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Citizens' Council Enjoined From Blocking Integration

The United States Court of Appeals for the Eighth Circuit has affirmed the action of a district court in enjoining segregationists from interfering with integration of an Arkansas public school.

The action which had been appealed was *Hoxie School District v. Brewer et al.*, 137 F. Supp. 364 (E.D. Ark. 1956). The directors of the Hoxie, Ark., school district asked for an injunction against several individual and associated defendants which included White America, Inc., and the White Citizens Council of Arkansas. Following the decision of the United States Supreme Court in *Brown v. Board of Education*, 347 U.S. 483 (1954), the Hoxie district had taken action on its own initiative to comply.

The defendants staged mass meetings and carried on activities which resulted in wholesale withdrawals of white pupils, designed to discourage the program of integration. When faced with an injunction, the anti-integrationists challenged the jurisdiction of the federal court.

Rights of Plaintiffs

District Judge Albert J. Reeves held that jurisdiction was vested in the federal courts to implement the Supreme Court's school segregation decision; that the plaintiffs here were attempting to comply, and "it was their sacred right to function their offices, and to live as citizens under a government of laws and not of men, and they logically appealed to the national courts for protection under federal law." (At 367).

Judge Reeves said that the suit was permissible under both 28 U.S.C. §1343 and 42 U.S.C. §1985, for "it would seem proper for the plaintiffs, so closely related as they were to the victims in this case, to bring a restraining suit." (At 367).

The appeal was decided on October 25th, and reported in 25 U.S. Law Week at page 2195. Circuit Judge Joseph W. Woodrough upheld the actions taken by the lower court in issuing the injunction; he said that though generally the right to equal protection of the law is a personal right

of individuals, it may also apply when the identity of interest between the party asserting the right and the party in whose favor the right exists is, as here, sufficiently close.

New Jersey Case

In a case decided by the New Jersey Supreme Court on October 29th, a defendant was charged with murder. Under New Jersey criminal practice, a murder indictment does not specify first or second degree; it is left to the jury to find the degree of guilt. N.J. Rev.Stat., §2:138-2. Only first degree murder is punishable by death in New Jersey. §2:138-4. The applicable statute of limitations provided that "No person shall be prosecuted, tried or punished for any offense not punishable with death, unless the indictment therefor shall be found within two years from the time of committing the offense." §2:183-2.

In this case the indictment for murder was brought against the defendant after two years had gone by. But the jury found the defendant guilty of second degree murder, which is not punishable by death. The defendant claimed that his conviction was barred by the two-year statute of limitations, since it did not involve a capital crime.

Speaking for the court, Associate Justice Harry Heher affirmed the conviction. He noted that at common law any homicide committed with malice is murder. The New Jersey statute simply divides murder into two degrees for purposes of punishment only, according to the gravity of the crime, not into distinct crimes. Thus the offense charged was "punishable with death," and was excluded from the terms of the statute of limitations. *State v. Brown*, 25 U.S. Law Week 2192.

In a third case, a lower court of Pennsylvania was called upon to decide whether certain pictures were obscene. The (See DECISIONS on page three)



Calvert Magruder



H. L. A. Hart

Ames Tribunal to Consider Arguments in Model Appeal

The Supreme Court of the Commonwealth of Ames will convene in the James Barr Ames Courtroom Monday evening at 8:00 to hear arguments in the case of *Brumbaugh v. Artcraft Pictures, Inc.* Calvert Magruder, Chief Judge of the United States Court of Appeals for the First Circuit and an instructor in Torts at the Law School, will preside. Other members of the court will be Visiting Professor H. L. A. Hart and Alfred Gardner, LL.B. '22, of the Boston Bar.

Dean Erwin N. Griswold will present the case for the appellant, Brumbaugh. Counsel for Artcraft will be Professor Henry M. Hart, Jr.

Newspaper Advertisement

The litigation arose out of an advertisement which the defendant ran for more than two months in leading newspapers throughout the country. The advertisement stated that \$100,000 would be paid to anyone who could prove that Craig Bilder did not perform all the daring feats of heroic Jack Lawson in the movie, *Son of the Midway*.

At the trial the judge instructed the jury that the advertisement constituted a serious offer to contract. The defendant will contend during the appeal that this instruction was error because the advertisement did not constitute an effort to bargain for a performance in exchange for a promise by the defendant. It was only a dramatic way of stating the fact that Bilder had actually performed in real life all the feats of daring undertaken by the hero of the

film. The defendant will also assert that the advertisement was a wager and thus unenforceable under the principle against forfeitures.

In support of the trial court, the plaintiff will contend that defendant received exactly what it bargained for in its advertisement. It obtained an offer of proof from the plaintiff and also the \$1.80 paid by plaintiff and a multitude of others who read the advertisement and went to see the movie. Furthermore, the plaintiff will contend that the advertisement was clearly not a wager.

Offers of Proof

There also will arise during the appeal the various issues raised by plaintiff's offers of proof to the defendant in refutation of its claim in the advertisement. Plaintiff testified at the trial that he phoned the offices of the defendant and told Miss Coke, the public relations director, that he had proof that Craig Bilder had not done all of the daring feats which Jack Lawson was shown to perform in the movie. During the short conversation which ensued, Miss Coke used words which the defendant claims constituted a revocation of the offer. The defendant will urge that the trial court should have ruled as a matter of law that the words spoken by Miss Coke did represent a revocation, instead of leaving the question to the jury.

The trial court instructed the jury that if it found a revocation by Miss Coke, it (See APPEAL on page four)

Nader, Oliver, Day Win Record Posts

Ralph Nader, 2L of Winsted, Conn., (Princeton '55) was elected president of the HARVARD LAW RECORD at a meeting of the newspaper's Board of Directors last week. He succeeds Henry J. Stern, 3L of New York City, who was elected associate editor of the RECORD.

As editorial manager, the Board re-elected Robert W. Oliver, 2L of Arlington, Va. Mr. Oliver, a 1953 graduate of Harvard College, was a lieutenant in the Marine Corps for two years. Also re-elected was the RECORD's business manager, William A. Day, Jr., 3L of Omaha, Neb. (Harvard '52).

Other directors elected were William L. Blaine, 2L of Dubuque, Iowa (U. of Denver '53), news editor; Joseph A. Page, 2L of Medford (Harvard '55), copy editor; and James C. Paras, 2L of Hyde Park (Harvard '55), advertising manager.

Voters Select HLS Alumni For Congress

Returns from last week's elections show that Law School alumni continue to make a major contribution to national politics. Of all former law students at Harvard, the one who figured most prominently was Adlai E. Stevenson, '22-24, the Democratic candidate for President.

Three men elected to the United States Senate attended the Law School. Samuel J. Ervin, Jr., LL.B. '21('22), a Democrat, was returned to the Senate by the voters of North Carolina. Frank Church, '47-'48, upset Republican Senator Herman Welker in Idaho. John Sherman Cooper, '23-'25, former ambassador to India who returned to run for the Senate from Kentucky, won a four year term.

Bay State Delegation

No Law School alumni were elected to governorships this year, but Milward L. Simpson, '24-'25, Republican of Wyoming, retained his office from 1954. The Massachusetts delegation to Congress includes four alumni. The three victorious Republican representatives are John W. Heselton, '24-'26; Laurence Curtis, LL.B. '21; and Richard Wigglesworth, LL.B. '16. The lone Democratic alumnus sent to Washington by the Bay State is Torbert H. Macdonald, LL.B. '43 ('47), former secretary of the RECORD.

Thirteen men who studied at the Law School were elected to the House from other states. They include Wilbur D. Mills, '30-'33, Democrat of Arkansas; John J. Rhodes, LL.B. '41, Republican (See ALUMNI on page three)

Student Wins Seat In General Court

As reported in last week's RECORD, Robert F. Mooney, 2L of Nantucket, has been elected to a seat in the Massachusetts legislature, coming out on top in a three-way race on November 6th.

Mr. Mooney, who is 26, becomes the sole representative from Nantucket, an island with a population of about 3,500. The new legislator, who is a Democrat, noted that



Robert F. Mooney

the island has always been represented by Republicans in the past.

Because of study pressures and transportation difficulties, Mr. Mooney conducted his campaign chiefly through newspaper advertisements, and confined his personal appearances to weekends and the final days before election. He will take office next January for a two-year term.

Mr. Mooney says that he anticipates no difficulties in combining studies with legislative functions. He reports that the legislature meets in the afternoon, which will allow him to spend mornings in class and still devote adequate time to lawmaking. The legislative salary is \$4500.

Reaction Is Cool To Student Gov't

Results of a recent postcard poll taken by the RECORD reveal that the student body is generally opposed to the establishment of a student government for the Harvard Law School.

About 36% of the 138 who responded indicated their opposition to establishment of student government, while only 28% favored the proposal. The remaining 36% stated that they were indifferent.

When analyzed by law school classes, the figures showed that the first year class was most inclined to favor student government, but only 41% indicated approval while 34% were indifferent and 25% opposed.

In the second year class the idea was opposed by 48%, favored by 14%, while 38% were indifferent. About 25% of the third year men favored the proposal with 40% opposed and 35% indifferent.

Suggestions Offered

Another question on the poll asked for suggestions as to how student government should be established, assuming that it will be started. The most popular answer was expansion of the Dorm Council to include representatives from non-dorm residents, which was suggested by 40%. The idea of an entirely new student organization was favored by 30% and 25% made other suggestions.

The final question on the poll asked in what specific problems could a student government render valuable service. About 46% checked automobile parking, library hours were mentioned by 32%, grading systems by 29%, tensions by 28%, and bicycle facilities by 20%.

Eastern European Experts Interpret Satellite Revolts

Four experts on the Communist-dominated Eastern European states discussed the meaning of the recent revolutions in Hungary and Poland in a program presented by the Harvard Law School Forum last Friday in Sanders Theater. About 650 persons attended the forum.

The program was moderated by Professor Abram Bergson of Harvard, who was introduced by H. Philip Howorth, 3L of



Leon Volkov

Tampa, Florida, president of the Forum.

Marek St. Korowicz, former member of the Polish delegation to the U.N., who defected in 1953, said that at present the revolution in Poland is "merely a breaking away from Russia." He indicated that the Central Committee of the Communist Party "preserved and even strengthened" its position by restoring Gomulka, since it is doubtful that he will give the people the free elections which would enable them to throw off Communism.

Mr. St. Korowicz cited the recent vote in the U.N. against the proposal that the Russians leave Hungary as proof that "in the international sphere, Poland is still dominated by Moscow."

Russia Won't Risk War

Leon Volkov, former Colonel in the Soviet Air Force, and at present a contributing editor of *Newsweek* magazine, said that the President and the Secretary of State "could have emphasized the Hungarian situation more than the Middle (See REVOLTS on page three)

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Causes of Anxiety

Considerable attention has been given to pressures engendered by the competition at the Law School. We hear of those who have torn up their final examinations with vocal assertions that they will never again take an examination; of those who are so emotionally affected by the mounting tensions that they contract psychosomatic ailments in the spring of the year.

The sources of these tensions have never been adequately analyzed. Why do students feel uncomfortable to the point of ineffectuality in their work? Why do obviously capable people accept defeat rather than perform as they know they can?

We suggest several sources of these tensions, which are not common to our society as a whole.

First, there is a social factor operating in many cases. Harvard is an admired and sought-after institution; students from all over the country, from widely differing milieus come here for a legal education. The East, and especially the Ivy League, is a culturally unyielding place. It seldom absorbs the social patterns of the newcomer. On the contrary, it expects conformity, and gets it. The student from the outland adjusts—indeed, he is anxious to adjust, and this anxiety is one source of tension. He buys new, Eastern clothing if he does not have it when he comes; he begins to read books that he has never before heard of; and he learns to behave at social gatherings in a manner that may be foreign to him.

But this rigidity has its good side; the standards of the Law School are in no danger of being lowered. Cast in among his peers probably for the first time in his life, the student is soon forced to an unaccustomed intellectual alertness. He is forced to adopt a humility that he has never needed before.

By the end of the first year, the student knows his fellows; he knows that his word is not taken as authority, and he has been trained to a keenness he never possessed before. During the period of acclimatization, he has been desperately anxious lest the adjustment not go well.

Current Sources

We have looked to tensions arising from the student's past. But there are enough contemporary sources to make him unhappy. Harvard is a supplier of lawyers to great firms of the East, and to business. The received opinion holds that the *summum bonum* is to work for a Wall Street firm. A job in a small town, or for a small firm, or for a firm not in the East, is "grubby." There is something less than normality about one who desires to do less than corporate or securities work, however much of a contribution that individual may make to society in his chosen field.

The incoming student attempts to adapt himself to these goals. He tries to feel that he wants to go to New York or Washington, and he feels a little uneasy in discovering that he may really not want to stay in the East, and commute two hours to work each day. The resultant of the forces exerted by a desire for green grass and trees in a small town, and the desire for the wealth and fame attendant on the Harvard "dream job" can only be tension.

For the thoughtful student the future, too, is a source of concern. At school, he properly sees the importance of law in the world. He is convinced of the significance of the profession in modern society. In the Harvard tradition, he "learns law greatly" and feels that he has a distinct contribution to make to the betterment of the world.

But what does he find when he must begin to practice? First, he may or may not get a job easily. If he stands high in his class, he may anticipate little difficulty. The average student, however, finds that the diploma does not come with an annuity which pays his salary pending employment. Even some Harvard-trained lawyers are hard put to land jobs.

There are thousands of people with LL.B.'s, some with rudimentary training, to be sure, but occupying places in the profession nonetheless. The uncertainty of employment, however slight it may be, produces tension.

An even more important factor is public opinion and its impact on the student. Surrounded by people with the same ideals, the student is isolated from lay opinion. He knows his own standards, and firmly believes in the ethical behavior of his profession. But the community does not uniformly respect lawyers or the legal profession. "Shyster," "mouthpiece," "Philadelphia lawyer" are commonly heard. Business is felt in some quarters to be a more respectable profession than the law.

The student is sure to ask himself whether the assessment of those not at the Law School might not be correct. He necessarily wonders whether he has made a wise choice, whether he will be accepted by the people to whom he returns. This doubt results in more anxiety.

We see no way to get to the root of the problem. But a recognition of these factors may serve to make them manageable.

Thirty

This is the last issue for the current Board of Directors of the HARVARD LAW RECORD. Next week a new Board will assume responsibility for writing and editing this newspaper.

It has been the RECORD's purpose this year to be a serious legal newspaper as well as a chronicle of events at the Law School. In maintaining a balance between outside and local news, we have tried to help the lawyers and students who read the RECORD to keep up with the profession as well as the School.

Publishing a newspaper involves considerable time and effort, but there are compensations for the work involved. One such reward is the sense of accomplishment at the production of a written memorial. The RECORD Board is humble in the sight of what could have been done, but it is not unproud at what has been done.

Book Review

AFL-CIO: LABOR UNITED, By Arthur J. Goldberg. New York: McGraw-Hill Book Co., Inc., 319 pp., \$5.00.

Without feverish emotion or sociological jargon, Arthur J. Goldberg has written a concise volume about America's great labor merger of 1955. Mr. Goldberg is an eminently qualified historian of that merger, for, as general counsel of the former CIO, he was a participant in the merger meetings and was a co-author of the final agreement creating the American Federation of Labor and Congress of Industrial Organizations.

Swiftly tracing the uphill history of the American labor movement during the late nineteenth and early twentieth centuries, he carefully dissects the causes of the split of the AFL in 1935 and the subsequent birth and growth of the militant, new CIO. For twenty years thereafter "dual unionism" with all its attendant jurisdictional bickering seemed a fixed feature of industrial America. Despite this schism, the organization of the unorganized continued until, by 1955, more than fifteen million industrial and craft workers belonged to the AFL (10 million) and the CIO (5 million). But even today, two autonomous organizations, the United Textile Workers and the Textile Workers Union of America, compete against one another in attempting to organize textile workers in Southern mills.

Differences Explained

Why these giant federations could not subserve their differences over two decades is explained with candor in an examination of the friction of personalities and principles. Having charted the history of the division of American labor to its ultimate reunion in December of 1955, Mr. Goldberg addresses himself to the future.

Fundamentally, he urges, the new AFL-CIO, as a federation of many autonomous international unions, is not significantly different in its constitutional structure from its two components. Its

Gallery



RICHARD AMMI CUTTER

Associate Justice,
Supreme Judicial Court of Massachusetts

The appointment of Richard Ammi Cutter, LL.B. '25, as Associate Justice of the Supreme Judicial Court of Massachusetts came as the latest assignment to duty of a man whose experience in public service and the law has been varied.

Justice Cutter was born in Salem, Massachusetts, on May 11, 1902. He attended the public schools there, and the Noble and Greenough School, then in Boston, entered Harvard College in 1918 and received his A.B. in 1922. While in college he was an editor of the *Crimson*.

At the Law School, Justice Cutter spent a year each in the Legal Aid Society and on the *Law Review*, of which he is now Graduate Treasurer. He is Secretary of the Law School Class of 1925, of which Professor Arthur E. Sutherland of the Law School was First Marshal. "Most of us entered college the last year of the First World War," Justice Cutter remarks, "and the early disorganization of our college days contributed to the enthusiasm for our law school class later on in Law School and since." He is proud of the fact that the Class of 1925 has had some nine or ten reunions and has succeeded in establishing an enviable record in support of the Law School Fund. It is the first class to found a class scholarship by its thirtieth anniversary.

Legal Work

Soon after graduating, Justice Cutter married. He and his wife, who live in Cambridge, now have three grown children: Louis, 29, S.B. '48, who is a Columbia University chemical engineering graduate student; Henry, 26, A.B. '52, who studies psychology at Boston University; and Helen, 21, who is a senior at Radcliffe. When he is not in Boston, the new Justice spends most of his time at Randolph, New Hampshire, in the White Mountains.

Once out of the classroom, Justice Cutter worked for a year and a half for the later-to-be Chief

Justice of the Supreme Judicial Court of Massachusetts, the late Fred T. Field, LL.B. '03, who was then in private practice. Then came three years with the Attorney General of Massachusetts, mostly on appellate work. As junior counsel, he helped draft the brief for the United States Supreme Court in *Connecticut v. Massachusetts*, 282 U.S. 660. From 1931 until last month, except for the war period, he was a partner in the Boston firm of Palmer, Dodge, Gardner, and Bradford.

Public Service

These years included periods of public service. After a year of private practice he served as tax adviser to the Governor of Puerto Rico, Theodore Roosevelt, Jr. In 1940 he directed the Metropolitan Division of the Greater Boston Community Fund Campaign, working under Francis C. Gray, LL.B. '15. He was formerly a director or trustee of a number of business and charitable organizations.

When the Second World War came, Justice Cutter served in Washington with the Army General Staff Corps, and held the rank of Colonel by the war's end. He began as deputy to the Chief Counsel of the Office of the Director of Materiel, Army Service Forces, and was principally concerned with matters relating to procurement and supply. This office advised General Lucius D. Clay, LL.D. '50, and, in addition to Justice Cutter, included among its members William L. Marbury, LL.B. '24, presently a Fellow of Harvard College, who headed it; Robert R. Bowie, LL.B. '34, formerly Professor of Law and now Assistant Secretary of State; Benjamin Kaplan, now Professor of Law; H. Chapman Rose, LL.B. '34, formerly Under Secretary of the Treasury; Joseph F. Johnston, LL.B. '30 of Birmingham, Alabama; and Dillon Anderson of Houston, Texas.

Assisted McCloy

In the last year of the war, Justice Cutter became an assistant to John J. McCloy, LL.B. '20, then Assistant Secretary of War and later High Commissioner for Germany, and dealt with general staff problems, including some international law matters. He accompanied Mr. McCloy to the Potsdam Conference in 1946, where Mr. McCloy was principal assistant to the then Secretary of War, the late Henry L. Stimson, A.M. '89, LL.D. '42. Justice Cutter holds the Legion of Merit, with one Oak Leaf Cluster.

After the war he resumed his Boston practice. In 1949 he was elected to the Council of the American Law Institute. Two years later he was engaged in negotiations in Portugal for the Secretary of the Air Force. In 1954 he worked on a study of offshore procurement practices in Europe for the Assistant Secretary of Defense.

In the spring of 1956 he was consultant to John B. Hollister, LL.B. '15, Director of the International Cooperation Administration, in connection with the presentation to Congress of the fiscal 1957 Mutual Security Program. During the same period he served as Vice Chairman, under James A. Fowler, LL.B. '19, of the Harvard Law School Fund.

—Moss

organization will lead to a "laborized society." This question is not expressly answered, but his analysis makes it clear that the question is not a realistic one, for the American labor movement is not a political one. It is not in the European tradition. If there is in America a growing proletarianization of life, that condition and fault must be shared by many institutions, of which the labor movement is merely one.

This is a sane book, the product of a thoughtful lawyer's insight into a major American institution. In this field which is cluttered with turgid academic studies and inflamed partisan accounts, Mr. Goldberg's contribution is one of importance to the literature of American labor history.

—Bornstein

Sub Judice

LITTLE KNOWN CAUSES OF ACTION

Action for diverting attention. This action has been asserted by students of all schools against various forms of distraction. In re *Window*, 16 Look & C. 471 (1540). Most courts have had no difficulty in holding that there is liability for wilful distraction. Ex parte *Spitball*, 42 Infantile Actions 496 (1817).

Where the case is founded on mere negligence, there is a split of authority. *Eager v. Bookdropper*, 85 Loud Reports 2 (1918) (recovery allowed), *Listener v. Latecomer*, 3 Attendance Reports 15 (1922) (recovery denied).

A plea that the complaining student was not smart enough to learn anything has been overruled on demurrer. *Addled v. Snickerer*, 8 Old Appeals 337 (1928). In a later case, however, the same court admitted evidence as to the plaintiff's intelligence as bearing on the question of damages. *Flunker v. Notetaker*, 9 New Appeals 87 (1939).

The most frequent difficulty in these cases is obtaining jurisdiction over the defendant. See *Class of 1896 v. One Swarm of Bees*, 32 Court of First Impressions 85 (1898).

Reference Service Aids Area Laymen

Since 1951, the Boston Bar Association has rendered a valuable service to the public in this area by maintaining its Lawyers' Reference Service.

The purpose of this Service is to assist those unfamiliar with the legal profession in obtaining attorneys best qualified to represent them. For this reason the Service sets high standards for attorneys who register with it, now numbering some 350 local lawyers. They must have not only recognized educational background and experience, but an established office as well.

Each attorney is charged \$10 a year for continuing his registration, and must report to the Service on the disposition of each case referred to him. The Service levies no fee upon its clients, but they must agree to pay a \$5 consultation fee to the attorney to whom they are referred. A prime consideration in a client's referral is the needs of his particular case; but favoritism among member attorneys is avoided as well by a rotation system of referrals. Frederick H. Norton, Jr., Executive Secretary of the Boston Bar Association, is Secretary of the Reference Service.

REVOLTS

(Continued from page one)

East problem." He expressed a belief that Soviet Russia will not risk a military conflict with the West.

Since the cutting down of the secret police, which Mr. Volkov claims has been "two-thirds liquidated since Beria was shot," the Red Army has become a greater power in Russia. "The Generals," he asserted, "have a more moderate view on Communism." He intimated that the prevailing attitude among the military leaders was not expansionistic.

Mr. Volkov gave Marshal Tito credit for laying the groundwork for the revolts by "destroying monolithic Communism and showing what could be done." So long as the Tito government stands, he said, the other satellite governments will seek to achieve a similar degree of independence.

More Pressure on Russia

Dr. Leslie G. Tater, a lecturer and an authority on the satellites, stated that "strong diplomatic and economic pressures" should be put on Russia by the United States in behalf of the Hungarian people. He felt that the Voice of America and Radio Free Europe broadcasts had helped stir up the discontent leading to the revolt in Hungary, creating unintentionally in the people a faith in American assistance should they revolt.

Stoyan Gavrilovic, former Yugoslav Undersecretary of State for Foreign Affairs and delegate to the U.N., spoke approvingly of the U.S. policy toward Yugoslavia, although, he said, "Many persons in my position do not approve of United States policy." Concerning Tito's apparent veering toward Soviet Russia of late, Mr. Gavrilovic said that the policy of this country should merely "continue along the lines it has thus far followed."

ALUMNI

(Continued from page one)

of Arizona; William C. Cramer, LL.B. '48, Republican of Florida; Robert B. Chipfield, '22-'24, Republican of Illinois.

In Maine, Robert Hale, sp. '13-'14, a Republican, and Frank M. Coffin, LL.B. '43 (47), a Democrat, were elected early in September to the House.

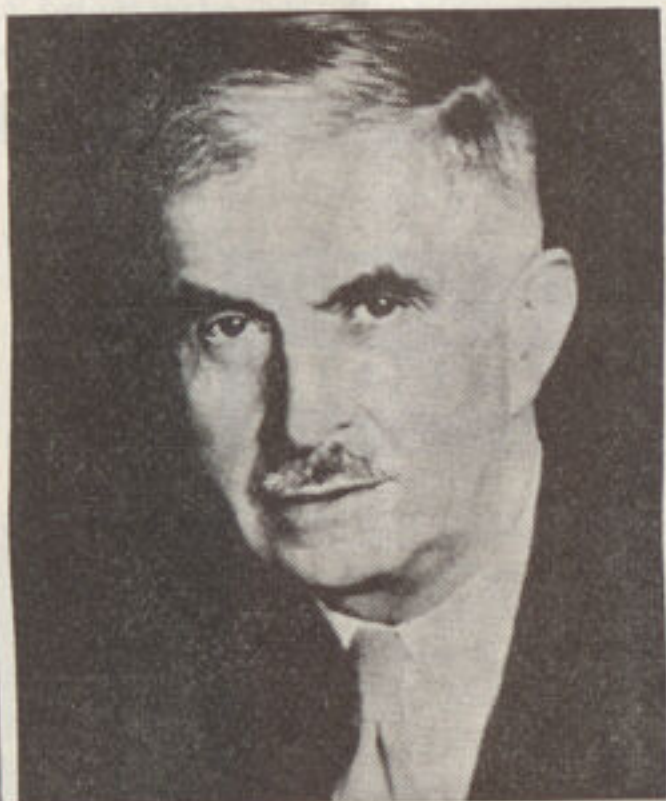
Other representatives include Perkins Bass, LL.B. '38, Republican of New Hampshire; Frederic R. Coudert, Jr., '19-'21, and Kenneth B. Keating, LL.B. '23, both Republicans of New York; John H. Jarman, LL.B. '41, Democrat of Oklahoma; Walter Norblad, sp. '32-'33, Republican, and Charles O. Porter, LL.B. '44 (47), Democrat, both of Oregon. Mr. Porter was the founder and first president of the RECORD. Albert Thomas, '20-'21, a Democrat, will represent Texas.

Representative Dewey Short, '24-'25, a Republican, was unseated in Missouri by C. H. Brown, while in Nevada Representative Clifton Young, LL.B. '49, lost a Senate race against Democrat Alan Bible.

Chuter Ede, Jones To Address Forum

On Friday, November 16, the Harvard Law School Forum will present a program entitled "Education for the Future."

The program, which will be at 8:00 p.m. at the New Lecture Hall, corner of Kirkland and Oxford Streets in Cambridge, features the Right Honorable J. Chuter Ede, M.P., former Home Secretary in the cabinet of Clement Attlee, and Howard Mumford Jones, a professor of English at



J. Chuter Ede

Harvard University and a writer on the history of English literature and education.

Moderating will be Dean Francis Keppel of the Faculty of Education at Harvard.

Both the speakers are authorities in the field of education. Mr. Ede, as Parliamentary Secretary to the Committee on Education was responsible for the extensive revision of the English educational system in 1944. One of Mr. Jones' recent writings on education, *Undergraduates on Apron Strings* appeared in the October 1955 issue of *The Atlantic Monthly*.

Public Defenders Endorsed To Reduce Cost of Justice

The ordinary citizen, one neither rich nor poor, faced with a criminal charge is unable to pay for the necessary legal defense without bankrupting himself. That this situation exists and can be corrected is the thesis of Daniel Dixon, writing in the December issue of *Pageant*.

Mr. Dixon's basic premise, that innocent persons are occasionally subjected to prohibitive expenses in an attempt to defend themselves, must be admitted. The important question is what can be done about it.

The article, "The High Cost of Justice," discusses three possible solutions to the problem: broadening the activities of the Legal Aid societies, enlarging the duties of the Public Defender, and developing a system of legal insurance comparable to health insurance.

Minority View

Legal Aid societies are not the whole answer, according to Mr. Dixon, because of opposition from the legal profession to their extension. Although E. Smythe Gambrell, LL.B. '22, past president of the American Bar Association, is quoted as "growling" for more support from lawyers for the present form of legal aid as the only alternative to less desirable arrangements, Mr. Dixon finds this view in the minority. And, he says, opposition to a system that would aid persons able (if uncomfortably so) to hire outside attorneys is proportionately greater. Further, he remarks that the "most eloquent and convincing argument of all" against the theory of legal aid in its present form is that it is a handout and thus "an affront both to American spirit and American principle."

What Mr. Dixon neglects to add is that someone must pay for the operation of the Legal Aid groups and if their activities are enlarged to help persons not indigent, the added expense to the organizations supporting the societies would be prohibitive.

A better solution to the difficulties facing a defendant of average means, Mr. Dixon believes, would be a wider and fuller use of the Public Defender. Noting that only 12 states now have the Public Defender, and in those cases the office is solely to aid impoverished defendants, Mr. Dixon suggests that a comprehensive system established throughout the country for all defendants in criminal trials could be adopted at a total cost of only 50¢ per taxpayer.

"Ideological" Objections

The objections to the extension of the Public Defender system are primarily "ideological" ones, according to the article. As an example of persons opposed, Mr. Dixon cites Judge Edward J. Dimock, LL.B. '14, who has maintained that a government when it prosecutes a man should not also purport to defend him.

Mr. Dixon refers to Judge Samuel Leibowitz as one who favors the system. But what Mr. Dixon fails to note is that almost all of the support for a Public Defender program is for a system that would defend indigents, not the "ordinary citizen." A Public Defender for all, equipped and staffed as well as a Public Prosecutor, would appear to be highly impractical. As Judge Dimock argues, there would be too much pressure on the Public Defender,

an officer of the court, to compromise his trust.

The third possible remedy is the introduction of mass legal insurance. Mr. Dixon envisages its application to civil as well as criminal actions, and even for the drawing of contracts and wills. He believes that such a system could be developed at moderate cost to the individual policyholder. But he fails to recognize that automobile insurance and personal liability insurance are available. For the average citizen these coverages, along with contingency fees in special cases, comprise adequate protection in the area of civil litigation. The counseling services of an attorney do not represent risk and are thus not adaptable to insurance.

What is left then is Mr. Dixon's pet area, help for persons accused of crime. Legal insurance in that area is not comparable to health insurance. The risks to be insured are less subject to social concern—doctors fight diseases, lawyers at best fight other lawyers. Probably more important, the incidence is decidedly less, and it is highly doubtful whether enough people are concerned with the eventuality of indictment for crime to support a voluntary plan.

Compulsory Insurance

Compulsory insurance, aside from the practical considerations involved, would seem to invite government intervention in a singularly inappropriate area.

A possible solution to the "high cost of justice" is one passed over in the article. Mr. Dixon could well have devoted some of his research to the potentials of a system where a defendant, when adjudged innocent, could recover much of his costs from the prosecuting government.

Mr. Dixon's article demonstrates one important point—laymen are becoming increasingly aware of the inequities of a procedure where an innocent man can lose his savings protecting himself. The legal profession must be equally cognizant of the situation or it will be unable to react to the public's legitimate concern. Today the price of liberty for an accused man may be higher than eternal vigilance.

—E. Levin

Qualifiers' Coffee...

The Board of Student Advisers will sponsor a series of Coffee Hours at Harkness Commons for participants in the Qualifying Rounds of the Ames Competition. All students who argue and their guests are invited to the affairs, which will begin after each evening's arguments have ended. The first Qualifying Round arguments were held on November 9th.

DECISIONS

(Continued from page one)

court reviewed several prior Pennsylvania decisions, and concluded that the test seems to be, is it "dirt for dirt's sake"?

The Court said, "The portrayal of the female form has been the highest goal of the artist from the deeply etched but eroded primitive expressions on the walls of a cave, through the noble, glowing works of Caravaggio, Titian, Rubens, Goya, Renoir, to this day . . . While this court has grave doubts that any of the exhibits presented for its examination in this case will crowd from the gallery walls any of the works of Rubens, Goya, or company . . . our duty is to declare whether they are obscene or not obscene."

Considering the pictures before it, the court decided that though there was a display of nudity, the exhibits were not "sexually impure" or "indecent." *Rodgers, P.J.*, in *Commonwealth v. Hueston*, 25 U.S. Law Week 2194 (Pa.Ct.Quar.Sess., Mercer City, Oct. 26, 1956).

HLS Class of '41 Hears Symposium

The Law School's Class of 1941 held its fifteenth reunion November 3rd, and heard a symposium on "Recent Developments in Securities Regulation," presented in the James Barr Ames Courtroom.

J. Sinclair Armstrong, LL.B. '41, Chairman of the Securities and Exchange Commission, spoke on "The SEC's Role in Securities Regulation." He was followed by Professors Louis Loss and Milton Katz,



Milton Katz

who discussed "Highlights of Federal and State Securities Regulation," and "Securities in the International Field."

After a class luncheon in Harkness Commons which featured a brief address by Dean Erwin N. Griswold, the alumni crossed the Charles to watch the Harvard-Pennsylvania football contest. The day's activities were closed by a banquet in Harkness.

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Chief Justice Warren Lauds Brandeis In Ceremonies Marking Centennial

Characterizing Justice Louis D. Brandeis, LL.B. '77, as one who devoted his whole life "to keeping shackles off people," Chief Justice Earl Warren delivered the major address Sunday at Brandeis University at ceremonies marking the centennial of the great jurist's birth.

The Chief Justice stated that he believed Justice Brandeis would retain his basic approach to life regardless of the changing features and additional complexities of our modern atomic age. Justice Brandeis, he said, "would still believe in personal freedoms: the right to think and believe and to speak, even in dissent."

Role of Responsibility

Justice Warren said of Mr. Brandeis, "he believed implicitly that blessings and responsibilities go hand in hand. He often said that responsibility is the 'great developer.' His great concern for our country was that our vast material wealth, our easily acquired freedom which had been won at such sacrifice in other generations, together with soft living, might cause us to become spiritually weak to the point where we would value luxury more than liberty, and thus permit our freedom to erode."

"He saw the seeds of this evil sown throughout the land, and he determined that so far as he could influence American thought and life, he would not permit our material prosperity to become the cause for falling into comfortable servitude."

"He prepared himself as an individual to meet it. He taught the dangers of it to every youth he contacted. He dissented against its spread in his private life, in his public utterances, in his advocacy in our courts, and as a justice of the Supreme Court."

The Chief Justice indicated that Mr. Brandeis had fought his whole life for individual freedom. Believing that every individual was entitled to an environment

conducive to the fulfillment of his potential, Justice Brandeis adhered to this principle, not as an academic standard, but as a way of life.

Relied on Facts

Defying the *status quo*, Justice Brandeis fought all the powerful influences in our society who opposed any changes. Nor, Justice Warren continued, "did he shrink from the repercussions of this defiance."

Although Mr. Brandeis is generally cast in the role of a non-conformist, Mr. Warren finds it impossible to discover anything negative in his make up. For the late jurist, "every disagreement carried with it a solution."

Justice Brandeis "premised everything on facts, in the assembly of which he had no equal. The logic he employed to reach his conclusions rested on his faith in the individual. That faith made him a liberal; his passion for facts made him a conservative."

"Fortunately, he lived to see his philosophy become that of his government," the speaker added. "He proved not only the right to dissent in America, but also that dissent can be constructive."

Statue Dedicated

During the evening Justice Warren received an honorary degree of Doctor of Laws, and unveiled a nine-foot bronze statue of Justice Brandeis.

The convocation was one of a series of events conceived by Brandeis University to mark the centennial of the man whose name it bears. Other undertakings to honor the late jurist's memory include a joint project with the Harvard Law School to codify the laws of the state of Israel; establishment of a series of creative arts awards; and publication of the collected writings of Justice Brandeis.

APPEAL

(Continued from page one)

must decide for defendant. It instructed that there is no such thing as part performance which prevents revocation of a unilateral contract by the offeror. The plaintiff will contend that this instruction was erroneous in view of the present majority rule and the *Restatement of Contracts*. He will argue that in the present case the purchase of a movie ticket by plaintiff and millions of others constituted part performance, and that plaintiff went even further and offered to defendant the exact proof requested by it in its offer.

To rebut this, it will be said that the remedial doctrine of part performance has no application where no injustice would result for the offeree under the traditional rules governing the revocation of unilateral contracts.

After plaintiff's phone conversation with Miss Coke, he sent an affidavit to defendant embodying his alleged proof. His proof was based on information about two scenes which he had secured from Lockwood Heath, a stuntman employed by defendant. One involved the rescue by Jack Lawson of a child about to be hit by another car on the top of a roller coaster. This feat appeared daring but was really trick photography and not dangerous in fact.

Meaning of "Daring"

Lockwood Heath admittedly played Jack Lawson in this scene. The trial court ruled that the word "daring" in defendant's offer meant daring in fact and that plaintiff's offer of proof as to this event did not entitle him to recover. Defendant will support this ruling. It also will contend

Dormitory Council Sponsors Hockey

Positions are open on the Law School hockey team, Fred Paulsen, 3L of Belmont, chairman of the Dormitory Council Athletic committee, has announced.

The team, which plays other Harvard groups, will meet Friday, November 16, at Watson Rink, Soldiers Field to practice. The team will enter competition in December and will play twice a week through February. Until then there will be periodic practice sessions for team members.

"Two or three full teams are necessary for really effective play," Mr. Paulsen said; "there is plenty of opportunity for anyone who wants to participate."

Students interested may call Mr. Paulsen at UN 4-0033 for more information.

Segal to Address Student Bar Lunch

Robert M. Segal, LL.B. '42, Boston labor lawyer, will speak to the Harvard Student Bar Association at a luncheon November 21. He will speak on "Labor Law and Its Practice."

The luncheon will be at 1 p.m. in the Mallory-Smith Room of Harkness Commons. It will be the second of a series on monthly luncheon meetings for the Student Bar.

Mr. Segal is chairman of the labor relations section of the American Bar Association, and counsel for the Massachusetts Federation of Labor. He is active in the affairs of the Harvard Law School Association.

that in any event the trial court should have accepted this interpretation by defendant, because it was reasonable and in good faith.

Plaintiff will urge that the trial court's interpretation was incorrect because such an interpretation by the reader of the advertisement would have destroyed the offeror's purpose to convince the public that it would see in the movie really daring feats. Plaintiff will argue alternatively that at the very least, the judge should have left the construction of the term "daring" to the jury.

The second scene of the movie involved in plaintiff's offer of proof showed Jack Lawson falling from a speeding automobile. At the trial, Craig Bilder and Lockwood Heath each claimed that he recognized himself as Jack Lawson in that scene. During the shooting of the film, nine "takes" of the episode were photographed. Heath portrayed Jack Lawson in four of them and Bilder performed in the remainder. Defendant will urge on appeal that the trial court should have ruled that Bilder was the person in the "take" used in the final version and thus it erred by leaving the question to the jury.

Burden of Proof

The fact that plaintiff's source of information was Lockwood Heath raises another point at issue between the parties. The trial court instructed the jury that it should find for defendant if it determined that defendant had told Heath not to disclose information about his work to non-employees and if plaintiff knew of this duty on Heath's part and induced Heath to violate it. Plaintiff will attack this instruction with the contention that as a matter of law the defendant failed to carry its burden of proving inducement by

Alumni Notes

LL.B. '37—*Abram Collier*, Chairman, *Kenneth Bergen*, *Jerome D. Goodman*, *Norman Landstrom*, *John Litwack*, and *Bertram Loewenberg*, all practicing in Boston, are serving as a Committee arranging the 20th reunion of their class to be held at the Law School next May.

Harry M. Plotkin has become a senior partner in the firm of Berge, Fox and Arent, Ring Building, Washington, D. C.

LL.B. '50—*Albert I. Gordon* has announced the opening of his office for the general practice of law at 220 Marine Bank Building, Tampa 2, Florida.

LL.B. '52—*Theodore J. Horvath* joined the legal department of The Cleveland Electric Illuminating Company on October 22. The address is 75 Public Square, Cleveland, Ohio.

Alan Jay Hartnick has just been released from active duty with the United States Navy, with which he has been serving as a lieutenant junior grade. Mr. Hartnick will join the legal staff of the American Society of Composers, Authors, and Publishers, at 575 Madison Avenue, New York City.

plaintiff. He also will assert that discussions by offerees with employees of the defendant were invited by the very nature of defendant's offer.

During the trial the court admitted generally, over plaintiff's objection, the shooting script for the movie. In support of the trial court's action, defendant will argue that its general admission was correct under well-established rules of evidence and that in any event, it could not have been prejudicial to the plaintiff.

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