

# The Harvard Law School Record

VOL. 3 NO. 6

CAMBRIDGE, MASS., WEDNESDAY, MARCH 26, 1947

PRICE TEN CENTS

## LEGAL AID SELECTS NEW MEN

### Four Fifth, Eight Third Termers Are Among Those Chosen

Four men who attained high scholastic standing in the recent fourth term examinations have been appointed members of the Legal Aid Bureau. The announcement was made this week by the Bureau.

All of the new members are in the fifth term. Two of them graduate in September '47 and the other two in February '48.

The men are George Henry Eckhardt Jr. (Princeton '40) of Boston; Marvin S. Cowan (New York University '42) of New York City; Lawrence M. Levinson (Harvard '39) of Atlanta; and Peter O. A. Solbert (Yale '41) of Rochester.

These men will join the other 29 members of the Bureau in rendering legal aid and assistance gratuitously to those worthy people who cannot afford it. Most of the cases which come to the attention of the Bureau are disposed of without litigation. However, if the occasion presents itself the members are through sunderance permitted to take the case to court.

The Harvard Legal Aid Bureau, organized in 1912, and incorporated in 1914, to help members of the community who are unable to hire an attorney in cases where legal services are needed, is staffed by student members who are chosen on a scholastic basis from those students next in standing after the members of the Law Review and the Board of Student Advisers.

Bureau offices and library are located in Gannett House. Staff members are assigned office hours during which they take cases and serve as counsel for clients arriving during their office hours.

Through an interpretation of the Massachusetts General Laws, Bureau counsel are allowed to practice before the Massachusetts courts. The members of the Bureau are advised by and their work is under the supervision of Mr. Edward J. LeCam, a practicing attorney who is on the staff of the Boston Legal Aid Society.

Cases presented to the Legal Aid Bureau vary from routine legal form preparation to involved domestic difficulties, property tangles, and the ubiquitous landlord-tenant controversy. The Bureau does not accept criminal actions, bankruptcy or industrial compensation applications.

## Glueck Asks Reform In Methods Used In Treating Sex Criminals

"Robert L. Coombes, 17 year old juvenile delinquent with a reform school record of two previous sex crimes, will be arraigned this morning in Malden District Court for the brutal murder of 11 year old Jacqueline Maxwell."—News Item.

Professor Sheldon Glueck, in commenting upon this recent news story which provoked so much editorial criticism of our present devices for crime prevention, stated, "The problem of sex crimes is little different from the general problem of all crime. But people react emotionally to a sex crime and the public is roused out of its normal apathy toward our present system of law enforcement to demand some immediate gadgetry reform by passing a law. Reform by legislation is often an illusion. The trouble is that we are not now in a position to make any really solid reform; and before the people are convinced that a long range scheme of research and planning is necessary they have relaxed into complacency again, or have been satisfied with some law which punishes the unfortunate psychopath for being sick."

Professor Glueck, who has devoted his life to the study of criminology and penology, has long advocated a complete re-organization of our basic concepts of criminal law and corrective systems. In his opinion, the time-honored legalistic basis of criminal law, which assumes that criminals are bad persons

### LAW SCHOOL DIRECTORY

The Law School Committee for Phillips Brooks House plans to distribute copies of the Student Directory to the people in the law school sometime during the coming week. Editor Carl Shipley asks the cooperation of the student body to facilitate distribution. Sufficient copies have been printed to provide each person in the school one without cost. However, since the number of copies is limited, Shipley requests that no one take more than a single copy.

The present plan of distribution is to place copies on the desks of the persons in the first four terms. The fifth, sixth and seventh terms will have to be handled separately to avoid duplication. Their copies will be made available in the reading room.

## ALUMNI FALK ON CLOSED SHOP

### Regulation Preferred To Abolition; Abuses Scored

A round table discussion on the subject, "Should the Closed Shop be Outlawed?" was presented on March 22 by the Yankee Institute and the Junior Bar Conference of the American Bar Association, as one of its series of weekly broadcasts. (Station WNAC and the Yankee Network, every Saturday at 7:00 p. m.)

Participating in the discussion were Mr. Jarvis Hunt, LL.B. '30, counsel for the Associated Industries of Massachusetts; Mr. John Morris, LL.B. '31, counsel for various labor unions, and former member of the Industrial Accident Board; Mr. Henry Wise, arbitrator in labor disputes; Mr. David Bernstein; and Mr. Robert Segal, LL.B. '42, former assistant to the President's Railroad Emergency Board, as moderator.

No unanimous agreement was reached on the advisability of legislative action to outlaw the closed shop, and of course, such is not the purpose of such discussions. The participants advanced arguments and theories which attempted to point out the real difficulties in this timely question.

Mr. Segal as moderator opened the discussion with the observation that 113 million man days of work were lost in 1946 because of strikes, and submitted that action should be taken to discourage a recurrence. Mr. Segal pointed out that about one-fourth of the state legislatures have taken steps toward passing anti-closed shop bills. The wisdom of such legislation was the problem put to the discussion group.

Mr. Morris took the position that any sort of legislation in this direction should

(Continued on page three)

## DISCUSSION ON LABOR AT YALE

### Most Participants Hit Compulsory Arbitration

A full-scale attack on the labor problem was made last weekend at Yale University when the Yale Law School Student Association presented its first annual public affairs conference on Labor Relations in the American Economy.

Arranged by a student committee, the conference brought together representatives of management, labor, the government, and the public for a series of round-table discussions designed primarily to bring about an exchange of ideas among those present.

The most common ground for agreement among those present was the undesirability of compulsory arbitration in labor disputes, while the most fertile field for disagreement was the closed shop.

Management's attack on compulsory arbitration was led by Paul G. Hoffman, president of the Studebaker Corporation, who pointed out that the pressure on management to keep up production or go bankrupt, and the pressure on labor to keep employed, should be enough to cause an agreement to be reached with a minimum of inconvenience to the public. While he believes arbitration is necessary to interpret a contract once adopted, he also believes that a contract entered into by compulsion will be unworkable, in addition to meaning the end of the individual rights of labor and management.

On behalf of labor, Lazare Teper, director of research of the International Ladies Garment Workers Union, agreed that the sacrifice of the freedom to contract would not be offset by the greater "efficiency" of production claimed by the proponents of compulsory arbitration. He observed that the public interest and public conveniences are not synonymous, and gave the last war as an illustration of the public interest being served by the greatest of public inconvenience.

One of the public representatives, Lloyd K. Garrison, Chairman of the National War Labor Board from 1942 to 1946, called attention to the fact that the greatest issue to be settled is that of wages, and the wages to be paid constitute a difficult problem to be settled

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## COX SPEAKS AT PRINCETON Law School Explained To Pre-Legal Society

The Princeton Pre-Legal Society, an undergraduate organization which periodically gathers at the Princeton Inn to hear informal talks by men who are teaching and practicing law, last week heard Professor Archibald Cox discuss Harvard Law School—its tradition, methods of teaching, and admission requirements.

Professor Cox prefaced his remarks with a word of caution in regard to any generalizations which might be made about the law school's tradition and methods. "I am not sure," he said, "that there is any single method by which the Harvard Law School seeks to train its students. Certainly the faculty does not embrace any single viewpoint or philosophy of law. I suppose that we influence one another, and that the school has its own intellectual atmosphere and its great tradition. Yet, unless I am mistaken, that tradition itself breeds diversity. For it has seemed to me, both as a student and a very recent member of the faculty, that the school's tradition centers about a skepticism of catch words, slogans, and approaches—including authoritarianism—and emphasizes that there are no easy answers to our problems. There are indeed no paths at all to truth save a readiness to ever re-examine our opinions—which never can be more than tentative hypotheses—and honest thinking."

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## AMES TO CONDUCT QUARTER FINAL ARGUMENT TOMORROW



CHOATE



CHRISTOPHER



BRIDGE



PRESTON



MURNAGHAN



BLOOM

Above are pictures of quarter-finalists in the Ames Competition tomorrow night. Pictures of Vail and Welch were unavailable.

## Lawyer Reference Plan Envisions Service To Middle Income Group

The following article by Mr. Reginald Heber Smith, Treasurer of the Harvard Law School Association and partner in the Boston law office of Hale & Dorr, was published for private distribution to members of the American Bar Association on January 2, 1947. The article has been shortened to permit publication in this and the succeeding issue of the paper.

The creation of adequate facilities which will assure competent legal advice and assistance to the millions of persons of moderate means has emerged as one of the greatest post-war problems confronting the organized bar. Before attempting to describe how these legal service facilities could be constructed and maintained, it is illuminating to summarize the four entirely separate factors which have, in combination, pushed this problem into the foreground. The four factors are, (1) the request by the Legal Assistance Officers of the Armed Forces for cooperation by the civilian bar in handling cases for servicemen; (2) the mounting pressure from persons of moderate means for more adequate facilities to serve their need for legal advice and assistance; (3) the desirability of supplementing law school education by practical training so that

persons on their admission to the bar, may in fact be duly qualified to practice law; and (4) the necessity for prompt action by the organized bar to meet the public demand so that the government may not feel forced to take action in the direction of socializing the profession.

At the outset, it is desirable for us to define our terms in order to avoid the confusions that exist in the literature on the subject and, thus, to promote straight thinking.

The phrases "low-cost legal service bureaus," "neighborhood law offices," "legal clinics," "lawyer conference plans," "lawyer referral systems" are often used as if they were synonymous and interchangeable. We need terms that will be acceptable in public usage and become as clear in meaning as "legal aid." The entire bar and whole public know that "legal aid" means an office organized and maintained for the express purpose of giving legal advice and assistance to poor persons who cannot pay fees. Applying the test of function, it is plain that we are dealing with two distinct projects. The lawyer reference (or referral) plan is a different project.

(Continued on page four)

## ELIOT, SOULE ON FORUM FRI. Urgent Business Keeps Arnold From Attending

Because of urgent business which will prevent Thurman Arnold from attending, former Congressman Thomas H. Eliot of Massachusetts has definitely accepted an invitation to join George Soule, former editor of The New Republic, in a discussion on "A Restatement of the Liberal Creed" at the next meeting of the Harvard Law School Forum on Friday evening, March 28, at 7:45 o'clock in Sanders Theater.

The topic to be presented at the Forum will include a discussion of the way in which the liberal faith may be a dynamic force in the world, coupled with an analysis of the rights of man and the role of the government in the economy.

Soule, presently engaged in the publishing business, was succeeded by Henry Wallace last year as editor of The New Republic. A prolific writer on government and economic affairs, Soule is author of "Economic Constitution of America," and "The Future of Liberty." In addition to writing, Soule has also been active as statistician, economist, government servant and labor specialist.

Following his graduation from the Law School in 1932, Eliot entered the government service where he has served as assistant solicitor in the Labor Department, general counsel of the Social Security Board, and regional director of the Wage and Hour Division.

## Holmes, Pow-wow, Grotius, Landis Clubs Will Argue

The first four-party argument in the history of the Ames Competition will take place in Langdell Court at 8 p. m. on Thursday, March 27. Representatives of the Landis, Pow-wow, Grotius and Holmes Clubs will be pitted against one another in the quarter-finals before a bench composed of Justice John V. Spalding of the Massachusetts Supreme Judicial Court, Judge Jacob Kaplan of the Boston firm of Nutter, McClellan and Fish, and Professor A. James Casner, of the Harvard Law School.

The clubs will argue the case of *Johnston v. Ambler, Wardwell, Sumner, et al.*, which sounds in trusts and property. Issues involving the validity of powers of appointment, the rule against perpetuities, future interests and the construction of instruments, as well as the propriety of certain investments made by a trustee, will be weighed by the court. The two main issues in the appeal concern the problem of what interest is taken, and the propriety of the trust investments. Represented in the litigation will be the trustee and three possible takers.

The oral argument in behalf of Johnston will be made by Gordon F. Bloom, who attended both Harvard and Buffalo Universities, and is a native of Buffalo, N. Y. His partner will be John S. Welch, of Logan, Utah, who graduated from Utah State Agricultural College in 1941. Both men are in the Landis Club. The Pow-wow Club will represent Ambler, with Francis D. Murnaghan, Harvard '41, of Baltimore, and Donald Vail, Princeton '42, of Hyannis, Mass., arguing the case.

Lawyers for Wardwell will be Charles F. Bridge and Dale A. Christopher, of the Grotius Club. Bridge, Harvard '41, is from Franklin, O., while Christopher, Wabash '42, hails from Winona, Minn. Spokesmen for the Holmes Club and counsel for Sumner will be Charles F. Choate, Harvard '41, a Bostonian, and Henry A. Preston of Lake Forest, Ill.

The second quarter-final argument, *Henry Strong v. the Ames and Western R.R.*, will take place on Tuesday evening, April 1, also at Langdell Court. A bills and notes case, it involves the rights of the finder of a negotiable bond as against those of the maker. Counsel for the plaintiff will be Norman W. Colquhoun, Amherst '43, a native of Shaker Heights, O., and Bushrod B. Howard, (Continued on page three)

## LAW SCHOOL FORUM ELECTION PLANNED

Plans for the annual election of the Law School Forum have been announced by president Jerome L. Rappaport. All present members of the Forum will be eligible to vote and to be nominated for membership on the board of directors.

Nominations for positions on the board of directors will be made by petition, a copy of which is printed elsewhere in this issue of the Record for the convenience of Forum members. Nominations must be supported by five signatures of Forum members, and the petitions must be returned to the Forum office by April 3. The names of those nominated will be placed on the ballots along with the names of present members.

Ballots will then be distributed, the deadline for the return of which will be April 15, at which time the 25 nominees receiving the highest number of votes will be designated members of the Board. Duties of board members include election of forum officers and the determination of policy in the selection of speakers and topics for discussion. Since there have been no established rules of procedure to govern Forum elections and to set forth the duties of officers, a new constitution will be submitted for approval along with the distribution of ballots.

A special committee for research into possible topics for presentation at next year's meetings has been established. Reports from this committee will be presented to the board of directors.

## 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. The Record is published at the Law School, Business and Editorial Offices, Austin Hall, Cambridge 38, Massachusetts. Telephone KIRKland 7600, extension 133.

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

## Editorials

Last week the Harvard Housing Office closed and transferred the job of managing the veterans' housing projects here and at Deans to a commercial agent of the University. This termination of what had been one of the busiest service offices of the University has been announced as marking the end of the post-war housing problem at Harvard. Although rooms and apartments for students are still scarce, enough units are now available to satisfy the minimum needs of all who gain admittance to the various schools.

The Law School has received its full share of the benefits of the Housing Office. Representing the highest percentage of veterans in any branch of the University, the prospective lawyers have taken a proportionately high number of the units prepared for married students who had served in the armed forces. But the figures for the last batch of entrants clearly reveal that we are rapidly returning to the normal situation of a preponderantly bachelor population.

For the Law School, however, the return to normal does not imply a solution of the housing problem. With a grossly inadequate number of rooms allotted to this arm of the University, housing remains the perennial difficulty. The situation has been changed somewhat by the drafting of plans for a housing unit for graduate students, including law students, to be erected on Jarvis Field. The prospects of realizing this project might be brighter if the University's building agenda did not have a considerable number of other items with apparently higher priority. While it is clear that nothing can be done until the temporary housing now on the proposed site is no longer needed, the demise of the Housing Office shows that such a time is probably rapidly approaching.

While expressing appreciation for the excellent work done by the Housing Office, we look expectantly towards a solution of the continuing problem faced by law students.

T. J. O.

## Letters to the Editor

To the Editor of the Record:

In your issue of March 12, 1947 appear some verses entitled "Miniver Harvard." I rather like the verses, but I don't like the signature. I question whether any society worth living in will ever be governed by lawyers who don't sign their names.

Immediately following these verses is a review of "The Nuremberg Case" signed "S.S.E." This review contains a bitter denunciation of one Hjalmer Schacht and an implied censure of the Court which acquitted him. The denunciation and the censure rest on the proposition that Schacht successfully evaded personal responsibility for what he did.

It seems to me that someone necessarily accepts responsibility for whatever is published in your paper, if not the author, then the editorial board. Just for my general instruction in the nature of the world I'm living in, would you care to state whether the Editors of the Record accept responsibility for the sentiments expressed in "Miniver Harvard," and, if not, who does?

Very truly yours,  
GEORGE K. GARDNER,  
Professor of Law

## Off the Record

We are indebted to Mr. Scott for his recommendation that some members of his class might indulge in "The price of indoor sports: following the res."

In a recent Agency class, Professor Hall proposed the following hypothetical case:

"Suppose a robber ties up the owner of a small store, hides him behind the counter and waits on the customers." Groans of dismay answered the Vice-Dean's next question:

"Would the acts of the robber bind the owner?"

A LEGAL PRIMER  
The Bridegroom

There goes the Bridegroom down the aisle. How happy he looks. Father-in-law has promised him a Junior Partnership, a house in Bar Harbor, 2 Buicks, a set of golf clubs, and \$100,000 to take the Old Bat off father's hands. My how mad he will be when he finds father has no intention of coughing up! He will rant. He will write to Yucatan for a divorce. When you are older, kiddies, take Contracts 1 and learn how to tie up the old man legally.

PUBLIUS II

A few weeks back we timorously printed a poem entitled "Miniver Harvard" from the pen of an anonymous bard who "thought that a little more of the social approach would be a good thing." Proving that there are always two sides to a billiard ball, we print a companion piece by "one who thinks the social approach is being oversold." The

Record, a trifle hazy as to what the social approach is, adopts a policy of strict neutrality.

### MINIVER MODERN

Miniver Modern, brilliant brat,  
Grew lean while he assailed the cases.  
He loved to snap his fingers at  
The ancient faces.

Miniver cursed the days of old,  
And called the students fools and traitors;  
Judges today, he had been told,  
Are legislators.

Miniver had a client once  
Whose debt had failed of satisfaction.  
He thought the man a greedy dunce,  
But brought the action.

Miniver found law's phrases stiff,  
A statute boring, why construe it?  
He'd long forgotten Contracts if  
He ever knew it.

Instead he dipped into his store  
Of information economic,  
And capped the climax with some lore  
On things atomic.

Miniver lost the case, of course;  
He blamed the judges carping ways.  
(A relic doubtless of the horse-  
And-buggy days.)

Miniver loved the gold he fought,  
As only Envy's child can love.  
In fact, our hero can be bought  
With little of it.

Miniver Modern, born too soon,  
Saw himself as a Dark Destroyer.  
He was a stranger from the moon—  
A Superlawyer.

W. A. R.

(Next week—"Mrs. Miniver"—the Ed.)

## The Book Shelf

THE TRADE OF NATIONS, Michael A. Heilperin, Knopf, \$3.00, 234pp.

The Trade of Nations was written at this time because both the author and the publisher believed that the American man in the street should have a basic understanding of the principles of international trade, the recent history of international trade, and the important choices now facing America as we look to the future. In the belief that this country's economic policies will ultimately be determined by public opinion, the book has a double aim—an introduction to the principles of international trade and economics, and the urging of a specific program for America. As Dr. Heilperin says in the preface, "The choice must be made soon and it must be made by the public at large. American public opinion concerning the country's foreign economic policy occupies, therefore, a most crucial position in the international scene. This is the reason why I address this book to the general public rather than to my fellow economists alone."

The first section of the book starts out to explain international trade. As might be expected, the starting point is Adam Smith and his now familiar ideas of international specialization, absolute advantages, and comparative advantages. We meet up again with that amazing denizen of the economics books who is a skilled doctor, and is also a better gardener than the local gardener. Since his comparative advantage is greatest when working as a doctor, however, he is best advised to spend all his working time as a doctor and pay the local gardener to do his planting and weeding. The moral of all this is that there can be a basis for trade between countries A and B even though country A has an absolute advantage in all fields. From specialization and advantages he moves to the general topic of foreign investments, and the issues of public versus private lending, and political loans versus sound investment loans. With respect to the latter point, one of considerable current interest, Dr. Heilperin says, "It might therefore be suggested that outright gifts are generally preferable to purely political loans."

Even in these early chapters of the book, principally expository, the lines of argument are clearly indicated. Dr. Heilperin is interested in convincing the man in the street that America should work forcefully for free international trade, and a resulting decrease in tariffs, exchange controls, and other limitations on free world trade. The fundamental problem of economic nationalism versus free international trade becomes important in every chapter in the book, no matter what the narrow question under consideration, and the reader, if not already a believer in the principles of free trade, will find it difficult to escape the logic of Dr. Heilperin's history, statistics, and conclusions.

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—Harris B. Steinberg, 35

### BENCH CONFERENCE

"And you think Glue Factory is a sure thing in the seventh at Suffolk Downs, eh?"

## Gallery

HOWARD L. HYDE  
Corporation Counsel

For fifteen years after his graduation from Harvard Law School in 1925, Howard L. Hyde practiced with the firm of Thompson, Hine and Flory, Cleveland, Ohio, ultimately specializing in trusts, probate and taxes. He found the work interesting and enjoyable. In 1940, after having become a senior partner in his firm, he moved to Akron to become General Counsel of The Goodyear Tire and Rubber Company. He finds his work with Goodyear equally engrossing.

"Corporation work is far from being monotonous," he says. "In my job I am constantly faced with a great variety of legal problems. In addition to the manufacture of rubber products we operate among other things a bank, coal mine, cotton and rayon mills, rubber plantations, a ranch, plastic manufacturing plants, aircraft parts manufacturing plants, and a chain of retail stores throughout the country. We do business in every state and territory of the United States and every foreign country in the world except Russia, including manufacturing facilities in many of the principal countries. All legal problems of any importance arising in the course of this business must come to our Law Department for decision, and the more difficult ones find their way to my office. They are mostly problems having to do with very current phases of the law."

One of the chief differences between private practice and corporation counsel is that the latter has only one client instead of a number of clients. However the number and variety of the types of problems and personalities encountered in the various divisions of the company tend to minimize certain aspects of such difference and there is a saving of time and energy to him as he does not have to do the promotional work in order to get or keep clients.

Strict corporation law, in the sense of formation of new corporations, legality of dividends and observance of formalities incident to shareholders' meetings, is a minor part of the corporation counsel's work. His main function is to keep the corporation out of trouble. For instance, all contracts negotiated by the company must come through Mr. Hyde's office for approval before they can be signed by the company's officers. Actual litigation, when necessary, is handled by outside counsel employed by him for that purpose, usually in the place where the litigation arises. But Mr. Hyde exercises general supervision of the cases and must make final decisions as to whether to litigate, settle or appeal. Included on the company's legal staff is a large group of patent lawyers who come under his general supervision.

One of the corporation counsel's chief duties is giving advice on matters of corporation policy. Mr. Hyde is often asked to give his opinion on questions which are not strictly legal. This is also true in most other corporations, he says. Executives and other officers recognize a lawyer's training in the analysis of business problems.

One of the disadvantages of such work is its intensity and the consequent physical strain on the man. But, Mr. Hyde emphasizes, most men in general practice have had a hard time of it in the last few years when their staffs were depleted and the amount of work rose.

Another factor to be taken into consideration is that there is little time to do extensive research on legal problems, such as the lawyer in private practice does. Corporation counsel works with a practical kind of law, using his legal judgment much of the time without resort to detailed research on his own part.

To the student who expects ultimately to become a corporation counsel, Mr. Hyde's suggestion is that he get a thorough general background in all phases of law, with some emphasis on labor, tax and administrative law, which have become very important in recent years. A good general knowledge of law is most important because counsel of a corporation must pass on legal questions rapidly and give answers right off the bat much of the time.

One of the top legal jobs in a corporation is worth the while of most lawyers. To one who is particularly interested in executive work, a position on the legal staff of a corporation may well afford an excellent opportunity in that direction. Mr. Hyde emphasizes that legal training is valuable in most any field, especially in business, and there is real opportunity today in business for men with legal training.

For Mr. Hyde, work as corporation counsel is far from being repetitious and monotonous. His work has taken him to most parts of the United States and to a number of foreign countries. The problems he faces daily are varied and on current phases of the law as it evolves. All sorts of people from all over the world come to his office when they visit Goodyear, including many leading foreign lawyers who are employed by the corporation as local counsel in their respective countries.

Mr. Hyde points out, too, that, like most Harvard Law School graduates, he considers community work as an obligation. He does such work without thought of attracting clients (as he does not have to attract any.) Recently he has served as chairman of a citizens' committee to raise funds for a Health and Welfare Center as a memorial to a leading citizen in Akron. He is now president of the local Anti-Tuberculosis Association. He does not find it too difficult to squeeze these activities into his schedule. "A busy man finds some time to do these things," he says.

H. K.

## Sub Judice

WHEN AN ADVERTISEMENT IS AN ADVERTISEMENT\*\*\*\*

Appellant advertised a certain article named "Tassa" in a periodical, stating that it contained "the only antiseptic both harmless and efficient in every form of disease," and that full information would be given on application.

In answer to a letter seeking further information appellant wrote a letter stating that Tassa cured tuberculosis and was superior to penicillin. With the letter was inclosed a circular also stating that the article was a cure for tuberculosis. Appellant was charged with violating the Pharmacy and Medicine act of 1941 (this act corresponds to the Pure Food and Drug and Fair Trade Acts in the U.S.) by unlawfully taking part in the publication of an advertisement referring to an article in terms calculated to lead to use of that article for purpose of treating human beings for tuberculosis which was specifically forbidden by the act.

The contention raised was that there was no advertisement as charged since the periodical merely stated that the article was antiseptic and harmless and did not name tuberculosis as specifically subject to cure. The court, on appeal, held that the advertisement in the periodical plus the letter and the circular constituted an advertisement within the meaning of the act and that the lower court therefore was right in its judgment of conviction. The court pointed out that if this were not a violation of the law could be easily evaded by advertising a product and stating that a circular would be sent and that such a circular could contain the false claims and be outside the law. *Earp v. Roberts, KBD. (Jan. 18, 1947) All England Law Reports.*

### SPARE THE ROD AND—\*\*\*\*

An element of quaintness pervades the English reports which is refreshing in comparison to the efficient attempts of our American law reports. In a recent case a landowner leased certain premises to a tenant and the Report stated that, "Bertha Vickers, spinster (thereinafter called owner)" leased the premises granting exclusive hunting and fishing privileges and the right to carry away the fish when caught, together with the right of access and egress for the term of 21 years. The owner reserved "for her own use a rod in the said fishing." Miss Vickers died predeceased by the tenant but before the term had run. The tenant's executors contended that her rights of "one rod" ended upon her death, the lease having made no provision for successors in title to accede to that right and that the language "for her own use" had restricted the right to be a personal one and that she could not even have permitted her nephew to fish during her own lifetime by such restriction. The court of Chancery in construing the lease stated that it was a narrow and difficult point but declared, "upon a true construction of the lease (the provision) was not limited to Bertha Vickers, personally during her life, but reserved to her a beneficial interest in a rod in the said fishing during the term of the lease which was capable of devolving on her personal representatives." *Re Vickers Lease; Pocock v Vickers, Chancery Div. (Feb. 1, 1947) All England Law Reports.* If this were America one wonders how this "one rod" would be valued in the gross estate for tax purposes.

### ROBERT BENCHLEY, COMEDIAN, SUB SILENTIO \*\*\*\*

Peyton brought suit in the Federal Courts alleging that on November 24, 1939 he had delivered to the Railway Express Agency in Waco, Texas, a package addressed to "Mr. Robert Benchley (Personal), Hollywood, California." The package was further marked, "manuscript." He received a notice from Hollywood that the package was undelivered because it lacked a local address. Peyton, indignantly went to the Waco office and informed them that Benchley was a well known person in Hollywood and sent instructions to the Hollywood office to deliver the package immediately, if possible, and if not to forward it to Benchley's address and to charge the cost to him. Peyton. The Hollywood branch sent a note advising that no delivery had been made and requested permission to return the package to Peyton. Peyton refused to grant such permission and the Agency returned the package to Peyton in Waco despite his lack of permission.

Because of the delay, it was alleged that the Agency was negligent and special damages were claimed in the sum of \$250,000 for loss of book royalties and \$125,000 for loss of expected sum for motion picture rights. In addition a claim for punitive damages of \$325,000 was made on the ground that the Agency had been informed by Peyton that the manuscript was a book written by him and was being submitted to Benchley for examination and a recommendation from the Comedian-Actor-Author for publication. Peyton did not know Benchley personally and at the trial it was revealed that Benchley had twice returned the manuscript unopened after the alleged incidents described. There was no evidence from Benchley what he would have done with it if he had read it and at the time of the trial Benchley was dead.

Other evidence revealed that the book was a World War I story and of little appeal after Pearl Harbor. This was part of the basis of Peyton's complaint since he claimed if the Agency had not been negligent he would have had Benchley's recommendation and the book published or at least sold before Pearl Harbor made it less valuable. The court assumed that the Agency was negligent, without so deciding, and stated that no ground was shown to warrant punitive damages. The court felt that Peyton would be entitled to a return of the thirty-five cents express fee paid but since he failed to claim it in his petition it was fatal. The court further added that a reversal to recover nominal damages only "is never granted."

The lower court was affirmed in its decision that the special damages were too speculative. The jury had no evidence at all that Benchley would have approved the book; or that it would have been published much less have been popular.

The court summed up the law by stating, "The law is that a negligently delayed or distorted communication does not warrant recovery of anticipated profits lost unless it would have closed a contract out of which they would grow."

The court made a sage opening remark when it said, "Peyton, an otherwise experienced and intelligent person, acted as his own lawyer in this court and the court below. . . ." *Peyton v. Railway Express Agency, Inc., 158 F. (2d) 671, (CCA 5th, 1946).*

### A LITTLE WINE FOR YOUR STOMACH'S SAKE\*\*\*\*

Application was made for a wine and liquor license to the New York City Alcoholic Beverage Control Board. The Board denied the application on the grounds that the neighborhood was amply "served" by other package stores in the vicinity. Plaintiff then sought an order from the court in an action against the members of the Board individually and as Board members to annul the Board's determination and directing issuance of the license. This was granted and the respondent Board members appealed. The Appellate Division in New York reversed in a split decision, dividing three to two and the principle of Administrative Law applied was that a court may not substitute its judgment for that of the Authority (Liquor Board), to whom the power to pass on the matter is given by statute. *McKeon v. O'Connell, 66 N. Y. S. (2d) 893 (1946) and Finn v. O'Connell, 67 N. Y. S. (2d) 41 (1946).*

## The Witness Stand

The Question: What policy do you think the United States should adopt with regard to Greece's internal difficulties?

1. Alan T. Nolan, Indianapolis, Ind., 7th Term.

We should give economic aid to Greece, and that aid, without the U. N.'s participation, is only justified by the urgency of the need. However, two things should remain clear: This "offensive against communism" embarks us upon a foreign policy which assumes the inevitability of a war with Russia, and which will certainly achieve that result. Moreover, our position would seem illogical and not "anti-communistic," but anti-Russian, for France, and even countries in our hemisphere, as Costa Rica, sport large and influential communist parties.

Secondly, all authoritative reports are to the effect that the Greek government is replete with collaborationists, and doesn't claim the support of any liberal Greek groups or leaders. To perpetuate this reactionary and incompetent government, and to "stamp out" those that disapprove of it would be deplorable. We should stipulate that amnesty be granted, and that the Greek liberal leaders like Sofoulis be called into the government. It is perfectly possible that the terrorist elements would then be pacified, by a proper legislative program and capable administration. If really anarchical partisans remain, Greek courts should deal with them.

It is apparent since Truman's speech that the administration operates on wholly different assumptions. As a general rule, incidentally, "communism" and "terror" are effects of underlying conditions, and not causes; food and just government might prove better weapons against their spread than armies.

2. Robert R. Batt, Wyncote, Pa., 3rd Term.

The proposed loan to Greece seems to be predicated on the clear undesirability of permitting the political vacuum which is Greece being filled by Russia, coupled with the fact that the activity of foreign-sponsored guerrilla troops in the north of Greece promises to hasten that eventuality.

Accepting these premises, the proposed loan seems not inconsistent with an attitude of patient firmness toward Russia. Together with the loan, however, might well go a less ambiguous statement of U. S. aims: (a) the maximum direction of aid toward the economic rehabilitation of Greece; (b) the minimum direction thereof toward the maintenance of order in the North, and only to the end of maintaining the production of food unimpeded; (c) pressure on the present Greek government for the representation of liberals in the Cabinet, and for liberal reforms; (d) encouragement of those liberal elements generally which have not already disappeared between the millstones of the extreme right and extreme left.

Any foreign loan implies a measure of interference with the internal affairs of the borrower nation commensurate with the size of the loan. In itself, it is a feather in the cap of the party in power, and it represents an investment, the security of which cannot be safely disregarded by the lender. We should not be chary of throwing some of our weight behind those who, although in the opposition, represent the soundest political element in Greece or any other country.

3. Karl F. Schmidt, Dysart, Ia., 5th Term.

If the U. N. and its allied organizations are not as yet ready to give aid to Greece (and no one has explained, as yet, to my satisfaction, in what respect they are lacking, i.e. why the World Bank cannot make the necessary loan), the U. S. should furnish the necessary aid with the understanding that at the earliest possible date the whole affair will be turned over to the U. N. Attached to the aid that the U. S. gives to Greece should be the explicit understanding that the Greek government become truly representative of the Greek people.

Continued unilateral action by the U. S. in Greece will only lead to the ruin of the U. N.

The necessary working tools needed by the U. N. before the U. S. will turn the problem over to that organization should be publicly listed at once, so the U. N. can work to fill those requirements and also to forestall the criticisms that are due to come in the future, viz. that the U. S. is continuing its commitments in Greece longer than necessary.

## Alumni Notes

Goodwill Industries of New York, Inc., includes among its newly elected officers three Law School Alumni: Coleman Burke, LL.B. '37, vice-president; James C. Forsyth, LL.B. '27, secretary; Paul Duryea Miller, LL.B. '24, re-elected president.

LL.B. '95—Francis P. Sears has been elected chairman of the board of the Columbian National Life Insurance Company, of Boston.

Ex-06—Earnest Everett Smith, formerly of New York City, died March 9 in Canaan, N. H. The financier and industrialist had been director of the complaint bureau of the N. Y. City Department of Accounts in 1934-35, and from 1935 to 1939 he was director of the bureau of information of the old New York State Mortgage Commission.

LL.B. '13—Oscar R. Ewing resigned March 12 as vice-chairman of the Democratic National Committee to accept an appointment as a special assistant to the Attorney General, to prosecute treason cases. Ewing will act as chief prosecutor in the treason trial of Douglas Chandler and Robert Best, at Boston.

Ex-20—Leland Hazard has been elected a director of the Pittsburgh Plate Glass Company. He became counsel for the company in 1938, general counsel in 1939, and vice-president in 1944.

LL.B. '21—Raymond P. Baldwin, former member of the U. S. War Contract Settlement Board, has formed a law firm with Joseph D. McGoldrick, under the firm name of McGoldrick & Baldwin. Offices are at 37 Wall St., New York City. Among the partners is *Stuyvesant LeRoy French*, LL.B. '21, a former partner in the law firm of Rand & French.

LL.B. '30—Frederick M. Eaton, partner in the New York law firm of Shearman, Sterling & Wright, and former general counsel of the War Production Board, has been elected to the board of directors of the Monsanto Chemical Co.

LL.B. '35—Livingston Goddard, former Assistant District Attorney of New York, has been appointed secretary of the Federation for Railway Progress.

### Addresses Wanted

Anyone knowing the current address of the following alumni is requested to advise the Record of same:

LL.B. '39—William Holbrook Clark.  
LL.B. '46—William H. Witbeck.

## AMES—(Continued)

Jr., Williams '42, whose home is Oyster Bay, Long Island. They are members of the Story Club. For the defendants, the Jeremiah Smith Club's argument will be presented by Lawrence S. Munson, Harvard '42, a Brooklynite, and Thomas P. O'Boyle, Holy Cross '42, who resides in Milwaukee. The bench will be composed of Justice Ronan, of the Massachusetts Supreme Judicial Court, William Edwards, Esq., of the firm of Edwards and Angell in Providence, and Bailey Aldrich, Esq., of Boston.

Briefs and records of the four-party arguments will be available for inspection at Langdell Reading Room desk on Tuesday, March 25. Those for the case to be argued on the 1st of April will be available at the same place on March 31st. Briefs and records will be distributed to all those in attendance at the Ames trials this semester. All the trials will start at 8 in the evening, and the courtroom will be open at 7:30.

## YALE—(Continued)

arbitrarily. Charles P. Taft, Cincinnati lawyer, another public representative, said that the chief public interest is in the loss of public services through utility strikes, and that if the loss of the right to strike is imposed on laborers in this field, some compulsory decisions on wages will be necessary.

On the closed shop issue, Rodney Chase, director of industrial relations of the Chase Brass Company, representing management, said the chief objection to a closed shop is that it constitutes a monopoly of the labor supply in the hands of the union which leads to the abuses incident to any monopoly.

On behalf of the closed shop, Mr. Teper asserted that it was illogical to demand that the union police the workers to insure compliance with the contract without giving the union control of the membership. A management argument that the freedom not to join a union must be preserved for employees was met by Neal Brandt, International Representative, United Electrical and Radio Workers, CIO. He claimed that the only freedom granted by management to the worker was the freedom to work under management's conditions or leave, and that the freedom to work or leave will still exist under the closed shop.

## GLUECK—(Continued)

our traditional penal codes—the deterrent effect of fear of punishment upon criminals—is grossly over-rated. This was long ago illustrated by the fact that the English pickpockets had their busiest days at Tyburn Hill while the populace stood gaping at the public hangings—of pickpockets. It is also now a matter of record that 80 to 90 per cent of convicted criminals continue a life of crime after their release from a Gilbert and Sullivan "punishment to fit the crime."

### ADVOCATES REFORM

Professor Glueck admits that his advocated reform is extremely difficult, because its success depends upon an understanding of human behavior and its motives—one of the most complex and perplexing problems that man has to solve—and an ability to apply the correct therapeutic treatment to those human beings classified as criminal. However, "if modern scientific methods were applied to this study in the same manner as they are applied to the study of cancer and poliomyelitis, we would probably achieve a degree of understanding which would permit the use of this new method of criminal correction. At all events, we would substitute an attitude and practice of scientific inquiry, which gives much greater promise of the control of crime than do our present naive 'common sense' methods."

The unfortunate feature of our present method of criminal punishment is, that it is too often in the hands of politicians or untrained persons who don't even realize that a scientific approach to the problem is needed. "Our incurably sick persons are studied by the best brains the medical profession can produce, in an attempt to discover cures. Our criminals, who are the raw material for a similar study of the causes of crime, are as a rule merely kept locked up in penal institutions until they are released—to go out again to steal, kill, and rape. Scientific study of this 'disease of character' might also indicate that some persons languishing in prison should be released long before their sentences are up, as being unlikely to commit further crime."

### STUDY OF DELINQUENTS

Professor Glueck himself has taken the first step in making necessary information available as a basis for therapeutic and preventive advice. He and his wife, Dr. Eleanor Glueck, have been conducting a scientific study for eight years to determine just who are the delinquents that develop into adult criminals and "what makes them tick." When this extensive research is completed, which will be in about three years, it is expected to show the combinations of factors, both biological and environmental, which are most likely to affect a human being in such a way that he will become a delinquent.

With this information as a guide, the psychologists, psychiatrists, sociologists, physicians, anthropologists, school teachers, etc., may suggest ways to eliminate so far as possible these destructive combinations or crime-producing "syndromes" and may prescribe the proper treatment for a person who has already become affected by these factors. A judge will not look largely at the crime committed and operate on a very superficial estimate of the person who committed it, but will be able to classify the combination of factors represented in the defendant at the bar into one of several categories, and, by the use of scientifically prepared prediction tables, make an intelligent recommendation as to the type of treatment necessary and a fair estimate of the probability of this man's committing another crime if such treatment is not given. So, also, parole boards will be able to predict the future behavior of different types of prisoners who apply for release.

In conjunction with the need for a radical re-organization of our present day attitude toward delinquency and crime," says Professor Glueck, "there is the need for an entirely new type of professional man to administer this proposed system of crime control. A special curriculum should be developed in the law schools to train personnel for dealing with the problem of delinquency from the standpoint of modern science. Such specially trained men would be our judges, prosecutors, police administrators, heads of parole and probation departments, and wardens of our correctional institutions."

### SPECIAL CURRICULUM

Professor Glueck designed such a plan in the Harvard Law School in 1932, which with the aid of other departments at Harvard, offered a two-year course in such subjects as Criminal Law, Government, Sociology, Anthropology, Psychology, Psychopathology, Criminology and Penology, Philosophy, and Social Research. This program was short-lived, because the public was not yet ready to recognize correctional work as

a special profession and to insure appointments, compensation and tenure commensurate with post-graduate training.

In concluding these remarks, Professor Glueck pointed to the danger of hasty adoptions of superficial schemes of reform merely to satisfy the community's transient emotional response to some particularly atrocious sex crime. Reform should rather be founded on the considered advice of those who have studied the motivations and aberrations of delinquents and criminals.

### STEPS IN RIGHT DIRECTION

A few promising steps in the right direction have already been taken. The American Law Institute has proposed a Youth Correction Authority made up of three qualified persons, to supervise the custody of young-adult offenders, to classify them, place them in suitable institutions, and release them only as it is safe. Similar bills, approved by some of the leading Federal judges, are now pending in Congress. A few states provide for a separate treatment of sex criminals, with a statutory definition of this special category, and use the best known methods in attempting to cure them and in trying to determine when it is safe to release them from custody.

"If this public demand for protection against the sexual psychopath could be harnessed to the larger problem of all crime we might have these improved methods of investigation and application of known factors as available weapons in our now losing fight against the disturbers of peace and security in the community."

J. P. L.

## BOOK SHELF—(Continued)

Considerable attention is given to the problem of monetary relations between nations, particularly the problem of exchange-rate stability. Dr. Heilperin is continually insistent that there should be an effort to get rid of exchange controls by individual nations, and substitute a more general supervision by an international agency. The International Monetary Fund is not yet such an agency, nor does there seem a strong effort by any nation to move in that direction.

Having covered some of the basic principles and problems of international trade, Dr. Heilperin begins the attack on economic nationalism. A chapter on "Old-Fashioned" Protectionism discusses the arguments of protecting industries vital to national defense (what industry isn't?) and "infant industries," which sometimes never grow up! Turning to what he terms "The New Economic Nationalism" he refutes the argument that the best contribution America can make to international prosperity is merely to concentrate on internal prosperity and full employment at home. He shows how such a program often results in an attempt at insulation from the rest of the world and a diminution in free world trade. A chapter on world economy and peace, although repudiating the rather widely held theory that economic problems are the single important cause of wars, suggests ways in which an international economic program can reduce the economic frictions which constitute an undeniably important element in causing wars among nations.

The latter part of the book surveys the current beginnings of international trade agencies, and America's opportunity for bold leadership in such agencies. Looking back over the entire book, Dr. Heilperin concludes that the world is at an important economic crossroads, that the peace and prosperity of all nations will be best promoted by free international trade, and that America should take a position of dominant and powerful leadership in support of such policies. America's privately-owned free enterprise system can continue to prosper, according to Dr. Heilperin, only in a world of free trade. In his words, "The United States must choose between its devotion to liberal democracy, to individual freedom, and to free economic institutions, and its attachment to the high tariff. Only by giving up the latter can we effectively promote the former." Republican congressmen please note!

A possible criticism of the book is its disinclination to discuss domestic policies in detail, particularly with respect to the effects on boom-bust cycles of international trade, and the degree of planning and control which Dr. Heilperin believes optimum within each country. His reiterated devotion to a "free" domestic economy seems somewhat inconsistent with his high regard for planning and control on the international level. Perhaps he intentionally disregarded such problems in the fear that they would arouse controversy which would detract from his principal message to the man in the street. That this book may actually inform, convince, and convert a large number of men in the street is possible. It will undoubtedly fail to convert those persons who actively support high tariffs, who under-

stand fully the economic implications but are primarily interested in continuing to sell a large volume of American watches, beet-sugar, and bicycles.

STANLEY R. EVANS

## COX—(Continued)

Professor Cox criticized the outmoded theory that all a lawyer need know was contained in statutes, law reports, and treatises. He noted the trend toward specialization in city practices, but on the other hand, he saw the need for increasing familiarity with other fields of knowledge. "Economists, sociologists, psychologists—indeed all social scientists—have something to contribute in helping men to live together . . . but, with notable exceptions, they deal in general terms and not with specific problems. The lawyer's task, I think, is just the opposite. He may not go it alone; for if he confines himself to statute books and judicial decisions, he is likely to make a mess of a situation. His task is to call upon the other experts to bring their skill and knowledge to bear on the issue at hand and to come up with a program or decision. While the lawyer cannot master these whole fields of knowledge, he is, in a sense, a man who repeatedly becomes an expert first in one and then in another field of human activity. By his ability to strip a situation to its essentials and make plain the ground for compromise—or absence of fundamental disagreement—he helps men to get along together."

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The COOP

## DEBATE—(Continued)

be vigorously opposed. He pointed out that where non-union employees work in the same jobs as members who are bound to a collective bargaining contract there will be friction and hard feelings, and that if the closed shop were outlawed, non-union men would be able to share in the benefits brought about by the bargaining of the union and yet escape the burdens of membership. Closed shop bargaining is necessary for the protection of the unions and to deprive them of it will tend to take away the great bargaining power which they have been able to obtain.

On the other hand, Mr. Hunt insisted that each individual employee should be allowed to work where he wishes regardless of membership in a union. It

Mr. Bernstein's position was that there should be legislation to regulate closed shop activities, and if that is not possible, the closed shop should be outlawed. Mr. Wise's stand was that modern society is comprised of groups rather than individuals, and that labor must be able to form a group to balance that of the corporate interests, for its own protection.

It was pointed out that whatever the outcome of labor disputes as between employer and employee, the general public is the loser. Production is decreased and prices increase. It was for this reason in addition to the denial of individual rights that the majority of the participants felt that at least there should be regulation of closed shop activities.

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## Calendar

## LEGAL WORLD

## King's Bench

A buffet supper will be held Friday, March 28, at 5:30 p. m., in Kendall House for members of King's Bench and their guests.

## Law School Forum

Thomas Eliot and George Soule will discuss *A Retrospect of the Liberal Creed* on Friday, March 28, in Sanders Theatre at 7:45 p. m. Professor Powell is to be the moderator.

## Law Wives

Mrs. Frederick Wyatt, psychologist, will speak on *Emotional Problems in Early Childhood*, next Tuesday, April 2, at 8 p. m. in Kendall House.

## Lawyers' Guild

O. John Rogge, former U. S. Assistant Attorney-General speaks informally this Thursday afternoon at Kendall House at the organizing meeting of a Harvard Students Chapter of the National Lawyers Guild. Faculty and students are invited to attend Thursday, March 27, 4:30 P.M. at Kendall House to listen, ask questions, and join.

THE UNIVERSITY WORLD  
Harvard Teachers Association and Lectures

The United Nations Council of Harvard presents a symposium on *The United States and Greek Revival* on Thursday, March 27, in Phillips Brooks House, at 7:30 p. m. Hans Kohn, Professor of Political Science at Smith College, Sterling Dow, Professor of Greek History and Literature, and Ernest Riggs, President of Anatolia College (Salonica, Greece) will be the speakers.

Continuing its series of talks on the works of E. M. Forster, Kirkland House will present Professor Raymond W. Short of Hofstra College on Thursday, March 27 in the Common Room, at 7:30 p. m. He will discuss *A Room with a View*.

John B. Fisher, director of the Massachusetts Republican Speaker's Bureau in the 1946 campaign, will address the Harvard Republican Open Forum on Thursday, March 27, in Winthrop House Junior Common Room at 8 p. m. His topic is *The Republican Party—1946-48*.

## Ingles Lecture

The fifty-sixth annual meeting of the Harvard Teachers Association resumes tonight and continues each day through Saturday (March 29). The theme for this year's meeting is *A United Nation Through United Schools*.

The Ingles Lecture will be given tonight in the Large Lecture Hall of the Fogg Art Museum at 8 p. m. The lecturer will be Orway Tead, Chairman of the Board of Higher Education, New York City. His subject will be *Equalizing Educational Opportunity Beyond the Secondary School*.

On Thursday, March 27, there will be a conference at 8 p. m. in the Lounge of Littauer Center. On Friday, March 28, there will be conferences at 4 p. m. at the Faculty Club. At 8 p. m. in the Auditorium of Littauer Center, there will be a joint meeting with the American Education Fellowship at which there will be a conference on *Public Understanding and Support of Education*. The specific topic of this conference will be *Education's Stake in Our Economy* and the principal speaker will be Ernest O. Melby, Dean of the School of Education of New York University.

On Saturday, March 29, there will be conferences from 9:30 a. m. to 12 m. A registration fee of 50c is charged to all non-members attending the conferences. This fee admits one to all meetings. The Registration desks will be found in Room 1, Lawrence Hall, and at the entrance to each meeting.

## Graduate Students Club

The Graduate Students Club, 18 Appian Way, is open to all graduate and law students on weekdays, 7:30 to 11:30 p. m., and on Sundays, 5:30 to 10:30 p. m. Refreshments are available at reasonable prices. On Wednesday, March 26, the Club will sponsor a record concert of Brandenburg Concertos at 9 p. m. A bridge tournament is scheduled for Thursday, March 27, at 8:30 p. m. There will be prizes for both experienced and inexperienced players.

## Boylston Prize Finals

The Boylston Prize finals to ascertain the best speakers in the College will take place tonight, in Paine Hall, Music Building, at 8 p. m. Judge Calvert Magruder is to be one of the judges. Famed Professor Emeritus Charles Townsend Copeland will be honorary judge.

## International Student Center

The International Student Center, 5 Phillips Place, will have as its guest speaker, Sunday, March 30, 8 p. m., Professor Greene of M.I.T. who will present the pros and cons on *Universal Peacetime Conscription*. Open House and tea from 4 p. m.; buffet supper at 6:30 p. m.

## Concert

The Harvard Glee Club and Radcliffe Choral Society gives its annual concert tonight in Sanders Theatre, 8:15 p. m. G. Wallace Woodworth is the conductor. The Brass Choir of the New England Conservatory will assist.

## SERVICE—(Continued)

erral) plan (or system) is "an agency whereby the general public can be referred to competent and reliable lawyers who, for a fixed moderate fee, would be willing to give a consultation on a legal problem and then render additional legal advice for a moderate fee if further legal service seemed desirable and necessary."

That excellent definition comes from the address by William Dean Embree before the National Association of Legal Aid Organizations in October 1946. How easy it has been for the public, and the bar itself, to become confused is illustrated by the fact that Mr. Embree spoke as "Chairman, Joint Committee on Low Cost Legal Service of the Association of the Bar of the City of New York and the New York County Lawyers Association." *Lawyer Reference Plan* seems the simplest possible phrase to describe this first objective. Its connotation in the public mind is probably clearer than would be "referral system." *Lawyer Reference Plan* will be used in this article.

The basic concept of the *Lawyer Reference Plan* is that the client will be served in the office of the *Lawyer to whom he has been referred*. The basic concept of the service proposed in this article is that the client shall apply at an office maintained under bar association auspices and staffed for the purpose of serving him right there. There seems to be no psychological handicap to ready public acceptance of the term *Legal Service Office*. It should in due course come to signify a law office for persons of moderate means, just as clearly as "legal aid" denotes a law office for the poor. *Legal Service Office* will be used in this article.

*Legal Clinic* is borrowing a medical analogy which does not fit too well. It is the more confusing because some legal aid offices have been called "legal clinics." While "clinic" had better be tabooed as a name, the idea of *clinical training* for law school graduates is very definitely in our picture because such men might serve an apprenticeship (like medical interns) in the *Legal Service Office*. This idea will be developed more fully later in the article.

The *Neighborhood Law Office* is exactly what the name implies. Though often confused with, it is entirely distinct from, "reference plans" and "legal offices." Seven neighborhood law offices were set up in different parts of Philadelphia in 1933 and two appear to have been added in 1946. According to *American Law and Lawyers* for March 12, 1946, the National Lawyers' Guild is considering such offices for New York City.

While all sincere efforts in this field are to be welcomed so that their fitness and serviceability may be ascertained, the "neighborhood plan" as it has thus far developed seems to lack that organic connection with the bar associations which, experience indicates, is an absolute essential.

(At this point, the author discusses and analyzes the effect of the Armed Forces policy of affording legal assistance to all servicemen during the past war. This policy has been continued into the post-war era with the cooperation of the bar associations. The author then goes on to investigate income distribution in the U. S. and concludes that at least one-third of our citizens are persons of "moderate means.")

## Economic Condition of the Bar

Between a huge and growing demand for legal services and the lawyers fully competent to perform those services there has been a barrier compounded of fear and ignorance. Let it be said at once that the *Lawyer Reference Plan* and the *Legal Service Office* are two powerful levers which, in the hands of the organized bar, can remove the barrier. The factor that first led us to an awareness of our present problem was the bar's alarm at the economic plight of so many of its members. The painstaking report by Isador Lazarus to the New York County Lawyers Association was shocking in its revelation of the number of lawyers whose earnings were insufficient for even a minimum standard of living. (Here Mr. Smith quotes from the *Garrison Report* to the American Bar Association in 1938 from an address by Mr. Robert H. Jackson delivered in 1939, both of which point up the seriousness of the problem.) Gradu-

ally the emphasis shifted from concern about the lawyer's need for a living to consideration of the public's need for legal service. The change was given great impetus by Dean Garrison's remarkable report in 1938 already referred to. In 1945 the American Bar Association Committee on the Economic Condition of the Bar was renamed at its own request to Committee on Professional Services.

We need not be ashamed that our earliest fumbling efforts originated in self-interest. They developed to maturity as soon as the profession could evaluate them. A motive that calls on a man for the best that is in him and at the same time enlists the support of enlightened selfishness is powerful and likely to get results. Until the bar thought in terms of the public need, it actually was its own worst enemy. To prohibit ambitious young men from studying law was impossible in a democracy. To rely entirely on unauthorized practice committees was obviously not the answer.

## The Lawyer Reference Plan

The first concrete action was taken by the Chicago Bar Association in 1940 under the inspiring leadership of Walter T. Fisher. Let it be noted at once that Charles J. Lind, secretary of the Chicago Bar Association Lawyer Reference Plan, speaking out of six years of actual experience, states that 80% of the persons who appeal to him have never had a lawyer.

The plan is simplicity itself. A person needing legal advice and not knowing where to turn, goes to the office of the bar association. There he is given the name and address of a lawyer and an appointment is made for him. The client is told he must pay \$3.00 in advance for a one-half hour consultation and \$5.00 if it takes longer. If further services are needed, client and lawyer agree on the basis of the charge. If there should be a dispute as to the final fee, both parties agree to have it decided by the committee of the bar association in charge of the Reference Plan. Mr. Lind reports that in six years the committee has received just one complaint of overcharge.

Later in 1940 the Los Angeles Bar Association set up a similar reference plan. It added one feature: lawyers who wish to enroll on the panel of those to whom clients are referred must contribute \$3.00 annually to support the plan. In 1943 the Cincinnati Bar Association followed suit and decided to use the Cincinnati Legal Aid Society as the referral office. In like manner, the reference plan set up by the Milwaukee Bar Association is operated by the Legal Aid Society of Milwaukee. In 1945, 98 persons were referred by the society's office to private attorneys but the plan was limited to applicants entitled to "low cost" legal service. Now the bar association has recommended to its members that any one, irrespective of income, can apply and be referred. Effective in November 1946, the Association of the Bar of the City of New York and the New York County Lawyers Association jointly established their reference plan. The fee for the first half-hour's consultation will be \$5.00. A panel of from 800 to 1000 lawyers will be used. They will be carefully classified so that a client may be sent to a lawyer experienced and qualified to deal with the specific problem.

If the *Lawyer Reference Plan* could be a complete answer, our quest would end here. But close analysis forces the conclusion that the bar must plan something more. What is dimly emerging as the full and complete answer, the only possible answer if the demand for legal service is heavy, is the *Legal Service Office*. It will take time to hammer out the form and structure of this novel

undertaking, and it is not too soon to begin considering ways and means—what ought to be done and what can be done.

## Why a Legal Service Office

Almost by hypothesis, the *Lawyer Reference Plan* can be only a partial answer. The steadily recurring phrase "low cost" correctly implies that much of this business must be done for fees lower than what the lawyer ordinarily charges. Legal aid started as a reference plan. A poor person went to a charity or social agency. If his problem had legal aspects, he was referred to a lawyer, commonly one of the charity's directors. As soon as the number of legal aid applicants grew sizable, the reference plan collapsed completely for lack of competent and available lawyers to whom such clients could be referred.

It was supplanted by the legal aid office. This office not only got the work done but soon proved that it possessed collateral advantages. The lawyers on its staff became expert in their work. They could not draw corporate bond mortgages, but they could certainly collect unpaid wages. They developed techniques which enabled them to handle cases much more quickly and, therefore, more cheaply. Shortly it became manifest that by collecting all the cases in one place, the office became a laboratory where law in action could be observed, breakdowns detected, and remedial legislation drafted as in the campaigns against loan sharks and wage assignment racketeers.

A final collateral advantage was that the cases handled in a legal aid office offered good clinical material so that it was an ideal place for young lawyers to learn the art of practice. The difficulty was that the material, while substantial, was insufficient if any large number of law schools had wanted to use it for postgraduate training for all their men.

There is an irresistible force which compels any *Lawyer Reference Plan*, as rapidly as it is really successful, to transform itself more and more into a *Legal Service Office*. In 1940 the Chicago Bar Plan referred 400 cases. It now handles some 16,000 telephone, mail, and personal inquiries every year. Since the secretary of the plan is a good lawyer, he is able to answer and does answer 80% of the inquiries, thus disposing of 80% of the cases without referral. If an applicant can be correctly advised in a few minutes, it is common sense and it is only decent public service to answer the question then and there instead of consulting a list, locating an available lawyer, making an appointment, and sending the client off—possibly across town—to be told something he could have been told at once and without stirring from the office. Treble the number of applicants and then three lawyers would be required to deal with their cases without referral. That would be the nucleus of a *Legal Service Office*.

## Blueprint of a Legal Service Office

(After giving due credit to the *Garrison Report*, to articles appearing in the *Chicago Bar Record* and the *Boston University Law Review*, Mr. Smith goes on to say:)

While I have borrowed liberally from these sources, I must take the responsibility for the ideas, plans and suggestions which are submitted herein. The purposes of the *Legal Service Office* will be: (1) to provide for persons of moderate means the legal service which they need and which they now obtain with difficulty, if at all; (2) to supplement, not compete with, the professional work of the regular lawyer in private practice, and to refer to him clients who are able to pay ordinary fees; (3) to constitute an institutional office where law school graduates will serve two

years of apprenticeship training under (a) staff of practicing lawyers and (b) teachers from an approved law school; (4) to accept cases from the legal assistance officers of the armed forces in time of peace as well as in war; and (5) to observe law in action and study the practical operations of the machinery of justice; to keep appropriate records; and to cooperate with judicial councils, bar associations, law schools, legal aid organizations and other agencies, public or private, concerned in the administration of justice. If the first and third objectives are attained, the other three will follow as certainly as does night the day.

## Cost System

For many reasons it will be imperative for the office to operate under an accurate cost system. In all discussions by lawyers of this general subject, there is repeated insistence on the desirability of "low cost." It is impossible to know what "low cost" is until we first know what the cost of a case is. The only scientific way to try to reduce costs is to determine actual cost, find of what elements it is composed, and then see what items can be cut. The most obvious and the most hopeful method is by the delegation of certain functions and certain parts of a case from a higher cost (higher-salaried) lawyer to lower cost men on the staff.

## Screening The Applicants

Applicants at the *Legal Service Office* will be "screened" both at the top and at the bottom. The bar association will set the upper and lower limits. These will vary from city to city. Normally, income will be the determining criteria. In one city the limits might be \$1000 to \$3000; in another \$1500 to \$3500; and in cities with the highest living costs \$2000 to \$4000. Experimentation must be gone through. It will be better to begin conservatively, to fix the top limit too low if there be doubt, and then to raise it in the light of experience.

At the bottom will be applicants who can pay nothing or practically nothing. Applicants unable to pay anything will be referred to the legal aid office which is maintained by the community for exactly that purpose. At the top will be

applicants whose incomes make them ineligible for the *Legal Service Office* and who will be referred, according to the bar's reference plan, to an appropriate lawyer. There undoubtedly will be a great many of these clients. Just as a considerable number of persons now go to a legal aid office in order to find a lawyer to go to, so many more persons will go to the *Legal Service Office* for that purpose, as soon as the office becomes established and well known. In fact, the *Legal Service Office* can become a great "feeder" to the whole bar. And all the evidence available thus far indicates that this will be new legal business from persons who in the past got along without lawyers (often to their great loss) because of fear, ignorance, or because they were not law-conscious.

Also at the top there will be referred persons who, regardless of income, can pay in full the ordinary fair fee. Two typical situations will be illustrative. Where the contingent fee system is recognized, clients with personal injury cases will be referred to lawyers expert in the field of tort litigation. In states where the courts require a husband to pay more than a nominal fee to the wife's attorney, divorce and separation cases will be referred to attorneys competent in that field.

It must always be kept in mind that the *Legal Service Office* exists to care for only those clients who cannot be served elsewhere. By and large, lawyers in private practice serve their clients with skill, zeal, and fidelity. There is not the slightest desire to change or interfere with that basic system in our administration of justice. The *Legal Service Office* will be glad to refer to lawyers as many cases as it can, not alone because that is its duty, but because it is to its interest to do so. The *Legal Service Office*, once it becomes known, will be swamped with work just as every legal aid office always has been.

Rules marking out what cases the *Legal Service Office* can accept and what cases it must refer, should be worked out in some detail by the bar association.

(The concluding installment of this article will appear next week.)

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The review will be conducted at the Calvin Coolidge Law School, 45 Mount Vernon St., Boston, Mass., commencing Monday, June 2, 1947 and ending June 25, 1947. The course will meet Monday through Friday from 9 a. m. to 12 noon and from 2 p. m. to 4 p. m.

The fee for the course and a comprehensive set of notes on Massachusetts Law is \$50.00. Lecturers will be Mark Dalton (LL.B. Harvard 1941) and Joseph H. Elcock, Jr. (LL.B. Harvard 1941).

The course is limited to 100 qualified applicants. Submit applications to the Commonwealth Bar Review Associates, 114 State St., Boston 8, Mass., by May 1, 1947. Each application must be accompanied by a statement of the applicant's average grades attained while in law school certified by the proper official of such school together with an application fee of \$5.00. The application fee will be credited to the fee for the course for those applicants who are accepted and will be refunded to those applicants who are rejected.

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