

The Harvard Law School Record

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Forum Speakers Will Debate 'Banned In Boston' Tomorrow

"Banned In Boston" is the controversial topic to be discussed at the Harvard Law School Forum to be held tomorrow evening, Oct. 30, at 8 p.m. in the New Lecture Hall. Four prominent speakers, all well-acquainted with the subject, and all with strong and divergent views, are scheduled to share the Forum's platform.

Miss Elinor Hughes, who is the film and dramatic critic of the *Boston Herald*, is particularly well-qualified to discuss the subject. After graduating from Radcliffe she went to work on the staff of the *Herald* and in 1928, on the death of Philip Hale, became that paper's film and drama critic. She has previously appeared on Forum programs dealing with the current American screen: "Invitation to 3-D" and "Are Movies Better Than Ever?"

Mr. Gerald A. Berlin is associated with the law firm of Lurie & Alper in Boston and is the Director of the Commission on Law and Social Action of the

New England Division of the American Jewish Congress. In this capacity, he recently submitted an *amicus curiae* brief

Basketball Tourney Begins In 2 Weeks

Maurice Downey 3L, of New Bedford, High Commissioner of the Law-Graduate Basketball League, has announced that the league will initiate its schedule on Nov. 8. The competition, an annual project sponsored by the PBH Athletic Committee, will be getting its earliest start in recent years.

Due to the increased use of the facilities at Hemenway Gymnasium, in spite of increased charges, the league was unable to reserve the courts exclusively as in the past when the competition began with the start of the second semester. The committee has settled on a compromise, however, whereby one court will be reserved every day for the league's use, thus requiring the schedule to be spread out over a longer period.

It is contemplated that the league will be run in two halves, the first half of which will be completed by Christmas recess. The second half will begin on Feb. 1, after exams. Appropriate play-offs will decide the championship.

Downey reported that approximately 16 teams will be entered, eight in each division. He has asked all team captains who have not already filed roster lists with him to do so at 304 Dane Hall by tomorrow afternoon. Individual players may submit their names to be placed on a team. Each roster, however, is limited to 10 men.

Several members of last year's championship Spartans will be returning, including Robert Fullem 3L, of Montclair, N. J., Arnold Ciaccio 3L, of Rochester, N. Y., Ronald Gagnon 2L, of Saylesville, R. I., and Peter Labe 3L, of Rockville Center, N. Y. But an exceptionally strong league is envisioned this year, with the addition of several talented and experienced men, many of whom are ex-college stars.

The *Record* this year, will publish weekly the standings of the teams as well as the individual scoring leaders.

Dean Harno Reports On Historical Survey

Legal Education in the United States, by Albert J. Harno: Bancroft-Whitney Co., California. 1953. 197 pp. \$3.50.

To Dean Harno fell the task of presenting to the legal profession as well as to the public at large the evolution of legal education in America. A systematic approach and uniformity of requirements so as to make possible a legal standard uniform throughout the nation is not an easy task when it is noted that there are 49 autonomous jurisdictions to be taken into consideration.

The Survey of the Legal Profession could hardly have found a more capable writer for this effort. Not only does Dean Harno's position as Dean of the University of Illinois College of Law qualify him for the position but so would his work as a Commissioner on Uniform State Laws. He has served as president of the Illinois State Bar Association and as a member of the Board of Governors of the American Bar Association.

(See HARNO on page three)

History And Value Of The Law School Alumni Indicated By Griswold

(The following is the first in a series of articles to be written for the *Record* at various intervals throughout the academic year by Dean Erwin N. Griswold.)

The students are a very important part of the Harvard Law School. But they are not the only ones who have a close interest in the school. There are at the present time about 13,750 living graduates of the school, scattered in every state in the Union, and in many foreign countries.

The alumni are organized in the Harvard Law School Association, which was established in 1886 at the time of the 250th anniversary of the founding of Harvard College. Louis D. Brandeis was one of the founders, and became the first Secretary of the Association. The Association has had a long list of distinguished Presidents, including James C. Carter, Oliver Wendell Holmes, and Robert P. Patterson. The present President of the Association is Robert N. Miller, LL.B. 1906, of Washington, D. C.

The Harvard Law School Association is governed by a Council which meets in Cambridge at least once in each year. The Association also sponsors local associations, and there are a great many of these groups, in New York, Chicago, Northern California, Southern California, and so on. Each one of the local associations elects a vice president of the local association, who is a member of the latter's Council.

All graduates and former students of the School are members in the Association. A person becomes an active member by paying dues of \$6 a year, or \$3 a year during his first five years out of School. From these dues, the Association

(See DEAN on page three)



Elinor Hughes

arguing that a Dover, Massachusetts by-law prohibiting the Dominican Fathers from erecting a seminary in that community was unconstitutional. He is a graduate of the University of Virginia, '40, and in 1947 received his LL.B. from Yale University. During the war he was

(See FORUM on page three)

Coffee Hour Hears Prof. Aitken Discuss Progress And Utility Of Electrical Brains

Prof. Howard G. Aitken of the Harvard University Computation Laboratory told a Coffee Hour audience on Tuesday that with continued technological advances in the field of automatic computation the era of automatic factories and automatic language translators may one day be upon us. But he denied that the future would produce any "thinking" machine as such.

Matter Of Semantics

"It is," he said, "all a matter of se-



Howard Aitken

mantics. Out of all the dictionaries in Widener, a few may define the multiplication of two 10-digit figures as thinking. Of course if thinking is to be defined in this fashion then the desk-model

calculator or the dial phone is "thinking." It is just a case of technological development.

The calculators works on the premise that all mathematical problems can be solved by the simple operations of addition, subtraction, multiplication, and division of these operations are used in their proper sequence.

The Mark I (an early computer used at the Computation Laboratory) could set up a 600-page mathematical table in less time than it would take to proofread it. Its child, the Mark II was capable of speeds 20 times as great as its father. Its purpose was to assist the Navy with the problems involved in aiming and

(See AITKEN on page three)

Astounding Decision By Martian Court Should Have Great Legal Repercussions

(The following article was written exclusively for the *Record* by Lewis P. Fickett, Jr., LL.B. '52. Mr. Fickett, a member of the Maine Bar, is at present a first-year student at the Graduate School of Public Administration of Harvard University.)

The following is a reprint, from the *Martian Law Chronicle*, of the full report of an epoch-making decision of the Free Mars High Court of Appeals. In reading this decision, it will be of value to the reader if he appreciates that both the Martian government and the Martian Constitution are somewhat similar to those of the United States.

NABOB v. GRAND TAX COMMISSIONER OF MARS
1,006 Free Mars C. Appeals 34 (3053)

JUSTICE CANDIDLY (speaking for the majority):

The facts of the case before us are quite simple. The Congress of Mars has just enacted a statute, popularly called the "Every Man a King" Law, which provides that all Martian men shall be guaranteed a minimum annual wage of \$10,000 a year. To finance this program the Congress simultaneously passed the Revenue Act of 3053, which provides for a 300% sales tax to be levied on every commodity sold within the territory of

Jury Verdict At Model Trial Returns Necklace To Plaintiff

In a sealed verdict returned early Friday morning the model-trial jury awarded Miss Sally Price the verdict in her action of replevin for a \$5,000 pearl necklace against Lucius and Ann Niles, members of a well-to-do Langdell investment banking family. A summary judgment earlier in the week awarded the Niles the heirloom earrings which were also in dispute.

The four-and-a-quarter-hour trial in the Superior Court of the Commonwealth of Ames was heard before Judge Charles E. Wyzanski in the Langdell Courtroom.

Richard H. Field, attorney for the plaintiff, called Miss Price and Dr. James Harmon to testify to events which indicated that the late Mrs. Titus Niles, Lucius' mother, had given the pearls to Miss Price at her home before the Charity Ball, April 25, 1952.

Arthur E. Sutherland, attorney for the defendants, examined Mr. and Mrs.

Niles and Godfrey Todd, Lucius' uncle who was with Mrs. Titus Niles at the time of the alleged gift, in an attempt to

Law Charities Drive Is Now Under Way

The Harvard Law School Combined Charities Drive began last Tuesday under the direction of its Chairman, Gene Baker, 3L of Rumford, R. I. The Combined Drive is designed to free students of the burden of multiple solicitation during the school year, and is under the guidance of the Law School Committee of Phillips Brooks House.

A student may select a particular charity to which to give, or he may contribute to a general fund, the proceeds of which are distributed to such organizations as the Salzburg Seminar, Cerebral Palsy Fund, Heart Fund, and cancer research. To those who wish to keep their donations on a private basis, any particular preferences will be strictly heeded.

Although the College's Combined Charities drive has omitted the Salzburg Seminar from its list of charities, the Law School group has retained it. The College organization feels that the Seminar is not of importance to undergraduates.

There is no limit to the amount which a student may contribute. Last year, the average gift was a little more than \$5.00 per person. More important it is hoped that each and every student in the Law School make some donation to the Drive.

The Committee is currently sending out letters to all students with return envelopes in which contributions may be mailed. Donations may also be made at the Phillips Brooks House Law School Committee's office at 23 Everett St.

COFFEE HOUR

On Nov. 3 at 1:30 p.m. in Harkness Commons, the Coffee Hour will present Prof. Clyde M. Kluckhohn, Director of the Russian Research Center of Harvard University, who will speak on "Social Science and the Cold War."



Defendant Ann Niles

prove that there had never been such a gift.

Star Witness Falters

It was Godfrey Todd, the star witness for the defense, who blurted out the most damaging bit of testimony. When asked, "Did Miss Price say anything?" he re-

(See TRIAL on page three)

Dorm Council Plans 11 Dances For Year

Dormitory Council President John Colan, 3L, has revealed that the Council is now studying a plan suggested by the *Record* for checking text books in Harkness Commons. Stressing the difficulties of administering such a plan, however, Colan stated that at present the most effective remedy for eliminating the recent "stealing" of texts would be (1) care on the part of students that they pick up their own books rather than inadvertently taking others in a hurry; (2) full reports to the Judiciary Committee of the Council on any thefts or persons suspected of stealing books.

Cards Not Transferable

The Council's Social Committee has tentatively scheduled 11 band dances, including three semi-formals, for the remainder of the school year, Paul F. Glenn, Committee Chairman, has announced. The next dance will be held on Nov. 21, followed by a Christmas semi-formal on Dec. 12. Beginning in January, band dances will be held on an average of every other Saturday in Harkness.

Glenn emphasized that Dormitory Council cards may be used only by the purchaser. They are not transferrable and may not be borrowed by a friend to attend a dance. Violators of this rule will be subject to disciplinary action. The Briefwriters Blast on October 24 and 2 Dorm Council Cards were forfeited. Three law students were ejected from because of violations of the "no-transfer rule." A checking system has been inaugurated to prevent transfers at dances.

Grad Students May Come

Subject to the approval of the Dormitory Council at its next meeting, students of the Graduate School of Arts and Sciences will be permitted to attend certain of the Law School dances in Harkness. Ginger ale, coke, and soda will be sold at each dance, and an optional checking system for liquor will be in effect.

(See COURT on page four)

YEARBOOK

The 1954 Harvard Law School Yearbook wishes to thank its many subscribers for their kind patronage and consideration.

The Yearbook also announces that subscriptions for this volume are now closed. There will be no general sale.

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"Entered as second class matter November 19, 1946, at the post office in Boston, Massachusetts, under the Act of March 3, 1879."

Charity for All

Every year, at this time, all law students are requested to contribute to the Combined Charities Drive, conducted by the Law School Committee of Phillips Brooks House. This campaign is intended to supplant continued solicitation from several and diverse charitable organizations throughout the school year. At the same time it affords a convenient and time-saving opportunity to all students to donate, all at once, to groups dedicated to fighting heart disease, cerebral palsy, and cancer, as well as to Care and the United Nations Children's Emergency Fund, to the Salvation Army, and the Community Fund, and even to the PBH Loan Library.

It is unnecessary, here, to elaborate on the needs that presently exist throughout the world. Great strides have been made and are being made by those organizations which devote themselves to the public service and the public good. But more money is needed to bring their incessant efforts to successful conclusions. A contribution from each and every student, however large or small it may be, is the goal of the Drive, and such cooperation will serve to reaffirm the faith of the Committee in the law school student's spirit of charity and good will.

At no other time during the academic year will we have another chance to contribute, in the name of the Harvard Law School, to so many deserving and worthy causes. When donating, it will be well to remember that a countless number of less fortunate people will benefit from what we, here and now, give.

Legal Consideration

Again this week the problem of books becomes a subject for comment. With the arrival of Ames competition many complaints have been lodged about the lack of consideration exhibited by students doing research for their briefs. The principal gripes are threefold in nature: 1) too many books are being collected at one time by the individual student; 2) such books are left lying on the table when the student has finished with them; and 3) Shepard Citations are being taken to a table.

The solution to the problem is obvious if one just take careful note of the issues involved. With everybody co-operating, the situation will be much improved both from the position of the student's gaining access to books and from that of the staff in maintaining order in the library.



Gallery

ZELMAN COWEN

Visiting Professor of Law



With justified enthusiasm Harvard Law School welcomes visiting Professor Zelman Cowen to its Faculty. At the end of the present academic year, Professor Cowen will return to his native Australia to resume his duties at the University of Melbourne where he is Dean of the Law School and Professor of Public Law.

The international fame of Harvard Law School, coupled with a personal invitation from Dean Griswold, who met him during a trip to Australia, drew the 34-year-old Professor Cowen to the University. "I needed no persuasion," and, he declares, "the size and importance of Harvard staggers the imagination; the facilities, particularly Harkness Commons, are luxurious; its library is magnificent; its Faculty inspires respect and stimulates intellectual enjoyment; the classes are bright, and class participation in discussions is lively and pertinent."

Head Of Class

Professor Cowen was at the head of his class when he graduated from the University of Melbourne Law School in 1940. He then left for England, a Rhodes Scholar, where he enrolled at Oxford. Again, he graduated at the top of his class, a Vinian Scholar, and received a Bachelor of Civil Laws degree.

Remaining at Oxford, he was elected a fellow to Oriel College where he continued to teach until 1950 when he resigned to return to Australia and assume the new role as dean of a law school. During World War II Professor Cowen served as an officer in the Australian Navy. In 1947 he served as Constitutional Consultant in Germany for the British Military Government. In 1950 Professor Cowen became the editor of the International Law Quarterly.

Malayan Assignment

During this hectic career Professor Cowen has lectured widely in the United States, Great Britain, and Australia, and is a leader in the adult education movement in Australia. In addition to his being dean of a law school, a

Professor of Public Law, a writer, lecturer, and spokesman for adult education, Cowen is also Dominion Liaison Officer in Australia for the British government. This post led him to Malaya last winter where he served as an adviser to the Malayan government so he might determine their needs and to determine how best Australia could aid them.

Professor Cowen's particular areas of concentration are Constitutional Law and the Conflict of Laws. During his first semester at Harvard Law School Professor Cowen will teach two sections in the Conflict of Laws. In the spring he will hold a seminar on the International Conflict of Laws. During the second semester, Professor Cowen also will deliver a series of lectures on the Legal Relationships of the British Commonwealth of Nations at the Fletcher School of Law and Diplomacy.

His interest in, and his grasp of these problems originate in the fact that Australia, like the United States, is a federal union under a constitution. The same basic difficulties inhere for both nations in the intricate interplay of their respective legal compartments. Moreover, our Constitution has had a significant influence on the political structure and thought of Australian Constitutional Law.

Wide Teaching Experience

Professor Cowen has taught Conflicts and Constitutional Law at Oxford, the University of Chicago Law School (during the summer of 1949), and the University of Melbourne Law School. His writings on these subjects appear in the legal periodicals of three continents and half-a-dozen nations.

His contributions to American legal periodicals include articles to the Vanderbilt and California Law Reviews. He has also published in the Canadian Bar Review. In England he wrote for the Law Quarterly Review, the Modern Law Review, the Journal of Comparative Legislation, the British Yearbook of International Law, and the International Law Quarterly. In Australia Professor Cowen contributed to the Australian Law Journal, Res Judicatae (the University of Melbourne Law School's Law Review), and the Annual Law Review (the Law Review for the University of West Australia.)

Prolific Author

At present, he is preparing a detailed study of the Australian constitution for a German yearbook of Constitutional Law. Professor Cowen was co-editor of Dicey on Conflict of Laws, 6th Edition, 1949, published by Stevens' of London. He and a colleague from Oxford, P. B. Carter, hope to release a book, Essays in Evidence, to be published by the Oxford University Press. He has also contributed to a volume entitled "The Conflict of Laws and International Contracts," published by the University of Michigan.

"I look forward to this year," Professor Cowen said enthusiastically. "Harvard will enrich this visitor," he said smiling. "I hope it will deal equally well with his students."

R. W.

Letters to the Editor

TO THE EDITOR:

"The One O'Clock Jump," as your editorial termed the crowding of Harkness Commons at one o'clock, is a real problem. We have been careful each year to schedule periods without classes from twelve to one o'clock for as many students in the law school as we can. We are doing much better than you have suggested; on the average only about 35% of our students have twelve o'clock classes during the week. On Mondays and Tuesdays, which you cite as "the worst days," only 596 and 731 students respectively have such classes, out of a student body of over 1500.

The only day on which more than half our students have a twelve o'clock class this semester is Wednesday. Some such concentration on one or two days a week is almost impossible to avoid. Sections with three classes in a single morning, if they are to have any break at all, must meet either at 9, 10, and 12, or at 9, 11, and 12. Either way, there is a twelve o'clock class. Many professors have classes in more than a single year which complicates class scheduling. Some of the larger third-year courses must be scheduled at twelve o'clock if conflicts among them are to be kept to a minimum. Secretary Dimmitt, who draws up the class schedules, has done wonders in avoiding an overwhelming concentration in twelve o'clock classes, and in the somewhat allied problem of routing student traffic to and from classrooms and the libraries to avoid back-tracking and unnecessary travel from one end of the law school buildings to the other.

There is no way completely to avoid a crowd when five or six hundred law students are all released from class on the dot of one o'clock just a few hundred feet from the Commons. May I make one suggestion of my own—that all law students wishing to eat at the Commons who do not have twelve o'clock classes be sure to come in well before one o'clock.

I do not know how far the situation in the Graduate School of Arts and Science presents the same problem. But with more than thirty different Departments and thousands of individual course programs in that School, unified action is, I fear, impossible to achieve.

LIVINGSTON HALL
VICE DEAN

Off the Record

MATTER OF MAN'S MANNERS

She cleared her throat, reclassified, said something—lost in the shuffle of feet on the floor, "Louder!" boomed a voice from the back of the room—a voice you couldn't hear recite—the day before.

WHO?

saw me fall into manhole in front of Signet Club Tuesday 7:45 a.m.? Witness needed; law student preferred. Prodigious profit for right man. . . . (Reprinted from the classified-advertising columns of the Harvard Crimson.—Ed.)

OWED TO A BANK

My home, my soul, my very being,
You have it all with your — — — lien.

Sub Judice

GONE FISHIN'

Floyd and Marv together with two other associates were on a fishing trip. They set up their headquarters at an auto camp, arriving there on a Thursday. They immediately set out to go fishing when one of their outboard motors cut out, and they were forced to proceed to the small town nearby for repairs. Pursuant to standard "fishing trip protocol," they stayed around the town, had a few drinks and returned to the auto camp at midnight. Oh yes, the motor was repaired.

It must be said in their behalf, that at this point the boys were still intent on doing some fishing. This commendable objective was, however, soon replaced by a more dominant one. They arose early Friday morning, stocked the boat with rods, reels, bait, and booze and set out on the lake. They soon decided that "fishing was poor" and decided to call it quits. Besides they had consumed all the whiskey. Once back to the cabin, they downed three or four more and changed their clothes, preparing to find a better place to fish.

They arrived at Tommy's Tavern in town just before dark.

At Tommy's, they all had some beer and sandwiches. About 2 p.m. Floyd started playing some rotation pool together with some women companions. (By this time it had really become a "fishing expedition.") Floyd recalled that he drank four bottles of beer during this time.

In any event, the parties, with the exception of Marv, remained in the tavern until 1 a.m. Marv had had enough by 10 p.m. and retired to the car to sleep it off. When the bar closed, the boys remembered the fish and left for the auto court.

The return trip was to be the cause of the litigation. It was a dark night and it had, in the apt words of the court, "been raining cats and dogs." Floyd was driving the auto at a speed of 40 to 50 miles per hour. Unable to negotiate a tight curve, the car swerved, overturned three or four times, and came to rest some 180 feet from the highway. The car was completely demolished. Broken parts of the automobile were found all along its line of travel after it left the highway.

Beside the fact that he was rudely awakened, Marv suffered severe and permanent injuries as a result of the accident. He brought this action for damages pursuant to the Oregon "guest statute," which would find the host liable on a finding of intoxication. The trial court returned a judgment for Marv to the tune of \$11,196 from which Floyd appealed.

Held per Tooze, J., affirmed. "The record affords but another example of the truism that alcohol and gasoline is a mixture fraught with danger."

The issue on appeal was simply whether there was substantial evidence in the record from which the jury could find the defendant intoxicated at the time and place of the accident. Judge Tooze took up the testimony involving the goings-on in the tavern. He stated, with regard to Floyd's requiring five hours to rack up two cues of rotation pool, that that of itself "ought arouse just suspicion." The learned judge remarked, "Though we do not qualify as experts on the subject of rotation pool, nevertheless a jury might find it hard to believe that even a novice would require that length of time to twice run down 15 pool balls—unless his eye and mind were not functioning just as they should have been . . ."

"Alcohol," said the judge, apparently well-informed on many subjects, "does not affect all persons alike—a small amount in some may produce startling effects." The court cited an Oregon case on the subject of intoxication where it was said:

"Ordinarily a state of intoxication is determined from the manner in which one walks or talks, or both, or from other well-known indicia of drunkenness. In the final analysis it is for a jury to say from all the facts whether one was under the influence at a particular time and place."

Judge Tooze concluded, "The record in this case paints a clear picture of a convivial group of men on an outing, with the accoutrements and extras generally considered 'necessary' to a successful fishing trip. It is almost a matter of common knowledge that such 'fishing trips' usually prove happy and successful ventures, unless and until someone spoils the party by deciding he wants to fish. They customarily do not terminate with such disastrous results as occurred in this case." *Glascok v. Anderson*, Vol. 56, No. 16, May 20, 1953, Oregon Supreme Court.

(Thanks to Joseph J. Thalhofer, LL.B. '52, former President of the RECORD.)

DEAN (Continued)

tion has done a great many things for the School. It has provided many of the portraits of members of the Faculty, which are on the School's walls. It supports the Harvard Law School national scholarship program. And it substantially assists the School in the publication of the so-called Quinquennial Catalogue, which is the directory of all of the graduates and former students of the School, published at five-year intervals. In addition, the Association has made possible the maintenance of the Harvard Law School RECORD since its founding by subscribing for copies of the RECORD for all members of the Association who wish to receive it.

Also, the Association, through its Council, local associations, and its members is of great help to the School in many other ways. It provides a medium for the expression of views by the alumni to the School. The Association has been very active in placement work, which is particularly true of New York City where the local association has been extremely helpful.

LAW WIVES

The Law Wives will meet Nov. 4 in the Wheeler Room of Holmes Hall at 8 p.m. Professor Zelman Cowen will address the group. Husbands who care to attend have been cordially invited.

Members of the Law Wives group are reminded of the Halloween pot-luck supper in Harkness at 7 p.m. Sat.

TRIAL (Continued)

plied "She said something in protest about the gift of the pearls. . ."

A stunned shock swept over the courtroom. Judge Wyzanski stopped the testimony and instructed the jury that they should disregard the answer and must decide for themselves on the basis of the law and the facts whether there had been a gift.

Plaintiff and Judge

During the early part of the trial Miss Price entertained the audience of first-year students by her running battle with Judge Wyzanski, who tried to restrict her to answering the questions asked. Her shy and hurt looks, after knowingly going beyond a permissible answer, brought forth laughs and ingratiation her with many members of the audience.

On cross-examination, however, Mr. Sutherland used Miss Price's vivacious and interpretive statements to impeach her. By comparing some of Miss Price's more interpretive testimony with inconsistent statements from her deposition, Mr. Sutherland was able to cast serious doubt on the accuracy of all the plaintiff's testimony.

The plaintiff's case was saved, however, by Dr. Harmon, who testified with unshakable sureness that he had seen the pearls delivered into Miss Price's sole possession before Godfrey Todd reached for them and broke the string.

As a final word in his charge, Judge Wyzanski said that jury duty is "the most important civic task, besides perhaps military service, most of you will ever be called upon to perform."

Most First-Year Men Enrolled By BSA As 67 Clubs Enter Ames

First-year work in the Ames Competition, now in its first full week, will increase in the next few days when the dockets for two more rounds will be posted. Men competing in Rounds 1 through 4 have already received their dockets and facts, while those in Rounds 5 and 6 will have their dockets posted Nov. 3.

Board Formed 23

The Board of Student Advisers has revealed that there are 67 clubs entering this year's competition, 10 with double courts. Of these clubs the Board has formed 23. Nearly all first-year men are enrolled in Ames work, with only a couple excused.

In an effort to give them a more complete idea of moot court work at the Law School, the Board has assigned the 40 foreign graduate students to 20 clubs. Each of them will be accorded all the privileges of his club and will sit in on his club's fact and brief conferences. These men will not take part in the competition, however.

First Argument Nov. 18

The first oral arguments of the fall will be on Nov. 18, while Dec. 10 is the date set for the final orals.

The Board also announced that it will award prizes for the best briefs and oral arguments in this fall's competition.

Second- and third-year students who wish to judge first-year Ames arguments may still sign up at the Board's office. The Board will award a prize for the best written opinion submitted by a judge of a first-year case.

AITKEN (Continued)

firing its big guns. The Mark III works by the insertion of a perforated tape on a magnetical rolling drum. The drum revolves at 7200 R.P.M., and absorbs information fed to it at this rate. In the Mark III, there are eight such drums. Its capacity for multiplication may be seen in the fact that two 16-digit numbers can be multiplied in 12.5 milliseconds.

The Mark IV is simpler than the Mark III, but its mathematical wizardry is no less spectacular; for instance, it completely analyzes wind-tunnel data while the experiments are in progress; it would have required a year to do the same work with ordinary methods.

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EST. 1898

HARNO (Continued)

This is a self-appraisal of our system of legal education by one eminently capable of such appraisal. Dean Harno acknowledges the handicap of American legal education in not having the colonial counterpart of the Inns of Court.

The obstacles to be overcome, Dean Harno points out, by both the American Bar Association and the Association of American Law Schools, were and continue to be many and varied. Until the power of Elihu Root was brought to bear on the issue, requisites for a legal education threatened to halt the work of the A. B. A. The undercurrent of the opposition was based on the classical "John Marshall and Abraham Lincoln" argument. Opponents of formal pre-legal training and formal legal training pointed to Abraham Lincoln as an example of a man who would not have been able to otherwise obtain an education and of whose genius we would not have had the benefit, while John Marshall was pointed to with pride as the shining example of what a formal education could do.

Dean Harno discusses the advent of the case method, the second major event in legal education following the endowment of professional chairs in Law. He follows the development of the Harvard Law School from Justice Parker to Justice Story, to Langell, as well as the right to recommend and have accepted minimum pre-law requirements and minimum hours of formal law school training.

The net result of this work can be seen in the following figures. In 1951, 125 schools were approved as complying with the standards of the American Bar Association while 40 were unapproved. This report covered a total enrollment of 47,610 students of whom 7,984 were in unapproved schools. The requirement was that all applicants have two years of college work or its equivalent before admission to the bar. Those standards are now accepted in 41 of the 48 states containing 90 per cent of the entire number of law schools.

But, as Dean Harno notes, old problems are replaced by new ones. The inadequacies of the case method are poignantly earmarked and discussed as are the problems presented by law school curricula in attempting to make students aware of the socio-economic implications in the law. The place of legal and professional ethics as a course in such curricula is given serious consideration. Dean Harno, with his deep understanding and rare insight, presents the conflict between the law school and the practitioner in a meaningful and concrete manner.

One further service this volume performs lies in that it is a source for reference material covering all phases of the legal profession. This book is welcome even during this period of crowded bookshelves and shrinking reading time and performs an invaluable service for the law schools of America. G. C.

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FORUM (Continued)

a Lieutenant on a minesweeper in the Mediterranean Theater.

Another viewpoint will be presented by The Very Reverend Monsignor Francis J. Lally, editor since October 1952 of the *Boston Pilot*. He is a graduate of Boston College, '40 and was ordained to the priesthood in 1944. Msgr. Lally took graduate study in social sciences at Laval University in Quebec and was made an Associate Editor of the *Pilot* in June, 1948. Presently, Msgr. Lally is a Lecturer at the Boston College School of Adult Education, a member of the Boston Center For Adult Education and a member of the Advisory Commission of the National Conference of Christians and Jews.

Dwight S. Strong is the Executive Secretary of the New England Watch and Ward Society, the purpose of which, he says, is to strengthen and make effective law enforcement in the fields of gambling, narcotics, vice, and corruption. Prior to his present position, Mr. Strong was the Executive Secretary of the Boston Young Men's Christian Union. Since his graduation from Springfield College in 1930, Mr. Strong has engaged in settlement and youth work and many other community enterprises.

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COURT (Continued)

Petitioner, in my opinion, as a mere federal taxpayer, has no standing to challenge the laws in question. Unable to convince a majority of my brethren on this point, I reluctantly proceed to the merits of the issue raised by the petitioner.

However strongly I am opposed to this measure on the basis of personal policy predilections, I just cannot bring myself to express how unreasonable I think the Congress was in enacting this law. In my opinion, the proper function of the Court is to listen attentively, to think profoundly, to cite profusely, and to be as inarticulate as possible in expressing an opinion. As is often said in Martian business circles, "The customer is always right" so our motto should be: "legislator semper correctus." The precise precedent which I believe applicable is *Mars v. Butler*, 297 F.M.C.A. 1 (2036).

I vote therefore to sustain the statutes in question, believing as I do that I am faithfully following in the exalted footsteps of our great judicial predecessors, Justice Foames and Justice Sandice.

JUSTICE TRAVELER (concurring):

As I see it the main constitutional justification for the statute at bar is to be found in the power of Congress to declare war. If Congress can declare war and provide for the common defense, it can surely take such steps as it deems necessary to maintain our domestic economy in war readiness. How could this clearly constitutional purpose be accomplished if Congress could not take steps to maintain adequate war production facilities? And how could Congress economically and efficiently maintain these war production facilities without placing a firm foundation under the consumer goods market by insuring that mass purchasing power will be constantly available?

There is still another great issue here.

We take judicial notice of recent public-opinion polls which clearly indicate that many Martians are too poor to afford television sets. How else are we going to preserve our great tradition of freedom of expression if too many of our citizens are too poverty-stricken to purchase television sets, and thus to partake of this essential medium of communication? The statute clearly should be upheld.

JUSTICE WHITE (concurring):

I ask you, my colleagues, can there be a right without a remedy? Can there be a right to happiness without the remedy of securing it? What is the meaning of the Declaration of Independence? Was that document not a clear, immutable guarantee of a minimum standard of living for every Martian? Apply the "plain-meaning" canon of statutory construction to the phrase "pursuit of happiness." What could it mean if not that every man has a natural right of being guaranteed a fixed annual income, particularly in these inflation-ridden times?

I am little worried about the problem of constitutional justification, for I contend as always that the Bill of Rights occupied a pre-eminent place in the judicial cosmos of our founding fathers, and that the Declaration of Independence was clearly incorporated by them into the Bill of Rights. The statute before us, therefore, is clearly constitutional.

JUSTICE DOLLAR (concurring):

I feel this statute should be sustained on the basis of one of the most respected traditions of Anglo-Martian law; namely, that one is known by the company one keeps. And accepting this principle of guilt by association, I invoke a corollary here. A statute should be judged by the company it keeps. Since this statute is in the good company of our historic statutes and precedents in favor of social security legislation, I would sustain it on that ground.

JUSTICE BEAD abstains.

JUSTICE THOMES:

Since my law-clerk has not yet returned with my case notes from the Martian Bowl Game, I abstain.

JUSTICE BUTTON (dissenting):

To paraphrase the words of the great Daniel Webster in the hallowed Dartmouth College Case, "Dartmouth is a small college, but there are those who love her." Private property may be a narrow institution, but there are those, like myself, who love it. I believe the statute is, therefore unconstitutional.

JUSTICE AMBITIOUS (dissenting):

I am appalled by the comments of my brethren. To designate them as opinions would be to besmirch further the robes which we wear, and the great Martian Constitutional tradition which we have sworn to uphold.

Here we are faced with a statute, the practical effect of which, will, at the very least, transmute our society beyond all recognition, and at worst, plunge us into an unspeakable state of anarchy—an event for which our fellow planetarians, the Red Martians, have long been waiting.

No one but my learned and scholarly colleague, Justice Candidly, even superficially appreciates the magnitude of the issue before us. And he, as is so often his custom, prefers to remain an umpire, proud of the fact that he never blows a whistle.

It is admittedly in the great tradition of this Court to defer generally to the legislative judgment. But does my earnest colleague, Justice Candidly, honestly believe that were Justice Foames and Justice Sandice here with us that they would allow society to be destroyed for the sake of preserving a judicial

cliche? The question answers itself.

Let us come to the merits of the question before us. To me it seems that we are required to balance here two conflicting principles of great importance. Shall we preserve the right to property, guaranteed by the due process clause of the Fifth Amendment to the Martian Constitution, or shall we yield to the transient legislative judgment of the Martian Congress when it decided to enact this minimum wage law, purportedly in the interest of the general welfare? For my part, I prefer to execute the constitutional mandate entrusted to me, and to remain faithful to the constitution which gives me power. I hold to this view for two reasons:

First, what would the validation of this law and its accompanying tax mean, in practical terms, to the Martian nation? The imposition of the tax would clearly result in a ruinous inflationary fire which by contrast would make that of other planets seem like a smoldering brush fire. The honest earnings of the provident and the capable, and the deserved savings of the infirm and helpless would be liquidated within the hour. The competitive race would be halted, and the orderly struggle for earthly prizes would become a bloody riot.

Second, were this statute adopted, our whole society would lose its moorings. The traditional values of Martian civilization would be irretrievably lost. Protection of minority rights, recognition of individual human dignity, equal opportunity for all, and other like concepts would be speedily swept aside.

Even if our enemies, the Red Martians, were not able to capitalize upon our plight early, widespread disorder would give rapid rise to a military tyrant and would ring the deathknell for our Free Martian way of life. Thus would be exterminated, perhaps for all time, the fragile flower of free institutions.

The judgment of the District Court of Northwest Canal should be reversed, and the statutes in question should be invalidated as inseparable parts of an unconstitutional program.

Judgment affirmed 4 to 2; Justices Thomes and Bead abstaining.

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