

The Harvard Law School Record

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MILITARY AUTHORITY ANALYSED

Review Dissects Late High Court Cases On Martial Jurisdiction

"The Supreme Court on Military Jurisdiction: Martial Rule in Hawaii and the Yamashita Case" by Charles Fairman S.J.D. '38, Professor of Political Science at Stanford University, is the leading article in No. 6, Vol. 59 of *The Harvard Law Review*, scheduled to appear shortly.

The discussion by Professor Fairman deals with two recent Supreme Court decisions: *Duncan v. Kahanamoku*, 66 Sup. Ct. 606 (Feb. 25, 1946), which ordered the discharge of petitioners sentenced by provost courts of the "Military Government" of Hawaii, and *Application of Yamashita*, 66 Sup. Ct. 340 (Feb. 4, 1946), which refused to interfere by *habeas corpus* or writ of prohibition with the sentence of the military commission which had tried the Japanese general for breaches of the laws of war.

The second article in the coming issue is Part II of Robert L. Stern's discussion of "The Commerce Clause and the National Economy 1943-1946." Part I of the article appeared in the May issue. Mr. Stern LL.B. '32, is Special Assistant to the Attorney General, Office of the Solicitor General.

The Legislation department of the *Review*, which has been absent since pre-war days, will be resumed in this issue with a discussion of the Puerto Rican Labor Relations Act. The note compares the Puerto Rican legislation with the Wagner Act, commenting on its most drastic departure from the pattern of the NLRA, which is the provision making it an unfair labor practice for either party to violate the terms of a collective bargaining agreement, including an agreement to accept an arbitration award.

"Legal Theory" by W. Friedmann, Quain Lecturer in Laws, University College, London, is reviewed in the coming issue by Jerome Frank, U. S. Circuit Judge for the Second Circuit. In his review, Judge Frank recommends the book to all intelligent laymen and everyone connected with the law.

The new book review editor of the *Review* is William P. Bundy '47, who replaces Richard L. Rykoff '47.

QUALIFYING ROUND JUDGES SELECTED

Bench Consists of Professors Boston Lawyers, 3rd year Men

Highest scoring man in the first term arguments concluded last Friday night was James Harvey Bernard of the Patrick Henry Club. Bernard's score of 148 was three points higher than his next contenders, and translated into terms of the School's grade system he received a 74, or one point lower than the rare "A."

Runners-up for the best combination of brief and oral argument was Erwin G. Lipky of the Freund Law Club and Richard Joseph Jennings of the Pound Law Club with scores of 145. Third place was a four way tie between Robert Rogers Batt of the consistently high scoring Gardner Club, Robert Tindall Tate of the Root Club, James Gregory Hurley of the Fuller Club, and William Reid Thompson of the Vinson Club. These men had scores of 144.

With approximately 350 first terms competing in the first term, intra-club arguments, thirty-nine men received scores of 140 or better, although no one received an "A" on both his brief and oral argument. While it is unusual that no man broke into the 150's, the percentage of men in the 140's was, according to the Board of Student Advisers, slightly higher than is usual.

Ames Bench Quarter Finals
Cardozo-Landis v. Prof.; Mr. James P. Moutz, C.J.; Prof. Fuller, A.J.; Charles Davis, A.J.; Smith, Clerk.

Blackstone v. Fuller-Hughes; Mr. John Dane, Jr., C.J.; Prof. Cox, A.J.; Herbert Silvers, A.J.; Perkins, Clerk.

Taney v. Roberts-B. Franklin; Mr. Graf-ton L. Wilson, C.J.; Prof. Scott, A.J.; Max Thelen, A.J.; Coffin, Clerk.

Langdell v. Scott-Powwow; Mr. Warren Farr, C.J.; Prof. Howe, A.J.; Mr. Este, A.J.; Alberts, Clerk.

Thorp v. Kent; Mr. Robert W. Cornell, C.J.; Prof. McCurdy, A.J.; Bill Kerr, A.J.; Quinn, Clerk.

Grotius v. Root; Mr. Robert Hunne-man, C.J.; Prof. Ferson, A.J.; Mr. Day-ton, A.J.; Shea, Clerk.

Wilson Club *ex parte*; Mr. Harold Don-dis, C.J.; Prof. Freund, A.J.; H. D. Vliet, A.J.; Bruce, Clerk.

Wilson v. Cardozo-Landis; Mr. Stanley (Continued on page four)



DEAN GRISWOLD

PROFS TREAT WORLD ILLS

Seavey, Howe, Feld, Cernuschi Offer Views at V-J Forum

A sizable crowd, including many law students, attended the AVC sponsored "Are We Winning the Peace?" rally V-J Day night at Sanders Theatre, Memorial Hall, to hear a panel of speakers discuss foreign policy issues.

Professors Warren A. Seavey and Mark De Wolfe Howe were among the speakers. (A letter commenting on their remarks is printed on page 2 of this issue.)

Mr. Seavey dealt with the Far Eastern Problem. Drawing on his experience in Chinese affairs, he illuminated the fundamental problems with interesting side-lights on Chinese history. When he intimated that it might be desirable to have the Chinese on our side in a possible war with Russia, there was a sharply divided reaction among the audience. His expression of distaste for dictators "even in the Kremlin" brought out considerable applause. Mr. Seavey spoke of the desirability of avoiding war with Russia and of the dilemma in which State Department finds itself.

Mr. Howe, a former Colonel in Military Government, discussed the problem of Germany. As he revealed the situation, the American and British participation in German government has been as much in the spirit of the Potsdam agreement as possible, but the Russian and French non-cooperation has resulted in considerable confusion. Over-all government of Germany as a national unit has thus been rendered impossible and the economics of the segmented zone are adversely affected. From Russia's unilateral decision to hand the food producing parts of Germany to Poland, Mr. Howe said, has stemmed the state of desperate near-starvation in the American and British zones. The French, he added, do not consider themselves bound by the Potsdam agreements because they were excluded. Mr. Howe emphasized that time was running out for the effective rehabilitation of democracy in Germany and that unless the Western Allies and the Russians could reach satisfactory agreements within the next eighteen months, he felt the opportunity would be fully lost.

Professor Bernard T. Feld of the Physics Department of M.I.T. spoke of atomic energy and its international control with special reference to the Lilienthal report. Dr. Felix Cernuschi of the Astronomical Department at Harvard, and a refugee from Peron, covered the Franco menace, stressing the continued and unsuppressed Hispanidad organization. Unfortunately most of Mr. Cernuschi's remarks were not heard in the back of the hall, and many were not able to follow his discourse fully.

Professor Herman Finer, of the Government Department, a visiting professor from England, acted as moderator. The Reverend Thaddeus Clap delivered the invocation. Counsellor for Veterans William J. Bender representing the University, delivered remarks of welcome, and pointed out the significance of the meeting at this time. Arnold Rivkin, New England Regional Chairman of the AVC opened the meeting as chairman.

The forum was prepared by the Foreign Affairs subcommittee of the Harvard Chapter of AVC, under the chairmanship of Frederick Hoffman IG, and details were arranged by Reginald Zalles, IG.

In connection with the current "Make It a 1,000" campaign, headed by Irvin M. Kent '47, AVC literature was distributed before and after the meeting.

FOOD PLEDGES FALL BELOW DRIVE QUOTA

Law School Subscriptions Fail To Meet All-University Percentage

For those who failed to fill in their subscription cards in last week's food drive, or who, having filled them in didn't know what to do with them, the opportunity to contribute is still open. Tom Kellifer '46, food drive head said Monday. Just send the money or the pledge to Phillips Brooks House.

(Continued on page three)

To the Members of the Harvard Law School Association:

The Harvard Law School Record is a new venture, started this summer entirely through the initiative of the remarkably active and resourceful group of students who are now at the Law School. This issue, and the three succeeding issues, are being sent to all the members of the Harvard Law School Association. We hope that they will give you a glimpse of the Harvard Law School as it is today, and that they, and later issues of the Record, may serve to bring the School into close contact with its many graduates. To the editors of the Record we extend our thanks for making this communication possible.

Faithfully yours,

ERWIN N. GRISWOLD,
Dean.

OPINION POLL STARTS TODAY

Effort to Obtain Sample of Views on Current Questions

Starting with this issue the Record is incorporating a new feature, a public opinion poll based on voluntary participation by the readers. Individual opinions are constantly published as feature articles or as a result of interviews and solicited comments such as those in the Witness Stand. Too often individual, or small group opinions are considered representative of the Law School in general. The Letters to the Editor column is open to all for expression of unsolicited opinions on anything the writer cares to express. The Record now proposes to complete the picture by printing a crystallized summary representative of the Law School.

The public opinion poll, enabling a majority of the students, faculty and alumni to participate, will become a weekly feature. Each week a question of world wide or domestic significance will be presented. A ballot will be provided for expression of a Yes, No, or Don't Know vote. All ballots will be marked anonymously and a space will appear for those desiring to make a short qualifying comment.

Participation by a maximum number will be necessary to insure a true representation of opinion. The question and ballot will appear in the upper right hand corner of page three and may be easily torn out and marked. Locally, ballots may be deposited in the boxes provided by the Record in Langdell South and Austin Hall. Others may mail ballots by pasting them on the back of a penny postcard.

Continuance of the feature will be dependent upon the success of reader participation. Each week a summary of the previous week's voting will be given with a breakdown in the best public opinion poll tradition.

Tear out your ballot, mark it and send it in now.

Scots Law Training Bars Classroom Discussion

Shortly after the end of hostilities in Europe, our Corps headquarters sent out a mysterious message: Does your unit have any lawyers or law students who would like to go to St. Andrews, Scotland, for three months? We immediately countered with the question: "By lawyers do you mean golfers?" The reply was explanatory, and what had meant to us merely a fine golf course was represented to be the site of Scotland's oldest university. The Information and Education Branch of the Army had made a contract by which ten American soldiers were to be admitted to the law school of that University for one term. Those of us whose law background had previously merited nothing but the tedious and thankless work of sitting on or arguing before courts-martial welcomed this new opportunity.

A little orientation was the first prerequisite. We were cordially given the opportunity to make a selection of any subject for which we felt prepared. Most of us elected to follow the regular first term curriculum for law students. The program was not heavy, there being only two courses, Roman Law and British Constitutional Law. Filling out our "schedules" proved to be easier than learning not to be startled each time we heard the Scottish pronunciation of that word.

Housing was our most serious difficulty. The University had no dormitories and the Army had made no provisions other than to give us a generous *per diem* allowance. But Scotland had seen relatively few Yanks during the war, and a kind populace soon found space for us. We were politely informed that the only thing in Scotland which can be properly be called "Scotch" is the liquor. Many an eyebrow was raised by our continuing to refer to "Scotch Law" rather than "Scots Law." We felt somewhat out of place when we attended the first class. The civilian students were wearing academic robes which were a much more impressive uniform

CURRICULUM REVIEWED: CHANGES CONTEMPLATED



Professor Lon L. Fuller and ex-Dean J. M. Landis meet at Committee's inception

Distinguished Alumni Man H.L.S.A. Council Roster

The work which the Harvard Law School Association has already done for the school and that which it has planned for the future was outlined in the first issue of the Record. The Association has three officers who carry the responsibility for such administrative work as arises in the course of a year. From time to time, as the occasion warrants, these officers may be assisted in making decisions by a twelve man Council. The term of one-fourth of this Council expires each year, and the annual elections for these vacancies and for the officers is usually held in Langdell Hall shortly before the June Commencement.

The President is Robert P. Patterson, LL.B. '15, the Secretary of War. He was born on February 12, 1891 in Glens Falls, N. Y. Previous to attending the Harvard Law School, Patterson had received his A.B. degree at Union College in 1912. He was admitted to the New York bar in the same year that he obtained his LL.B., and for some fifteen years, except for his service in the first World War, practiced as an attorney in New York City. In 1930 he was appointed a Judge of the United States District Court for the Southern New York District. In 1939 he was elevated to the post of Judge of the United States Circuit Court of Appeals (2nd Circuit) but resigned his position the following year to begin his work as Assistant Secretary of War. That job was not his first in the military line. He

had begun his career as a Private in the 7th Regiment of the New York National Guard and saw service on the Mexican Border in 1916. After World War I began he became a Captain, and later Major, in the 306th Infantry. On August 14, 1918 he won the D.S.C. for "extraordinary heroism in action."

The job as Assistant Secretary did not last long, for in the same year he was appointed Under Secretary of War, and later, in 1945, he succeeded to his present position on the resignation of Henry L. Stimson. Despite the exhausting nature of his duties in presiding over the demobilization of our wartime army he has found the time to devote a measure of his services to the present activities of the Law School Association. Patterson is a member of the American and New York State Bar Associations, the American Academy of Arts and Sciences, Phi Beta Kappa, Phi Delta Theta and the American Legion.

Frank W. Grinnell, LL.B. '98 is the present Secretary. Born in Charlestown, Mass., on December 15, 1873, he attended Boston Latin School in preparation for Harvard College, where he attained his A.B. in 1895. Having secured his legal degree three years later, he settled down to the general practice of law in Boston for about twenty years. His activities in other fields of legal work became so numerous, however, that he eventually retired from general practice to devote the whole of his time to these other activities. He became editor of the *Massachusetts Law Quarterly* in 1915 and has been a regular contributor to that and other legal periodicals. Locally he is a member of the Massachusetts Bar Association, of which he was made Secretary in 1915, and of the Massachusetts Judicial Council, of which he has been Secretary since 1935. In addition, Grinnell is a member of the Board of Governors of the American Bar Association, and is further associated, as member or officer, with the Massachusetts Historical Society, the American Academy of Arts and Sciences and the Essex Institute. Treasurer of the Association is Reginald Heber Smith, LL.B. '14, of Boston. Mr. Smith's more recent activities connected with the School were covered in the July 17 Record.

MEMBERS OF THE COUNCIL
Joseph J. Daniels, LL.B. '14, was born at Indianapolis on April 13, 1890. In (Continued on page three)

LAW SCHOOL DANCE SCHEDULED FOR 7th Kendall House Group Sponsors Informal Affair at Cowie

Kendall House, the Law School's social center, will sponsor the all-Law School informal dance to be held September 7 in Cowie Hall at the Harvard Business School.

"We want to make this dance a special success," says Mrs. James St. Clair, chairman, "because all proceeds will be used for buying a radio-record player and other equipment to improve the entertainment facilities of Kendall House for club meetings, dances and private parties."

Tickets, which will be limited to 325 couples, are now on sale during the noon hour in booths at Kendall House and Langdell Hall. The \$2-per-couple charge includes tax and door prizes. Music will be furnished by Ken Reeves and his ten-piece orchestra.

Committees working on the dance include: Orchestra: Mrs. Hyman Epstein and Mrs. Joseph McGrath. Tickets: Mrs. Herrick Lidstone and Mrs. John Siegemund, co-chairmen, with Mrs. George Gil- (Continued on page three)

Survey Taken To Re-examine Basis Of Law Program

Initial returns from questionnaires distributed to a cross section of alumni provide the Committee on Legal Education with invaluable information in their work of re-examining the curriculum, Professor Lon L. Fuller said yesterday.

Mr. Fuller is chairman of a committee, set up in December, 1945, to ascertain anew the purpose of legal education and to re-evaluate the methods by which these purposes are met at this time. The committee has been functioning for nearly a year now, and has already distributed several carefully worded questionnaires to learn from alumni, both those in practice and in other pursuits, the scope of the activities for which Harvard Law School is preparing its students.

The committee is anxious to receive comments and suggestions, in writing, from other alumni and from students. These are especially solicited from those who have proposals for changes to meet curricular shortcomings perceived while here or in practice. Professor Fuller emphasized, in a Record interview, that the validity of the conclusions reached by the committee would in part depend upon the breadth and depth of the comment received. Further articles on this subject in the Record will relate in detail the many questions propounded in the survey, so that those who desire to comment can be assured of the relevancy of their observations.

Members of the Committee on Legal Education are: Professors Ralph J. Baker, David F. Cavers, Paul A. Freund, Milton Katz, and Dean Erwin N. Griswold, *ex officio*.

One by-product of this may be that it will put the faculty in a better position to guide students in placement by acquiring accurate information about demands of modern law practice. The Faculty will be able to guide men with special training and aptitude where they can best take advantage of it.

The logic of the method employed is simple, but not one that has been widely employed in the past. Instead of reaching conclusions from *a priori* reasoning about the courses needed, or engaging in specific tinkering with the present curriculum, the committee is going back to first principles. They are first ascertaining what the graduates do, what kind of communities they practice in, what type of specialization, if any, they affect, what types of practice fall outside their normal scope of activity, and what proportion of their time is taken in administrative as opposed to judicial law.

Then the queries turn to the qualities which the law school should inculcate in its students. Here importance of draftsmanship, advocacy, conference technique, legal planning, negotiation, and fast-comprehension are weighed. Sub-queries breaking these down into their component parts are offered. The questioning also extends to the frequency with which points in the several courses arise in the graduates practice. For instance under Evidence, the inquirer is asked to check on the frequency and importance of questions on judicial notice, presumptions, authenticated writings, best evidence, agents' admissions, pedigree, hearsay, ancient hearsay, *res gestae*, statutory exceptions, confessions, functions of judge and jury, illegally obtained evidence, pre-trial discovery and habit evidence.

A complicated set of numerical markings, suitable for mechanical computation, (Continued on page three)

Dormitory Rooms

Clarification of the Business School dormitory room situation resulted from an announcement issued Tuesday by Livingston Hall, Vice-Dean.

Men living in Morris Hall since February will get re-engagement contracts for the same rooms shortly. Others who are being evicted from Hamilton, Gallatin, and elsewhere, and who have occupied dormitory rooms since February, will get applications to Morris and will be admitted.

Men who entered any dormitory in June and are being evicted can apply for the few remaining vacancies but their chances are slim.

If men leave because of impending eviction before September 15 to get another room, their rent will be cancelled as of the day they move out. Such men should notify the Bursar.

There will be no law students living in Hamilton and Gallatin after October 5.

Vacancies in Perkins, Hastings, and Morris, to be filled among evictees who entered the building in June, will be filled by lot from those qualified.

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Editorials

TO OUR GUEST READERS:

Four thousand copies of this, our sixth, and the next three issues of the RECORD are being sent to those alumni of the law school who are members of the Harvard Law School Association.

This is frankly a circulation bid. When the RECORD was founded, one of its several purposes was to provide a closer liaison between the school and its graduates. Another was to furnish a medium for discussion on relevant topics by all who are concerned with the future development of this institution. Yet a third was to offer a forum for the presentation of views on legal and public policy topics by members of the law school community.

We can achieve these purposes only insofar as our facilities are used to those ends.

So to you graduates who have shown your continued interest in the school by membership in the Harvard Law School Association, we appeal for support.

We appeal in two ways. First and most important, by this circulation experiment, we hope to introduce the RECORD as a potential medium for the publication of your articles, not labored enough in scope or topic for *Law Review* use. Secondly, we hope to become a weekly link between you and the school. To this end we plan to publish frequent and fairly complete alumni notes, as well as printing regularly all the news about the school. We intend to chronicle regularly the important intellectual activities taking place here at Langdell and Austin. The best student writing we can obtain will appear, along with such material as you choose to send us.

The RECORD will appear 12 times a term, 36 times a year as long as the acceleration program continues. When Harvard returns to the two semester year, of course, an adjustment will be made.

If you choose to join those of our alumni who are already assisting the RECORD by membership, use the subscription blank which appears on page three for your convenience.

Not one of us is making a cent from this venture. We are doing the work necessary for the preparation of this paper because we believe that it is good for the Harvard Law School community to have such an institution as the RECORD. We are appealing to you for contributions of material and purchase of subscriptions because it will enlarge our usefulness and value to the school.

In response to this widespread dissemination of copies we also want to receive letters of suggestion, comment, constructive criticism, and advice as to how we can better fulfill our mission. To a very real extent this paper can become partly yours if you will make it so.

C. G. S.

Letters to the Editor

An excellent commentary on the "Student Beating" story carried in last week's RECORD has been received from John E. Matthews, Jr. In order to print it in its entirety, it is being held until next week.—ED.

To the Editor of the RECORD,
Sir:

It was with a sense of deep discouragement that I returned from the Peace Forum of the A.V.C. this evening. Naturally every discussion of foreign affairs these days is discouraging, in the nature of things. But I was not prepared for the particular type of discussion from the platform which was dished out so thickly and with so many pleasant little jests. The nature of A.V.C., of which I have so long been a member, and the fact that the law school faculty was so well represented (one develops an exaggerated notion of the universal talent of law professors) had made me hopeful.

Then, too, the meeting began well. Indeed I found the Harvard Dean who spoke a few words almost the most persuasive of the speakers, although he addressed himself only to the proposition of living in the world like men. Professor Finer also was an amiable enough moderator, whose role consisted of turning a phrase with a fine British accent, pleasing to the ear. But these persons were not assigned the substantial work of clarifying American policy in response to foreign events.

The Argentine political emigre, a physical scientist, delivered a speech which was effective by its sincerity, despite linguistic difficulties. When he denounced Spanish, Latin-American, and other fascists as vehemently as they so richly merit, he also argued that many who use the word "democracy" are not by that fact democratic, without alluding necessarily to the Russians, for a change. This had a certain pertinence to subsequent statements. A sincere M.I.T. physicist then explained some of the details of atomic control, omitting merely to explain how such control related to international politics and economics, and who controlled the controls.

When Professor Howe appeared, I leaned back to digest carefully the benefits of his long experience in the Army's Civil Government branch. Unfortunately, that experience was not clearly discernible in his statements. His remarks were more in the nature of "expert opinion," without disclosure of the underlying facts (if Professor Maguire will permit). He asserted that there was no doubt of a terrible chasm in the Government of Germany, that he was certain of the complete good faith of the American representatives, that the gap was a result of mistrust, so that any reasonable man might infer that the contemplated breach of international agreement by the United States and Great Britain (in consolidating zones) was made inevitable by Russian intransigence, if not worse. They, the Russians, would not come to a "fair and reasonable" settlement.

This left open a few questions. Under whose auspices does the "economic restoration" of Germany, for which we strive, proceed? What political groups do the various zones support,

and why? If we have been, as was constantly reiterated, "more than reasonable," wherein, concretely, had the Russians flaunted reason? Not to inquire, what is "reasonable" here, or, as a final question, if there is such an impasse, what implications does it contain for future international relations, or for the political thinking of a reasonable man? Skeptical as I have been for long now, I could not see how he had improved upon the editorials of the *New York Times*, or even, the *Boston Herald*.

But I was hopeful that Professor Seavey would sustain the honor of the law school, if nothing more, especially since I thought highly of the Harvard circular letter to which he was a party. Again, I met some little disappointment. Not that the Professor was not witty—for allusions to the graft of American cities and the "traditional" ignorance and squalor of the Chinese are really droll things. Only, once he had observed that there are lots of Chinese, that they don't live as well as Americans, that there has been fighting in China for a long time now, that the land is poorly distributed, and that the problem was made tougher by the nearness of the Russians, I had a feeling that this did not exhaust the analysis of Chinese issues. With appropriate disparagement, the Professor pointed out that the State Department's policy of stability, unity, harmony, and democracy for China lacked a specific content, but he did not hint at such a content himself, or seriously consider many of the factors necessarily involved.

Perhaps the legal mind, trained to an analysis of the facts of the case and the reason or policy behind the rule, is, after all, a tool designed exclusively for the law. Anyhow, I left with the impression that I ought to have spent the evening adding a footnote or two to my paper.

Yours,

WALTER J. ROCKLER, '46

Sub Judice

UNSWORN ALLEGIANCE****Does the Army have him?

On July 22, 1946 *certiorari* was filed in the United States Supreme Court in the case of *Buice v. Patterson* et al, 155 F. (2) 439 (C.C.A. 1st, 1946), 15 L. W. 3065 where *habeas corpus* proceedings were brought to secure the petitioner's discharge from the army on the ground that he was never requested to take the oath of induction. Petitioner further alleges that he refused to take the oath, and that it was never administered to him. He argues that as a consequence the military authorities never obtained jurisdiction over him under the rule of *Billings v. Truesdell*, 321 U. S. 542. In corroboration, petitioner offered only his unsupported testimony. This evidence was held insufficient by the Circuit Court of Appeals for the First Circuit in an opinion by Woodbury, Circuit Court Judge, dismissing the application for *habeas corpus*.

On petition for *certiorari* the petitioner contends that (1) dismissal of the petition for *habeas corpus* was improper because a *prima facie* case was made out by the undisputed testimony of the petitioner and (2) he had not waived the lack of jurisdiction over him by the Army.

What the petitioner ultimately seeks seems to be futile because the overwhelmingly likelihood is that he will be drafted again even if he does obtain release from the service. His dogged insistence should make it clear to all concerned that this gentleman wants to get out of the army. May he fare well!

LANDLORD LAMENT****Pregnancy unrevealed is not fraud.

Race suicide is not wholly an imaginary danger in these days of extreme housing shortage according to the Court of Appeals of Ohio. And such a possibility is enhanced by a clause in a lease if it is construed to give the landlord a cause for action for eviction of a young couple from a rented apartment after there was born to them a child six months following assumption of occupancy. *Lamont Building Co. v. Court*, 66 N. E. 2nd 552.

Defendant rented from the plaintiff a suite in an apartment building. It was agreed that the suite would be occupied by adults only, and the defendant assured plaintiff's agent that he had no children or pets. Later receipts for rents paid by defendants were stamped: "specific rental rules: No pets—adults only." Six months later, however, defendant's wife had a child in the apartment, and plaintiff through his attorney informed the defendant that he had violated the contract of tenancy. Plaintiff demanded that defendant arrange for occupation of the apartment by adults only or vacate the premises. After refusal by the defendant, the plaintiff brought an action for forcible entry and detainer alleging, (1) that the defendant had violated the obligation of his tenancy and (2) that the tenant had committed and permitted a nuisance in the use of said premises. The jury returned a verdict for the defendant and the plaintiff appealed.

Before the Court of Appeals the plaintiff contended that defendant committed a fraud on him by failing to reveal the fact that his wife was pregnant by three months. Judge Morgan speaking for the court held that this was no fraud. The fact that the wife was pregnant was no assurance that she would have a child; and defendant's statement at the time of the contract that he had no pets or children was true. A clause in a lease restricting the use of rented premises to adults only is against public policy if construed to give a landlord a cause of action against a couple after a child is born to them. The court observed that it is a matter of common knowledge that a couple like the defendant and his wife might have children; and to hold that they could be evicted would be to induce parents by unnatural means to avoid and prevent the birth of the child.

NON-CONFIDENTIAL SECRETARY****A libelous dictation to a secretary is a publication.

In Walsh County, North Dakota, recently, a secretary of a charitable hospital dictated a letter addressed to plaintiff demanding that he pay *tout de suite* the hospital bill of X, a young girl on whom a criminal operation had been performed. According to the secretary, the plaintiff had promised to pay the bill. In expressing his desire for a prompt settlement of the account, the secretary accused the plaintiff of performing the operation and reminded her that a criminal prosecution was in the offing. Instead of paying, the plaintiff brought suit against the secretary and the hospital alleging the publication of a libel. He proved that he had not performed the operation and showed that the secretary had dictated the letter to a stenographer who later transcribed her notes. *Rickheil v. Grafton Deaconess Hospital*, 23 N. W. 2nd 247.

In their answer the defendants contended that the communication to the stenographer was privileged. The hospital—among other defenses—contended that it was not liable because it was a charitable organization. Judge Burr, in an exhaustive opinion, rejected these traditional defenses. The dictation to the stenographer, the court held, was not a privileged communication; but in accord with the modern trend of the cases, it was a publication. On the question of the immunity of a charitable organization for the torts of its servants the court said that in the absence of legislative announcement, a hospital cannot be relieved of liability upon a theory of public policy.

It should be noted that this case deals with difficult questions of tort law and the developing doctrines of evidence. Cf. *Wolfe v. United States*, 291 U. S. 7. The report contains a very exhaustive treatment of the cases on both sides of the questions presented.

Gallery

"Someone said that, at best, procedure is an art, and at worst a jumble of memory work," is the way Professor Edmund Morris Morgan described his difficulties in arranging and teaching the course at Yale Law School. Any man who has writhed under Mr. Morgan's attempted rhetorical "You see?" during a class in Judicial Remedies should be impressed by the unknown speaker's gift of understatement. It was partly dissatisfaction over the obstacles to what he considered a proper treatment of his subject, and partly the lack of needed assistance in building the course on procedure that led Mr. Morgan to accept the third call to become a member of the faculty of the Harvard Law School. That was in 1925, and since that time some 21 classes have learned the awful meaning of that apparently innocuous phrase "forms of action" under his patient direction. Short and slight in build, his kindness and deference mitigate in part the medieval horrors to which he subjects his students.

Mr. Morgan came to Harvard College in 1899 from the small Ohio town of Mineral Ridge, where he was born on November 11, 1878. He completed his undergraduate work in three years, and intended to enter the Law School with his classmate Warren Abner Seavey, who had similarly outdistanced his class. However, there is a nostalgic strain in Professor Morgan's character, and he remained in college for another year in order to graduate with his class. "I don't know to this day why I did it," he explained, "but I stayed on and took an M.A. in history and government. It meant nothing. I wrote my thesis on the Anglo-Saxon army—and I can't remember one sentence of the thing today. No degree amounts to anything after you get it." A junior Phi Beta Kappa, Mr. Morgan has a sense of honest depreciation unusual in a law professor. At the law school he was Note Editor of the *Harvard Law Review* and a member of the Parsons Law Club.

After graduation in 1905, he went back to Ohio and contemplated opening an office with a classmate. Then the peculiar influence that the Parsons Club was to have on his legal career began to operate. He received an offer of a clerkship from Mr. Wilson of Duluth, Minnesota, the result of a recommendation by a former member of the club who had observed Morgan's work at Harvard. Though he didn't expect his terms to be met, they were, and he began practice in Duluth in the fall. Two years later Mr. Morgan became a partner in the firm of Wilson and Morgan which continued until 1912. The firm had a general practice with a large number of personal injury cases and for seven years he did most of the trial work. His skill in the courtroom gave rise to the probably apocryphal, but not hard to believe, words of farewell attributed to a prominent justice of the State Supreme Court: "Ed Morgan is a splendid man, but we are not sorry to see him leave. Now perhaps, we can try a case on the merits rather than on procedure."

Mr. Morgan shortly to these years in Duluth as "the most fun I ever had." Shortly before his arrival the city had risen against a typically corrupt and venal local government and the heady spirit of reform had not yet left the air. Unlike most Easterners, the people of Duluth were willing to listen to a young man in politics if he had something to say. So Ed Morgan became a leader of the young reformers and a busy speaker at the neighborhood social clubs. When Mr. Wilson became city attorney, his law partner was appointed assistant city attorney. Then he became president of the Municipal Ownership League and led the fight for city ownership of the local electric light company. Though unsuccessful in this effort, the League did succeed in cutting rates in half despite the influence the utility exercised over both the city council and the state legislature. There was a fine municipal psychology in Duluth at this time. People had not forgotten the days when the city treasury was a politician's grab bag and they were receptive to continuance of good government. Again Ed Morgan was in the forefront of the struggle. As assistant city attorney his successful resistance to the efforts of the Great Northern Railway to obtain a right of way through the city by condemnation enhanced his reputation. And as a politician who sought no office or reward, the people followed him. He was appointed special counsel to the Duluth Charter Commission and completed the transformation of the local government by replacing the mayor-council plan with a commission form of government. The value of this change was soon apparent. A local contractor who had grown wealthy under the old administration went bankrupt in the first year of the new regime when the commissioners forced him to tear up an entire street he had laid—and discovered his source of profit in the shoddy he used for filler. The charter group offered Mr. Morgan the post of city attorney in the new government as an expression of their gratitude. However, he had accepted a position on the faculty of the University of Minnesota Law School by that time and declined the post.

The Parsons Law Club was also instrumental in the appointment to Minnesota Law School. Professor Vance from Yale became dean at the law school in 1913 and was strengthening his faculty. A former Parsons man who was then teaching at Minnesota recommended Mr. Morgan and a teaching career that is now in its thirty-fourth year began in 1913. At Minnesota, Professor Morgan taught contracts, procedure and practice. In 1917, he accepted an offer from Yale, but ten days before school opened he was called to active duty by the Army.

"For the next 21 months I fought the battle of the Potomac. I couldn't get out of Washington. Several times I was packed and waiting, but something always turned up. I didn't get out of there once," was the way he introduced us to his military career. It was now Major Morgan of the Judge Advocate General's office. He organized the War Laws Department and later headed the War Risk Insurance Office. After these branches were straightened out, the now promoted Lieutenant Colonel Morgan became chairman of the Board of Review of Published Laws. The necessity for this department was made evident to him the day he found two absolutely contradictory laws promulgated by the J. A. G. office. Colonel's Morgan's most interesting job came at the end of the war when he was made chairman of the Army Clemency Board. Here he enjoyed a privilege most of us can appreciate: Lt. Colonel Morgan had as his subordinates three full colonels! The magnitude of his job and the need for such a board is evident when one considers that, in a period of six weeks, the Clemency Board remitted 18,000 years of courts-martial sentences.

The system of Army justice was open to more bitter and possibly more justified criticism after the first World War than today. A strong movement towards reform existed within the service and Colonel Morgan associated himself with this group.

In 1919 Professor Morgan met Professor Wigmore in a debate on army justice before the New Jersey Bar Association. Wigmore defended the sound paper set-up of army courts-martial and emphasized the very strong point of an automatic appeal in the system. Mr. Morgan in his argument showed what actually happens when this fine paper system is applied to men. His view was not very popular that evening and Mr. Morgan recalls that Wigmore in his rebuttal made some mention of listening to a Bolshevik.

Off the Record

Among the maxims which Professor Leach is fond of quoting, perhaps his favorite is "Cessante ratione, cessat ipsa lex." With that little introduction in mind, we will go back to a Thursday morning before the war when Professor Leach was enjoying himself in Langdell South. Whenever he wanted the class to give the wrong answer for pedagogical purposes, there was always someone who obligingly responded. Conversely, when he sought correct answers, they practically fell off the tip of any student's tongue. What a day of triumph. And perhaps the stimuli of it all sat at the back of the room . . . several girls who were guests of some of the students. The next day, Friday, there were no females present and the master on the woolsack had a dull time of it. The right answers flowed whenever he sought the wrong answers and vice versa. It was a dull day indeed. Saturday morning, the following little poem appeared on the desk of Herr Professor:

"Professor William Barton Leach was at his very best, When at the back of Langdell South, there sat a female guest. But when his class again, became all of one sex, Cessante ratione, cessat ipsa lex!"

And now . . . as one of our services for which there is no extra charge, we give you an opportunity to make twenty-five dollars. Simply send in the following quote by Professor Maguire to the Pater Department of the Rdrs. Dgstr. "It was a case of justice tampered with mercy."

In considering the problem of mutuality of remedies between buyer and seller where specific performance is desired, Professor Chafee recalled the case of the small boy who wanted to marry his grandmother. When his father remonstrated, the lad came up with one of those hard questions, "You married my mother, so why shouldn't I marry yours?"

The ideal examination, according to Professor Beale, would have the following analysis: Two questions anyone could answer, two questions no one could answer, two questions only God and Mr. Beale could answer, and two questions only Mr. Beale could answer.

For the benefit of those students graduating in October, we offer the following information obtained from the largest manufacturer of gavels in the country. The Supreme Court uses three a year made out of Snakewood and Ivory. The cost to the taxpayer is fifty dollars per gavel. Other judges use gavels made out of Rosewood, Ebony, Ironwood and other heavy woods. Gavels come in four regular sizes; Ladies, Gentlemen, Jumbo Judge, and Legislative.

U.C. (Uniform-Code). LXVII-Memoranda (g) Miscellaneous §23) Worker's Psalm

The Lord is my Foreman; I shall not want.
He instructeth me in large machines
Beside the still ledgers for his Union's sake:
He collecteth my dues in due course; and
Prepareth a cafeteria for me in the heart of the factory.
Yea, though I walk beyond the rally and the overflow
Unto the picket-line, I shall fear no manufacturer
For Thou art with me; Thy words and conventions
Upholdeth me; and should the shop be closed,
The NLRB will comfort me, and I shall visit
The corner bar with Him every Saturday night
So long as I shall live.
Cf. In re Packard Motor Car Co., March 26, 1945, 16LRR 168
Warren Hennrich

With his military career at an end, Professor Morgan made his long postponed transfer to Yale where he taught the course in practice. While at Yale he initiated the law club plan which he considers an invaluable adjunct to classroom work. Although he remained there for four years he was unable to give his course as he wished, and, as previously mentioned, he came to Harvard in 1925.

Looking back for comparison, Professor Morgan says he notices few differences between the present student body at Harvard Law School and those he has known in the past. The new system of selection, instituted in 1938, has raised the level of excellence in the student body as a whole, and today's men are more mature, as might well be expected. Otherwise they are about the same, though he expressed disappointment at the small number of "A" students in the class which completed its first year in June.

In his own Judicial Remedies class, there are fewer failures than usual, but fewer papers of superior quality too. Professor Morgan seems to be frankly puzzled by the great difficulty first year men have with the course. (One can be calm and patient in situations like this.) He does grant that the concepts he teaches are different and somewhat difficult to grasp. However, he insists that any man who plans on a general practice will have to live with them and meet them more frequently than any others he learns here. "You cannot give legal advice unless you know what will happen if the case goes to trial. You must always think of the fight, you must know how much of the data your client gives you can be used in court, how much of it is admissible, what legal propositions it tends to establish," he explains. Most of the students who had trouble with his most recent exam seem to him to lack ability to organize in usable form the vast amount of data they acquired during the year. This, plus inability to develop an understanding of legal analysis accounted for most of the failures. "Of course," he said, "here and at most law schools examinations place a greater emphasis on speed in handling a problem than will usually be the case in practice. Thus a man whose mind functions more slowly than others may outshine his classmates in practice where he has plenty of time to prepare his case. Yet, many of the most important cases require a quick and accurate analysis and decision on part of counsel. A fast moving business cannot wait for slow coming legal advice."

Professor Morgan's parting admonition was against making this article "syrupy" so we shall not. Let us say only that any man who has not been in his class should make it a point to do so before graduating. Then when that man is a grandfather and the kids tell him how tough it is at Harvard Law School, he can sit back tolerantly and tell them about the days of the giants.

J. L. O'D.

The Witness Stand

The Question: Do you think we are in the midst of inflation at this time?

1. **Leonard K. Simmer**, Des Moines, Ia.
3rd Term

Yes. I think there will be a sharp reaction about the middle of 1948. I think farm prices will be the first to go down. The upward spiral will probably continue until 1948 and the OPA will act more like a floor than a ceiling. Prices will probably continue to go up in spite of the present OPA.

2. **H. W. Goodwin**, Reading, Pa.
3rd Term

Yes. I think that due to the peculiar type of economy we have, it is a necessary part of the reconversion period. A certain amount of inflation can't be avoided no matter what we do if we expect to reestablish our pre-war economy. I favor controls, such as OPA, to keep it from getting out of hand but it will take increased production to taper it off. The tendency of short term price control periods leads to hoarding and is hard to fit into our system.

3. **J. R. Waldron**, Portsmouth, N. H.
3rd Term

Compared to the period after World War I we are in the early stages of inflation. I think it will continue to spiral upwards until we can get an abundance of consumer goods. When production catches the demand then we will have our answer but the demand is so great it is hard to see when production will catch up. New industry is still in its early stages and will take a while to get started. I think it started about October of last year and is in its preliminary stages now and I can't see any immediate end in sight.

4. **Harvey D. Silverblatt**, New York,
4th Term

There are definite tendencies and indications at this time. It is apparent in the immediate area. Local food and clothing prices are soaring. Part of the spiral is due to increased wages needed to meet the increased cost of living. I don't think the OPA will be able to control it and think it will just go through futile motions. It lacks the effectiveness of the previous OPA and is merely an appeasement of consumer pressure groups and not doing the job it should do. I would like to think that President Truman will keep his promise to call Congress into session to act if the inflation becomes too serious. In about a year, with the end of the 52-20 group of veterans, there should be a labor flood on the market which should lead to a showdown.

5. **Elihu H. Berman**, Hartford, Conn.
2nd Term

We seem well into it and it looks like it will build up for another two or three years before it will reach its peak. I don't think full production will bring prices down. The manufacturers will be sure to see that they keep a profit and labor will see that wages aren't decreased and as long as wages stay up the manufacturers will keep prices up. I think it all started with the wage increases granted as the result of the strikes in industry the past few months. There would be no suffering if wages followed prices but it doesn't stop there and people with fixed incomes suffer the most. There is too much misuse, especially by manufacturers, of the term *free enterprise*.

6. **A. Ghorbal**, Cairo, Egypt
Grad. Student

I think there is a beginning of inflation now. With the return of the OPA there will be some control, it is hoped, but I'm not too optimistic. There should be more regulation and greater control of consumer goods as well as other commodities. The present system of leaving other commodities in the hands of the dealers has led to abuses which only strict government control could correct. Automobiles are a good example. Even with production a dealer won't sell one unless the buyer has a car to trade in. I think, generally that production in America can halt inflation in a shorter time than elsewhere because of the huge industrial capacity of the United States as compared to other countries.

7. **Charles Oldfather**, Lincoln, Neb.
3rd Term

What do you mean, inflation? If you mean we are in a period of rising prices—yes. Prices will certainly get higher before they fall, but I am not worried about it—because OPA is back.

8. **Horace Kalik**, New York, N. Y.
3rd Term

Most definitely, or rather most unfortunately. I think the situation will continue till production gets rolling and I think our productive capacity is so great that most consumer goods will flood the market within twelve to eighteen months.

9. **Volney F. Morin**, Chicago, Ill.
3rd Term

It's obvious, isn't it: As long as there is a paucity of what people want and they have money, prices are just going to rise. The duration of the scarcity of consumer goods will depend on the labor situation this fall. Management can certainly handle the planning. The food situation will be cleared up as soon as exports return to normal and it is once again profitable to feed livestock.

Alumni Notes

Nominated recently as one of the members of President Truman's new three-man Economic Advisory Council was Leon H. Keyserling, LL.B. '31. The other members of the new Council are Edwin G. Nourse, Chairman, and John Davidson Clark. Nourse is vice-president of the Brookings Institution, while Clark has been a dean and economics professor at the University of Nebraska and at one time was vice-president of the Standard Oil Company of Indiana.

Keyserling is the youngest of the group inasmuch as the other two members are in their sixties while he is only 38. Likewise, he is the only member who has had any great amount of service in the federal government. His federal service dates from 1937 when he became General Counsel to the United States Housing Authority. The period between 1933 and 1937 he spent as secretary and legislative assistant to New York's senator Robert F. Wagner. After holding the position of General Counsel, Keyserling held in succession various other federal positions connected with housing, having been Deputy Administrator as well as General Counsel, U.S.H.A. from 1938 to 1942; Acting Administrator, U.S.H.A. in 1942; Acting Commissioner, Federal Public Housing Authority in 1942; and General Counsel, Federal Public Housing Authority since 1942.

In 1944, he was awarded the second prize of \$10,000, a Pabst Post-war Employment Award, for his essay on the subject "The American Economic Goal: A Practical Start Toward Postwar Full Employment." His thinking along these lines was no doubt a factor in his being selected for the new \$15,000 a year position on the Economic Advisory Council. The duty of the Council will be to study the national economy, and to make reports and recommendations to Congress and to the President on ways and means of keeping the system of free enterprise in a healthy state, capable of sustaining a high level of employment and of production, and able to foresee and to meet effectively the problem of recurrent depressions.

S.J.D. '32—**Felix Forte** (LL.B. Boston University '16), currently a member of the Massachusetts Superior Court, left New York August 16 by air for Paris to assist in presenting the case of Italy to the members of the Paris Peace Conference. Justice Forte, one of the more prominent Americans of Italian ancestry, will represent the Order of the Sons of Italy of America in seeking a just peace for Italy.

Prior to his departure, he stated that "there cannot be a new and democratic Europe and a better world order without a free, united, and happy Italy." He continued, declaring that "permanent world peace can only be achieved by treating all nations, small as well as large, justly and fairly according to the principles of the Atlantic Charter and the Four Freedoms."

Among his other activities in the cause of Italo-American cooperation are his position as a member of the Committee for a Just Peace with Italy, a Director of the Council for American-Italian Affairs, and a member of the Board of Directors of American Relief for Italy.

Forte was appointed to the Massachusetts Superior Bench in 1939.

Oscar W. Hauserman, LL.B. '16, has practiced law in Boston since 1916. He was with the firm of Herrick, Smith, Donald & Farley from 1919 to 1926, practiced individually from 1927 to 1930, was a partner in the firm of Ropes, Gray, Boyden, Perkins from 1930 to 1939—and has been a partner in the firm of Hauserman, Davidson & Shattuck since 1939. He is a former Director and Vice-President of the Community Federation of Boston, and was General Chairman of the Greater Boston Emergency Campaign in 1935. He is a former Director and Vice-President of the Boston Chamber of Commerce, and a former Director of the New England Industrial Research Foundation, Inc.

Ex-'11—**Archibald L. Jackson** died in Rockport, Mass., early in June. He formerly practiced law in Boston and in New York City.

LL.B.'25—**Sterry R. Waterman**, Vermont attorney and former legal adviser to

10. **Paul Temple**, Denver, Col.
3rd Term

Yes. I prefer to assume it is an inflationary period until deflationary trends show up. There are no signs of a decrease in prices yet. It looks like that old spiral. The fact that rents are held down is an encouraging factor.

11. **Albert Danoff**, Glen Lyon, Pa.
3rd Term

Yes, this is definitely an inflationary period. It will last for several years until the production catches up with the demand and the foreign situation stabilizes.

12. **Harold Fein**, Buffalo, N. Y.
3rd Term

Inflation? All I know is that I used to be able to live up here on \$100 a month, but I can't any more. Getting consumer goods on the market is the only solution. Full production is not of itself the cure if the manufacturers continue to keep the finished product in their warehouses in anticipation of higher prices.

the Vermont Unemployment Commission, was defeated last week in a close contest in the Vermont Republican primary for the U. S. Senate. His opponent was Ralph E. Flanders, industrialist, who is assured of election in view of the traditional Republicanism of Vermont. The Senate seat is that now held by Warren H. Austin.

LL.B. '34—**John M. Cleary, Jr.**, commenced work with Trans World Airways, International Division, in February, 1946. He is located at 521 Fifth Avenue, New York City.

LL.B. '40—**Woods McCahill** is working in the Legal Division of the General Electric Company in Schenectady, New York.

LL.B. '41—**Newton L. Margulies** is working for the firm of Brammer, Brody, Charlton & Parker which maintains its offices in Des Moines, Iowa.

LL.B. '33—**Edwin L. McHaney**, who is at present an Associate Justice of the Supreme Court of Arkansas, won his fight for renomination to that position in the Democratic primary held last week in Arkansas. Nomination on the Democratic ticket is tantamount to election.

LL.B. '42—**Robert L. Loucky** is working in the Legal Department of the Standard Accident Insurance Company in Detroit, Michigan.

LL.B. '43—**Christian M. Lauritzen II** is reported as having commenced work last spring in the office of Robert F. Spindell, 135 So. LaSalle St., Chicago, Illinois.

LL.B. '45—**Yule A. Barkan** has been in private practice since the early part of this year. His address is 526 Standard Bldg., Cleveland 13, Ohio.

CURRICULUM—Continued

has been developed, and when the study is completed the committee will get a general picture, for instance, of the importance in modern law practice of oral arguments before administrative tribunals and written arguments in labor arbitrations.

After the committee has received full details of the practice of alumni, and collated these and other suggestions they will seek to prepare recommendations for a curriculum for Harvard Law School specifically designed to meet the problem as it exists. This stage of the task has not yet been reached.

Before a new schedule can appear, with possibly a totally original content, many steps must be taken. There must be a fundamental re-evaluation of the responsibility of the law school, and of functioning of the profession. From the actual needs of the practitioner, both as to the type of thinking he should be taught and the specific information to be imparted to him, the committee will attempt to define the mission of the law school. Only when the objective has been defined, can the work of making up a curriculum to achieve it begin.

The committee is also inquiring about a number of specific reforms which have been put forward. They are asking the recipients of the questionnaires to set forth their views on 30 specific proposals, not proposals of the committee itself, but suggestions which have appeared in past discussion of the problem and some that are in use in the other law schools.

The inquiries also cover personal qualities of young lawyers. For instance fifteen defects noted when a young lawyer is engaged in research work or assisting a senior associate, and fifteen when the young lawyer is handling matters in a responsible capacity, more or less on his own are presented for comment and numerical weighing by the alumni. Then, after the replies have been collected and analyzed there will emerge a new perspective on the sufficiency of current legal education. Thus it will be possible to see how seriously the profession views various shortcomings of men educated under the present system.

Inquiry as to the importance of non-legal subjects in their work is also made to the alumni. Under this heading graduates can express their views of the importance of accounting, cost accounting, statistics, personnel management, history of the labor movement, international trade and payments, urban planning and development, economic theory, trade methods, air transportation and the like. Naturally it is not proposed that all of these be added to the schedule. Some perhaps are of slight or occasional value only; others should be taken before coming to law school, perhaps never at all.

Separate questionnaires were sent to those who are not in the active practice of law, and to judges and officials. Information about these, and fuller details of the questions sent out and replies received will be printed in the next few issues of the RECORD.

FOOD—Continued

The distribution of pledge cards netted promises amounting to about twelve hundred and fifty dollars. However only 249 of the 1447 men in law school signed up to give. This says, Richard Campbell, Harvard '46, University leader of the food drive, is far below the percentage giving in Harvard as a whole, where between 60 and 70 per cent are contributing.

See last week's RECORD for full details of the campaign.

Law School Annals

The night before the Battle of Lexington in 1775 Isaac Royall made an ill-advised flight from his home in Medford, Mass., to the safe shores of Halifax. This trip he regretted and announced his intention and desire to return to Massachusetts. He was classed a Loyalist but after his death in 1781 he left his property to his Massachusetts friends and to his home town for educational purposes. Another legatee of his will was Harvard College to whom he left lands of undetermined value to establish a professorship either in law or medicine.

Though the lands were sold a decade later, nothing was done with the benefits of the Royall legacy until 1815 when the Royall Professorship of Law was finally

COUNCIL—Continued

preparation for graduate work he attended Wabash College where he secured his A.B. in 1911. Three years later he was graduated from the Harvard Law School *cum laude* and began the practice of law in his home city. His career was interrupted by the entrance of this country in the war, and in 1917 he entered the Officers Training Corps at Ft. Harrison, Indiana and received a commission in the Field Artillery the same year. He served overseas with the 327th Field Artillery and the 51st Coast Artillery Regiment taking part with the latter organization in the Meuse-Argonne offensive. While still in France he was promoted to the grade of Captain.

He is now a director of the Fletcher Trust Company, the Indianapolis Water Company and of National Starch Products, Inc. He is a member of Phi Beta Kappa, Phi Beta Kappa Associates, Beta Theta Pi and the Indianapolis Literary Club.

Joseph W. Henderson, LL.B. '13, has had a distinguished career in both private practice and government service. He was born at Montgomery, Pennsylvania, on February 6, 1890. He attended Bucknell University and in 1908 secured his A.B., followed five years later by an A.M. In the same year he had completed his courses at Harvard Law School and was admitted to the Pennsylvania bar. Henderson began his practice in Philadelphia and since 1916 has been a member of the firm of Rawle & Henderson. During and after the first World War he served as Special Counsel on Insurance to the Alien Property Custodian. In addition he is an active member of the American Bar Association and has served on several important committees of that body. In 1939 he was elected Chairman of the Board of Governors of the Philadelphia Bar Association. Other organizations with which he is associated include the Maritime Law Association, Phi Kappa Psi and Bucknell University, of which he is a Trustee. He has been decorated an Officer and Chevalier of the Order of the Crown of Italy.

Calvert Magruder, LL.B. '16, is well known to the Boston bar as Federal Circuit Court Judge of the 1st Circuit. He is not, however, a native New Englander, but was born at Annapolis, Maryland, on December 26, 1893. St. John's College awarded him his A.B. in 1913, and later, one year after he had secured his LL.B. at Harvard, the same college awarded him an A.M. During the year 1916-1917 Judge Magruder had the good fortune to serve as Secretary to Mr. Justice Brandeis. He then served for a year as attorney to the United States Shipping Board and in 1920 returned to Harvard as an Assistant Professor of Law, a position which was changed to a full professorship in 1925. He also served as Vice-Dean of the Law School from 1930 to 1939. His services as general counsel for the Wages and Hours Division of Department of Labor were requested in 1938, and he secured a leave of absence from the University in order to handle the necessary work in Washington. On June 13, 1939, President Roosevelt appointed him to the Federal Bench as a Circuit Court Judge. Judge Magruder now lives in Cambridge and is a trustee of the Browne-Nichols School and Shady Hill School in this city. *Cases on the Law of Partnership* was edited by Magruder in concert with J. A. Crane. The Judge is also a member of the American Bar Association, the National Lawyers' Guild and a Fellow of the American Academy of Arts and Sciences.

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established. A year later Isaac Parker, Chief Justice of the Supreme Judicial Court of Massachusetts, was appointed to the position. In 1817 the first university school of law in America or England was established after the selection of Asabel Sterns as University Professor of Law.

In the first period from 1817 to 1829 the school was no great success. Several factors hampered progress. Chief Justice Parker was seldom around because of the press of his court duties and on the occasions he taught he confined himself to a few general lectures. Professor Sterns, upon whom the burden of operating the school fell, gave the school only one-third of his time, but he had no choice since his inadequate salary required him to retain his position as county attorney. The quarters of the school were unsatisfactory, comprising as they did three rooms on the first floor of a dwelling house located 50 feet north of the present site of the Harvard Coop. Another factor which discouraged enrollment was the inaccessibility of Harvard to students outside the New England area, for in those days even the trip from New York to Boston was long, difficult and unpleasant.

The University was not entirely unaware of the lack of success in their new department, but, for lack of funds, there was little they could do. The feeling prevalent at the time was that the failure was due to Parker and Sterns personally, and they were forced to resign. Parker resigned in 1827 and Sterns in 1829. The whole University was in a critical state with its finances confused and its government rent by a religious conflict between the Universalists and the Congregationalists. After extended political debate and dispute a compromise candidate of eminent qualifications, Josiah Quincy, was elected president.

At this point Nathan Dane gave a sizable gift to the law school. Mr. Dane had, from 1820 to 1829, published his 9 volumes of the American counterpart of *Viner's Abridgment*. Like Viner, he dedicated the large proceeds of his work to the founding of a Professorship of Law, and as Viner's gift produced Blackstone's *Commentaries*, so Dane's ultimately brought forth Story's great works. As a condition to his gift, Dane required that Joseph Story be the first Dane Professor. In spite of his previous refusals of the Royall Professorship in the early 20's, the great Justice of the Supreme Court, in 1829, accepted. As resident Royall Professor John Hooker Ashman took over the actual administration of the school and was instrumental in bringing about its success. He was only 28 at the time and suffering from tuberculosis which killed him in 1833, but before the school had made a great stride forward.

(To be concluded in next issue)

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DANCE—Continued
lette, Mrs. Donald Voorhees, Mrs. William Bruckel, Mrs. James Bernard, Mrs. James Brink, Mrs. William Giles, Mrs. James Beless and Mrs. Wood Taylor.
Decorations: Mrs. Richard Bush, Mrs. Robert Barrett and Mrs. Lee Bloom. House: Mrs. Max Morelock and Mrs. Thomas Cravens. Faculty: Mrs. Walter Morey and Mrs. Roger Pryor. Refreshments: Mrs. Robert Weary and Mrs. Spencer Cunningham.
Publicity: Mrs. Robert E. Bingham, chairman, with Mrs. John Lawless, Mrs. Robert Yeomans, Mrs. Benjamin Brown, Mrs. Frank Jose, Mrs. Albion Fenderson and Mrs. Harold Olsen. Ballots: Mrs. Robert Hurst and Mrs. Frank Jose. Door Prize: Mrs. Robert Barrett, Mrs. Lee Bloom and Mrs. Albion Fenderson.

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Calendar

THE LEGAL WORLD

Class Change

Instead of its regular meeting Thursday 3-5 Aug. 22, Prof. Howe's American Legal History class will meet Monday, Aug. 26 from 3-5 p.m. in SR 4.

Law Club Dances

Gardner Club: Dance for members and guests Saturday, Aug. 24, 8 p.m. at Kendall House.

Grotius Club: Dance for members and guests Friday, Aug. 30, 8 p.m. at Kendall House.

Law Wives

Regular semi-monthly meeting of the Harvard Law Wives Wednesday, Aug. 28, 8 p.m. at Kendall House. The business school wives have been invited for a bridge.

Graduate Students' Tea

A tea for graduate and special students will be held Thursday, Aug. 29, 4:30-6 p.m. at Kendall House.

Ames Final Round

Final argument in the Ames Competition will be held Thursday, Aug. 29, 8 p.m. at the Langdell Court Room.

Graduates' Degrees

Degrees for students graduating in October will not be issued until Nov. 25. If the delay inconveniences any student, in re examinations, he is urged to contact Mr. Dimmitt.

THE UNIVERSITY WORLD

Phillips Brooks House Summer Program. Sunday, August 25, 7:30 p.m. Rabbi Joseph Shalom, ex-combat chaplain, 16th Corps, 9th Army, will speak on "The Prophetic Message in Our Time."

Meeting

Harvard AVC Chapter, Wednesday, August 21, 7:30 p.m., at Littauer Auditorium.

Outing

Harvard Outing Club. Trip to Mt. Washington scheduled for the weekend of August 23, 24, 25. Sign up at the bulletin board in Sever Hall where details are available.

Harvard Wives

Tea and Lecture, Wednesday, August 21, 4 to 7 p.m., at Cambridge Y.W.C.A. Admission, 25c.

Museums

Fogg Museum of Art. Summer Exhibitions: French Painting since 1870 (lent by Mr. and Mrs. Maurice Wertheim), English Art with a selection of Wedgwood ware; Prints by Schongauer and Durer. Open Monday-Friday, 9 a.m. to 4 p.m., Saturdays, 9 a.m. to 1 p.m. Closed Saturdays.

Dancing

Square Dancing, Wednesdays, August 21 and 28, 8 to 11 p.m., at Lesley College Auditorium, Everett and Oxford Streets. Regular program of squares, contras, hambos, polka, waltzes and other folk dances.

Folk Dancing. Friday, August 23, 8:15 to 11:15 p.m. in Congregational Church, Garden and Mason Streets, Cambridge. Special instruction to beginners from 7:45 to 8:15. Refreshments, folk songs, and demonstrations by nationality groups.

Student Dance, Friday, August 23, 8 to 12 p.m., at Trinity Church, Copley Square. Free to all students.

THE OUTER WORLD

Plays

Cambridge Summer Theatre, Brattle St. Through August 24, James Dunn and Julie Haydon in Saroyan's "The Time of Your Life." August 26 through August 31, Mary Boland in "Meet the Wife."

Boston Summer Theatre, Clarendon Street near Copley Square in New England Mutual Hall. Through August 24, Mary Boland in "Meet the Wife." From August 26 through August 31, Grant Mitchell in "The Late George Apley."

Plymouth Theatre, Stuart St. near Tremont St., Boston. "Dear Ruth" will play through August 31.

Colonial Theatre, Boylston St. near Tremont St., Boston. Beginning Monday, August 26, "Life with Father" will be there for two weeks.

Wilbur Theatre, Tremont St. at Stuart St. Zazu Pitts in "Cordelia," August 26 through August 31.

Movies

University Theatre. August 22 through August 24, "The Bride Wore Boots" and "Dark Corner." August 25 through August 28, "The Kid from Brooklyn" and "The Truth about Murder."

Esquire Theatre. Lawrence Olivier is still playing in "Henry V"—last weeks.

Baseball

The Red Sox play Chicago August 22, 23, and 34, Cleveland August 25 (double-header) and 26, and Detroit on August 28 and 29.

Museums

Boston Museum of Fine Arts. Exhibition of original drawings by two Boston cartoonists, Frank Dahl and Gluyas Williams.

PARKING SPACES

In order to facilitate the parking problem for law students, which is acute at present, a large parking area about two blocks from the Law School has been set aside, Vice-Dean Livingston Hall announced. This parking space is located between Oxford Street and Divinity Avenue behind Conant Hall, and may be entered either by going to the end of Divinity Avenue or by turning east from Exford Street just opposite Everett Street.

Employer's Freedom of Speech

"Free speech on both sides and for every faction on any side of a labor relation is to me a constitutional and useful right. Labor is free to turn its publicity on any oppression, substandard wages, employer unfairness, or objectionable working conditions. The employer, too, should be free to answer, and to turn publicity on the records of the leaders or the unions which seek the confidence of his men. And if the employees or organizers associate violence or other offense against the laws with labor's free speech, or if the employer's speech is associated with discriminatory discharges or intimidation, the constitutional remedy would be to stop the evil, but permit the speech if the two are separable; and only rarely and when they are inseparable to stop or punish speech publication."

Mr. Justice Jackson's statement in *Thomas v. Collins* would appear to present a formula for the greatest possible liberality in allowing equal opportunities for employer and employees to express themselves on labor matters. However, Justice Jackson frankly recognizes in his concurring opinion that the employer's free speech rights are restricted under the National Labor Relations Act. The First Amendment to the Constitution provides that Congress shall make no law abridging the freedom of speech or of the press. This freedom in the hierarchy of rights guaranteed by the Constitution is most carefully guarded by the Supreme Court. Enactment of the National Labor Relations Act in 1935 created a new problem regarding free speech. The employer's right of self-expression on labor matters as well as other topics guaranteed by the First Amendment was sharply in conflict with the employees' right to be free from employer interference as provided by federal legislative enactment in the Wagner Act.

Statutory Provisions
To focus attention on the problem of the employer's free speech rights under the N.L.R.A. (National Labor Relations Act) a brief survey of the provisions of the provisions of the statutory provisions of the statute is necessary. Section 7 grants employees basic rights by providing, "Employees shall have the rights to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection." Unfair labor practices of an employer are specified under Section 8 of the Act. Section 8 (1) provides it shall be an unfair practice for an employer, "to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed by Section 7."

In the free speech case we shall consider the employer's expressions invariably have been found by the Board to have interfered, restrained or coerced the employees. In the typical case the employer's total conduct including his speech is found to be coercive and therefore an unfair practice under Section 8 (1). Section 8 (2) prohibits employer domination with the formation or administration of any labor organization and contributing financial or other support to it. Under Section 8 (3) discrimination in regard to hire or tenure of employment or any term or condition of employment intended to encourage or discourage membership in any labor organization is prohibited. Employees are protected from discharge or discriminatory treatment for filing charges, or giving testimony under the Act by Section 8 (4). A refusal to bargain collectively with representatives of his employees is the final type of unfair labor practice provided by Section 8 (5). In examining any free speech question consideration must be given to the concept that freedom of speech is not absolute, that it is subject to limitations. The law of slander and libel are familiar examples of restraint. Legislatures may pass sedition and censorship acts. What then is to be the test in determining if a justifiable limitation may be placed on free speech? Mr. Justice Holmes in *Schenck v. United States* established the "clear and present danger" test. The government charged Schenck, general secretary of the Socialist Party, with violating the Espionage Act of 1917 by circulating pamphlets urging persons to resist the draft. Schenck was convicted for this activity and appealed to the Supreme Court contending his constitutional right of freedom of speech and of the press had been infringed. Schenck's conviction was upheld.

Mr. Justice Holmes in speaking for the court said: "The question in every case is whether the words used are in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent." The Court took the position that the pamphlets did create an immediate danger to the successful administration of the draft act and therefore the limitation upon freedom of speech and press was justified. The same test was used by the Supreme Court in sustaining two similar convictions under the Espionage Act of 1917.

Is the National Labor Relations Act susceptible of analysis from the standpoint of the "clear and present danger" test? In other words, is freedom of speech on the employer's side restricted, and if so, can the restriction be justified as being within the scope of proper legislative enactment. Plainly it would appear that the test is unsatisfactory as applied to the Wagner Act. Congress in passing this legislation was in no direct manner placing restrictions on employer's speech per se. Instead the statute was directed at conduct and activities which in the past had greatly hampered union activity.

Extent of Free Speech

It was early recognized by the Circuit Court of the Ninth Circuit in *N.L.R.B. v. Union Pacific Stages, Inc.* that under the Wagner Act Congress did not intend to forbid expressions of general opinions by employers to their workmen as to their views on unionism. The court pointed out that in the exercise of the employer's freedom of expression, threats directed toward the workmen were not privileged under the act and further the workmen's right to be organized was characterized as a natural right equal to free speech.

The Board in examining employer's speeches and activities particularly when two rival unions were competing for representation in a plant took the position that the employer must maintain a strict neutrality. Support for this proposition would seem to be intimated by the language of the Supreme Court in *International Association of Machinists, Tool and Die Makers Lodge No. 35 v. N.L.R.B.* Mr. Justice Douglas speaking for the court said: "Slight suggestions as to employer's choice between unions may have a telling effect among men who know the consequences of incurring that employer's strong displeasure."

In one of the early employer free speech cases arising for judicial review in the Sixth Circuit under the N. L. R. A. the court placed considerable stress on the language of the Supreme Court in its interpretation of the term "influence" under the Railroad Act of 1926. An employer's letter stressed the necessity of close cooperation in working out problems, reminded the employees of the company's policy of fairness to each working person in their employ, and stated that under the Act employees could choose whom they wished to represent them, but added they need not join any organization. The Board found the issuance of such a letter to be an unfair labor practice under Section 8 (1) of the Act; contending the letter was an appeal to the retention of the system of individual bargaining and further the letter was not an impartial resumé of the employees rights under the N.L.R.A. It was held by the court in the Sixth Circuit that although the letter might "influence" employees, it exerts no pressure and therefore did not interfere, restrain, or coerce the employees in violation of their rights. The basic right of free speech guaranteed by the Constitution belongs equally to every person and nothing in the statute, said the court, prevents an employer from seeking the continuance of individual bargaining with his employees.

The *Midland* case was followed by *N.L.R.B. v. Ford Motor Co.* in the Sixth Circuit Court. The Ford Motor Company had bitterly fought efforts to unionize its plants. The Board found the Company had violated Sections 8 (1) (2) (3) of the N.L.R.A. because of the many instances of improper anti-union conduct. The cease and desist order issued by the Board ordered the company to refrain from its previous action in preventing distribution of union literature near the River Rouge plant, discharging or refusing to hire workmen because of union activities, and finally to refrain from distributing propaganda which discourages or criticizes labor organizations. The company had distributed in April, 1937, a Ford Almanac publication which contained adverse references to labor unions. Later in May of the same year was distributed in pamphlet form the summary of an interview given by Henry Ford to the American Newspaper Alliance. The alleged coercive statements from the publications included these comments: "If you go into a union, they have Got You, but what have You got. . . We have always made a better bargain for our men than an outsider could. We have never had to bargain against our men, and we don't expect to begin now. . . A Monopoly of Jobs in this country is just as bad as a Monopoly of Bread. . . Our men ought to consider whether it is necessary for them to Pay Some Outsider Every Month for the Privilege of Working at Ford's."

In holding that so much of the Board's order that prohibited the company's distribution of its literature on the union question must be set aside, the court stressed the fact that the literature contained no threat of discharge or discrimination. The Board had argued in seeking to have the portion of the orders sustained as to the company publication that an employer's opinion because of his economic position as contrasted to a subservient employee will always tend to be "coercive." The court refused to follow this approach by stating: "The servant no longer has occasion to fear the master's frown of authority or threats of discrimination for union activities, express or implied."

In support of its conclusion that the employer's speech could not be curtailed in this situation, the court relied on *Thornhill v. Alabama*. The court quoted from the opinion of Mr. Justice Murphy in that case: "In the circumstances of our times the dissemination of information concerning the facts of a labor dispute must be regarded as within that area of free discussion that is guaranteed by the Constitution. It would appear that the court in the Ford case viewed the employer's free speech guarantee as contrasted to the right of labor to express itself as a situation in which the doctrine of mutuality should apply. The *Thornhill* case and *Carlson v. California*, decided the same day by the Supreme Court, had struck down state legislative measures which prohibited picketing activities. Free speech was the device used by the Supreme Court in achieving important labor victories. Now the Sixth Circuit Court was saying if the labor group can express itself without interference by the state in picketing, how could the National Labor Relations Act avoid the grave doubts as to its constitutionality unless the employer be given the freedom to express his views?"

In the Second Circuit at this time language used by an employer in describing union officials as a "bunch of racketeers" and indicating that the plant would be shut down within a year if the union was admitted was found by the Board to be an unfair labor practice under Section 8 (1) of the Act. The Board's order was reviewed and sustained. Judge Learned Hand in the majority opinion recognized that an employer's freedom of speech has a dual aspect. As an expression of the employer's viewpoint the employer is protected by the First Amendment. The other aspect relates to a manifestation of a viewpoint by the employer to his workers which the latter will not think it safe to thwart. This analysis would seem to point to the doctrine that the superior economic position of the employer tends to make any expression to his subordinates coercive. Hand suggested that in dealing with the delicate problem of an employer's free speech that the Board should take into consideration the two factors giving effect to the stronger position in the particular situation.

Virginia Electric and Power Case

Conflicting decisions had been handed down in various circuit courts on the employer's right of free speech prior to the Supreme Court's pronouncement in *Virginia Electric & Power Company v. N.L.R.B.* In this case the company, which had maintained a hostile union attitude since the 1920's, posted a bulletin after the constitutionality of the Wagner Act had been established setting forth information that it was likely in the future that attempts would be made to unionize the company. The bulletin stressed the good relations between the employer and employees in the past, the recognition by the company that the employees could join a labor organization, and added it was not necessary to join any labor organization. Approximately a month later identical speeches were delivered by two company officials before employees in Richmond and Norfolk, Va. These speeches inferentially indicated the company favored bargaining with an "inside" union. Such an independent union was formed and a closed shop union contract entered into with the company November 4, 1937.

The Board found the Virginia Electric & Power Company had violated Sections 8 (1) (2) (3) of the N.L.R.A. and ordered the company to cease and desist from giving effect to the contract made with the independent union, and to withdraw recognition and disestablish the independent organization. The Board specifically found that the bulletin and speeches interfered with, restrained and coerced the company employees in violation of their rights guaranteed by Section 7 of the Act. The Board's order had been denied enforcement by the Fourth Circuit Court of Appeals. The Supreme Court ordered the case remanded to the Board for further findings.

The Virginia Electric Company contended that the Board's finding as to the interference, restraint and coercion of the employees rights caused by the bulletin and speeches was repugnant to the First Amendment. In regard to that argument Mr. Justice Murphy stated: "Neither the Act nor the Board's order here enjoins the employer from expressing its views on labor policies or problems, nor is a penalty imposed upon it because of any utterances which it has made. The sanctions of the Act are imposed not in punishment of the employer but for the protection of the employees. The employer in this case is as free now as ever to take any side it may choose on this controversial issue. But, certainly, conduct, though evidenced in part by speech, may amount, in connection with other circumstances, to coercion within the meaning of the Act."

A different approach is suggested further

in the opinion which would indicate the Supreme Court is remanding the case to the Board for further findings on the basis of the familiar doctrine that the Board's findings were not supported by substantial evidence.

Mr. Justice Murphy stated: "It is clear that the Board specifically found that those utterances were unfair labor practices, and it does not appear that the Board raised them to the stature of coercion by reliance on the surrounding circumstances. If the utterances are thus to be separated from their background, we find it difficult to sustain a finding of coercion with respect to them alone. . . whether they are sufficient findings and evidence of interference, restraint, coercion, and domination, without reference to the bulletin and speeches, or whether the whole course of conduct, evidenced in part by the utterances, was aimed at achieving objectives forbidden by the Act, are questions for the Board to decide upon the evidence."

Subsequently the Board found upon re-inquiry that the Virginia Electric Company's total conduct constituted a violation of the Act and the Board's order was upheld by the Supreme Court. In the latter proceeding Mr. Justice Murphy, again speaking for the court, in regard to the employers free speech contention says that while the bulletins and speeches were stressed they were not considered in isolation but as a part of a pattern of events adding up to the domination and interference.

(To be continued next week)

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Fuller Hughes v. Grotius; Mr. Fred B. Lund, Jr., C.J.; Prof. Morgan, A.J.; Hubert Delynn, A.J.; Skorupski, Clerk.
Root-Taney; Mr. Stuart Montgomery, C.J.; Prof. Baker, A.J.; John Johnson, A.J.; Jacobs, Clerk.
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Root v. Fuller-Hughes; Mr. D. G. Allen, C.J.; Prof. Howe, A.J.; David Olds, A.J.; Holffman, Clerk.
Kent Club ex parte; John E. Rogerson, C.J.; Prof. McLaughlin, A.J.; John Canian, A.J.; Delaney, Clerk.
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Taney v. Blackstone; Aug. 21, 8 p.m.; L.N.M.; Mr. Robert H. Hopkins, C.J.; Prof. Braucher, A.J.; Mr. Crouch, A.J.; Massengale, Clerk.

Langdell Club ex parte; Aug. 21, 8 p.m.; L.S.M.; Mr. A. H. Parker, C.J.; Prof. Casner, A.J.; John Early, A.J.; Jacobs, Clerk.

Blackstone v. Grotius; Aug. 22, 8 p.m.; A.W.; Mr. Dunbar Holmes, C.J.; Prof. Katz, A.J.; Mr. Rykoff, A.J.; Clerk.

Root Club ex parte; Aug. 22, 8 p.m.; A.E.; Mr. James Eastman, C.J.; Prof. Dodd, A.J.; Mr. Hyman, A.J.; Shea, Clerk.

Taney v. Thorpe; Aug. 22, 8 p.m.; L.N.; Mr. Leeds A. Wheeler, C.J.; Prof. Braucher, A.J.; Mr. Mercer, A.J.; Pariser, Clerk.

Scott-Powow ex parte; Aug. 22, 8 p.m.;

L.N.M.; Mr. William Lawrence, C.J.; Prof.