

Grads Picket for Safer Auto Design



America's Oldest Law School Newspaper

VOL. 38 NO. 8 FIFTEEN CENTS
CAMBRIDGE, MASS. APRIL 9, 1964

By Michael D. Hampden

Inside New York City's Coliseum last Saturday, 'pitch men' for the American automobile manufacturers loudly acclaimed the chrome- and enamel-covered gems displayed in flashy repose around the wide floor.

Outside, millions of these cars' stylistic predecessors sped over the nation's crowded roads, leaving behind them every hour something over five fatalities and six times as many serious injuries.

On the sidewalk in front of the Coliseum marched a group of picketers audibly lamenting the irony of these facts. The car manufacturers, they said, were deliberately ignor-

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Wirtz Urges Social Involvement

Secretary of Labor W. Willard Wirtz, giving the annual Holmes Lecture, called for greater emphasis on individual responsibility and less reliance upon governmental action in answering the major problems facing American society today. He pointed to the shibboleth of the New Frontier — "ask not what your country can do for you, but ask what you can do for your country" — and called for a greater response to what Holmes would have called "the felt necessity of our times."

Secretary Wirtz, who apologized for a degree of unpreparedness at the beginning of his speech, underscored the problem of un-

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Summer Study Fills

By Walter V. McLaughlin, Jr.

Openings in Harvard's Program of Instruction for Lawyers, planned for this summer, are filling up rapidly, Associate Dean A. James Casner said this week. Over 200 hundred applications have already been received from all over the United States and several foreign countries.

Highlighting the program will be two talks on formulation of government policy by two former Law School professors. John T. McNaughton, now Assistant Secretary of Defense, will discuss Formulation of Policy in the Defense Department, and Stanley S. Surrey, serving as Assistant Secretary of the Treasury, will discuss the formulation of tax policy.

Dean Casner stressed that the program is still experimental. "We are trying to find out if there is a unique law school contribution to continuing legal education for the bar. If

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Secretary Wirtz

Publishing Third-Year Papers

A few years ago a tax case decided in the United States Court of Appeals for the Ninth Circuit paid indirect homage to the quality which some papers submitted in satisfaction of the third-year written requirement can achieve. Considering an abstruse problem concerning the concept of negative basis, the Court noted, "For an informative and well-authenticated argument in support of the recognition of a negative basis, see an unpublished thesis (but available for use on loan) in the Harvard Law School Library." The heavy demand which the opinion created for this paper at the Library ultimately forced its publication. However, other third-year papers, also of substantial merit but undiscovered, rarely escape from the confines of the Library. We question whether the Law School does enough to encourage their circulation.

At present the only direct action which the Law School takes in this regard is to deposit third-year papers "of high excellence" in the Library. An advertisement of their existence in the Library's Current Legal Bibliography produces some requests for reprints from law firms and law schools, but most collect more dust than attention.

An individual author who desires publication of his paper may successfully achieve this result through efforts of his own. On a sporadic basis the Harvard Law Review has published outstanding third-year papers, and other legal periodicals are sometimes willing to publish such papers. But because the subject of these papers must appeal to a particular editor at a particular time, no sure outlet exists for them.

Because reliance on outside periodicals to publish these writings does not seem feasible, the best way of having a large number of papers published would be a special Law School publication designed for that purpose. Perhaps a *Law Review* supplementary edition could best fill the need. Such an approach to publication would take advantage of an existing organization. If the *Review* is unwilling to handle the project, the Law School should investigate other means of publication in order to promote legal scholarship and encourage work of high quality.

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Published on Thursdays ten times each semester by THE HARVARD LAW SCHOOL RECORD CORPORATION, 23 Everett Street, Cambridge 38, Massachusetts. Subscription price: \$2.00 per semester, \$4.00 per year mailed; student subscription, \$2.00 per year distributed at the Law School. Individual copies 15c each at the Law School, 25c each mailed. Business and editorial offices, 23 Everett Street, Cambridge 38, Massachusetts. Telephone UNIVERSITY 8-7600, extension 418.

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TONGUE 'N CHEEK

By Fenno

I came back from vacation whistling a happy refrain. Sitting glumly in the corridor was a classmate. "Did you have a really great vacation?" I asked cheerfully.

"No, as matter of fact it was lousy," he said, sneering at me.

"Oh, come on, you must have had some fun. What did you do?" I asked with less of a lilt.

"Well, first of all I stuck around here waiting for them to issue the new catalogue—I thought it would be nice to be the first on my floor to have one. Then I picked out my courses for next year and the topic for my third-year paper. Then I decided what first and second-year sections had the best professors. After that I read through the scholarship list looking for one that preferred me above all else."

"And then what did you do?" I said furrowing my brow slightly.

"I tried to go skiing but there wasn't any snow nearby, so I tried to play a little tennis but the wind kept blowing my opponents away. Of course it was too cold to go swimming or sit in the sun. April sure is a stupid time for a vacation," he said chewing his lip.

"You must have done something, after all we did have a whole week off," I said.

"I do remember fixing a chair and buying a new pad of yellow lined paper and polishing my attache case with saddle soap," he said, hugging some loose-leaf binders.

"You mean to say you didn't have any fun or accomplish anything in a whole week," I said in astonishment.

"Well, I did do some school work," he said with his eyes rolling slightly. "I finished outlining four courses and completed the reading for the others. After all—a week isn't very long, how much can you expect to get done? By the way did you get any work done?" he asked in a concerned voice.

"Nope," I said rather sullenly. "I was in Europe, saw five countries."

Was 'Sabbatino' Decided Correctly?

By Richard A. Hannaway

"As a result of the decision of the Supreme Court in the *Sabbatino* case, the United States is virtually the only safe haven in the world for trade in property confiscated in violation of international law," Carlyle Maw, Chairman of the International Law Committee of the New York City Bar Association, said here last month.

The Court's recent decision not to review the legality of Cuba's nationalization of American sugar interests, however, was praised by the other speakers at an International Law Club panel held March 26. The two supporters of the decision were Victor Rabinowitz, counsel for the Cuban government, and Andreas Lowenberg, of the Legal Adviser's Office of the Department of State. The Department filed an *amicus* brief at the request of the Court.

Mr. Maw said his Committee had filed an *amicus* brief in the case because it was concerned about the potential dangers in an unlimited act of state doctrine. He pointed out that this was the first time the Court had ever specifically mentioned this doctrine that the courts of the United States are barred from inquiry into the legality of the acts of a foreign sovereign within its own borders. He noted that although it was referred to in the first paragraph of the majority opinion as "the so-called act of state doctrine", the Court spent the remainder of its opinion defining the doctrine as though it were a centuries-old rule of law.

He pointed out that the United States is now one of the few countries in the West which has barred its domestic courts from considering these matters.

"As a result of this opinion," he said, "United States courts are barred almost completely from working in the international law fields. The decision says that a court may consider the matter only when there are clear and universal principles of law covering the area. But if the law is that clear, there isn't really any need for a court to expound it."

Mr. Rabinowitz told the large audience that he had emphasized the importance of political considerations in arguing the case, especially the possible repercussions in our relations with developing countries if the

Court made the legality of foreign nationalizations justiciable in domestic courts. "I stressed the potential embarrassment to our foreign relations in such a decision," he said.

Mr. Rabinowitz said his most difficult problem in arguing the case involved a choice-of-law question. Since the case arose in New York under diversity jurisdiction, the state law would apply, he said. But many states do not have an act of state doctrine and it would be an impossible situation if a matter of international importance might be decided 50 different ways. "Fortunately," he said, "I was able to avoid the question in the lower courts since the law of New York was the same as federal law." Mr. Rabinowitz said he felt that the Court decided what was proper when it made the act of state doctrine a question of federal law; but he admitted that the Court must have had a difficult time finding adequate precedent for this position.

Mr. Lowenfeld said that despite the disappointment to what he called the "international law set," the Court had acted wisely in refusing to decide the case. He praised Mr. Rabinowitz for his advocacy, especially for his tactic of steadfastly refusing to admit that there was any international law on the subject of nationalization. By this tactic he forced the Court to expound international law in a highly controversial area if it decided against him, Mr. Lowenfeld said. The Executive, he said, felt that neither international law nor foreign relations would be helped by domestic courts "poking into" problems of nationalization.

Mr. Lowenfeld also said he was pleased that the Supreme Court had rejected the suggestion that United States courts should handle such cases except where the Department of State objected. "This alternative was not popular in the Department since it put us in a poor position," he said. In concluding, Mr. Lowenfeld said: "The Executive considers the act of state doctrine a good one. All limitations on it which have been suggested would in fact destroy the doctrine. We feel that in the long run, the judicial restraint which the Supreme Court exercised in its decision will be good for all, including the investing community."

Auto Safety

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ing the public need and demand for safer vehicles.

Three Law School graduates and former RECORD Presidents, Joseph E. Page '58, Ralph Nader '58 and David F. Binder '59, were among the group, composed of medical doctors, lawyers and engineers.

"The common ground for all three professions is that each deals through his training with an important aspect of the traffic safety problem and each operates under professional ethics that point to *prevention* of this traumatic epidemic of our highways," Nader explained.

Design Hazards

"Some of the more obvious design hazards," he said, "are pop-open doors, cardboard-like roofs, easily uprootable seats, flying cushions, sharp-edged dashboards, bone-crushing knobs, inadequate braking systems, numerous visual obstructions, distortions and glare owing to 'decor' considerations and windshield design, insufficient fire resistance and protection, non-protective, ornamental bumpers, and the greatest killer of all — the lance known as the steering wheel shaft."

The group presented Automobile Show patrons and bystanders with a pamphlet entitled "The Parade of Professionals," and maintained an all-day sidewalk seminar on the problems of safety in auto design. Though less audible than a group of CORE pickets protesting General Motors' hiring inequalities, the professionals seemed to provoke interest, and secured for themselves local radio, television and newspaper coverage.

The campaign to prevent manufacturers, in the words of one of the demonstrators, from "withholding known methods of life-saving value," is not new. As of now, it has

been singularly unsuccessful both with the automobile makers and with the lawmakers. In Congress, the Detroit lobby has stopped more than one attempt to deal with the problem. The latest bill, making only a modest demand for certain basic safety features on government-purchased cars, has made little headway.

Professor Jeffrey O'Connell, from the University of Iowa Law School, is here at Harvard on leave to prepare with Professor Robert E. Keeton their Automobile Claims Study. Prof. O'Connell testified before a committee of the Massachusetts Legislature considering an AAA-inspired bill which would authorize a commission to study the problem of safety in automobile design.

The legislative panel, Prof. O'Connell said, visited the Detroit plants and evidently was satisfied with the steps the companies have taken. The bill never got out of committee.

He noted that "were 50 states to pass safety legislation, there might be practical problems of interference with interstate commerce — chaos would result from each state setting its own requirements. Nevertheless, some basic standards are feasible on a state-by-state basis."

"The essential question," Prof. O'Connell believes, "is whether to require manufacturers to engineer safety into their products, or to leave it voluntary. I suggested to the committee that any auto maker, such as Mercury, which names its high-powered engine 'Marauder,' meaning one who ravages and lays waste the land, is not morally qualified to impose standards of safety upon itself."

Saltonstall, G. Lodge to Address GOP

Sen. Leverett Saltonstall, LL.B. '17, will speak at a meeting of the Law School Republican Club at 1:30 p. m. tomorrow in the Harkness Meeting Room. His topic will be "A Big Job for the GOP", that is, the coming national elections.

On Tuesday, April 14th, the Club will host George Lodge, who will presumably speak on the political prospects of his father, Ambassador Henry Cabot Lodge. The meeting will be in the Wheeler Room, Holmes Hall, at 1:30 p. m.

ILC Elects Officers

The International Law Club held elections at its meeting Thursday, March 26, in Harkness Meeting Room. The officers for the coming year are: President, John V. Surr, 2L; Vice-President, Mary Elizabeth Hanford, 2L; Secretary, Eliot Halperin, 2L; Treasurer, Robert Landon, 2L.

Byse Decries Boston's Racial Imbalance

By John S. Lowe

"It makes me sad and rather ashamed that the richest society the world has ever known must continue to produce alienated and bitter people whose only sin was being born with a dark skin," said Professor Clark Byse. "This is one result of racially imbalanced schools."

As a member of the Massachusetts Advisory Committee to the United States Commission on Civil Rights, Prof. Byse has been investigating the problem of racial discrimination in Massachusetts. Most recently, the Committee has turned its attention to racial imbalance in the schools of the Boston area. An open meeting was held on March 20 and 21 at the United States Court House in Boston to discuss this subject.

"It is my definite impression," Prof. Byse said "that Negro children who go to school in the so-called 'black boomerang' of Boston (Roxbury) receive an inferior education. Quite naturally, the conscientious Negro parent, concerned with his child's education, experiences a sense of frustration and resentment."

Racial Imbalance and Housing

Prof. Byse shares this frustration, for "with the exception of one member of the School Committee, the Committee and the Boston school administration seem to take the unyielding line that the concept of the neighborhood school is sacrosanct." Though the School Committee and the administration have agreed to consider the desirability of racial balance in locating new schools and to endeavor to improve facilities and instruction in the "culturally deprived" schools of Roxbury, they are unwilling to make any significant effort to racially balance the public schools. The position of the School Committee is that racial imbalance is primarily a problem of housing rather than education.

Prof. Byse is quick to admit that housing practices are key to racial imbalance in the schools, but contends that the root of the problem is deeper than that. He quotes Dr. Charles Pinderhughes, a Negro psychiatrist at the Veterans Administration Hospital, who has described the plight of the Negro in Roxbury as a "compound complex", alluding to

the fact that "Negroes, unlike any other group in our society, have no background, no history except slavery and discrimination. When a Negro asks for a strawberry ice cream cone at a lunch counter and is told there is none, he is never certain whether there is actually no ice cream or whether he is being told that he is unwelcome." The impact of such a feeling is obvious, and Dr. Pinderhughes believes it is pervasive in the psychology of the Negro.

"Compound Complex" and Schools

As Professor Byse explains it, racial imbalance in public schools is a major factor in the "compound complex", for it helps to perpetuate the alienated state of the Negro. "The problem of the 'compound complex' will be with us for generations. But something can and must be done. Steps must be considered in many areas — in education as well as in housing and employment. I can't see a continuation of present attitudes."

One proposal to end the racial imbalance of Boston's schools is to transfer students by bus from their neighborhoods to various schools. This proposal presents difficulties, Professor Byse admits, for "white parents are understandably worried about the possible lowering of standards in some schools and about the time and expense involved in bussing." But testimony before the Advisory Committee has indicated that the concept of the neighborhood school is only one of many factors to be considered. Bussing takes place in many rural communities without apparent ill effect on school standards. "Racial balance by bussing may not be the whole answer, but it should at least be studied. The refusal of the School Committee and the administration to recognize racial imbalance in the schools as a problem of education is shocking."

Need for Official Action

Prof. Byse is "convinced that no significant improvement can be expected unless the courts or a city or state official of stature exercises leadership." This is unlikely since Boston's Negro minority constitutes only about ten per cent of the city's population and wields little political power. "One po-

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Wirtz Lectures

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employment as a clear example of the need for individual responsibility. Unless we find some solution, he feared, "a slag heap of humanity will soon present us with insuperable problems." Half the boys recruited today are found unfit for military service primarily due to a lack of education. In one group of boys, studied by the Labor Department, 85% had not finished high school and had come from families of six or more children where the head of the family also had failed to complete high school.

Today, more than ever before, the law is being used to settle social problems such as unemployment, Secretary Wirtz said. But in the development of law, the emphasis has been on rights, especially those embodied in the Constitution, he said. He declared that in his opinion people are not satisfied with rights, because it creates a greater level of expectation without encouraging responsibility.

The answer to these problems, Mr. Wirtz suggested, should begin by shifting the emphasis from rights to responsibilities. "It is clear that the answer is not more government participation," he said, "but rather more voluntary and private action."

The responsibility for solving the unemployment problem should rest primarily on the family, Mr. Wirtz asserted. "A parent has no right to allow a child to go without an education." In this area the public can help as well, he said. He recommended that two more years be added to public education in order to offer advanced vocational training and also recommended two more years of compulsory education.

Unless we encourage responsibility, he cautioned, and unless we solve this urgent problem, and others like it, "we may fall on the sword of our own stupidity." Noting, however, that "the life of the law must be belief and a faith in the future," he found some cheer in the evidence that people do want to be responsible for others provided by participants in government and volunteers in the Peace Corps.

Listing a miscellaneous bill of particulars, Secretary Wirtz also noted with concern that "more people know less each year about more things that affect them." For example, he

said, most people have no idea today of the nature of war. Also, the public has little understanding of the complex economic problems of the nation. Furthermore, he stated, our foreign policy today is infinitely more difficult to understand than ever in the past.

With more competition between ideas comes less time to think, Mr. Wirtz observed. "The English language has taken over control; people vote on catchwords and slogans rather than from their understanding of the issues." Perhaps in illustration of this point, he asked, "How do you make it clear to the public that unemployment is more than a seasonably adjusted decimal point, but represents the concomitant problems of poverty, illegitimacy, crime, and dope addiction?"

Another factor about our society which Secretary Wirtz noted with some misgiving is the shift in emphasis from institutions of government in which public participation is greatest to those where it is least. He noted this trend in the shift of affirmative action and innovation from local communities to the Federal government, from the House to the Senate, and from the legislature to the executive. He questioned why the Supreme Court, the institution farthest removed from the people, is doing the most in solving the problems of civil rights and political reapportionment.

"It seems to me," Secretary Wirtz concluded, "that our society is full of paradoxes which defy the senses and confuse the decision making process. There is abundance of grain stored only a few miles from starving people. There is poverty among plenty. There is unemployment while there is much to be done."

Byse on Imbalance

(Continued from preceding page)

tentially hopeful aspect, however, is the activity of the Massachusetts Department of Education — particularly the establishment of an advisory committee to study racial imbalance in the schools."

These possibilities lie in the future. At present, however, Professor Byse sees on the part of the Boston officials responsible "nothing like the feeling of outrage and concern that the problem deserves. Until leadership is given, we will continue to stumble on, producing more and more ill-prepared, citizens."

On Enforcing An Arms Control Treaty

By John S. Lowe

"The United States and the U.S.S.R. recently concluded a test ban treaty. Within five or ten years there may well be a disarmament or arms control treaty. If so, how should it be enforced?" Professor Roger Fisher asks.

One possible method is explored by Prof. Fisher in a study submitted this week to the United States Arms Control and Disarmament Agency. This paper considers whether such a treaty should be enforced by imposing consequences on individual government officers responsible for non-compliance with treaty provisions. It was completed under a grant from the Arms Control Agency and with the assistance of William G. Levine, 3L.

Prof. Fisher emphasizes the limited aspect of his study. "It is designed to identify the best form of one aspect of an enforcement scheme, not to lay out a comprehensive enforcement proposal."

But the study nevertheless raises an interesting question. Suppose we do conclude a disarmament treaty. Should government officers be punished if they attempt to break its restrictions? Would this be an effective means of enforcement?

Prof. Fisher discusses this issue in three parts. First, he considers the effectiveness of sanctions to produce compliance with substantive limitations on arms which presumably would be provided by the treaty. His conclusion is that punishment of officials would be ineffective here. Among the factors dictating this conclusion is the likelihood that punishment would not in fact be routinely imposed. "The many legal defenses available to government officers, reflect a prevailing reluctance to punish a man for 'doing his duty' in the absence of blatantly immoral conduct." In addition, it is improbable that the fear of criminal punishment would control the officer's actions in difficult decisions, for "fear of the immediate consequences of defying one's superior is likely to outweigh fear of punishment in the future. Besides, the officer's sense of duty may well be more influential than a calculation of personal consequences."

The second aspect of the discussion in Prof. Fisher's study concerns sanctions against individual officers as a means of enforcing com-



Professor Fisher

pliance with decisions of tribunals arising from first-order violations of substantive rules. His conclusion is that such sanctions could be effective, since the choice offered to the individual officer would be clear—he could comply with the court order or face punishment.

To Prof. Fisher, the real problem of using a system of sanctions to enforce a disarmament treaty lies in developing a system acceptable to the various governments involved, to the tribunal which must administer it, and to government officers and the community in general. In his words, "we need an organization weak enough to allay fears of what an international body *might* do, and yet strong enough to meet the various problems which will in fact arise."

This problem is considered in the final section of the study. Though not committing himself to any particular system of enforcement, Prof. Fisher does make recommendations. He suggests that an international tribunal be authorized to issue non-punitive orders designed to prevent an offending officer from future violations such as suspending him from office. Domestic law should give automatic effect to such orders, subject to a political veto by the head of state or other designated authority. Existence of the veto

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Treaty Enforcement

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would provide each nation with a weapon to protect what it regarded as vital interests. On the other hand, to discourage its misuse, Prof. Fisher would make the veto politically difficult by providing that, when it was invoked, it be debated automatically in the General Assembly of the United Nations.

Many years may pass before this country signs an arms control treaty. But when it does, it may well be that the document to which the negotiators put their pens will reflect the logic of Professor Fisher in his study of the enforcement of arms control and disarmament measures by the imposition of sanctions on individual officers.

Ames Quarters Decided

The quarterfinal rounds of this year's Ames Competition came to an end with Keeton Equity, Kaplan, Jaffee and Root Clubs the victors over Casner Equity, Casner Law, Griswold Law and Howe Equity Clubs, respectively.

In each of the three cases in which the courts rendered decisions there was a dissenting opinion on the law, and in each of these cases the lower court's decision was reversed.

A. James Robertson (2L) of Kaplan Club was adjudged the best oralist in the quarterfinals competition.

Reunion Plans Announced

The Class of 1914 has announced the unanimous election of its officers, and its plans for its fiftieth reunion.

The men's dinner will be at the Ritz-Carlton Hotel on June 9. The speakers will be Dean Erwin N. Griswold and Prof. Austin W. Scott. Mrs. Griswold will address the ladies at the Boston Harvard Club the same evening.

Reservations should be made early at Boston and Cambridge hotels because of Commencement crowds.

Summer Program

(Continued from page 1)

there is there ought to be some responsibility on the law school to do it."

The full courses, which will be given in the mornings throughout the two week period, are an attempt the Dean said, to give "an understanding of the factors significant for formulating judgments in a particular broad area." The short afternoon courses, on the other hand, are designed to discuss particular problems and developments within fields such as administrative law or urban redevelopment.

There will also be scheduled meetings with various faculty members to discuss such topics as Civil Rights and Civil Liberties, Constitutional Law Problems, Jurisprudence and Soviet Law. These will be what the Dean termed perspective courses. They are intended "to deal more with the aims and purposes of law in ours or any other society."

Returning to the mechanics of the program, Dean Casner said that there was no official deadline for application, but that acceptances are on a first come first serve basis. When an individual course is over-subscribed, late comers will have to take second choices. The two leaders so far are Estate Planning, with 127, and Business Planning with 98 applicants.

Collection of 3L Dues Set

Third-year class dues are due for collection. The two dollar dues will be collected on Monday and Tuesday at Harkness Commons or Austin Hall. Alternatively they may be paid to the Law School receptionist or to Class Committee members. The amount collected will defray the expenses of the class beer party and mailings in the fall.

Set for May Day or Law Day (May 1) depending on one's preference, the class party will feature Professor James H. Chadbourn, who will officiate as master of ceremonies.

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Mrs. Kaplan, Dressed in Minks, Tells Us What an Author Thinks

By Paul M. Branzburg

One visiting the home of Benjamin Kaplan, Royall Professor of Law, will discover a short typed note on the front door: "Do Not Let The Dog Out/No Matter What He Says." Although this is amusing and to the point, the stranger would have no reason to suspect that it was written by a poet, playwright, and novelist whom *Time* has praised for her ability to make words "jump, molt, wiggle, shrink, flash, collide, fight, strut, and turn themselves inside out and upside down." The author of the note is Mrs. Felicia Lamport Kaplan.

Publishing under her maiden name, Felicia Lamport's poems and essays have appeared in *Harper's*, *Atlantic Monthly*, *Harper's Bazaar*, *The Saturday Review*, and *The New York Times Magazine*.

Her first novel, *Mink on Weekdays*, was published in 1950 by the Houghton Mifflin Co. of Boston and soon became a best seller. It is a thoroughly delightful account of the author's childhood and a portrayal of her mother during those years. Mother was quite a personality. Miss Lamport's father once described his wife as a "combination of Leonardo da Vinci and Fearless Fosdick, with the outstanding features of both."

The title of the novel comes from an incident which occurred when Miss Lamport was very young. With an impatient click of her tongue and a toss of her head, Mother announced, with respect to her daughter's wardrobe, "I believe in simplicity. Always did. Always will. And white for infants. Only proper color. Spotless, of course." Since her family was wealthy and lived on fashionable Fifth Avenue in New York, the future writer and her sister were each provided with eight white coats and eight white bonnets. "Simple and appropriate," Mother observed. "Hand made, of course. No trimming except a little mink collar to match their carriage covers. Mink on weekdays, ermine on Sunday."

Felicia Lamport's most recent book-length effort is *Scrap Irony*, which was published by Houghton Mifflin in 1961. It is a collection

of poems and essays, several of which had already appeared in magazines.

Many of the poems are stunningly satirical and yet in remarkably good taste. The *New York Post*, hailing Miss Lamport as "one of the new American masters of the old English art of parody, pun, and satire," has noted that "she is a woman without malice. Her victims never bleed. They just drop dead in their tracks — slivered by a Lamport lampoon!"

For example, she enjoys poking fun at literary critics. "I often think they are scratching their right ear with their left hand, being unnecessarily devious, and fitting their own preconceptions in a procrustean way to the author." Thus, in "Orbit," Miss Lamport, with rare brevity, gives new freshness to the old thought that although professional critics assume a posture of great wisdom about literature, they are seldom capable of producing a creative work of importance.

*How profoundly analytic
Of his kith and kind
Is the second-rate critic
With the frustrate mind.*

In "Furbearance," with obvious mastery of the line rhyme, she throws an understanding jab at women who work their way up from a moleskin stole to a mink coat as their husbands work themselves into a position to pay for it.

*From the mole stole
Cut in high style
To a svelte pelt
Takes a vile while
But beguile, smile.
Don't debunk skunk
While your bloke's broke
Add unique chic
With a joke toque
Try raccoon hewn
With a brash dash.
While your dreams steam
Let him stash cash.
When his raise pays
For genteel seal*

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Mrs. Kaplan, Author

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*Keep your eye high
On the real deal
(The refined mind
Will conceal zeal)
Don't digress, press
If he blink, wink
Having thunk "skunk"
Make him think "MINK."*

Many of Felicia Lamport's just-plain-fun poems are characterized by "words" from which the prefixes have been decapitated, the remainder being used as the antonym of the original word. "Utterable Wisdom" is an example which Professor Kaplan has doubtlessly read with special care.

*The wife of a brilliant, becilic professor
Should never show anity too.*

*Unless she admits that her brain is the lesser
Their marriage will never stay skew.*

Miss Lamport's essays are, without exception, sparkling entertainment. "Telephonic Mnemonic" instructs the reader on how to memorize telephone numbers by the device of logomorphism, i.e., changing numbers into words. Her own number, 6681, can be "immediately fixed by the story of the missionary who went to a small island inhabited by only six cannibals. Nothing further was heard about him until a message was transmitted by drum-semaphor: *six sick; ate one.*"

Felicia Lamport attended the Calhoun School and was graduated from Vassar College in 1937 with an A.B. in English Literature. She found Vassar an "amiable place." Many of her friends were "actively political — on the liberal side," but because she thought her politics "none too sound" she confined her literary efforts to humorous columns and editorials in the school newspaper.

Familiar with her propensity for the pun, her advisor ordered that she could use no more than "one pun every twelve pages" in her thesis, which was entitled, "The American Feature Film."

After graduation, she went to work for MGM "writing dialogue subtitles for the export versions of MGM pictures." During most of the year she averages a forty hour week working on a play and a novel. She also contributes material to the television

program "That Was The Week That Was." During the summer, however, she prefers to "garden furiously."

Despite this deep commitment to her work, "it doesn't have priority" over her family responsibilities. "It has to come second — but not very second." Her son James, 20, is a student at Yale, and her daughter Nancy, 17, is graduating from Winsor.

Miss Lamport is also secretary of the Boston Arts Festival and director of the American Chess Foundation. She enjoys recalling that James R. Newman, scientist and editor of *The World of Mathematics*, once called her the "best female chess player in the United States without a mustache."

Fascinated by brain-teasers, she thinks her "proudest moment" was when she completed one of the near-impossible *N. Y. Times* Kingsley Double-Crostics. She is now working her way through a book of puzzles entitled *More Posers* which will be released this month by Harper & Row. It was written by Phillip Kaplan, who is Professor Kaplan's brother.

Miss Lamport also delights in the fact that she is a member of the Chicago Journeyman's Plumber's Union. "I'm a plumber!" The Union made her a lifetime honorary member for one of her articles, having to do with a plumber.

Felicia Lamport's work is rarely based on political themes. In "Look Back In Wonder," however, she goes after a late Senator from Wisconsin and his supporters with a very special vigour.

*Whom was it wise to eulogize
And prudent to endorse?
Whose ratiocinations put
McCart before McHorse?
Who made our state disconsolate
And tarnished army brass?
Whose puseyanimity
Made egg-heads roll enmasse?
Who used advanced roycognaissance
And arrant monkeyschines?
Whose merry "Point of order!" chants
Could curl the stiffest spines?
Who managed to command a spread
With every news release?
Whose use of propaganda bred
A million proper geese?*

Recent Book

Mr. Dooley Chides Th' Lawyers

Mr. Dooley on the Choice of Law, edited by Edward J. Bander. 231 pp. Michie. \$4.95.

By Michael D. Hampden

A book of collected essays is usually evaluated on a narrow ground: the editor's degree of success in his selections. Even this line of criticism is practically foreclosed in the case of Edward Bander's recent compilation, *Mr. Dooley on the Choice of Law*, for the reason that relatively few of Finley Peter Dunne's 500-odd essays written between 1892 and 1914 are germane enough to the law to be contained in this anthology. Some of those included by Mr. Bander ("On Golf," "On Drink and Statesmanship," and others) hardly belong here; perhaps by coincidence, they are among the inferior selections.

But lawyers now have at hand most of those moments of literary greatness when Mr. Dooley was talking directly to, and about, their profession itself. Aside from this, the real significance of Mr. Bander's effort, as he remarks in his preface, is that without exception the conditions which made Mr. Dooley's social criticism valid at the turn of the century, still exist today. And so they will at the turn of the next century, because the philosopher of Archey Road was talking about *people* rather than *institutions*. It is no accident that Mr. Dooley could hold forth brilliantly on the most complicated legal and political issues with a pert insouciance and shocking lack of detail. After all, as law students are wont to learn early, details are relevant at the surface — never at the bottom — of anything worth litigating.

Finley Peter Dunne's great achievement through Mr. Dooley was to convince people that their first thoughts on the social absurdities of the day were correct; a power of suggestion not shared by

many agents of reform. In 1958 Arthur J. Keefe wrote in the American Bar Association Journal that "Time has come for Law Schools to require that applicants have a knowledge of Finley Peter Dunne and Mr. Dooley. The ones that think like Dooley are sure bets." On the contrary, I would recommend *Mr. Dooley on the Choice of Law* to second- and third-year law students — to restore some lost perspective after the "sophisticating" purge of their last two or three years.

As the Dooley initiated will expect, many of the essays flash with wonderfully humorous dialogue set in perfectly improvised satirical situations. And there are more-than-occasional moments of analytical genius:

"In England a man is presumed to be innocent till he's proved guilty an' they take it f'r granted he's guilty. In this counthry a man is presumed to be guilty until he's proved guilty an' afther that he's presumed to be innocent." On the kinds of property rights: "A man is lucky to have five dollars; if it is ten, it is his jooty to keep it if he can; if it's a hundherd, his right to it is the right iv silf-dayfinse; if it's a millyon, it's a sacred right; if it's twinty millyon, it's a divine right . . ." And on freedom of the press: "Th' lawyers make th' law; th' judges make th' errors, but th' iditors make th' juries."

Mr. Bander's most creative contribution to the collection is his 'updated' version of a speech delivered in 1907 by Finley Peter Dunne to a second-year smoker at the Law School. It is entitled "Mr. Dooley on the Case System," and is available in its original form in the Archives of Widener Library. The editor justifies his "amalgam" as "an attempt . . . to add . . . fifty-four more years of experience with the case system." Unfortunately he has added little more than some

bad puns on the names of a few legal celebrities, and has abridged the original monograph almost beyond recognition. It is a sad irony for us Hennessys that the newest writing in this volume is also the stalest. Regrettably for Harvard lawyers and students in particular, who must comprise a significant fraction of his readership, Mr. Bander has passed over the opportunity to put into circulation a little-known but thoroughly enjoyable slice of Dooleyana.

Delinquency - - A World Problem



No matter how you look at it, or whether you understand it, the title pages of these four volumes all read the same: "Delinquents in the Making" by Sheldon and Eleanor Glueck. Their works have been translated into German (bottom right), French (top right), Italian, Spanish, Hebrew and Japanese. But recently, "Delinquents" appeared in another language, pictured at the top left — the Pakistani language of Urdu.

Recent Book

Mr. Belli Looks at Russia's Law

Belli Looks at Life and Law in Russia, Melvin M. Belli and Danny Jones, Bobbs Merrill, \$5.50.

By Ted Volckhausen

These authors would make acceptable witnesses, but if, through some mistake, you ever find one of them staring at you from a jury box, get rid of him. Once Mess'rs. Belli and Jones allow themselves to start drawing conclusions, you never know where they will come out.

The book covers life and law in about equal parts, with indifferent success. To begin with its virtues,

the book's intention is to give Americans a better knowledge of the Soviet Union. The authors rarely assume that wherever the Soviet system differs from our own it must by that fact alone be unjust and tyrannical. The most important virtue is that the authors describe what they actually saw with verve and talent. If you want to know that New Year's Night is like in a Moscow hotel, or find out about the atmosphere in the Agavadi Restaurant, or the quality of Soviet jazz bands, this is the book to look at.

Those scattered parts of the book which deal with Soviet law are designed for people with very little knowledge of any country's law, and are, in great part, reports of cases.

Most of these reports came from the Soviet press and are not cases

witnessed by Belli or Jones in the flesh. A careful reading of some of these cases will reveal that the police investigate crimes in Russia, that murder is a crime, that lawyers sometimes get their clients' sentences reduced by eloquent pleading, and similar exotic information.

The authors describe the composition of the trial court, one professional judge and two lay "assessors", and explain that on the lowest level both judges and assessors are chosen by popular election. They also say, rightly, that the Communist Party substantially controls the nomination and election process.

A novice would finish this book knowing a great many things he did not know before. He would also learn a substantial number of

(Continued on next page)

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(Continued from preceding page)

things that aren't so. For example, Belli and Jones say that "until recently, the peoples' assessors were selected by the majority of the citizenry. But this was unsatisfactory due to the lack of party control." This must mean either that assessors are no longer elected or that at one time the party did not control the nominations. Neither of these suppositions is true.

Again, the authors declare that the prosecutor or procurator can ask an appellate court to increase a criminal sentence. This is inaccurate. He may ask for a new trial at which the sentence may be increased, as can be done in Connecticut, for example. But the Russian Republic's Code of Criminal Procedure specifically forbids a higher court itself to increase the sentence, or to reclassify the crime into a more serious one.

The authors do not distinguish clearly between the two kind of appeals, cassational appeals, which may be taken by either side, but only one stage higher, and appeals by way of supervision, which may be taken only by the procurator or high judicial officials, up as far as the Supreme Court of the USSR.

Among other errors, they say that failure to report the theft of state property is a crime. That is not true, at least in the Russian Republic. Only for political crimes and banditry is failure to report punishable. There are also a few outright contradictions, such as that on one page where the age of criminal responsibility is (wrongly) said to be twelve, and on another (correctly) fourteen.

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One important branch of civil law is completely neglected, the field of contracts between state enterprises. Others are covered cursorily, adoption, divorce, ejectment, property rights. Someone gave the authors the idea that Soviet citizens are prohibited from selling their personal possessions outside of state second-hand stores. This is another misconception.

As for general statements in the area of "life", there is no necessary relation between them and what Belli looks at. Though the book describes many characters, judges, hotel managers, criminals, interpreters, all very different personalities, the conclusion is that individual character is "eroded" in Russia. It's difficult to see how someone could travel 16,000 miles in the Soviet Union and conclude that all 200 million Soviet citizens have been "thoroughly brainwashed

... in hatred and suspicion of Western institutions." People aren't so easily molded as that, even in the Soviet Union. But, of course, neither author speaks Russian, and the unanimous voice of the people sounds much more unanimous when it is filtered through an interpreter.

The chapter on Russian history would set a historian's teeth on edge. Russia's history cannot be confined to insanity, blood, and sex without sacrificing most of its meaning. If the purpose of the burlesque was to make the story more interesting, the authors should have filled it out. Is Catherine the Great important because "as a royal nymphomaniac, she has had few peers?" Possibly, but to say just that will never do. After all, you can buy *Fanny Hill* for less than half the price and save your money.

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Nine Seniors at the Law School have received Harvard University grants for travel and study abroad. James B. White will travel on a Kennedy Fellowship. Eli Chernow has won a \$3200 Sheldon Fund grant. As a Sheldon Fellow he has the task of not spending more than three months in any single country and writing chatty letters to Dean Griswold.

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Letters to the Editor

On Democracy

(Continued from page 16)

the new "democracies" of Africa and Asia true government "by the people" is impractical of attainment, and that therefore government by an "elite" bureaucracy which preserves an appearance of free government while managing the masses for their own good may be a preferable substitute.

However, that condition does not exist today in the United States of America. Mr. Long is to be congratulated upon his recognition that our government still rests on the principle upon which it was founded, that the laws should declare the will of the people, that the people themselves are best qualified to know and express their will, and that their elected representatives should ascertain it from them and articulate it.

Franklin N. Cunningham,
LL.B. '48
Boston, Mass.

Who Is Mrs. Sibbach?

To Fenno:

Your piece in the March 12 issue is one of your superior efforts. As the driver of an accordion pleated Oldsmobile, I was particularly struck by your provision for whip-lash injuries. I also shared the delights of intellectual snobbery with you by recognizing, after many

years, the references to Pierson, Post and Peerless. But who the devil is Mrs. Sibbach, and why is her medical examination venerated at that legal Cooperstown by the Charles?

B. Abbott Goldberg, LL.B. '40
Chief Deputy Director
State Department of
Water Resources
Sacramento, California

I note that you graduated in 1940. Good old Mrs. Sibbach didn't make the pages of the U. S. Reports until 1941 (312 U.S. 1, 61 Sup. Ct. 422). You never know what you'll find in those advance sheets.

Mrs. Sibbach refused to submit to a medical examination in accordance with the Federal Rules of Civil Procedure and thereby stirred up a controversy as to whether things are procedurally substantive or substantially procedural.

— Fenno

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Letters to the Editor

Bar Examinations Called Anachronistic

To the Editor:

At least as far as the New York bar examination is concerned, you were perfectly justified in attributing the unduly high failure rate of Harvard graduates to a considerable extent to sloppiness on the part of the examiners rather than of the examined. As presently constituted, our bar exam is an anachronism which caters to intellectual mediocrity and perpetrates a cruel deception on the lay public.

To pass the examination, one merely needs a sponge-like memory and a strong stomach to endure six weeks of intensive cramming of legal minutiae as useless as they are countless, and two days of equally intensive regurgitation of the selfsame details.

Four years later, I am pleased to report that all of those many minutiae have long since been forgotten. This total lack of recall has redounded to my clients' advantage, for the particulars of the N. I. L., the Stock Corporation Law, and the Civil Practice Act, for example, have long since been displaced by the U. C. C., the Business Corporation Law, and the Civil Practice Law and the Rules. The particulars of the latter are readily determinable from a host of annotated sources as and when the need therefor arises.

In short, the real cause for alarm is the failure of the examinations themselves. It is high time that the examiners relinquished their cherished devotion to trivia in favor of a genuine concern with measurement of intrinsic legal ability. The public is entitled to be serviced by law school graduates with a proven capacity for analysis and draftsmanship, and with a thorough understanding of the law. At present, it is being sadly short-changed by a system of examination which lays prime if not exclusive emphasis on the capacity to spout legal rules and maxims in the finest medieval tradition.

Herbert J. Korb, LL.B. '60
New York, N. Y.

Favors Government "By the People"

To the Editor:

In this writer's opinion the conclusions expressed by Herbert L. Cobin, Esq., in his letter published in your issue of February 27, 1964 [critical of the pragmatic approach to the campaign issues taken by Charles W. Long, 2L, in his successful quest for election as Massachusetts state representative,] are demonstrative of an increasing and most disturbing tendency to read out of our ancient objective of providing government "of the people, by the people, and for the people" the phrase "by the people".

Numerous articles and letters seem to start from a premise that views of one holding a degree or faculty appointment from this University, or an appointment by the Federal Government or some international agency, or an editorial or staff appointment on a national newspaper or magazine, are entitled to be adopted into law even though these views are refused acceptance by the vast majority of the people when they go to the polls and express themselves.

On the specific issue of capital punishment, if the Supreme Court should, as has been suggested, rule that this is a "cruel and unusual punishment" without having obtained from the people of the United States an expression of their opinion in the form of a Constitutional Amendment and in the light of the fact that the elected representatives of the people to whom this contention has been presented have expressly rejected it, this would be a clear usurpation by the Court of the legislative function, and a direct violation of the Court's duty to enforce the entire Constitution, including the Tenth Amendment.

It may well be the case that in
(Continued on page 15)

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