

The Harvard Law School Record

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PLACEMENT METHODS DISCUSSED

Toepfer Discusses Placement Office Role In Job Hunt

At the final summer meeting of the Harvard Lawyers Guild Louis A. Toepfer of the Placement Office answered the question of what Harvard is doing to get jobs for law students.

In former days, he said, the feeling was that Harvard men could get positions without help, and, anyway, it was good experience hunting for them. Under the active promotion of Dean Griswold, however, the Law School has taken an active part in placement activities. As "director" of the program he has organized the placement office, issuing letters to the 18,000 alumni, and revitalized the Harvard Law School Association.

As "evangelist" Mr. Dimmitt has been touring the country, city by city, to find job opportunities and form local placement committees. These committees stand ready to help the job seekers on the spot.

In answering student questions, Mr. Toepfer asserted that students seeking employment in small town firms must start early. City employment, however, is available to the graduate on the spot. Pay now averages about \$3000, generally higher in the large cities and lower in the towns. Starting pay is rarely dependent on grades, most men beginning on the same level receiving the same pay, with adjustments made for need. Mr. Toepfer stated that grades are not all-important in landing the job, but higher grades do help in meeting employers.

At the present time there are plenty of job opportunities in most of the country. California now has the greatest number of openings. Denver, by contrast, is absolutely closed. New York has a "constant, consuming" demand.

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LAW REVIEW SEEKS GRAD STUDENTS' ARTICLES

The Law Review, through its President, Albert M. Sacks, has indicated a desire to make its pages available for articles written by graduate students at the Law School. The Review has published a number of such articles in the past, but apparently present graduate students are unaware of this practice since very few have submitted papers or theses.

An example of an accepted article of the type now sought is Joseph D. Block's "Suits Against Government Officers and the Sovereign Immunity Doctrine," published in the September, 1946 issue.

BOARD ELECTS NEW OFFICERS

Pres. Massengale Seeks Ames Club Supervisors

New officers for the fall term have been elected by the Student Board. John E. Massengale III, Harvard '42, succeeded to the presidency replacing John J. Shea, Harvard '44, who will be graduated in September. Other successful candidates were: Second Year Chairman, C. Duane Aldrich; Harvard; Second Year Facts Chairman, Donald G. Alexander, Yale '42; First Year Chairman, James W. Perkins, Harvard '45; First Year Facts Chairman, Samuel O. Pruitt, Washington & Lee '41.

This week, the Board of Student Advisers has asked the help of present fourth and fifth term students in planning for the fall advent of approximately 550 new Ames competitors. Since only about 350 entering students can be absorbed into the established law clubs, there will be some 25 orphan organizations. Men who are to do third year work for the next two years are invited to volunteer their services as club supervisors.

The task of a supervisor is not a difficult one. Basically, it consists of arranging the initial get-together of the new men and the election of a clerk; then the supervisor must select judges for the

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SURVEY DISCLOSES EXPENSE OF HARVARD MEDICAL SERVICES



—Harvard Crimson Photo.

Dr. Arlie Bock, Harvard medical head, whose department is under discussion.

JOB DISCUSSED BY DIRECTOR

Brownlee Talks on Position In Present Day Corporation

The case system was carried one step further recently when Professor Henry M. Hart presented to his Business Associations I class a bona fide, full-time corporation director. In an attempt to introduce a "fresh air of reality" into the academic atmosphere, Mr. Hart devoted the period to a discussion of corporate government with his former OPA associate, Mr. James F. Brownlee, presently member of the Boards of Macy's, Gillette Safety Razor, Pillsbury Flour, American Railway Express, the Bank of Manhattan, and three venture-capital corporations, answering the questions put to him by students—questions accumulated during several weeks of case study.

Quickly dispelling any illusions that boards of directors were generally "rubber stamp" organizations, Brownlee outlined what he considered to be the three major responsibilities of an average board—selection of key personnel, formulation of top-level management policy, and long-range planning. "The daily operation of the corporation is not part of the board's job since it is physically unable to cope with the numerous problems of this production-level management."

In regard to directors' compensation, Mr. Brownlee reported that in addition to the established practice of paying directors a set sum for each meeting attended, there is a significant trend toward the payment of a flat retainer for annual services. If the latter type of compensation is followed, corporations feel free to call upon the director to perform special duties in the nature of problem analysis requiring research and reports. In certain business areas, the practice, rapidly growing stronger, is to hire specialist directors—men qualified in merchandising, production and finance—and Brownlee emphasized the advantage to the corporation in having a director who, by virtue of his experience on various boards is better qualified to make sound decisions on basic business problems. This latter type of director avoids the problem of conflict in interests by eschewing membership on the boards of competing corporations.

Most students in the class, who had been noticing the personal hazards involved in corporation management as evidenced by the cases studied, were surprised to hear Mr. Brownlee say that

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This week the RECORD devotes a considerable portion of its news and editorial space to a consideration of the cost and scope of student medical care at Harvard. Readers will recall that two weeks ago the RECORD printed an editorial drawing attention to the problem, urging that an investigation be undertaken to explore the problem and to see if any improvement could be effected. In last week's issue, Dr. Contratto, acting head of the Hygiene Department during the absence of Dr. Bock, defended the administration of medical services in the university, stating that he believed that the present fee of \$15.00 per term provided better protection, more facilities, and a higher quality of services than any other comparable system available.

Today, believing that the student body will welcome a fuller discussion of the issues raised by these articles, the editors have attempted to fill in the background with two stories printed on this page. The first is a summary of insurance plans offered by various insurance companies for use in other colleges. The second article is a review of the experiences of several men at the law schools with the expense of medical attention they received from the Hygiene Department. Further editorial comment on the questions presented by these stories will be found on page two of this issue.

Medical Insurance Found Advantageous By Many Colleges

Sections of the University aside from the Law School have registered dissatisfaction with the amount of medical care received for the \$15.00 per term fee. Clyde C. Snyder, Jr., a Business School student, has made an investigation of group insurance possibilities, whereby, for small premium payments, students in other schools receive greater coverage of their medical expenses than is provided here.

A number of colleges and private schools have adopted group insurance plans, some charging an extra optional payment for the increased coverage the plan affords, others absorbing the premium in their tuition fee. Premiums vary, depending upon what specific services fall within the program, but usual costs are from \$15.00 to \$25.00. The policies examined by Mr. Snyder have invariably extended protection throughout the year, including summer vacation periods.

As pointed out in the brochure on the terms of the policy which has been written by St. George's School, "The plan is broad in its scope, and covers all accidents (including sports) and illnesses whether sustained at school, at home, or while traveling between school and home, or wherever the student may be during the term of the policy."

Mount Holyoke College offers medical facilities to its students similar in scope to those provided by Harvard. In addition a charge of \$18.00 per year is made under its insurance program. Under this policy all costs for doctor bills, hos-

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Students Assert Bulk Of Cost Must Come From Own Resources

Each student at Harvard pays \$15.00 per term for medical treatment offered by the university. Despite this, many students feel that this is a high price to pay for the benefits received. The RECORD here presents the experiences of several students who recently have required medical attention and who have found that the cost for such attention is not covered by the medical fee, but rather must be met from the student's own limited resources.

Student A contracted a nose infection. The law school office of the Hygiene Department sent him to Stillman Infirmary for treatment. While there he was charged approximately \$13.00 for penicillin, and \$25.00 for the services of a specialist who spent no more than five minutes with A.

Student B, too ill to come to the school for an office appointment, requested the Hygiene Department to send a doctor to his home. On his first visit the doctor diagnosed B's symptoms as those of ordinary indigestion, but on a second call the following day determined the ailment to be ulcers. For these two visits, student B was charged \$10.00. X-Rays, needed in the analysis of the case, added a further \$20.00 to B's medical expenses. Today, B still faces further heavy outlays for X-Rays, and if he consults a specialist, as recommended by the department, the financial burden will work a real hardship.

The Hygiene Department arranged for a dental appointment at student C's request and told C he would be notified as to the time and place. C contends that he received no notification, and that when he contacted the medical office was informed that he had missed his appointment. For this alleged tardiness, C was billed \$5.00 despite his subsequent protests to the department.

Student D went to the Hygiene Department to have a wen removed. He was told that the operation could not be performed in the Hygiene office. He was told that he must go to Stillman Infirmary and that the doctor would have to charge him \$5.00 for the operation.

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OFFICERS SELECTED BY CHANCERY CLUB

In an election held at the new house of the Chancery Club last Wednesday, Glenn W. McGee was chosen the new President, replacing Julius A. Leatham. Arthur Slade is the new Vice President, taking over the position formerly held by Malcolm Wilkie. At the same time Kennedy Smith and Wesley Bevin were re-elected Secretary and Treasurer, respectively.

Three members were also placed on the Board of Governors. These are Bert Early, Harry Carter and George Burditt.

As a phase of its increased activities the club has decided to operate a co-operative book exchange. In view of the fact that the incoming class will not have as many veterans in it, the club feels that the demand for used books will increase. For this operation, which is open to all members of the school, the club will be open at the following hours: August 25 to September 13, 2-5 P.M.; September 13 to October 4, 9 A.M.-1 P.M., and 2-5 P.M. This schedule is tentative.

Community Property Is Expensive Way to Cut Taxes, Student Says

By FREDERICK G. FISHER, JR., 3L

The community property concept, which was unknown to the Roman law or English common law, has been traced to law brought to France and Spain by the German tribes which irrupted about the time of the end of the Roman Empire. It consequently became the law of those parts of America which were settled by the French and Spanish.

The new lease on life which community property has taken in 20th century America is explainable by the income tax tables. Because of the progressive income tax, people in common law property states pay a great penalty, while those in community property states enjoy a great tax advantage, as shown by the following table which gives the tax saving in community property states:

Net Income (\$)	Tax Saving (\$)
4,000	40
8,000	280
16,000	1,280
32,000	4,060
100,000	13,680

In percentages, the saving realized by splitting the family income is even more dramatic. A citizen of Massachusetts with the same income, exemptions,

and deductions as a citizen of California or Texas pays with a net income of:

\$ 5,000	3.33% more taxes
10,000	18.56% more taxes
15,000	28.31% more taxes
25,000	40.59% more taxes

As a result of these discrepancies, four new states (Pennsylvania, Nebraska, Michigan, and Oregon) have this year added themselves to the previous list of community property states (Arizona, California, Idaho, Louisiana, Texas, Oklahoma, Nevada, New Mexico, and Washington).

Senator McClellan from Arkansas commented in the Congressional Record, 27 May 1947, p. 5991, on what this discrepancy has meant to his state. "A number of citizens of my state have their business in Arkansas and live across the line in the state of Texas. I cannot blame them, although I would not like to leave Arkansas. By doing so, every four years they save enough in Federal taxes to pay an entire year's Federal tax on their income."

Attempts have been made, both through the courts and by offering amendments to the revenue acts of 1921, 1924, 1934, 1941, 1942, and 1947 to change this inequality, but they have failed. As the income tax burden becomes heavier, and while the remedy on a Federal level is balked by community property interests in Congress, the states have been forced to change their own property laws.

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FISHER

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Editorials

During the summer Business School, Law School, and College students have expressed dissatisfaction with the Hygiene Department's policy of limited care. These complaints have been brushed aside by the Hygiene Office with a desultory defense of the status quo. This week the RECORD has printed case histories of the out-of-pocket cost to the student of simple ailments. As one student phrased it, "Stillman, with its quarter million dollar income, offers without charge only first aid station care."

Clearly, medical attention costs the student too much. The student needs a medical department offering him security in the event of illness; when he pays an expensive doctor's fee it is no solace to him to know that Stillman has 113 usually empty beds available. Each year students pay several hundred thousand dollars to the Hygiene Department. It may be that this money is used efficiently. But the magnitude of complaints indicates that students do not believe that they receive their money's worth from the Infirmary Fee.

In the interests both of the student and the University, a committee should be appointed to investigate the possibility of expanding the benefits offered by the Hygiene Department. Some members of this committee should be disinterested parties—either University officials or students, whose backgrounds qualify them for such an investigation. The committee should determine whether or not it is possible through economies in the Hygiene Department, or other means, to offer students (1) surgical services, (2) drugs, (3) dental care at lower prices, or (4) insurance for all medical care up to a certain maximum.

Refusal to re-investigate medical care possibilities can only mean that the University has lost interest in the student and in efficient administration of its funds.

R. H. W.

Letters to the Editor

To the Editor of the RECORD:

Much as I laud your recent efforts to show what places provide facilities for the relaxation required by law students, I must take issue with your selections. Methinks the following list is a much better compilation:

(1) On Land: *South Station*, HUB. 6500, for all points south and west, connecting at Albany for points north. *North Station*, CAP 5070, for all points north, northeast and northwest, connecting at Troy for west and south. *Park Square*, COM 1366 (Greyhound, for all U. S. and Canada points), and LIB 6180 (Quaker City, for Middle Atlantic States and connections north, west and south). *Auto Rentals*, KIR 0336 (Hertz), KIR 4561 (Mount Auburn) and TRO 5775 (Nutter), and take it from there!

(2) In the Air: *Logan Airport*, EAS 4100 (Northeast, for New York, Montreal and intermediate points), LIB 3720 (Pan-American, for Europe, Africa, Asia and South America), LAF 3000 (Trans-World, for continental points, Europe, Africa and Asia, with maybe a Hughes-sponsored glamour-girl to boot!), and EAS 4500 (United, for west coast and intermediate points).

(3) On the Sea: Make personal inquiries at Commonwealth Wharf and environs; see also

U. S. Navy Recruiting sound trucks and U. S. Coast Guard Recruiting posters.

In essence, my proposal is: If you want to get away from it all, go a long distance, and don't spare the horses (CIR 9320, Bay State Stables, or LAF 9137, Cosmopolitan Stables).
NAT TAFT, 3L

To the Editor of the RECORD:

Your editorial on war talk is at best quixotic. You have assumed that the desire for resistance to the Russians is based upon a fear of Communism's powers of persuasion, and proceeded to criticize the logic of such a position. I think all will concur in the criticism; to make war because we fear the alleged Communist proselytism would be as ridiculous as to say that our last war was against Fascism. The Russians have not won Eastern Europe by the might of the pen, the press, or the spoken word. When we fight them it will be because they are in fact or in reasonable potentiality a military threat to us.

Yours very truly,

James F. Fallon, Jr., 2L

To the Editor of the RECORD:

I should like to recommend that in instances where a course covering a period of two semesters is split up between two professors (e. g., Property, Trusts), the grade sheet include the contribution of each professor in reaching the final grade settlement.

Where two professors are teaching the course, there is a natural curiosity aroused to compare the judgment of each professor. Administratively practicable (see: Criminal Law and Agency), adoption of this suggestion would at the same time save a great deal of the professors' time taken by that small army of grade-conscious (let's face it!) students who will visit them in any event to ascertain the grade division.

MR. FRIENDLY, 2L

("Grades mean nothing to me.")

Off the Record

WANTED: LEGAL ADVICE

A daring young student attempted to raise To worthwhile amount what the government pays.

He bet on a horse, and this prize thoroughbred, Approaching the finish line, weakly dropped dead.

Advice is in order, not coy epilogues, So, please don't suggest that he go to the dogs.

—ROGER ANDOVER

WHICH PAGE OF THE RECORD DO YOU READ?

Page 1, "The (Foster's) wharf is about a 10-minute walk on Atlantic Avenue from the subway entrance at South Station."

Page 4, "The dock (Foster's Wharf) is a five-minute walk from the South Station subway."

THE HARVARD LAW SCHOOL RECORD, Wednesday, August 6, 1947.

The Book Shelf

I HAVE TWO COUNTRIES, Mbonu Ojike, John Day, \$3.00, 208 pp.

"The race segregation law did not even make sense . . . What hypocrisy! What a paradox!! What a shame to Christianity and democracy!!!"

"When I returned with Orizu to Columbus, Ohio, I refused to be any longer identified with hypocrites as a Christian! It means nothing any more to me until racism is stamped out of America, North and South. Call me not a Christian until you act what the Bible says. I am an Iboman, a Nigerian, an African, a black man. Yes, I come from a long ancestry of a people who know no discrimination, whose statutes contain no race segregation ordinance, whose seeds will never yes-sir to the honorable professor Jim even when he crows with the Bible in hand. This was my impression of the South when I had been just two years in America."

This strong language comes from the pen of Mbonu Ojike, who continues in this book his personal war against the imperialistic subjugations of the colonial peoples (especially of his own Nigeria by the British), and against race and color prejudices in the United States, his second country.

The author of *My Africa* relates in *I Have Two Countries* his experiences and observations since arriving in America in 1939. The experiences are interesting; the observations, disconcerting. Ojike had ample opportunity to see America at first hand while earning his B.S. at Ohio State and a Master's Degree in Education and Administration at the University of Chicago, and while lecturing all over the country.

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Gallery

RALPH W. AIGLER Visiting Professor

When Ralph W. Aigler was a student at the University of Michigan Law School in 1905 he floored his Bills and Notes professor on the first day of class by reciting flawlessly on the legal effect of an endorsement of a promissory note. Not that Professor Aigler lays claim to a sixth sense in matters of commercial law. Work during vacations for three years in the local bank of his hometown, Bellevue, Ohio, had enabled him to memorize verbatim the declaration of the signer's obligations stamped above all endorsements on notes. "So I wasn't the hero after all in that first class," Aigler hastens to explain. "I knew what the endorser's commitments were, but not why."

An interest in the "whys" and "oughts" of legal problems led Mr. Aigler to adopt the teaching profession as his field of concentration. After finishing undergraduate work at the University of Michigan he acquired his L.L.B. from the University in 1907 at the age of twenty-two, and then spent three years with the Chicago firm of Rosenthal and Hamill. The last two of those three years found Aigler commuting between Chicago and Ann Arbor as an instructor in law at Michigan, and in 1910 he began his full time teaching career. A professor of law at the University of Michigan since 1912, today he is a recognized authority in the fields of commercial law and property. A member of one of the first drafting committees on the Restatement of Property, Professor Aigler has been a frequent contributor to legal periodicals, as well as the author of three case-books.

Visiting professorships are an old story with Mr. Aigler. Stanford, Columbia, Cornell, and the University of Southern California have called him to their law campuses for summer term work. At Columbia he shared offices with Professor Chafee, and "shop talk" on Bills and Notes rolled fast and heavy. It was quite a decision for Professor Aigler to make in accepting Dean Griswold's invitation to come to Harvard this semester. Teaching here involved the forfeit of his entire summer vacation, for our present term consumes many more weeks than the usual summer school session. But he wanted to see "how the other half lived." Basically he finds little difference between the caliber of students and the general type of instruction at Harvard and Michigan. The student bodies are composed of men of the same general backgrounds with a like proportion of shining and less brilliant lights. Certainly the \$7,000,000 Law Quadrangle at Ann Arbor provides the University of Michigan student with luxurious facilities unknown to Harvard Law School men, but as Professor Kaplan would no doubt say, "Ad astra per aspera."

Professor Aigler's experiences in the law teaching world have not been solely confined to research and classroom activities. As secretary-treasurer of the Association of American Law Schools from 1922 to 1925 and as its president in 1926, he came to know well the policies and practices of law schools throughout the country. Moreover he has taken an interest in his students personally, apparently convinced that a law student may have more important talents to develop than merely that of writing superior examination papers. "It is the ability to gather together the relevant facts and to withhold arriving at a conclusion until these facts have been evaluated" that makes the law student's training particularly valuable. That men will arrive at different conclusions once they have evaluated the facts is reflected in the observation that Governor Dewey and Mr. Justice Murphy were students of Aigler's at early points in their respective careers.

The criticism of one-sidedness cannot be directed against Professor Aigler. His major avocation, as he terms it, is his responsibility as faculty representative on the committee at the University of Michigan dealing with intercollegiate athletics. He figures prominently in "Big Nine Conference" affairs with his name "much more likely to be found on the sports pages than in the society columns." Work on these committees has brought him in close contact with the athletic picture at Ann Arbor from football on down the line. "Fritz" Crisler is reputed to have been persuaded to come to Michigan from Princeton on the basis of his friendship with Aigler; the late Fielding Yost was one of Professor Aigler's close associates at Michigan, not to mention such athletic greats as George Sisler, Forrest Evashefski, and Tom Harmon. Traveling with the teams and discussing problems with coaches and players alike, Mr. Aigler has gained a better appreciation of the student's general outlook as well as the athletic problems facing the University of Michigan.

Professor Aigler is a man of action. On Wednesday he commented somewhat sharply on the paradox of the heavily endowed Harvard Law School which nevertheless offered tiny pieces of chalk for blackboard use. On Thurs-

Sub Judice

AN EXCEEDINGLY FINE GRINDING . . .

Earnest students of the administration of criminal justice will find interesting reading in the recent case of *U. S. v. Keegan*, 71 F. Supp. 623 (D.C. S.D. N.Y., May 13, 1947) and its illustrious forebear, *Keegan v. U. S.*, 325 U.S. 478 (1945). At least the eager student who asked Mr. Herbert C. Callahan (Goodale defense attorney, who recently addressed a meeting of the National Lawyers' Guild) whether in his experience he had found that more innocent men were convicted than were guilty men, will find them interesting. Keegan, counsel for the German-American Bund, was indicted along with other alleged co-conspirators on July 7, 1942 under the provisions of Section 11 of the Selective Training and Service Act of 1940 for conspiring "to counsel divers persons to evade, resist and refuse service in the land and naval forces of the United States." He and 23 co-defendants were convicted on September 17, 1942 and he was imprisoned shortly thereafter. The conviction was affirmed by the Court of Appeals for the Second Circuit, but on June 11, 1945 it was reversed on the ground that the evidence was insufficient to sustain the conviction.

Meanwhile Keegan had served a substantial part of his sentence and being advised of his right to damages in the Court of Claims, he initiated the action (here reported) for a "certificate of innocence" which was a condition precedent to maintenance of his claim against the United States. The petition was heard by the same judge who had presided at the original trial. The Supreme Court had commented somewhat adversely on this judge's instructions to the jury, saying at p. 494 of 325 U.S., "This final statement seems to mean nothing short of this, when taken in connection with what just preceded it: If defendants had innocent motives they are none the less guilty; if they had guilty motives they, of course, are guilty. It is somewhat difficult to see how the jury could reach any other than a verdict of guilty."

The District Court judge refused to grant the certificate of innocence, for, after an exhaustive survey of the history and legislative reports pertinent to the statute under which Keegan sought relief, he found himself unable to certify that Keegan "did not commit any of the acts with which he was charged; the fact is that he did commit all of the acts with which he was charged, upon proof whereof, his conviction followed. His final acquittal resulted from the finding of the Supreme Court that proof that petitioner and his codefendants committed the acts with which they were charged, was insufficient evidence to sustain the conviction of conspiracy, the offense charged."

CUTTING DOWN THE COMPETITION: COMPENSABLE INJURY . . .

The Supreme Court of Tennessee granted recovery under the applicable Workman's Compensation Act on the following fact situation, holding that the injury involved "arose out of the employment." An ex-soldier named Roach worked on a button moulding machine in the same plant as did the plaintiff. He either quit or was fired on September 15, 1945. Nine days later he appeared at the plant windows armed with a .22 rifle and, firing only at operators of button moulding machines, killed and wounded three or four of the employees. When he approached the window near where the plaintiff was working at his button moulding machine, he told him to get away from the machine. As the plaintiff hastened to comply, Roach shot him causing permanent and total disability for which the suit for compensation was brought. Roach was a complete stranger to the plaintiff, and was subsequently adjudged to be criminally insane.

The court relied on an earlier Tennessee case, quoting the following language: . . . "an injury arises out of the employment when there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is required to be performed and the resulting injury." *Whaley v. Patent Button Co.*, 202 S. W. (2d) 649.

day three-inch pieces lavishly adorned the trays And Mr. Aigler is, happily for his present students, the possessor of a voice which successfully overcomes the acoustical challenges of Langleid North Middle. Moreover, he readily admits he is not a member of that school of law teachers who look upon themselves as waiters, with the sole duty of placing the food on the table and allowing the student to do with it what he will. Instead, Mr. Aigler refers to the familiar analogy of the teacher as the "obstetrician who aids the student in giving birth to ideas." Fourth-term Bills and Notes students this summer may take consolation in the knowledge that their laboring pains will be supervised by a recognized authority in the field of commercial law.

M. P. K.

Alumni Notes

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

LL.B. '17—Kenneth C. Royall, in private life a successful lawyer in Goldsboro, N. C., and well known as Under-Secretary of War, has been confirmed as the new Secretary of War.

After service in World War I, Royall practiced law in North Carolina, served one term in the State Senate, and was president of the North Carolina Bar Association. In 1937 he became head of the law firm of Ehringhaus, Royall, Gossney & Smith at Goldsboro.

In World War II, Royall was appointed Chief of the Legal Section of the fiscal division of the Services of Supply in the War Department. In April, 1945, he was made Special Assistant to Secretary Henry L. Stimson. Six months later, when Robert P. Patterson (LL.B. '15) was elevated to Secretary, Royall became Under-Secretary of War.

LL.B. '24—Simon Shetzer died May 29 at Detroit, Mich.

LL.B. '31—Walter J. Halliday has been appointed associate editor of the *Trade-Mark Reporter* and the *Trade-Mark Bulletin*, published by the U. S. Trade-Mark Association. Halliday is a member of the New York City firm of Nims, Verdi & Martin.

LL.B. '36—Norman Kaliski has withdrawn from the firm of Brower, Brill, Ennis & Gangel, and has removed his offices to 8 W. 40th St., New York City.

LL.B. '40—The engagement of Miss Margery Ann Brenneman of New Rochelle, N. Y., and Richard Worthington Tucker, has been announced. Tucker served with the Army for four and a half years and was released with the rank of major.

LL.B. '42 (46)—Stephen Francis Mullen is with Haslam, Arnold & Sumpter, Turks Head Bldg., Providence, R. I.

LL.B. '42 (47)—Nick C. Spanos is with Motion Picture Association, Inc., 28 W. 44th St., New York City.

LL.B. '47—Vincent C. DeMaio will become an instructor of law at the University of Arkansas, Fayetteville, Ark., commencing September 15.

BOOK SHELF—(Continued)

The life of this Nigerian boy in the United States was far from being an easy one. Everything was unusual and different to him. He assumed that the cost of a ride in a double-decker bus was twice that of one in a single-decker. Kissing in public was disgusting. College pranks were completely over his head. Also, financial problems continually harassed him. He received scholarships, and at various times waited on tables, scaled fish, worked as a handyman, swept out the Y. M. C. A., and yet he had difficulty earning enough to eat. But his most perplexing difficulties were caused by the color of his skin. After the President and Mrs. Roosevelt entertained him at tea, a drug store attendant refused to allow him to drink his soda at the same counter with the whites. Hotels, that at first refused to welcome him, hesitantly accepted him when they learned he was a Nigerian, and not an American colored person.

Now having returned to Africa to help his own people, Ojike can conclude that despite all this he likes the United States. His thesis is that people at a distance cannot understand one another as human beings, but this human understanding alone can pave the way for world co-operation and peace. We must learn to know each other, and that is his purpose in writing and lecturing. His opinion of the future of the American democracy is: "Against the remaining vestiges of outmoded political conservatism are the growing forces of liberalism, of the crusading segments of the press, and of the loud voices of the masses of the people who believe that freedom is indivisible."

Ojike's fight for the freedom of the colonial peoples and his fight for the equal recognition of the colored people in this country are actually one crusade for the rights of man. This crusade will not be won until the individual integrity of all men as God-created beings is universally recognized. Thanks are owed to Mbonu Ojike for his part in the crusade.

E. F.



LES PHILANTROPES DU JOUR

Ainsi donc, mon ami, à vingt-deux ans vous aviez déjà tué trois hommes... quelle puissante organisation, et combien la société est coupable de ne l'avoir pas mieux dirigée... Ah! voui, monsieur!... la gendarmerie a eu bien des torts à mon égard... sans elle je ne serais pas ici!...

Columbia Panel Groups Discuss Lawyer's Position In Community

(Continued from last week's issue.—Ed.)

A large part of the agenda of the National Student Conference at Columbia University on current methods of legal education was given over to consideration of specific problems in ten panel groups. A summary of the work of the first four panels was printed last week, and herewith is presented a review of the accomplishments of the concluding six discussion groups.

5. *Instruction in Practical Craft Techniques:* The group discussed the advisability of preparing the lawyer in such skills as trial preparation, brief writing, research and arbitration. Most of these were covered by the trial and appellate moot court work at the schools. A fundamental conflict arose as to whether these skills should be taught directly "per se," or should be mere aids in the teaching of substantive law. Harvard and Columbia expressed strong dissents to the group approval of independent "technique" courses. They felt that such programs were inherent parts of each subject, or could be best exploited by the use of extra-curricular activities. Accounting, however, was unanimously favored as an independent course to be given, the conflict being on whether it should be optional or required.

6. *The Lawyer in Large Urban Centers:* The principal paper, prepared by the Harvard delegates (published previously in the RECORD), was opposed by the smaller schools which felt there was no time for non-legal material, and stressed courses of strictly substantive character. Harvard's figures from the alumni questionnaire were considered misleading in that its graduates tended to go to big firms. A general view that there were no special requisites for the urban lawyer led to a minimum of additions to the Harvard paper.

7. *The Lawyer in Rural Communities and Smaller Urban Centers:* The particular problem of the urban lawyer was considered to be the fact that he must (in independent practice) face the practical situations of clients immediately upon graduation. Without benefit of a senior partner or an apprenticeship, he should be prepared in the practical skills of searching titles, drafting deeds and contracts, preparing trial work and familiarizing himself with fact-finding techniques.

8. *The Lawyer in Public Life:* It was felt that a lawyer's special training in the social "situations" inherent in his studies, combining both a practical and theoretical capacity, prepared him for public service. The panel then considered what type of legal education would best fit him for rendering the policy judgments necessary today. The suggestion that the lawyer took his public position by default only added impetus to the inquiry into the requisites of social leadership. Recommendations for courses in legislation and drafting, and correlated studies in economics, psychology, and sociology were made, as necessary tools in making value judgments.

9. *The Lawyer in the International Field:* The panel felt courses in international law and comparative law should be offered at all schools. This would create more interest in this field and cause more students to enter (a) Government service, (b) international business or finance as counsel, (c) the United Nations or other international organizations or (d) promote practical solutions to problems of conflict in the laws of nations. It was felt that a knowledge of the problems of international relations was important, as well, in the general political make-up of the country.

10. *The Lawyer in the Field of Labor:* This turned out to be the largest panel discussion, indicating an extensive interest in the field. The Yale paper supported by Columbia, favored a complete overhaul in courses to allow for a comprehensive study of labor law, including related subjects (economics, sociology, psychology and a history of the labor movement). There was some opposition to the suggestion that there be a compulsory course in labor law and inclusion of this on bar examinations. Also, it was recommended that techniques of arbitration and negotiation be practiced in the law schools as practical preparation.

Though it is still undecided as to whether the Conference will take on any permanent character, its initial results will speak forth in its final report. But as Mr. Garrison noted, the "fact" of the gathering was significant enough in stimulating the keen interest in the current problems of legal education.

S. T.

CASES—(Continued)

After the operation he received a bill for \$3.00. Feeling pleased that the doctor had only charged him this amount he paid the bill. Later he received a bill for \$5.00. An investigation revealed that the \$3.00 charge was for the use of the operating room. The \$5.00 charge for the surgeon's fee.

Several students, when requesting thorough eye examinations preparatory to obtaining prescriptions for glasses were told that the Hygiene Department lacked the proper facilities. The standard practice in such situations, they were told, was for the department to refer the student to a specialist. Students who have gone to these specialists state that the average cost for such an examination runs to approximately \$10.00.

Whether these cases are representative or not, they are typical of those which have been brought to the attention of the RECORD in recent weeks, as the result of the recent discussions of medical care at Harvard printed in these pages.

INSURANCE—(Continued)

pitalization, etc. which are incurred as a result of accidental injury, up to \$650.00 for each accident, are borne by the insurer. Provision is also made for hospitalization, physician's payments, nursing costs, ambulance fees, surgical costs, as well as X-ray examinations, laboratory examinations, anaesthesia, use of operating room, special medicines, and surgical appliances.

In a release to its students, Mount Holyoke College has pointed out: "For a number of years we have offered to our students a plan of Medical Expense Reimbursement Insurance that would relieve them of extra expense for medical care. This year (1947-48) our Hospital and Private Nurses benefits have been increased because of the country-wide increase in the cost of these services. We are pleased to announce that we have been able to accomplish this without any increase in the premium rate because of the large number of our students who enroll in the plan each year."

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DIRECTOR—(Continued)

the average director is not particularly worried about his personal liability. While bank directors are apt to give more thought to the problem, ordinarily the director turns to an attorney only in the face of a particular factual situation which involves unusual risks. On the other hand, members of a board are prone to treat their fellow directors at arm's length under all circumstances and do not operate in the warmly cooperative atmosphere conveyed by many cases. To students, Mr. Brownlee's high regard for directors' affirmative duties to seek information about corporate activities and to take positive corrective steps seemed far removed from the judicial concept expressed in some of the cases which seem to place very little responsibility on the directors in this respect. Especially significant was Mr. Brownlee's observation that board members do not refrain from advancing criticism of a general nature when a specialist member has presented his viewpoints on a subject peculiarly within the specialist's field of knowledge.

Discussing the place of lawyers in the general corporate structure, Mr. Brownlee emphasized the fact that the most effective corporation counsels see to it that their office is well informed on all policy matters long before the question of litigation enters the picture. He said that it is a poor but unfortunately prevalent practice in some corporations to rely upon the attorney only after the particular damage has been done, with the next problem one of salvage.

PLACEMENT—(Continued)

mand for young lawyers. However, it is almost impossible to get jobs by mail.

Mr. Toepfer encouraged students to stop at his office at any time. Currently he is looking for a Latin scholar who will translate, for inscription on his office wall, the motto, "A Harvard Lawyer in Every Foyer."

Calendar

THE LEGAL WORLD

Thurston Club

There will be a summer informal dance at Kendall House, Friday evening, August 15, at 8:30. Members of all terms are invited to come and bring dates. Beer and soft drinks will be served.

Kings Bench

Members are invited to a Social at Kendall House, Saturday, August 16, at 8:30 p. m.

Harvard Law Wives

There will be a Progressive Bridge Party at Kendall House on Wednesday, August 20, 8 p. m.

A new Kenmore portable sewing machine is now available for loan to law wives for use at home or at Kendall House. Arrangements for its use may be made with Marietta Hansen at Kendall House, Mondays through Fridays, between 11 a. m. and 2 p. m.

THE UNIVERSITY WORLD

Summer Film Program

Charlie Chaplin in *The Rink*, *The Vagabond*, *Easy Street* and *The Adventurer*, films produced in 1916 and 1917, will be shown in the Music Building (Paine Hall) on August 19 at 8:00 p. m. The pictures co-star Edna Purviance and Eric Campbell.

Sunday Evening Club

All students are invited to join in an Outing sponsored by the Sunday Evening Club. Meet at Phillips Brooks House, August 17, at 3:00 p. m. Destination is to be announced.

V-J Day Commemoration

In observance of the second anniversary of V-J Day the Harvard chapter of the American Veterans Committee is sponsoring a talk by Louis Hartz, professor of Government, to be given Thursday, August 14, in Emerson D at 7:30 p. m.

THE OUTER WORLD

Summer Theatres

The Boston Summer Theatre: Ilka Chase, actress and author, is currently featured in Lynn Riggs' new play, *Laughter From A Cloud*, at the air-conditioned New England Mutual Hall.

James Dunn, popular stage and screen star, will start a week's engagement on Monday, August 18, in the Damon Runyon-Howard Lindsay comedy, *A Murder Has Been Arranged*. This play deals with the predicament of a young man who returns home to find four corpses in his living room.

The Cambridge Summer Theatre: Arthur Treacher, stage and screen comedian, is in a mystery comedy, *The Ghost Train*, now playing at the Brattle Hall Theatre. This production, running through Saturday, August 16, is the last one of the season.

Baseball

Major League Games in Boston: The schedule for the Braves and Red Sox is as follows:

August 13* Red Sox vs. Washington.
August 15, 16*, 17 Braves vs. New York.

August 19*, 20 Braves vs. Pittsburgh.
*Indicates night game.

Art Exhibition

The paintings, drawings, and memorabilia of Washington Allston, 1779-1843, foremost early American artist, are on exhibition at the Boston Fine Arts Museum.

BOARD—(Continued)

club's four first term arguments. Whatever additional time the supervisor devotes to his club is at his election.

The Board stresses the need which these rookie competitors will have for the help of a veteran, especially in view of the fact that they will not have the advice and example of an upper-term court.

In addition to the personal satisfaction and experience which a supervisor may derive from this work, the Board intends to offer a worth-while prize to the supervisor whose club attains the highest second term average.

The Board of Student Advisers requests that all men who failed to qualify in this term's Qualifying Round and who desire to continue Ames arguments on an informal basis leave their names with the Board receptionist before August 23.

Community Property Is Discussed

(Continued from page 1)

OKLAHOMA STATUTE

Those states which have adopted and which are adopting community property laws have patterned their statutes after the one enacted in Oklahoma, which was the first one passed after the income tax amendment to the constitution. This statute, passed in 1939, gave to Oklahomans the opportunity to adopt a voluntary community property system merely by filing a statement to that effect with the secretary of state and county clerk. However, the Supreme Court ruled in *Commissioner v. Harmon*, 323 U.S. 44 (1944) that the statute was ineffective for the purpose of income tax saving. In 1945, Oklahoma repealed the old voluntary law and enacted the present statute which was pronounced effective in IT 3782 I.R.B. 1946-4-12237 (p. 6). The provisions of the present statute are that each spouse owns separately property acquired before the statute or before marriage, and property acquired after marriage by gift, devise, descent, or received as compensation for personal injuries. All income from separate property and all other property owned or acquired by either spouse during marriage is declared community property, and each spouse is vested with an undivided half interest. When the marriage is dissolved, the presumption is that all effects in the possession of either spouse are common effects or gains. The statute gives the wife the management of her separate property, the income therefrom, and whatever community property is held under her name. An exception is made in the case of a homestead, but otherwise all real property is freely alienable by either party with management control. Creditors are given recourse to the community property in the hands of their debtor, and may satisfy their claims from property subsequently transferred to another member of the community without proving reliance. The community is dissolved by death or divorce, and in either event the husband and wife are each vested with an undivided half interest as tenants in common. When either spouse has abandoned the other, has become a drunkard, or for some other reason is incapacitated, the other spouse may present a petition to have the community property then under the control of the incapacitated spouse placed in the control of the complaining spouse.

This statute is printed on a little more than five book-sized pages, but it makes a radical change in the basic property law of Oklahoma. Professor A. James Casner has suggested that a statute of this type may be full of unpleasant surprises, and that experience may show that it is a very expensive method of achieving tax savings for the comparatively few taxpayers who enjoy a net income of more than \$4,000. A legislature which is considering a statute such as the one in Oklahoma should remember that in 1942 only 5.31 per cent of those paying income taxes in the United States had a net income of more than \$4,000, and should investigate some of the effects other than tax savings which may follow the enactment of a community property law.

EFFECTS OF LAW

The first factor to consider is the effect the statute will have on testamentary dispositions. Upon death, half of the community property, real and personal, goes to the surviving spouse. This means that if the husband leaves a small going business, his wife by operation of law owns half of it; or if the wife dies her heirs become half owners of the business. If these heirs are minor children, the difficulty in administering such a partnership may force its dissolution. This, like many other objections to the statute, may be avoided by wise planning, but it is certain that there will be many who will not plan, and those who will benefit least under the statute will be those who can least afford the legal talents which such planning requires. The statute will outmode most of the outstanding wills, so as to require them to be rewritten, and for this purpose a legislature bent upon passing a community property law should give a generous warning before taking final action.

The statute provides a presumption that property held by a deceased spouse is community property unless the con-

trary is satisfactorily proved. The presumption resembles that which arises when one dies in a non-community property state owning part of a joint checking account. The difference is that in a community property state the confusion extends to all of the decedent's property. Respectable authorities prophesy that enormous accounting problems will characterize any contesting of the statutory presumption.

When one of the members of the community dies, the survivor is charged under the act with administering the property as would the surviving member of a partnership. After paying all debts of the community, the survivor is then charged with transferring the one-half owned by the deceased, either according to the will or according to the laws of descent and distribution. When such a disposition has been made, the surviving member becomes a tenant in common. If the property is real estate or personality that cannot be divided, and if the surviving member is not congenial with the heir of the deceased, the result may be a forced sale at a loss to the estate.

WIFE'S RIGHTS

Some authorities have attempted to justify a community property statute on the grounds that it will make divorce more difficult and that it rewards a good wife with one-half of the property accumulated during the marriage. However, the effect of the statute may be entirely different, and it could be a club in the hands of a bad wife. During the life of the husband the good wife has no rights, not even dower, and on his death she may find that he has previously disposed entirely of their community property, leaving her nothing. Thus, the statute does not offer absolute protection for the good wife. On the other hand, the bad wife may leave her husband at any time, obtain a divorce, and take with her one-half of the property that he has earned. A provision which may well produce some interesting opinions is that which makes the community property under the management of the husband liable for his torts and debts when he acts within the scope of his employment as manager of the community. "When is a husband on a frolic of his own?" may become a good legal question.

One of the most serious criticisms leveled at the community property statute passed by Oklahoma is that because of its loose wording and brevity it invites sharp practices by lawyers. The sharp lawyer can gain for his client most of the advantages of the law with few of its burdens. The husband can, by use of a trust, retain the ownership of his income and property acquired during marriage while paying taxes on only half of it. He can, through skillful management, place all of it beyond the hands of his wife (and theoretically co-partner) when he dies. A statute can be so worded that these evils and most of those referred to heretofore can be avoided, but such a statute requires a great deal more foresight and skill than that which is being exercised by most of the legislatures contemplating the tax advantages of community property laws.

FEDERAL REFORM LIKELY

The tax inequality being practiced on citizens of 35 states is so gross that Federal reform is almost inevitable in the near future. State legislators should consider this fact very carefully before they adopt a community property law, since once such a law is adopted it may be unconstitutional to repeal it so as to divest interests which have vested under it. It is extremely doubtful that many legislatures would pass a community property statute were it not for the tax savings involved. Reform on a Federal level may take place through the courts, or as is more likely, by act of Congress.

The provisions of the Internal Revenue Code have been construed by the courts as giving tax advantages to community property states and those provisions have been reenacted by Congress without change. It would require considerable disrespect for *stare decisis* and congressional intent to reconstrue the code otherwise at this late date. The change will probably come in the near future through an act of Congress.

In the field of estate taxes the Congress has already acted so as to make the estate taxes heavier in community property states than in common law property states. In 1942 an amendment, sec. 811 (e), was made to the Internal Revenue Code which includes in the decedent's gross estate all the property held by the community except that which can be shown to have been earned by the surviving spouse through personal services actually rendered. Sec. 811 (e) (2) provides that in no case shall the interest of the decedent in community property be counted as less than that over which he has power of testamentary disposition by local law. This means that the estate of a husband who dies in California will be taxed as heavily as that of a husband who dies in Massachusetts, assuming that the husband has earned the community property. However, the estate of a wife who pre-deceases her husband will be taxed on the basis of at least one-half of the community property whether she earned it or not. In a non-community property state the estate of a wife who has predeceased her husband is taxed only according to property she actually owns, which is usually much less than one-half of the total owned by the husband and wife. This amendment was held constitutional in *Fernandez v. Weiner*, 326 U.S. 340 (1945). The estate tax is another factor which a state legislature should consider before adopting a community property law.

Gift taxes offer no advantage to the community property owner. Sec. 1000 of the Internal Revenue Code provides that gifts of property held as community property shall be counted as gifts by the husband, except where it can be shown that they were property earned by the wife as compensation for personal services.

The one important field of taxation, then, in which our laws discriminate in favor of the community property owner is income taxation. Attacks on this preference have been carried on in Congress since 1921, and grow in intensity as the rates become more progressive. The theory on which a person is allowed to file a return for one-half of income which he neither earns nor controls is contrary to the practice of the treasury in taxing the economic owner of income regardless of legal technicalities. However, opposition in Congress is too strong to change the law so that the husband will be taxed according to the income he earns and controls. The change will likely take the form of extending the community property advantage to all married couples regardless of the way in which they hold their property.

PLANS TO HELP TAXPAYER

The two most popular plans for allowing all families to split the incomes are the "Surrey Plan" and H.R. 3842 introduced by Congressman Gearhart of

California. The "Surrey Plan" is the most popular, and it would allow those couples filing joint returns to take their total income, subtract their deductions and exemptions, calculate their tax on one-half their taxable income, and then multiply this by two. The objection to this plan comes from the community property states, whose representatives argue that it extends the benefits of community property to husbands who aren't subject to the disadvantage of having their wives own half of the property, and that community property states would be discriminated against because of the estate tax. The plan of Congressman Gearhart, on the other hand, would allow marital partnership agreements for the purpose of income tax savings, and finds support amongst the community property representatives who realize that they cannot maintain their favored position for long.

Action might have been taken this year had not so many in Congress been dedicated to across-the-board tax reduction. It would cost the Federal government roughly \$800,000,000 to place non-community taxpayers on a level with community property taxpayers, and it was thought that with the proposed income tax reduction this would mean too great a drop in revenue and too great a tax reduction for the higher brackets. Those in charge of steering the across-the-board income tax reduction bill in Congress promised that some action in allowing all families to split their incomes would be taken in the next session of Congress, when there are plans for going over the whole tax structure. A general tax revision which would mean a reduction in revenue, as a change in the community property discrepancy undoubtedly will mean, has a better chance now, it seems, than it would have had if the across-the-board reduction bill had been enacted.

The Senate Finance Committee has been charged with the obligation of reporting out a bill which will resolve the inequalities between community and non-community property states by March 1, 1948. It is suggested that state legislatures would have less reason to repent if they waited a year before enacting community property legislation, or if they made their statutes effective as of 1949, provided no Federal action is taken by then. Some commentators advise the latter course in the expectation that it will promote Federal action.

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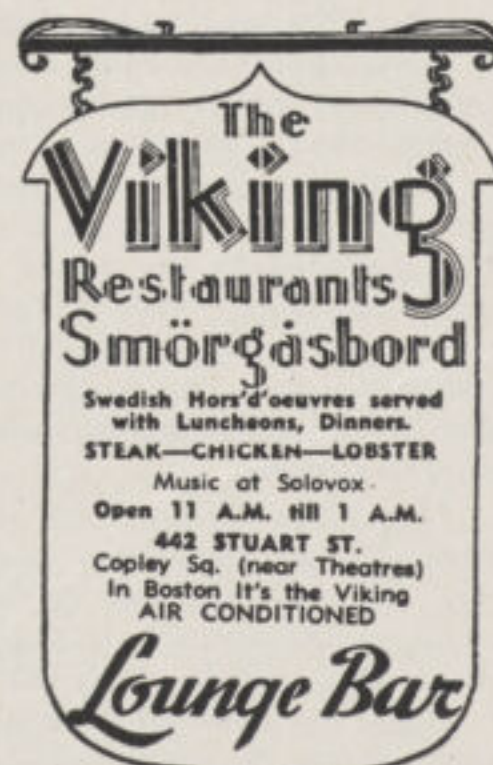
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