

The Harvard Law School Record

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FOUR CLUBS MOVE UP TO SEMIFINALS

J. Smith, Gardner Victors; G. F. Bloom Wins Advocacy Prize

The J. Smith and Gardner Clubs last week joined the Holmes and Grotius Clubs as winners of quarter-final arguments in the Ames Competition, and earned the right to participate in the semi-finals next term.

The victory by the J. Smith Club was gained over the Story Club, and the Gardner Club won its place in the semi-finals by defeating the Cardozo Club.

The William Sheldon prize, which is awarded to the best oral advocate in the quarter-final round, went to Gordon F. Bloom, a member of the Landis Club. The runners-up for the prize were Lawrence S. Munson of the J. Smith Club, and Albert Moorman, Jr., of the Gardner Club.

Munson was assisted in presenting the oral argument for the winning J. Smith Club by Thomas P. O'Boyle. Counsel on the brief for this club were Irvine F. Belser, William V. Finn, James B. Grant, Jr., Francis W. McCalpin, and Arthur R. Slade, Jr.

Moorman and Francis M. Wheat handled the oral argument for the Gardner Club in its victory. Stephen G. Lax, Herrick K. Lidstone, Byrne Litschgi, George McClintock, Ray Myers, Jr., and Paul H. Roney were of counsel on the brief.

The Story Club oral argument was presented by Norman W. Colquhoun and Bushrod Brush Howard, Jr. Counsel on the brief were Grenville Clark, Jr., Miner D. Cray, Jr., James B. Hannah, John B. Kirkpatrick, F. R. Kitchell, Jr., and Bruce G. Sundlum.

Paul Mishkin and Chester L. Smith, Jr., appeared in the oral argument for the Cardozo Club. Gerald W. Brownstein, William P. Cunningham, Morton H. Feder, Elmer J. Harris, and Sumner S. Koch were of counsel on the brief.

BRIEF WRITING RULES TO CHANGE

The technical aspects of brief writing, as set forth in the "Introduction To Advocacy," the Board of Student Advisers publication, are to be revised and changed before printing the next edition. In the past frequent comments have been made concerning omissions, corrections, and entirely new ideas which, the proponents urge, should be included in this instructional pamphlet. Now is the time to reveal any dissatisfaction you have with the present form of publication, and to offer your suggestions for improvements. All suggestions should be submitted to James Perkins, 3L, at the officers of the Board of Student Advisers.

Law Student Dissents From Forum's Restatement Of Liberal Creed Offered By Eliot And Soule

Record columns are open to expression of opinion by students and faculty. The Editors asked Mr. Leatham to express his opinions on the "Liberal Creed" Forum reported in last week's issue. The Record welcomes and will publish dissents from Mr. Leatham's views.

With Congressman Eliot, all liberals, conservatives, and unclassifieds can agree that it is dangerous for us to remain seated when the "torch of American liberty" so much as flickers, but it should be borne in mind that all of us jumping to our feet at once may cause a draft sufficient to extinguish the strongest flame.

Fortunately, Mr. George Soule has given us all the opportunity of being in the presently more fashionable "liberal" camp by giving us carte blanche to make up our own definition of what it is. He has set up two tests, however, with which we shall find it a little more difficult to cope. The belief, as I understand it, necessarily must be:

- 1) Human beings ought to be regarded as ends in themselves, and
- 2) Human difficulties ought to be

Morse Says Wagner Act Changes Needed To Curb Union Abuses

The following excerpts from an address delivered in the Senate on March 10, 1947, are reprinted with the permission of Senator Wayne Morse, of Oregon.

It has been an opinion of mine ever since the N.L.R.A.—known as the Wagner Act—was passed that the act would never prove to be the Magna Carta for labor until it was modified in those respects necessary in order to make the rules applicable to both teams, so to speak. In the midst of the present tremendous propaganda drive for punitive labor legislation, it is easy for the American people to forget what has happened in the past—and what is bound to happen again in the future if certain types of employers are freed from the limitations of the Wagner Act. In fact, no one can study the American industrial scene without recognizing that in the competitive struggle for profits it is very easy to treat human beings as commodities to be bought and sold on the labor market on the basis of supply and demand, unless the Government is ever vigilant through such legislation as the Wagner Act, the Fair Labor Standards Act, safety legislation, and all the rest of our very much needed labor legislation, to protect the freedom of free workers.

I am convinced that if today we abolish the Wagner Act within less than six months American industrial life would in large part return to the unfair labor practices that existed prior to the passage of the Wagner Act. I see too much evidence of an attitude of union busting and antilabor sentiment in some of the employer witnesses appearing before the Labor Committee not to be convinced that the extremists among American employers are still sufficiently large in number so that the repeal of the Wagner Act would result in another era of labor exploitation that would ultimately lead to tremendous violence and chaos.

Here are some of the proposals which I think should be made by way of amendment to the Wagner Act. The bill (S. 858) which I am now introducing falls into four general topics: first, it defines several new unfair labor practices with regard to labor organizations and their agents and also corrects certain deficiencies in the present unfair labor practice sections of the Wagner Act; and, second, it provides for the expansion of the Board from three to seven members in view of the increased amount of work placed upon the Board and also permits the Board to operate in departments; and, third, the bill guarantees employers and all other persons affected by the Wagner Act their constitutional right to freedom of speech; and, fourth, it permits the Board as the expert agency of the Federal Government dealing with labor relations to seek injunctive relief in the Federal circuit court of appeals to restrain the unfair labor practices of both employers and employees in instances where the Board is persuaded that the situation demands speedy relief.

Just as the Wagner Act now makes it unfair for an employer to interfere with or restrain his employees in the exercise of their right to select their collective-bargaining representative, so I propose that it be an unfair labor practice for labor organizations, or their agents, to interfere with, restrain, or coerce an employer in the selection of his bargaining representative. Certain types of strikes, jurisdictional disputes, and secondary boycotts are defined as unfair labor practices. These provisions are in section 4 (d) of the bill. It is thereby made an unfair labor practice for a union, or its agents, "to engage, or to induce or encourage the employees of any employer to engage, in a strike or in a concerted refusal to use, transport, or handle goods or to perform any services in the course of their employment, if the stoppage or action is directed at certain objectives. For example, it would be an unfair labor practice to strike or boycott in furtherance of a jurisdictional dispute regarding the performance of a particular work task by members of one union or another. These jurisdictional disputes are generally unjustifiable and need to be corrected. Another objective for which it will be illegal to strike or engage in a boycott is one designed to compel any employer to disregard a certification issued by the Board. Under the present law an employer who is under a duty to recognize and bargain with one union by reason of a Board election and certification can obtain no relief from the Board or the courts if the union which lost the election chooses to strike or boycott in an effort to have the employer disregard the obligation placed upon him by reason of the Board certification. Another objective which it seems to me is not defensible is that involved in a secondary boycott designed to force an employer to recognize a union. By this device, labor unions attempt to organize employer A by bringing economic pressure to bear upon employer B. It seems to me that with the democratic election machinery of the Wagner Act available, and with the provisions according Federal protection to employees in their efforts to organize, it is no longer legitimate for labor to engage in this type of conduct. A related type of secondary boycott which I think should be made an unfair labor practice, is one designed to compel another employer to bargain with a particular labor organization. Here, again, I believe that resort should be had to the machinery of the act and to peaceful collective bargaining.

The third type of unfair labor practice covered by this bill is that arising out of expulsion of employees from membership in a union which has a closed shop contract with an employer, when the reason for the expulsion is that the employee has exercised his democratic right to change bargaining representatives. The Board can now remedy such conduct only by the indirect method of issuing an order against

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PEPPER TO SPEAK AT LAW FORUM

Will Join Feller In Talk On Strength Of The United Nations

Senator Claude Pepper of Florida has accepted an invitation to speak with Abraham Feller, General Counsel of the United Nations, on the Harvard Law School Forum this Friday night, in place of Edward Stettinius and John Winant, who have been forced to decline, the Forum officers announced early this week.

Professor Milton Katz will moderate the discussion, centered on "How Strong is the UN?" which will begin at 7:30 p.m. in Sanders Theatre. Members are cautioned to arrive by 7:15 in order to be assured of getting seats, which will be reserved for members only until that time.

The point of view from which each speaker will handle the general topic should shed light on the recent operations of the international organization, as well as indicate whether the UN is going on the rocks or whether it still can become the instrument for peace that it was intended to be. Mr. Feller, who has been general counsel since its inception, will analyze the work of the Security Council and the General Assembly as of today—what their functions and objectives are; what each has achieved; why they have not accomplished more; and what their potentialities are for the future.

Senator Pepper, on the other hand, will make some observations on American policy in the UN, as it is today, as it will be, and as he thinks it should be. Since he is perhaps the most prominent and outspoken critic of American foreign policy in Congressional circles, what he has to say will probably be to the point and should touch on what results such issues as aid for Greece and Turkey and the Baruch plan for atomic control will have on the continued effectiveness of the UN.

Mr. Feller, a graduate of Columbia and the Harvard Law School, has reached his present position after a distinguished career in international law. Following his graduation from the Law School in 1928, Mr. Feller remained at Harvard as a teaching fellow and instructor in international law until 1934 when he became a Special Assistant to the Attorney General of the United States, a position he held for six years. Also during that period he included another year of teaching and a year as counsel for the TNEC, and in 1940 he became Associate Professor at Yale where he remained until 1944. When the war began, he became Deputy Director and General Counsel for the Office of War Information, the job he left to become General Counsel and Special Representative for the UNRRA. He represented the UNRRA at the United Nations conference in San Francisco, and then served as adviser to the U. S. Delegation to the First General

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SQUASH MATCHES BEGIN ON FRIDAY

In response to student requests, the Law School Committee of Phillips Brooks House will conduct a law school squash tournament beginning Friday of this week, Thayer Drake and George Burditt, members of the committee have announced.

Arrangements are being made for 64 students to participate, and entries can be made at the desk in Hemenway gymnasium through tomorrow.

Further information concerning the seeding, pairings, and times of matches can also be obtained at Hemenway.

In addition to the squash tournament, the committee is considering a program of sports to include softball, tennis, golf, squash, and basketball. Suggestions have already been made for a golf tournament, and sailing privileges on the Charles River.

Students who have ideas as to how the sports program should be conducted, or are interested in participating, are asked to contact Drake (TRO. 0139) or Burditt (ELL. 4031).

SEMIFINAL CASE IS SET FOR THURSDAY

Scott-PowWow And Thorpe To Argue Tax Case



ASBILL TEMPLE
Pictures of the other semi-final oralists, George I. Meisel and John O. Platt, were not available.

NOMINATIONS FOR FORUM COMPLETE

Present Board Members, Thirty Others On Ballot

Ballots for the election of members of the Board of Directors of the Harvard Law School Forum will contain the names of 55 nominees. Those nominated include the 25 members of the present board along with 30 persons nominated by petition.

Each member of the Forum will be entitled to vote for 10 persons, and the 25 nominees receiving the highest number of votes will constitute the new Board, which will immediately assume management of the Forum. Ballots must be turned in by April 15.

The new board members will convene on April 18 in order to select a new president from the group.

Candidates for Board membership are: Charles Allen, *George Bearcovitch, Arthur Berger, *Albert Blinder, George T. Bogert, Douglas Bowring, *Frank Boyce, Joseph Boychuk, Robert S. Burton, *Earl Capehart, *Frank Cohen, *John Crane, *George H. Esser, Jr., Frederick G. Fisher, Jr., *Joseph H. Flinn, *Donald Hackel, John B. Hennessey, Lawrence Hickey, *Richard A. Holman, Sander L. Johnson, *DeWitt B. Kirk, Harold S. Klein, Wilbur Legg, Byrne Litschgi, *Henry Lopez, *Wm. A. Lowry, *Joseph B. McGrath, James McMahon, John Alexander McMahon, Paul Mishkin, *Frank Milligan, Robert J. Mooney, James A. Neff, *Thomas L. P. O'Donnell, *Daniel Paul, William K. Poindexter, *Milton Prigoff, *Royal S. Radin, *Jerome L. Rappaport, Paul H. Roney, *Karl Schmiedler, *Saul Sherman, Carl Shipley, John W. Simpson, *Spero V. Soupios, *Marvin Sparrow, S. Arthur Spiegel, Zane Grey Staker, Edward Stern, Robert M. Stevenson, Paul N. Temple, Leonard Tuft, Dow Votaw, Milton R. Wessel, *James Weinburg. * Present Board members.

BLOOD DONORS

A three-day drive for blood donations is to be made at Phillips Brooks House on April 9, 10, and 11. The hour between 4 and 5 on Friday, April 11, has been reserved for law students who wish to aid this program which is being conducted in co-operation with the Massachusetts Department of Public Health. Students who find the reserved hour inconvenient may make appointments at Phillips Brooks House for any time during the three days. Facilities will be set up there for the donations.

SOUND-PROOFING TO CUT LIBRARY NOISE

The work now being done to sound-proof the corridors in Langdell Hall is in response to a report made by a student-faculty committee appointed by Dean E. N. Griswold last term to investigate conditions in the library reading room.

According to the report, the reading room was excessively noisy, and the purpose of the soundproofing is to cut down the noise in the corridors, which is a great source of distraction in the reading room.

The investigating committee was appointed last November, in response to an editorial request in the Record.

Another improvement mentioned by the Dean in connection with the same report was the installation of the "Current" and "Transfer" bulletin boards.

The first semi-final argument to be held in the Ames Competition since 1942 will take place at 8 p.m. tomorrow in Langdell Court Room, when counsel representing the Scott-PowWow and Thorpe Clubs will argue a tax case.

The winner of this argument will compete in the finals this summer against the winner of the other semi-final argument on April 17 between the Casner and Taney Clubs.

The bench for the argument will be composed of The Hon. Clarence G. Galston, United States District Court Judge of Brooklyn, N. Y.; Haskell Cohn, Esq., of the Boston bar; and Professor Ernest J. Brown of the Law School faculty.

The oral advocates for the Scott-PowWow Club will be Mac Asbill, Jr., of Washington, D. C., and John O. Platt, Jr., of Paoli, Pa. The Thorpe Club will be represented in the oral argument by George I. Meisel, of Painesville, Ohio, and Paul N. Temple, Jr., of Denver.

The case comes up on an appeal by the Commissioner of Internal Revenue to the Circuit Court of Appeals for the Circuit of Ames from a decision by the Tax Court in favor of Roger Tilton, the taxpayer.

In 1943, Tilton established a trust of \$233,000. There was no provision whereby he might share in the corpus of the trust or the income therefrom, and he reserved no power to alter the provisions for the distribution of the corpus or income.

There was a provision, however, that Tilton could voluntarily manage the trust fund as a trading account in stocks, bonds, and real estate, the income derived from these transactions to be paid to the beneficiary of the trust.

During the year 1944, under the management of Tilton, \$21,000 was earned as a result of the trading activities. This was paid to the beneficiary of the trust.

The Commissioner of Internal Revenue then determined that there was a deficiency in Tilton's income tax report, for the reason that he paid no income tax on the \$21,000. The Commissioner was sustained by the Tax Court, and the Circuit Court of Appeals affirmed. The Circuit Court said that Tilton had no property interest in either the trust corpus or income, but affirmed under *Helvering v. Clifford*, 309 U.S. 331. The judgment as to the income tax has become final.

The Commissioner then determined that there was a further deficiency in Tilton's report, for the reason that he paid no gift tax on the \$21,000. When this matter came before the Tax Court, the Commissioner contended that since the income was taxable to Tilton, it must have first belonged to him, and must have been given by him to the beneficiary.

Tilton contended that since he had no property interest in the income, he had no property to give, and consequently no gift tax was due.

The Tax Court decided in favor of Tilton, and the Commissioner appealed.

In addition to the issue as to whether a gift tax may be imposed on the income, the present appeal to the Circuit Court involves two other issues. They are whether the determination by the Circuit Court in the income tax case that Tilton had no property interest in the income is *res judicata* of the present action, and also the extent to which the Circuit Court is limited in reviewing the Tax Court findings under the rule laid down in *Dobson v. Commissioner*, 320 U. S. 489.

Counsel on the brief for the Thorpe Club in tomorrow night's argument will be W. Powell Bland, Goldsboro, N. C.; Lawrence C. Dargan, Jr., Dallas, Tex.; Hamilton M. Hoyer, Cambridge; Robert Krones, New York City; Saul G. Marias, Brooklyn; and Charles H. Oldfather, Jr., Des Moines, Iowa.

The Scott-PowWow counsel on the brief will be Thomas E. Bennett, Stillwater, Okla.; Francis E. P. McCarter, New Brunswick, N. J.; Thomas A. Quintrell, Cleveland, Ohio; and William Stanley, Jr., Washington, D. C.

The record and briefs in the case are available at the library desks.

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Editorials

Ever since the pioneer work of Lincoln Steffens the American cities have been the subject of much study and writing designed to reveal the frequently appalling conditions existing in metropolitan areas and the corrupt government which prevents reform. The past few months, however, have marked the appearance of an unusually great amount of literature of this type. The story which these books tell is such a familiar one that the details no longer have the power to shock the reader. Americans have come to expect that the government of their large cities will surely be inefficient and will probably be corrupt.

This apathetic resignation is found not only in the general public but apparently within the legal profession itself. Those from whom leadership is most logically expected are as inactive as the ordinary voter. Whether this be from indifference, lack of time, or a sense of futility it is the circumstance which insures that the mis-government of our cities will continue to be a favorite topic of publicists.

A frequent complaint of Alumni in the towns and smaller cities is that too many of our graduates are attracted to the large cities and thus miss the opportunity for broad service to the community which is found in less crowded areas. But this is really a comment on the lack of interest in civic affairs which marks the large-city lawyer rather than the lack of opportunity. The prevailing attitude appears to be that one's obligations to the community are fully discharged by heading the local Community Chest or Red Cross drive.

The obstacles to reform in the cities are undeniably great. Greatest of all the obstacles, however, is not the inertia of the mass of voters, but the failure of the trained and educated elements in the population to lead reform. And the indifference is most particularly marked among those whose talents should be most useful—the men trained in the law.

T. J. O.

Letters to the Editor

To the Editor of the RECORD:

The article examining the precedents in the "Bilbo incident" was very interesting. In discussing the question of whether either house can exclude or unseat a prospective member because of qualifications other than those expressly listed in the Constitution, your writer quotes Senator Taft as follows:

"If the Senate can say that the absence of moral turpitude is a qualification, it can impose qualifications based on the morals, the religion or lack of religion, or the philosophical or political view of any person elected. This would be such a dangerous power that it certainly should not be implied unless entirely clear. The existence of such power would give to the majority of either House the ability to exclude those who disagreed with opinions of the majority."

The following information (possibly overlooked by Senator Taft in his zeal to help a fellow-Republican) may help to complete the historical background on the subject:

1. Although the Constitution is silent on the subject, usage now requires that a representative be a resident of the district he represents. This has been one of the means by which American political parties have come under the control of local politicians rather than national party leaders.

2. In 1900 the House refused to seat Brigham H. Roberts of Utah on the ground that he was a polygamist. This was a clear example of imposing a religious qualification, although admittedly of doubtful constitutionality.

3. In 1919 Victor L. Berger of Wisconsin was excluded because of having been judicially convicted of sedition and disloyalty. (The Supreme Court eventually cleared him and, after being elected a third time in his district, he was finally seated.)

Thus it clearly appears that the House, at least, has in the past imposed qualifications other than those specifically required by the Constitution.

STANLEY R. EVANS, 2L.

To the Editor of the RECORD:

Not long ago, the law school yielded in the matter of disclosing numerical grades in each course. While change is still in the air, I would like to suggest a further refinement. It is this: There must be a considerable percentage of exams which have wide internal fluctuations, while for all the student knows, he proceeded at a brisk pace of 65 throughout. It would not seem too unreasonable to ask that, in these exceptional cases, some brief communication of the facts be made in order that what was done will be more accurately represented. A number is no doubt an adequate representation in a majority of cases, but where it is the result of averaging widely divergent marks on the several questions, it would certainly be helpful to know. Helpful in this respect—it would let such a student know that he had spent a disproportionate amount of time

on certain phases of the course and/or has badly missed on others. An attempted adjustment accordingly could be made.

This suggestion should not impose a great additional administrative burden. In the first place, positive action would only be needed in perhaps one out of four or five cases. And by adding a commentary in those cases, all the grade slips would be given an added meaning since those receiving grades without remarks would know by negative implication that the numbers reflected a more, or less even effort. Secondly, the project could be simply accomplished by adding a "remarks" space on the grade sheet. Where required, the professor's comments could be given in a single sentence.

WILMOT T. POPE, 2L.

To the Editor of the RECORD:

It seems to me, now that war-time shortages are easing up, that an institution which has some nineteen hundred students with paid up tuition could provide a little soap in the lavatories.

"BATHLESS"

The Book Shelf

CRITICS & CRUSADERS. Charles A. Madison, Holt, \$3.50, 537pp. plus Bibliography and Index.

Mr. Madison has good intentions. The jacket blurb on his book notes that "during the past six years he devoted nearly all his free hours to the writing of Critics & Crusaders." He might well have spent a good deal more time on the job. Perhaps the result would have been a more readable book.

Madison is a former Harvard graduate student who is now an editor in a New York publishing house. His book is as carefully planned and categorized as a graduate dissertation. Under six headings he presents eighteen "Critics and Crusaders," carefully allotting between eighteen and twenty-five pages to each. The individuals chosen are interesting. Under "The Abolitionists": William Lloyd Garrison, John Brown and Wendell Phillips; "The Utopians": Margaret Fuller, Albert Brisbane, Edward Bellamy; "The Anarchists": Henry Thoreau, Benjamin Tucker, Emma Goldman; "The Dissident Economists": Henry George, Brooks Adams, Thorstein Veblen; "The Militant Liberals": John P. Altgeld, Lincoln Steffens, Randolph Bourne; "The Socialists": Daniel DeLeon, Eugene V. Debs, John Reed.

It would be a difficult task for a far better writer than Madison to condense the life and ideas of any one of these remarkable people into twenty pages of print. What results from Madison's attempt is a bare lifeless outline of events thickly larded with extensive quotations from the subjects' works. The reader can almost see the note cards fluttering to the floor as the author copies their contents into the manuscript and tosses them aside. The dry brittle outline is there, but no attempt is made to probe beneath it to the flesh and blood and spirit of these men and women who were the objects of so much hate and admiration in their time.

One might ask whether it is enough to chronicle dates and events and leave it at that. There is no picture here of the men and women themselves. They are frozen into attitudes, like the whitened statues on Boston Common. No hint of movement, of the surge of personalities and ideas, appears in the precisely measured, stilted sentences. And in this stereotyped manner Madison presents alike such a fanatic as John Brown and firebrand as Emma Goldman and the Radical Harvard Law School graduate Brooks Adams, of the Beacon Hill Adamases; with scarcely a spare sentence or two to tell why they were as they were and thought as they thought.

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Off the Record

Since something in the nature of a spring lull has descended on our office, we caught ourselves browsing nostalgically through Professor Leach's *Cases on Future Interests*. Our moist eyes were arrested by footnote 2, on page viii of the preface:

"The verbal voluptuary will find other attractions between these covers. . . . One marvels at the passion for symmetry of the parents of Helga, Hilda, and Hulda Hewitt (p. 254), and speculates as to what they would have named their fourth daughter."

Since we have Epicurean tendencies as far as etymology goes, we feel that Professor Leach should not be left hanging on the fence through another addition. The RECORD has decided to inaugurate a contest for the purpose of naming a fourth Hewitt. The name must start with 'H' and end in 'a'; it must have an intangible lyrical beauty when combined with Hewitt. The judges are to be the surviving descendants of Sir Harold, and their final decision will be conclusive. The prize—a first edition of Fearnie on *Contingent Remainders*.



—HARRIS B. STEINBERG, '35

"NO FURTHER QUESTIONS!"

Gallery

REGINALD HEBER SMITH

Big City Lawyer



is so intense that going out on your own later in general practice would be folly.

"A lay office isn't an educational institution," Reginald Heber Smith reminds us. He ought to know, for he is a senior partner in Hale & Dorr, 60 State St., Boston, and his writings on law office organization are heeded with marked success in his firm and others.

"And a law school isn't a law office," he adds, then he points to the "beautiful gap" in the present day training of the law student. There is no way for the law student to learn how to deal with human beings and what it means to take their responsibilities on his own shoulder. In the big city firm, the beginner never sees the clients. "In theory," says Mr. Smith, the junior is supposed to learn from the partners. In practice, the partners never have the time to spare."

He has a cure for this gap which is "beautiful" only in the sense that a black-eye is so described. In making legal services available to the poor and to persons with moderate means, the legal profession can devise a program in which the law students, properly supervised, can learn how to deal with clients. His book *Justice and the Poor*, has been acclaimed as "the most authoritative treatise in this special field of law reform." His plan and reasons for setting up legal services for persons with moderate means were printed in the last two issues of the RECORD.

"Specialization is the first key to maximum efficiency and minimum cost," he believes. "Your client only knows 10 per cent of the facts and he'll unintentionally deceive you as to the balance." The juniors are assigned the legwork of determining certain facts. Legal questions go to the specialist. Hale & Dorr has six departments: Conveyancing, taxes, litigation, corporations, probate and trusts. Taxes is four times as large as any other department. "There's more money in this field and more business," says Smith. "The lawyer might pay for his services ten times over if he finds a deduction his client overlooked."

The smallest department is litigation as related to going into court. In recognition of the ferocity of its members, it is called the "red meat" department and it is used only if all else fails. "We try to make settlements out of court," says Smith. "That way we save money for the client and avoid bitterness. Half the battle is with your own client. He wants to shoot the other fellow. You get your experts to analyze his problem, then you try to beat some sense into him. If there is a good counsel on the other side, it is usually possible to come to an agreement." Big firms are increasing in numbers, he asserts, because they can give the community better service than individual practitioners whom he likens to the doctor who practices general medicine. "When the ambulance picks up a patient, it takes him to a hospital where all the facilities are available at once. Diagnosis isn't enough for the dying patient and it isn't enough for the client who is in trouble."

The junior flits from one menial task to another, willy-nilly. The partners eventually assign him a specialty in accordance with his demonstrated aptitudes. He is encouraged to bring in his own clients, not so much to drum up trade in these busy days but more to develop in him this knack of dealing with people and accepting responsibility, which should give him a feeling of independence. He will not always be a junior.

When Smith was graduated from the School in 1914, Dean Thayer prevailed upon him to become general counsel for the Boston Legal Aid Society. He had four lawyers to assist him but by setting up a cooperative system based on "council meetings" he made it clear to them that he was working with them, not over them. This principle is carried out today in the "firm meetings" Hale & Dorr holds every Thursday. These get-togethers give juniors an educational opportunity afforded in few big city law firms. The agenda is as follows: rules, for the management of the firm, all adopted democratically; new cases list, to give everyone an idea of the business coming into the firm; bills, correct assessment is a matter of utmost delicacy; decisions, briefed by various juniors, multigraphed, distributed among members and relating to cases of special and general interest; contacts, an effort is made to share friends ranging from the elevator boy in the courthouse to the Governor; trouble, mistakes are admitted so they won't happen the second time; various, personal events are mentioned, perhaps a funny story is told.

All the law student can expect to get from his schooling is an excellent mind, Smith states, until the day comes when the law schools work in conjunction with a "legal hospital" to allow the students a chance to deal with the human side of lawyering.

Dean Vanderbilt of the N.Y.U. Law School, past president of the A.B.A., recently said that Smith is "a tower of strength in anything that he is really interested in." He is, to mention a few things, interested in the Harvard Law School Association, of which he has been Treasurer for 28 years; in the RECORD; in the A.B.A. (he is one of the eight editors of its distinguished *Journal* and secretary of its Committee on Peace and Law through U.N.); in granting justice to the poor and persons of moderate means. He is no ambitious zealot and prefers to work behind the scenes. Good senior partner that he is, he could out-Tutt Mr. Tutt for a kindly keenness of manner, a knack of getting to the point without peremptoriness, withal he under-

Sub Judice

E PLURIBUS UNUM****

The Federal Government had returned an indictment against Joe McWilliams, Lois de Lafayette and 28 others charging what amounted to sedition. The case was the much publicized capital sedition trial which took place during the war. The defendants in that case were represented by 23 lawyers, 19 of whom were appointed by the court. Six of these were among the nine plaintiffs in the principal case who were suing the Chicago Daily News for libel. The alleged libel was claimed to have been published in an article entitled, "Capital Sedition Trial Shows True Despicable Nature of Fascism." The portion allegedly libelling the plaintiffs was the reporter's observation it was a trial "where the scum of political gangsterism in this country are represented by as craven a group of lawyers as I've seen, not excluding the nickel and dime shysters who used to hang around the racket court on S. State St. as staff attorneys for the gambling and vice syndicate." Plaintiffs claim the "usual form of innuendo in their complaint" in that the language referred to them. The complaint was dismissed and the plaintiffs appealed.

The court in affirming the dismissal supported the defendant newspaper's theory that none of the plaintiffs were identified in the group and that no right of action accrues to any individual not named in the article nor identified therein with certainty. In the course of its opinion the court pointed out that not all of the defendants in the sedition trial were within the category of "despicable" or "scum" as referred to in the article and by the same token not all the lawyers could be included in the reporter's description as to the counsel involved.

The decision is the first on this point in Illinois by a court of review of that state. *Latimer et al v. Chicago Daily News Inc.*, 71 N. E. 2d 553 (App. Ct. of Ill. 1947).

A FIFTH FREEDOM?****

In 1944, Morton Friedman was discharged from his position as chief of classification of the War Manpower Commission because the U. S. Civil Service Commission had determined that there was reasonable doubt as to his loyalty to the government of the United States. Friedman sued in the U. S. District Court for a declaration that he had been improperly dismissed and was entitled to reinstatement; also that the chairman of the WMC be required to reinstate him and the Civil Service Commission be enjoined from interfering with his reinstatement. Friedman's motion for summary judgment was denied and a cross motion for the defendant for dismissal was granted.

Friedman never was in classified civil service but came in under a relaxed procedure necessitated by the war. The Civil Service Commission was also given authority to adopt appropriate rules and regulations under its general authority and the War Service Regulations provided an eligible could be denied an appointment if there was "a reasonable doubt as to his loyalty to the government of the United States" and such reason would be sufficient cause for removal from the service.

As a result of its investigation the Commission determined a reasonable doubt as to Friedman's loyalty and also found that he was ineligible and should be removed. Friedman had a full hearing before the Board of Appeal and Review of the Civil Service Commission and his ineligibility was affirmed. The WMC asked the Civil Service Commission to reconsider, which it did and thereupon reaffirmed. The evidence was clear that Friedman had belonged to the American Peace Mobilization, an alleged Communist front organization which had shown its true colors by direct switch in policy the day after the Soviet Union was attacked by Germany and had continued to adhere to the Communist party line.

Friedman appealed to the Court of Appeals of the District of Columbia which affirmed stating that the courts were not concerned with whether Friedman was disloyal in fact or not but just whether the Commission had a reasonable doubt as to his loyalty and that if such reasonable doubt was supported by the evidence after a fair hearing the Commission's findings were to be conclusive; the courts have no right to interfere. *Friedman v. Schuellerbach*, 159 Fed. 22 (Ct. of App. of D.C. 1946) cert. den. 15 U.S. Law Week 3314, Feb. 18, 1947.

THE RIGHT TO PRACTICE LAW IS A PROPERTY RIGHT****

Hobson, Esq. instituted six actions for himself as an attorney at law and on behalf of all other attorneys, member of the State Bar Association against the Kentucky Trust Co. to enjoin them from practicing law. The acts complained of as "practicing law" were that when defendants drafted wills, deeds and trust instruments as part of their authorized business wherein they constituted themselves as fiduciaries they would give legal advice to the makers of the documents with reference to the disposition and transmission of estates as well as the rights of beneficiaries and also conducted necessary litigation through their permanently employed attorneys or other hired employees that may be required of them as the duly constituted fiduciary. It was also alleged that the defendant held itself out to the public as "being ready willing and able to perform the aforesaid services." The Circuit Court gave judgment for the defendant and the plaintiff appealed.

The Supreme Court held that attorneys who acquire the right to practice law are vested with a "property right" and may protect that right against an intruder who has not likewise acquired a similar right and that an injunction is the proper method of achieving such protection. The Trust Company was found to be engaging in the practice of law so as to be subject to the court's restraining order.

Though counsel for both sides asked the court to point out specifically what acts the defendants as fiduciaries may perform while acting in such capacity the court declined since it was practically unforseeable and could not be anticipated and the court would "not attempt to cross any such bridge or bridges until it or they are reached." At least the court's disclaimer and syntax is admirable. *Hobson v. Kentucky Trust Co. of Louisville, Kentucky*, 197 S. W. (2d) 4554, (Ky. 1946).

stands the value of specialization in a complex society and he knows how to organize legal work to render his clients full measure for their money. A legal specialist in Hale & Dorr would be as likely to want to start out in general practice as a surgeon would want to become a country doctor.

C. O. P.

The Witness Stand

The Question: Do you object to the fact that certain third-year courses are being given for two uninterrupted hours?

1. Nicholas J. Burr, Green Bay, Wisconsin, 5th Term.

I do object. There is a strain on the thought-processes, and digits of the students, that is not necessary for the continuity of the presentation of the subject. The situation on Monday and Tuesday mornings for students of Taxation and Constitutional Law demonstrates that the present procedure facilitates steadily diminishing returns, as the four consecutive hours, interrupted only by a nine-minute interval at the end of the second, and a three-minute break at the end of the third hour, increases the sale of headache powders.

2. David A. Barber, Dover, Mass., 7th Term.

There can be no doubt that a mid-way ten-minute intermission in such courses affords the student a restful pause. However, we are in the midst of an unusually short term, and working under unusually crowded conditions. To add make-up hours when working under such a schedule would cause confusion among the students, and no little inconvenience on the part of the professors; and, after all, if the professors are able to stand and lecture for an hour and fifty minutes, the students should be able to sit and listen. . . . Yes, I smoke!

3. Alan J. Stein, New York, N. Y., 5th Term.

A breather in courses given for two consecutive hours is beneficial to the class as a whole. Notwithstanding the interest which the professor and subject matter arouse, it is difficult to assimilate the material after too extended a period.

And the break isn't always wasted time, for some utilize the halt to review notes while fresh in mind, though it is true their less diligent brethren appreciate the interval if for no other purpose than to relax and light up (in the corridor, of course).

4. Carroll Hamant, Baltimore, Md., 5th Term.

I find nothing objectionable in two-hour continuous sessions (which make up twelve of my thirteen hours). In fact, ten-minute breaks inevitably extend beyond ten minutes, and are clearly impracticable for very large classes. For smaller classes, there seems no reason why the lecturer should not give breaks at his discretion.

5. Robert Krones, New York, N. Y., 5th Term.

Yes. I would prefer the break. The class runs down in the last half hour and frequently the first part of the next is spent in refreshing it. The ten minute breaks for most courses would accumulate only one extra two hour session and that would be all right with me.

6. Lawrence M. Levinson, Atlanta, Georgia, 5th Term.

I like a ten minute break between consecutive hours of the same course. However, since it appears that the present speed-up program requires the utilization of that ten minute period, I prefer two uninterrupted hours rather than having make-up periods. Too frequently, and for no real reason, make-up periods or extra periods are given immediately before exams. But if the periods were properly scheduled, I should appreciate them rather than criticize their use.

7. Thomas Russell Ayres, Wallingford, Conn., 7th Term.

I think it is entirely up to the particular professor. After all, if the business school students can stand an hour and thirty minutes of single session, then one hour and fifty minutes should be about par for law students.

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Alumni Notes

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

LL.B. '02—S. Hasket Derby, well-known maritime lawyer, died in San Francisco, April 2.

LL.B. '03—Burt Denison Whedon of Newtown, Conn., retired New York lawyer, died in Stamford, Conn., on March 25. For some years he was a member of the New York law firm of Wing & Russell.

LL.B. '11—Guy Emerson, vice-president of the Bankers Trust Company, has retired from the bank after 25 years of service with that institution. On May 15 he will become chairman of the executive committee of the John Price Jones Corp. of New York, fund-raising and public relations counsel for educational and other philanthropic institutions. He has been a director of that corporation for 27 years. In addition to assisting with the fund-raising activities of the corporation, he plans to organize a new affiliate partnership to handle institutional and commercial public relations.

LL.B. '24—Edward O. Gourdin, released from the Army after six years, during which he served as colonel commanding the 372d Infantry, has been reinstated as an assistant United States attorney in Boston.

Dudley C. Lewis, LL.B. '34, George P. Kimball, LL.B. '32, Edward Z. Buck, LL.B. '40 of the Hawaii bar have announced their release from active duty in the U. S. Navy, and their association under the firm name of Lewis, Kimball & Buck. They will engage in general practice. Their offices are located at 1160 Bishop St., Honolulu 9, Hawaii.

Jesse D. Wolff, LL.B. '38, and Theodore Tannenwald, Jr., LL.B. '39, have become members of the New York City firm of Weil, Gotshol & Manges. Tannenwald is in charge of the Washington, D. C. office and acts in the capacity of tax counsel.

LL.B. '40—David D. Scannell, recently attorney with the Office of Price Administration in Washington, D. C., and Boston, has announced his return to general practice. His address is Room 508, Webster & Atlas Bank Building, 16 Court St., Boston 8, Mass.

LL.B. '41—Nathan Fishman has announced the opening of a New Jersey office for general practice. His address is 449 60th St., West New York, N. J.

LL.B. '45—Arthur T. von Mehren, a former president of the *Law Review*, has become engaged to Miss Joan Elizabeth Moore of Buffalo, N. Y.

BOOK SHELF—(Continued)

It might be said that this is a book of ideas rather than of people. But ideas have little reality until they are linked to human experience. It is only when the reader can relate these ideas to his own life and to his own times that they affect him. He can do that best by understanding the background of the ideas; the times which brought them forth and the people who spent their lives working for them. Then, comparing their lives to the lives he sees about him and their times to his times, he can arrive at a conclusion as to their validity for him.

Perhaps the most valuable part of the book is the Bibliography. Charles and Mary Beard's "Rise of American Civilization" appears again and again. For a picture of American History from the view of the stream of ideas coursing through the nation there is no better modern book. Here too is listed Vernon Parrington's "Main Currents in American Thought" which succeeds notably where Mr. Madison has failed. Anyone who wants to understand Steffens and his time should go to the superb "Autobiography of Lincoln Steffens." Granville Hicks has written a competent life of John Reed, the Harvard esthete who now lies buried in the shadow of the Kremlin, a Soviet hero. It remains for John Dos Passos, the novelist, to bring to life Thorstein Veblen and Gene Debs in his "U.S.A.," though that book is not listed here.

The law student and the lawyer, members of a learned profession, will hardly be satisfied with "Critics & Crusaders." They should be satisfied with nothing less than reading all of the books which Madison has listed in his fifteen page bibliography. They may not care for these people or their ideas. But they will understand, perhaps, that one reason the world moves forward is because there are such people as these "Critics & Crusaders" who are willing to be ahead of their times and to devote their lives to what they believe. And they will gain too, a greater understanding of the background and content of many of the sorely trying problems of today.

H. K.

Before the Court of Ames

The following is the opinion delivered in the recent quarter-final argument won by the Jeremiah Smith Club.

Strong v. Ames and Western RR.

The plaintiff sues to recover the amount of the first coupon on a bearer bond issued by the defendant which matured after the plaintiff had found the bond on the streets of Ames. He alleges that he has advertised, and made diligent search for the loser for some 90 days, but without avail, and admits that the loser has paramount title, so that payment to himself would not affect the defendant's discharge. However, he demands payment and offers to give surety as a protection to the defendant in case the true owner makes subsequent claim.

The defendant replies that the plaintiff is not within the tenor of the instrument, and cannot improve his position by offering to give surety. It further alleges that the surety is insufficient, and that the plaintiff has made too brief a search to find the true owner. The short answer to these last two contentions is that the case comes up on motion to dismiss, and unless we can say as matter of law that the surety tendered and the plaintiff's search were inadequate, this defense cannot be presently maintained. We are not prepared to rule in favor of the defendant to such extent.

The more difficult question is raised by defendant's contention that no delivery of the instrument having been made to the plaintiff, he is not a holder thereof; from which the defendant asserts that it made no agreement to pay him. The defendant cites §30 of Ch. 209 of the Revised Code, which provides that if an instrument is payable to bearer it is negotiated by delivery.

It has been held that this section does not state all of the ways by which one may become a holder of an instrument. *Liberty Trust Co v. Tilton*, 217 Mass. 462. We think defendant's argument overlooks the effect of §191, which defines holder as a bearer, and bearer as the person in possession of a bill or note payable to bearer. We do not see why the word possession should not be given its natural meaning, and accordingly hold that the plaintiff, being in possession of the instrument was a bearer thereof. To make this decision involves no analysis of the state of mind of the loser. Even a thief has possession. *Massachusetts National Bank v. Snow*, 187 Mass. 159. To constitute the plaintiff a holder we need not decide more.

It does not follow that the plaintiff can recover. No one has ever suggested that a thief or other *mala fide* holder might maintain an action. The plaintiff and a thief are alike in that neither is a holder for value, or without notice. Consequently neither is a holder in due course. The question is, does the thief fail in his recovery by virtue of the defect in his title, or by virtue of some other defect in his case? A finder is in a different category. *Rev. Code, Ch. 209, §55; see Chafee, Rights in Overdue Paper*, 31 Harv. L. Rev. 1104, 1115.

Once it is decided that the plaintiff is a bearer of the instrument, and therefore within the tenor of the defendant's promise, the burden shifts to the defendant to maintain a defense. The mere danger of double liability has never been regarded as a sufficient defense. On the contrary, it was that danger which occasioned the need for the action of interpleader. The defendant's difficulty here

FORUM—(Continued)

Assembly of the United Nations before accepting his present position as General Counsel and Director in the Legal Department of the U.N.

Almost immediately upon his graduation from the Harvard Law School in 1924, Senator Pepper entered into his political career beside the practice of law, and was representative to the Florida State Legislature from 1928-1930. In his first campaign for the Senate in 1934, he was narrowly defeated by the then Junior Senator from Florida, Park Trammell, but two years later he was overwhelmingly successful in being elected to the two-year unexpired term of Senator Duncan U. Fletcher.

During the years of his Senate service, Senator Pepper first established himself as an outstanding "New Dealer" and exponent of the extension of Federal power over the national economy. In the pre-war years he was the first to offer legislation that later developed into the Lend-Lease program, and he was a powerful voice in arousing the country to the danger of the German state. Since the war, however, he has been accused of following a "party-line" and is actively identified with the point of view of Henry Wallace with respect to foreign policy.

He is a member of the Senate Committees on Foreign Relations, Commerce, Education and Labor, Inter-oceanic Canals, and Printing and Patents.

is that it does not know whom to interplead. It does not follow that it should be excused from meeting its due obligations. It seems to us fully as objectionable, from the standpoint of public policy, to impose the defendant's proposed restriction upon negotiability, as it would be to adopt its argument as to the financial effect upon issuers of negotiable instruments if they were faced with making payments without obtaining a discharge. The effect on general marketability if makers were permitted to rest on the present defense would seem fully as serious.

The surety bond which the plaintiff has tendered to the defendant is not to give him a right which he did not have, since, as already stated, he is within the tenor of the instrument. It does, however, seem to us sufficient answer to the defense of danger of double liability asserted by the defendant. *Murray v. Ready*, 84 Colo. 544. The plaintiff having voluntarily offered this bond renders it unnecessary to decide the correctness of his concession that payment to him will not discharge the defendant. Ch. 209, §119 (4).

The motion to dismiss is denied.

BAILEY ALDRICH

LABOR—(Continued)

The employer who in response to a union demand discharges that employee after he has been expelled from the union. The Board can correct such conduct in this indirect fashion only when the facts show that the employer had knowledge that the contracting union expelled the employee for exercising his rights under the act. To the extent that the union is solely responsible for the discharge, I think it should be answerable. In the interest of maintaining contractual and industrial stability however, it is desirable that employees be free to engage in activity designed to change representatives only at appropriate times. I have, therefore, protected such activity only when it occurs "at a time when a question concerning representation may appropriately be raised." The purpose here is to write into law the principle now followed by the Board of allowing election petitions to be filed near the end of the contract period.

Unions Obligated To Bargain Collectively

Much has been said in the hearings that have just been completed concerning the obligation of unions to bargain collectively. While it seems to me that unions would seldom refuse to engage in collective bargaining since that is one of the primary, if not the primary, reasons for their existence, I can see no valid objection to imposing that duty upon them by law. I therefore propose that it be made an unfair labor practice for a union to refuse to bargain collectively after it has been certified by the Board as the exclusive bargaining representative. It should be observed, however, that the duty imposed upon the union is the same as that imposed upon the employer—no greater, no less.

Finally, I propose that it be made an unfair labor practice for a union to violate the terms of a collective-bargaining agreement or the terms of an agreement to submit a labor dispute to arbitration. In this connection I am also proposing that similar conduct by an employer be made an unfair labor practice. While it is my view that unions and employers should settle their contractual disputes by collective bargaining and voluntary arbitration, I recognize the force of the argument that existing law affords only nebulous remedies to employers as well as unions in case the other party has violated the contract. Should such a provision be adopted by the Congress it will be my hope that the Board would devise regulations and pursue a policy which would minimize the number of contract violation cases accepted under these proposals.

Union Responsibility Will Achieve Benefits

One of the greatest benefits that will come from the adoption of such amendments to the Wagner Act will be action on the part of the unions themselves to see to it that it does not become necessary, unless in exceptional cases, to resort to the machinery which these amendments propose. I am not being foolish in regard to this question. The point I wish to emphasize is that I believe that declaring certain actions to be unfair labor practices will be preventive of some of the abuses which we seek to cure, because the unions themselves will proceed to establish within their own organizations machinery capable of settling such disputes short of economic action. If that will be the effect of these amendments it certainly will be more than justified. There will be available to employers a procedural remedy, when unions violate their con-

tracts and are not willing to exhaust the procedures provided for in the terms of the contracts prior to resorting to economic action.

Employers To Have Right To Demand An Election

Section 9 of the present Act does not preclude the Board from accepting an employer petition for an election, but by its rules and regulations, the Board allows an employer to file a petition for an election only when conflicting demands for recognition have been presented to him by two or more labor organizations. It is therefore proposed to amend Section 9 so as to permit any party in interest, including an employer, to request an election. Such a right may be subject to abuse in that employers may seek an election at the earliest possible moment in an organizational campaign and thereby obtain a vote rejecting the union before it has had a reasonable opportunity to organize. Therefore I would limit the employer's right to file a petition to those situations in which the union has made a claim to be recognized as the exclusive bargaining representative or where, near the end of a contract, bona fide doubt exists that the union which has the contract continues to be the exclusive representative. In the latter type of situation my proposal would require the employer to file at least 30 days before the expiration of the contract. The purpose of this is to prevent abuse of the right to petition and to avoid a hiatus in the collective-bargaining relationship.

Board To Be Enlarged

In order to assist the Board in the additional duties that would be placed upon it by the proposals I have outlined above, my bill would increase the membership from three to seven, and also empower the Board to act in sections of not less than three members. With an adequate budget and staff, as well as an augmented membership, the Board would be in a position to handle its work more speedily. Also, four additional members would have the effect of obtaining a better and more representative collective judgment from the Board. I do not know of any field in which time is more important than in the field of handling a labor case in the quickest possible time. Delay gives rise to doubts, suspicions, and discontent within the ranks of labor. If we are to have quicker action, we must be willing, through appropriations, to give to the Board the money necessary to maintain the staff necessary to do the job quickly.

Employers' Free Speech Protected

The question of employers' freedom of speech has generated a great deal of heat in the hearings before the Senate Committee. It is, of course, self-evident that neither the Board nor the courts can impair the right of free speech guaranteed in the Constitution. It is my impression that those who propose legislation designed to enlarge the employer's right to express his views to his employees are not so much interested in vindicating their constitutional rights as

they are in obtaining a statutory immunity for acts and conduct which in fact interfere with and coerce employees. My amendment would provide that nothing in the act "shall be construed to interfere with the right to freedom of speech as guaranteed by the first amendment to the Constitution"; in addition, the provision would prohibit the Board from finding "that the making of any statement of views or arguments, either written or oral, constitutes an unfair labor practice, if such statement by itself or in its context contains no threat of force or economic reprisals."

Speedy Relief Against Unfair Labor Practices

It is necessary to initiate legislation that will permit the Government, through the NLRB, to obtain speedy judicial relief when labor disputes which involve unfair labor practices threaten seriously to impair vital sections of the national economy. I have several proposals designed to strengthen the Government in these situations. First, in the case of jurisdictional disputes involving who shall perform particular tasks, I propose that the Board be empowered to appoint an arbitrator to settle the matter unless within 10 days the parties satisfy the Board that the dispute has been adjusted or that agreement has been reached for the voluntary adjustment of the dispute. After the arbitrator has rendered his award which is to be filed with the Board, if the parties comply, the unfair labor practice charge will be dismissed. One of the reasons I suggest that an arbitrator be available to handle such jurisdictional disputes is that time is of the essence, and the regular procedure of the Board for hearing and judicial enforcement would not remedy the evil sought to be corrected.

Another change would permit the Board to obtain a temporary injunction or restraining order from the courts of appeal after the Board has issued a complaint but before it has held a hearing and issued an order. My proposal would not impair the legitimate rights of labor under the Norris-LaGuardia Act and the Clayton Act, since I do not propose that employers be allowed to obtain injunctions against labor or that unions and their members be subjected to the drastic civil and criminal penalties that could be applied in days gone by. It would be necessary for the Board to exercise an informed discretion in administering the law to end that labor and industry will be encouraged to adjust their differences by the peaceful methods of collective bargaining.

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THE COOP

Calendar

THE LEGAL WORLD

Registration

Third term study groups or roommates who desire to be assigned to the same section should submit the names of all members of each group prior to April 15th, to the receptionist. Registration will commence on or about April 20th.

Administrative Law

There will be a make-up class for the one missed today on Friday, April 11, in LNM at 4 P.M.

Forum

The Harvard Law School Forum will feature Abraham H. Feller, General Counsel to the United Nations, and Senator Claude D. Pepper in a discussion of the topic *An Analysis of the United Nations*, at Sanders Theatre, 7:30 P.M., Friday, April 11th.

Law Wives

By popular demand, there will be an evening of duplicate bridge in Kendall House, Wednesday, April 16th, 8:00 P.M. Roger and Helen Stokes will supervise. Husbands are invited.

THE UNIVERSITY WORLD

Lectures

Continuing its series of talks on the works of E. M. Forster, Kirkland House will present Professor John H. Roberts of Williams College on Thursday, April 10th, in the Common Room, at 7:30 P.M. He will discuss *Howard's End*.

Howard Fast, novelist, will be the guest speaker of the John Reed Society on Monday, April 14, in the New Lecture Hall, 7:30 P.M. He will discuss *Marxism and Modern Thought in Literature*.

The last three of six illustrated lectures being given during the spring term under the auspices of the Semitic Museum will be given by Mario Bacchelli, a painter and former lecturer at the Institute of Fine Arts in Florence and will comprise a course on *The Development of the Knowledge of Perspective in the History of Painting*. The lectures are open to the public without ticket and start at 4 p. m. in the Large Lecture Room of the Museum, 6 Divinity Ave. The dates and titles of the lectures are Thursday, April 10—*The Transition from Classic to Early Christian Art*; Tuesday, April 15—*Notions of Perspective during the Middle Ages*; Thursday, April 17—*The Discovery of Perspective*.

Professor W. E. Hocking continues the William James Lectures in Philosophy on *Issues in Contemporary Philosophy of Law, with special reference to the Foundations of International Law*. He will speak Monday, April 14 in Room D, Emerson Hall at 4 p. m. on *The Nation and its Sovereignty*.

The John Reed Society is sponsoring a talk by Prof. F. O. Matthiessen on *The Artist and Society* tonight, Wednesday, April 9, in the Leverett Common Room at 7:30 p. m.

The United Nations Council of Harvard will sponsor the first plenary meeting of the UN Laboratory on Monday, April 14, at 7:30 p. m. in Paine Hall, Music Building. The topic for discussion will be *The Problem of an International University*.

Concerts

The Harvard Bach Choir, Thomas B. Dunn, conductor, and the Harvard Music Club Chamber Orchestra, Irving Fine, conductor, will present a concert of Bach on Saturday, April 12th, in Sanders Theatre, 8:30 P.M. Geraldine Viti, alto, and David Allen, pianist, will be guest artists. There will be a general admission charge of 75 cents.

The Department of Music will present Andor Foldes, pianist, in a recital of contemporary music in Paine Hall, Music Building, Wednesday, April 9th, at 8:30 P.M. The recital will be open to the public without ticket.

The Bach Cantata Club, Lorraine Warner, conductor, will give a concert at the Fogg Art Museum on Thursday, April 10th, at 8:15 P.M. The concert will be open to the public.

Mrs. Elizabeth Sprague Coolidge sponsors a concert this Sunday, April 13, at 8:30 p. m., by the California String Quartet in Paine Hall, Music Building. The concert is open to the public without charge.

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LIBERAL —(Continued)

wise, that he has been caught in an authoritarian web. Few, however, find anything to criticize except perhaps the myriad statutory and common law evidentiary safeguards which frequently permit the criminal to go free.

When a paralyzing strike looms, the bulk of the citizenry cries out that the government "do something" (necessarily authoritarian). It seems strange to be supporting authoritarianism from "liberal" attack after more than a dozen years of what until recently seemed a rising tide of "liberal" authoritarian bureaucracy. It is the reactionaries now who are most desirous of reason and experience. There are few "conservatives" who will not agree that a hastily conceived penalty of a minority of our fellow-men is objectionable, but so is catering to the whims of a dissident minority. Mr. Soule did not reassure me on this reason and experience matter when he said (of course, out of this context), "We must find out what there is to do, and do it!" It sounded like a call to arms and to its attendant discipline.

The American System of Free Enterprise

Actually, it is probably improper and unfair to try to "test for" liberalism. Perhaps it must be looked for in the context of each situation, where it can be separated from "grandstanding" or inadvertence. Initially, I feel something of a growing irritation to hear that the American system of laissez faire, free enterprise, management enterprise, or what have you (corrupt, too, I presume), is "intrinsically destructive of itself and of ourselves," that it is more "natural for people to conspire than to compete," that "drastic planning and changes are necessary to avoid the even more drastic changes in (shortly to be reached) catastrophe." I don't believe it. I would consider such sentiments dangerous to our national welfare if there were a substantial group who did so believe. Enterprises within my own personal experience have not operated in this manner. I have known upright non-conspiring business men and public servants. I am informed of countless others. It must seem obvious that all non-"liberals" cannot be divided into either corrupt self-seekers or inept, slow-witted "bunglers."

Most probably however, irritation is

A. V. C. Dance

The Harvard Chapter of the A. V. C. will hold a dance on Saturday, April 19, 8-12 p. m. in Memorial Hall. Tickets will cost \$1.80 per couple.

Harvard College Observatory

A series of five open nights will be held during the end of April and the beginning of May at the Harvard College Observatory, 60 Garden Street, to which the public is invited. Tickets may be obtained without cost for one night only by sending a self-addressed, stamped envelope to Open Nights, Harvard College Observatory, Cambridge 38, Mass. State for which night, and for how many persons, tickets are desired. Tickets are limited to three per person. The lectures begin at 8 p. m.

The dates, titles of lectures, and the speakers are: Monday, April 21—*International Astronomy*, Professor Harlow Shapley; Friday, April 25—*The Nebulae*, Professor John C. Duncan, Wellesley College; Monday, April 28—*An Illustrated Story of the Moon*, Carl A. Bauer; Tuesday, April 29—*Telescopes and How They Are Made*, Amateur Telescope Makers of Boston; Friday, May 2 (Children's Night)—*Let Us Look at the Sky*, Miss Simone Daro.

Dance

All students are invited to the Carlton Club dance in the Hotel Commander this Saturday, April 12th, 8:00 P.M.

Graduate Dance

The annual spring ball for Harvard and Radcliffe graduate students will be held this Friday 9 P.M. - 1 A.M., in Agassiz living room, Radcliffe yard. Dress will be semi-formal. Ken Reeves and his orchestra will furnish the music and tickets are \$2.40 per couple.

Blood Donors

Appointments may now be made for giving blood donations at Phillips Brooks House today, tomorrow, or Friday. This drive is being supported by the Law School Committee.

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as unjustified as the "wolf cries" which raise it. The strictly legal answer would be, if the phrase had not become so outworn, that the whole question is one of degree. It is a certain fact that some planning is necessary for the future. (As every administrative organization has found since the dawn of time.) The query is, how much? Mr. Soule, apparently foreseeing an over-abundance of programs, indicates the necessity of discarding, changing, and revising. A similar result might be achieved with less plans. Our recent military experience re-emphasized fairly conclusively how frequently poorly conceived, technically improper plans were successful because carried through purposefully; inversely, how frequently technically perfect plans "bogged down" because misunderstood or unsympathetically executed. If there be a necessity of choice, I think the less danger lies on the side of less plans.

The Value of "Liberalism"

The "liberal's" place in American life is an important one, nevertheless. True, there is always something of the Apocalypse in what he says; one might almost mistake the sound for the "trump of doom." Inequalities and living conditions may be seen for what they are and improved, when they might have gone unheeded but for the dire warning of the "coming struggle for power" or "class warfare." We may insist upon a more sportsmanlike "due process" and courtesy on the part of our Congressmen when we hear of the "star chamber inquisition of the country's outstanding astronomer" (without benefit of distinguished counsel) by one of the "four horsemen of hatred." However, as pointed out by the more than "acceptable" Raymond Moley in *Newsweek*, Perspective, January 13, 1947 (which I do not quote directly because of the possibility of copyright infringement), men such as Ickes, Wallace, and LaGuardia are now back in their customary roles as critics. While in office, even with great electoral majorities, they always displayed the sensitiveness of minority leaders; harsh with their critics; sensing a crisis each day.

Doubtless the future will bring recurrent business cycles. (If Mr. Soule's statement that we are now again entering a business recession could be relied upon, it would seem advisable to take a "short" position in the stock market—as many of my conservative friends have done without his advice.) Soberly enough, the future may bring crisis and even war. We shall plan more for the future than we have previously, and try to benefit from our previous errors, but this is necessary for the larger, more complex life in which we live. Perhaps it could be said that I dissent with whatever the "liberal creed" has as its reasoning or method, but concur in the result, which is to achieve a better America and a better world. It might be said, to be sure in a little different sense, that human beings should be the beginnings and not the ends. Dean Roscoe Pound, in a recent Jurisprudence class made the observation that the "liberal" does not wish to be bound by anything in the past—thus we always seem to find present "liberals" rebelling against what the past has established (often by "liberals" themselves). "Liberalism," with its attendant missionary fervor, might sweep us all with it were we not always faced with the necessity of repudiating the bulk of what has already happened. With this, I cannot concur. It would seem that the creations of the past may be safely discarded, like present prejudices, only when seen as false—and the new path on a sounder course. This is not a conversion to, so much as a perception of, the way of life.

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NOTES FROM ABROAD

Dean Arthur T. Vanderbilt of New York University School of Law has announced plans for establishment of a Law Center to be operated in conjunction with the Law School.

The vital problem facing the legal profession, according to Dean Vanderbilt, is the fundamental task of promoting the adjustment of the law to the needs of the times. And in this problem the law schools, of all of the branches of the legal profession, are the best equipped to take the initiative.

Even in private law, which has been the field of the best law school teaching in the last fifty years, it has become apparent that the law schools are not keeping pace with modern requirements. The alert client, whether an individual or a private corporation or a government agency, is not content with being advised as to what the law is today or was in the sixteenth century. The client desires to know what the law is likely to be at the date in the future when litigation may arise.

The modern lawyer, therefore, must know not only what the law is and what it has developed from; he must also be able to advise what in the light of economic, political and social trends it will probably be in reasonably anticipated future. Dean Vanderbilt paraphrases Mr. Justice Holmes' "We must learn to lay our course by a star we have not seen—to dig by that divining rod for springs we may never reach," to illustrate this point.

The Law Center would be instrumental in gathering and organizing administrative decisions, rules and regulations of states and of the federal government. It is as essential to cut paths and erect signposts in the forest of statutory law and through the jungle of administrative regulations as it is to know our case law.

There would be seven divisions to the Law Center. This year the law school offers forty-eight graduate courses and will expand the number in the Law Center. Members of the bar of law of mature years, as well as recent graduates, will necessarily return to school, as men in other professions commonly do, for advanced instruction.

Institutes will be an important feature of the work of the Law Center. Less formal and generally more restricted in scope than a graduate course, they serve to provide a forum in which a group of distinguished experts may present their views, authoritatively yet informally and practically, on some current legal problem of outstanding significance to a group of lawyers and interested laymen. For instance, last year the Law School held an institute dealing with the new Federal Rules of Criminal Procedure. Eight members of the Advisory Committee appointed by the United States Supreme Court in 1941 to draft the rules acted as lecturers. The proceedings were published by the Law School.

The Law Center will expand the number of legal publications which now include *The Intramural Law Review* made up of student law notes, *The Law Quarterly*, the *Annual Survey of New York Law* and the *Tax Law Review*. In addition many books will be published.

Another division will be the Inter-American Law Institute. Here, the leading subjects of the common law and of

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Confessions of a Law Wife

Fumbling around in the desk drawer for a match, I stopped for a moment and read the title, "People v. Duponce," which was staring back at me from the opened pages of the casebook. The poker face of a practical joker seeing an April Fool's Day target was mine. Apparently, the mischievous shouts, and teen-age teasings heard all day from neighboring yards had been more contagious than I had suspected.

The situation proved too tempting! Here I was, alone this evening, as the man of the house had temporarily replaced the green bag of a student with the judicial robes of the bench of the Commonwealth of Ames. And there was the sacred book, *Cases and Materials on Evidence*, by Morgan and Maguire, all fresh and lovely in navy blue covers—which harmonized beautifully with the mahogany desk. At last, I could delve into an original source about which our men's conversations rotate for seven semesters, God willing. At long last, I could see for myself what sort of alchemy one performs while placing data under such headings as: Facts, issues, holding, and reasons.

The civil law may be studied on a comparative basis at the graduate level under the direction of instructors from the Law School and visiting professors from Central and South American Law Schools.

An Institute of International Law will be an important part of the Law Center. Most of the important problems of the law can be solved only by patient study and research. All of the research, by whomever done, will be in aid of the other activities of the Law Center and especially its conferences.

The most important function of the Law Center will be in the development at the Law Center of roundtable conferences in which the most thoughtful and experienced of our judges, legislators, law school professors, social scientists, businessmen and representatives of both management and labor will work out amicably and reasonably the solutions to some of the many legal problems that beset the complex life of America today.

Dean Vanderbilt has also announced that plans are completed. He is now heading a campaign for funds required to carry out the project.

The case—dear Reader, as you may know—is not of the sort one might care to analyze in a public paper, wherein a faithful devotee of the Watch and Ward cult might pry. It has to do with a "baddie" (as opposed to a "goodie") of the masculine sex, and although I managed, after one hour and a half, to ex-hume the essentials, I candidly admit to you that the non-essentials were the captivating capsules for my evening's bit of whimsy.

I wondered what sort of a man was D. How old? Good-looking? Tall or short? What was his occupation? What sort of a family unit influenced his psychological and social traits? What were his best colors, or topics of conversation? And, the complaining witness held my imagination. Was she an innocent, deftly led into peril? Or, again, was she another Amber in the making? What of the judge and the jury and the weather? Was the judge suffering from indigestion? Was his robe comfortable? Were the jury members male or female, young or old? Was it a sunny day, or damp and dreary? If this case had been heard in Georgia, or Texas, or New Mexico, rather than Michigan, how would that court have held? To what extent—if any—do provincialisms influence the holding? . . .

At that point in my musings, I heard the front door opening. I pushed the book aside, destroyed my brief, which was twice the length of the given case, and decided to abandon my interrupted search for one match. When my husband came into the living room, I was absorbed in counting argyle plaids—a reputable domestic activity—and there remained no visible trace of my evening's dip into his course of study. But, I found myself thinking that briefing a case was just a start and that the forces behind the facts—the unwritten words—were the difficult segment to know and interpret; however, I continued counting patterns.

Norma Pike Tepp.

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BAR EXAMINATION REVIEW

The Dalton-Elcock Bar Review announces a review course for candidates taking the Massachusetts Bar Examination to be held in June, 1947.

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 1944).

The course is limited to 100 qualified applicants. Submit applications to the Dalton-Elcock Bar Review, 114 State Street, Boston, Massachusetts, 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.