

The Harvard Law School Record

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NEW PROFS ARE ADDED TO FACULTY

Amory And Brown Are Elevated To Permanent Posts

Dean Erwin N. Griswold announced last night the appointment of two new professors in the Harvard Law School. They are Ernest J. Brown, former Buffalo attorney and Assistant Dean of the University of Buffalo Law School, and Robert Amory, Jr., formerly an attorney in New York City.

At the same time, Professor Amory was appointed to serve as Acting Dean of the Law School during the summer of 1948.

Both new professors have been teaching in the Law School during the past year. Their appointments are effective on October 1, 1947.

Professor Brown left his position at the University of Buffalo last fall to join the Harvard Faculty. As an enlisted man and officer in the Army during the war, he worked on military intelligence regarding the Japanese Army for the Office of Strategic Services, serving both in Washington and in China. He was discharged with the rank of Captain.

Mr. Brown was born in Lake Providence, La., on May 30, 1906. He graduated second in his class at Lawrenceville (N.J.) School and in 1927 graduated from Princeton with Honors in History. As a student at Harvard Law School, from which he graduated with highest honors in 1931, he served both on the Harvard Legal Aid Society and on the Board of Editors of the *Harvard Law Review*.

After graduating from the Law School, Mr. Brown practiced law with the firm of Kenefick, Cooke, Mitchell, Bass and Letchworth in Buffalo until the war. During 1933, he worked temporarily in

(Continued on page three)

Students Say School Should Stress Capacity for Decision, Citizenship

(Ed. note.—The following is the second and concluding installment of a condensation of a Harvard student committee report presented at the National Law Student Conference on Legal Education in New York on July 11 and 12.

Last week's installment contained suggestions as to the basic skills and knowledge which should be acquired in law school. The report this week deals with the school's part in developing the student's capacity for decision and instilling an awareness of responsibility as a citizen.

The committee again emphasizes that the student lacks the perspective necessary to reach definitive conclusions concerning legal education. Hence its report does not purport to do more than present student suggestions.)

CAPACITY FOR DECISION

In addition to the basic requirements, the response to a questionnaire recently

PBH MAKES TENNIS TOURNAMENT PLAN

The Phillips Brooks House Committee announces a summer tennis tournament open to all student racketeers in the law school. Entries in the men's singles competition can be made by signing lists posted on the Langdell South bulletin board.

The committee hopes to conclude the first two rounds during the week of August fourth when a B School vacation will make more courts available for law school use. Weather permitting, finals will take place on August 22, almost two weeks before the examination period.

Once the entry list is compiled, a tournament committee will determine the seedings. There will be approximately two matches a week for each competitor and playing time will be arranged at the convenience of the participants. Until the finals, matches will be decided on the basis of two out of three sets.

Should the demand be great enough, the committee will arrange a schedule for men's doubles and mixed doubles.

circulated among a sample of the alumni by a Harvard faculty committee on legal education makes it evident that the modern lawyer's work demands special abilities which the traditional case-law training does not afford. A comparison of the relative evaluation placed upon different skills described in the questionnaire is illuminating. The following figures are totals, the lower number indicating the higher ranking of the skill.

	Cities over 1,000,000	others
Skill in forecasting the outcome of litigation	3.5	3.5
Skill in dealing with and understanding facts	2.0	3.1
Skill in advocacy in- cluding both written and oral argument	4.3	4.0
Skill in draftsmanship	3.8	3.5
Skill in legal planning	3.2	3.5
Skill in negotiation	3.8	3.4

As Professor Fuller has said: "A change has occurred in the responsibility typically assumed by the lawyer. Today, whether he is in private practice or a government lawyer, his responsibility for facts is generally that of an administrator. He is no longer dealing with forensic facts, but with managerial facts. . . . The lawyer today has, typically, a responsibility for what may be called 'the total decision'. Almost any decision, whether arrived at by private interests or government agencies, involves a synthesis of legal and extra-legal factors."

(Continued on page four)

INTERVIEWS TO BE DISCUSSED

Toepfer Plans Pamphlet On Interview Technique

Tentative plans for the printing of a booklet on techniques in carrying on interviews have been made by the placement office. Since it is the experience of the office that men are hired almost exclusively on the basis of the interview, it was decided that a general discussion of the subject might prove of aid to the students.

Mr. Toepfer stressed the difficulty of formulating rules of general application for the reason that the methods of questioning and hiring vary considerably from office to office. The student is liable to be asked about problems ranging from dialectic materialism, for example, to strictly legal questions of the taxability of certain trusts. However, these are variations from the normal interview and can be considered only briefly in any writing on the subject.

Perhaps the most frequently asked question relates to why the interviewee desires to work in the firm to which he is making application. Accordingly, Mr. Toepfer suggested that it would be well for the student to be equipped to answer such a question. Some emphasis should also be given to the dress and appearance of the person seeking employment. A few students forget the importance of this item, Mr. Toepfer stated.

For the student who has not been offered a position on the basis of family relationship or an immediate lead from the placement office, Mr. Toepfer advises that he not be discouraged by a noncommittal answer in a first interview. One or more follow-up visits are often necessary to secure a job.

Some firms require that the applicant be interviewed by more than one member of the firm, each of whom must approve him before an offer will be made. The fact that the student may be asked questions by several persons at the same time has sometimes proved disconcert-

(Continued on page four)

LABOR LAW FUTURE IS DISCUSSED BY COX



PROFESSOR COX

Guild Hears Speech On Government And Labor Union Work

Professor Cox discussed the character of a lawyer's work in labor law and government service at a meeting of the Lawyers Guild on Friday. Drawing on personal experience and observation he laid out a factual picture of the prospect ahead for those who were interested in either of these two fields.

In labor law the attorney represents either employers or unions exclusively. The employer side is more accessible to the average law student. He can go to work for a corporation either in the general counsel office or labor relations department, or begin his work via a middle-sized law firm in an industrial area. On the union side opportunities are more limited. Labor has a deep-seated suspicion toward lawyers due to a long history of court defeats, resentment toward the legal technicalities on which many issues have turned, and impatience with the lawyer's tendency to look at the long range implications of immediately advantageous steps. The C. I. O. has taken the lead in establishing its own legal staff but even the old line A. F. of L. unions are beginning to follow. Many of their lawyers have been drawn from the government. Others have come in the hard way or representing working people individually and gradually taking on union cases. As one union leader expressed it, he only wanted lawyers who had been on the picket line with the men for six years or more.

For the employer the lawyer's work consists of advising on the application of the whole body of labor law and regulations to individual cases, the negotiation of contracts, handling the regularized grievances procedures, and litigating in court or before the N. L. R. B. This last should increase with

(Continued on page three)

STUDENTS AID FIRED WORKER

Sympathy For Communism Is Alleged By Employer

Four Harvard Law School students have been working this summer with John L. Saltonstall, Jr. of the law firm of Hill, Barlow, Goodale, and Wiswall in writing a brief for the Civil Liberties Union. The case is that of *John Galardi v. Captain W. McL. Hague*, Commander, Boston Naval Shipyard. Mr. Galardi was for seventeen years a permanent civil service employee with the title of machinist in the Boston Naval Shipyard. On December 13, 1946 he received notice that he would be suspended without pay for 30 days as a preliminary to removal from the federal service. The notice contained the statement that, "evidence has been received which indicates that in 1945 and 1946 you were a member and secretary of dues and membership in the Communist Party, Malden Branch, Malden, Massachusetts, and in 1944 you had membership in the Daily Worker Press Club of the Communist Party. The foregoing raises a reasonable doubt as to

(Continued on page three)

Sohn Appraises UN's Effectiveness In Talk Before World Law Group

The World Law Group at Harvard has been continuing this summer, its practice of inviting prominent authorities on international law and politics to lecture at meetings. At its second meeting this term, Kenneth Wang, Spec., who was a Standard Oil counsel in China, spoke to the group about Chinese corporation statutes. At its meeting last week William Barnes, '47, founder of the group, talked informally about his plan, for a year's study at Geneva, and the prospects of a practice in private international law.

Two weeks ago, Mr. Louis B. Sohn, Research Fellow in International Law, spoke to the group about world organizations, and particularly about the United Nations.

Sohn said that he found no reason to be discouraged at the future prospects of the U.N. as yet. He pointed out that the bargaining tactics used in negotiations for peace settlements have resulted in many embarrassing controversies being put on the U.N. agenda. When the treaties are signed, this source of frustrating problems will cease.

The greatest danger to the future success of U.N., Sohn pointed out, is the Russo-American conflict. While Russia has participated in the U.N. Economic Commission, and has accepted its decisions when she was outvoted, on the whole her cooperation has been very poor, and she has not entered the various agencies such as the Labor Organization, Health Organization, and Trusteeship Council.

Those who believe that the U.N., as now organized, will not be effective in preventing war, desire two major changes designed to convert the organization into a world government: First, abolishing the veto in the Security Council and providing for a rule by two-thirds majority if that majority includes at least three of the major powers, and second, raising the General Assembly until it is equal in power with the Security Council so that the former can act if the latter does not.

The objection has been made that the General Assembly should be set up on a basis of popular representation. Sohn believes that such a plan would be unrealistic, but does favor a plan of representation which would combine the factors of population, degree of industrialization, general level of education, etc.

Sohn also pointed to the constructive efforts of the Economic Commission, the Health Commission, and the Labor Organization, all agencies of the U.N., as further reasons why we should not lose faith in the success of this organization.

During the question period that followed his formal talk, Sohn said that he thought the U.N. would continue even though "one of the Five Powers" withdrew. He said that the four remaining permanent powers could pass an amendment requiring a vote of only four members for certain purposes now requiring a unanimous vote of five.

In answer to whether or not the pro-

(Continued on page three)

Gustatory Pleasures May Be Found At Boston's Famous Eating Places

Boston is world-renowned as a good eating town. Railroading gourmets swear by the shrimp cocktails and clam chowder at the *Sea Food Bar* in South Station. Erstwhile Milwaukeeans trek from all over New England for bratwurst and thick pea soup at *Jake Wirth's* (31 Stuart St.). Burlesque artistes testify that *Joe and Nemo's* (opposite the Old Howard) serves the best hot dog on the can-can circuit. Chain lunchstand proprietors from the other coast come to study the mechanical equipment in *Thompson's Spa* (239 Washington Street).

For more formal eating, Boston also offers some of the most famous, most memorable restaurants in America. To help Mrs. Legal Eaglet decide where you should invite her to dine on that evening away from the stove, the Record lists below a cross-section of dining places—old, odd, and/or outstanding. They are all easily reached by public transportation. Call Boston Elevated Information at HAN. 1800 for detailed subway directions.

Durgin-Park, CAP. 2038, 30 No. Market Street. This restaurant, on the second floor of a dingy grocery warehouse, was popular when Holmes, J., was a student. The finest of New England fare is served—Indian pudding, tripe, broiled schrod—plus superb lobsters and steaks. From President Roosevelt through Calvin Coolidge to another President Roosevelt, the great and humble have rubbed elbows at the informal long tables and licked their chops

over the generous servings. \$1.35 to \$3.50. No liquor, but usually tangy apple cider.

Locke-Ober, LIB. 1340, 3 Winter Place. Lucius Beebe rates this the best eating spot in the East. Men only in the first floor nineteenth century cafe, mixed groups on the second floor and in private dining rooms upstairs. "Sweet-breads Eugene under glass" for the epicure and more substantial meals for the less refined palate. A la carte and expensive. Top-drawer mixed drinks. Reservations and a cool evening suggested.

Parker House, CAP. 8600, 60 School Street. Originators of Parker House rolls, their main dining room is a stage setting for a Marquand novel. Well-prepared New England food and dignified prompt service. Their lobster stew is the best in town. Downstairs grille equally good; less swank. Generous, good mixed drinks. \$1.25-\$3.50.

Union Oyster House, CAP. 2750, 41 Union Street. Ye Olde Oyster House is only nine years younger than Harvard Law School. Sea food a specialty at reasonable prices. Branches at 143 Stuart and 122 Canal, but try to make Ye Olde Branche on Union Street. Here King Louis Philippe personally ran a French language course between revolutions. 95c to \$3.00.

Athens-Olympia Cafe, HAN. 6236, 51 Stuart upstairs. New England's number one Greek restaurant. American food with Grecian trim. Baklava and

(Continued on page four)

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Editorials

There have been proposals to extend to four years the length of time which the student spends in law school, or to add to his required education an apprenticeship period.

Insofar as these suggestions make for better lawyers they are sound. But they fail to consider the interests of society in utilizing the productive period of the citizen's life. Under normal conditions, a law student is 25 years old when he finishes school. He will be 30 before he is economically established. Since many classic works have been produced by men in their early 20's, it seems that a lengthy educational period deprives society of contributions it would otherwise receive.

The professionally educated segment of our society cannot suffer a further postponement of the age at which its members make a "start in life." Biologically, the law school may be the greatest contributor to the unreproduced intellectual class, the phenomenon of which leads sociologists to say that average intelligence is dropping. Intellectually, extension of the age at which the lawyer begins his actual practice will contribute to a stagnation of ideas, and to the destruction of enthusiasm.

Perhaps there should be a one-year increase in the student's legal training period. If so, there should be a corresponding deduction in the years of college and preparatory school education.

R. H. W.

Letters to the Editor

To the Editor of the RECORD:

Your editorial criticizing General Eisenhower as "obviously unfit" for the presidency of Columbia seems to be based on three principal objections. In discussing these objections, I think it best to treat them as they apply specifically to General Eisenhower, and not to attempt to deal more than cursorily with your buckshot blast at military leaders as a group. If he is to be convicted or acquitted in this newsprint tribunal, it should be on the merits of his own case.

First, you say, he is not an outstanding educator and you are right. He would probably be better equipped for his new job if he were. In view of his other great assets, however, I think he is capable of rising above that handicap. Others have—notably General Robert E. Lee who so distinguished himself as president of Washington College that its name later became Washington and Lee.

Second, you imply that he is not capable of stellar educational administration, and I think you are wrong. The man is versatile. In overcoming the massive and complex problems of freeing Western Europe, Eisenhower could not stay within "the narrow field of military science," and his success there showed a personal greatness above and beyond any military lustre he displayed.

Furthermore, there are not many men who have had a better look at the world-shaping international dealings of our time. While he hasn't taught history, he has made it. Eisenhower will bring to Columbia a perspective of America's place in the global scheme of things which will be most becoming to a great university.

His forte is human relations. He gets along with people. I think "the widely variant temperaments present in a great university" will not seem overwhelming after Monty,

Churchill, De Gaulle, and various public officials of the United States. He has shown that he can get brilliant teamwork out of an individually brilliant team—a success based on his personal qualities rather than on military ones. These personal qualities will stand him in good stead at Columbia.

Third, you suggest that he is apt to curtail academic freedom. I think you must have based this on the ground that he is a military leader rather than on anything more specific, for Eisenhower's record reveals his firm belief in human freedom—and academic freedom is but one facet of that gem.

Columbia is fortunate to get General Eisenhower. It can be expected that an enlightened and effective education will flourish under his presidency.

Other military leaders besides General Lee have demonstrated their capacity for civilian office. General Marshall has made an auspicious start as Secretary of State and General Washington did very well as President. Don't condemn the man because he is a soldier.

ROBERT A. KIRTLAND, IL

To the Editor of the RECORD:

I should like to add a word concerning the Hemenway Gym situation. I should like to suggest that the figures that you presented in your last issue should not be accepted as the final opinion of the student body. As you know, only about one out of every five men who might be interested will get around to dropping their names in your box, but I dare say you must accept those statistics as they were presented to you.

My thought is that perhaps there are many men who though not interested in playing squash, could nevertheless use the gymnasium facilities during the summer. For example, I am supposed to play off a round of tennis for the King's Bench tournament this week end. The only court that I could get is at the Radcliffe courts. That poses the rather knotty problem of where I am to change clothes, shower, etc. I have been unable to find living accommodations in Cambridge, consequently I am faced with two alternatives: (1) walk from the Radcliffe courts down to the indoor athletic building for a shower after the match (and since my locker is in Hemenway I suppose I should be required to pay an additional fee at the Indoor Athletic Bldg.) or (2) ride for 45 minutes on the subway to where I live, still sweaty from the game. It's unpleasant, inconvenient and downright unhealthy anyway you look at it. And my doctor has advised playing tennis or squash regularly twice a week "to relieve the nervous strain."

Disgusted.

To the Editor of the RECORD:

This letter is a protest against your publication, in the July 2 issue, of the letter by De Forest Spencer, Jr. concerning the article "How Black is Red" by George C. Bryan. Not only does it represent a point of view which is dangerous to the welfare of this country, but it is also full of exaggerations, half-truths and deceptions.

I do not object to the RECORD's supporting any point of view which is capably argued, but Spencer's letter on Bryan's article is not a capable argument. I regret that the course of study here has left me so little time to keep up with current affairs, or I would consider the letter on the article in detail. However, I have been able to read a case book a day and once in a while dip into various law reviews. Even this comparatively scanty amount of reading is still sufficient to prove to me that Spencer on Bryan is way off base.

The RECORD ought to publish much better letters than Spencer's on Bryan; it has done so before so I know it can.

PHILIP BRANCUCCI, IL

Humorists may wish to compare Mr. Brancucci's letter with Mr. Spencer's.—Ed.

Off the Record

To set the record straight, Robert E. Lynch, M/S CSA, is a pseudonym for the humorist (alleged?) who wrote regarding the exclusion of Missouri from the Southern Club. Neither the imaginary Robert E., nor the flesh and blood writer of the letter is any relation to Robert A. Lynch, 4th term.—Ed.

QUASI-CONTRACT?

A friend of ours, thinking to augment his pitifully meagre government subsistence allowance, recently placed \$2.00 on a "sure thing" in the First at Narragansett. His nag led all the way to the first turn but then dropped dead, perhaps of surprise. Too shy to ask in person or give his name, our friend appeals through this column to Professor Leach or any of his colleagues for advice on how to recover his \$2.00. He claims that his need is desperate. (Query: to what use do you intend to put the \$2.00 this time, friend?—Ed.)

Gallery

PERCY BORDWELL

Visiting Professor

"Like Gray, I find Future Interests is a subject of which I can never tire," says Professor Bordwell. "It's my life work."

For those at the Law School, it is unnecessary to do more than mention his name to identify this visiting professor from the University of Iowa who is teaching Property I and II this summer. The present fourth term, for instance, had scarcely reached the *Queen and Ashwell* before Professor Cavers had introduced the "Bordwell view" of possession. Recently Professor Leach told his class, "Percy Bordwell might be said to be the dean of property teachers, a man at whose knee the rest of us have sat."

Walter Percy Bordwell was born in California in 1878. He was graduated from the University of California in 1898 and on the bases of his grades and graduate studies, the Phi Beta Kappa Society, which later came into existence at California, elected him to membership in 1910. After graduation, Mr. Bordwell studied Public Law and Jurisprudence at Columbia University where he was a Schiff Fellow in International Law under John Bassett Moore. At this time, such a course was not included in the Law School curriculum but was taught in the School of Political Science. With only his dissertation to complete for a Ph.D., Mr. Bordwell entered Columbia Law School and in 1904 received his LL.B. At his graduation he received the Toppam prize for the best examination paper in Constitutional Law. After practicing for over a year in New York as a clerk in the firm of Kellogg, Beckwith and Emery, Mr. Bordwell accepted a position as assistant professor of law at the University of Missouri; two years later he was appointed Professor of Constitutional Law. In 1907 he received an LL.M. from Columbia on the basis of surplus credits acquired prior to 1904, and by 1908 he had completed his Ph.D. thesis, thus qualifying him for another degree. With this substantial educational background behind him, Professor Bordwell continued to teach and in 1910 he was appointed full professor at the University of Iowa Law School with property as his principal assignment.

Since World War I, in which he served as major in the 88th Division, Professor Bordwell has devoted his life to teaching and writing except for the recent war years when he served as Acting Dean of the Iowa Law School. However pleasant these administrative duties were, Mr. Bordwell found they demanded too much time from teaching and scholarly research. He has the same feeling toward outside practice. "I represented some clients in a case which used to be studied in trusts," he said, "*Bank of Williamsburg v. Pugh*." Then he added, "I was the losing counsel."

A glance at the Index of Legal Periodicals will reveal a steady output of Professor Bordwell's articles, beginning with *Calvo and the Calvo Doctrine* in 1906, which was the only one for which the author was remunerated. The majority of his contributions to law reviews since 1932 are all part of a book which he intends to call *Preliminary Treatise on Property*. Only three chapters remain to be published.

Professor Bordwell enjoys teaching. After over forty years of facing classes of eager students, he has had the opportunity to evaluate various methods of studying legal problems. "The historical method," he says, "is a necessary approach to the law of property if it is to be understood, though by no means the only approach. Property has come on in waves and it is necessary to recognize these waves to understand the law as it exists. There is no reason to believe that these waves are at an end." He added that the attempts to codify this unintegrated property law have not been too happy and have resulted in creating new problems. However, he is in agreement with the efforts of the Commissioners on Uniform Laws to eliminate such anachronisms as the Rule in Shelley's Case and the common law casualties attached to contingent remainders.

In regard to examinations, Professor Bordwell favors the so-called subjective examination over the objective type. He said that due to crowded conditions and the need to reduce the time spent in correcting blue books, professors are sometimes forced to give objective tests which admittedly can be closely correlated with the subjective. Nevertheless, he inclines toward an examination where the professor "gets to know the student, sees how well the student has understood his teaching, notes the processes by which the student arrives at a result. Suppose Holmes had been presented with facts on an examination resembling cases on which he wrote dissenting opinions," he reasoned. "I daresay his grade would be higher—and certainly he would deserve a higher grade—if he had the latitude of a subjective answer in which to express himself."

L. C.

Sub Judice

ADMINISTRATIVE DETERMINATIONS AND A "WOOSH-WOOSH"

In a recent case before the Second Circuit Court of Appeals, Judge Frank found it necessary to write a twenty page dissent to make clear his belief that the action of the I. C. C. in fixing the price of Old Colony property (involved in the re-organization of the N. H. & H. R. Co.) was arbitrary and capricious. At page 450 of 161 F. 2d he emphasized his dissatisfaction in the following judicial language (including his numbered footnotes which we italicize):

"If however, the Commission is sustained in this case, and, accordingly, behaves similarly in future cases, then its conduct will indeed be a mystery. Its so-called 'valuations' will then be acceptable, no matter how contrived. In that event, it would be desirable to abandon the word 'valuation'—since that word misleadingly connotes some moderately rational judgment—and to substitute some neutral term, devoid of misleading associations, such as 'aluation,' or, perhaps better still, 'woosh-woosh.' The pertinent doctrine would then be this: 'When the I. C. C. has ceremonially woosh-wooshed, judicial scrutiny is barred.' It would then be desirable to dispense, too with the Commission's present ritualistic formula, 'taking into consideration, etc.' replacing it with patently meaningless words—perhaps the same words spelled backward, (i.e., 'Gnikat otni noitaredisnoc, etc.') 84. (Had that been the rule, the Commission's Sixth Report would have concluded thus: 'Nopu rehtruf noitaredisnoc dna gnikat otni noitaredisnoc eht roirp-neil mialc etc.' . . .) Then no one would be foolish enough to believe that the figures in a Commission plan necessarily have anything to do with deliberation, but every one would know that the figures might well have been the product of omphalic inspiration, 85. (As to the use of the omphalos in oracular activities, see, e. g., Harrison, *Themis* (2d ed. 1927) 396-424; Rhode, *Psyche* (transl. 1925) 97, 110, note 31; cf. Gilbert, *James Joyce's Ulysses* (1934) Chap. III) or orthonomancy, or haraspication, or aleatory devices, and that the conclusions of the I. C. C. might well be but the conjurations of mystagogues. 86 (Montagne said of oracular utterances: 'But above all, that which gives them the greatest room to play in, is the obscure, ambiguous, and fantastic gibberish of their . . . canting, where they deliver nothing of sense, but shroud all in a riddle . . . Essays, Bk. I, Ch. 11)."

"Doubtless some trial judges, or administrative officers acting judicially, pretend to be doing their duty without in fact doing so, and they may be sufficiently astute so that their derelictions cannot be perceived by a reviewing court. Their hidden misconduct may then be irremediable. But when they attempt such a pretense without effectively concealing the misconduct, a reviewing court should reverse them. That, I think, is the case here." . . . *Old Colony Bondholders v. New York, N. H. & H. R. Co.*, 161 F. 2d 413.

Phew!

MEMORIZE YOUR DEFAMATORY BROADCASTS

On April 17, 1947, the New York Court of Appeals determined that "the utterance of defamatory remarks, read from a script into a radio microphone and broadcast," is libel, not slander. The decision should prove useful to future early-round Ames competitors, who have long been harried by the distinction. Likewise, an ancient Torts professor will review his work with a feeling of pride when he notes that the majority of the cases cited in the opinion are to be found within the covers of his compendious casebook. That perennial defendant, Walter Winchell (*Hryhorijiv v. Winchell*, 180 Misc. 596, 267 App. Div. 817; *Curran v. Winchell*, N.Y.L.J., March 13, 1941, p. 1141, col. 2; *King v. Winchell*, 248 App. Div. 809) brought the case to New York's highest court on denial of his motion to dismiss the amended complaint, as failing to state a cause of action.

The court held that the mere fact that the writing was not seen did not remove the sting from its permanence of form, which sting (*Ostrowe v. Lee*, 256 N.Y. 36, 39) forms the basis of the narrow distinction between libel and slander. The court did not reach the question whether broadcasting defamatory matter which has not been reduced to writing should be held to be libellous because of the potentially harmful and widespread effects of such defamation. (See *Restatement, Torts*, Sec. 568, subds. (1), (3), comments e, f, g.) Perhaps an intensive course in memorization techniques will relieve the harassed broadcaster of some of the burdens of his profession.

Alumni Notes

Alumni are especially invited to forward contributions to this column to the Record office, Austin Hall, Cambridge (38), Mass.

Reports have been received from approximately one-third (43 out of 128) of the graduates of last June concerning their present employment status. The actual number of graduates who have obtained jobs is believed to be considerably larger, but a number of them have neglected to report their present situation to the Law School. Geographically, the breakdown allocates approximately 33% of those reporting to New England, with Massachusetts alone accounting for 25% of the total. New York claims another 25%, and other eastern states plus Washington, D. C., account for an additional 9%; 14% of the total reporting have settled in California, and 17% in midwestern states. The south and the southwest account for one man each. The alphabetical breakdown is as follows:

Thomas R. Ayres: Old Colony Trust Co., 1 Federal St., Boston, Mass.; **Ellis Ames Ballard:** Pope & Ballard, 120 S. LaSalle St., Chicago 3, Ill.; **John Barnard, Jr.:** Gaston, Snow, Rice & Boyd, 82 Devonshire St., Boston 9, Mass.; **Lee H. Bloom:** Lever Brothers Co., 50 Memorial Drive, Cambridge, Mass.; **Matthew W. Bullock, Jr.:** Office of Raymond Pace Alexander, 40 S. 19th St., Philadelphia 3, Pa.

William P. Bundy: Covington, Burling, Rublee, Acheson & Schorb, 701 Union Trust Bldg., Washington, D. C.; **Robert S. Burns:** Office of Ira Burns, Bryant Bldg., Kansas City, Kan.; **Clifton B. Carter:** Mudge, Stern, Williams & Tucker, 40 Wall St., New York 5, N. Y.; **Harvey Cohen:** Bernhardt, Sahn, Shapiro & Epstein, 225 Broadway, New York, N. Y.; **Edward C. Crouch:** Marshman, Hollington & Steadman, Union Commerce Bldg., Cleveland, Ohio.

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Thomas J. O'Toole: Chambers of Judge John V. Spalding, Massachusetts Supreme Judicial Court, Boston, Mass.; **Jack R. Pearce:** Chambers of Judge Augustus Hand, CCA-2nd, New York, N. Y.; **Donald E. Peterson:** Pillsbury, Madison & Sutro, Standard Oil Bldg., San Francisco 4, Cal.; **Sumner M. Redstone:** Chambers of Judge William E. Orr, CCA-9th, San Francisco, Cal.; **Elliot L. Richardson:** Chambers of Judge

LES BEAUX JOURS DE LA VIE



Une demande en séparation

Mon client n'est pas un de ces maris présomptueux qui viennent se canter devant vous d'avoir trompés par leur femme, sans avoir autre chose que de vagues soupçons... grace au ciel nous avons des preuves... nous en avons à foison, et c'est le front levé, et sans crainte d'un démenti, que monsieur peut annoncer hautement et en tous lieux... qu'il est... qu'il est... enfin ce qu'il est!...

Learned Hand, CCA-2nd, New York, N. Y.

Martin Richman: McKesson & Robbins Inc., New York, N. Y.; **James A. Rousmaniere:** Food Machinery Corp., San Jose, Cal.; **Harvey D. Silverblatt:** Spring & Eastman, 6 E. 45th St., New York, N. Y.; **Henry J. Smith, Jr.:** Hodges, Reavis, Pantaleoni & Downey, 20 Pine St., New York 5, N. Y.; **Willis A. Trafton, Jr.:** private practice, Auburn, Me.

Richard M. Weissman: private practice, 82 Devonshire St., Boston, Mass.; **Frederick R. H. Witherby:** Peabody, Arnold, Batchelder & Luther, 10 State St., Boston 9, Mass.; **Norman A. Witt:** Haight, Goldstein & Hobbs, The Rookery, 209 S. LaSalle St., Chicago 4, Ill.

BRIEFS—(Continued)

your loyalty to the Government of the United States."

Mr. Galardi was given an opportunity to answer these charges personally and in writing. At the hearing he presented affidavits from his minister, city officials, and fellow employees which testified to his loyalty and character. Mr. Galardi however was denied the right to be represented by counsel, to present witnesses or to examine witnesses against him. The government presented no evidence to rebut the affidavits and unequivocal denial by Mr. Galardi that he is or has ever been an officer or member of the communist party.

The petition by Mr. Galardi for an injunction against his summary dismissal and for a declaratory judgment that he is entitled to damages and his accumulated leave pay was dismissed by Judge Wyzanski of the U. S. District Court for failure to state a cause of action since plaintiff had not exhausted his administrative remedies. An appeal is being brought in the Circuit Court of Appeals on the grounds that Mr. Galardi had exhausted his administrative remedies and that his dismissal was a violation of the Fifth Amendment, the Civil Service Act, the Hatch Act, the Administrative Procedure Act, and, since Mr. Galardi is a veteran of the first World War, the Veteran's Preference Act.

Professor Freund made the announcement in class that Mr. Saltonstall would appreciate some student help in preparing the brief for the appellate court.

Ogden Williams, Bernard E. Kalman, Irwin W. Barkan, and Frederick C. Fisher Jr., all of the fifth term, offered their services in the project. Messrs. Barkan and Fisher have undertaken the work as part of their activities as members of the Harvard Chapter of the National Lawyer's Guild. Members of the Guild intend to help in other cases where they can put to practical test the principles that they have been studying.

WORLD LAW—(Continued)

visions of the U.N. Charter became laws of the member countries, Sohn drew a distinction recognized in international law between self-executory and non-self-executory treaties. Self-executory treaties become a part of the law of participating countries as soon as they are signed. Non-self-executory treaties require enabling legislation. Sohn said he thought that probably the U.N. Charter would be classified as non-self-executory.

In the face of criticism of Russia's U.N. activities, Sohn noted that Russia's delegation at the U.N. and other international conferences, while usually small, is ordinarily superior to that of other countries. The members work hard and are much better prepared to discuss the issues involved. However, Russia will very rarely send a delegate to a conference outside the country unless he leaves his wife and family, or at least a cherished mother at home in Russia to insure his return!

NOTICE

Necessary cutting of last week's story by Huibert Drion on the Dutch system of legal education may have left two false impressions in the minds of readers, and we want to correct these. Mr. Drion says that the Dutch law student is not necessarily less interested in his work than the average American student, but he does his work in a more leisurely manner, dividing his time between classes and his "Corps," or drinking clubs, and is usually not bound to hurry with his training so that he can start earning a living. Second, the German and Swiss courts are like (not unlike) Dutch courts in that they are not bound by the doctrines of *stare decisis*.

BEAGLES, MORRIS WIN FOUR IN ROW

Two teams, the Legal Beagles and Morris, now top the Langdell Softball League with unspoiled records of four straight victories apiece.

Last week, the League-leading Beagles barely nosed out Hastings by a score of 9-8 in a close extra inning game. Meanwhile, the Counselors dropped into second place, when a revitalized Perkins Club handed them a 5-4 defeat.

Schedule, July 30 through August 6:

Wednesday: Legal Beagles v Palsgraf Polecats, Revisers v Perkins. **Thursday:** Athletics v Divinity Hallers. **Friday:** Chancery v Morris, Trover Boys v Arsonists. **Monday:** Hastings v Palsgraf Polecats. **Tuesday:** Chancery v Sheriffs, Revisers v Divinity Hallers. **Wednesday:** Legal Beagles v Morris, Blackacres v Perkins.

Standing of the clubs:

Legal Beagles won 4-lost 0, Morris 4-0, Athletics 2-0, Counselors 4-1, Hastings 3-1, Palsgraf Polecats 3-1, Chancery 2-1, Sheriffs 2-2, Trover Boys 1-1, Divinity Hallers 1-3, Perkins 1-3, Tax Dodgers 1-3, Revisers 1-4, Lincoln's Inn 0-2, Arsonists 0-3, Blackacres 0-4.

NEW PROFS—(Continued)

Washington preparing regulations for the Agricultural Adjustment Administration, drafting cotton crop limitation contracts and preparing other marketing agreements.

He inaugurated a course in Federal Taxation at the University of Buffalo in 1937, and became a regular member of the Buffalo Law School faculty in 1939. He served for six months on the legal staff of the War Production Board before entering the Army in 1942.

Professor Amory practiced law in the firm of Wright, Gordon, Zachary and Parlin in New York during the late 1930's. During the War, he served a long period as combat engineer in the South Pacific. He was decorated for gallantry and was discharged with the rank of Colonel.

Mr. Amory was born in Boston on

March 2, 1915. He graduated from Harvard College in 1936, *magna cum laude*, and from the Harvard Law School in 1938. At the Law School he was a member of the Board of Editors of the *Harvard Law Review* for two years, and wrote a distinguished article on "Base Stock Inventories and Federal Income Taxation."

LABOR LAW—(Continued)

the application of the Taft-Hartley Act, according to Professor Cox. For the unions the work extends to worker education, lobbying and frequent activity on civil liberties questions.

Government service for the young lawyer has the disadvantage of specialization during the period he should be getting broad experience, although it is excellent for the development of legal judgment. During the New Deal and the war, progress was often rapid and young, able lawyers handled great responsibilities far earlier than their colleagues who went into private practice.

During ordinary times progress is slow because of the restrictions of the departmental budget and table of organization. The career lawyer seldom rises above the P-6 level at about \$6500 per year. On the other hand, government service offers security and the satisfaction of doing an important and interesting job. The top jobs are reached by outside lawyers who do a good job in their own communities, develop political connections and come in with the change of administration.

The local guild elected the following officers for the coming year: Fred Fisher 3L, chairman, Denis Maguire 3L, vice chairman, George Spiegel 3L, secretary, and Albion Fenderson 3L, treasurer.

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Calendar

THE LEGAL WORLD
Ames Competition

Qualifying Round (third term) Argument, Argument 6 will be held Tuesday, August 5. The final Qualifying Round Argument, Argument 7, will be on Wednesday, August 6.

King's Bench

There will be a social at Kendall House, August 2, Saturday, at 8:30 p.m. Tuesday, August 5, King's Bench members are invited to a Smoker at Kendall House, 4 p.m. The baseball team plays every Saturday at 2:30 at the Business School.

Southern Law Students

Southern Law Students meet at Kendall House at 7:30 p.m. on August 6.

Harvard Law Wives

Sign up at Kendall House so that arrangements may be made for cars to take you for a swim at Walden Pond. The date set is Tuesday, July 29, at 2 p.m. Wednesday, August 6, at 8 p.m., John Eustis of Claus-Gelotte will speak on "How to Improve Your Snapshots" at Kendall House.

PBH Cruise and Dance

Moonlight Cruise and Dance, Saturday evening, August 9. Tickets on sale at Gannett House, Mondays through Fridays, from 1 to 5 p.m. Price, \$3.45.

Grotius Club

Members of all terms are invited to a party with beer and set-ups furnished. The event is to be Friday, August 1, at 8 p.m., at Kendall House. Admission is \$1.50 per couple; \$1.00 stag.

Story Club

Meeting of all members Thursday, July 31 at 1:45 in Langdell South to set date for beach picnic.

UNIVERSITY WORLD
Sunday Evening Club

The Sunday Club will meet at 3 in the afternoon for an outing to Wayside Inn. Bring box lunches to Phillips Brooks House.

Summer Film Program

A Russian film, Sergei Eisenstein's *Alexander Nevsky*, will be featured Tuesday, August 5, at 8 p.m., in the Music Building (Paine Hall). Music is by Sergei Prokofiev and the film features Nicola Cherkasov and the battle on the ice. A short: *Russian Folk Dances*, will be shown also. Admission, 60 cents.

THE OUTER WORLD
Summer Theaters

The Boston Summer Theatre: At the New England Mutual Hall, John Huntington and Lee Falk present Richard Arlen in H. M. Harwood's comedy, *The Man in Possession*. This will run thru Saturday, August 2. Next week, on August 4, the play will be given at the Cambridge Summer Theatre, Brattle Hall.

On August 4, Arthur Treacher, popular stage and screen comedian, will begin a week's engagement in the famous mystery comedy, *The Ghost Train*.

The Shubert Theatre: Lucille Ball, popular screen actress, is currently playing her first Boston stage engagement as the star of Elmer Rice's comedy, *Dream Girl*. The play, which rates as Mr. Rice's most popular comedy, is the story of a romantically inclined young lady who imagines herself in all manner of absurd and amusing situations.

The Cambridge Summer Theatre: *Dracula*, the famous thriller about vampires and werewolves, based on Bram Stoker's book, continues through August 2. Bela Lugosi, celebrated screen star, plays the title role.

Concerts

Gardner Museum Concerts: The final concert for the summer features Noel Lee, pianist, on July 31, at 2:45 p.m. The Museum will be closed during August.

Dances

The Carlton Club presents Harold Donehy's Orchestra playing for the dance this Saturday night at 8:30 p.m. Free admission to male students.

Baseball

Major League Games in Boston: The schedule for the Red Sox is as follows: August *1-2-3—Detroit. August *5-6—Braves vs. Brooklyn. Night games are starred.

Capacity for Decision Is Needed

(Continued from page 1)

The capacity for total decision requires something more than the traditional "given the facts, what is the law?" approach which usually runs through the study of litigated and hypothetical cases.

The possibility of a separate course in "facts" immediately comes to mind. But we are skeptical of any artificial theoretical instruction in the assessment and evaluation of the constituent facts which make up the complete problem brought before the lawyer for decision. Therefore we think that the techniques and material for developing this skill must be introduced in the various law courses. The approach might be "given the law, what are the facts?" For example, given the law on *de jure* corporations, what questions should a lawyer ask his client when a problem of corporate franchise is raised? Courses dealing with corporate problems and courses dealing with estates are peculiarly fitted to this approach. See Professor Leach in 27 Boston Univ. Law Review 157.

The use of client interviews would develop not only the ability to collect and use facts but also the ability to make a decision based on non-legal as well as on legal factors. To create an awareness of the non-case law factors which must be considered in making decisions for the client, casebooks, especially after the first year, should include material which illustrates how issues really come up, how they might have been avoided by awareness of non-legal factors, how they may be settled without litigation, and to what degree litigation may be influenced by non-legal forces.

The approach already used in public planning courses might well be carried over into what we would term the private planning field. In a recent course in Legislation at Harvard the class was constituted as a legislative committee engaged in drawing up statutes to implement a given policy or to solve a clearly defined problem, a project requiring the student to take into account non-legal facts and objectives. This approach might be used in a course on wills by giving the students a multitude of facts and calling upon them to plan a man's estate, considering non-legal as well as legal factors.

Although we have so far discussed this question of facts and planning as skills it is clear that they involve substantive knowledge as well. The modern lawyer, especially the big city lawyer, must somehow be given more understanding as well as mere awareness of the non-legal facts with which he is bound to be confronted. The results of the questionnaire make this especially clear in the case of accounting and business and financial practices. At first blush it might seem most efficient and desirable to have the law student acquire non-legal information outside the law school by taking the relevant courses in other graduate departments of the university. At Harvard, for example, the faculties of the Business and Public Administration schools are as well as the Arts and Sciences, available to the law student and credit is allowed for courses taken up to a stated maximum. We reject this solution as unsatisfactory because in our opinion it involves a waste of valuable time and may even prove inadequate to the job. The courses at other graduate schools are not designed for the law student, but are part of a course of training tailored for other professions. As a result the approach may be quite unsuitable and the material covered is at least in part probably unnecessary for the law student. The law student taking such a course experiences the same dissatisfaction as the undergraduate history major who, desiring an acquaintance with the method and basic theory of physics, takes a physics course designed to provide the foundation for a physics major. Thus when the law student takes a course in accounting he does not want to learn to be a bookkeeper but seeks an understanding of accounting insofar as it will have bearing on the practice of law.

On the question of accounting we see no solution except the offering of a course in corporation accounting for lawyers as part of the law school training required for urban practice.

These suggestions immediately pose a personnel problem since it will not be easy to find professors equally expert in the narrow professional legal sense and in the non-legal area of sociology, economics, banking and other disciplines and fields of experience now relevant to lawyers' decisions. Neither the "black-letter" nor "Socratic" mastery of "pure" law will be sufficient equipment. We can do no more than suggest that insofar as these new skills involve appreciation of non-legal material, a school for their development will demand a new type of law professor, who is proficient with that material and still meets traditional standards.

Perhaps it is peculiar to our generation, as a result of the revolutionary times in which we live, to feel that values and institutions which have long been taken for granted must continually rejustify themselves. Even if legal values and institutions did not need continual rejustification, the skill of the lawyer in handling both legal and non-legal factors would be enhanced by an understanding of legal values and institutions. Although a better understanding of what Professor Llewellyn calls the "Law Job" is not a need recognized by our elders, according to the results of the questionnaire, we urge for the above reasons that each law school offer a course to provide that understanding. Harvard's course in Jurisprudence examines the place of law in society and the purposes of different legal systems as illustrated by a study of them against the backgrounds of their respective societies. We prefer this approach to one which starts with "values for society" and then attempts to determine how the values should best be implemented. It would affront our sense of democracy to feed law students a "black-letter" set of values. Furthermore it would be extremely difficult for a law school to make a detailed formulation of values.

CITIZENSHIP

When the student has acquired the skills and substantive knowledge referred to in the preceding paragraphs, he should be as technically competent in his profession as it is possible for the legal educators to make him. He will then have reached the point where it is more expedient for him to acquire the further information and professional capacity which he still must have, through other than purely academic endeavors.

But there is yet a vitally important element which enters into the pattern that we are attempting to create in this discussion of what the law schools can do to turn out the best possible representatives of their vocation. That is the awareness of responsibility which we believe that every lawyer must feel towards the institutions and fellow-members of his community. As a lawyer, he owes a duty to his client, but as a citizen and highly trained and educated man, he must realize that the skills which have qualified him for the legal profession have also prepared him for social and public service of many kinds in which it is his duty to participate. That lawyers are more than mere specialists in one field from which they rarely stray is evidenced by the fact that members of the legal profession are found in legislatures, in executive or advisory positions in Federal, state, or municipal governments, and in prominent civic positions in every community. The lawyer has always been called upon to serve and advise in extra-legal capacities.

This does not mean that every young lawyer must immediately throw himself into civic or charitable service the instant he graduates from law school, or that every lawyer must enter politics, or head the Community Fund in his city. The "social responsibility" which it is our contention that the lawyer should possess cannot be measured by any definite standard because of the variety of forces which are involved. But it should be clear that the awareness of responsibility and willingness to fulfill the charge imposed upon him by the nature of the calling he has chosen is something far more comprehensive than the more or less negative field covered by the term "legal ethics."

The problem of what the law school should, if anything, do in order to help to instill this necessary consciousness of

duty to others, is difficult to resolve. Suggested methods for planting and cultivating moral responsibility in law school graduates have usually centered around a course in legal ethics. As we have stated, we believe that ethics are only the negative side of what we are seeking to implant. And as Professor Simpson has pointed out, a course in legal ethics would almost certainly degenerate into a discussion, probably highly diverting, of "how far you can go" and still stay in the bar association. Difficulties even more serious are apparent. The social and moral consciences of men of law school age have already been shaped and hardened by twenty-odd years of living in home, church, school and college. Even if the law school could provide the mold, it could not do very much about the quality of the metal poured into it.

The means adopted, if any, to awaken moral and social responsibility in the law student should be directed towards stimulating the individual in the light of his own character, rather than towards directing the mass according to a stereotyped pattern. For these reasons we do not think that formal courses would be effective or appropriate to attain the objective which we are seeking. On the other hand, the statement that the law school cannot inculcate the desired "awareness" by means of courses specifically directed toward that end does not mean that the law school should not be deeply concerned with this aspect of the education of its graduates.

In the final analysis it will be readily seen that the law schools can probably do very little to alter any of the basic elements of the student's character. At the most, they can point out meritorious examples of what they consider a lawyer should be, and hope that the illustration makes a sufficiently strong impression.

PLACEMENT —(Continued)

ing, but it is one of the many variable situations which every applicant must be prepared to meet.

In order that the placement office may have more information on this subject, Mr. Toepfer asks students who have been interviewed to give their impressions and relate their experiences to the office. Such information will aid in the formulation of general rules concerning the student's part in an interview.

More information in regard to the placement situation on the West Coast may be forthcoming when Mr. Dimmit returns from his present trip to that section of the country.

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GOURMET —(Continued)

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