

The Harvard Law School Record

VOL. 3 NO. 2

CAMBRIDGE, MASS., WEDNESDAY, FEBRUARY 26, 1947

PRICE TEN CENTS

NEW PROFS NAMED FOR NEXT TERM

*Seasongood, Bordwell,
Oberdorfer, Schnebly,
Aigler Will Teach*

Announcement has been made of the addition to the faculty of five Visiting Professors of Law for the 1947 summer term. The new professors and the subjects they will teach are:

Ralph W. Aigler, Bills and Notes; Percy Bordwell, Property II; Merrill I. Schnebly, Property II; Conrad W. Oberdorfer, Constitutional Law; and Murray Seasongood, Municipal Corporations. In addition, Merton Ferson, who taught Agency last summer, will return this summer to teach Sales.

Mr. Aigler, who received his law degree from the University of Michigan Law School in 1907, has been teaching law at that University since 1908, and has been a Professor of Law since 1912.

Mr. Bordwell is a graduate of the Columbia Law School, and at present is a Professor of Law at the University of Iowa.

Mr. Schnebly received his legal education at the University of Chicago, practiced in Peoria, Ill., for four years, and is now a Professor of Law at the University of Illinois.

Mr. Seasongood, who is a member of the law firm of Paxton and Seasongood, has been closely associated with Harvard for many years. In 1933, he delivered the annual E. L. Godkin Lectures on Government. He has been a member of the visiting committees for the Graduate School of Public Administration and the Department of Government. He graduated from Harvard Law School in 1903.

Mr. Oberdorfer, now practicing with Choate, Hall, and Stewart in Boston, is also teaching at Northeastern University, where he received his law degree in 1939. He was an Assistant Professor of Law at the University of Washington from 1941 to 1943.

CLASS OF 1927 DATA ISSUED

*Hall Compiles Records On
Classmates After 20 Years*

As Secretary of the class of 1927, Professor Livingston Hall has compiled statistics about the members of his class, giving an interesting picture of what Harvard Law School graduates are doing 20 years after graduation. Out of 311 graduating members of the class, 271 returned the questionnaire sent out by Professor Hall; out of 244 non-graduating members, 57 did so. Of the graduating members, 20 are known to be dead, 20 more could not be reached.

Of 271 graduating members, 196 or 72.4% are engaged in independent legal practice; 57 alone, 120 as members of a firm, and 19 associated with a firm. Of 56 non-graduating members, 27 or 48.3% are in independent practice either alone or connected with firms. Of 271 graduates, 10% are corporate counsel, 6.6% are judges or serve the government, and 1.8% are teachers. Of 56 non-graduating members, 5.4% are corporate counsel, 5.4% are judges or serve the government, and 5.4% are teachers. The real estate business claims 8.9% of the non-graduating members, none of the graduating members.

Of the 223 members of the class who engage in the independent practice of law, 46% report no specialties, the other 54% average 2 specialties per man. Out of the 121 men who do specialize, probate and estate work claims 49; corporation and business, 44; taxation, 28; trial and appellate work, 24; real estate and title work, 17; trusts, 12; insurance, 11; administrative law, 8; banking, 7; and labor law, 7. Sixteen other specialties are engaged in to a lesser extent. Of course many of these specialties overlap, so this cannot be a perfectly true picture.

Ninety-seven out of the 327 men who returned the questionnaire, or 30%, have served at some time with governmental

(Continued on page three)

Unwarranted Attack On Lilienthal Harms Public Service, Says Katz

The irresponsible assaults on David Lilienthal, LL.B. '23, by Senator McKellar raises problems which, Professor Milton Katz believes, law students in their roles as citizens and as prospective public servants might well consider. The Lilienthal hearing, quite apart from the personalities involved, concerns the nature of the responsibility of the Senate with respect to the confirmation of presidential nominations. Further, it exemplifies the peculiar vulnerability of government officials to calumny. This vulnerability is a serious negative factor in the attempt to create a highly qualified corps of public servants.



MILTON KATZ

The most serious problem, Mr. Katz believes, is the American custom of allowing public servants to be subjected to unrestrained abusive attacks on their reputations. It is to a large degree a matter of public conscience or of national political behavior. Malicious treatment of public figures by the press or general public involves questions with which it is, of course, very difficult to cope. But does Congress have some responsibility for self-restraint, asks Mr. Katz, in at least not leading in the vilification? Such incidents as the current attack lead inevitably to a dissipation of America's resources of qualified public servants. The cost of training a responsible administrator is shouldered by the taxpayer. Thousands of dollars are spent preparing the government worker to undertake more important and necessary assignments. And yet, after several years in public service, many well qualified people move into private business. The nation's investment in these men is lost. The pressure of bitter personal attacks might well be enough, considering the relatively small remuneration of public service, to force them out.

Unfortunately, this problem is by no

FORUM SERIES OPENS FRIDAY

*Wollman, Golden Discuss
Strike Causes, Cures*

Opening its spring term series, the Harvard Law School Forum will present a discussion on "The Causes of Industrial Strikes" at 7:45 p.m. on Friday at the Sanders Theatre. As well as being the first symposium of the present term, this will be the first of three meetings devoted to the discussion of industrial relations. The speakers will be Mr. Leo Wollman and Mr. Clinton S. Golden, both of whom have wide experience in the field of labor relations. Mr. Elton Mayo, who is Research Director at the Harvard Business School, will be moderator.

Mr. Wollman, now a professor of labor relations at Columbia University, has devoted many years to the study of labor unions, and from 1920 to 1931 he was in charge of research for the Amalgamated Clothing Workers of America. His varied activities include his being made a trustee of the Mutual Life Insurance Co. of New York as well as a member of several government committees devoted to the study and correction of industrial disputes. From January through June 1919 Mr. Wollman was attached to the American Peace Mission in Paris. Among the books which he has written either singly or with a co-author are *Ebb and Flow in American*

(Continued on page three)

means unique to the Lilienthal Affair. Mr. Katz recalls the unhappy experience of another public officer, holding a post of great national importance, who was the subject of much name calling and invective. His daughter would come home from school in tears because her schoolmates taunted her with what certain Congressmen and Senators were saying in the press about her father. Such incidents can hardly encourage government administrators to stay at their jobs when more lucrative private businesses beckon, nor do they serve to persuade young men to enter upon government service.

Mr. Katz invites a comparison between this technique and the recent British action on Lord Wavell, who was recently replaced as Viceroy of India. Wavell seems to have resigned because he was considered out of sympathy with the policies of his government. But, there was no castigation, no denunciation, no disparagement of the man. On the contrary, he was rewarded for past services by an earldom. This was a case, Mr. Katz points out, where Wavell could not be used to the nation's advantage at this time, but his potential future usefulness was not destroyed by vilification.

Mr. Katz sees a second problem raised by the Senate investigation of Lilienthal—the nature of the responsibility of the Senate in such matters. When the President nominates a man for a reasonable post, should the Senate ask itself: Does the President have a sound basis for this choice? Or should each Senator ask himself: would this man have been my own personal choice? The first attitude implies that the Senate considers whether the President has made a reasonable choice in regard to education, training, experience, temperament and so forth. If the answer is affirmative, the nomination is approved. The second question, however, is quite different from the first. Here, the Senate conceives of itself not as a screening agent to weed out unqualified nominees, but as a group empowered to veto Presidential selections on grounds of their own personal or political preferences. Upon this latter view of senatorial responsibility turn further issues.

The challenge to Lilienthal's nomination by Senator McKellar, Mr. Katz says, must be distinguished from the objections by certain Republican leaders as to his fitness for the job as an "out and out New Dealer." McKellar, as the Senate Committee's "guest inquisitor," used the hearings as a sounding-board for his long-standing personal grudge against Lilienthal. Most of the other Committee Senators were impatient with McKellar. Did they not, perhaps, have a duty to exercise a reasonable restraint upon McKellar's tactics?

Mr. Katz likens the Senate's investigatory powers in some respects to the powers under a search warrant. The latter is issued on "probable cause" only. The absence of "probable cause" in Lilienthal's case was sufficient grounds for the Committee to refuse to give

(Continued on page three)

SCHEDULE SET FOR FIRST TERM AMES

A schedule of the Ames Competition activities for first termers has been released by the Student Board.

Men who are organizing clubs for participation in the Competition are reminded that the lists of club members are due in the office of the Student Board by 5 p.m. Friday.

On March 4, a tentative list of club members for all clubs will be posted on the bulletin board. Any errors or omissions should be reported to the Board office immediately thereafter, and the final lists will be posted on March 7.

A meeting of the first term clerks program (marked by an asterisk on the tentative list) will be held at 2 p.m. on March 5 in Austin West.

Facts will be issued March 10 through 13, and March 17 through 20.

The exchange of briefs for those who received their facts March 10 through 17 will be March 25 through 28, and the arguments for this group will be March 31 through April 3.

Those who received their facts March 17 through 20 will exchange briefs April 1 through 4, and will argue April 7 through April 10.

REMINDER

We wish to remind our readers that space in the RECORD is available for the publication of papers, articles, and other expressions of opinion of students and alumni.

STUDENT BODY NUMBERS 1,907

92 per cent are Veterans;

313 in Entering Class

The 313 men who entered Harvard Law School at the beginning of the Spring Term boosted the total registration of the school to 1,907 students, it is reported by the office of Mrs. Marion Tomlinson, Assistant Secretary, where such records are kept. When the men who registered late are accounted for, the total number of students will be slightly above this figure.

Other statistics concerning the new class reveal that it contains a larger percentage of veterans than the student body as a whole, but the proportion of married members is considerably less than that of the whole school.

Out of the 1,907 men who registered, including the new students, 1,753 or almost 92% are veterans. Of the 313 new men, 298 or more than 95% saw service in the war.

The 650 married students account for 34% of the student body. The 60 married men out of the 313 entering students account for only 19% of that group.

Other registration statistics show that there are 12 special students and 9 graduate students now attending the school.

DIRECTORY LISTS H.L.S. STUDENTS

The Law School Committee of Phillips Brooks House has announced that a directory of all the students in the law school is in the final stages of preparation. Editor Carl Shipley, who is in charge of producing the directory, has indicated the booklet will be ready for distribution about the middle of March. The Committee has determined by inquiry that there is a need for such a directory, and has arranged to produce a new edition subsequent to each registration of new students. The volume will be presented to each member of the student body without cost as a part of the Brooks House program.

The present directory will include all of the new class entering in February, in addition to all other students at present enrolled in the school. It is being printed in pocket size for convenient handling, and will contain the local address and telephone of each student, whether he is married or single, his home or permanent address, his club affiliation, and whether he is a member of Law Review, Board of Advisers, or Legal Aid Bureau.

Shipley states that every effort has been made to print the correct data about each person listed. A number of cards were incompletely filled out at registration. Persons wishing to submit more complete data may do so by sending it to Phillips Brooks House.

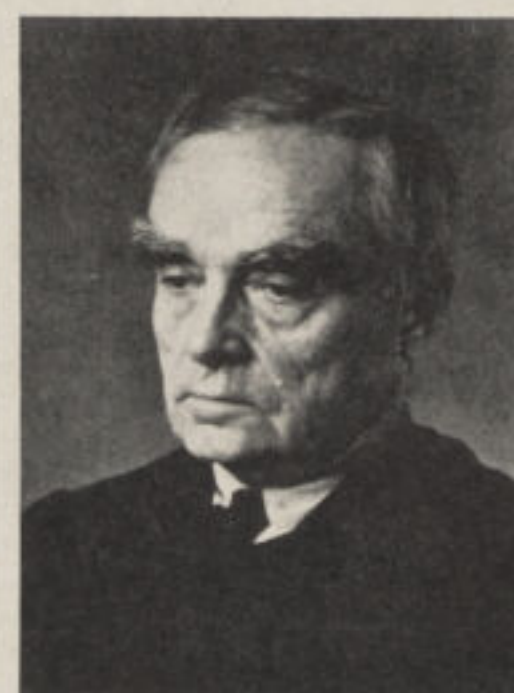
BOARD CALLS FOR VOLUNTEER JUDGES

The old problem of how to find 700 upperclassmen who are willing to do their part in judging the first and second term arguments in the Ames Competition is again being faced by George Minkin and Frank Davis, who are in charge of judge-recruiting for the Student Board.

The cooperation of all upperclassmen is urgently requested by Minkin and Davis, particularly in returning promptly the postal cards which are being sent out for the purpose of ascertaining whether men will be willing to judge the arguments which are assigned to them.

The cards being sent out this week refer to the second term arguments, which will be held on March 24 and 26. Approximately 80 such arguments will take place, which will require 240 judges.

The 150 first term arguments, which will be held during the weeks beginning March 31 and April 7, will require 450 more judges.



JUDGE LEARNED HAND

DEADLINE SET FOR 3RD TERM

*March 8 Last Day For
Qualifying Round Clubs*

The organization of third term law clubs for participation in the qualifying round of the Ames Competition will be left to the club members themselves this term, John Delaney, Chairman of the Second Year Committee, has announced.

This was the practice in pre-war years, and it has been found that self-organized clubs make for a better standard of competition in the qualifying round than clubs organized by the Student Board through the process of putting eight names together, or adding a few names to a club already halfway in existence.

Experience over the last year has shown that men who are interested enough to form a club, or who are requested to join a club already in existence, are less likely to default and are more likely to do the necessary work to prepare a good argument than men who join a club when assigned to it by the Board, Delaney said. Also, complaints by clubs over the quality of men assigned to them will be eliminated.

The deadline for the submission of a list of the members of each club to the Student Board is 5 p.m. on March 8.

There are now posted on the bulletin boards lists of the membership of each club as shown by the Board records. The lists indicate the names of the men who plan to participate in the qualifying round, those who are undecided, and those who do not plan to argue this term. From these lists, the clubs who do not have a complete membership can determine what clubs are likely to go out of existence, and can draw new members from these groups. The Board has on file the addresses and telephone numbers of all men listed.

Men who have been unsuccessful in forming a club, or who have not been requested to join a club are requested to turn in their names to the Board by March 3, and the Board will give assistance in organizing clubs from these men.

The qualifying round rules are now undergoing minor revisions, and will be posted as soon as revised. Rules which remain unchanged are the requirements that each club have no more than 8 members, nor less than 6, and that each club participate in four arguments during the qualifying round.

The Board will begin to issue the facts for the qualifying round on March 13. The briefs will be due two weeks after the facts are issued, and the arguments will be held one week after the briefs are due.

Unique Test Of Harvard, Yale Systems

The residents of New Haven, recently buried under a heavy snowfall, are reported to be eagerly awaiting the coming of next Saturday, when it is anticipated that the heat from a series of torrid court battles between Harvard and Yale law schools will give some relief.

All issues for this test of legal talent have been joined, and the lawyer-representatives of both schools have been strengthening their wind and waving their arms to limber up for the event. Since the presence of judges or jurors is likely to hamper the best efforts of the lawyers, it has been decided to hold the hearings without the benefit of such trappings.

Master-minding the Harvard attack will be Professor Archibald Cox, who with Professor E. M. Morgan has been

L. HAND, 75, IS HONORED IN REVIEW

*Issue To Contain
Tributes By Bar
Leaders, Others*

With delivery planned for approximately March 1st, the next issue of the Law Review, Vol. 60, will be dedicated to Learned Hand on the occasion of his 75th birthday.

Highlighting the collection of articles is a tribute written by Mr. Justice Frankfurter who speaks of Hand as being in a class with Holmes and Cardozo and says of the fact that Hand was never appointed to the Supreme Court of the United States, "... That Hand was never chosen must surely serve those, if any there be, who seek to be chosen and those who are there, as a temptation to reflection on the caprices of fortune."

George Wharton Pepper comments on the literary style of Learned Hand and by appropriate quotations from the judge's opinions illustrates the value of lucid self-expression in building sound law. Mr. Pepper is not without his own honesty in writing, for in discussing Learned Hand's style he says, I cannot honestly say that I ever wished a judicial opinion opinion were longer—even when written by Learned Hand; but I often register such a wish in the case of his unofficial utterances.

The issue also contains articles on the influences of Learned Hand on the various fields of law. Judge Herbert F. Goodrich contributes an article on his work in conjunction with the American Law Institute of which Hand became a member in 1923. Judge Charles E. Wyzanski, Jr., searches out the decisions of this "judge's judge" in the field of Public law, discussing particularly the opinion written in *U. S. v. A. L. A. Schechter Poultry Corporation*. Judge Wyzanski recognizes that some people may criticize Learned Hand for his refusal to legislate from the bench, but clearly states what the judge's feelings were along these lines when he says, "For this role of prophet, innovator, and statesman Learned Hand has never billed himself. To him a judge who took the central role would have betrayed his trust."

Two former law clerks of Judge Hand have also written articles about him and his connections with certain fields of the law. Professor Archibald Cox, law clerk in 1937-38, sets forth Learned Hand's policy in interpretation of statutes and concludes by stating, "... at the heart of his work lies a deep seated tolerance." Orrin C. Judd, member of the New York Bar comments on his ability to override worthless technicalities in the field of Criminal law and his confidence in the jury system. Mr. Judd cites as an example of Learned Hand's philosophy of reasonableness and fair play rather than legalism a quotation where the judge said, "While the act is badly drawn, its intent—an intent not imputed, but drawn from the words—is perfectly obvious."

(Continued on page four)

Beginning with this issue the RECORD will publish on Page 2 a series of cartoons by Harris B. Steinberg '35. Mr. Steinberg was an Assistant District Attorney on Thomas Dewey's staff and now practices law in New York City.

getting the Cambridge contingent into shape. Professor Morgan is absent on vacation and will be unable to attend the hearings, but it is reported that his preliminary efforts have put the Harvard lawyers somewhat on the cagey side.

It is almost certain that the results Saturday will be inconclusive, and there are predictions that every case will be appealed. In fact, it is likely that many years will elapse before the matter is finally settled, if ever.

Counsel for Harvard will be Robert E. Bingham, Robert Haydock, Jr., Frank H. Griffin, Jr., John King, Charles A. Lord, Henry A. Preston, Thomas A. Quintrel, James A. Rousmaniere, Arthur J. Santry, Jr., and Ogden Williams.

Incidentally, these battles will take place on the Yale squash courts.

The Harvard Law School Record

Published weekly on Wednesdays for twelve weeks of each term by *The Harvard Law School Record Corporation*, Austin Hall, Cambridge 38, Massachusetts. Subscription price: \$2.00 per term mailed, \$6.00 per year mailed; student subscription, \$1.50 per term mailed, \$4.50 per year mailed at the Law School. Business and Editorial Offices, Austin Hall, Cambridge 38, Massachusetts. Telephone KIRKland 7600, extension 133.

THOMAS J. O'TOOLE, President
HERBERT BERMAN, Editorial Manager
MARSHALL J. DEUTSCH, Business Manager

DAVID KALLMAN, Circulation Manager
SEWARD B. SNELL, Promotion Manager
LOREN E. JUHL, News Editor
R. W. CULBERT, Articles Editor
NATHAN C. FITTS, Alumni Editor
SEYMOUR S. EPSTEIN, Current Case Editor
NATHANIEL TEPP, Opinion Editor
HARVEY KARLIN, Feature Editor
SAM SCHWARTZ, Calendar Editor
RICHARD H. WOLFORD, Secretary
BYRON LITSCHIG, Treasurer

Staff: Mitchell Aaronson, C. Duane Aldrich, William Barnes, Morton B. Braun, John L. Cady, Irving Constant, Bancroft G. Davis, Jr., Eugene Flanagan, John E. Hess, Charles A. Lord, Robert Maier, John F. McKenna, Jr., Bernard W. Ninkin, James L. O'Dea, William F. Passanante, Vincent St. Johns, Kenneth G. Weinberg.

"Entered as second class matter November 18, 1946, at the post office at Boston, Massachusetts, under the Act of March 3, 1879."

Editorials

The problem of making professional services available to persons of moderate means is one which has been much discussed in relation to medical care, but to which the lawyers have devoted comparatively little attention. Of late years the American Medical Association has studied carefully the availability, both economic and geographic, of hospital beds, laboratory services, and skilled doctors and specialists. Some progress has been made (particularly along the lines of commercial and group health insurance plans) towards distributing equitably the benefits of medical science. More sweeping attempts to solve the problems created by the high cost of medical care have been suggested by several pieces of proposed legislation.

It is not surprising to find that the legal profession has lagged behind in considering similar changes with reference to the availability of its services. The need for legal aid seldom becomes so pressing as does that for medical assistance; and when the need is vitally urgent, as in important criminal cases, the public supplies the deficiency. Furthermore, the contingent legal expenses of a man of moderate means, and hence of presumably moderate undertakings, are not likely to approach the limits of contingent medical expenses.

But to say that the availability of medical services poses a greater problem than does the availability of legal aid is not to say that the latter should excite no concern. In a recent private publication, Reginald Heber Smith LL.B. '14, who has long been interested in this question, points out that certain factors have been operating to aggravate the matter and to increase the public demand for low cost services. He warns that unless the profession itself takes action the solution may be left to the government.

The difficulty of devising and realizing a plan which will satisfy the needs of persons of limited means will probably have to be met by the generation of lawyers who are now still in school. The matter is one on which at present insufficient data is available, and which will increasingly demand study and thought. It should, however, be kept in mind that the great common law tradition of the impartiality of our courts demands that the remedies offered by law be available to all persons, and that limited economic means can result in an exclusion no less arbitrary than that produced of old by limitations on personal status.

T. J. O.

Letters to the Editor

To the Editor of the RECORD:

I read the first half of Mr. Bracken's article with considerable interest. I should like to contribute this for his information with respect to the topic of free enterprise.

The Kefauver Subcommittee of the House Small Business Committee gave out the following information in its recent report, "The United States v. Economic Concentration and Monopoly."

"The gains of the larger corporations are in the form of tremendous amounts of working capital for which they have little use in their internal operation as long as the levels of production do not increase very substantially. It is probable, therefore, that they will use these funds . . . for the acquisition of other and smaller production companies or for the extension of services." . . . Commerce Dept. Report to the Committee.

Drawing on the studies of the TNEC and the Smaller War Plants Corporation, the committee gives the following picture:

1. The largest corporations now hold approximately two-thirds of the nation's usable manufacturing facilities.

2. Some 500,000 small businesses were eliminated during the war. At the beginning of 1946 there were still 160,000 fewer small businesses operating than in 1941. Most of the newcomers are in the hazardous retail field. The few seeking to enter manufacturing, said the Anti-Trust Division of the Department of Justice, "will encounter increasing difficulty because of the dominance of large manufacturers."

3. Sixty-eight large corporations received two-thirds of the total value of all federal research and development contracts during the war. The 10 top corporations received nearly 40 per cent of the wartime research contracts.

4. The top 250 corporations now have 70 per cent of the new publicly financed war facilities.

The committee further demonstrated that monopoly has meant high prices. Prices fall less in concentrated than in competitive industries. For example, from 1929 to 1932, prices fell only four per cent in aluminum, a field in which the entire output was controlled by a single company. At the same time in the highly competitive lumber industry, they dropped 36 per cent.

The committee has blamed the WAA, the Civilian Production Administration, and the Army and Navy for promoting this growth by disposing of war plants, removing controls too early, turning over research contracts

so as to encourage monopolistic practices and injure small business.

Thus, the 279 corporations which have brought up more than 70 percent of the war plants built with government funds, before the war owned and operated about 60 percent of the nation's manufacturing facilities. The Army, during the war, in 90 percent of the research contracts gave the firm doing the research the ownership of any patents that developed. This, despite the fact that these firms used federal money in the research programs—an amount of almost a billion dollars. It has been estimated that almost 77 percent will have peacetime application. Furthermore, the new research contracts being negotiated are similar as far as patent rights are concerned to those negotiated during the war.

Against this Federal Trade Commission and the Anti-Trust division have little to utilize in view of their small appropriations. The FTC and the Anti-Trust Division have only eight economists each. In one case, against a cement monopoly, three FTC attorneys fought lawyers from 41 law firms, including "some of the largest and most successful in the country." The cement defenders spent about \$5 million—approximately twice as much as the Commission receives in one year.

The committee concluded with a major recommendation that the government adopt a concerted, unified policy based on the premise that the concentration of economic power is inimical to the "continued existence of a free-enterprise system."

Specifically it recommended that the FTC establish an "index of concentration" which would indicate when an industry was being taken over by a few, or when monopoly prices rose, in order to get the government into action in that field.

It also recommended higher appropriations for the Anti-Trust Division.

It urged amendment of the laws to give the government's anti-monopoly forces tighter controls over mergers, and to close a loophole that now makes it impossible to proceed against a monopoly if it buys the assets of a smaller firm rather than take over its capital stock.

"Either we must believe in and take the steps necessary to make possible a competitive free-enterprise system, or we must give it up, bit by bit, and year by year," the committee concluded.

GEORGE J. GRINDLE, 2L

Off the Record

LEGAL PRIMER

The College Girl

See the College Girl, with Slacks, Lumberjack Shirt, Pigtales and Acne. Is she not something? She goes to Radcliffe. Some day a Law Student will go out with her on a Blind date and drop Dead. Dear Children, with men who know Radcliffe best, it's Wellesley two to one.

—PLUBUS.

AH HARVARD!

My husband goes to Harvard Law
But there's nothing wrong with him.
No, there's nothing wrong with him, wrong with him.
His face is lined, his hair is gray,
He never used to look this way,
With stutter, twitch, and insane laugh
He'll tread on down that primrose path
To Harvard

My husband goes to Harvard Law
And there's nothing wrong with him.
No, there's nothing wrong with him, wrong with him.
But he longs for the quiet of the ack-ack gun
And the peaceful serenity of the bombing run
For all the Air Corps wear and tear
Believe me, chum, it can't compare
With Harvard

Ah yes, we're here at Harvard
And there's nothing us with wrong.
No, there's nothing with wrong us, with us wrong.
Casper's made things so blamed hot
No wonder we have gone to pot.
But just between us two, my dear,
Where would you rather be than here
At Harvard

VIRGINIA HILL



—Harris B. Steinberg, '35

"The Court Holds . . ."

Gallery

MICHAEL A. FEIGHAN

Politician



The Twentieth Ohio Congressional District, stretching along Lake Erie in Cleveland, is a composite cross-section of American urban life. Starting at its eastern boundary it covers a large residential area, an area of automotive and foundry factories, steel mills and power plants, all of downtown Cleveland with its hotels, apartments, shops and large financial institutions. In the flats along the Cuyahoga River are the new steel plants

and sheet mills flanked by housing projects. Its population is very cosmopolitan, comprising many citizens of foreign extraction.

Congressman for this district is Michael A. Feighan, '31. He was elected in 1942, re-elected in 1944 and 1946.

To Michael Feighan politics is the most interesting and fascinating work a man can do. For it he has to sacrifice much of his legal practice; being a Congressman is a full time job.

Feighan entered Cleveland politics as soon as he came back from Harvard Law School, starting at the bottom, ringing doorbells and getting out the voters for the Democratic party. Soon he was precinct committeeman. In 1935 he ran for Lakewood, Ohio, City Council, and was defeated. In 1936 he ran for Ohio House of Representatives, was elected and re-elected in 1938. During the 1939-1940 term he was Minority Leader in the Ohio House. In 1940 he ran for Congress, but was defeated in the primaries. In 1942 he was elected to Congress from the Twentieth District.

"Politics is a serious profession" says Feighan. "There is no greater school of human nature and no subject more interesting. To represent a constituency ably, a Congressman must be sympathetic to the personal problems of his constituents and must respond to their needs in a manner consistent with the duties and proprieties of office."

Mr. Feighan is a tall, medium built man of about forty, his thick wavy hair is almost silver, his eyes are serious behind steel rimmed glasses. His voice is young and alive; he speaks slowly and carefully, without pomposity. His record has been consistently progressive, in contrast to that of his predecessor. He is a member of the House Judiciary Committee, and last summer went to Tokyo and the Pacific area as an observer of the war crimes trials.

Advising individual students is difficult, Feighan says, but in general, graduates should enter politics as soon after graduation as possible, and devote as much time to it as their time outside of practice will allow.

Mr. Feighan feels that it is the duty of everyone to take an active part in community life. That is especially true of those who have received as fine an education as Harvard Law School affords. Sound judgment is an essential qualification for one who devotes his life to public service, but a legal education is especially valuable because it helps one to analyze legislation and to determine what is for the best interest of one's constituency and the nation.

"I am very grateful for the legal training that I received at Harvard Law School."

Mr. Feighan finds that it is not true, as is commonly thought, that a holder of political office must sacrifice all of his principles in order to continue to hold office. He holds that any man who will compromise his principles is unfit to hold public office. His voting record in Congress has been consistent in its progressiveness, and with his old colleague Robert Crosser he is perhaps the most highly respected member of Congress from Ohio. In fact, the opposition papers are usually very careful to point out his ability while attacking him only on his record as a "New Dealer."

There are of course disadvantages to holding public office, especially that of congressman. Chief among these is the difficulty of raising a family. Feighan considers himself extremely fortunate in having a very capable and sympathetic wife who has ably charted the course of schooling for their twelve year old son and seven year old daughter.

Feighan advises that the man entering politics start at the very bottom of the political ladder. He should go to the political organization which advocates the principles in which he believes and offer his services in his home community. If a man believes firmly in his principles and wishes to bring them to the attention of the public by running for office, he should not hesitate to make the race even though his chances of election might not appear bright. He can both advance these principles and gain experience for future contests when he may have a better chance to win.

Not all men can be or want to be office holders, but there is ample work to be done within political organizations. Organizations always welcome new workers and the volunteer can often exert great influence on the policies of his party as a result of his efforts as he gains the confidence of the leaders of the party, or becomes a leader himself.

H. K.

Sub Judice

HOW SEPARATE IS SEPARATION OF CHURCH AND STATE****

Time and again a decision is referred to as, "far reaching," or "monumental in scope," etc.. A recent decision from the Supreme Court is of the calibre to which all the clichés and platitudes referred to may well apply.

A New Jersey Statute authorized local school districts

to make rules and contracts for the transportation of children to and from schools. A Township Board of Education acting pursuant to the statute authorized reimbursement to parents of money expended by them for the bus transportation of their children on the public transportation system. Part of the money so expended was for payment of transportation of some children in the community who attended Catholic parochial schools.

A taxpayer filed a taxpayer's suit in the State court challenging the right of the Board to reimburse parents of parochial students on the ground that it violated the State and Federal Constitutions. The trial court held that New Jersey was without legal authority to authorize such payments under the State Constitution. The New Jersey Court of Errors and Appeals reversed stating that there was no conflict. The taxpayer then appealed the case to the United States Supreme Court.

It was contended that the statute violated the Federal Constitution. The appellant claimed that it allowed the State to take by taxation private property and bestow it on others for private purposes in violation of the due process guaranteed by the Fourteenth Amendment. It was further alleged that the Statute forced a payment of taxes to help support schools dedicated to and regularly teaching the Catholic Faith and thereby violated the First Amendment regarding freedom of Religion which is applicable to the States pursuant to the Fourteenth Amendment.

Divergence of Opinion on Very Close Issue

The Court split five to four and the majority opinion by Mr. Black places the decision on such a close ground that there seems a possibility of adoption of the dissent's viewpoint on the next question of this type to reach the Court for argument and decision. The case is at least a fertile field for comment and discussion in the Law Reviews and Bar Journals and to the Constitutional historian and student contains historical background on the First Amendment.

The majority pointed out that both the New Jersey Legislature and the highest court of the State held it was in furtherance of public interest and the fact that the public interest coincided with the individual desires of parents who sent their children to church schools to satisfy such personal desires was not a ground for invalidating the Statute. In addition the majority demonstrated that there were involved two propositions: That tax funds could not be used to support any religion or religious group and that the State could not be denied the right to extend its general State Law benefits to all its citizens without regard to religious belief.

The majority then held that the First Amendment erected a wall between church and state and that wall must never be breached. That New Jersey had not breached it and that the Statute did not fall within the prohibition of the First Amendment. To so hold with regard to these bus fares would require application of the same principle to State police and fire protection for these same parochial students.

Mr. Justice Jackson dissented and his separate opinion was concurred in by Mr. Justice Frankfurter.

Mr. Justice Rutledge wrote a long and exhaustive dissent pointing out the historical basis of the Constitutional provision and using a different interpretation of the record than that used by the majority. *Everson v. Board of Education of Township of Eving*, 15 U.S. Law Weekly 4224.

IF AT FIRST YOU DON'T SUCCEED, TRY, TRY AGAIN****

Willie Francis was convicted of murder and sentenced to be electrocuted. A proper death warrant was issued and Willie was placed in the official (sic; one wonders what the unofficial would be.) electric chair of the State of Louisiana. The executioner threw the switch but no death resulted. Willie is recorded to have observed, "It tickled." Willie was removed from the chair and returned to his cell. A new death warrant was issued.

Application was then made to the Supreme Court of Louisiana for writs of Certiorari, Mandamus, prohibition and habeas corpus. Execution of the sentence was stayed. Willie, through counsel, claimed the protection of the Fourteenth Amendment on the ground that an execution would deny him due process of law because he would be subjected to double jeopardy forbidden by the Fifth Amendment and to cruel and unusual punishment forbidden by the Eighth Amendment. The Supreme Court of Louisiana denied the petition on the ground that there was no basis for judicial relief. The United States Supreme Court granted a writ of certiorari to consider the alleged violation of the Federal Constitution.

Supreme Court Divides on Result

The Supreme Court reexamined the circumstances and assumed without deciding that a violation here of the Fifth and Eighth Amendments would violate the due process required by the Fourteenth Amendment.

The majority found that there was no double jeopardy involved such as would amount to a denial of federal due process. The majority further held that there was nothing amounting to cruel and unusual punishment and Petitioner's contention that he underwent a psychological strain of preparation for electrocution and to now subject him again would be cruel and unusual punishment was rejected. It was pointed out that the "cruelty" the Constitution refers to is that which is inherent in the method of punishment and not the necessary suffering involved.

Perhaps the foregoing should be referred to as the plurality since it was the concurring opinion of Mr. Justice Frankfurter that brought about the affirmation of the Louisiana Court's denial. In his concurring opinion he stated that "... this Court must abstain from interference with State action no matter how strong one's personal feeling of revulsion against a State's insistence on its pound of flesh." He also gave as his reasons for a separate concurring opinion the fact that four justices had dissented and that it was necessary to be "explicit regarding the criteria by which the State's duty of obedience to the Constitution must be judged." *State of Louisiana ex Rel. Francis v. Resweber, Sheriff*, 15 U.S. Law Weekly 4153.

Professor Leach forwards an interesting footnote. The following is in 35 *Dictionary of National Biography* (1893): "John MacNaghten . . . MacNaghten behaved with the utmost coolness at his execution. The rope broke three times—an accident which entitled him to his liberty, but he bade the sheriff to proceed" and was duly hanged."

The Witness Stand

Question: Should a man with a reputation like that of David E. Lilienthal head the Atomic Energy Commission?

1. John O. Green, Jr., Spring Hill, Ala.
3rd Term.

Yes. The current opposition to Mr. Lilienthal's appointment seems to arise out of an ill-taken criticism of his work with the TVA which was and is one of the most ably administered of governmental agencies. The only real opponents of Mr. Lilienthal are Republicans who think it politically expedient to oppose him at this time, and their opposition has been notably weak and vacillating. I discount the picaresque needling of the Tennessee senator as the frustrated mumblings of a bad-tempered and boorish old man.

Mr. Lilienthal has already shown an outstanding ability to deal objectively with atomic energy problems in his work behind the scenes in the Manhattan Project and in the preparation of the Acheson report. Of course, the ideal head for such a commission would be a political non-partisan, but try to find one these days.

2. Henry C. Lind, Cranston, R. I.
3rd Term.

The question asked is, in my opinion, a bit ambiguous. What is David E. Lilienthal's "reputation"? I assume it to mean a good reputation. In this case, if he has the qualifications to head the Atomic Energy Commission, and I think he has, his appointment should go through. Whether he is qualified or not, he seems to be getting a raw deal. It is certainly a sad state of affairs when the appointment to such an important office becomes a subject to be tossed about by political grudge-bearers and grasping politicians fearful of losing newly-won power. In my mind, Lilienthal, or whoever should be named to head the Commission, must be appointed, not in the light of partisan party politics, but only in the light of his qualifications for the job. If Lilienthal's opponents have any constructive criticism to offer in the way of someone else more capable for the job, let them point this out and not spend their time in destructive criticism based on prejudice.

3. William Stanley, Jr., Washington, D.C.
5th Term.

I think Mr. Lilienthal should be confirmed as head of the AEC. His record with the TVA is a fine one, and no serious objections to him as a public official have been brought to light by his critics. The fact that his appointment is opposed by men like McKellar, Overton, and O'Daniel, is just one more point in his favor. If the Commission is run as his was the TVA has been, the people of the United States will have cause for satisfaction. This position is too important to be bestowed as a political plum; it should go to one who, like Lilienthal, has proven his administrative ability beyond question.

4. Cecil Rhodes, Jr., Richmond Hill, New York.
5th Term.

The man who is chosen to head the AEC will be burdened with responsibility the bounds of which are yet to be realized. Such a man will have to be a combination businessman, diplomat and expert jurist. A foolish decision by the Senate's Atomic Energy Committee at this time could prove highly deleterious to our national security—pernicious to the ultimate goal of the highest degree of peace among nations in the forthcoming atomic age. We cannot select blindly a man of questionable integrity and capabilities, and then sit back, self-satisfied, in the artificial security which we will have created for ourselves. On the other hand, we mustn't fail to recognize that selfish interests may work hard to raise a question of doubt as to a man we would otherwise consider highly desirable. I am in favor of the very capable David Lilienthal. True, he has shown his antagonism towards private business, but we must remember, too, that he never did let such feelings interfere with his perspective. As boss of the TVA he always put the magnitude of his responsibility above the various considerations which were tugging at his apron strings by various pressure groups. Certainly the man made his mistakes. Perhaps he was too much in favor of government control. Perhaps he enforced some of his policy decisions too strongly. When weighing these negative considerations, we must not lose sight of the ultimate Lilienthal product—a job well done. Tennessee's Senator Kenneth McKellar is raising his objections in favor of a biased group; he is not speaking for the American people.

Alumni Notes

At the first meeting of the 1947 term of the New Hampshire Supreme Court January 6 the new chief justice, Oliver W. Branch, LL.B. '04, and the new associate justice, Laurence I. Duncan, LL.B. '30, acted for the first time in their new capacities. Branch replaces the now retired Supreme Court Chief Justice Thomas L. Marble, LL.B. '04.

Aeroutes Inc., with offices at 277 Broadway, New York City, has announced the inauguration of an economic research service for air transportation. At present the company will concentrate on the accumulation of data to be presented to the CAB as proof of "public convenience and necessity" by new route applicants. Principal members of the firm are Stanley I. Schonbrun, LL.B. '46; and Gerald Bloom, LL.B. '45, who was formerly associated with the New York City law firms of Demov, Callahan & Morris; and Becker, Ross & Stone. In addition to air routes studies, Aeroutes Inc., contemplates air cargo market and product studies. Making a study of the international air transport picture for Aeroutes is Walter H. Wager, LL.B. '46.

LL.B. '95—Charles C. Paine, former associate justice of the Barnstable District Court, died February 14 in Boston. An authority on land court law and a state political figure in the early 1900's, he had practiced in Hyannis and Barnstable, Mass., for 50 years, was the oldest member of the Barnstable County Bar Association, and had served as town counsel of Barnstable for 25 years.

He was a delegate to every Democratic national convention from 1896 to 1940, and was an unsuccessful candidate for Democratic nomination for state Attorney General, for secretary of State and for Auditor. In 1902 he was named to the Barnstable district court bench, and served as associate justice for 12 years. In 1912 he became commissioner of the state Harbor and Land Commission, (now Department of Public Works), a post he held for 8 years. During World War I he was chairman of the War Trade Board, and after the war served for six years in Warsaw, Poland, as representative of the Foreign Trade Supply Corporation of New York.

LL.B. '13—In Washington, D. C., on January 25, Miss Winifred Busby of Washington was married to Brig. Gen. Maurice Hirsch of Houston, Texas. Secretary of War Robert P. Patterson, LL.B. '15, was best man for General Hirsch.

For nearly four and a half years Hirsch has served in the War Department and in the Army. He was a member of the War Department General Staff, and chairman of the War Department Price Adjustment Board. As chairman of these groups he has occupied the top position in the administration of the Renegotiation Act, and has received the Distinguished Service Medal for his non-combatant services during the war.

After March 1 Hirsch will resume private law practice as senior partner in the Houston, Texas, firm of Hirsch, Susman & Westheimer.

LL.B. '13, S. J. D. '32—Harold M. Stephens, senior Associate Justice of the United States Court of Appeals for the District of Columbia, has been awarded the Medal for Merit by President Truman. The award was for performance of outstanding wartime services as American chairman of the Joint British-American Patent Interchange Committee from December 7, 1943, to October 1, 1946.

Ex-'13—John D. Clifford, Jr., has been nominated by President Truman to be federal district judge in Maine.

LL.B. '20—Frederick H. W. Frey has resigned as a member of the County Prosecuting Attorney's Office in Cleveland, Ohio, to resume private practice with Stanley & Smoyer, 970 Union Commerce Bank Bldg., Cleveland. The firm specializes in corporate and labor

NOTES FROM ABROAD

The Yale Law School student body is now represented by an organization which serves as liaison between faculty and students and also directs social activities in the school.

On April 9, 1946, a group of law students addressed a communication to Professor J. W. Moore, Chairman of the Faculty Committee on Student Activities, to the effect that there had developed among the students a substantial sentiment in favor of the establishment of a formal and permanent student organization to encourage and carry on social and other activities of student interest. Previously, such activities had been sponsored by the Social Activities Committee, appointed by Professor Moore.

The group of students drew up the proposed charter for the suggested student organization, which was submitted to the faculty for approval and later to a meeting of the student body called for the purpose of acting upon the proposed charter. At this meeting, held in May 1946, the student body voted that a student organization was desirable, and expressed approval of the proposed charter.

The charter, thus approved and ratified, declared that the students of the Yale Law School hereby established the Yale Law School Student Association, whose purposes were to include: the encouragement and organization of such social, athletic, educational and other activities as might be of interest to its members; the operation of the dining facilities of the Law School, the establishment of an instrument for student-expression; and the promotion of the cordial and effective relations among the members of the Association and with the administration and faculty, the University at large, and other law schools.

The Charter further declared that every student in the Law School should automatically be a member, that general direction of the activities of the Association should be in the executive board of eleven members, consisting of two each from the upper five terms and one from the first term class. The officers of the executive board are a Chairman, a Secretary, a Treasurer, and such other officers as from time to time may be required. The Charter provides for regular meetings and elections, and for regular consultations with the Faculty Advisers.

Perhaps the outstanding achievement of the Association to date has been its relations work for management.

LL.B. '31—Josiah Marvel, Jr., has been nominated by President Truman to be Ambassador to Denmark. He now holds the post of U. S. Minister to Denmark.

LL.B. '39—The engagement of Miss Elizabeth J. Beach and William Pickering Jones, both of New York City, has been announced. Jones served as a Lieutenant Commander in the Naval Reserve for five years, with sea duty in command of a Destroyer Escort in both the Atlantic and Pacific.

LL.B. '40—Roger W. Cutler, Jr., Boston lawyer and former battalion commander of the 94th Division, has been named temporary chairman of the Massachusetts Branch, Committee for National Security. Cutler will direct the regional organizational effort of the group which is working for enactment of universal military training legislation.

LL.B. '42—Harding Johnson, Jr., has become a member of the firm of Johnson & Thomas, at 1 Cedar St., New York City.

Ex-'46—William J. O'Malley announces the opening of offices for the general practice of law at 615 Union Arcade Bldg., Davenport, Iowa.

The Law School Typing Bureau
Typists familiar with
"Introduction to Oral Advocacy"
Apt. 401, Palmer Bldg. 1416 Mass. Ave.
TRO. 0429 Harvard Square

UNIVERSITY TYPEWRITER CO.
HARVARD SQUARE KIRKland 2720
Sales - Service - Repairs - Rentals - Lamps - Stationery - Ribbons - Carbon Paper - Gifts
WE BUY TYPEWRITERS

HOTEL CONTINENTAL
"One of New England's Best Hotels"
Cambridge, Mass.
The perfect place for your Law Club luncheons,
Tea Dances and other club functions.
Delicious food at moderate prices
Chauncey Depew Steele, Jr., General Manager CALL: KIRKLAND 6100

sponsorship of the establishment of dining-hall facilities in the Law School. A concessionaire was engaged under a contract, the long-unused kitchen equipment was put in order, and as a result law students are able to eat in the Law School with other law students. This obviates the haphazard arrangements formerly necessary for many of the students.

The Association has also sponsored many dances of a very successful nature from the financial and other standpoints. It has sponsored beer parties and get-together parties for new students. At one of the beer parties Professor Harold J. Laski was a guest speaker. It is sponsoring a Law School Yearbook which will appear shortly. It has solicited donations to foreign relief campaigns. It has devised more satisfactory procedures for giving examinations and for distributing grades to students. It has organized teams in various sports. It has corresponded with publishers of law books, protesting against increased prices and the paper bound case-books and text-books. It has arranged to have coca-cola and cigarette dispensing machines installed in the Law School. It is cooperating with the faculty on the subject of the curriculum. With proceeds in the Treasury, it has subscribed to several publications for the Law School lounge and is considering the further purchase of a radio-phonograph machine for the Lounge. One of its outstanding contributions to Law School life has been the Yale Law School Forum, patterned on the Harvard Law School Forum.

MORGAN P. AMES
Yale Law School

KATZ—(Continued)

carte blanche to McKellar. An investigation by a Senate Committee could well borrow enough of the spirit or judicial procedure to guard against such unwarranted attacks, which in a court of law would be excluded as prejudicial. Again, Mr. Katz believes, this is a matter of self-restraint.

But Lilienthal's "New Dealism" presents a different problem. A Congress controlled by one party facing a President of another party has always contributed a mutually frustrating situation. Does it follow from the election trend in November 1946 that the Republicans in the Senate are obligated to prevent the nomination of New Dealers? Must the President, as head of the "defeated" party, seek his appointments from outside the Administration group? Perhaps, Mr. Katz points out, there are certain areas of governmental activity—foreign and military policy especially— which need to be placed as far as possible outside the scope of party politics. If so, the Atomic Energy Committee belongs in that category.

B. W. N.

Professor Katz, who is now teaching Administrative Law, has had wide experience in public service. During the war period, he served as Solicitor of the War Production Board; U. S. Executive Officer of the Combined Production and Resources Board; and as a Lt. Commander. Prior to the war, he served, at various times, as Special Assistant to the Attorney General, Executive Assistant to the Chairman of the Securities and Exchange Commission, and as an attorney with the Reconstruction Finance Corporation and the National Recovery Administration.

For sale: Solid maple dresser, easy chair, couch; 6-way floor lamp; General Electric portable radio, 1572 Massachusetts Ave., Apt. 3, Tel. Kir. 5723.

MIDGET
Restaurant - Delicatessen
Favorite Law School Eating Place
CHOICE FOODS - LOW PRICES
STUDENTS' SPECIALS DAILY
1728 Massachusetts Avenue
ELL. 8556 Law Club Catering

USED LAW BOOKS
BOUGHT—SOLD—EXCHANGED
AT ALL TIMES
HARVARD BOOK STORE
19 BOSTON STREET
Next to Western Union at Harvard Square

Support For Lilienthal Example Of Interest In Current Affairs

The following is a sample of student activity at the Law School and represents an awareness of current problems and a willingness to undertake affirmative action concerning them.

In distributing the circular printed below, a group of students were giving expression to a spontaneous and self-financed movement among them.

The opinions expressed do not necessarily reflect those of the Record.

WHAT TO SAY TO THE SENATOR

Your Senator will pay most attention to what you say if he thinks that you are saying it. For this reason a simple, direct argument expressed in your own words is worth a dozen pages of canned rhetoric.

Here are a few of the arguments which, phrased as you choose, may be persuasive in motivating your Senator to support Lilienthal. One or two of them should be enough for a postcard or even a letter.

If Your Senator Is On the Fence— then he may appreciate a logical reason for coming down:

1. Lilienthal's record in TVA indicates that he is one of the very few men qualified by experience to handle a major source of power in the public interest.
2. The rejection of a man with as general public support and as good an individual record as Lilienthal will discourage any qualified man from accepting an important public post, since he will know that he faces both a "smear" campaign and probable rejection by the Senate.
3. Lilienthal and the Commission which he heads have already taken the initial steps toward effective public control of atomic energy. To reject Lilienthal now will put the Commission and its work back many months—months which we cannot afford to lose.

If Your Senator Has Already Taken a Stand Against Lilienthal— then he may not be susceptible to logic anyway. But there are things to point out to him:

1. Lilienthal is no Communist. The

FORUM—(Continued)

Trade Unions and Business Cycles and Unemployment.

Mr. Golden has been affiliated with labor organizations and labor education since 1906, at which time he became a member of the Brotherhood of Locomotive Firemen and Enginemen. He was an officer of that union as well as the International Association of Machinists, and from 1936 to 1942 he was regional director of the Steel Worker's Organization Committee. Currently he is counsellor and assistant to the president of the United Steelworkers of America. Mr. Golden was president of Philadelphia Labor College and was business manager of Brookwood Labor College and served as regional director of the NLRB from 1935 to 1936. He is the author, along with Harold J. Ruttenberg, of *Dynamics of Industrial Democracy*.

statement of his personal credo is one of the most eloquent, anti-Communist speeches that has been made.

2. Nothing can be more ridiculous than the argument that Lilienthal shouldn't be appointed to this important post if "anyone" objects to him. No one in public life who has courage enough to deserve an important post can have failed to acquire enemies. Brandeis, a great Justice, almost failed of confirmation. Hughes, a great Chief Justice, had great opposition to his confirmation.

3. Whatever the November election meant, it didn't mean that the American people wanted party politics to interfere with the control of atomic energy. (If you are a Republican, tell your Senator so; it makes this argument all the stronger.)

If Your Senator Has Already Come Out For Lilienthal—

then he needs commendation and encouragement rather than argument:

1. Any Senator can use an expression of gratitude for his wisdom and clarity of vision.
2. And he won't resent the suggestion that his political fortune and the country's will both be aided if he carries on the good fight in Committee and on the floor until it is wholly won.

(Signed) Ray Garrett 2L, Hugh Calkins 2L, Kingman Brewster 2L, David Challinor 2L, Leonard Joseph 2L, Herbert Silvers 3L, William Bundy 3L, Thomas Rankin 3L, Tim Coburn 1L, Elliot Richardson 3L.

CLASS OF '27—(Continued)

agencies, with 6.7 years as an average for each. Thus for the 327 men, the average for each is about 2 years in government service. Twenty-two of the 97 have served or are serving as prosecuting attorneys. Four members of the class have become judges, one has become a Congressman.

In spite of the fact that most of the members of 27 were the wrong age for drafting into military service in either war, 58 men or 18% served in World War II. Two men out of this number died in the service. The 58 were about evenly divided among Navy, Army, and Army Air Corps. Thirty-eight out of the 58 were Majors or Lt.-Commanders or higher rank, but none were Generals or Admirals.

Married life claims 90.5%, the class having an average of 1.79 children each; or, if only the married men are counted, 1.98 children each. Thus the class has produced only .90 of a future mother and father, assuming a 50% division of sex. These statistics, Professor Hall points out, show that the atomic bomb can only hasten but will not be needed to insure a claim to the title "A Dying Class". Two children seems to be the most popular family combination, 112 out of 290 married men having this number. Forty-five out of 290 have none, 48 have one child, 48 have 3, 28 have 4, 7 have 5, and 2 have 6 children.

The good lawyer . . .

subscribes to Reporter Systems, has statutes and case law in his library.

The eminent lawyer . . .

adds to this the Harvard Law Review, for its intensive analysis of important decisions, trends, reviews of every phase of the law, and outstanding articles by the most learned men of the profession.

A ONE-YEAR SUBSCRIPTION

to the

Harvard Law Review

for \$4.50 (\$5.00 foreign)

Eight issues per year.

Address Orders to:

HARVARD LAW REVIEW ASSOCIATION
GANNETT HOUSE

CAMBRIDGE 38, MASS.

JIM'S PLACE
30 DUNSTER STREET

FAMOUS FOR CHOPS
STEAKS, SEA FOOD

Complete Dinners .50 - 2.00

Visit our new Cocktail Lounge

Complete Air Conditioning

Spring Cruise
TO BERMUDA
Summer Tours
TO EUROPE
AIRLINE AND TRAIN
RESERVATIONS
UNIVERSITY TRAVEL Harvard Square
COMPANY Kiv. 1650

Calendar

THE LEGAL WORLD

First Year Grades

Will Be Distributed Today at 2:00 P.M. in the Courtroom.

Placement Prospecting

Mr. Dimmitt is planning to visit a number of cities during the latter part of February and the first part of March on placement matters. The cities are Chicago, Cleveland, Toledo, Detroit, Minneapolis, St. Paul, and Milwaukee. All students who are interested in practicing in these cities should contact the Placement office this week.

Bar Requirements

It is important that all first-term men examine the requirements for admission to the Bar for the states in which they anticipate practicing. Some states require registration upon the commencement of law study. These states include California, Maryland, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Texas, and Vermont. The requirements for the various states may be procured from the Receptionist in Langdell Hall.

RECORD Staff

Men interested in serving on the advertising and circulation staff of the RECORD are asked to come to the office in Austin Upper any time between two and four o'clock on Thursday or Friday.

Second Term

Section 2 Torts, Agency, Judicial Remedies and Contracts. Torts at 9 on Monday, Tuesday and Wednesday, Feb. 24, 25 and 26 will be replaced by Judicial Remedies in the same classroom and at the same hour.

Judicial Remedies will be replaced by Torts on Thursday March 6, 13 and 20. Agency will be replaced by Contracts on February 24th and 25th in the same classroom and at the same hour, 11 o'clock.

Agency will replace Contracts on February 28th and March 1st and on Friday, March 7th. Section 1. Contracts will replace Agency on February 24, 25th and 26th in the same classroom and at the same hour. Agency will replace contracts on Friday and Saturday, February 28th and March 1st and on Friday, March 7th.

The Law Wives

On Wednesday, March 5, there will be an evening of duplicate bridge in Kendall House, starting at 8 p. m. Frank Perkins, the Herald-Traveler bridge columnist, will supervise. Husbands are invited.

Harvard Law School Yearbook

The order for the total number of yearbooks to be distributed goes to the publishers, Monday, March 3. Only books which have been paid for by March 1 will be ordered. The price is \$6.00. If you have already paid \$1.00 for your yearbook picture, \$5.00 secures the book for you.

Solicitor's Shuffle

There will be an informal dance, Saturday, March 1, 8 to 12 p. m., at Cowie Hall, Harvard Business School. Ken Reeves' orchestra will furnish the music. Set-ups will be available. Tickets, \$2, a couple, are on sale at Gannett House.

THE UNIVERSITY WORLD

Purin Dance and Song Festival
The Radcliffe Hillel Foundation is sponsoring a Purin Dance and Song Festival, Tuesday, March 4, in Agassiz Theatre, at 8 p. m. Dvora Lapson, interpretive dancer, and Cantor Alfred Rosebach are on the program. A social hour of dancing will follow the entertainment.

Graduate Dance

Harvard-Radcliffe graduate students are invited to an informal dance, Friday, February 28, at Agassiz Hall, 8:30-12 p. m. Admission is 55c.

Concert

The Harvard and Radcliffe Music Clubs, Irving Fine conducting, will present a concert of contemporary choral and chamber music at Paine Hall, tonight, at 8:30 p. m. Admission is free.

Ford Hall Forum

Representative Helen Gahagan Douglas will be the guest speaker, Sunday, March 2, 8 p. m., at Jordan Hall.

THE OUTER WORLD

Music

The Boston Symphony Orchestra, Serge Koussevitzky conducting, with Jascha Heifetz, violinist, as soloist in the Brahms Violin Concerto, offers its 18th regular concert at Symphony Hall, Friday, March 1, at 2 p. m.

Vladimir Horowitz, pianist, will give his only Boston concert of the season, Sunday, March 2, in Symphony Hall, at 3:30 p. m.

Gardner Museum Concerts: Thursday, February 27, James Sykes, pianist, Saturday, March 1, Virginia Raymond, contralto, and Donald Currier, pianist; Sun-

Back To Serfdom

This is the concluding part of an article which was begun last week.

BACK INTO SERVITUDE

Alas, Rome was not built in a day. Jurists and entrepreneurs labored for centuries to emancipate the English people. Even American living standards were a slow cumulative growth, the outcome of hard work by the people and the abstaining philosophy of government taught by Thomas Jefferson. The newly liberated peoples of Europe in 1919 wanted automobiles and ice boxes right away. They lacked the ancient British background of self government. They still cherished feudal ideas. In England and America groups, inflamed by demagogues, became impatient with our own steady progress and demanded overnight miracles. Subverting the grand old appellation, "liberal," to their own illiberal ends, these groups, aided and abetted by their jealous pals abroad, condemned free enterprise under the law and began casting about for a quicker, substitute system.

CREEPING SOCIALISM OF NEW DEAL

Their solution, as every one knows, was socialism in all its forms, Fabian, Communist, or Fascist. Their American brethren, prevented by the good sense of the American electorate from advocating the outright product, sought their ends by guile, by the insinuating, creeping socialism of the New Deal variety, which, while outwardly moving cautiously, would inwardly allow the proponents of the "planned man" to burrow into the fabric of our national life and make ready for the kill.

These planners tell us that they have a new solution for the world's problems. Actually their schemes are old as time itself. They propose a return to principles of the early despotisms, to the very tyrannies which the English, American, and other people overthrew after centuries of struggle. Like the early despots, the new planners will order man's economic activity and through it, of necessity, his total activity, and force him to follow the pattern. They propose a dictatorship of the majority, the very thing our founding fathers most feared when they set up our constitution of checks and balances. The Fascists and Communists do not hesitate to settle their chief planners in power by the sword and regardless of majority will as events in Russia, Poland, Yugoslavia, and other unfortunate nations have demonstrated. Our Fabians and New Dealers propose to elect their dictator and to sanction their planning with a majority vote. They cry, "The people are supreme and above, nay, are the law." Yet if the people are supreme and above the law, then the agents of the people, the government, can not be limited and tyranny itself is supreme.

In Europe the return to totalitarianism was easy under the absolute doctrines of the Civil law. Before it can become firmly entrenched in England and America our common law conceptions must be broken down, for planning, administrative rule, is impossible when every decision of the administrator is subject to overrule by a court on grounds that it violates the rights of some mere

YEARBOOK

Student subscribers will not have books ordered for them if the full subscription is not paid by March 3rd. This policy was invoked because the publishing costs were so high that the committee's budget would not allow it to gamble on future returns. In the past many books have been ordered and then left unpaid and uncalled for in the Year Book office and the results have been detrimental to all concerned. However anyone who is feeling "the pinch" and wants the book may come in to Gannett House and make arrangements to pay at his convenience, the committee feeling that anyone interested enough to come in about the matter should have his book ordered.

day, March 2, Miriam Burroughs, violinist. Weekday concerts begin at 2:45 p. m. The Sunday concert begins at 2 p. m. Admission is free.

---naturally

YOUR BANK

HARVARD
SQUARE
OFFICE

HARVARD TRUST
COMPANY

individual! The planners are hard at work on this. They pack the courts with political sympathizers. They veto a Walter-Logan bill expanding the scope of judicial review. They attack from rostrum and press the very principal of judicial review itself. They sneer allusions to "selfish private (common) law" compared to "liberal public (civil) law". They introduce bills exempting various classes of persons from equity jurisdiction. They swell the number of boards and bureaus with punitive powers beyond control of the courts. They centralize power in the national seat and strip it from the local councils.

HYPOCRISY OF THE PLANNERS

But our planners tell us that in their elected dictatorship individual rights will be respected, republican government preserved, and only the rights of the "interests" infringed upon. Such twaddle is hypocrisy, prevarication, and outlandish impossibility. In the first place Fabian regimes show an alarming tendency to become the forerunners of Communism and Fascism. Germany is a case in point. France and Czechoslovakia bear watching today. In the second place national economic planning enforced is utterly incompatible with individual liberty, not only economic liberty, but the political and spoken variety as well. Modern plans are so intricate and total that total cooperation is essential to their rather doubtful success. One dissenter, one nonconformist, one griper, can set in motion a whole chain of reactions which endanger the entire plan. Russia ships the little grippers to Siberia and shoots the big ones. Our own OPA failed miserably from lack of total planning and total enforcement. Both our OPA and prohibition experiments, although they had majority sentiment behind them, could have succeeded only after shooting and jailing countless dissenters. The spirit of the common law and of our constitution forbids such dictatorship of the majority so we were spared, but the planners howled in despair. Next time — said they.

Here it might be added that the chief ground advanced for planning by the planners, namely, the great scope and complexity of modern society, is actually the leading reason why planning will not only fail to produce prosperity but will result in dictatorship as well. The Roman Emperors failed to plan successfully the simple, handicraft-farmer society of their day. Our intricate and interlocking array of interests and activities defies regulation. In an economy so vast and so complex only the impersonal law of the market, the sum total of billions of individual decisions, can insure the most fair and efficient allocation of our productive capacity.

PLANNERS' CONTEMPT FOR DEMOCRACY

The chief planners themselves often betray their true contempt for individual rights and democratic government. Harry Hopkins' "The people are too dumb to understand" belongs to history. The British labor government has recently censored a London play which cast doubts on the abilities of certain members of the party in power. Mr. Harold Laski, the British Wallace, has long looked on democratic procedures merely as means for the planners to obtain power. He once suggested that the Socialist party, once elected, could not afford to risk its gains in another election. In his book "Democracy in Crisis" he urged the socialists to "suspend the classic formulas of normal opposition" and advocated that Parliament itself be abolished unless the Conserva-

tive party guaranteed not to undo any socialism in the event of a subsequent Conservative victory.

In the famed Gobitis case our New Deal "reconstructed" Supreme Court demonstrated what the planner thinks of individual liberty. The case involved compulsory saluting of the flag by Jehovah Witness schoolchildren. The court held that the legislature may extend the police power to promote "national cohesion" and "national unity" even to the point of infringing our religious liberty. This decision demonstrated the doctrine of majority dictatorship with a vengeance and shows what we may expect if the planners ever win control of the government. When in response to great public outcry (Roosevelt wanted his court to heed public sentiment) the Court a year later overruled itself on the saluting question, Justice Frankfurter in his dissent expressed the basic creed of the planners in a single sentence. Said Frankfurter, "Our constant pre-occupation with the constitutionality of legislation rather than its wisdom tends to pre-occupy the American with a false value". Here in the words of a great "liberal" thinker is the world of the future in a nutshell. Our liberty shall not be defined and guarded by law and a written constitution, but by the administrator, the agent of the dictatorial majority who in his own infinite wisdom, will decide who shall be protected and who thrown to the wolves.

Many of our so called liberals are sincere, if misguided, proponents of civil rights and democratic government. They would recoil in horror if convinced that their scheming will lead to bloodshed and persecution. Yet history is against them. Everywhere planning has led to bloodshed and persecution and there is no present indication that the trend will cease. No planned economy has ever worked with anything near the efficiency of free economies. A glance today at the planned world contrasted with our free world is conclusive. When the plan breaks down, discordant elements are blamed, and the secret police called in. Ironically, the "democratic" planners are the first to face the firing squad.

"LIBERAL PROGRESS" IS BLACK REACTION

What is presented to us as "liberal progress" is in reality nothing but black reaction. It is not regression to the times of Rockefeller and Gould, but to the bleak days of Louis XIV and Charles I. The spirit of feudalism, the desire to exchange liberty for doubtful security, is abroad in the land. In Europe the planners have led their people to the steppes of Siberia and the furnaces of Buchanwald. Planning's dark cloud, rent by the screams of innocent victims, is sweeping through the Balkans. France totters on the verge. England has taken the first step. America stands alone, the last, best, hope of earth, an oasis of freedom in a sea of lowering oppression. Steadily, insidiously, the planners bore within us whispering poison formulas into ears untrained to discern the truth. Recently an English judge after listening to a bureau attorney argue for unlimited bureaucratic power, broke in to exclaim, "These same arguments might have been addressed to the King's Bench in the reign of Charles II!" At about the same time a student asked the historian Beard how long the present period of unrest would last. Beard replied that he did not know, but that the last time something like this happened it lasted five hundred years and men called it the dark ages.

THE LAST HOPE OF LIBERTY

The pendulum is swinging, swinging back from the liberalism of the Seventeenth and Eighteenth centuries to the

absolute despotisms of antiquity. America is the last bastion of true liberalism. If she goes down before the onslaught of the planners, all that we hold dear goes with her, democracy, the rule of law, the five freedoms. A new and frightful age of darkness may indeed engulf Mr. Wallace's "Common man" and make him again one with the beasts of the field.

ROBERT BRACKEN, JR.
2nd Term.

JUDGE HAND—(Continued)

"Judge Learned Hand and the Law of Patents and Copyrights" is the title of an article by Stephen H. Philbin of the New York Bar. Charles C. Burlingham, a member of the N. Y. bar, gives Hand's family background of lawyer stock and says that after 37 years, at the age of 75, Learned Hand is first among American Judges.

Of particular interest in the Book Review section of this issue is Professor Cavers' contribution. In reviewing "Materials for Legal Method", a new type of casebook for the Columbia Law School course in Legal Method written by Noel T. Dowling, Edwin W. Patterson and Richard R. Powell, Professor Cavers recognizes the need for some course and casebook which will help the beginning law student when he is thrown into the law and told to "sink or swim", and Professor Cavers sincerely wishes that he could say that this book is IT. However, he concludes that he is unable to do so.

SEEK MOVIE ADVICE

The Board of Student Advisers is looking for someone with sufficient technical background to aid in the preparation of an educational film concerning the law school.

If anyone has had experience or is qualified along these lines he should get in touch with Albert Goldman of the Board of Student Advisers at Austin Hall.

FOR BETTER RESULTS

USE

CLASSIFIED

ADVERTISING

RATES FOR HARVARD LAW SCHOOL MEMBERS

\$1.50 an inch	One insertion
\$2.50 an inch	Two insertions
\$3.00 an inch	Three insertions

CONTACT THE RECORD OFFICES,
AUSTIN HALL

SUBSCRIPTION BLANK

(Cut out and Mail)

THE HARVARD LAW SCHOOL RECORD
AUSTIN HALL
CAMBRIDGE 38, MASS.

I wish to subscribe to the RECORD for

- ☐ 1 year at \$6.00
☐ 1 term at \$2.00

Enclosed is check for the subscription price.

Name:

Address:

STUDENTS!
Dead Line Looms

YEAR BOOK ORDER
GOES TO PUBLISHER
5 P. M., Monday, March 3

Only Books Subscribed
And Paid For
To Be Ordered

HARVARD LAW SCHOOL YEAR BOOK
GANNETT HOUSE
CAMBRIDGE

Imported and Domestic Wines, Liquors, Cordials
HARVARD PROVISION COMPANY, Inc.

92-94 Mt. Auburn St., Cambridge
Kir. 6684 — Hours 9 A. M. - 9 P. M.

SPECIAL — FIFTHS OF SCOTCH AND FIFTHS OF
BONDED BOURBON



PAY LESS - -

LEARN DANCING by
Individual Instruction

Take advantage of our
2 for 1 Offer (Two people for
The price of ONE)

Only a few lessons and you will easily dance
the Waltz — Fox Trot — Rhumba — Lindy—
Tango and Samba. Call today for FREE
dance analysis.

OPEN 10 A. M. to 10 P. M.

SHIRLEY HAYES DANCE STUDIO

330 MASSACHUSETTS AVE., BOSTON Opposite Symphony Hall, COM. 0520