual clients and on behalf of organized groups, such as bar associations.

The author emphasizes the influence which lawyers have on the government with which they negotiate and litigate. He also discusses the general problem of ethics in practice against the government, pointing out that indiscriminate measures passed in response to current feeling may lead to bad consequences both for lawyers and the public.

J. J. S.

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