

The Harvard Law School Record

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STRIKERS, CAPITAL BLAMED

Forum Speakers Give Two-sided Picture of Industrial Strife

A wide divergence of opinion marked the addresses of Leo Wolman and Clinton S. Golden at the opening session of the spring term of the Law School Forum.

Mr. Wolman, professor of labor relations at Columbia University, last Friday night contended that the principal cause of strikes was directly traceable to the ambitions of union leaders and their desire for a strategic and tactical advantage over management at all times.

On the other hand, Mr. Golden, counselor for the United Steelworkers, indicated that the reasons for strikes were deeply rooted in the psychology of the employees, and that their attitudes were a direct result of the attempt of management to forestall the organization of workers.

Mr. Elton Mayo, moderator of the meeting, cautioned the audience to realize that the whole field of industrial strife and the attitude of men toward the work they do is a comparatively new study, a factor which as yet precludes a definitive answer to the problem.

While deploring the fact that available statistics on the reasons for strikes were both qualitatively and quantitatively inadequate, Mr. Wolman contended that the one thing they did prove was that strikes were not a spontaneous outgrowth of our economic system. If they were natural phenomena, they would take place during the times of prosperity, since in these times strikes would do more damage to the employer and more radically curtail profits; also, the labor market would be tighter during good times. Except for the prosperous decade of the 1920's, when there were only 700 strikes, this has been true in this country, according to Mr. Wolman. However, at that time only 10 per cent of the workers were affiliated with labor unions.

From 1934 up to the present time the number of strikes has increased considerably, and a great many of them have been organizational strikes. Pointing to the strikes of 1946, Mr. Wolman stated that they were different from the types of strikes that took place before 1930 in that they affected every industry in the nation, they shut down whole industries, and they were manifested in entirely new areas such as public utility and government work. Previously in our history, strikes had affected only a few industries such as coal mining, garment making, and railroading, with certain infrequent exceptions. This changed character of the timing and results of strikes, Mr. Wolman attributes to the new powers given to union leaders and their immunity under law. He suggested as the best possible remedy the putting of the risks formerly involved in striking, but since removed by the Wagner Act, back on the workers.

According to Mr. Golden, strikes have come about by the result of historical, psychological, and economic factors. He stated that the natural gregariousness of men has caused them to become members of labor organizations, and historically the attempt of employers to preempt this right an attempt which long met with favorable public opinion, has been the ground for many labor disputes. He quoted a recent speech of Mr. Luckman of Lever Bros. in Chicago, in which speech Mr. Luckman placed the blame for strikes squarely on employers who were opposed to any new measure that offered security.

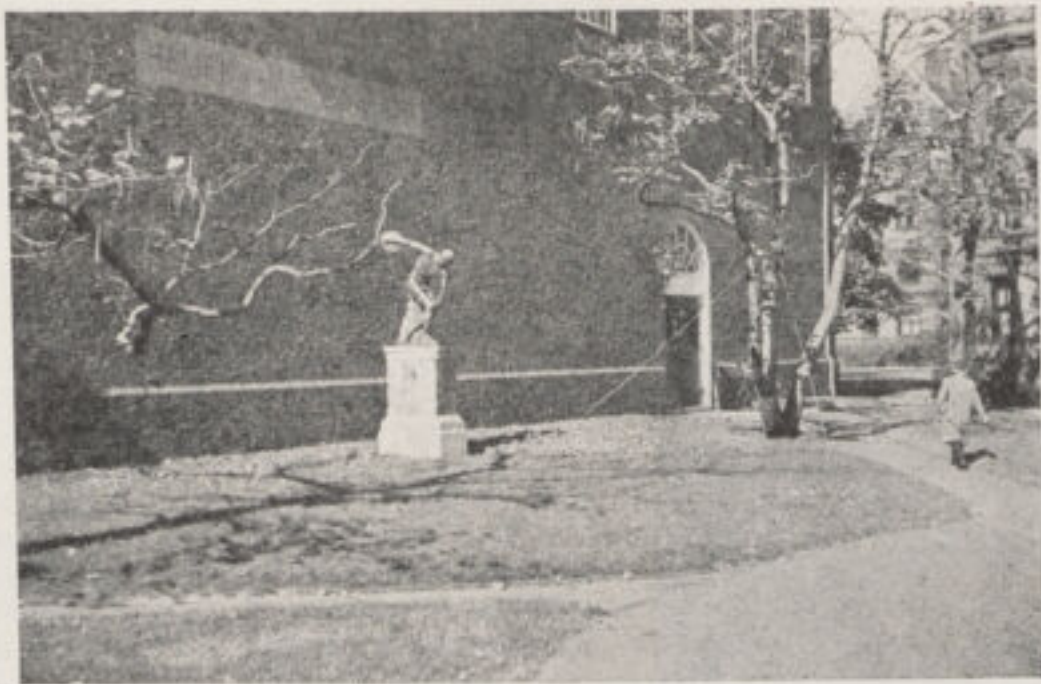
The psychology of the master-servant relations, embodied in our laws and ways

YEARBOOK SUBSCRIPTIONS EXTENDED

The deadline for subscriptions to the 1947 edition of the Harvard Law School Yearbook has been extended by the Committee to March 14.

Those who wish to place an order for the volume can do so at the Yearbook offices in Gannett House. Those who have subscribed but have not paid should do so before March 14, or make arrangements for credit.

The date promised for delivery of the book from the printers is May 15.



Hemenway Gymnasium, long occupied by the Navy as an experimental laboratory, has finally opened its doors. Not all facilities are available but will be shortly. See story below.

Hocking Delivers First In Series Of Lectures On Legal Philosophy

The William James Lectures in Philosophy are being given in the Spring Term by Professor William Ernest Hocking, Alford Professor of Natural Religion, Moral Philosophy, and Civil Policy on successive Mondays in Room D, Emerson Hall, at 4 p.m. The subject of the lectures is "Issues in Contemporary Philosophy of Law, with special reference to the foundations of International Law." This is the first in a series of articles on the lectures.

In his opening lecture Professor Hocking confined himself to history and definition for the most part. Speaking to what was principally a non-legal audience, his first task was to supply a definition, or at least a working concept of the nature of law. This done, he outlined some of the methods of non-violent settlement of disputes that have been and still are being used. These



WILLIAM E. HOCKING

served to point up "law" as the only satisfactory solution to the problems of peace. After discussing some problems in the philosophy of law, Professor Hocking concluded by listing the problems, common to international and "municipal" law that he plans to discuss in subsequent lectures.

These may be defined briefly as:

1. The non-rational elements of law: to what extent do the empirical aspects of law displace the general and purposive elements?

LAW SQUASH TEAM BEATS YALE 5-0

Although it rarely happens that any decisive result is reached in any controversy between Yale and Harvard Law Schools, last Saturday afternoon the Harvard Law School team settled the question as to which school had the better squash players when it defeated Yale 5-0 in the Payne Whitney gym.

In the closest match of the day F. H. Griffin of Harvard, defeated Wier 15-4, 13-15, 12-15, 15-4, 15-10. Griffin was previously a member of the Princeton team. J. Rousmaniere (former Harvard player) won over Pittman 15-12, 15-13, 12-15, 17-14. In the third match of the day C. A. Lord was the victor over Wainwright in three straight games 15-8, 18-15, 15-13. O. Williams, another former Princeton player, defeated Freeman 15-11, 15-11, 13-15, 15-5. J. King blasted out a win over Olena 15-12, 15-5, 15-13.

This is the first year that these matches have been held, but it is hoped that they will become an annual event and that next year the Yale team will come to Cambridge for a match at Hemenway.

2. Assuming that law has its goals, to what extent are these goals inconsistent with each other? "In particular, does the typical Kantian (and liberal) interest in individual freedom, characteristic of the nineteenth century, clash in its full development with the necessary concern for the total welfare, and the total community enterprise?"

3. Rights: of what use is the conception today?
4. To what extent can we set up a code for groups, and to what extent can rights and duties be attached to nations?

In defining, or explaining law, Hocking uses Kant's formula as a starting point from which to expand the popular conception of law as a means of settling disputes. Kant's formula is: manage your external behaviour in such a way that the free use of volition can coexist with the freedom of everyone else within a general rule. Hocking pointed out that this formula says nothing about limitations of freedom, neither does it tell what the rule is nor say there is only one solution. But, Kant does say that the solution must be general, that is, one solution must be chosen for everybody. And the whole statement, as a master law, is a law that there shall be law. Finally, every man is a cooperator in giving the law to himself, the individual is called on to govern himself. Kant describes a situation in which everyone freely recognizes that there must be a common rule whereas nobody alone can make his own solution a common one. Hence, it requires authoritative selection to give everyone effective freedom. Hocking concludes that, under this definition law gives a complete freedom than no law since it is the anticipatory elimination of conflict through the authoritative imposition of a common pattern for free behaviour such as every man wants and cannot alone supply.

However, this picture of law omits two important elements, in Hocking's view:

FOOD RELIEF FOR OVERSEAS BEGINS

Through contributions to be solicited tomorrow by the Harvard Food Relief Committee, law students will be given an opportunity to put bread in the mouths of hunger-ridden contemporaries abroad, it was announced yesterday by Richard M. Weissman, sixth term, chairman of the drive in the Law School. The quota for the University is \$25,000, which is enough money to provide food for the support of 1,000 students for one semester.

"For the second time the Harvard Food Relief Committee is making an important appeal to the Harvard Community," said President James B. Conant in a statement issued Monday. "The funds to be raised will go to the needy students at the Universities of Athens, Peiping, Vienna and Warsaw, and the international student rest center at Salzburg. Their plight is desperate; their need is great."

"The activity of the Student Committee in this far-sighted humanitarian enterprise is a cause for pride on the part of all those in this institution. The first drive was a great success. Those who are in a position to give must see that this effort does not fail."

Costs of administration are kept to a minimum and care is taken with evident success, to avoid any political use of the food.

NUMBER OF FAILURES UP TO 13%

Over One Fourth Of Men in First Year Get A or B

Out of the 344 first year men who took their examinations for the first time in February, 46 men, or 13.3 per cent failed, according to information released by Dean E. N. Griswold. The percentage of failures was slightly higher than in the class which finished its first year last October, when 11 per cent failed.

The number of men (298) who attained a satisfactory average, when added to the 14 repeaters who made the grade, gives a total of 312 men who advanced to the second year.

Of the 312 men who passed, including repeaters, 20 men or 6.4 per cent had an average of A or above. Sixty-two men, or 19.9 per cent of the 312 made B averages, 169 men (54.2 per cent) made C's, and 61 (19.5 per cent) made D's.

The man with an average of 70 or above stands in the upper one-fourth of the group which advanced to the second year. The middle man in the class has an average of 66 or above, and those with an average of 62 or below are in the lower one-fourth of the group. These divisions are approximate, because a number of men are on the line between each group.

No man out of the group taking the examinations for the first time failed for the reason that he passed all of his courses but failed to make the required average of 58 or above. Eighteen men failed who passed all of their courses but one, but failed to make the average of 59 required in such cases. Twenty-eight men failed for the reason that they received E's in two or more courses.

Of the 40 repeaters (men who failed last October and elected to repeat the second term, with the privilege of taking the examinations over again in February), 5 men passed all of the courses but failed to attain the necessary average. Nine repeaters failed with one E against them, and 12 failed with two or more E's. Twenty-six repeaters failed and 14 passed out of the group of 40.

Thirty-three of the 46 men who failed this time have thus far manifested an election to try again.

HEMENWAY GYM IS OPEN FOR SQUASH

The squash courts in Hemenway gymnasium are now open for the use of law students, it has been announced, but the opening of the basketball court will be postponed for an indefinite time.

Twelve squash courts are open, but for a short time only six of these will be at the disposal of law students, since the other six are reserved for the use of the Harvard College varsity.

The courts are open from 1 p.m. to 6 p.m., and reservations of courts can be made one day previous to the day of play. Two of the courts have been lined for the use of handball addicts. Admission to the gym is gained by the use of an athletic ticket, which can be purchased at a cost of \$1.75 per month, or by the payment of a daily fee of 35 cents.

The delay in the opening of the basketball court is caused by the fact that about 50 per cent of the floor must be replaced. The floor was damaged by experimental machinery installed by the Navy, which used the gym as a laboratory during the war.

The athletic association has been promised the material which will be needed for reconstruction of the basketball floor, and the length of time needed to put it in shape will depend on the materialization of these promises and the speed of the construction company.

The work on the basketball court, in addition to the reconstruction of the floor, will entail the application of several coats of paint, plus long drying periods in between. With these factors present, no estimate can be given as to when the court will be ready for the hoops.

PICK 28 STUDENTS FOR HONOR GROUPS

Review Takes 15; Board Chooses 5, Legal Aid 8



NORMAN THOMAS

THOMAS URGES GOV'T TO PLAN

Claims Present Actions Will Lead To Depression

Declaring that our economy was now an extra-ordinary, illogical jumble, Norman Thomas urged a logical theory of action in the face of the facts confronting us, in speaking on "Political Programs for 1948" at the New Lecture Hall Monday night.

The war and its aftermath have thrust upon the United States a far greater responsibility in world affairs than ever anticipated, said Thomas. The defeat of Germany and Japan has left us still with a huge military burden. Nobody seriously believes that prosperity is assured, and thus, insecure ourselves, we are being asked to make the world secure. He asserts that politicians, however astute, will not be able to avoid this background of the '48 issues.

The lack of a general philosophy, or a basic economic theory to cope with our internal problems will prevent intelligent dealing with the next depression, according to Thomas. Even Taft and Hoover no longer support complete laissez-faire, and a reversion to it is politically impossible. Private monopoly and government regulation of business have increased tremendously under war conditions, yet in the 1944 Browder, Roosevelt and Dewey all religiously espoused the doctrine of "free enterprise," which, in America, means all things to all people.

Thomas stated that depression is inevitable as long as people cannot buy back the economical equivalent of what they produce, which is the situation under capitalism. The last depression was never solved, and the most we ever accomplished was the subsidization of unemployment. Democracy will be corrupted by the dole, or made work, the unemployed, rather than subsidizing especially since the war seemed to prove to men that poverty in this country is unnecessary in the face of our great industrial capacity, and they will be unwilling to accept hard times with resignation in the future.

We, a people whose scientists have achieved unbelievable mastery over nature, still grope, socially, without a purpose, declared Thomas. We must

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Law School Placement Explained; Enlist Aid of Alumni In Job Hunt

What are my chances of getting a job in the city in which I would like to practice? How do I establish contact with law firms who are looking for young lawyers?

Any student who is looking for an answer to such questions (and who isn't?) should know what is being done by the Law School, under the direction of Dean E. N. Griswold, to help place its graduates, and what the student can do individually to help the placement effort.

The "contact man" for the school's placement effort is Harrison S. Dimmitt, Law School Secretary, whose principal duty is to visit all of the larger cities in the United States, find out from

Invitations to membership in the three honor groups of Harvard Law School—the Harvard Law Review, Board of Student Advisers, and Legal Aid Bureau—have been sent to 28 men who achieved high scholastic standing in the first year examinations just completed.

Of the group, 15 men with averages of 75.0 and above received the coveted invitations to serve on the Editorial Board of the Law Review. Five men with averages close to 75 were invited to become members of the Board of Student Advisers, and the Legal Aid Bureau invited eight men with averages of 74 and above.

The 15 men chosen for the Law Review, in alphabetical order (with their undergraduate colleges in parenthesis) are as follows:

Burton M. Abrams (CCNY), George A. Blackstone (Nebraska), Murray Cohen (NYU), Fred Fishman (Harvard), Robert F. Fuchs (Wisconsin), Frank T. Gray (Princeton), Robert M. Loeffler (Oklahoma), Charles T. Munger (Michigan).

Walter E. Oberer (Ohio Wesleyan), Sheldon Oliensis (Pennsylvania), Irwin Schneiderman (Brooklyn College), Richard L. Selle (Oberlin), Jerome G. Shapiro (NYU), John R. Todd, III (Emory U.), and Harry F. Weyher, Jr. (North Carolina).

The men invited to join the Board of Student Advisers, again in alphabetical order, are:

Judson J. Allgood (Harvard), Eastman Birkett (Dartmouth), Joseph H. Flom (CCNY), Benjamin Forman (CCNY), and John T. McNaughton (DePauw).

The alphabetical list of the men chosen by the Legal Aid Bureau follows: Walter H. Beckham, Jr. (Emory), Theodore A. Bruinsma (Washington & Lee), Lewis H. Johnson (Chicago), Alan Palvick (Harvard), C. Gorham Phillips (Williams), Walter M. Robinson, Jr. (Vanderbilt), Herbert L. Sherman, Jr. (Brown), and David I. Wendel (California).

LABOR AND LAW IS NEXT FORUM TOPIC

On Friday, March 7, the second meeting of the Law School Forum devoted to discussing industrial relations will take place in Langdell Court at 4:00 p.m. Mr. Willard Wirtz, chairman of the National Wage Stabilization Board, will discuss "Labor and the Law."

Mr. Wirtz was graduated from Harvard Law School in 1937 and was assistant professor of law at the University of Iowa from 1937 to 1939. Since 1942 he has been a member of various governmental boards created to direct the war effort. Prior to receiving his present position in January 1946, he was chairman of the appeals commission of the Board of Economic Warfare and a public member of the War Labor Board.

The series of discussions on labor-management relations will be concluded March 14, at which time Mr. Donald Richberg and Mr. Jess Freiden will evaluate remedies for industrial strikes.

Ma. Dimmitt's assistant on the home front is Louis A. Toepfer, Placement Secretary, whose job consists of advising students as to what positions are available, putting students in touch with the contacts arranged by Mr. Dimmitt, and learning from students where they would like to practice.

Mr. Toepfer's office is located in the basement of the West Wing of Langdell Hall, and it is here that students are urged to take their placement problems. Mr. Toepfer states that he is available to students of every term, and

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Editorials

Despite a considerable increase in the number of examination books to be read, grades for last term have been distributed with unprecedented speed. Such a result could have been achieved only by great effort on the part of the faculty. The Record considers that a word of appreciation is in order. Certainly those who were so freely criticizing when grades were delayed should join with us in recognizing that the already overburdened professors have exceeded all reasonable expectations in completing the grading at such an early date.

If the post-war crowding of Harvard Law School makes it a less pleasant institution in which to study than it was before the war, it even more emphatically makes it a less pleasant place in which to teach than formerly. The blue books are not least among the multiplied burdens. Their grading is a matter in which the interest of the student is much more immediate than is that of the faculty. The early release of grades accrues to our benefit and was achieved only by intensive work on their part. It is in recognition of this concentrated effort that we express appreciation.

T. J. O.

JUDGES NEEDED

Few among the upperclassmen would deny that their participation in moot case arguments was among the most valuable and most pleasant experiences of their first year in Harvard Law School. The training in analyzing facts, finding relevant authority, and then arguing the case has become an integral though only semi-official element in our education for the legal profession. The feature of Ames work which gives it a particular flavor distinct from course work is that the entire preparation points to an actual oral presentation in a simulated courtroom contest, with a decision both as to the merits of the question argued and as to the comparative skill of the competing advocates.

If the value of Ames work arises largely from the courtroom feature, so does one of the major problems which besets the Board of Student Advisers in administering this program of arguments—the need for judges. With the first year terms being disproportionately populous the demand for volunteer judges has been threatening to outrun the supply. Only by the cooperation of a high percentage of upperclassmen can the benches for all the first and second term arguments be filled.

It is in the interest of continuing this valuable first year program that we urge those students who receive postcards from the Board to give a favorable reply. The student judge can hope to find his part in the case arguments as stimulating for him as it is vital for the counsel.

T. J. O.

Letters to the Editor

To the Editor of the Record:

The situation in regard to the acceleration of the current 2nd term class seems to require a good deal of discussion and clarification. Before the Xmas vacation an informal poll of the class revealed that a large percentage, ranging perhaps up to 85%, definitely favored a six term, two vacation, pre-war Law School program as opposed to the seven term wartime program whose main advantages are graduation in February instead of June, 1949, and three short terms of electives rather than two long. The general impression of the class was that the school was willing to make the necessary administrative and teaching readjustments to divide the class into two sections, one to accelerate, the other to return to normal program, as long as the two sections were fairly equal in size. The main problem seemed to arise from the faculty's feeling that it had committed itself to acceleration and even if only a small percentage of the class desired to accelerate it would have to be accommodated. As yet no official statement from the Dean's Office on the alternatives open to current 2nd termers has appeared. (It is granted, of course, that if the problems of administrative and teaching readjustment, while all other classes are still on an accelerated basis, are insurmountable for all practical purposes, then there is no longer any issue.)

Besides their own ideas concerning the problem, the students have been supported in their desire for a return to pre-war programs by the expressed and implied opinions of their professors. To date, three of the five instructors have bemoaned the lack of time to cover adequately the material of the courses and have asked the class to approve extra class hours; the result of this is indicative of the problem. If the faculty wants us to have seven terms in place of six, it must be prepared to cover less ground per term per course.

This places the burden on the administrative faculty and the teaching faculty to get together and agree one way or the other. Since the Law School commendably does try to get student approval before major shifts of policy of this sort and does try to follow whatever mandate it may receive, the logical thing to do would be to poll formally each member of the 2nd term class, after having held a full meeting of the class with spokesmen for all points of view, during which the Dean's Office would lay down its policy for each major alternative result of the poll. In any event, if the faculty finds a small nucleus—too small to make up a teaching section—still wishing to accelerate, there should be a happier solution available than forcing all the class (and the faculty as well) to follow a teaching program and schedule which is unsatisfactory to the great majority.

Sumner T. Bernstein

(Ed Note: The results of a poll taken among the student body on this question will be published next week.)

To the Editor of the Record:

I was greatly amused at the speedy reply to the first installment of my article *Back to Serfdom* written by Mr. Grindle and printed in these columns. Amused because I and the people who believe as I do agree with him wholeheartedly. Mr. Grindle cites a quarter mile of statistics on the evils of monopoly and urges tighter anti-trust laws to better "make free enterprise work." His sources are reliable and his conclusion sound.

Mr. Grindle must note, however, that planners of the New Deal—Laski stripe are singularly disinterested in strengthening anti-monopoly action. They are fond of large accumulations of capital because same are easier controlled and remain ripe for 'nationalization' when the day of jubilee arrives. In all its days of power the mountain-moving New Deal did little or nothing to improve anti-trust legislation and the prosecutions it did attempt were farcical and political in nature. One is almost led to suspect a strange alliance of monopoly capitalists and planners to perpetrate the evil, though from different motives.

Our quarrel is not with those who seek to strengthen free enterprise but with those who seek to destroy it and substitute an alien despotism. England is a case in point. According to PM last week, the Labor Party now hopes to nationalize land for the reason that most of it is owned by a small group of dukes, etc. The reason is sound, the remedy tragic. Instead of requiring the dukes to split up their holdings and then providing some credit machinery like our Farm Tenancy Act to enable the tenants to buy family size farms, the Laski planners reduce British farmers to the status of hired laborers working on government land. The blackest monopolist could do no more thorough job. Law students are aware that ownership of all the land by the state in the person of the king was the very basis of feudal tyranny. Add to that talk of coming forced labor in British coal mines. Forced labor . . . all land owned by the state. Does that remind the reader of anything?

Robert Bracken, Jr.

The Book Shelf

Philosopher's Quest, Irwin Edman, Viking, \$3.00, 275 pp.

To the learned professors of philosophy occupied daily in regurgitating the ancient thinkers to sleepy Sophomores, Prof. Edman's new book must seem frivolous indeed. It adheres to no particular school of philosophy and is written in language that even a law student can understand without the aid of a dictionary.

To the man in the street the very title must bring a feeling of disdain. For Americans live largely by slogans and to the corner grocer "Philosophy" has connotations of long hair and dreamy-eyed effeminate impracticability: "Hell, it's all theory, ain't it. What good's that? I got to make a living."

But, probably both are wrong. Professor Edman's first interest has always been with philosophy's application to living. In one chapter he writes on an imaginary philosopher who "decided he would learn all he could from the scientists and the practical men of the world and from artists and from simple human beings in their daily doings." And, when the philosopher formulated his philosophy and published it, his ideas scarcely seemed to be philosophical ideas at all. "Our philosopher was seen to be a mature human being speaking to other mature human beings. And as they understood him, they were all philosophers together."

To one who has observed human beings, Prof. Edman's thesis has a ring of truth. For philosophy is not the special province of the university, and academic arrogance will not obscure the fact that wherever men question, wherever men seek beyond the immediate, wherever men dream, there are philosophers.

The nurse who asks "Why is it that the hopelessly sick, the paralysed, those with pain-wracked bodies are so often the cheerfullest patients. Is it possible that pain washes away the worst in people, that maybe some pain is necessary for all of us," is herself a philosopher. And the housewife, sitting at her window watching the heat waver from the dusty red brick road and the sun reflected in the pool of water where the ice truck stood a few moments before, asking herself "what's it all about? Where are we going?" is taking a few steps in philosophy. And as they speak from themselves, without knowledge of twenty-five centuries of thinkers, they are, perhaps, better original philosophers than those who merely repeat what they have read, and think that they have the ultimate answers.

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Off the Record

A LEGAL PRIMER The Nurse

Let us go down to the Stillman Infirmary and see the Pretty Nurse. Does she not look Tired? Last night she rubbed the Law Student's back and then had to hold his hands until three o'clock this morning so he would not be naughty. Today she gave the scholarly Graduate Student strychnine instead of castor oil, scalded the Saintry Divinity Student and forgot to feed two professors. Dear Children, if there were not Law Students Nurses would be much more Efficient.

Publius II

Gallery

SAMUEL WILLISTON



"A modern Socrates" is Learned Hand's description of Harvard's Samuel Williston. Today, at the age of eighty-five, Professor Williston remains an energetic and industrious legal scholar. To attempt to give the reader of this column a complete history of the life of this illustrious and almost legendary figure would be futile. The best that can be done is to hit the highlights of the career of this man whose life has been a series of outstanding achievements and honors.

Samuel Williston was born in Cambridge on September 24, 1861. He entered Harvard College in 1878 and received his A. B. in 1882. The next three years, before his entrance into Harvard Law School, were spent partly at Shortridge's Academy in Media, Pennsylvania teaching French and German. Fortunately, for the legal profession Mr. Williston decided to study law, and, fortunately for the Harvard Law School, he chose Harvard as the place to study. He made an outstanding record as a student here and became a member of the editorial board of the newly formed Law Review. Professor Williston received his A. M. and LL.B. in 1888 and immediately started to practice law as a clerk in the office of a Boston firm. His teaching career started at Harvard Law School in 1890 with the teaching of Contracts, Bills and Notes, and Common Law Pleading, and he continued to be actively engaged in teaching, with few interruptions, until 1939 when he retired. He received an LL.D. from Harvard in 1910 and the same degree at various times from Yale, Amherst, and Williams.

Professor Williston has always been a proponent of the "Socratic" Method of instruction. Judge Hand's description of Williston the Teacher in the foreword to Prof. Williston's autobiography, *Life and Law* is a word picture of the way in which Prof. Williston introduced his students to the intricacies of legal thought:

"For, while this Socrates of ours never coerced out assent, like his prototype he did not let us alone until we had peered into the corners of our minds, and had in some measure discovered the litter they contained. Such self revelation was indeed often painful—is painful still—but out of it came a gratitude which has endured."

As author Prof. Williston is numbered among the most prolific and esteemed of legal writers. Anyone with the slightest knowledge of law is well acquainted with his famous treatises on the Law of Contracts and on the Law of Sales. These two works have become landmarks in their respective fields. The Law Review and other articles which Prof. Williston has written are too numerous to enumerate here, but they have been many and of the same stature as his two most famous works. As the Reporter for the American Law Institute's *Restatement of the Law of Contracts* Prof. Williston supervised the drafting of that work and to a great extent did the actual writing of it. He was, as always, ready to give his time unstintingly in the interest of improving our American legal system.

Mr. Williston has long been associated with the Commission on Uniform State Laws and is the draftsman of the uniform laws of Sales, Bills of Lading, Warehouse Receipts, and Stock Certificates. His official capacity with the Commission was as the Massachusetts Commissioner and he served in that capacity from 1910 to 1929.

In 1929 Prof. Williston received, what he calls in his autobiography "Perhaps the greatest honor of my life," the first award by the American Bar Association of a gold medal "for conspicuous service to American jurisprudence." It was truly a great honor for numbered among the members of the committee who recommended the award were Chief Justice Hughes and Justice Sandford of the Supreme Court of the United States and George Wickersham, former Attorney General of the United States and President of the American Law Institute.

At eighty-five Prof. Williston continues actively to carry on the work of a legal writer and practitioner. He is at present engaged in completing the third draft of his voluminous treatise on sales, the final draft of which has probably already been sent to the publisher for publication. As a practitioner Mr. Williston is presently being retained by Gene Autry, the singing-cowboy movie star, as counsel in litigation pending in California in which Autry is endeavoring to get out of his present contract with Republic Inc. Autry must be sleeping easily these nights for if there is any man in the United States who is competent to handle a contract case, that man is Samuel Williston. Mr. Williston has, since 1938, been associated with the Boston firm of Hale and Dorr and has kept regular office hours at the law school in his Langdell Hall office. He is at his document-strewn desk promptly at nine each morning and is hard at work until one in the afternoon.

Samuel Williston has seen Harvard Law School grow virtually from his infancy. He has seen its student body increase nearly tenfold. He has seen its faculty increase from five to almost forty. He has had as students practically all of its eminent graduates of the last fifty years—Frankfurter, Burton, Augustus and Learned Hand, and Justice Swan, to name a few. If any living man does, Samuel Williston means Harvard Law School.

We all may wonder what it takes to reach the heights of success Professor Williston has reached in his chosen profession. Mr. Williston's advice to the young law school graduate is, as he smilingly put it, "take responsibility whenever you can get it—and make good."

M. A.

Sub Judice

OH JURY, BE HARD AND DO NOT CRY****

A father and two sons, of draft age, were convicted in May, 1945 of conspiracy to conceal and of concealing assets from the estate of a bankrupt. The method used for the concealing was a false burglary, which the prosecution proved by much circumstantial evidence. On appeal the chief contention involved a heart rending and soul searching appeal by the defendants' counsel to the jury "not to destroy all the male members of this family by a verdict of guilt." To this the prosecutor replied: "A lot has gone on since December, 1941. It is unfortunate to see a father and two sons on trial. I do not think you will waste any crocodile tears over the fact that in this particular case we have a father and two sons on trial. A lot more tragic and horrible things have happened—" Counsel for the defendant objected to the statement as improper, "dragging the war into the case." The Trial Judge made no ruling on the objection but told the prosecution to sum up. On appeal the CCA found that the prosecutor's remark was intended to counteract the defense counsel's emotional appeal, several times repeated, not to destroy accused's family. The majority found no reversible error.

Judge Frank dissented and stated that even if no single one of the references to the war was reversible error the cumulative effect of repetitious "dragging in the war" with a seemingly deliberate purpose of arousing the jury's prejudice required a new trial. *U. S. v. Licht*, 158 F. (2d) 458, (CCA 2nd, 1946).

WOMAN, NOT MONEY, IS THE ROOT OF ALL EVIL

Owen was employed as deliveryman and salesman for the Butter-Kist Bakery. At the close of each day, on instructions of the employer, Owen took his truck home with him and parked it for the night. He had specific instructions not to drive the truck on personal business or during the night. 4:30 one afternoon Owen made his last call at the Kitty-Kat Club (The verbal volubility so often referred to by Professor Leach might take exception to the spelling here. Why not Klub?) and drove home along his usual route but on the way succumbed to the temptation of Eve. He stopped at his girl friend's house, parked and went downtown in a friend's car, remaining in the city for seven hours admittedly on a frolic of his own. At midnight Owen returned with his girl friend, although the report makes no mention of his having originally left with her, deposited his friend at her home, picked up his truck and started home. On the way he "met an old Chevrolet" and from a resulting brush with the latter was injured. Owen filed under the Texas Workman's Compensation Act and sued in the Federal District Court. The trial court held that since he deviated from his master's business for his own pleasure and thereafter, in violation of instructions drove for his own convenience in the night confronting hazards causing injury that he lost the right to recover. Verdict and judgment for the defendant insurance company was affirmed. *Owen v. Hardware Mutual Casualty Co.*, 158 F. (2d) 471 (CCA 5th, 1946).

HE JOINED THE NAVY TO SEE THE WORLD****

Ward, an attorney, enlisted in the Navy as a yeoman in 1942. From June, 1944 until honorably discharged in 1945 he performed no duties as a yeoman but was assigned and performed duties of a land title attorney in Honolulu. For this service he received only pay and allowances of a Chief Yeoman. Unsuccessful efforts were made by him and on his behalf to secure more adequate compensation or to be returned to the ordinary duties of a yeoman. Upon discharge, Ward brought this action under a Federal Statute allowing such claims, contending that by relieving him of his yeoman duties and using him as a land title attorney the government obligated itself to pay him the value of his legal services less what he received as a yeoman. The District Court held that he was not entitled to the additional compensation because of Federal Statutes which prevent one in government service whose compensation is fixed by law from recovering extra pay for performing additional services unless Congress authorized the services and provided for the payment. The CCA affirmed not only on the statutory ground but because from the facts no promise could be implied on the part of the government. Ward did not fill two positions at once, which is the usual situation where recovery is granted and moreover, Ward was following orders of Superior Officers and was not acting in reliance on an express or implied contract. *Ward v. U. S.*, 150 F. (2d) 499 (CCA 8th, 1947).



—Harris B. Steinberg, '35

JUSTICE TRIUMPHS

The Witness Stand

Question: Are you satisfied with an examination calling for one final at the end of the first and third terms, and five finals at the end of the second and fourth terms? Can you suggest any improvement over the present arrangement, if you are not satisfied with it?

1. W. Powell Bland, Goldsboro, North Carolina.

5th Term.

No. The work is too unbalanced for a course of continuous study under the accelerated program, as evidenced by the "third term slump." And, I believe the beginning student would profit more from an intensive study of fewer courses at one time. I should recommend one-term courses, with examinations each term. It is important that the examination come at the end of the entire course so that the student gets the whole course in one package.

A suggested course would be (number of hours in parenthesis): First term, Torts (5), Criminal Law (2), Judicial Remedies (6); Second term, Contracts (5), Property (5), Agency (3); Third term, Trusts (4), Equity (4), Sales (3), Wills (1); Fourth term, Business Assoc. (5), Bills & Notes (3), Future Interests (4).

2. Robert J. Gabler, Jamaica, L. I., 5th term.

Though it might be said that the general policy of the Law School is not to make things easy, I think the examination schedule puts a burden on the Freshmen which is not encountered in latter school years. Moreover the schedule does not give the student an adequate idea of his current class standing. I do not think the single examinations in the first term should be made the basis of awarding several of the scholarships for later work in the school. These objections could be avoided by half-year examinations under the present schedule of courses, or by having half of the first year courses taken in the first term and the other half in the second.

3. Carl L. Shipley, Pasadena, Calif., 4th Term.

No. The argument that certain courses can only be properly examined at the end of the two terms, when the student has a "view" of the whole field, seems to me to be so much hogwash. It might as well be argued that only one examination should be given—at the end of three years covering the whole field of the law. Then the professors who espouse this peculiar theory would be treated to the melancholy spectacle of the entire senior class cramming for twenty-five or thirty courses at once. Personal property and real property could be saved in two. Likewise the forms of action and their code counterparts could be treated separately from trial by jury and the balance of the judicial remedies book. Torts and contracts could be divided in two sensible parts by the same people who stuffed them into the books in one part. No doubt lambasting the student with five exams at the end of the second and fourth terms affords an opportunity for some students to display unusual gifts of the mind, such as a prodigious memory. Certainly such exams disclose something, but maybe it isn't the stuff from which Sir Orlando Bridgeman is made. Maybe if the annual examinations were made for five exams didn't so emphasize a tongue-tip knowledge of an undiluted mass of fact material on the off chance it might be useful, the law school might find it has among its students more sheep and less goats.

4. Robert Rubinger, New York City, N. Y., 4th Term.

No. However, the proposal which I intend to suggest probably cannot be realized until the student body is appreciably reduced, and the Law School is once more running on its normal schedule.

I can see no reason for giving a full-year examination in Property I. Certainly an exam in Personal Property and a separate test in Real Property can be devised without lowering the true value of the course. Judicial Remedies can be divided also, so as to give an examination in the Forms of Action and Trial by Jury at the end of the first term, and one in Pleading, etc., at the end of the second. As for second-year courses, why not make one-term courses of those which cannot be divided?

Alumni Notes

Governor Charles M. Dale of New Hampshire has nominated three Law School graduates to fill vacancies on the N. H. Superior and Supreme Court benches. Edward J. Lampron, LL.B. '34, was named for the superior bench; Superior Court Chief Justice Amos N. Blandin, LL.B. '21, was named for the Supreme bench; Justice John R. Goodnow, LL.B. '31 was recommended as Chief Justice of the Superior Court, to replace Blandin.

Ex-'36—John Corbett died on February 21 at Laramie, Wyoming.

LL.B. '00—B. L. Pettigrew, former Mayor of Great Neck Estates died on Feb. 26 at Great Neck, L. I. During his legal career, he specialized in insurance law, and was the U. S. legal representative for the Employers Liability Company of London. He was a trustee of Bates College of Lewiston, Me.

LL.B. '08—Henry H. Foster died on February 21 at Lincoln, Nebraska.

LL.B. '11—Albert T. Gould, one of the founders of the firm of Bingham, Dana & Gould, internationally known as an admiralty lawyer, died on March 1 in Cambridge, Mass. Long interested in maritime affairs, Gould was a former member of the Executive Committee of the Maritime Law Association of the United States, and a member of the governing board of the Maritime Association of the Boston Chamber of Commerce, serving as Chairman of that organization from 1933 to 1940. He was a member of the Board of Overseers of Bowdoin College from 1933 to 1943 and had been a trustee of that college since 1943. From 1926 to 1938 he had served as President of the New England Grenfell Association, and at the time of his death was a director of the International Grenfell Association.

LL.B. '21—John J. McCloy was elected to the post of President of the World Bank on Feb. 28. Although the election is the nominal result of the action of the directors of the bank, the choice of a candidate rests largely with the Secretary of the Treasury of the United States. Activities of the bank are participated in by 40 nations, but the position of the United States is predominant in view of the fact that the bank plans to raise a large proportion of the money which it will make available for international loans by selling its securities to American investors. McCloy is former Assistant Secretary of War and a New York lawyer. He is not primarily trained as a banker, but prior to his service in the War Department had been engaged in corporation practice.

LL.B. '33—Julius J. Rosenberg, who joined the legal division of the War Shipping Administration in 1942, has resigned from Government service, and will resume the practice of law at 39 Broadway, New York. At the time the WSA expired as a war agency last August 31 Rosenberg was executive assistant to Capt. Granville Conway, War Shipping Administrator. More recently he has been associated with the Maritime Commission.

LL.B. '42—The engagement of Miss Mary Elizabeth Hayes of New York City, (daughter of the war-time U. S. Ambassador to Spain, Carlton J. H. Hayes), to William Duane Tucker, Jr., LL.B. '42, has been announced. Tucker is with the New York law firm of Davis, Polk, Wardwell, Saunderson & Kiendl.

FORUM—(Continued)

of thinking, has proved another cause of disputes, Mr. Golden emphasized. He attributed the acceptance of such methods as the yellow-dog contract to this attitude, and said that the union demands for a closed shop were a direct outgrowth of management's use of these devices.

Since unions were born in strife, the attitude of distrust and suspicion is very natural. The sometimes extreme demands of labor are a result of these conflicts and suspicions. Mr. Golden admitted that the newly won power for unions under the Wagner Act sometimes has been misused, but he averred that the example set by employers in the use of power was not an inspiring one.

The recent wave of strikes was a result of not only these conditions but also the immediate need to keep wages at wartime levels in view of the good profit position of management, Mr. Golden said.

BOOK SHELF—(Continued)

To show what philosophy means to him, Edman in one chapter imagines that Philosophy has been outlawed in America by a sort of philosophical Volstead Act. Within a generation the Act is repealed and "Audacious hypotheses again spurred people to try new ways of living and doing and experiencing . . . men turned to philosophy, as man had turned to it in the past, for a disciplined dream, a coherent vision of what men might make of the world and of themselves . . . nor did it surprise anyone that some of the freshest speculations came, as they had come in earlier generations, from outside departments of philosophy, from outside universities altogether . . . such play with the infinite once more offered men, amid the oppressions of the actual, a world elsewhere in which, if only briefly and on occasion, men may spaciouly and soaringly live."

Perhaps "practical" men will say of "Philosopher's Quest" that it is "just theory, 'words, words, words' which don't mean anything in ordinary life." Lawyers are supposedly the most practical of men. How many lawyers will doubt that Judge Learned Hand is right when he says that "The Spirit of Liberty is the spirit which is not too sure that it is right . . . the spirit which seeks to understand the minds of other men and women." Yet, the "impractical, theoretical" philosopher comes to the same conclusion when he says:

"The convinced people are really the dangerous ones, for they are the fanatics, the conquerors, the intolerant ones. They have the 'truth' and they will not let others have their doubts . . . The unconvinced . . . are those who . . . see the possibilities of all human points of view, who are convinced only that there is no absolute provable and true. Perhaps another name would be better for the more benign species of the unconvinced. I'd rather call them the unchained. They subscribe to no orthodoxy, cling to no doctrine, cram no literal faith down other people's throats. But, they have the tentative faith of the true humanist; they have the audacity of hope and the daring of adventure. They win converts by persuasion, by opening up horizons which they invite others to explore with them."

And so, Professor Edman speaks not in terms of philosophy alone, but in terms too of poetry and art and music and the common experience of man. In his company of men on the Philosopher's Quest he includes all "those whose hearts have not been dulled by routine or crushed utterly by disaster . . . those whose minds have not been paralyzed by habit and superstition and folly . . ."

As the wisdom of the man speaks from the pages of his book it tells of man's never-ending quest for an answer as to what constitutes the first principles and the ultimate end. The answer is somewhere beyond the next rise, just over the horizon. And as the philosopher's quest causes men to life up their eyes to seek, it is, perhaps, in itself an ultimate end.

H. K.

NORMAN THOMAS—(Continued)

somehow or other learn to manage our resources and use them collectively, for the good of all. He emphasized that an entity such as the state was to benefit, or even merely the working class, but all the individuals in the economy.

In order to eliminate the ruthless boom and bust cycle of capitalism we must resort to conscious planning of our economy. Certain industries must be publicly owned and operated natural resources, utilities, and monetary institutions being prime examples, according to Thomas. They should be administered on the order of the present TVA set-up, but with representatives of consumers and the particular industry's worker's on the board. Thomas does not think that such public corporations endanger our liberties at all.

SOCIAL CLUBS MAKE PLANS

Chancery, Lincoln's Inn, King's Bench Schedule Dances, Smokers

The Law School's three social clubs, Chancery, Lincoln's Inn, and King's Bench, have tentatively announced their programs for the spring semester, which include not only formal and informal dances and dinners, but the organization of club athletics as well.

Chancery, according to Julius A. Leatham, president, will have two informal dances this spring, on March 8th and April 5th. The club will give a smoker for the faculty on March 14th, and an informal party on March 22, both at Kendall House. The Harvard Law School Formal Dance at the Somerset Hotel on March 21 will be attended in a body by the members of the Chancery Club, and they will hold their own spring formal on April 18th, at a place as yet undetermined.

Lincoln's Inn Society will probably have two dances this spring, though definite plans have not been formulated, according to Douglas Mercer, president. Since the Inn regards itself as primarily an eating society, it has been somewhat hampered by the fact that its house was sold during the war. Pending the acquisition of another, however, the facilities of the Hasty Pudding Institute of 1776 are being used. Lincoln's Inn and Chancery are both laying plans for the formation of squash and tennis teams, with the expectation of engaging in other sports if the opportunity and talent arise.

King's Bench, the newest of the three clubs, has gotten off to a flying start, with a membership of over one hundred. Upon the completion of the formalities of incorporation, the club expects to hold weekly luncheons, with speakers from both the Law School and outside. According to Norman A. Witt, spokesman for the pro tempore Council of Justices, bi-monthly socials will be held on Friday and Saturday evenings at Kendall House. Later in the year King's Bench is planning to have a testimonial dinner, to name its selection for "Professor of the Year," on the basis of popularity and teaching ability. On March 28th the society will have a buffet supper, and then attend the Law School Forum in a body to listen to Thurman Arnold discuss the "Restatement of the Liberal Creed."

PLACEMENT—(Continued)

that the information he has is not restricted to students who are about to be graduated.

The field activities of Mr. Dimmitt since he started full-time placement work have led him to the majority of the large cities in the East, including Washington, Baltimore, Wilmington, Philadelphia, New York, Rochester, and Buffalo.

He is currently visiting Midwestern cities, including Cleveland, Toledo, Detroit, Chicago, Milwaukee, Minneapolis, and St. Paul. Eventually he hopes to establish contacts in all of the larger cities in the United States.

When he visits a city, Mr. Dimmitt learns what the demand is for law graduates, and passes the information along to Mr. Toepfer, who makes it available to the students. More important, Mr. Dimmitt enlists the aid of Harvard graduates in those cities to serve as a starting point for students who go there looking for jobs.

These alumni volunteer to keep account of job opportunities as they arise and report to the Placement Secretary, and also to put students in touch with law firms who are looking for men.

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Open Letter Reply To Serfdom Article

Although letters to the Record are, in general, restricted to 300 words or less, the following letter by Philip Baskin is considered to merit publication in full. It is in answer to Robert Bracken's article which appeared in the Feb. 19th and 26th issues of the Record.

(An open letter to Mr. Robert Bracken, 2nd term).

I was very interested, Mr. Bracken, in your impassioned plea for your vital "Fifth Freedom." As a reader, I was disturbed chiefly by four things:

(1) You assume certain facts which are historically incorrect, thus weakening my faith in your reasoning;

(2) You set up general propositions without being specific enough to let me know on what we agree or disagree.

(3) You toss about words and phrases like "so-called liberals" and "planners" as indiscriminately as people today hurl shouts of "Red"—"Fascist," "Radical"—"Reactionary" at each other.

(4) At times you assume an Olympian capacity to see through problems which have puzzled Man for a long time.

To show you what I mean, I refer to portions of your analysis.

You say that "out of the welter of the latter dark ages there arose two new ideas of law and economics, the Common Law and free enterprise. The Common Law and free enterprise were not twins emerging from the same historical womb. The Common Law arose in feudal England. Free enterprise existed in the days of the tyrannical Greeks and Romans, and before."

To say that Civil Law is the enemy of personal freedom is to draw an unwarranted conclusion. For example, Feudalism to which you point as a low in baseness, existed as happily with the Common Law of England as with the Civil Law of other nations. And though Civil Law has existed in France, that nation, in some respects, gives its citizens even more rights and more personal freedom than we have.

You say that the return to totalitarianism is easy under Civil Law. But in another passage, you attempt to show that England, via its present "socialism," is on the road to totalitarianism. Yet, England is the fountainhead of Common Law.

You accuse the Civil Law of settling disputes in line with the public interest as the judge sees it. Our judges never allow their ideas on public welfare to interfere with their interpretations? I'm happy that at last someone has exploded the myth that "the Constitution is what the judges say it is."

You are disturbed over the lack of judicial review of administrative decisions. Without going into the pros and cons of the matter, what, in the final analysis, would such a review accomplish? The judges would themselves be merely another set of administrators, in many cases far less effective in dealing with the problems involved than those who specialize in those problems.

For example, if the CAB set up a certain safety regulation and an airline complained, do you suppose a judge would say that the CAB authorities were wrong in this application of a general directive to make the airways safe?

There are administrative review tribunals. I suppose we could clothe the members in black robes and call them judges. What difference in the results? Actually, the basis for most of the dissatisfaction with the boards is that the

disgruntled dislike the legislation the boards enforce. But judicial review won't change that. If you want a change, turn to the legislative body.

I was really bothered by your outburst that this system leads to injustice to individuals. To sneer at the system of administrative agencies merely on that account strikes me as a bit Utopian. Most of our legal decisions and procedures, at one time or another, bring hardships to certain litigants and frequently a court's decision makes that admission. Would it help very much, then, if we set up another review layer atop our present judicial construction?

The plain truth is that when the majority oppose certain of our economic and political convictions we rant against "majority dictatorship" and say, as you did, that insidious forces "bore within us whispering poison formulas into ears untrained to discern the truth." When our views coincide with the majority, or rather, when the majority agrees with those of us who have "trained ears," we point to a "mandate" and praise Heaven for the fundamental common sense of the people who cannot be misled by false prophets.

You say that Fabian regimes show an alarming tendency to become the fore-runners of Communism and Fascism. I doubt whether the Czarist regimes which preceded the Russian Revolution were Fabian. In Germany, I don't suppose that Hindenburg and men like him who preceded Hitler, would fit the description. In those cases, I suppose the Fabians would say that had their programs been instituted the dictatorships would not have arisen.

Are you suggesting that there is only one "American" way of looking at free enterprise? Or is it possible, do you suppose, that two people may believe in free enterprise and yet have different ideas of what will make it work better?

Is it illogical to think that perhaps among the enemies of free enterprise are those who enfold themselves in its banners to castigate all those who would suggest changes or who even suggest that the system needs improving?

True, indiscriminate change is to be avoided, but you indicate throughout your article a fear of change itself. That is a strange attitude on the part of a law student who has seen that the Common Law has undergone constant change.

What I would like to know is what specific things you don't consider as rightfully coming under free enterprise. Just what ideas of the "so called liberals" don't you consider American? Who are these "insidious planners" and what plans don't you like, all plans or just certain plans?

You just can't start out with a general theory, ring in some disconnected historical events, some facts historically incorrect, some quotations from Charles Beard, Dean Pound, Justice Frankfurter, some out of context, embellish the whole with rhetorical phrases, and then expect your reader to have such faith in your dire predictions of the future that he will immediately go out to buy tight pants and a powdered wig to prepare for a return to the period of Louis XIV.

In short, Mr. Bracken, I feel you had a rousing Fourth of July speech, and you pulled all the stops. But why, oh why, did you waste it in February?

PHILIP BASKIN
2nd term

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Calendar

THE LEGAL WORLD
Grades

Although no definite dates have been announced, it is expected that all grades will be distributed by next Tuesday afternoon.

Law Review and Reprints

First term students who purchased subscriptions to the current volume of the Harvard Law Review may secure the first three issues of this volume at the Review office in Gannett House between 12 noon and 2 p.m., and from 4 to 5 p.m., Mondays through Fridays. Other materials, including selected essays, may be purchased at the office during the same hour.

June, September 1947, and February 1948 Graduates

A representative of the General Motors Corporation will be here in Cambridge and wishes to interview men of the above classes who have backgrounds of mechanical, electrical, and chemical engineering. Men with the necessary qualifications interested in patent work for this corporation should call at the Placement Office before March 8.

Ames Competition

First term—A tentative list of the make-up of first term clubs is now posted on the bulletin boards. The Student Board should be notified of all errors or omissions by tomorrow (Thursday). Men listed who do not intend to compete should also notify the Board by tomorrow. Final lists will be posted Friday.

First term clerks pro tem (marked by an asterisk on the tentative list) will meet at 2 p.m. today (Wednesday) in Austin West.

Facts for the first term arguments will be issued beginning Monday, and will continue through March 20.

Second term—Brief conferences for those who received their facts on March 3 will be held on March 11. Conferences for those who received their facts on March 5 will be on March 13.

The following are important dates in the first and second term Ames Competition:

First term fact issues: March 10 through 13; March 17 through 20. First term brief exchange: March 25 through 28; April 1 through 4. Second term arguments: For those who received facts on March 3—March 24. For those who received facts on March 5—March 26.

Veterans

Saturday, March 8, is the deadline to order supplies through the Veterans Book Order Office at Weld Hall. This applies only to notebooks, pencils, and similar supplies; it does not apply to text books which may be purchased as required.

Dependent subsistence allotments. Veterans who will be getting married while at school should, prior to marriage, go to Weld Hall, room 17, to fill out a form letter informing the Veterans Administration of the coming marriage. This will cause the additional subsistence allotment for dependents to become effective as of the date of marriage. If notification is given after marriage, the effective date for the additional allotment will be as of the date of notification.

Law School Formal

The formal spring dance will be held on Friday, March 21, 9 p.m. to 1 a.m. at the Hotel Somerset, Boston. Music will be furnished by Chappie Arnold's orchestra.

Law School Forum

Labor and the Law will be the topic on Friday, March 7, in Langdell Court. Willard Wirtz, Chairman of the National Wage Stabilization Board, is the speaker.

The Law Wives

There will be an evening of duplicate bridge tonight, at 8 p.m., in Kendall House. Frank Perkins, the Herald-Traveler bridge columnist, will supervise. Husbands are invited.

On Tuesday, March 11, 3 p.m., Mrs. Lillian Dunbar, director of home service department, Cambridge Gas Light Co., will speak in Kendall House on Solving Your Cooking Problem.

Law School Lapel Pins

Harvard Law School lapel pins are on sale at Kendall House, 12 to 2 p.m., Monday to Friday inclusive, selling for \$1.25 each.

1st Term Section I

On Saturdays, Professor Brown's Contracts class, 1st term section I, will meet at 11 a.m. in Austin West rather than at 12 noon.

Contracts

First Term Section I

On Saturdays, Section I, Contracts, First Term, will meet at 11:00 a.m. in Austin West rather than at 12:00 noon.

THE OUTER WORLD

Ellis G. Arnall, former Governor of Georgia, will speak on *Whose Country is This, Anyway?*—at Jordan Hall, March 9, at 8 p.m.

Advisers Report On Questionnaire

(The following is a summary of a report prepared by James W. Perkins, 3L, and Don Alexander, 2L of the Board of Student Advisers. Under the Board's auspices it is requested that any questionnaires still outstanding be returned to the Board.)

The response of the student body to the "Student Questionnaire on Curriculum," distributed during the Fall Term by the Board of Student Advisers, was neither overwhelming nor dismaying. Questionnaires were returned by 101 of the 227 students who received them. In determining the control group to whom copies should be sent, an attempt was made to select a cross-section of the student body, particularly with reference to grades. The answers, while not always written with care, showed a responsible consideration of the questions asked. They are discussed below, question by question.

PLANS FOR FUTURE

What use do you intend to make of your legal education? was the first question asked. A surprisingly large number (76) said that they intended to practice law. Six students were specific, naming Aeronautical Law, Admiralty Law, Corporation Law, International Law, and Patent Law as their chosen fields. Two men said they would practice or teach law. Fourteen answered Law and/or other vocations, including Accounting, Industrial Relations, Politics, and non-elective federal or international work.

CASE METHOD

What do you conceive the case method to be? was question two. The answers to this question were not illuminating. The students seemed to assume that stating the cases and student discussion are a part of the so-called case method. A number described the case method by such outward appearances. Most answers said hardly more than that the case method is the teaching of law from cases rather than from texts. Five men said that the case method is an inductive and two that it is a deductive study of law. One said it is like learning to become an architect by building Cape Cod cottages.

3. Is the case method, as you conceive it, being used too much, too little, or to an approximately proper degree? (In answering questions 3, 3a 3b, and 3c do not hesitate to specify particular classes.) Four men, all in upper terms, said the case system is used too little. Fifty said it is generally used to the proper extent. Eighteen said it is used too much, 13 of these being first-year men. The remainder said that whether it is used too much or too little depends on the particular course.

3a. Is the emphasis on stating cases too great, too little, or about right? The tendency, if any, was to reply that the emphasis was about right or too little. The votes in favor of stating cases were heaviest in the upper terms. Six second and third-year men suggested that the professors should require the students to state cases correctly and to stand while stating them.

3b. Is the division of class time between lecture and student discussion too favorable to the former, too favorable to the latter, or about right? Forty men said without qualification that the division between student discussion and lecture is about right. Some said the division varied and rightly so depending on the subject matter of the course. For example, there is properly more lecture in Real Property than in Torts. Some said the classes were too large for discussion to be of much value. Fourteen said unqualifiedly that there is too much discussion. Two men, both in their third year, said unqualifiedly that there is too much lecture.

3c. What suggestions have you, if any, as to how the use of the case method should be improved or diminished? Several students suggested that the case-books include more textual material. It was recommended that historical material

be summarized rather than inserted in case form. One man felt that material should be condensed rather than merely referred to in footnotes, since mere reference gives no clue as to its value. Another suggested that the cases be shortened, citing Professor Scott's *Cases on Trusts* as example of what should be done. Some first-year men wanted short lecture summaries at the end of each section of a course. There was disagreement as to whether cases should be discussed more in groups. A number of students asked that the professors control the discussions better. Three wanted students to be assigned cases in advance for recitation rather than to be called on at random. Professors were criticized for speeding up before examinations and for speaking too softly. Unique suggestions were film strips for Corporation Accounting and training films for a course in procedure.

4. Should the use of seminars be expanded? (Please consider the practical handicaps involved, remembering limitations of space, time, and money.) First-year men were inclined to answer affirmatively or not at all. Third-year men were evenly split. The totals were as follows: Yes, 14; If possible, 22; No, 12; and Impossible, 5.

ELECTIVES

5. Under the present system of electives and required courses, third-year men can take only a small portion of the third-year courses that are offered. Should some method be devised whereby each man would have an opportunity to learn more third-year material? Again the first-year men were inclined to answer affirmatively or not at all, and the third-year men were about evenly split. There were 43 "yes" answers and 38 "no" answers in all. Typical "yes" comments were, (1) The present trend toward specialization makes it a practical necessity. (2) Students who know just what sort of law they will need in the future are required to spend large portions of their time with courses which have little or no relation to their needs. (3) The opportunity should be provided without lengthening the time required for a degree. Typical "no" comments were, (1) The requirement of seven terms with electives in the last three adequately covers specialized fields. (2) The twelve-hour class week allows adequate opportunity for auditing other courses. (3) A thorough knowledge of basic first and second year courses is necessary for the bar exams. (4) over-specialization is dangerous.

5a. If so, what method do you suggest? The answers to questions 5a(1), 5a(2) and 5a(3) and 6 suggested some methods. Other suggestions were to continue the seven-term requirement, to combine Sales and Contracts, to publish lectures in all third-year courses in book form, to require only three years of college and to extend the law course to four years, to provide survey lectures on various third-year courses not taken for credit, to lengthen the school year, to adopt the European system of year-round classes, to reduce the time spent on personal property, including more future interests in the first year and eliminating it from the second-year, and to reduce the time allotted to Equity or to cover the same material in other courses.

5a(1) Should some second year courses be made elective so that third year material could be studied in the second year? About half the first-year men, one-third of the second year men, and only one third-year man declined to answer this question. A number of these failed to answer because they had answered "no" to question 5. All classes were about evenly split on this question, the totals being 34 "yes" answers and 36 "no" answers.

5a(2) If some second-year courses should be made elective, which ones? The answers to this question came mainly from second and third year men and totalled as follows: Sales, 21; Bills and

Notes, 21; Equity, 14; B.A.I., 5; Property II, 4; and Trusts, 2. Again, most of the blanks left on this question were left by those answering "no" to the basic question as to the advisability of increased opportunity for taking more third-year material.

6. What first-year required courses, if any, should be made elective? The answers to this question came mainly from second-year men. They totalled as follows: Criminal Law, 9; Agency, 5; Judicial Remedies, 3; and Real Property, 1.

7. What elective courses, if any, should be required? About two-thirds of the answers to this question came from third-year men. Only two answers came from first-year men. The totals were as follows: Evidence, 13; Taxation, 10; Conflicts, 6; Jurisprudence, 4; Bills and Notes, Domestic Relations, International Law, and Labor Law, one vote each.

8. What material should be offered that is not now offered? The answers to this question were widely divergent. We therefore list only those materials which were recommended by two or more students. They were, Brief Writing, 5; Legal Research, 4; Trial Practice, 2; Code Pleading, 3; Aviation Law, 7; Petroleum Law, 5; Patent Law, Roman Law, Comparative Law, Legal Ethics, two votes each.

GENERAL COMMENTS

9. The space below is provided so that you may criticize the present curriculum of the Law School in ways not suggested by the preceding questions, so that you may criticize this questionnaire, and so that you may present your ideas on legal education in general. Please feel free to use this space. The most consistent remarks under this question bemoaned the emphasis on examinations and grades. Some students condemned the "terrorist" or "sink or swim" methods allegedly used by the faculty. Others recommended more frequent examinations, some suggesting practice examinations after one term and some an examination in Personal Property at the end of the first term. One recommended the printing and distribution of "A" papers. Another suggested that blue-books be returned with comments. Four men alleged that the inefficiency of the administration will cause graduates to be "anti-Harvard." Three students suggested that work in the Ames Competition be made compulsory.

Certain other comments, although not representative of the group, can best be more fully quoted. One man, repeating his second term, wrote as follows: "I agree with Dean Griswold when he says there is too much concern with marks, but I believe that such a concern by students is only a symptom of the general air of uncertainty among students. During the first year there is so much fear of failing that an undue concern for marks is bound to result. For instance, a friend of mine did not buy books for the second year because he was so certain he had failed. After hearing of his 68 average, he bought the books! I think that Yale's policy of being very exacting on admission but retaining everyone is better than Harvard's record (not necessarily policy) of failing a substantial per cent. Most of my classmates with whom I have talked feel the same way. Friends who have visited Yale Law School friends report that they seem to enjoy the law more than we do and are not so preoccupied with marks. I believe that improving the bad psychology concerning marks and remedying much of the general, genuine unhappiness among so many students should be one of the important aims of the faculty committee considering revision of the curriculum. . . . The key to these suggestions is that by making the study of law at Harvard Law School more enjoyable and slightly less burdensome, Harvard Law School would produce just as good lawyers and probably lawyers more alert and interested in the law."

Another student commented: "After seven months at the Law School my

basic criticism is the over-emphasis on competition between students. The favored few who gain the celestial position of the Law Review, etc., should not be looked upon as the only successful men in the Law School. The real goal is the development of the lawyer who has a well-defined code of ethics in mind and is prepared to assume a position of civic leadership in society—not the man who can write examination papers to perfection and search out the finest of legal technicalities. The ability to reason and the understanding of the economic, social, and political structure of our society are what the Law School should seek to give its undergraduates. From what I have learned from other sources, Yale may well have the head start in this direction."

A second-year man had this to say: "The value of a course and the ability of the various teachers at the school seem completely divorced from the matter of whether or not the 'case method' is used. That method certainly tends to be time wasting and valueless when the instructor, for one reason or another, is unable to stimulate the majority of the class into stating the cases properly or thinking about them during the class period. Despite a few veiled hints to the contrary, there is absolutely no evidence that a student's failure to prepare classroom work has any effect on his grades—witness numerous Harvard Law Review and Board of Student Advisers students who cannot open their mouths in class without putting hands or feet into them."

Although there were several suggestions that we are not adequately trained in legal ethics or in the philosophy of law, the following was unique: "Speaking as a Catholic, I regret that God is so consistently ignored in legal education. We are not only learning architecture by building Cape Cod cottages (see question two) but we're even building those without nails. I would like to see an intelligent Thomistic philosopher with legal experience integrate law and morality in some kind of course, Austin and his ilk to the contrary."

JAMES W. PERKINS 3L

HOCKING—(Continued)

history, and prophecy or the destiny of the people. Kant, Austin and the historians alike are too content with equilibrium, too concerned with existence rather than goals. This concept of national destiny as an element of law leads to difficulties in problems of international law, for law systems are not interchangeable. However, we cannot solve the international problem by neglecting the deep national and futuristic character of law. For this reason, those who see the nation as an obstacle to peace, such as Emory Reeves in his "Anatomy of Peace" offer an impossible solution.

Professor Hocking proceeded to outline the methods of settling the problem of peace: prudent acquiescence to the presence of superior force, compromise (which becomes appeasement when a nation with a just cause compromises with one having an unjust cause), submission, with or without argument, to an umpire, (this raises the question of whether one has a right to quarrel with the decision). Especially is this deficient in the case of an umpire necessarily more interested in peace and unity rather than justice. "Loyalty," as used in the corporate world, expresses the unsatisfactory nature of this solution. Finally, with the introduction of the idea of justice and the developing of the generalizing habit of the human mind,

the idea of law arises. This idea becomes solidified by custom and the important point is that "where law exists—covering the case at issue—the right to quarrel ceases." Law is not a means of settling occasional disputes, but of preventing them from arising. "For law is the only alternative to violence which, simply by its existence, makes resort to violence a wrong."

In relation to the problem of peace, acquiescence finds expression in power politics, what Lippmann calls "covering commitments," the presence of a force so powerful that its use will become unnecessary and legal settlement is the precise opposite of power politics; it is the only alternative which by its very existence makes war a crime. Outlawing war is relatively futile, the method is to find a rational substitute for war. You cannot outlaw war until you have a satisfactory alternative, and when you have that alternative which is law, war is already outlawed.

Considering international disputes in this light, four difficulties present themselves.

First, the fact that the public does not realize the difficulties in the way is one of the greatest difficulties. Hocking criticizes those who analogize what are regarded as fundamental rights of individuals with fundamental rights of nations. In domestic law we have a unit, a person, who can bear rights, but among nations it is not always clear when we have such a unit. For example, is India such a unit or is she part of the British empire?

Second, international law is not in a strict sense law at all. If law implies a definite origin in a law making body, or authoritative command, or an accepted code, or an apparatus of enforcement, or a recognized source of interpretation, except in a limited sense regarding the latter, it is clear that there is no international law.

Third, a very serious obstacle lies in the fact that where the analogy to "domestic" law obviously fails, international law tends to check its own scope. It distinguishes "justiciable" and "non-justiciable" issues, that is those for which principles and precedents exist so that the matter could be argued in court, and those for which no such premises exist. Unfortunately, it is the latter type of issue which is most prolific in the incitement of war. For example, there is no rule which indicates when a colony is "ready for independence"; hence, if a dependency wishes independence the most effective way is the ancient way—fight for it. If there is no rational guide to peaceful change, then change will take place explosively.

Fourth, it is idle to talk of the rights of nations at a time when one speaks with hesitation of the rights of individuals. Eighteenth century theories of the rights of man no longer have an axiomatic status in jurisprudence, and while the matter of human rights is in flux in "domestic" law, it can hardly be taken as a secure starting point for international law.

Professor Hocking concluded his opening lecture with a discussion of problems in the philosophy of law, confining himself principally to the diverse theories of the 19th century.

Since problems common to both domestic and international law will best illustrate the possibilities and difficulties in international law, Professor Hocking will confine himself in succeeding lectures to the problems outlined earlier in the article.

J. L. O.

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