

The Harvard Law School Record

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PLANNING FOR FORUM REVEALED

Suggestions Sought For Speakers And New Forum Topics

Plans for next year's series of Forums are already being laid and any suggestions for topics and speakers should be sent to the Forum office in Gannett House.

Behind the smooth running Friday evening programs lie weeks of planning, conferences, and interviews. Few realize that for the two or three speakers who finally appear on the platform, probably ten others have been discussed and rejected, maybe three others asked who could not come.

The story of the speakers' panel for this year's forum began last June right after examinations. Professor Katz and Professor Fuller met with the Forum Planning Committee to draw up a tentative program for the fall and to discuss the topics.

From this initial meeting, a tentative schedule of forums with suggested speakers was drawn up and sent to all 20 members of the Forum Board of Directors, the Law School faculty, and other University faculty members. They were asked to examine the topics and suggested speakers forum by forum and return the questionnaire with any suggestions. Some 40 replies were received.

Then began the process of synthesis. Each suggestion was weighed and discussed in the light of the schedule as a unit. Forum President Rappaport on the basis of these questionnaires made a report to the full Board. As a result of the polls and the Board discussions, several changes were made in the tentative program. Two forums on Russia instead of one were scheduled, a forum on China was substituted in place of one originally planned on military rule in Japan. A new program on bureaucracy and the legal order was added and the forum on the United Nations and world government was split into two separate programs. The forum on values for modern man which had only been suggested on the tentative outline received such enthusiastic support that it was definitely scheduled.

Following a discussion by the Board of this report, the final results were forwarded to Rappaport who had taken the summer term off, in part in order to be able to interview speakers. The schedule of forum dates was rearranged.

University Financial Report Shows Profit In Law School Operations

The annual statement of the Treasurer of Harvard College, presented recently to the Board of Overseers by William H. Claffin '15, bears witness to the prudence and sagacity attributed to the legal mind, for the Law School was one of the few departments of the University to report an operating surplus for the fiscal year ending June 30, 1946.

The University as a whole had an income of some \$19,900,000, expenses of more than \$20,700,000 and consequently an operating deficit of about \$800,000. This represents the greatest deficit at which Harvard has ever operated; usually the management has been able to avoid any deficit. The Treasurer's report points out that "the academic year covered by this report, like the war years, cannot be considered a normal one for comparative purposes."

The principal source of income for the year was the student body, tuition and other student income amounting to 29.1 percent of the total. Endowment funds contributed 28.4 percent, gifts for immediate use 8.4 percent on reimbursements under special research and development contracts—expenditures on research contracts sponsored by the government, hitherto a wartime secret—supplied 21.4 percent of the income.

The Law School received tuition and other student income of \$435,870.79, gifts for immediate use of \$61,560.08, utilized \$197,730.10 of Fund income and \$867.62 of contract reimbursements and

Holmes Civil War Letters Voice Gripes Familiar To All Soldiers

Professor Howe, in pursuance of his undertaking of preparing the official biography of Mr. Justice Holmes, has again paused to publish separately a group of Holmes' letters and a diary which, as he notes, appropriately lend themselves to such presentation. Yet it would be difficult to imagine two more diverse collections from the same pen than the "goodwine" of the Holmes-Pollock Letters and these earnest letters home of the young Oliver Wendell Holmes, Jr., soldier of the Union. As Professor Howe points out in a brief and competent evaluation of the collection, the letters and the diary speak for themselves as a record of three vivid years of experience, and represent his earliest and simplest expression of feeling and belief.

Holmes and his mother carefully went over the letters some time after the Civil War and destroyed an appreciable number, as well as Volume I of the diary, so we may presume that we see Holmes as he wished to be seen. Professor Howe's editing, on the other hand, has added, rather than deleted, and his excellent annotations aid in making the running account in letters and diary comprehensible to a generation unfamiliar with details concerning the events and persons described. No one who has ever read a *Law Review* Note would classify these clarifying comments as footnotes, yet the general reader may find in them something reminiscent of Van Wyck Brooks, and it might be that many of the identifications could have been eliminated. A brief resume of each of the campaigns in which Holmes' letters report his part might also have been worthwhile, in a day when the general reader may never even have heard of Fair Oaks or Cold Harbor. One who enjoyed Lee's Lieutenants or who has an elementary knowledge of Civil War History will see Holmes' experiences in their proper background.

Further, it would seem that these letters interest us because they are from Capt. Oliver Wendell Holmes Jr., 20th Regiment, Massachusetts Volunteers, and not because of where he was or what he did. With slight exception, it seems to me that most of the expression and content is not a great deal different than you would expect any 21-24 year old officer from Boston to have written to his family, in 1862 or 1864.

Most of us have so long thought of Holmes as a judge and as an old man that it requires some readjustment to visualize him as this volume presents him, before he had even been to the Law School. As Professor Howe says, the influence of the Civil War upon the thought and attitude of Mr. Justice Holmes can not profitably be discussed

on the basis of the materials of the volume alone, although its contemporaneous meaning to him is clearly indicated by the letters and diary. What Mr. Howe calls "the war in retrospect" dominated and was a stronger influence in the formation of Holmes' philosophy than were his contemporaneous reactions as presented here.

Holmes really saw War at first hand in a way that relatively few of our Law School generation did. Where so many of us fought at relative distances using the modern machines of ships or



Holmes As A Civil War Officer
Reprinted by permission of the Harvard University Press

planes, Holmes, even when on the Corps Staff, was in the front lines of infantry combat. He was thrice wounded, in a day when medical attentions left much to be desired, and had the experience common to a front line infantry outfit of seeing "nearly every regimental officer I knew or cared for dead or wounded."

Although the language and technique of war have changed since 1861, the influence of wars upon the minds of those who fight has not been appreciably different. We find Holmes characterizing many of his superiors as "crack-brained," "an obstinate ignoramus," "stupid and flurried," or "Burnside is a d'd humbug—Warren . . . is a ditto;" he has the usual creature discomforts—no sleep, diarrhea, cold, and mud; he tells the family, "your letters are the one pleasure."

Holmes displays the usual pride in his outfit, "I really doubt very much whether there is any Regt. which can compare with ours in the Army of the Potomac," and is able to back up this contention consciously or otherwise in many of the letters.

His enthusiasm is tempered by considerable discouragement at times—"The Army is tired out with its hard and terrible experience and still more with its mismanagement and I think before long the majority will say that we are vainly working to effect what never happens—the subjugation (for that is it) of a great civilized nation. We shan't do it—at least the Army can't." And in speaking of the Wilderness, where in nine days fighting his Corps alone lost 10,547 men, he sees heroism in the endurance of the men, but gloomily notes "—I tell you many a man has gone crazy since this campaign begun (sic) from the terrible pressure on mind and body."

The young Holmes felt deeply the fundamental dichotomy which separates the battle-experienced soldier from his family at home. "The duties and thought of the field are of such a nature that one can not at the same time keep home, parents, and such thoughts as they suggest in his mind at the same time as the reality—can hardly indeed remember their existence—and this too just after the intense yearning which immediately precedes a campaign."

Finally, after the terrible Wilderness Campaign, Holmes made a choice which must have taken courage and resolution. His Regiment's term of enlistment expired and he felt, after three years of service and suffering, that he would no longer "acknowledge the same claims upon me under those circumstances that existed formerly." He wrote home that: "I started in this thing a boy I am now a man and I have been coming to the conclusion for the last six months that my duty has changed . . . I honestly think the duty of fighting has ceased for me, ceased because I have laboriously and with much suffering earned the right which I denied to Willie Everett (who spent the Civil War studying in Eng-

(Continued on page three)

BRIGHTER YEARBOOK PROJECTED

Individual Pictures To Be Taken Next Week In Langdell

Yearbook picture week commences next Tuesday, January 7. The staff has made arrangements to use the room over Langdell North, the one corresponding to the Root Room, for taking pictures.

The schedule for picture taking will be posted on all bulletin boards and is reproduced below. Information to go into the book will be recorded as the pictures are taken.

One of the major improvements over last year's book will be a greatly enlarged section devoted to the activities of organizations about school. For example, the Harvard Law School Wives will have a four-page spread. Pictorial and descriptive material will tell the story of daily luncheons, the transformation of Kendall House into the focal point of Law School social activity and the progress of the toy-block classes in the Nursery. The stories covering Chancery Club and Lincoln's Inn Society will likewise be "toned up" with candid shots and a short description of the functions of these two organizations.

There will be a one dollar sitting fee payable at the time the individual student photographs are taken. This one dollar will be applied to the total price of six dollars for those subscribing to the book. The 1947 Yearbook will thus cost one dollar less than last year's book. It was hoped that a charge for the sitting could be avoided or absorbed so that only those who did not wish to spend the few minutes necessary to have their pictures taken would be omitted. However, this was found to be financially impossible and the plan described above was the nearest that could be worked out.

Chairman John E. Hennessey and his staff are pleased that in the face of rising costs they have been able to keep the price at last year's level, plan a bigger and better book and pass on the

(Continued on page three)

RICHARDSON NAMED REVIEW PRESIDENT



WILSON RICHARDSON
Retiring President of the Harvard Law Review James H. Wilson has announced the election of Elliot L. Richardson as his successor.

AMES FINISHES QUARTERFINAL

Scott-PowWow Defeats Root In Final Argument

As a result of the quarter-final round of the Ames Competition, completed on December 19, four law clubs have advanced to the semi-final round, to be held next term.

The four victorious clubs are the Casner, Taney, Thorpe, and Scott-PowWow.

In the final argument of the series on December 19, the Scott-PowWow Club, represented by Mac Asbill, Jr. and John P. MacMeekin, became the fourth club to advance, gaining a victory over the Root Club, represented by Charles D. Aldrich and Edward J. Ford, Jr.

Counsel for the clubs who had won victories previously were Malcolm R. Wilkey and Clendon H. Lee for the Casner Club, James L. O'Dea, Jr., and Leonard K. Simmer for the Taney Club, and George I. Meisel and Paul N. Temple for the Thorpe Club.

The quarter-final arguments held this term were of particular interest since they were the first full-dress quarter-finals to have been held since the war. The semi-finals next term, in which the four victorious clubs will be represented, and the final argument two terms hence between the winners of the semi-finals will likewise be the first post-war contests in their categories.

Silvers And Joseph Named Note Editors; Pearce Is Treasurer

At a recent meeting of all the active members of the Harvard Law Review Association Elliot L. Richardson of Brookline, Massachusetts, was elected president to succeed James H. Wilson, Jr. Jack R. Pearce was elected to succeed Treasurer Martin C. Barell.

Richardson appointed the following officers: Case Editor—William P. Bundy, succeeding Mallory R. Smith; Note Editors—Herbert R. Silvers and Leonard Joseph, succeeding Richardson and W. Covington Hardee; Book Review Editor—J. Lowell Oakes III, succeeding Bundy.

The new President graduated from Harvard College in 1941 and served in the Army Medical Corps with the Fourth Infantry division throughout its European campaigns. Pearce, after graduating from DePauw University in 1940, joined the U. S. Army and served as a First Lieutenant in the Medical Administrative Corps. Bundy is a graduate of Yale, Class of 1939, and did intelligence work as a Major in the Army. Oakes graduated from Harvard in 1945.

The new Note Editors are both Army veterans. Silvers (Northwestern '41) was a hospital psychologist with rank of second lieutenant. Joseph (Pennsylvania '41) also saw army service.

YEARBOOK SITTINGS

TERM I SECTION 1	
2 PM-3 PM	Tues. Jan. 7
Allen, G. H.—Glaman	
2 PM-3 PM	Wed. Jan. 8
Goldman—Peck	
TERM II SECTION 1	
10 AM-11 AM	Tues. Jan. 7
Fredericks—McSweeney	
12 M-1 PM	Wed. Jan. 8
MacKay—Walker, J. A.	
TERM II SECTION 2	
11 AM-12 M	Tues. Jan. 7
Fried—Mack	
11 AM-12 M	Wed. Jan. 8
A—Frank	
TERM III SECTION 1	
12 M-1 PM	Tues. Jan. 7
A—Duncan	
TERM III SECTION 2	
10 AM-11 AM	Wed. Jan. 8
A—Dow	
TERM V	
1 PM-2 PM	Tues. Jan. 7
A—Pemberton	
1 PM-2 PM	Wed. Jan. 8
Peterson—Young, R.	
TERM VI	
1 PM-2 PM	Wed. Jan. 8
A—Collins, S. W. Jr.	

Proponent Of Unified World Legal System Sees Analogy In Development Of The "King's Peace"

An ever increasing problem for the lawyer today results from the uncertainties of international litigation. Everything depends upon what court will decide the case not only as to the law governing it but even whether the case will be heard at all. Private parties have no appeal to the World Court and therefore must be satisfied with what justice they obtain in national courts, which are not bound by any common rules or principles of Private International Law. If world trade and communication are to continue to grow, we are faced with the question of whether men can establish order and peace in world society as they have done within national boundaries. A satisfactory answer must take into account the early history of our own law and its development.

Before the Norman Conquest, the Anglo-Saxons were separated into kin-groups or households. Each was a compact unit in which the internal discipline was strictly administered by the "patriarch." The only tie between households lay in a common religious loyalty and membership in the assembly of the county. As most individuals had a lord who would answer for them, whenever a man was injured or killed, his kin would seek revenge against the household responsible for the wrong. This led to private war because there was no other way in which the injured group could obtain justice. The church often excluded the wrongdoer from the "society of the pious," but it did not satisfy the desire for vengeance, nor truly punish the evil doers. The household resorted to its own means of fulfilling these objectives. The result was more than a Martin-McCoy feud; it was actual bloody warfare and many innocent people in the fields and market place were killed.

To protect their trade and their peasants, the lords agreed that the feuds should be suspended at certain times and in certain places. The county assembly declared that this truce included the church and the market place. This was called the church "peace" and the "peace" of the market. One who pressed a feud in violation of the peace was supposed to be punished by his own household. The patriarchs recognized no law, but for their own self-interest, they found it advantageous to keep this limited "peace." It did not require the lord to suffer an insult unavenged, but merely kept the feuding within safe bounds. The country could not function without the institution of the peace and it was accepted and obeyed because all the kindreds benefitted from it. Soon the peace was extended to the assembly and the forest where men went to hunt and gather wood. But the lords were not satisfied to limit the peace to places and times of work or trading so a peace was instituted at the great festivals. Of course, when another clan besieged or attacked them, there was the peace of the walled town, during which the various kindreds forgot their differences, and joined together to fight the common enemy.

The original idea of a "peace" corresponded to what we should call a system of collective security today. It had only the force of expediency and public convenience behind it. There was no law governing the relationship between households until the 9th century when one group became supreme. Even then there was no central executive and the peace of England depended on the ability of successive kings. By the 10th century when the Danes invaded the land, private jurisdictions grew up to render government ineffec-

tive and the embryonic development of a national law lapsed completely. "The grand vision of a universal Christian Empire was utterly lost in the isolation, the antagonism and the increasing localization of all powers." It was at this point in history that the alternatives became apparent. Either a strong central system of law must be established, or a temporary remedy provided in a balance of power. A system of feudalism based on the holding of land, had already developed and jealous Dukes and Earls were wary of giving too much power to their king. The King had to find some way in which he could keep the various Lords from splitting up the country. Of course theoretically all subjects owed allegiance to him but in fact he was often unable to depend on support. The powerful houses were ready to settle their differences by private war if the King's idea of justice did not satisfy them. The King alone was not strong enough to impose his will on the stiff-necked Kindred.

It was the individuals within the household, the freemen and peasants, who finally built up the power of the king and made a unified law possible.

They realized that the obligation to engage in private war to revenge a wrong to the group might be so burdensome that it was better to withdraw from their kin. The benefits of household protection did not compensate for the necessity of risking their lives whenever their lords disagreed. They sought some way by which they could avoid being drawn into controversies which did not have anything to do with their interests or needs. They naturally looked to the king for protection under some system of law and order. The early law took many forms; a money

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Editorials

Recently an eminent member of the faculty of the Harvard Business School, directing his attention to the problem of attracting high caliber men to the profession of university teaching proposed that salaries in the academic ranks be increased appreciably, and that a large part of the resulting cost be carried by the students through higher tuition rates.

The basic question which he posed is undoubtedly one of great importance and some urgency. Few indeed are the men who can choose their life's work with disregard of the financial return which the alternative fields of endeavor offer. Teaching must compete with the other professions for manpower. The salaries which are offered will be material in determining the level of ability which is channeled into the faculty rosters. It has also become increasingly apparent that the life of an avowed academician is not so cloistered as to shield him from the green-backed invitations of business and the other practicing professions.

Granting the need for higher salaries, the question then becomes one of ways and means. Perhaps the proposal to put a large part of the burden on the students merely reflects an economist's unwillingness to suggest an expenditure without indicating a possible source of revenue. The veterans' benefits which are available to the vast majority of the present student body invite exploitation. But this easy out is a dangerous one. The long-range problem of higher education in a democracy involves not only making teaching possible for able men, but also making learning possible for able youths. Both aspects of the problem must be considered together. Education is not advanced by adopting plans which improve the quality of the teaching but limit the number of students who can attend by imposing a difficult financial barrier.

Higher tuition would, of course, be defensible if it were accompanied by a greatly expanded scholarship and aid program. President Conant is certainly doing all that he can in this direction. Private funds for this purpose will probably not be available in sufficient sums and it is quite possible that some form of government subsidy will be necessary. This entire matter is receiving much attention at the present time. The important thing to be remembered is that all aspects of the problem of financing our universities must be considered together. Any hastily considered plan for relieving one part of the problem may have disastrous effects on the total purposes of university teaching. Ability to survive on a low income should not be a prerequisite for admission to professorial rank, but neither should ability to pay high fees be the test for membership in the student body.

T. J. O.

Letters to the Editor

To the Editor of the RECORD:

During the late war, the principal concern of a commander was morale of the troops. When morale—that intangible, conceptualistic word that seems best to define health of the human spirit—was high, tempers were even, ambitions good, results accomplished. If morale was low, efficiency dropped off. Low morale had its symptoms. You saw it evidenced by groups of men talking in undertones, individuals quiet, moody, a tenor of uncertainty and fear in letters that expressed the inward sickness of a soldier or sailor. There were medicines to restore morale; no need to discuss them here. I only want to point out that these same symptoms of low morale pervade the student body at the Law School—at least among all whose grades in the last examinations fell below a middle C.

Ask any professor of long experience at Harvard and he will tell you that the first and second year classes are the best to enter the Law School in twenty or more years. The classes are composed almost exclusively of college honor students, men who are capable of outstanding performance or they wouldn't be at Harvard. In fact, entrance requirements are now so high that if you graduated from "Siwash" College in a certain Pennsylvania town, you wouldn't be admitted, even if your average were 100 per cent. Harvard doesn't think the best man from that school is good enough for Harvard. We suppose that to be Harvard's prerogative.

But after it is admitted, what is Harvard doing with this cream from the top of the bottle? The results speak for themselves. Only ten men out of 436 were given averages of 75 or better; in other words, less than two and one-half per cent of the nation's top college graduates are considered honor students by the Harvard Law School. Yet, 11.8%, four times that number, are considered unable to pass with a 59 average. Among the latter group Harvard places a Phi Beta Kappa, and a student who was able to make the grade of A in two of his six first year subjects.

Something is wrong with a system that in effect establishes a range of only 20 points between the perfect mark

(let's call it 79 for purpose of argument) and the failing mark (59). In other words, if 100 was the theoretically perfect mark, any man who did not receive a grade of 80 would be failed.

Something is wrong with a system that stakes a man's entire career on his ability to write the equivalent of fifty perfect essays on fifty legal problems in a total of 20 hours—an average of 24 minutes per essay. I wonder just how many of the Harvard faculty consider that a man who cannot do that is incapable of being a competent attorney. Are there not other matters at least equally important to consider in estimating a future attorney, e. g. his character, his integrity, his ability to argue verbally, his ability to negotiate, his sympathy for the problems of other men? These may well make up for the inability to think, write, and edit under extreme pressure.

All of this is not idle talk. Many a student has asked his instructor why his grade was low. The answers are evasive: "you didn't see the underlying issues"—yet the underlying issues are not pointed out. Or "you saw all the issues but so did everyone else." This would indicate that the men with talents least resembling those of Shakespeare or Browning (but by no means grammatical heretics) are, by operation of the "grade curve," resigned to legal oblivion.

How much has been made to hang on the viewpoint of the instructor? The student who sees and understands a given legal problem and its possible solutions may nevertheless fail to subject his thinking to the philosophical background of the man on the rostrum, and will be graded accordingly. Professors have admitted openly to their classes that if their students sat in on a colleague's lectures they were in danger of being "confused" because "Professor X takes a different approach."

The largest percentage of averages doubtless fell in the 60-65 group. Some of these men may have failed a single subject, or barely passed in several courses. Their problem is equally as great as that of the failures. They know they are intelligent men, that they understand their work, that they can make good lawyers. Yet over all their efforts hangs an impending sentence. No matter how capable they may be, if 88.2% of the class knows a trifle more, it is the finish of a legal career for the remaining 11.8%.

Harvard does not seem to realize that its students, failing here, are prejudiced elsewhere. Thus the Law School should either (1) curtail its enrollment commensurate with physical plant, admitting only those whom it is able to teach and to graduate, or (2) make known to the Association of American Law Schools that it has raised its standards to abnormal heights and state in regard to each student it has failed thus far in the new program, and who may be failed in the future, whether that student should be prejudiced in admission to another law school. That determination could be made after appraisal of the student in an oral examination by a faculty board and a review of the student's first year work in the Ames Competition. Harvard could make further recommendations in regard to admission on advanced standing.

Continuance of present policies can only be detrimental to Harvard.

As long as so many students of such high caliber are kept in fear and trembling, it will in time lower the general level of scholarship.

The School itself is being subjected to criticism, not only from within, but from those outside the walls.

The legal profession is being deprived of attorneys merely because certain students made the mistake of coming to Harvard rather than going elsewhere.

The individuals who passed by a narrow margin and are struggling against "the system" are uncertain whether there is a way to improve or whether it would be better to try another institution. Those who have already failed see the door closed to a marvelous life in the Law that they love. For them there is little consolation in the words "the bigger they are, the harder they fall."

Yours sincerely,
A LAWYER-STUDENT

Off the Record

Haappy New Year
California, Rice, Illinois,
North Carolina and the rest

Were surging toward the goal,
While Harvard Law men, full of joy,
Were blocking low and at the chest,
To reach the Flowing Punch Bowl.

—N. B. T.

LEGAL PRIMER

The Cambridge Trolley

Here comes the Boston Elevated Railway Trolley. It carries indigent Law Students one whole mile to School for only 10c. It was General Grant's favorite Trolley too. It carried him back from Appomattox. See the Funny Urchins riding on the back. Oh! One of them has fallen off underneath the Wheels. What Fun!

The Client

Hosanna, Children, here comes a Client. He has been convicted of Manslaughter, Arson, Rape, Larceny and Embezzlement. He has Lots of Money. Come in, Dear Client.

—PUBLIUS

HE WOOS WHICH MUSE

The howl of Friend Bart, re: debasing the art
In the RECORD's poetical niche,
Made us quickly reach for the faculty chart—
"Say, can W. B. Archie MacLeish?"

—N. B. T. & H. K.

From our alert contemporaries on the Harbus News comes an interesting item clipped from the Montreal Gazette.

Dec. 8—Scarcity of white shirts in Canada was not permitted to interfere with decorum in Kings Bench Court sitting in appeal in the judicial district of Arthabaska, Quebec. When a lawyer, who said he had tried in vain during the last year to buy a white shirt, appeared in a blue shirt to act in a case he was asked by Mr. Justice Letourneau to leave the court because he was "improperly dressed." Mr. Justice Letourneau said no lawyer is permitted to plead before a court in session if he does not wear legal robes, and that a white shirt is part of the dress.

Gallery

PUBLIC SPIRITED CITIZEN

ALFRED A. BENESCH



One of the most public spirited citizens in Cleveland, Ohio is Alfred A. Benesch, who was graduated from Harvard Law School in 1903. From the time he entered practice he has been keenly interested in public service. He took as his models Tom L. Johnson, Cleveland's greatest mayor, and Newton D. Baker, Woodrow Wilson's Secretary of War.

In 1905, and twice thereafter, Benesch ran as a Democratic candidate for City Council in a hopelessly Republican ward and was beaten each time. In 1911 he was elected Councilman-at-Large. In 1913, at Mayor Baker's request, he ran again in a Republican ward and was defeated by a narrow margin. In 1914 he was appointed Director of Public Safety of Cleveland. From 1916 to 1925 he held no public office. In 1925 he was elected to the Cleveland Board of Education and has been re-elected six times since, each time by an increased majority. The office is a non-paying one.

In 1935, Benesch was appointed Director of Commerce of Ohio and served for four years. In 1942 he was appointed Area Rent Executive of the regional O.P.A. He is now a member of the Ohio Pension Program Committee, the Mayor's Emergency Committee on Veteran's Housing, the County Hospital Committee, and is Chairman of the Mayor's Fair Rent Committee.

Mr. Benesch is a small, thin man in his late sixties. He sits quietly behind his large dark desk in an oak paneled office high in the Citizen's Building on Cleveland's Euclid Avenue. His voice is low and his observations clear and to the point.

For many years Benesch was associated with Even H. Hopkins, Dean of the Western Reserve University School of Law, in the practice of law. Since 1942 he has been senior partner in the firm of Benesch, Friedlander and Morris. He manages successfully to combine the practice of law with a very active career in public service. He is frank to admit that he likes public service better than some phases of the law. He thinks that too much of a lawyer's time is necessarily spent in patching up errors whereas public service is almost always constructive.

The greater part of Benesch's time, apart from his practice which takes about four hours a day, is now occupied in non-political work. He is a trustee of Mt. Sinai Hospital of Cleveland, of the Urban League (An organization which promotes the cultural and social welfare of the Negro citizens of Cleveland); is a vice-president of the National Jewish Hospital of Denver; treasurer of the Cleveland Jewish Orphan Home, President of the Educational League, and is connected with numerous other organizations of a charitable, cultural and educational nature.

He does not consider himself a martyr in carrying on all these "extra-curricular" activities.

"On the contrary, I'm even a little selfish, I guess," he laughed. "I do this work because I enjoy it, especially the work with young people. I have always felt that the citizen owes a duty of service to his community, especially the man who has been given the privilege of a good education. It's a sad situation when so many lawyers devote themselves to money grubbing and, despite their great abilities, do nothing outside of their practice."

Young lawyers can't devote as much time to public service as older men, he hastened to add, but they should give some time to it and they cannot begin too early.

"In my first years in practice I spent less than fifteen evenings a year at home," he pointed out. "I was as interested in meeting people as in making money. At the same time, meeting people is a way of making a great many contacts which will help a young man to get started. If you become active, people will find out about you and commandeer your talents. They take Tom Johnson's advice that 'if you want work done, find a busy man to do it.'"

Benesch deprecates the fact that it is becoming ever harder for a young lawyer to get started; competition is keen and specialization rife. So, if the average young lawyer, without important contacts, wants to look at it from a personal point of view one of the best ways to get started is to engage in community activities.

"A lawyer can advertise only in a legitimate way," he explained, "and public service is one of the legitimate ways. The young man should plunge right in; volunteer his services to hospitals, charities, cultural groups, fraternal organizations and as many other such activities as he can carry. But, most important of all, I think, he'll find, as I did, that he's getting a great deal of enjoyment and satisfaction from such work."

All of the foregoing, Benesch insists, applies especially to Harvard graduates. They should make use of the splendid education they have received at the Law School, in part at least, to help the community as a whole. They owe this communal debt. They should not be ambitious to "get rich quick;" if they have ability it will be recognized and they will always make a good living. The main thing is to use their talents and education in a constructive way.

"You can spend your entire life doing nothing besides making a lot of money," Benesch concluded. "But people don't remember those who accumulate large fortunes. They do remember those who contribute to the welfare of the community. I would rather, when I die, have people say that I was a good citizen than that I was a millionaire."

H.K.

Sub Judice

DUPLICATE BONDS****Purchase of bond in bearer form from "fly-by-night" broker slightly under market not sufficient to make such action a taking in bad faith.

Appellee was engaged in the investment business. During this time he purchased from a fly-by-night broker a bond in the amount of \$1000 as one of a series of similar bonds executed by the appellant secured by deed of trust. Before maturity appellee posted this bond as security for a promissory note. In 1939 the entire issue of this bond was called for redemption, a fact which appellee did not learn until 1943. Thereupon he suggested to his pledgee that the bond be presented for payment and the proceeds used to reduce the note. The pledgee presented the bond to the trustees who refused payment on the ground that this particular bond had been stolen from its original owner and a duplicate issued. The duplicate had been paid. Suit was brought against the maker by the appellee who recovered judgment.

On appeal the appellant contended that the bond had been paid and that the appellee was not a holder in due course because at the time he acquired the bond, he had noticed that it had been dishonored and that the title of the prior holder was defective. The defense of payment was based on the theory that the trustees were agents of the bondholders and that after payment to the trustees the maker was discharged. Payment to the wrong bondholder would give rise to an action against the trustee. There was, however, a finding supported by evidence that the appellant had deposited money with the trustee with instructions to exclude payment of the stolen original bond.

The court was not convinced that appellee's conduct in purchasing the bond from a dealer he had never seen before at a price slightly under the market (somewhere between one half to one and one half points) indicated that this taking was in bad faith. At best the appellee might have had his suspicions awakened. The trial court gave judgment for appellee on the bond and allowed attorney's fees as an item of cost. The appellate court ordered the appellee to remit the attorney's fees and affirmed the balance of the judgment. *Chicago Dist. Electric Generating Corp. v. Ecan, 69 N.E.(2d) 627 (Ind. App., 1946).*

MORONS AND THE STATE****State not liable for fire damage caused by escaped moron where authorities had no reason to anticipate such harmful conduct.

A high grade moron "eloped" from a state institution for the care and treatment of mental defectives. The night of his escape was a cold winter night which caused him to seek shelter in a barn owned by the claimant. In order to get some warmth the moron built a fire in a bucket using matches and cellophane which he had brought with him and some pieces of straw he found in the farm. Upon acquiring enough warmth he turned the bucket upside down in the belief that that was the way to put out the fire. After he left the fire blazed up and burned the barn. The claimant and two insurance companies which became subrogated to his rights to the extent of payments made to him under policies on the premises brought suit in the court of claims. The court of first instance dismissed the claims holding that the State could not reasonably have anticipated the fire damage on the basis of the moron's prior record. That court decided that his elopement was not the result of negligence nor the proximate cause of the fire. The appellate division reversed, and this appeal to the Court of Appeals followed.

The high court of New York divided five to two in reversing the appellate division and affirming the court of claims. Judge Fuld for the majority made use of the fact that the particular school to which the moron in this case was sent was not a home for incarceration. "It was, in every sense, an open institution, one without walls or bars." The state stood, so far as third persons were concerned, in loco parentis and owed the outside world no greater duty than would parents under similar circumstances. The majority did not feel that the state was negligent in not providing sufficient supervision to prevent escapes. Even though this particular moron had escaped several times before, the court was unwilling to impose liability because his previous escapes had proved harmless.

Judge Conway (with whom Thacker, J. concurred) dissented on the ground that the rules governing this institution required elopers to be kept under close supervision. The eloper in this case was left unattended for a period long enough to permit him to get clothes and matches and make his escape. One of the school's officials had testified that it was impossible to forecast what the patients would do in the future whatever their past records. Judgment reversed. *Excelsior Ins. Co. v. New York, 69 N.E.(2d) 553 (N.Y., 1946).*

LEGAL FINESSE & COMMUTING AMONG COURTS

****Agility of counsel not lost upon the court.

In a recent Arkansas case the court started its opinion: "In street vernacular it might be said that the parties litigating have commuted between Probate, Chancery and Circuit Courts in a manner disclosing diligence and legal finesse entirely consonant with the respective purposes of winning a decision." The occasion for these benign remarks was a suit between a step-son and the purchase of real estate from the guardian of the plaintiff's aged step-mother. After the sale the guardian gave notice to vacate to the son who was living with his step-mother up to the time she was committed to an institution. Suit in forcible detainer was filed in the circuit court which was transferred to chancery by the step-son.

The basis for the son's refusal to move out was a claim that his step-mother had promised to will the property to him in return for support. The chancery court ruled that the son had breached his contract for support and had no interest in the estate. After the death of the step-mother, the step-son probated a will executed by the mother devising the property to him. That record was not appealed.

The court gets out of the complicated situation by holding that the issue of the son's right to the property was adjudicated before the so-called devise became effective and that is paramount over the probated will. *Morgan v. Hattendorf, 196 S.W.(2d) 997 (Ark., 1946).*

The Witness Stand

The Question: Should Germany be reconstituted as a strong Economic Power in Europe?

1. L. Kusek, Hastings, Nebraska.
3rd Term.

The beaten Germany of today will surely seek revenge if given half a chance. I am not for giving her that chance. Twice in 30 years is enough. Germany is able to make reparations from her natural resources of coal and iron and should be held to them. The Morgenthau plan of reducing Germany to an agricultural status seems a feasible means of accomplishing the desired results. I do not think it necessary for Germany to be kept as a buffer state between the east and west and she should be kept politically divided into smaller states. In fact each smaller state would stand a better chance of developing democracy than would a large political unit. I think general supervision by a United Nations Commission would insure the proper administration of any such policy.

2. G. Everett, Detroit, Mich.
2nd Term.

Can economic and political be separated? I think Germany should be kept in a subjugated state politically and if it is necessary to keep her there by maintaining a weak economic position that should be done. A program under United Nations Supervision should be undertaken to insure payments of reparations to the countries looted by the Nazis during their brief but detestable reign. That alone should prevent at least an early reconstitution of Germany as a strong economic power.

3. N. Smith, Denver, Colorado.
1st Term.

The general wooing of Germany by the big powers seems to indicate a reconstitution of Germany as a strong Economic unit. It is probably the best thing for the well being and rehabilitation of Europe in general. The trouble is, what kind of economic reconstruction will take place? Will it be along capitalistic lines such as we recognize and which even socialist England recognizes in its free enterprise system or will it be along the collectivist and sovietized plan of Uncle Joe and Co. That is a consideration which is necessary in answering this question and of course my leanings are with the American method.

4. J. G. Adeling, Allentown, Pa.
3rd Term.

If Germany is allowed to become strong in any way, shape or manner we had better start preparing for another war right now. Even with the picking of the best German brains in scientific research we are not able to prevent the apparent German tendency to use everything available to build a greater Germany. The Germans thoroughly understand what total war is even though we apparently do not. The net result is they know that a strong economic Germany is a major step toward a strong political Germany. There are still millions of children with Nazi ideas through no fault other than that they were born and raised as such. Why inculcated since birth. Why should we give them a chance to develop Nazism further.

5. B. Allenstone, Smith Falls, N. Y.
5th Term.

I am against making Germany strong in any way. Moses had to wander in the wilderness until a new generation was ready to enter the land of Canaan and by the same token Germany should wander in the world wilderness until she is prepared to take a proper place in the concert of nations. Her present generation is indoctrinated with fascist ideologies and until a new democratic Germany is produced she should remain subject to strict control and in a weakened state. The United Nations is the group we are supposed to place our hopes in. Let them control Germany and decide when she is ready. Certainly not now.

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Alumni Notes

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

Fourteen Harvard alumni, three of whom are also graduates of the Law School, have been named as candidates for five vacancies on the Harvard Board of Overseers. The five overseers will be elected for terms of six years. Results of the elections will be announced on Commencement Day, June 5, 1947. The three are: Jacob J. Kaplan, '08, LL.B., '10, president of the Boston Bar Association and president of the Associated Jewish Philanthropies of Boston; Clarence B. Randall, '12, LL.B., '15, vice-president of Inland Steel Co. of Chicago; and R. Keith Kane, '22, LL.B., '26, member of the New York law firm of Cadwalader, Wickersham & Taft.

Eleven candidates have also been named for directors-at-large of the Harvard Alumni Association for three-year terms, to fill four vacancies occurring in June. Five of the eleven are also Law School alumni, including: John Reynolds, '07, LL.B., '10, New York lawyer; Henry L. F. Kreger, '16, LL.B., '20, Cleveland lawyer; Charles F. Zukoski, Jr., '19, LL.B., '21, Birmingham financier; Mitchell Grutwick, '22, Ex. '26, educational administrator of Tarrytown, New York; and Francis Kernan, '24, LL.B., '27, New York financier.

Two of the five recently-appointed aides for Governor-elect Robert F. Bradford (LL.B., '26) are graduates of the Law School. Planning to take over their new duties January 2, they are: former Rep. Loomis Patrick, LL.B., '30, of Newton, who was named assistant secretary and legislative counsel; and Jacob Lewiton, LL.B., '33, of Mattapan, assistant secretary and special counsel.

Patrick served in the Massachusetts House from Newton. He was a lieutenant-colonel in the AMG before returning to civilian life last March, after service in Sicily, North Africa, the South Pacific, Philippines and Japan.

Lewiton, as an assistant attorney general in the early war years, was in charge of the drafting of executive orders issued by Gov. Leverett Saltonstall (LL.B., '17). Lewiton received a Navy commission in 1942, and was aboard the battleship Washington at Iwo Jima, Okinawa and the Philippines. He graduated from the Law School magna cum laude, and was an editor of the *Law Review* for two years.

At the November meeting of the Phillips Academy Alumni Council at Andover, Mass., Chauncey B. Garver, LL.B., '11, (Andover '04), was elected president of the 31-member council. Garver is a partner in the law firm of Shearman, Sterling & Wright, of New York City.

Other Law School alumni on the Andover Council are: F. Abbott Goodhue, Ex. '09, (Andover '02), President of the Bank of Manhattan; John P. Stevens, Ex. '22, (Andover '15), President of J. P. Stevens, Inc., of New York City; and Russell Stiles, Ex. '15, (Andover '08), a partner in the law firm of Appleton, Perrin & Rice, of New York City.

Mayo A. Shattuck, LL.B., '21, past president of the Massachusetts Bar Association, and Walter Powers, LL.B., '09, vice-president of the Boston Bar Association, led a debate December 14 on the pros and cons of the proposed state-wide organization that all Massachusetts lawyers would be required by law to join. The issue of an integrated bar will be submitted to the Supreme Judicial Court April 14, on a petition of the Massachusetts Bar Association.

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LL.B. '99—Edward Pickering Fay died in New York on December 10. After graduation and until 1905 he engaged in general practice in Springfield, Mass., and in Boston. As a tax specialist, he had been with the tax department of the American Telephone and Telegraph Company from 1905 until his retirement in 1940.

LL.B. '99—Judge John S. Murdock died December 18 in Providence. He was chief of the enforcement division of the Wage Stabilization Board in Providence, and formerly served as associate justice of the Rhode Island Supreme Court from 1929 to 1935. In 1911 he became a member of the firm of Murdock & Tillinghast. He had served as U. S. District Attorney for Rhode Island and was a vice-president of the Southern New England Railway Co. He had been a member of commissions for revision of the banking laws and of the statutes of Rhode Island.

LL.B. '04—Ralph O. Wells, author of the state public utility law enacted by the Connecticut Legislature a quarter of a century ago, died December 16 in Hartford.

Ex. '22—John P. Matsen, formerly a member of the Boston law firm of Ropes, Gray, Boyden & Perkins, died December 14 in Loma-Linda, California.

LL.B. '31—The engagement of Miss Isabelle Loeventhal of New York and Zayvyl Krieger of Baltimore has been announced. Krieger was assistant Attorney General of Maryland and chief counsel for the State Compensation Board before entering the service. He served for four years in the AAF, and was discharged with the rank of major.

LL.B. '38—The engagement of Miss Lucy M. Elliott, of Heartland, Ky., and Edward Fretwell Prichard, Jr., of Paris, Ky., has been announced. In 1939 Prichard went to Washington as law clerk to United States Supreme Court Justice Felix Frankfurter. Later he served as an attorney with the Department of Justice, the War Manpower Commission and the Office for Emergency Management, and was General Counsel of the Office of War Mobilization and Reconversion under Chief Justice Fred M. Vinson. He is now practicing law in Kentucky and is general counsel of the Democratic National Committee.

LL.B. '40—Robert Levine has become a member of the firm of Frederick E. M. Ballon. Offices are at 1450 Broadway, New York City.

LL.B. '41—Miss Harriet B. Wells and F. Davis Gardner were married on Nov. 30 in New York. Gardner received an honorable discharge from the Marine Corps with the rank of captain after four years' service, including duty with the First Marine Air Craft Wing as transport and night fighter pilot in the Pacific Theatre.

LL.B. '42—The engagement of Miss Margaret H. Browder of Montgomery, Ala., and Paul Dean Kolyn has been announced. Kolyn, who served four years as a lieutenant in the Navy in both the Atlantic and Pacific theatres, is now with the New York law firm of Townley, Updike & Carter.



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The Job Seeker

It is to and for the less fortunate budding barristers worrying and working themselves frantic in this turbulent little tributary of a really turbulent river, that I write. I use the words "less fortunate" perhaps inadvisedly. There are, no doubt, some future graduates of this school, whom I exclude from my reading audience as "fortunate" by reason of their knowing only too well where they are going and what they are going to do when they attain the status of alumni, who will nevertheless one day wish that they had gone out on their own rather than into Dad's or Uncle George's law office.

I am writing to those who, like me, do not know where they are going when they leave here with a law degree; those who are, or shortly will be, taking electives on no other basis than such self-asked questions as (1) Which of these courses will probably be of most use in a general practice of the law? (2) Which of these courses is most similar to the type of things with which I already have some degree of familiarity, or even, which courses will give the least difficulty? (3) Which field am I interested in? (4) What sort of demand is there as present for lawyers "specially trained" in a given field?

A certain percentage of us might find the answer in taking a particular combination of electives during the third year. General Electric's Student Committee at Schenectady, N. Y., can make some helpful suggestions should you have that or a similar organization in mind. Many companies will be hiring men with legal training just when you graduate, and it would please them indeed if the men they hired were trained in just the sorts of problems that those companies meet with continually.

Suppose that a man should write personal letters to the heads of the legal staffs of ten large companies saying that he planned to seek a job with the "X" company after graduating, that he will soon enter upon the last stage of his legal training, and that he would appreciate suggestions as to which electives would be most beneficial in seeking a job with that particular company. He could inclose a copy of the Law School curriculum for the last three terms. In addition to receiving some helpful information, he might compare the suggestions that he received with those received by someone else. Even if the courses suggested by all ten turn out to be exactly what he would have chosen himself, a few of the men who answer will feel a little personal responsibility for his choice. That would help if he should, on graduating, seek a job through that individual.

The U. S. Commerce Department will furnish the names of exporters to South America, importers from South America, and South American exporters and importers who might feasibly be contacted to learn whether or not they anticipate openings for new lawyers who are specially trained in a given group of subjects. Wouldn't more than a few be glad to suggest their needs to a prospective employee? The wheels of banking and finance, business and industry, commerce and trade, construction, transportation, and the like are spinning to the tune of unprecedented billions to our south. There must be fertile fields for a good lawyer in such booming business.

Perhaps the answer for some is to get together in the formation of a law office dealing in a few special fields which are just beginning to take shape. Any idea which would afford a better system of planning might be the answer if it were earnestly discussed and developed. There is no rule that a lawyer has to practice law. Many men in the Law School would make excellent business men. They might well make their own jobs. Any student after his fourth term, may select up to six term hours (which will count toward his law degree) in any other department of the University. The implication of this policy is apparent: a man's entrée to any of several compartments. The final edge might be put on nines by the proper choice of two or three supplemental courses in the business school, for example.

None of the ideas, presented may be practical. Nevertheless, there must many others who have ideas of their own on this matter, some of which may warrant concerted effort. If there is only one idea that looks like pay dirt, it may help everyone interested.

A few answers to me in care of the RECORD showing that some others are thinking along the same lines will be all that is needed to arrange a get-together. We might be able to help Mr. Dimmett as well as ourselves. Let me hear from you.

WOOD TAYLOR

YEARBOOK—(Continued)

one dollar saving to the subscriber. A large student body, a large number of law school library and law office subscriptions insure increased circulation, making it possible with a more efficient method of photography to fix the price schedule below that of the 1946 Yearbook.

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FINANCES—(Continued)

had operating deficits, 16 surpluses and 6 broke even. The faculty of arts and sciences, School of Business Administration, Library, Athletic, Medical and Dining Hall Departments had the greatest deficits, in that order. In addition to the University, Engineering and Law, only the Printing Office showed a surplus in excess of \$20,000.

The income from Endowment Funds has been maintained at 4 percent of book value for the past three years, no mean accomplishment considering conditions in the investment field today. Due to the great importance of the Fund to Harvard's financial structure, Mr. Dwight R. Robinson, Jr., '20 has made an interesting analysis of these Funds in the November 23 *Harvard Alumni Bulletin*. The Funds are divided into General Investments, where they are co-mingled and Special Investments, where they are required to be separately invested or held temporarily pending sale.

During last year General Investments realized a profit of \$2,800,000 on a turnover of \$71,000,000. The changes in the proportions invested in various types of securities over the past ten years shows a striking increase in U. S. Government bonds, from none in 1940 to 26 percent of total in 1946 and the reduction in other long-term bonds from 39 to 14 percent in 1946. The market value of Harvard's holdings as of June 30, 1946 was \$204,000,000; Special Investments had a market value of \$4,627,000.

While these figures show Harvard's financial condition to be excellent, great commitments such as the Lamont Undergraduate Library and projected science center require constant accretion to the Endowment Funds.

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Calendar

THE LEGAL WORLD
Assignment

Property II, Fourth Term, Professor Leach's Section: The following cases should be read by all members of the class. The students whose names and seat numbers appear after a topic head should read all material in that topic whether or not it has been assigned.

Nonexclusive Powers, Young v. Waterpark, 642; *Creditors of Donee*, (Foster, 99, Schafer, 98, Montgomery, 113, and Hyman, 112)) Clapp v. Ingraham, 655; Vinton v. Pratt, 664; Nolan v. Nolan, 667; Note on Bankruptcy Act, 670; *Release of Powers*, (Rhode, 73, D. Stern, 60) Thornton v. Thornton, 685; *Contracts to Appoint*, (Hollingsworth, 166, Wilmet, 168, Moore, 174, Woodman, 178) In re Evered, 696; *Northern Trust Co. v. Porter*, 701; *Appointment by General and Residuary Gift*, (Greenaw, 79, Cardin, 78, Potter, 134, Bailen, 133) Hartford-Conn. Trust v. Thayer, 716; *Amory v. Meredith*, 721; *Low v. Bankers Trust*, 727; Notes 731 to 735; *Perpetuities generally*, (Stadfeld, 160, Gustin, 159, Hayler, 86, Cutler, 87, Reed, 139) Note on Period, 752; *Jee v. Audley*, 755 and problems; In re Wood, 773 and problems; *Feeney's Estate*, 782; Gray, 794; *Accumulations*, (Cracraft, 207, Fisher, 186) Statutes, 817; *Pray v. Hegeman*, 820 and problems; *Note on duration of trusts*, 847.

THE UNIVERSITY WORLD
Rilke Exhibition

An exhibition commemorating the twentieth anniversary of the death of the Austrian poet, Rainer Maria Rilke, 1875-1926, is now being held in the Houghton and Widener Libraries. The exhibition, comprising a representative selection of manuscripts, books, and pictorial material from a private collection in Cambridge, will continue through January. In the Houghton Library will be shown original works of Rilke, in autograph manuscripts and as printed, together with a number of autograph letters, while the Widener cases will contain translations, biographical and critical studies, and a series of photographs, drawings, and etchings.

Dance

The Harvard and Radcliffe Zionist organizations are sponsoring a dance at the Boston City Club, on Saturday, January 11, 1947. Ken Reeves' Orchestra will furnish the music and admission is \$1.20 per person, including tax.

Fogg Art Museum

Current exhibitions at Fogg include Aegean Archaeology, Originals and Reproductions; Greek Vases lent by Frederick M. Watkins, Class of 1930; Lithographs by Daumier; and French Graphic Art from Manet to Toulouse-Lautrec.

THE OUTER WORLD
Plays

In *Gay New Orleans* continues at the Colonial; *Born Yesterday*, at the Wilbur; and *The Big Two*, at the Plymouth.

Musicals

Call Me Mister, which certain press agents are calling the best revue in years, is still available at the Shubert. Victor Herbert's old favorite, *Sweethearts* will spend a couple more weeks at the Opera House.

Music

Luboshutz & Nemenoff, a top-notch two-piano team, will be at Symphony Hall on Sunday afternoon, January 5.

At the *Gardner Museum*, Sunday afternoon, January 5 at 2 P. M., the soloists will be Nancy Trickey and Emanuel Zambelli.

Ford Hall Forum

Erika Mann will discuss *The Challenge of Tomorrow* at the weekly forum at Jordan Hall, Sunday evening, January 5, at 8 P. M.

HOLMES—(Continued)

land) to decide for myself how I can best do my duty to myself to the country and, if you choose, to God."

He did not, however, broadcast his decision in quite this way, but requested his father to publicize "the ostensible and sufficient reason is my honest belief that I cannot now endure the labors and the hardships of the line." As a matter of fact, it would seem that this was true. Actually it seems he came to the conclusion that he had had seen enough and had done his share and more, so he returned to Boston to begin the study of law.

While the little volume does not rank with the *Holmes-Pollock Letters*, and is not intended to, it is especially interesting as a picture of the almost unknown young Holmes. To the veteran of this war it presents a fascinating picture of a man under fire and an opportunity to compare the experiences of the war musket and muzzle loading cannon with that of the flame-thrower, rocket and long range bombers.

LOUIS F. EATON, JR.
7th Term

WORLD LAW—(Continued)

payment was accepted in place of physical revenge, or the opposing parties attended court with hostile armies with the judge a mere umpire. The real point at which the law grew, however, was in the idea of the king's peace. The early kings were not strong enough to impose their will on the warring factions that split England any more than a single nation today could hope to bring about order by domination. Recognizing that the people nevertheless desired freedom, the successive kings offered their protection to those individuals who were willing to uphold the peace or stand punishment under the law. It was not the power of the king alone which won support but the institution of the king's peace. To break it meant being outlawed, abandoned and alone among enemies seeking revenge.

The early laws regulating private war and substituting peaceful means of settlement whenever possible have their modern counterparts in the detailed conventions of the so-called international law. But what have we in world affairs which corresponds to outlawry or the right of the individual to appeal to the king's court and stand under the king's protection? In the beginning of the feudal system, a man who had no lord to answer for him was considered with suspicion and treated as a vagabond. No man could invoke the judicial power of the king unless he had failed to get a hearing in his own kindred. Even the powerful groups were thereby forced to mete out fair justice or lose their political power over the injured individual. Although the kindreds existed before the state itself, they became the means by which the state administered justice. Because the individual could turn to the king if justice were denied him by his kindred, the manor courts had to hear the dispute or let it be decided on the basis of the king's justice.

What recourse does a national citizen have today? One who fails to get a fair hearing in his own country cannot appeal to any higher law. To what standard of right must a national court conform? In an age of overlapping interests this is more than a question for academic jurisprudence. The world law must recognize the demands or desires which human beings seek to satisfy in international affairs in order to fulfill its primary purpose of keeping the peace. As long as society leaves men to satisfy these interests by their own means, by a resort to self-help, we are encouraging warfare. It is not enough to abolish war by legal means through enactment of the "parliament of man." Such a law merely regulates the methods by which men are forced to obtain justice; it does not secure the interests which men seek to satisfy. Before the establishment of a common law in England, the kinsmen felt free to engage in warfare for reasons satisfactory to themselves, much as the modern states do. In the absence of law the injured household took such action as it considered necessary to maintain right and justice. The early common law was aimed at satisfying the desire for vengeance as a means of keeping the peace. It did not seek to placate the household but struck at the root of the evil, the unavenged victim. Peace was achieved by providing a method of settling disputes among individuals without making an issue among their kin-groups. The kin organization of society gave way to a political organization which regards the individual as a unit. The common law method of extending the king's peace protected the men who wished to be free of the constant obligation to prosecute the blood feud. It gave them an opportunity to assert their own will and express themselves unfettered by group psychology. In other nations this process required revolutions and many parts of the world are still trying to recover from the effects. In the international field the choice is yet to be made. Let us hope that we shall profit from our experience.

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Confessions of a Law Wife

"I'm so glad vacation is actually over," rejoiced Rosalind Replevin.

No, she is not neurotic, although nimble conclusions might easily have you think that. She has reasons!

"You see, I don't have to convince Russell hourly that he has no classes, no meetings, no Forum, no review sessions, and such Langdell labors. It got quite tiring and every once in a while my conscience pricked. I hated trying to prevent Russell from studying fourteen to sixteen hours a day, every day of vacation—everyone else's vacation, that is!

"Saturday afternoon, December 21, at two. What a gay and glorious time for the Munroes who were headed for Iowa and the Roberts who boarded the special for Seattle. But not for the Replevins. We were staying here and already that feeling of being left in a large and echoing dormitory after all else had gone was growing on me. I bravely suggested to Russ a local movie to celebrate the start of a vacation of a sort. I was told he had a schedule to maintain and that I could trot off to the show alone.

"Russell got up at eight Sunday morning. I was just beginning to show signs of distress at that time. He ate, studied, ate, studied, ate dinner, studied, and then went to bed. I ignored him. He couldn't keep that up. No one could. Not for eleven more days.

"Monday, I went about my household duties, calmly avoiding Russell and his super-Boy Scout endeavors. In the afternoon, I played bridge and won. Feeling inspired, I went home to Reviewing Russ who had two tremendous ashtrays filled and the floor around the desk supporting four coke bottles. He'd been studying ever since I'd left. Tuesday, Wednesday, Thursday, and Friday continued in much the same fashion. I had to lock him in once because he wanted to go to Kendall for lunch. I admire the conscientious student fully as much as the next wife but this was beginning to impress me as abnormal.

"Saturday morning, Russell ate by himself as I was tired of facing the cover of Scott on *Trusts*. He dressed and then emptied his ashtrays—now six in number—as he couldn't even wait for me to clean up the room. He sat down at his mahogany-stained desk and sat and sat and sat. I ate brunch and shopped. I returned at three. No Russell. It gave me hope. When at seven, Russ didn't return, I lost hope and took

on worry. I started the search and finally located him in the Law Library looking up a *Law Review* article on Equity. One thing had led to another and when I spied him, he had eight volumes piled around him. No other soul was in the Library. I talked to him. He remembered me—something to do with chattel, no doubt. Once home, we had quite a discussion on the thin line between insanity and genius. Russell promised to relax more in the remaining days of our vacation; however, Sunday was but a silhouette of the preceding one. I knitted it away trying to control a rising temper. I envisaged Ann in New York City having a fabulous time. I sat tapping my foot harder and harder. I didn't make my husband his supper. So he made it—and mine too.

"Monday morning—the dawn of vacation's last week—I got up sans alarm and accomplished my task and then waited. Russell was up at eight. He ate and dressed and I heard him draw up his chair and light a cigarette. Then there was a dreadful shuffling, drawers were slammed, books were shoved around, and furniture was searched. It seems the poor darling couldn't find a few of his books! Then he came over to talk to me, instead of yelling in from the other room. I sympathized with him, promised I would aid the search—as soon as I had dressed and eaten. In thirty minutes he actually gave up and insinuated I was involved in the disappearance of said books. While I was enjoying my freedom, he decided to take a hot bath. It might perk him up. The towel was in the storage part of the sofa bed and before I could stop him; he had the towel—and books I had wrapped in it. They fell out as he grabbed the towel. I looked sheepish and quickly started the tub for him. We didn't speak. I was being punished. Russell ignored me until this ayem when he went off to post-vacation classes. He said, "Good-bye." I thought the word beautiful. I see it as the start of a new era—of understanding and sane living with occasional time out for bridge or movies or a show together.

"I'm so glad classes are on again! Are you?"

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FORUM—(Continued)

ranged to fit in with the new program and then Rappaport came to Cambridge to consult with Dean Griswold, Professor Katz, and Professor Fuller again before interviewing any of the proposed speakers.

Thus it was September before any speakers were contacted. Three months has been consumed in arranging the program. Armed with a letter of introduction from Dean Griswold, Rappaport went to Washington the last week of September to arrange appointments. The letter proved to be a pass to almost any government office since Washington has quite an infiltration of Law School personnel.

Difficulties encountered on the first two programs give some idea of the wrenches that can be thrown in a carefully planned schedule. The original speakers scheduled for the first forum, "The Domestic Sources of Russian Foreign Policy," were Frederick Schumann who was too busy to come, Maurice Hindus who would be in Czechoslovakia on the scheduled date, Geroid Robinson who could not leave the Russian Institute at Columbia because of organizational difficulties, and David Dallin, the only one of the four originally scheduled who was able to come.

Thus the problem arose of finding replacements to represent the same viewpoint. Invitations were sent to John Hazard, Sir Bernard Pares, Corliss Lamont, and William Mandel. Pares although unable to come suggested Harrison Salisbury who was asked and accepted. Lamont already had a previous engagement in Baltimore for that night and Mandel wouldn't speak with Dallin.

This left the Forum still short one speaker. The Institute of American-Soviet Friendship recommended Pope, Somerville, and General Yakhontoff. Pope, although sick, agreed to come and the panel was complete.

The original list of speakers invited for the second forum included John Foster Dulles, Vera Micheles Dean, Henry Wallace, and William C. Bullitt. Bullitt was interviewed in a N. Y. hospital where he was to be operated on. All the speakers had other engagements

or too great responsibilities. Replacements had to be made and John Fischer, John Somerville, and Professor Karpovitch were selected.

One of the most interesting visits of the Forum director was with ex-Dean Landis in his new Washington office. Rappaport saw Landis at 8:30 a. m. On the schedule for the day—Landis' birthday—were a board meeting from 9 until 3 p. m., a 3 o'clock appointment with Will Clayton, and a conference from 3:30 to 5. Landis had just returned from Brazil with the new air agreement and reported he was "thrilled with the challenge of the position."

Landis was asked to talk on the "menace of bureaucracy" and accepted the invitation, but rejected the title feeling such a topic not in keeping with his new position. Thus it was called "Bureaucracy and the legal order." In addition he suggested the aviation forum as an outgrowth of a CBS talk he had recently made.

Philip Wylie was interviewed on a trunk in his bedroom where the maid had chased him while she cleaned the living room. Wylie was reluctant to speak, commenting that he hadn't made a speech in four years as it "took too much out" of him.

For the forum on industrial relations several senators and Louis Wallman were contacted and gave suggestions on the program and the speakers.

One of the last trips made by Rappaport was to Philadelphia to see Owen Roberts. However, Judge Roberts was having lunch with the Archbishop of Canterbury and the Forum had to be content with a phone call.

Throughout the policy has been to work with the various programs as part of a unified whole. Plans for several forums were always being made simultaneously. Arrangements cost the Forum about \$170 and about 40 long distance calls.

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