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FIFTEEN CENTS

Grads Cite Causes of Bar Failure

Most students who flunk state bar examinations do so simply because they do not take the task seriously enough, Secretary Russell H. Peck reported this week.

Releasing the results of a questionnaire sent to 233 members of the Class of 1963 who took the New York and Massachusetts exams, he said the single reason most often mentioned was the failure to study enough.

Other factors cited were "nervous tension, anticipation of marriage, 'bad luck,' and, more often, the difficulty of settling down to study and take a bar examination right after the hard pull of the third year, with its examinations and the third-year paper to be completed."

Secretary Peck said the reasons mentioned "were exactly those things which most of us would expect them to be," but "it seemed to be worthwhile to find out what the students themselves thought about the problem."

Many respondents pointed to the need to memorize the peculiarities of local practice. In contrast to examinations at the Law School, many felt that stating rules of law was more important than a display of reasoning in answering the question.

The questionnaire was sent after Dean

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Secretary Peck

Apartheid Explained

By Myer J. Sankary

What was billed as a "major policy address" to be delivered at the Law School Forum last Friday night turned out to be no more than a bill of particulars describing the present conditions in South Africa under apartheid.

G. Mennen Williams, Assistant Secretary of State for African Affairs, apparently abandoned a plan to deliver a serious indictment against South Africa's apartheid policy on direction from his superiors in the State Department, according to published news sources. Instead, the Secretary's speech

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WIRTZ TO GIVE HOLMES TALK

Secretary of Labor W. Willard Wirtz will speak on "Right and Responsibility" in the annual Holmes Lecture at 8 p.m. Wednesday, March 25, in the Ames Courtroom.

Who Are the Sloppy Ones?

The newest crisis in legal education at the "Ivy League" schools is the increasing percentage of graduates from those law schools who are failing state bar examinations, particularly in New York and Massachusetts. In the first issue of the RECORD this semester Dean Griswold described the situation as alarming and suggested that graduates of Harvard Law School, at least, had become "pretty sloppy" about taking bar exams. The results of the survey conducted by Secretary Peck and reported in this issue tend to support this conclusion.

We suspect that from the graduates' point of view the final answer, in the words of one respondent, is "hard dull work in a bar review course." But perhaps the question should also be asked in reverse—Have the bar examiners become sloppy in their approach to the exams which they administer? In testing law graduates' mastery of minutiae, are they exerting intelligent control on entry into the Bar?

A good deal of ordinary legal practice no doubt involves more technological skill than reasoning. A definite advantage belongs to the lawyer who can flip with ease through the statutes of his state and discover the answer to the question at hand. A client is not getting his money's worth from a lawyer who does not know the essential details of the law.

But a client is perhaps more seriously disadvantaged if he has a lawyer who is unable to engage in careful reasoning. Testing this ability would seem more important than testing an individual on legal details which he will probably forget unless he has opportunity to use them in the course of his practice. It is essential to real control of the quality of the profession. Questions which require analysis are harder to grade than questions which have a right and wrong answer, but perhaps the time has come for bar examiners to buckle down.

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TONGUE 'N CHEEK

By Fenno

I was sitting in the library last week watching the Ames teams fighting with each other when a warm breeze floated in through a window that was, no doubt, opened by mistake. Naturally, my thoughts turned to that summer festival, the New York World's Fair.

One of the biggest features at the Fair will be the Legal Pavilion, known as "Lawville." The plans call for the building to be shaped in the form of a huge woman, blindfolded and holding the scales of Justice. In each scale there will be a restaurant. The one in which liquor is served will be open only to members of the Bar.

"Lawville" will feature a number of fascinating exhibits. One will be a panel discussion, continuing throughout the two years of the Fair, on the reapportionment decisions. Another will give visitors a chance to see if they would qualify as jurors in the Ruby trial.

In line with Fair practices the pavilion will also contain all kinds of amusements and games. At one booth contestants can take their chances betting on the outcome of cases before courts and at another booth players can win a volume of CJS by guessing the holdings in various famous cases.

In conjunction with a car rental company, one concession will provide fortunate visitors with a whip-lash injury and a directory of lawyers in their home states.

A small monorail is now being built which will guide passengers on a trip through famous legal battles. The life-like exhibits will feature Mrs. Sibbach's medical examination, the Pierson and Post fox hunt and the arrival of the Peerless at Liverpool.

The promoters of "Lawville" have been interviewing at various law schools seeking qualified students to serve as guides and to sell refreshments. Sorry, but the job of placing the decomposed mice in the soft drink bottles has already been taken.

Six Will Clerk on Supreme Court

By Robert A. Grayson

Three members of the Class of 1964 and three members of the Class of 1963 will be serving as clerks to Justices of the U. S. Supreme Court next year. Those graduating in June are Paul Posner, who will work with Mr. Justice Brennan, Stephen G. Breyer with Mr. Justice Goldberg, and Paul M. Dodyk with Mr. Justice Stewart.

Last year's graduates are John G. Kester who is presently clerking for Mr. Justice Black and will return for another year, Charles R. Nesson who will clerk for Mr. Justice Harlan, and W. Thomas Finley for Mr. Justice Brennan. All six students have been Law Review editors.

An incomplete survey of the class showed at least 18 other students who will clerk in Federal courts or in the highest court of their state.

Stanley N. Futterman will go to the First Circuit to clerk for Judge Aldrich. In the Second Circuit Robert C. Means will work for Chief Judge Lombard, Michael Boudin for Judge Friendly, Albert S. Pergam for Judge Kaufman, and Owen M. Fiss for Judge Marshall. Judge Weinfeld of the District Court for the Southern District of New York will employ Daniel P. Levitt.

Two June graduates will move to the Fifth Circuit. They are Jerome I. Chapman and R. Gordon Smith who will clerk for Judges Tuttle and Bell respectively.

Gerald E. Frug '63 will work with Mr. Justice Traynor of the California Supreme Court. Richard M. Mosk, also a member of the Class of 1963, will clerk for Mr. Justice Brennan on the same court.

The New Jersey Supreme Court will have four members of the graduating class serving as law clerks. They are Stanley L. Benn and Bruce D. Shoulson for Chief Justice Weintraub, Joel A. Wolff for Mr. Justice Jacobs, and James C. Kellogg for Mr. Justice Francis.

Harvard will be represented on the Supreme Court of Illinois by Errol L. Stone who will clerk for Mr. Justice Schaefer.

Ronald A. Kessel and Joseph D. Steinfield have accepted positions in the Supreme Judicial Court in Massachusetts. Kessel will

work with Mr. Justice Spalding and Steinfield with Mr. Justice Reardon.

Judge Freedman of the Federal District Court for the Eastern District of Pennsylvania will employ Barton J. Winokur.

Students Win Brookline Elections

Two Law School students, Martin A. Linsky, 3L, and Leonard Kopelman, 2L, won seats on the Brookline Town Meeting in upset victories last week.

Running in the politically active Sixth Precinct, Linsky went out to meet the voters in their homes and talk to them. His month of evening campaigning was well spent; of the ten candidates for seven seats Linsky finished first. Though a political novice, he was named on more ballots than any one of the six incumbents, and his 608 votes represented a large percentage of the less than 1,000 Brookliners voting in his precinct.

Kopelman's campaign in the First Precinct succeeded because of the organization of his supporters. While he spent little time on it himself, his backers hit the voters by telephone and letter so that on election day he received 509 votes and finished third, a mere four behind his next opponent and only 20 behind the precinct's top vote-getter.

As Town Meeting members, Linsky and Kopelman will join 250 other Brookline citizens (there are 21 members from each of 12 precincts; seven are elected in each precinct each year) at the Meeting on April 7 where the "Warrant," which contains the town's budget, will be considered. This key document is drawn up for presentation to the Meeting by the town's five selectmen.

The Ides of March

Being aware of the Ides of March, the RECORD staff is going into hiding for the weekend. The editors will probably come out, however, to investigate any shrieking on Everett Street in order to report it in the next issue of the RECORD which will appear on March 26. Who knows? There might be an editorial on Cassius Clay.

Bar Exams Tough

(Continued from page 1)

Griswold reported in January that the increasing percentage of failures was becoming a serious concern of Harvard and other national law schools. New York and Massachusetts applicants were chosen because of the high number of Harvard graduates taking the exams and because the states make the results available to the School.

Of 162 quizzed on the New York test, 107, including 24 who failed, answered. Of 71 taking the Massachusetts exam, 56, including 9 who failed, returned the questionnaire.

Almost all the students agreed that a bar review course is essential. Only two said they had not taken a course. One, taking the Massachusetts exam, passed. One, taking the New York exam, failed.

Law School grade averages of those who failed ranged in New York from 66 to 73 and in Massachusetts from 64 to 73.

The amount of time spent studying showed that for almost everyone, it was a steady grind. In New York, 35 said they spent 4-6 hours a day, six or seven days a week studying in addition to attending the review course.

Fifteen more said they worked 2-3 hours a day until the last few weeks when they spent an additional 8-16 hours every day.

The comments were more revealing, however. One man, who had a 71 average at Harvard, said of the New York exam: "I have no idea how I passed. I found the exam extremely difficult. Analysis of problems stressed at Harvard is only the beginning, as answers to substantive questions are required.

"Issue spotting is not enough. I do not see how Harvard can really help. What we lack is knowledge of substantive New York law, and knowledge of detail. Harvard simply cannot stress this sort of thing and remain a national law school. The only solution is hard dull work in a bar review course. It is unintellectual, but is the price I am sure we are all glad to pay to have been able to spend three years at a more intellectualized study of the law in the Harvard manner."

One who passed the Massachusetts exam described the review course this way: "It's all spoon feeding; so the temptation to relax is reinforced by the general euphoria that comes from sitting in class hearing a kindly

old man give you a definition of a tort. Hell, you already know — you're way ahead. Etc.

"But woe betide the fool who realizes too late that the bar exam covers about 25 'subjects' and that you only have one month at best to cram it all in, including the *Spade* doctrine and the Massachusetts corporation rules (when is a 2/3 vote of the directors necessary) and those special statutory provisions relating to contracts to make a will, etc. Get going. Cram it all in, each night, regularly — be disciplined for just one more month.

"You already know how to spot issues and think like a lawyer and organize. What you don't know is the Massachusetts rule on the thousand and one things which at Law School it was good enough to know that there was a conflict between the jurisdictions over. CRAM."

Another student who found the whole process "distasteful" said he took the review course "because it seemed to be the easiest way to force myself to study for the exam. I remain convinced that I could pass the exam without taking the course if I could force myself to study for it." But he added that "if I had to take the exam again (God forbid) I would probably take the course again, because my will power for that kind of study has not increased."

Secretary Peck said no exact records have been kept on bar exam performance and comparisons can only be impressionistic. But he believes he sees a pendulum effect at work and thinks Harvard students are now at the sloppy end of the swing.

"Students have forgotten that the exams are difficult. Publication of results like these will result in more diligent preparation — and that's all that is necessary for success."

Defenders Elect Officers

The Voluntary Defenders recently elected new officers for the coming year. The officers are: President, Thomas A. Welch, 2L; Vice-President (Operations), David C. Tierney, 2L; Vice-President (Research and Appeals), James B. Zagel, 2L; Vice-President (Training), Norman B. Smith, 2L; Roger P. Pascal, 2L, and Barnet D. Skolnik, 2L, were elected to the Membership Committee. The officers assumed their new duties on March 9.

Peabody Discusses Failure of States

By Richard A. Hannaway

Massachusetts Governor Endicott Peabody took some time out for a little partisan politicking at the Presidential level in his speech before the Harvard Law and Graduate Democratic Club Monday night.

"The complaint of 'creeping Federal government' invading the province of the states is a favorite theme among Republicans running for the Presidency," he said. "But when the latter are asked to cite examples of programs which they would transfer from Federal to state control, they do not answer because it would lose them votes."

Governor Peabody said he believed that the increasing activity of the Federal government was merely a necessary result of the increasing complexity of the problems facing our society. "I do champion the role of state government," he said, "but in the setting of today's society — not the society of 20, 30, or 50 years ago."

The expansion of the Federal government, Gov. Peabody found, results from the inability of the states to meet their problems. He gave four major causes for the failure. The first was lack of funds to carry out needed programs. "Although the budgets of state governments have, on the average, quadrupled in the short period since the end of World War II, the states could use more money in almost every department. Lack of funds for the energetic programs needed has kept the state role in these programs down to the minimum."

The second major source of weakness was the outmoded and inefficient constitutional and administrative procedures which afflict most state governments. Using Massachusetts as an example, he said the Governor's Council was originally set up to frustrate the Governor, who was at that time the appointee of the Crown. The Governor has since become an elected official, he said; but the Council still fulfills its original function splendidly.

He said that because heads of important state departments are appointed for a term exceeding that of the governor who appointed them, "they develop 'little governments'

within their agencies, largely unresponsive to the wishes of the governor."

A third source of weakness has been the lack of proportional representation in state legislatures. Happily, this is not a problem in Massachusetts, he said. But in states such as Georgia, where a farmer's vote has six times the weight of an urban voter's, the rural element can control the state legislature and block progressive programs.

Fourth, he said, "often a state will be prevented from engaging in large scale social welfare programs by fear of losing business to states which do not have such programs." Governor Peabody said the movement of textile firms to Southern industrial states was a good case in point. The firms have moved South for lower taxes, cheaper power, less expensive workmen's compensation and similar advantages. Whenever a Northern state contemplates expanding its services, there is always the inhibiting factor that the higher taxes to pay for the programs may drive business away from the state.

Summing up, the Governor said, "These cumulative weaknesses, growing up over a period of time, have caused the people to look to Washington for the needs which their states have been unable to satisfy. Municipalities, fed up with the inability of state governments to help them, are looking to Washington for the aid they need. Thus the state has mainly itself to blame for its diminishing role."

Among the possible remedies Gov. Peabody advocated state constitutional reforms and he suggested an advisory council of governors

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Urrutia to Address Forum

Dr. Manuel Urrutia, the first President of Cuba under Fidel Castro, will address the Harvard Law School Forum on Friday at 8:30 p.m. at Rindge Technical High School in a program entitled "Communism, Democracy and Cuba." Ernesto Blanco, a former Cuban lawyer, will also be among the panel of noted Latin American and Cuban experts participating in the program.

Williams on Apartheid

(Continued from page 1)

buried criticism of the apartheid policy under a barrage of officially published statistics.

Some of the more important statistics revealed that non-whites outnumber whites by four to one; that nowhere do whites outnumber blacks either in urban or rural communities; that Black Africans are detribalizing and moving to urban areas; that blacks are increasing at a much greater rate than whites; and that the economy which is controlled by whites is dependent upon cheap non-white labor.

Moderating the discussion was Rupert Emerson, professor of government at Harvard. The other two panelists, H. E. Bwruudi Nabwera, Kenyan Ambassador to the U. N., and Herbert S. Spiro, associate professor of government at Amherst, were unrestrained in their disapproval of the present government in South Africa and were dissatisfied with the United States policy in this area.

Williams said that "the United States shares in the condemnation of the policy of apartheid," but "opposes expulsion of South Africa from the United Nations." "The best way to bring about a change is to keep South Africa in the U. N. and subject it to pressure," he suggested. The Secretary pointed out that the United States has banned the sale of arms and military equipment to South Africa, but when asked whether the U. S. would support an oil embargo, he said that such a measure would not be supported now because it would be ineffective.

All the panelists seemed to agree that economic pressures would have little effect in changing the political structure of South Africa. The only way to change the situation, Nabwera claimed, is by armed conflict. He said that many African countries are thinking of ways to aid in the overthrow of the present white government. "The choice is whether the present situation will continue or whether we believe it is wrong and must be changed. Once we have decided, we must resort to arms and spill blood if necessary as the only solution."

Spiro condemned U. S. policy toward South Africa, saying "our hesitancy, equivocation, and apparent hypocrisy have made me

ashamed. It is one of the few occasions I am unable to be proud to say I am an American citizen." He noted that in the U. N., the United States has abstained or voted against resolutions urging condemnation against South Africa mainly on procedural grounds. He stated his belief that South Africa is still susceptible to pressure if done by states which are resolved to stick to a policy.

Spiro suggested that the first step should be to persuade ourselves that we are opposed to apartheid. "If we do not make this commitment," he said, "we may lose our reservoir of good will, buttress the resolve of the government of South Africa, and enhance violence." He suggested that it is a perfect opportunity for the United States to be on the right side, for it is a time when justice and expediency coincide.

Williams answered Spiro's criticism saying that he believes that the U. S. had made such a commitment, but the problem is to make this commitment credible. "The U. S. has moved, not fast enough for some, too fast for others. Our object is to crumble the walls of Jericho."

Peabody

(Continued from page 5)

and another of mayors to aid the head of each major Federal program in planning at the local level. "Such a system would create strong grassroots interest in and support for the program and the influence of the governors could counteract the trend to centralize all decision-making in Washington which frequently slows down Federal programs."

BSA Chooses Officers

The Board of Student Advisers has elected new officers. J. Eugene Marans, 2L, will be the new Chairman, and Edwin S. Kahn, 2L, will serve as Vice-Chairman. Since the Board's membership depends on rank lists, alternate officers were also chosen in case either of those now serving graduates to the Law Review next year. Arthur L. Rebell, 2L, is first alternate, and Eddy J. Rogers, Jr., 2L, is second alternate.

Canham Finds Newspapers Financially Weak

by Robert L. Clarke

"It has become increasingly expensive to publish and to achieve an earning capacity from circulation and advertising. There has been a wave of consolidation of morning and evening dailies in the United States, and many cities have lost papers in recent years because of the tricky economics of the business," Erwin D. Canham, Editor of the *Christian Science Monitor*, told an International Law Club audience on Tuesday, March 3.

Mr. Canham expressed concern about the financial difficulties generally faced by the newspapers in Western Europe and the United States, and commented specifically on the problems facing Boston and New York papers. "There are quite a lot of Boston papers and they are not notably healthy. Some New York papers are losing money or are on a ragged edge," he added.

As a remedy to this situation, Mr. Canham called for a technological revolution. Rather than attempt to get government subsidies, Mr. Canham urged that the newspapers work the problems out themselves. "A great deal of the responsibility is on the unions to reduce their staffs. They need to phase out those duties which are obsolete." As an example, Mr. Canham noted that every new typesetting machine has an extra man earning a high salary and doing no work because of the union contract.

Prompted by the New York newspaper strike, many papers have increased their efficiency by using computers to set the type, but this does not noticeably reduce costs.

In efforts to achieve broader circulation, Mr. Canham believes that newspapers must change their character to fill the gaps left by the electronic media. "A newspaper is scooped by radio and television every day of the week in breaking the news, but the role of the newspaper is to discuss the issues — to add value to the event with background material."

Mr. Canham praised the existence of specialized national dailies such as the *Wall Street Journal*. "Their strength is that they do things no other newspapers try to do, such as relying exclusively on their own staffs. They have avoided labor problems by publishing away from large metropolitan areas."

Turning to the international press, Mr. Canham pointed out the increase in quality newspapers in many areas of the world and cited the difficulties which they are facing in becoming established. "The newspaper press is strongest in Germany and Japan. In both countries the newspaper has become a potent force after gaining its independence from strict government control during World War II."

Unfortunately this is not true in all areas. "Most of Asia is a tragic contrast," Canham stated. "Of a population exceeding a billion (excluding Communist China) only 46 million persons have access to daily newspapers and 36 million of these are in Japan. Only four per cent of India's literate population reads a daily newspaper."

The principal difficulty in these countries besides high costs is the problem of adapting to the needs of a diverse population. In some areas such as Indonesia and Africa, political control discourages an opposition press and few of the new African nations have newspapers at all. Mr. Canham indicated that efforts by the Ford Foundation to establish newspapers in these countries had met with "only limited success."

"As it is, the word gets around in many areas by clandestine presses and radio transmitters," said Canham. He foresees the growth of such news media in new nations as an influence toward more balanced government."

On the whole, Mr. Canham considers newspapers better today than in the past. Part of the criticism they attract stems from the necessity of catering to the entire community. One difficulty is attracting the reader's attention so that the papers will be read. "It is easy to enter minds with stories about the little girl who falls in a well, but it is hard to get people to read of an agriculture crisis in Burma," Mr. Canham concluded.

Mixer Set for Tomorrow

The Dormitory Council is sponsoring a mixer Friday the 13th of March at 8 p. m. in Harkness Commons. Young ladies from Mount Holyoke and Smith College are anxiously waiting to attend.

Humphreys Plugs for Grass Roots Politicking

by Theodore S. Curtis, Jr.

"Don't worry about money when you are a candidate," counselled Mr. Ray Humphreys to a Republican Club audience at Harkness last week. Republican National Committee staffer Humphreys was the originator of MORE, Mobilization of Republican Enterprise, and is an advocate of more local organizational work by his Party.

"All you need to do is ask for money and the community leaders will provide it" if you are a candidate with a strong organization. Campaigns, Humphreys explained, are won by good candidates, issues and organizations.

"Power, prestige, or profit are the motives of most people who become active in politics," Humphreys maintained. The best organizers can be recruited to run and assist in political campaigns if they have a personal interest in victory.

The Republican Party is a minority, he said, for two reasons; first, because it does not recruit enough workers in the South and, secondly, because no auxiliary organizations conduct registration drives in its behalf. Humphreys pointed with hope to the strong showing of the Republican candidate in the Mississippi gubernatorial election. The GOP received 40% of the vote when for the first time in most men's memories the Party entered a serious candidate. Humphreys credited the success in Mississippi to strong grassroots organizational work.

The Republicans are faced throughout the country, he stated, with the ADA, COPE, CORE and the NAACP which recruit workers and register voters, almost always for the Democrats. The Republicans desperately need more registration drives, Humphreys said.

Humphreys commented that three out of every four dollars spent on most political campaigns is wasted, and he disapproved of the 1964 National Committee budget, esti-

mated at \$10,000,000, particularly its allocation of \$7 million for media. Rather than spend so much money on radio and TV, the Party would be well advised to provide more financial support for local organizational efforts, especially the hiring of full-time personnel to help Republican candidates in their local campaigns.

In response to a question of whether Senator Goldwater has spent \$125,000 on the New Hampshire primary, Humphreys replied that he did not know, but "if Goldwater has spent that much on the New Hampshire campaign, he has wasted his money."

Ames Finals Set for April 17

The Hon. Arthur J. Goldberg will step down temporarily from the Supreme Court of the United States on Tuesday, April 17. The occasion will be the Final Round of the 1964 Ames Competition when Mr. Justice Goldberg will preside as Chief Justice of the Supreme Court of that other honorable republic, the United States of Ames.

Also hearing the argument between Arthur J. Lombard and J. Laurent Scharff of Marshall Equity for the petitioner, and James D. Lorenz and Joseph A. Wheelock, Jr. of Griswold Equity for the respondent, will be the Hon. Mathew O. Tobriner, Justice of the California Supreme Court, and the Hon. Harry A. Blackmun, U. S. Circuit Court of Appeals, Eighth Circuit.

The case on appeal concerns whether it is an unfair labor practice (1) for an employer to refuse to bargain with respect to a decision to terminate an unprofitable part of his business and (2) for members of a multi-employer bargaining unit, who lock out their employers in response to a whipsaw strike against one of the members, to hire temporary replacements to keep their business operating in response to similar conduct by the struck member.

Of counsel on the brief are for Marshall Equity: Thomas B. Arnold, John B. Bailey, James R. Hopkins, Jack L. Lawing, Alan H. MacPherson and Jerrold I. W. Mitchell; and for Griswold Equity: John H. Betz, Ann D. Cronkhite, Harrison C. Dunning, Robert C. Embry, Jr., and Paul B. Galvani.

The Creation of a Book

Steps in the making of a book from the original manuscript to the bound volume will be on display in the Law School library until April 10. The book to be illustrated is *Law and Land*, edited by Professor Charles M. Haar.

Teaching: A Demanding Experience

By Daniel J. Kucera

"If you really want to feel spent, teach a couple of classes in a day!" A wide grin wrinkled his serious brow. "You're regularly dealing with the perplexing, the unresolved problems and you never know what the class will raise. I find teaching very stimulating and intellectually and emotionally demanding."

Visiting Professor Robert A. Girard relishes it that way, however, and has praise for his antagonists on the other side of the seating chart. "I am greatly impressed by the students here — their intellectual ability, their aggressiveness and articulateness. Their ability is, of course, a principal strength of this extraordinary Law School."

An associate professor at the Stanford Law School, Mr. Girard presently teaches a section of Torts here as well as two seminars: Civil Liberties in the United States and Government Restraint of Private Racial and Religious Discrimination. The seminars are designed to make a "comprehensive, balanced" inquiry into a number of constitutional-civil rights issues. "There is much discussion and publication of these issues, but I find a lot of it poor in quality and not very helpful," he explained. "There seems to be an abundance of self-styled experts in the civil liberties area who often focus on only one aspect of a problem or on some of the relevant considerations, and then shoot off on some course of action. I think that members of the legal profession might aspire to something more satisfactory."

Graduating summa cum laude from the Law School in 1956, Professor Girard was a Sears Prize winner, a member of the Law Review, and later clerk to Mr. Justice Black. Although he has been a teacher only a few years, he has taught a variety of courses — from equity to torts, contracts to constitutional law.

Mr. Girard is enthusiastic about the Stanford Law School. "We also have fine students, and the school has progressed increasingly in the last 15 years." He sees "a unique opportunity there to develop a first-rate institution for legal education and scholarship — something especially needed in the West. One important advantage is Stanford's



Professor Girard

student body of only 350-400. Present plans are to keep it about that size, yet invest many more resources in the school. The small number of students allows a greater flexibility for experimentation in teaching methods and course requirements, particularly in the third-year. It also permits a more personal student relationship. I think that one of our important objectives should be to develop an atmosphere where students, from the beginning, feel like true partners in an ongoing educational and scholarly enterprise."

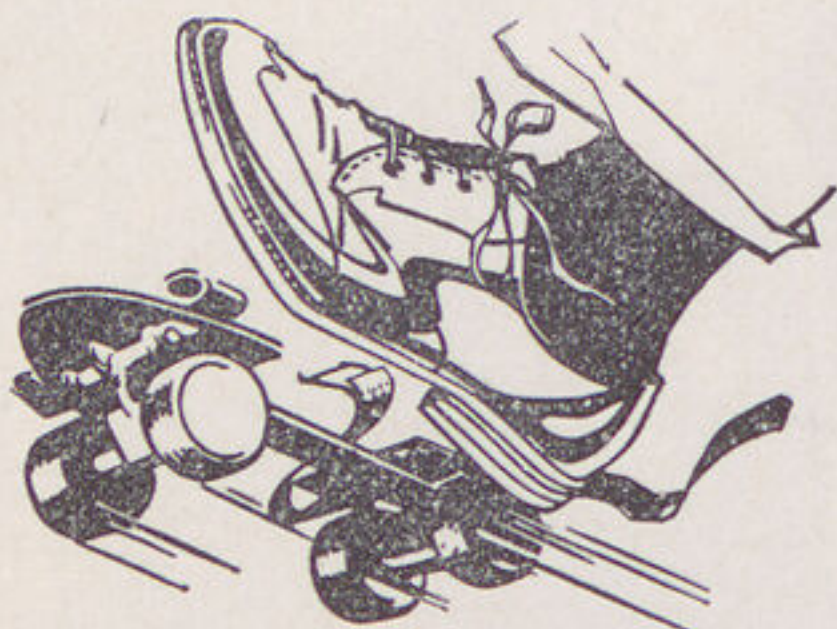
Professor Girard has some definite views on legal education. He fears that students often do not realize the extent to which it is possible and desirable to make use of learning and expression of ideas from greatly diverse areas of intellectual activity in dealing with many of the law's problems. "For this, and other reasons, it is important to pursue the best liberal education practicable during and after law school, as well as before."

He agrees that law schools have something of a de-educating or narrowing effect on students to the extent that they concentrate overwhelmingly on learning rules, exceptions, and precedents.

"Probably there has been undue emphasis in the law schools on knowledge of the substantive detail of numerous areas. There is considerable pressure from the student for

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Schwengel Hits Democrats' Rule

"Since the Democrats have controlled Congress for almost all of the last 32 years they must be held accountable for the failures which dot the national scene," Congressman Fred Schwengel (R. Iowa) charged as he addressed the Harvard Law and Graduate Republican Club Monday afternoon. "Congress today is an odd mixture of successes and failures, strengths and weaknesses, fulfilled promises and disappointing under-performance," he added.

In an address liberally punctuated with quotations from Abraham Lincoln, the Congressman touched on a myriad of issues. First he asserted that the Democratic Congresses have dealt with the politics and not the economics of the farm program. He further charged that

"immorality" in high places was not being honestly investigated, and the Congressman cited Billy Sol Estes, Bobby Baker, and the interstate highway program.

The Congressman hurriedly dispensed with the announced title of his address with a comment that minority staffing on Congressional committees is to be desired, and that Gerald Ford's watchdog subcommittee may initiate a more articulate, fruitful opposition.

The former history teacher proposed that each political party is propelled to take a certain position on an issue, and declared that the Democrats' position develops forces which promote deadlock. Witness, he declared, the party of dreams hamstrung by reactionaries. The

(Continued on next page)

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(Continued from preceding page)
Budget was reduced, but the confidential word in Washington is that there will be no decrease in spending. Tax reform joins the political scrapheap in favor of the politically attractive tax cut. Particular objects of the Congressman's venom were the oil depletion allowances, and certain unfair taxes for co-operatives.

Another example of deadlock, asserted the Iowan, is the current deadlock on the Civil Rights Bill. He praised House Republicans who had voted four to one in its support.

Finally, the Congressman added a charge that the nation's foreign affairs reflect "a lack of understanding" and that an already bad situation is getting worse. Later, when asked about the dilemma of Viet Nam, the Congressman declined to comment for lack of knowledge.

The answer to many of these deadlocks, according to Congressman Schwengel, is *Decisions for a Better America*, written by a Republican leadership group. This group of essays, he said, contains "a program for the 60's, the 70's, and the 80's."

Fielding questions, Mr. Schwengel adroitly parried the suggestion that Lincoln was a segregationist. Schwengel believes the Lincoln quotations are tortured out of context.

Schwengel proudly explained the "Iowa plan" to finance higher education. Parents, relatives or friends of a baby would together be allowed to buy one \$50 U. S. savings bond per year for a child, a tax credit being given for the \$50. The baby bond would be redeemable only for educational expenses. While the baby matures, the money would be put to work by loans to colleges and to individual students. Apparently,

when a child dies or flunks out, any unredeemed funds endow the general loan fund.

The Congressman concluded with a response to a question on the probable Republican Presidential nominee. He believes that Pennsylvania Governor Scranton is the most likely choice at this point. Personally, Schwengel favors Governor Rockefeller "because of his excellent reputation in South America, and his proven sound fiscal policy in New York."



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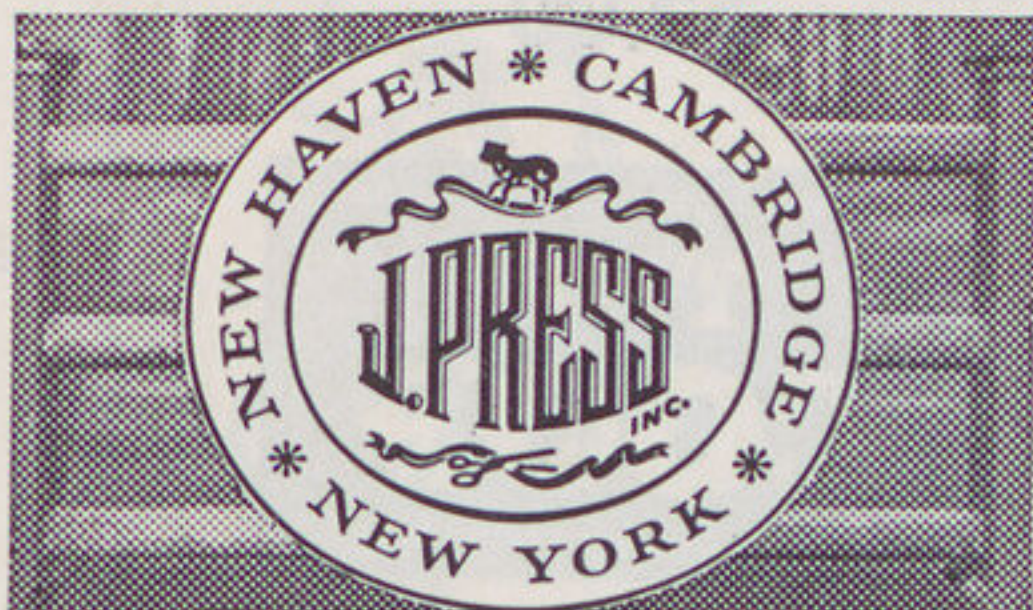
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Girard

(Continued from page 9)

this, but much of this learning is fleeting. Often it gives the student only a temporary step or two advantage in such areas.

"I think more emphasis should be given to matters which I view as having greater long-range value — to insight into the nature and function of law generally, to understanding of the judicial process and the appropriate role of different legal institutions and processes, to the capacity to attach values to the various interests and considerations involved in legal problems, to the place of the lawyer in the scheme of things, to the development of the ability to reason on the various levels upon which effective legal reasoning occurs, to development of basic skills of research and communication necessary to first-class performance in the law, along with knowledge of a stock of basic principles and concepts. I think that law schools have been moving in this direction."

Professor Girard reflected on his two years as law clerk to Mr. Justice Black. Although not infrequently in disagreement with positions taken by the Justice, he regards it as a "splendid" and "most valuable" experience.

"The Justice is a remarkable person, extraordinarily felicitous and effective in his personal relations. He is a self-made and self-educated man in the best tradition — a man of remarkable energy and vitality and conviction who, as things go, has had considerable influence on the development of constitutional law. One thing I always thought particularly commendable about him was his keen sense of judicial propriety both on and off the bench.

Three children consume most of the Visiting Professor's spare time. "They have a diversity of interests, talents, and problems. Of all the challenges I have known, they easily pose the greatest!" he confesses. Mark, age 7, shares his father's zest for American history and is much impressed by the "law" — more as an infallible "brooding omnipresence" than as a fallible and limited human institution, suggests his father. Mark has also shown enthusiasm for the Beatles. "I thought that was at least five years away," Mr. Girard sighed. Brant, age 3, wants to be a "hootennany man" when he grows up; and Michele, age 1, "has her own notions how things should be and proceeds in determined fashion in these directions."

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Patent Licensing Booming in USSR

by Ralph Nader

(Mr. Nader, LL.B. '58, is a former President of the RECORD.)

A few weeks ago, David L. Ladd, former U. S. Commissioner of Patents, told a gathering of businessmen that "in the future, when someone uses the expression *international trade*, the image should not be only of locomotives or heavy machinery being swung up on freighters, nor sacks of sugar loaded on lighters. Rather, it should be of scientists and engineers boarding planes, and patent lawyers drafting licenses and know-how agreements."

These remarks by Mr. Ladd were part of an address entitled "Industrial Property and the Iron Curtain Countries" delivered at a recent Conference sponsored by the National Association of Manufacturers in New York. Interest of the audience in this subject overshadowed all else at the meeting.

A combination of impersonal forces and aggressive entrepreneur-

ship is leading the United States and Soviet Union closer to trade in industrial property — patents, know-how and technical data.

From the Soviet viewpoint, the pace and complexity of scientific and technological advances in the West make licensing cheaper and more efficient than copying. This is openly admitted by high officials. Moreover, they have established a special agency under the Ministry of Foreign Trade called Licensintorg to find licenses for their new products and processes in the non-communist world. An eager seller succeeds better if he is a willing buyer.

From the U. S. point of view, many of the largest business firms have sent or are planning to send representatives to the Soviet Union to look over innovations for possible licensing in varied fields such as continuous casting of steel, cheaper and stronger building materials, purification of detergent wastes, non-hormonal oral contraceptives, ultrasonic machine tooling, welding devices, hydrofoil boats and electronic medical equipment. Last year, several U. S. companies contacted the famous Russian scientific documentation and retrieval center, Viniti, and offered to pay \$3 million

a year for a translation of Viniti's abstracting services. There was no bargain struck, but the Russians were flattered.

Negotiating licenses for patents is a new experience for the Soviet Union. But in recent months, Soviet officials have been learning fast. Their contractual demands are less strict and more yielding to accepted western licensing practices than previously. They no longer insist that the arbitration clause provide for an arbitrator in Moscow exclusively.

More important is the streamlining of the Patent Office in Moscow and foreign patent application procedures and processing. It wasn't too many months ago when the chaotic situation prevailing in the Office — unfiled, misfiled or even uncanceled technical material — was the butt of what must be the world's sharpest satire in *Krokodil*.

Western European, Japanese and a few U. S. companies are choosing increasingly to file their patents in the Soviet Union. The most immediate value of such a policy, according to a number of observers, is an improved trading position with Soviet purchasing and licensing agencies. According to Harold Roditi, a foreign patent specialist who has surveyed the Soviet patent operation recently, the Russians imply that Montecatini and Imperial Chemical Industries, who have sold complete plants to Russia, and Asahi of Japan and Dalmine of

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Patents in USSR

(Continued from page 13)

Italy, who have acquired the Soviet process for "silicalsiit" — a type of building material, received a competitive advantage by having their patents protected in the USSR.

The Office of Export Control in the U. S. Department of Commerce reports a sharp increase in export license applications covering shipments of technical data to Bloc countries. Such licenses do not in most cases culminate in a sale but are necessary to provide quotations or offers to inquiries from Bloc purchasing agencies. It was also reported that during the third quarter of 1963, licenses for the export of technical data were granted by the Department of Commerce in 44 cases involving foreign patent applications by U. S. companies with the governments of Bulgaria, Czechoslovakia, East Germany, Hungary, Poland, Rumania and the Soviet Union.

A longer-range advantage to building a patent portfolio in Moscow is the expectation that the Soviet Union will join the Paris Union either this year or next and place its patent and licensing dealings fully along the lines of conventional international practice. Meetings have already been held between Soviet officials and the directors of the International Bureau for the Protection of Industrial Property to iron out obstacles in the accommodation of Soviet patent law with the provisions of the International Convention.

The Russians are filing their patents, in the names of the individual inventors, in the U. S. Patent Office. Nearly a hundred patents are now pending and a few already have been issued. Most of the major products and processes represented by these patents are under U. S. license to the National Patent Development Corporation of New York which in a bold trip to Moscow three years ago jarred the Soviets into realizing the commercial potential of cross-licensing operations.

NPDC's President, Jerome Feld-

man, says that the first licensing agreement with the Soviet Union by an American company to reach the point of production and marketing will be a reality this Spring. A subsidiary, the United States Surgical Corp., will soon be manufacturing a series of mechanical surgical suturing instruments. These instruments are improved in several important ways over the Soviet prototypes thus showing the benefits of cooperation in science and technology. Already in wide use by Russian hospitals, these tools permit a surgeon to perform the suturing or sewing of an operation mechanically by means of a tantalum wire staple rather than stitching by hand with silk or gut. In transplanting organs, the speed and precision afforded by these instruments are essential reasons for Soviet advances in this field. For ordinary operations in the abdominal and thoracic areas, these instruments have been demonstrated to be faster, safer (lessens risk of shock and blood loss) and more precise. American surgeons have hailed them as one of the major surgical advances in the past quarter century.

Feldman, an attorney turned businessman, claims that the surface of what both countries can contribute to one another in non-strategic licensing has not been scratched. The wheat deal notwithstanding, he believes that the building of turnkey installations employing new techniques and the sale of know-how and technology will constitute the most significant area of trade between the United States and the Soviet Union.

Atty. Ladd now calls for a re-assessment of national policy on exchange in patents, know-how, technical data and industrial property generally. The questions of whether to liberalize our policies, what benefits would accrue from exchange, whether present restrictive policies of this country are actually effective in restraining the flow of technology and data to Bloc nations and whether we should reopen the questions of copyright protection for American authors in Russia and Soviet authors in the U. S. were listed by him for re-evaluation.

At stake in this whole matter is more than short run commercial gain. As A. N. Kosygin, the first Vice President of the USSR Council of Ministers put it: "Suitable patenting of Soviet inventions in capitalist countries and proper purchasing of licenses in those countries for inventions of interest to the national economy of USSR have great importance for more rapid scientific and technical progress and can save a great amount of time and energy for solving a series of scientific and technical problems."

There are many American businessmen, scientists and government officials who are in full agreement with Mr. Kosygin.

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Letters to the Editor

An Albany Story

(Continued from page 16)

penses were being paid by the Student Non-Violent Coordinating Committee and also testimony of support by their parents. But "vagrancy" in Albany, Georgia, consists of being white girls in the open company of Negroes.

A considerable number of young Negroes were also tried and convicted that day of various offenses against the ordinances of Albany. The aspect of their trials that impressed me most vividly was the presumption of guilt which underlay the proceedings. The testimony for the prosecution was invariably meager. If a Negro witness took the stand and offered contradictory testimony, he was either cross-examined perfunctorily, or not cross-examined at all. Since he was a Negro, his testimony was not to be believed.

For personal reasons sufficient to my daughter, she decided to leave Albany. I drove her old Mercury into the Negro section of town to the Shiloh Baptist Church to pick up her belongings. I talked for a short time outside the church with friends of hers, including Mr. C. B. King her attorney. As I was heading back downtown, I was motioned over to the curb by two officers in a county police car. After my driver's license was examined, I was instructed to get out of the car and to put my hands on the roof. I was frisked, my wrists were handcuffed behind my back, and I was driven to the county jail in the police car by one of the officers, while the other officer drove my daughter's Mercury to the jail. Inquiry disclosed that I was being arrested for driving a car with a bad muffler, and that the car was impounded.

At the jail, while the arresting officer was getting my exact identity, his colleague was on the phone to, I assume, the city police. The arresting officer, when he had finished questioning me, walked across the room to a desk where he engaged another man in conversation. He punctuated the end of his conversation by taking a sap out of his

hip pocket, slamming it on the top of the desk, and looking meaningfully at me.

When the phone conversation was ended, I was motioned into a small hallway and asked if I was the father of one of the white girls and if I was on the point of taking my daughter out of Albany. I answered yes to the first question and to the second that I had not come to Albany to get her, but that she had decided to leave, and that we were leaving either that night or the following morning. The keys to the car were immediately returned to me, and I was permitted to leave the county jail.

That is a resume of a small part of a long day. The point of the resume is that for my daughter and for me the rules were different. For the moment, in the eyes of the rulers of Albany, we were at best Negroes, and, as we all know, the rules are different for Negroes.

The fact that the rules are either different or arbitrarily applied, is, of course, the fact that makes Albany a little "police state" for Negroes. We all recognize that as the basic fact. I ask that we not let it be obscured. If the Harvard Law School Association of Georgia will address itself to that fact, I will read their response with greater interest. All that their current response means to me is: "The rulers of Albany affirm that they run one of the cleanest police states in Georgia."

Charles Oldfather, LL.B. '48
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Letters to the Editor

Kansas Professor Tells His Albany Story

To the Editor:

I have followed with interest and with concern the charges and counter charges with regard to the "police state" situation in Albany, Georgia. I am moved to write because, although practically all that I have read seems to me to be relevant to the important question of whether or not certain forms of conduct associated with a police state, such as police brutality, have occurred in Albany, emphasis on such aspects of the situation not only misses, but obscures the main point. And it is tragic to allow the main point to be obscured, and so to let the Harvard Law School Association of Georgia make some sort of a case by calling upon the FBI and the Justice Department as witnesses to the innocence of Albany, Georgia.

Lawrence, Kansas, is some distance, geographically and otherwise, from the Albany Movement. A few years ago, a typically uneventful evening in my life as a commercial law professor at the University of Kansas was interrupted by a call from the headquarters of the Lawrence city police. On the other end of the line was a colleague of mine who teaches economics at the University. I knew him to be very active in civil rights affairs, and so I was not surprised to find that he wanted me to come

downtown to do something for a group of students who were being detained on the complaint of a tavern owner that the students were engaging in a group demonstration aimed at integrating his tavern.

I arrived at the headquarters of the city police to find it seemingly crowded with a mixture of white and Negro students, and a scattering of officers. Although no one seemed to know quite what my capacity was, nor did I, I was ushered into the Chief's inner office. There I found the Chief, his senior Lieutenant, and a fellow lawyer (a former student of mine), who was then the Assistant City Attorney, poring over the Kansas Statutes in an attempt to decide whether or not a tavern was a "place of entertainment or amusement" under the Kansas anti-discrimination law. If it was, then, as far as the Chief was concerned, the students were to be released, since "they weren't doing anything wrong." Or perhaps he said "they were in the right." In any event, after consultation with such counsel as were there, he decided on release, and everyone departed in peace.

Neither that event nor the witnessing some time later of a picket line at the local swimming pool quite prepared me for the phone call I received last summer (or for the events that followed), which this time interrupted a quiet evening of bridge at another colleague's home. On the other end of the line was, I discovered, a

Negro lawyer from Albany, Ga., who informed me that my eldest daughter, Felicia, had requested him to represent her. She and a number of other white girls had been arrested by the Albany city police and had eventually been booked on charges of vagrancy. They had refused bail and were in the Albany city jail pending trial.

Suddenly my wife and I found ourselves out of the imagined world of radio, television, newspapers, periodicals, and Felicia's letters, and into the real world of the Albany Movement. And we concluded that I should go to her trial, so that I could see, for us, this world and see what Felicia's problems of survival in it were really like. So it was that this "very proper midwestern law professor" (see the March, 1964, issue of *The Progressive*) (I accept the description, I guess) found himself deplaning in Albany, Georgia, to attend the trial of his eldest daughter, who, up to then, had primarily distinguished herself as a straight-A high school student and the elected president of the student body at Carleton College.

Felicia, in one of her letters to us, also used the term "police state" in describing the plight of the Negro in Albany. What happened at the trial, to all the defendants there, and what happened to me later in the evening of my long day in Albany, Georgia, gave meaning to her descriptive words. The procedure in the courtroom was as good as could be expected. The substance was nothing.

My daughter, together with at least four other white girls, was convicted of "vagrancy," and given a suspended sentence. This in the face of testimony that their ex-

(Continued on page 15)

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