

The Harvard Law School Record

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ADVISERS NAME SHEA CHAIRMAN Announcement Made Of New Appointments To Board Positions

In an election held last Thursday, April 17th, John J. Shea, Harvard '44, was elected Chairman of the Board of Student Advisers to succeed Henry J. Smith, Fordham '40. Smith, the present incumbent, will graduate this spring.



SHEA

SMITH

Shea, a sixth term, is a native of Boston, and a graduate of the Boston Latin School as well as of Harvard College. During 1945 he was employed in Europe by the Treasury Department in connection with de-Nazification activities.

Concurrent with his election the new chairman has announced appointments and promotions of Board officers to take effect in June. The incoming Treasurer of the Board will be Frank I. Davis, Maryland, '41. He is replacing George Minkin, Harvard '41, who is retiring after two semesters in office. As Chairman of the Second Year Committee, John E. Massengale III, Harvard '42, will succeed John J. Delaney, Jr., Harvard '44, who is graduating from law school this spring.

C. Duane Aldrich, Harvard '40, will move into Massengale's old position as Chairman of the Second Year Facts Committee. Chairman of the First Year Committee will be James Perkins, Harvard '45. The present incumbent is Shea. Eastman Birkett, Dartmouth '42, will take over Perkins' job as Chairman of the First Year Facts Committee.

The Chairman of the Board of Student Advisers is responsible for the conduct of all levels of the Ames Competition.

PROSSER NAMED TO FACULTY POSITION

The appointment to the Law School faculty of William L. Prosser, who will begin his teaching duties in the spring term of 1948, has been announced by Dean E. N. Griswold. He will teach Torts and commercial law subjects.

Mr. Prosser, a former professor at the University of Minnesota Law School, is best known for his *Hornbook on Torts*. He is currently engaged in practice with the Minneapolis firm of Dorsey, Coleman, Barker, Scott and Barber. As a practitioner, he earned recognition for his argument before the Supreme Court in the famous case of *Dobson v. Commissioner*, 64 Sup. Ct. 239, in which he represented the taxpayer.

Born in West Newton, Mass., Mr. Prosser received his A. B. degree from Harvard in 1918. He was a Lieutenant in the Aviation Detachment of the U. S. Marines during the first World War, and from 1919-21 he served as secretary to the U. S. Commercial Attache in Brussels, Belgium.

He attended Harvard Law School from 1921-22, and then dropped out to enter business. After working with a business firm for four years, he entered the University of Minnesota Law School, where he received his LL.B. degree in 1928.

After practicing for two years in Minneapolis, Mr. Prosser joined the Minnesota Law School faculty in 1930 as an Assistant Professor. He became a Professor of Law in 1933, and taught at Minnesota until 1942. He also taught summer terms at the Universities of Iowa, Colorado, Michigan, and Texas.

He left the teaching field in 1942 to become State Counsel for the Minnesota State Office of the O.P.A., and left this work to enter private practice.

Mr. Prosser has taken an active part in the preparation of the Commercial Law Code, now being done under the auspices of the American Law Institute.

Placement Office Secretary Toepfer Reports Encouraging Job Prospects

Students concerned with finding a job after graduation have an optimistic friend in Louis A. Toepfer, Secretary of the recently created Placement Office. He advises men now in school not to worry about supporting their families after graduation. "There are a number of jobs available now, whose starting pay is generally enough to provide at least a marginal living," says Mr. Toepfer, "and the prospects seem to be getting better."

During the war, and until quite recently, the newly graduated law student found a seller's market for his talent, and there was no great need for a special office in the Law School to handle placement problems. But Dean Griswold is aware that during the next two years the situation will be reversed and he is determined that the administration shall do its best to help Harvard graduates find jobs. In accordance with this objective, Secretary Harrison S. Dimmitt organized the placement office which started operating about two months ago. Mr. Dimmitt is the field representative, and is now traveling across the country establishing placement committees in each of the larger cities, made up of older Law School graduates who are prominent in the community and interested in finding positions for young lawyers. Mr. Toepfer handles the home office, using the contacts established by Mr. Dimmitt to provide leads for graduating students.

The placement office maintains a card file of each student registering there, listing his special interests, geographical preference, grades, etc. The possible opportunities for graduates are filed according to states, and a student considering making application in Michigan, for instance, can find out from Mr. Toepfer what openings there are out that way and whom to write to about them. When a law office sends a representative to the School looking for a new associate, Mr. Toepfer can arrange interviews with those students who are apt to be interested in the type of work he has to offer.

UNITED WORLD TO BE DEBATED

Roberts And Eichelberger
Lead Friday's Discussion

The over-all chances for success of international peace organizations, now or in the future, will be the keynote of the last meeting of the Harvard Law School Forum on Friday, April 25, when former Justice of the Supreme Court Owen J. Roberts and Clark M. Eichelberger, Director of the American Association for the United Nations will discuss "World Government—Is the UN Too Slow?" Erwin N. Griswold, dean of the Law School, will moderate the program which is to be held in the auditorium of Rindge Tech, beginning at 7:45.

In presenting two of the foremost advocates of the conflicting views on international organizations today, the Forum hopes to emphasize the choice that the American people should and must make in the near future. On the one hand Mr. Justice Roberts fervently believes that we should sponsor a form of world government now, for those nations who are willing to participate. Mr. Eichelberger, on the other hand just as firmly believes that we should stick with the present form of the United Nations and that world government will eventually follow.

Mr. Justice Roberts is a graduate of the University of Pennsylvania and of its Law School, and from the time that he graduated in 1898 until his appointment to the Supreme Court Bench in 1930 he was engaged in the practice of law in Philadelphia.

In 1930 President Hoover appointed him to the Supreme Court to replace Justice Sanford and he served there until July, 1945. Since his retirement, Mr. Justice Roberts has returned to his old law firm as a consultant and is devoting much of his effort to the struggles for world peace.

Mr. Eichelberger, too, has followed but one profession, that of working for international cooperation, to which he has devoted his entire adult life since leaving college soon after the close of World War I.

The jobs on file are varied. An office in Nice, France, wants a young American to help with its fashionable Riviera practice. The University of Johannesburg, in South Africa, is looking for some instructors. There are several openings in law offices in Honolulu. Most of the positions offered are with large firms in the big cities of this country. Salaries offered range from \$20 per week to \$10,000 a year (but a brand-new graduate is not apt to get this top salary). One corporation has offered \$6,000 to someone who wants to do research work—and the job has been turned down by a "C" man who said he would rather practice law. In contrast with the few remarkably generous offers is one from a university desiring five Law Review men with averages of 85 or better at a salary of about \$200 a month, more or less, depending upon the cost of living in that particular community.

One reason Mr. Toepfer thinks prospects are good is the fact that the law offices are not the only organizations offering positions to graduates. Letters from banks and trust companies, and from corporations wanting men both for their legal staffs and for management jobs, offer higher starting salaries than the regular law jobs. Several law schools have offered teaching jobs to men with only an LL.B. at salaries of from \$2,000 to \$4,000.

Most of the offers request men with high marks, but Mr. Toepfer stressed the point that this did not mean that these are the men they actually hire. "The people naturally want to get the best men possible, and the only way they have to judge a man until they meet him is by his scholastic record."

"The most important factor in getting a job," continued Mr. Toepfer, "is the man's own personality. A third year student contemplating job-hunting must consider seriously how easily he meets people, as an interview gives him very little time in which to impress his prospective employers favorably. One of the best things he can do is start early to make these interviews and develop an ability to carry them off well."

Because the graduate is hired on the basis of his own interview, the placement bureau cannot assure anyone a job. The placement organization is rather a clearing house for information concerning possible openings. Mr. Toepfer urges all third year students to make his office their headquarters while they are investigating their future prospects. By the use of this office they can familiarize themselves with the general types of positions being offered, decide where they want to go, and establish an acquaintance with the prominent lawyers in that area.

AMES VICTORY WON BY TANNEY

Defeat Of Casner Club
Ends Semifinal Round

In the concluding argument of this semester's semi-final round of the Ames Competition Thursday night, the Taney Club won over the Casner Club. Oral advocates for the winning club were Robert W. Culbert, of Collingswood, New Jersey, and James L. O'Dea, of Wilmington, Mass. They represented the government in the case of *Weber vs. United States*, an appeal by a union organizer who had been convicted under the Lea, or anti-Petrillo, Act.

Hon. John P. Hartigan, United States District Court Judge of Providence, R. I., presided. His associates were Hon. Charles E. Wyzanski, Jr., United States District Court Judge of Boston, and Charles B. Rugg, Esq., of the law firm of Ropes, Gray, Best, Coolidge and Rugg. No opinion on the merits of the controversy was handed down, because of the fact that the question is now pending before the Supreme Court of the United States.

O'Dea and Culbert will meet George I. Meisel and Paul N. Temple of the Thorpe Club in the Ames finals. The last year that a final round argument in the Ames Competition was held was 1942.

Of counsel on the brief for the Taney Club were James F. Lovett, of Detroit, and Leonard K. Simmer, of Ottumwa, Iowa.

LEGAL PUBLISHERS QUIZZED ON PAPERBOUND CASEBOOKS

Seavey States Views
As Editor Of Books
Published By West

In connection with its survey concerning the paper-bound casebook situation, the Record requested comments from Professor Warren A. Seavey, General Editor of the American Casebook Series. Mr. John E. Monro of the University Counsellor for Veterans Office, and Mr. George Cole, Manager of the Harvard Co-operative Society. Their views are given below.

PROFESSOR SEAVEY—"I am afraid that I shall have to take a large share of the blame for the casebook situation. In 1945, when the war unexpectedly ended, law schools, unlike colleges, were practically extinct. (This school had 121 in the spring term and 58 second and third year men in the summer term.) For four years practically no casebooks had been published and little stock was on hand. The two or three lawbook publishers who issued both books for lawyer's libraries and casebooks were unable to get sufficient boards or skilled workmen to take care of both demands. Obviously, Reports, Digests and similar books had to be put into stiff covers. That meant flexible covers for casebooks if they were to be sufficient. I assured the West people that it was more important to have casebooks promptly than it was to have them permanently bound, and urged it to take the course which it did. I think this was sound advice from the standpoint of the students.

It may be that casebooks cost too much and that the profits are too large. I don't know; my interest lies chiefly in having teachable casebooks when needed. I am, however, sure that no publisher, however rapacious, would willingly choose to run the risk of incurring displeasure from its future customers in order to save the difference between the cost of the flexible and that of board covers. The board covers are now in sight and this hardship in the aftermath of war will soon be over.

COUNSELLOR FOR VETERANS—Mr. John E. Monro of the University Counsellor for Veterans' Administration officials, reported that their primary concern is that a book is properly certified for a course and that the student is able to obtain it.

The instructor's approval of a book for use in a particular course, and getting the book in the hands of the student are the important considerations, he said. If a book is usable, the quality of the paper or binding is secondary, from the standpoint of the local officials.

HARVARD CO-OPERATIVE SOCIETY—The Coop has not experienced the trouble in obtaining law case books that it has in getting books for other branches of the University, according to Mr. George Cole, Manager.

"We have always been able to meet the demand for law books, while there has been a considerable shortage of college textbooks," he said.

As to prices, he stated that the increase in price of law books has been about on a par, or a little below, the price increases for other books.

STAFF CELEBRATES AT RECORD DINNER

The first anniversary of the founding of the Record was observed on Tuesday night of last week by a dinner at the Faculty Club.

Faculty members attending were Dean E. N. Griswold and Professors Warren A. Seavey, Mark Howe, Milton Katz, and Archibald Cox.

The Harvard Law School Association, an organization of alumni, was represented by its secretary, Frank W. Grinnell.

The informal program following the dinner, consisted of remarks by Dean Griswold and Professor Katz, concerning the past and future of the paper.

At the close of the program, Record "shingles" were awarded to staff members.



PAPER COVERS: TAXPAYERS' MONEY DOWN THE DRAIN?

AMES PONDERES TERM RECESS

May Postpone All But
Second Term Arguments

The possibility that the Qualifying Round arguments of the Ames Competition may be suspended during the summer was disclosed this week by Chairman H. J. Smith of the Board of Student Advisers. Whether or not the alternative program will be undertaken will depend on the results of a poll of the present Second Term students, to be conducted in the classrooms on Thursday, April 24 at 9:00 A.M.

Participants in the upper rounds of the Ames Competition have already indicated a preference for postponing their arguments until the Fall term. Unless the present second term class elects to omit the competition for the Summer, however, all rounds of the Competition will be held as presently scheduled.

If the members of the present second term class elect to omit the qualifying round this summer, it will be held in the Fall when they are in their fourth term. The desirability of arguing this round in a term when there are five examinations must be balanced against the desirability of having the Summer free from extra-curricular activities. If this round is held in the Fall the higher rounds for this class will be held in the usual order thereafter.

"No feasible method of offering the present term men any such option has appeared to the Board of Student Advisers," said Smith. "The value of arguing second term cases when the subject matter of them is being studied in class appears to outweigh the matter of convenience for the Summer. The possibility of arguing such cases in the third term was rejected as completely unsatisfactory. On the other hand the convenience of arguing a Qualifying Round case in the student's third term will be available to these men, and the respite from Ames Activity would occur in the Fourth Term, since two rounds of Quarter-Finals cannot feasibly be conducted in the same term. This is so because of the difficulties involved in case writing, brief printing, and the procurement of judges."

Depending on the election of the present second term class, therefore, the present first term men will argue as follows: in any case they will argue their Second term in the Summer and Qualifying Round in the Fall; If the present second termers elect to skip the summer arguments, the present first term men will argue Quarter-finals in Summer of 1948, Semi-finals in the Fall of 1948 and Finals in the Spring Term of 1949.

"Although the present first-termers cannot have much voice in the matter due to the problems involved," said Smith, "there seems to be no ground for lament if the alternative schedule is put into effect. In any case the second round must be argued this summer, and the net effect will be only to have the Quarter-final round for these men in the Summer rather than the Spring of 1948. The regular schedule has the advantage that Quarter-final work is done before the Summer heat. The alternative schedule has the advantage of leaving

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Conflicting Replies Disclose Need For Full Explanation

An exceedingly sore subject with today's law student is the paper bound casebook.

The student has aimed criticism at the publishers because only paper-bound books are being made available to him and at no decrease in price, and at the Record for its long silence in the matter.

He points out that with few exceptions most of the college textbooks, all of the popular novels, and all of the casebooks published by the professors themselves (except two) have proper bindings, while the law books coming from the publishing companies still have paper backs.

However, he considers that the casebook publishers may have met difficulties which do not seem to be apparent in other publishing fields.

Even if the publishers are beset with material shortages, he further believes that they might be taking unfair advantage of a situation in which the government is bearing the burden of the cost of law books for a great majority of the law students, by putting out a cheaper book at a higher price.

While admitting that printing and material costs have risen, he also considers that since there are more than 40,000 law students, most of whom under the government subsidy buy new books, the lower margin of profit on each book might be compensated for by the greater volume of sales, and that the cost of paper bound books might therefore still be too high.

In short, the student is interested in two things:

1. In getting a properly bound book. 2. If this is not possible because of material shortages, then in seeing to it that he (or the government for him) is not required to pay an inordinately high price for a cheaper book.

Since the publishing companies have rendered a valuable service to the profession, the Record believes that they should have an opportunity to explain their position and avoid the ill will which they are creating among students, or if they have no explanation, then they should be justly subjected to attack if they fail to change their stand.

With this idea in mind, the Record and interested students wrote the various publishers, explained the student's position, and requested answers to questions bearing on the matter.

The questions asked, and the explanations received, are presented here so that each of our readers can judge the situation for himself.

(1) Is your company publishing law books other than case books with paper bindings and if so what is the percentage of those publications to your total publication of books?

The publishers who answered this question directly indicated that school books were the only books being bound in paper.

(2) Is it possible to obtain proper bindings for law books, and if not what are the obstacles which do not seem to be present in other publishing fields?

The Bobbs-Merrill Company replied: "We have been able to get sufficient material for binding law books in the same manner as formerly. If buckram, Fabrikoid, or Sturdite should be impossible to obtain, there are heavy grades of school book cloth which would wear well but would not be orthodox law binding."

The West Publishing Company, which is the largest publisher of books used here, pointed to a national survey conducted by the *New York Times* last fall, which disclosed a shortage of materials, experienced workers, and bindery capacity.

They stated that because of the possible loss of good will they adopted the paper bindings reluctantly, but that the only alternative would have been to decline to publish casebooks at all, which was unthinkable in view of the pressure on them from educators to get out the books.

The Foundation Press, also a large supplier of books used at the law school, stated that it would have been impossible for them to have supplied all of the

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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

In the absence of a detailed set of figures on the cost of labor and materials and the current earnings of the law book publishing companies as compared with their position prior to the war, it is difficult to reach an informed and absolute judgment as to the validity of some of the publishers' actions in (1) making only paper bound casebooks available to the law students and (2) not reducing the cost.

Furthermore, the lack of a working knowledge as to the mechanics of binding books is an obstacle in evaluating the effect of the shortage of labor and materials on the binding situation and in determining how great the alleged shortage is.

Therefore, the RECORD is unable to condemn those publishers for having a parsimonious and short-sighted attitude in an attempt to increase their profits or, on the other hand, to compliment them for getting casebooks published at fair prices and under conditions of severe hardship.

However, the RECORD feels that several questions have been unanswered and several inconsistencies remain unexplained in examining the replies received from the publishers and wishes to point out that until these doubts have been removed the finger of suspicion must still be pointed at the West Publishing Company (also publishers of Foundation Press books) and Callaghan & Company.

The foremost question which remains unanswered is why do the publishers have sufficient labor and materials for all other phases of their activities and only in the casebook field are they bothered by shortages? The difficulty in understanding this apparent incongruity is heightened by the fact that some of the publishers (Bobbs-Merrill Company, Michie Casebook Corporation, and The Lawyers Co-operative Publishing Co.) although not as prominent in the casebook field, have provided adequate bindings for all their books. Secondly, what has been the increase in publisher's profits (if any) due to their greatly increased volume of sales and is their rate of return excessive? Thirdly, why is there the discrepancy between the "few cents" estimated by The Foundation Press and the seventy-five cent to one dollar figure given by the Bobbs-Merrill Company as the difference in cost between paper-bound and hard-bound books?

Since casebooks and textual materials are vitally important in furthering the study of law, perhaps it might be wise for the law schools to undertake the responsibility in furnishing them to their students; or at least to appoint supervisory committees to make sure that proper services are being furnished to their students at a fair price.

H. B.

Letters to the Editor

To the Editor of the RECORD:

We have long anticipated editorial consideration of the publication of paper bound casebooks and texts. This is a matter of consequence to those of us who regard these volumes as permanent fixtures for use in future practice.

In view of the RECORD's silence, we think the student body will be interested in our private efforts. We have received letters from the Foundation Press, West Publishing Co., and Callaghan & Co., in response to the following inquiries: (1) Why it is necessary to employ paper binding in view of the tremendous volume of cloth-bound publication in other fields where texts are subject to less frequent and continued use, and (2) why there has been no change of price despite paper-binding. The responses are almost identical, but none more cordial or concise than this:

"It would have been impossible for us to have supplied all of the schools with hard-bound books, but by binding our books in flexible binding there have been few shortages of Foundation Press Books.

"We are doing all we can to prevent another increase in prices and the few cents saved per books on flexible binding have been but a small factor. We hope to be able to continue present prices and shall do all we can to do so."

Fortunately, the publishers attach to this argument no warrant of merchantability. There is no explanation why non-legal texts and certain law books continue to be cloth-bound, nor why the paper in the new editions is so cheapened as to prohibit inked underlining. Certainly we are entitled to a more specific reply.

We suggest that a committee be formed to investigate this apparent monopoly and to protest its business practices. The faculty should also be interested in this matter, since many of their number are authors or editors of paper-bound editions. The authority these authors seek to establish is diminished with the shortened lives of their progeny. We think that this is the sort of a campaign the RECORD should undertake, as our representative.

Sincerely yours,
DONALD HACKEL,
LEON GREEN
ARNOLD STREET

To the Editor of the RECORD:

As I sit here looking at the ruins of my Scott and Simpson my heart is sorely grieved.

Of all texts in the University the law school books probably receive the hardest use. Yet the majority of them are so sleazily bound that they don't carry through one semester on their own power, and we have the added expense of getting them rebound at fancy prices at the local binderies. The original publisher could do this more cheaply and add the difference to the sale price.

The prime example is Scott and Simpson's Jud. Rem. casebooks. If one lays it back down on a table to spread out the backing one can see that the binding is nearly one half inch wider than the page materials.

At Yale Law School it took only one threatened boycott by students and professors to remedy this situation.

"BIBLIOPHILUS"

Off the Record

A LEGAL PRIMER

The Beneficiary

Quick, children, run for your lives! That car is going at or about seventy-five miles an hour through Harvard Square. It is a 24-cylinder Mercedes Benz. Look, the man behind the wheel is driving No Hands. No, he is not a Nut, he is a beneficiary of a Spendthrift Trust. On the hood he has painted fifteen Automobiles, three Trolleys, a small Train, Nine Old Ladies, and two rows of Tiny Tots. These represent a few of his more recent Collisions, Accidents, and Other Happy Events. What fun he has! His interest cannot be Attached, Garnished, Trusteized, Sequestered, or even Nibbled at by the unfortunate Next of Kin. Whee . . . he has just plastered a Baby Carriage all over his Bumper. We can call him up tonight and confirm his Kill.

Publius II

From the podium of the oft-quoted Professor Scott: "Marvellous how you think as I do, when you're thinking clearly."

The Wasting Assets Doctrine is the best argument conceivable in favor of cheap, commercial, atomic power from an inexhaustible source.

The Book Shelf

FREE MEDICAL CARE, Compiled by Clarence A. Peters, H. W. Wilson Co., \$1.25, 351 pages plus bibliography.

The economics of the medical profession have for some years been the subject of much controversy. The august American Medical Association has tenaciously opposed any change from the traditional method whereby the individual patient consults an individual doctor and pays a fee for each service rendered. There has been a growing concern over the inadequacies of this method, and much discussion has taken place as to the desirability of some form of prepaid medical care, whether administered by voluntary groups or by the government.

In 1946 the Wagner-Murray-Dingle Bill (S. 1606), entitled the National Health Act, was introduced in Congress. It provides for a government health program offering full medical care to all at virtually no cost to the patient. The program would be financed by payroll deductions, much as the Social Security program is financed.

Free Medical Care is a compilation of opinion on the merits and demerits of such government schemes, chiefly based on S. 1606. Apparently it is intended as a source-book for debaters, but the information presented is exceedingly interesting and will appeal to lawyers for the great amount of factual matter presented.

The first third of the book is devoted to a "General Discussion" of the problem. It includes articles on health statistics in the United States, medical practices in the armed forces and descriptions of National Health Services in the United Kingdom, the U.S.S.R. and Norway, among others.

The second part of the book contains an "Affirmative Discussion" of the subject. Here appears President Truman's proposals for a federal health program, an interview with Senator Murray, a favorable analysis by the Physician's Forum and some 18 other articles favorable to the Bill.

The remainder of the book presents a "Negative Discussion" ranging from "I, too, distrust the advocates of the Wagner Bill until a careful study of the actual medical provisions of the bill convinced me of the sincere idealism of its proponents. But their sincerity does not dispose of certain limitations on government health insurance which stand out in the clear light of practical experience." to such drivel as "un-American bureaucratic control" and "This diabolical scheme of increasing grandure to the great and further abjection in slavery to the slaves, was first set up by Bismarck in 1888, under whose throne of influence and at whose feet one Wagner (S. 1161 in the gallery of un-American activities) sat."

The Hollywood conception of doctors seems to be that of either a superb young man with sleek hair and a white coat who makes polished love to the better looking nurses and a few selected female patients, usually daughters of millionaires, or of a rather heavy-set, worried looking elderly gentleman who makes a diagnosis of some rare disease after glancing at the patient's fingernails.

Unfortunately, Hollywood versions tend to be accepted by large portions of the population. Unfortunately, Hollywood, as usual, is wrong.

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Gallery

ROBERT A. TAFT

Former Law Review President



"Illustrious" is undoubtedly a word that describes Ohio's quiet spoken and careful thinking senior United States Senator. Sitting behind his work laden desk in the Senate Office Building, Robert A. Taft of the Class of 1913 looks more like the typical midwestern lawyer that he was than the most powerful and influential Republican member of the Senate that he is today.

Born in Cincinnati in 1889, he had an early desire to study law that was inherited from two lawyer grandfathers, one of whom was Attorney-General of the United States under Grant; his father, who was later to become the 10th Chief Justice of the United States as well as its 27th President; and a lawyer uncle. Because his father taught law in Cincinnati and liked Dean Ames, whose methods he followed in teaching, Robert came to Harvard after graduation from Yale in 1910. His brother Charles II, being younger than Robert, graduated from college in time to take advantage of Yale Law School's subsequent revamping. In a later day Harvard was to receive into its ranks another Robert Taft, a son, who graduated in 1942. At present this Taft is with his father's old firm in Cincinnati.

At Harvard Taft joined an outstanding class that included Professors Zechariah Chafee, Jr., and E. Merrick Dodd, of the present Faculty, and Senators Ralph Owen Brewster of Maine, and James Preston Kern of Missouri.

Graduating from Law School in 1913 with honors and the presidency of the Law Review, Senator Taft returned to Cincinnati, was admitted to the bar in the same year and practised with a local firm for four years. In 1917 he joined Herbert Hoover's war-relief agency, the United States Food Administration, where he served as assistant counsel from 1917 to 1919. Three years after returning to Cincinnati he formed his own firm with his brother Charles who was just then getting out of Yale. The following year they reorganized and formed the firm of Taft, Stettinius and Hollister.

In 1921 Senator Taft received his first introduction to politics when he went to the Ohio State Capitol on the insistence of the Mayor of Cincinnati to help out on a tax problem then plaguing the City. At the Capitol he served in the House of Representatives for six years, leaving in 1926 after being Speaker of the House. From 1929 to 1930 he was Chairman of the Republican Executive Committee of Hamilton County, Ohio. The following year he went back to Columbus, this time to the state Senate, where he spent 1931 and 1932 working on the classified property tax for Ohio. In that time he re-wrote most of the Ohio tax laws, and performed a difficult and challenging job in a trying period.

Returning in 1933 to a full time practice in Cincinnati, he devoted a large part of his time to probate and corporation work, numbering among his clients many large corporations. In 1939 he was elected to the United States Senate and was re-elected by a narrow margin in 1945. In the Senate he quickly made his presence felt and is now probably its most powerful Republican figure.

When asked about careers for young lawyers today, Senator Taft reflected his midwestern background and legal success saying that where men would go and what they would do depended in the main on the person and what he wanted to do, but he strongly recommended that men go back to the home town and start out there.

"First of all there is the advantage of knowing the town and its people, as well as being known yourself. A person from outside trying to break into a strange community seldom has much of a chance," he added. "Too many graduates go to the larger cities where it is harder to get ahead and the lawyer works in comparative obscurity. In these cities there is too much specialization, and in order to make a success of your work it is necessary to specialize in some field, while a general practice is more suitable for one just starting out."

Looking at the Federal Government with an eye to public service, Senator Taft recommended that "a young graduate should go home first and find a place in his community. A year or two in Washington will give you background and experience, but as a permanent occupation it is not satisfactory, it leads up too many blind alleys. Without a local background and some experience in community problems you can't tell what the people are thinking about and consequently cannot serve them effectively. While Federal service is advantageous for men who are desirous of specializing and some good opportunities are open to them, the majority of the lower positions do not hold forth the opportunity for broad legal experience that is essential in a young lawyer's training."

On the other hand, commenting on politics for the lawyer, Senator Taft said, "Every young lawyer should keep up an interest in his precinct, city, and county politics. With more schooling than the average citizen, plus a more thorough knowledge of the law and legislation, he has an advantage over others which should be put to use in the community. With no employer to impede his progress, he has more independence and freedom than most men, and may devote more time to government with less restraint on him. Even in the larger cities, if he can't actively participate in public office, he can still make his voice heard, even if only as a member of a minority group. After all, politics is the interest of the people, and a lawyer's job is to be interested in people and their affairs and problems." "Besides," he continued with a smile, "when you get into politics there is no telling where you might end up. To me, being a member of the United States Senate is the finest position that this country offers."

S. B. S.

Sub Judice

JUSTICE BY THE NUMBERS****

Patton, an adult young negro was indicted, convicted and sentenced to death for murder of a middle-aged white man, the homicide having been in furtherance of robbery.

Patton made a motion to quash the indictment because no negro was on the grand jury panel although there were qualified negro men in the county. The court refused to quash the indictment and that action is here cited as error on appeal.

The Supreme Court of Mississippi, in Banc, affirmed the conviction and dispensed with the convicted man's contention as follows:

1. It was recognized that exclusion of negroes from jury panels solely because of race or color would be a denial of equal protection under the law.
2. The jury laws of the state required jurors to be qualified electors, male and not exempted by reason of being physicians, ministers and/or teachers.
3. Findings of fact re the contention of exclusion of negroes if supported by the evidence would be conclusive.
4. Evidence by witnesses showed that there were between 11,000 and 12,000 qualified electors in the county of whom 30 to 100 were colored and of the latter the majority were teachers or preachers, exempt from jury service.
5. The judge below was entitled to take judicial notice that people try to avoid jury duty whenever possible.
6. Mathematically, after taking into consideration the number of electors, the exemptions and the tendency to escape jury service, the proportion left would be 400 to 1 of white to colored or one-fourth of one per cent. Thus reasoned the court, the trial judge was reasonable in upholding the indictment since there was no evidence to show discrimination and the burden was on the accused to show that three or four negroes were not included on the panel. The evidence did show two or three had been so included.

The court also reasoned that, based on these facts, to have included more than two or three negroes would have been to discriminate not against negro jurors but in their favor. *Patton v State*, 29 So. 2d 96, (Miss. 1947).

THAT INDIAN PROBLEM*****

Watson Elijah, an Indian and ward of the U. S. Government resided on an Indian Reservation at Wellpinit, Washington. He was a veteran of World War II and had recently returned from overseas and was discharged. One morning his mother, who lived in Washington, too, requested that he take her to Worley, Idaho, to visit friends. Elijah left Spokane, Washington in his auto with his mother and no one else. A short distance from Spokane one James Reedy signaled him to stop and requested a ride. Elijah picked him up and permitted him to ride. "James Reedy was what is commonly known as a hitch hiker," observed the court.

Elijah delivered his mother at her destination in Idaho at a place admittedly Indian Country, and went ahead to get some lunch. Reedy accompanied him and on the way back to pick up his mother the car was stopped by a special officer for suppression of liquor traffic among the Indians. A search of the car was made and six quarts of wine which Reedy bought in the State store in Worley was discovered. At no time did Elijah have any knowledge of Reedy's purchasing the liquor or having it in his possession.

Reedy and Elijah were charged by information with violating a Federal statute by (1) having six quarts of wine in possession in Indian Country and (2) of introducing and carrying six quarts of wine into Indian Country. Reedy pleaded guilty. Elijah pleaded not guilty and after a jury trial was acquitted.

The Federal government now files a libel under a Federal Statute to seize Elijah's automobile claiming that per the statute it was forfeit for introducing intoxicants into Indian Country.

The question before the court was whether Elijah, being innocent, must lose his car because he picked up a wrongful hitchhiker.

The court found that Elijah didn't use the car to introduce intoxicants within the meaning of the statute since he had no knowledge of the word.

Reedy didn't introduce the intoxicants since he had no dominion over the car. The Government argued that the innocence of the parties was immaterial since the libel was against the car as offender and authority for this proposition was cited.

The Court wisely ruled that they must take each case on its own facts and on these particular facts the lack of dominion or control over the automobile by Reedy, the true offender, saved the auto from guilt and Elijah could keep his car. *U. S. v. One Ford Two-door Sedan, 1941 Model, 69 F. Supp. 417 (D. C. D Idaho 1947)*. In passing it might be added that this column commented upon the quaintness of the British Law Reports as compared to the American Reports. After reading this case one can only imagine an English Barrister perusing the American Reports and noting that Indians are still Wards of the State and still have to have special legislation. That despite any visions of their being red-skinned savages they drive around in Ford sedans. But then that would be America, wouldn't it?

A HOUSE BY ANY OTHER NAME*****

Ray Mickle operated the Casa Manana bar and dance hall in the front part of a building and occupied rooms as sleeping quarters in the rear of the building with his wife. Rich was indicted and charged with burglary of the house by force and breaking under a statute relating to burglary of a "house." Upon conviction Rich appealed contending that the proof showed that the house was entered at night, and that it was the private residence of Mickle and was used as a private residence; that therefore a conviction for burglary of a private residence at night couldn't be had under this indictment which referred to a house. The appeal brief cited authority supporting the appellant's contention.

The court rejected the appeal on the grounds that the record disclosed that Rich broke into the building in the front part of the building where the business section was located. Thus, reasoned the court, the proof supported the conviction under the statute as charged. *Rich v. State, 199 S.W. 2d 178 (Texas, 1947)*.

The Witness Stand

Question: Should the American Communist party be outlawed?

1. **Alfred P. Mezzoff**, Lynn, Mass., 3rd Term.

I do not favor any legislation designed to outlaw the American Communist Party. If this is being offered as a method of preserving the status quo of the American scenes, then it is a rather obtuse method, containing the rather obvious dangers inherent in the repression of a political organization. If the American Communist Party provides a threat to the American way of life, then it is for us to remove this threat, not by blunt, negative means but by positive action in an affirmative direction. The abuses under our system of free enterprise provide the nourishment and stimulate the growth of the Communist Party. Why don't we try to starve the American Communist Party to death by embarking on an affirmative program that will translate the symbols and formulae of democracy and free enterprise, cluttering our printed pages, into a positive and purposeful meaning for all citizens alike, regardless of race, color, creed, or economic status? Such a course of action would tend to achieve a political and economic order virtually immune from the communistic encroachment.

2. **Alan Kahn**, Philadelphia, Pa., 3rd Term.

No, the plan is mechanically impossible. First of all by "outlaw" I assume the idea is to prosecute all members of the American Communist Party. Actually only a very small percentage of active communist sympathizers are really members of the C. P., so where do you plan to draw the line? What criteria will you set up to bring these "fellow travelers" within the definition of this proposed act?—the newspapers and magazines they read, the radio features they listen to, or the forums they attend?

Secondly, the communist idea like all other ideologies simply thrives on being outlawed. I believe that they were outlawed in Germany shortly after the inception of the Nazi regime, and today the Communists are one of the strongest parties in Germany. A measure like this one will simply earn them the sympathy of great numbers of liberal-minded citizens who never even remotely associated themselves with communists before. You simply can't outlaw ideas.

3. **Joseph Anthony Suozzi**, Glen Cove, Long Island New York, 5th Term.

It is because I think that such a measure can have only short-lived success and that such success would not be substantial enough to justify the harm that might result that I am inclined to answer No. The inevitable consequence is to force the Communist Party into more of its Trojan horse disguise that it has been wearing of late. Thereby we multiply our difficulties of coping with its false philosophy and discrediting its followers. It is not a forced prediction that such action may raise the Communists here to some level of martyrdom.

Even assuming that it would be but a routine job to sort out the Communists and that none other than Communists would be affected, the resort to this type registration strongly suggests a weakness in our convictions. More than to legislate we need to exert ourselves affirmatively with some of the drive and zealotness that have largely accounted for the Communist successes.

RECESS—(Continued)

ing the Quarter-finalists free from outside work during the term in which the final second year exams approach. With the difference so slight, few men should feel reluctant to give the men ahead of them an opportunity to make the choice of schedules this summer.

The only ballots to be counted in the election will be those of men who are eligible for the qualifying round (that is, men who have completed two rounds of the Ames Competition or have been excused by the Board of Student Advisers) and who will attend school during the Summer Term. Second term men who take a vacation this summer will, of course, be organized into clubs in the qualifying round with other men then going into the third term rather than with their present classmates. This would mean that their future Ames schedules will be the same as that of the present first-termers.

Results of the election and announcement of the plan to be followed will be posted as soon as possible on the Current Bulletin Boards.

Alumni Notes

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

Ex. '93—**Frederick F. Mathers**, lieutenant-governor of Nova Scotia from 1940 to 1942, and deputy attorney-general for the province for 22 years, died in Halifax, April 14.

L.L.B. '95—**George Rublee**, member of the Washington, D. C., law firm of Covington, Burling, Rublee, Acheson & Shorp, has been elected president of the Harvard Alumni Association for a one-year term beginning after Commencement Day, June 5.

Rublee, who has practiced law in Chicago, New York, and Washington, served as a member of the Federal Trade Commission in 1915-16. In World War I he was special counsel to the Treasury Department, served on the priorities committee of the War Industries Board, and as American delegate to the Allied Maritime Transport Council. He was legal advisor to the American Embassy in Mexico from 1928 to 1930, and advisor to the Colombian government from 1930 to 1933.

L.L.B. '03—Chairman of the fund-raising campaign for \$10,000,000 for the Children's Medical Center in Boston is **J. W. Farley**, veteran of many very successful fund-raising campaigns.

Farley was admitted to the Massachusetts Bar in 1903, and has since practiced in Boston. From 1903 to 1908 he was a member of the law firm of Alfred Hemmaway, and later became a partner of Hemenway, Barner & Farley. For a brief period, 1911-13, he was treasurer and publisher of the *Boston Herald*, and assisted in the newspaper's reorganization. For the next several years he was a partner of the firm of Fish, Richardson, Herrick & Neave; since 1916 he has been a partner of Herrick, Smith, Donald & Farley.

L.L.B. '07—Judge **Leo H. Leary** of the Municipal Court of the South Boston, Mass. district, was elected a director of the Gillette Safety Razor Co. at the annual meeting April 15.

L.L.B. '22—**Robinson Verrill** has been elected to the board of directors of the Eastern Corp.

L.L.B. '33—The engagement of Miss Marian Morris Janney, of Bryn Mawr, Pa., and **J. Lindsay Ware** has been announced. Ware is now practicing law in Boston.

Ex. '39—**Alfred Rolfe Shrigley**, member of the law firm of Eastman and Shrigley, has received his discharge from the U. S. Navy and has resumed his duties as vice-consul for the Republic of Mexico.

L.L.B. '41—The engagement of Miss Mary Maud Farrell, of Darien, Conn., to **George Frederick Lowman** has been announced. During the war Lowman served in the ETO as a member of Gen. Patch's Seventh Army Staff. He was released from the Army with the rank of major, and was awarded the Bronze Star and the Legion of Merit. Lowman is now with the Stamford, Conn. law firm of Cummings & Lockwood.

LAW WIVES CHOOSE OFFICER NOMINEES

The Nominating Committee of the Harvard Law Wives has announced the following candidates for officers who will direct the club activities during the Summer and Fall terms.

The nominations are as follows:

President: Mrs. Joseph Logan, Mrs. Herbert Hansen; **First Vice-President** (Kendall House Chairman): Mrs. Jarvis Kellogg, Mrs. John McComb; **Second Vice-President** (Program Chairman): Mrs. Richard Bush, Mrs. Walter Wencke; **Third Vice-President** (Hospitality Chairman): Mrs. Charles Barrett, Mrs. James Lovett; **Corresponding Secretary:** Mrs. Stanley Remelmeier, Mrs. Edward Butler; **Recording Secretary:** Mrs. Ralph Pryor, Mrs. William Craig; **Treasurer:** Mrs. Robert Weary, Mrs. Richard Staples; and **Assistant Treasurer:** Mrs. Joseph McGrath, Mrs. Robert Clayton.

Additional nominations will be welcomed and may be placed on the ballot by petition. Petitions must be signed by 15 members and filed by April 24 with the Nominating Committee Chairman, Mrs. George Gillette, 34 Jarvis Court.

Other members of the Nominating Committee include Mrs. Harold Olsen, Mrs. Robert Cahall, Mrs. John Siegemund, and Mrs. Hamilton Hoyer.

The current officers are: President: Mrs. Robert Bingham; 1st Vice-President: Mrs. Horace Kalik; 2nd Vice-President: Mrs. Robert Cahall; 3rd Vice-President: Mrs. Walter Morey; Corresponding Secretary: Mrs. George Gillette; Recording Secretary: Mrs. Ralph Pryor; Assistant Treasurer: Mrs. Charles Barrett.

BOOK SHELF—(Continued)

The fact is that medical care today is an arduous and expensive proposition. Even the humble general practitioner now makes extensive use of laboratory tests. In the better hospitals it is only after long and careful observation supplemented by extensive laboratory tests and consultation with specialists that a competent doctor will make a final diagnosis of a serious ailment. Hospital care, special nursing, laboratory and medical charges, specialists' fees and doctor bills run the bill up to astronomical heights in an astonishingly short time. Unlucky the man earning fifty dollars a week who must spend a few weeks in the hospital. Long illness too often spells disaster even to moderately well-to-do.

What is the result. American Medicine has often announced that it is the best in the world. A cynical law student might add "for those who can afford it." Statistics are appalling. An example is the state of health of men examined for service in the armed forces.

The Bureau of Research and Statistics of the Social Security Board working from Selective Service figures finds that of sixteen million youths examined, fully one-half were unfit for military service. Of these, five million were rejected outright, one and one-half million were inducted and then discharged for defects not acquired in the service and one and one-half million were inducted and had defects remedied in the service. This is the supposedly most healthy segment of the population.

The inevitable conclusion from an examination of the statistics is that people are not getting adequate care. And they are not getting adequate care because they cannot afford it. This despite the generosity of the majority of doctors, who give freely of their time without expectation of pay, and despite the large amount of care provided by charitable institutions. It is clear that people do not now get the care they need, especially in the early stages of illness, when symptoms are slight and visits to the doctor can be put off in the hope they will disappear. Too often easily remedied conditions become permanent impairments.

It is as foolish to present doctors in the role of black reactionaries uninterested in anything but money as it is to present them with just the faint shimmer of a halo showing. Doctors are human: they have to eat, they like to send their children to college, one or two might even want to attend a night club on occasion.

On the other hand, the attitude of the medical profession toward proposals for improvement in the system of medical care has been indefensible. As Dr. Mary B. Spahr, an opponent of the Wagner Bill, in an article in the *Saturday Evening Post* of July 21, 1945 says:

"As a physician, I point without pride to the record of my own profession in defending its position. We doctors eschew calm analysis and content ourselves with angry mutterings about 'political medicine,' so that the uncritical observer accuses us of putting our professional habits above our aspiration that all people shall have good medical care and have it more abundantly. We assume that all advocates of socialized medicine are accusing us doctors of giving the best care only to our best-paying patients. The friends of the Wagner bill are too often able to put doctors in the position of regarding medical progress as the monopoly of private practitioners."

All aspects of medicine touch, at one time or another, the lives of everyone. When the medical profession underpays its nurses, fewer enter the nursing schools and the resulting shortage adversely affects the patients. The scandalously low wages paid for long years to internes and residents combined with the high cost of a medical education makes it virtually impossible for any but relatively wealthy men to become doctors. Society suffers because many potentially able and enthusiastic doctors never become doctors. In rural communities where ability to pay is low, doctors are scarce and medical care available is necessarily sketchy; in the larger cities there is an overcrowding of the profession.

The Wagner-Murray-Dingle Bill may not be the best bill possible. It at least merits calm objective examination and criticism from the medical profession. Whether it comes next year or in ten years or twenty, some form of National Health Insurance appears inevitable. It would seem that the members of the medical profession would do well to co-operate in devising and supporting a reasonable plan. Otherwise, as Mr. Philip Wylie has observed, they are liable to have a somewhat less reasonable plan forced on them. Such a drastic step might prove harmful to both the medical profession and the public.

H. K.

CLUBS SUCCEED IN QUALIFYING

Langdell, Powell Groups Achieve Perfect Record

Seven of the eight clubs which will compete in the next quarter-finals were determined by the results of last week's qualifying round arguments of the Ames Competition. Late returns prevented the announcement of the eighth club's name before this week's edition of the *Record* went to press. Out in front with a clean sweep of four victories each were the Langdell and Powell Clubs. Close behind, with three victories to one defeat were the Blackstone, Casner, Morgan, Pow-wow, and Jeremiah Smith Clubs.

In a default victory over the Cardozo Club, the Casner Club's Medow and Robinson earned a score of 148, the round's highest to date, on briefs they submitted. Highest score in an actual argument was run up by Cole and Birkett of the Langdell Club, in defeating Marshall Club's Stimson and Kingsley, 145-131. Results of other arguments are:

Bacon Club (Denney-DeSaussure) over Cardozo in a default; Blackstone (Votaw-Weisheit)—134, Bacon (Evans-Boyce)—133; Blackstone (Erisman-Williams)—133, Casner (McMahon-Toole)—132, Gardner (Melby-Osborne)—129; 133, Thorpe (Mooney-Esner)—132.

Casner (Alexander-Irwin)—143, Stone (Marcus-Berger)—140; Dodd (Kahn-Forman)—133, Griswold (Guth-Austin)—131; Gardner (Wilson-Stewart)—143, Dodd (Oliensis-Wendel)—132; Griswold (Casey-Powell)—133, Holmes (Giles-Stockell)—133; Griswold (Strezynski-Ambrose)—124, Roberts (Daniels-Cramer)—120; Holmes (Langdale-Greer)—132, Gardner (Melby-Osborne)—129; Hughes (Hindenlang Blum) over Bacon in default.

Kent (Perkins-Carpenter)—138, Hughes (Foley-Sullivan)—137; Langdell (McCrane-Brown)—133, Hughes (Torkelson-Briscoe)—130; Langdell (Palwick-Bailey)—140, Morgan (Cohen-Refo)—130; Morgan (Janata-Millen)—139, Pitney (Phillips-Reich)—135; Pitney (LaBuddle-Clay)—142, Marshall (Barney-Hicks)—136.

Powell (Phillips-Preyer)—143, Pound (Johnson-McManus)—139; Powell (McLaughlin-Palmer)—139, Pitney (Olson-Everson)—133; Powell (Zeigler-Brewer)—139, Kent (Pope-Kuh)—126; Pow-wow (Marshall-Thomas)—131, Roberts (Weisbard-Greenfield)—129; Pow-wow (Stanton)—138, Scott (Webb-Green)—137; Pow-wow (Avery-Rusher)—142, Holmes (Greener-Stamper)—141; Roberts (Hirsch-Laski)—137, Stone (Touster-Clyman)—131.

Scott (Bowring-Bissell)—138, Gardner (Batt-Keyes)—133; J. Smith (J. Murphy-W. Murphy)—136, Scott (Beckham-Morton)—134; J. Smith (Walker-Nachman)—135, Dodd (Cohen-Boonin)—131; Thorpe (Bell-Flanagan)—140, Stone (Marshall-Marquardt)—137; Thorpe (Gant-Berningham)—136, J. Smith (Egan-Weiland)—135.

Casner (Baxter-Abbott)—142, Pitney-Grotius (Wolf-Byram)—132; Dodd (Hyman-Byrnes)—140, Pow-wow (Crook-Fowler)—128; Hughes (Rusconi-Hindenlang)—136, Roberts (Gartenberg-Elleloff)—128; Kent (McNichol-Richardson)—137, Griswold (Harrington-Voss)—134; Langdell (Raymer-Wohlstetter)—141, Kent (Young-Wesselhoft)—136; Morgan (Grodberg-Hilton)—138, Bacon (Halle-Fleming)—131; Pound (Prigoff-Thompson)—136, Cardozo, default; Pound (McNaughton-Rothschild)—137, Blackstone (Eberle-Barnett)—132; Powell (Bynum-McSweeney) over Cardozo by default; Scott (McKinley-McCartney)—135, Marshall (Snow-Evans)—131; J. Smith (Webster-Thomas)—140, Gardner (Breuckner-Fullam)—136.

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CASEBOOK—(Continued)

schools with hard-bound books.

Callaghan and Company replied that the reason for putting paper covers on school books is that it is impossible to get experienced binders, and the paper covers can be put on with inexperienced help.

(3) What is the difference in cost between paper bound books and books which are properly bound?

Bobbs-Merrill replied that the difference in cost between paper and Fabrikoid would be about 85 cents per book with them. However, none of their text books is paper bound.

The West Company did not give a direct answer to this question, but pointed out the increased costs in the publishing field.

Foundation stated that the few cents saved per book because of the paper binding is but a small factor in the price of a book, and that they are doing all they can to prevent another increase in prices.

Callaghan reported that it costs just about as much to put on the paper covers because the inexperienced help is so slow.

The views of the publishers concerning the paper-bound book situation, as gathered from their letters, may be summarized as follows:

(1) They have gone to a great deal of trouble to build up good will in the profession, and would not endanger it now by putting out an inferior product if it were not absolutely necessary.

(2) In view of the enormous demand for books after the war, they had to make a choice between paper-bound books or no books at all. That they have succeeded in meeting the demand is shown by the fact that there is no shortage of law school casebooks.

(3) The saving on paper-bound books is eaten up by increased manufacturing costs.

(4) The end of the paper-bound book era is in sight.

NATIONAL LAWYER GUILD LOCAL MEETS

Your client, a book publisher, is threatened by a city or state ban on his recent best seller. How would you prepare and carry out your case?

Alfred Albert, Boston counsel for the Civil Liberties Union, and Professor Mark DeWolfe Howe will lead a discussion on this problem based on the recent banning of "Strange Fruit" by a Massachusetts Court. This will be held at Kendall House, Tuesday, April 29 at 7:30 and is sponsored by the Harvard Chapter of National Lawyers Guild. Mr. Albert handled the "Strange Fruit" case and will give a talk on the practical approach to a case of this type. Professor Howe will discuss the broad legal issues involved. The talks will be followed by an extended question period.

This is the first in a series of current case discussions projected by the newly formed Guild Chapter. These discussions will be led by prominent attorneys actually involved in the actions and will each point up an important current legal problem. The two-fold purpose of these discussions is to provide practical information in the day-to-day court room approach to these problems and to increase the contact between law students and practicing members of the bar. The meeting is open to all members of the School.

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PRESSES	\$.75
Selected Hardwood	
SHOES	\$2.25 to \$5.00
Converse—Goodrich	
SOX	\$.85
Adler shrink-controlled	
COVERS	\$.75, \$.95
Waterproof Plastics	
SUPPORTERS	\$.65
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The COOP

Calendar

THE LEGAL WORLD

Registration

Registration for the June 1947 term will be held in Langdell Court Room from Monday, April 28 through Wednesday, April 30 from 10:00 A.M. to 12:00 Noon, and from 2:00 to 4:00 P. M. Students entering the fifth, sixth, or seventh terms, and graduate students and special students may register on any one of these days. However, those entering the second term are to register on Monday, April 28; prospective third termers will register on Tuesday, April 29, and those going into the fourth term will sign up on Wednesday, April 30.

Term Off

Students now in the second or fourth terms who plan to take the next term off must notify the Receptionist as promptly as possible.

Lockers

Students who wish to renew lockers must do so on one of the registration days.

King's Bench

There will be a Charter Dance, Friday, April 25, for members and their guests at the Hotel Continental from 9 P. M. to 1 A. M.

All Terms

On Monday morning, April 28, Saturday morning classes will substitute for those normally held on Monday mornings. However, note that Monday afternoon classes will meet as usual.

Labor Law

There will be a make-up class on Friday, April 25, in Langdell South at 4 P. M.

National Lawyers Guild

Professor Mark Howe and Mr. Alfred Albert of the Civil Liberties Union will discuss the problem of book banning on Tuesday, April 29 in Kendall House, 7:30 p. m.

THE UNIVERSITY WORLD

Lectures

The Boston Scientific Film Society will show a variety of films on scientific and educational subjects today (Wednesday) at 8 P. M. in the large auditorium of the Fogg Art Museum.

The United Nations Council of Harvard presents Sir Alexander Cadogan, United Kingdom representative to the United Nations Security Council, who will speak on *The Security Council—Weapon For Peace*, in the New Lecture Hall, tonight (April 23) at 8:30 p. m.

The Harvard Debate Council sponsors a debate between Harvard and Yale on *Resolved: That an Alliance with Great Britain Would Offer the United States the Greatest Measure of Security*, which takes place tonight (April 23) in Lowell House Junior Common Room at 8:00 p. m.

Under the auspices of the Graduate School of Design, Mr. Albert Wohlstedter, Adviser on Prefabrication to the Wyatt Organization, will give an illustrated lecture on *The Manufactured House*, Thursday, April 24, in the Large Lecture Room of Hunt Hall at 5 p. m.

The Office of Student Placement announces a meeting on *Law As a Career*, on which topic Professor W. Barton Leach will be the guest speaker, for Tuesday, April 29, in Leverett House Junior Common Room, at 7:15 p. m.

On Monday, April 28, at 4 P. M., Professor W. E. Hocking will deliver the final lecture of the term on *The William James Lectures in Philosophy*. The subject will be *International Law; Property and Politics; Security and Insecurity; Common Conscience*. The place is Room D, Emerson Hall.

Lithgow Osborne, former United States Ambassador to Norway, now president of the American Scandinavian Foundation, will discuss the work of the foundation at Phillips Brooks House, Thursday night at 8.

Concert

Tonight, at 8:15 (Wed.) the Pierian Sodality of 1808 will present the Harvard and Radcliffe Orchestra, Malcolm H. Holmes conducting, in a concert at Sanders Theatre. The concert will be open to the public and admission will be by ticket. Tickets at \$2.00, \$1.15, and \$.85 will be available at the Coop and at the Music Building. The program will include the Piano Concerto No. 1 in C major, by Beethoven, and the Concerto Grosso in D by Corelli.

THE OUTER WORLD

Concerts

Gardner Museum Concerts: Thursday, April 24—Grace Hunter, soprano, Natalie Kramer, pianist; Saturday, April 26—Victoria Samuelian, soprano, and Olga Stone, pianist; Sunday April 27—James Montgomery, tenor. Weekday concerts begin at 2:45; the Sunday concert is at 2:00. Admission is free.

On Friday and Saturday evenings, April 25th and 26th, the Harvard Glee Club—Radcliffe Choral Society will accompany the Boston Symphony Orchestra in Symphony Hall. The program is to consist of Beethoven's Ninth Symphony.

A Proposal For Specialist Courts

The conclusions below were arrived at by the author following discussions in Professor Milton Katz's course in Administrative Law, but in no sense do they purport to be Mr. Katz's opinions.

In an attempt to define the court-agency relationship as complementary instead of conflicting, judges and law-makers have struggled, and continue to struggle, to determine "appropriate spheres of action" for court and agency. Agencies are compared to masters and juries. Their findings of fact are conclusive if supported by evidence, unless the particular fact is deemed to be "jurisdictional" or "constitutional," in which case the judicial processes of the traditional courts are supposed to afford greater "security" and consequently to justify a greater degree of judicial intervention. Congressional acts attempt to delineate the boundaries between court and agency but even the most unequivocal statute may be condemned by the courts as an "excessive delegation of judicial power." Another aspect of the adjustment relates to the exercise of equity powers by the courts. There are many other equally vague and unsettled criteria imperfectly marking out the limbo between court and agency. The time has come to lop them all off.

In the Dobson decision (320 U. S. 489) the Supreme Court in a unanimous opinion ruled that questions of "mixed law and fact" as well as questions of fact were to be the province of the Tax Court leaving only "clear-cut questions of law" for the consideration of the courts. The argument of this essay is that the Dobson rule should be applied by the Supreme Court to the determinations of the agencies' adjudicative sections in the status of specialist courts; that "clear-cut questions of law" be confined to those plainly of constitutional significance; and that only the Supreme Court of the United States have jurisdiction to review on those occasions. Questions of statutory interpretation would be the specialist courts' exclusive province just as state laws are applied and state court interpretations of state laws in federal courts are left undisturbed in the absence of issues under the Constitution.

The proposal is that Congress enact legislation to provide as follows:

1. That the adjudicative sections of administrative agencies be denominated specialist inferior courts with plenary and exclusive jurisdiction within their respective fields.

2. That the acts of the administration in these agencies be reviewable only in their separate adjudicative sections except—

3. That the final decisions of the adjudicative sections are reviewable in the Supreme Court of the United States but only if a clear question under the Constitution is raised.

4. That an Administrative Council be established to investigate and to report to Congress and the agencies on problems of procedural efficiency and fairness in the work of the various agencies.

1. Specialist Courts

An A.B.A. representative, testifying before the House Judiciary Committee while the Administrative Procedures Act was under consideration, said that the specialist courts idea had been discussed but dismissed as "unworkable." (p. 41, Document 248, Senate, 79th Congress 2d Session) As early as 1933, however, the idea of such a court was pressed (58 A.B.A. Rept. 203).

In setting up the agency adjudicative sections as "inferior courts" under Article III of the Constitution, Congress would have to extend the tenure of the Judges to "during good behavior" and refrain from lowering their compensations during these tenures, which in likelihood would be for the respective lives. This enactment would put an end to the disputes about improper delegations and exercises of judicial power which in the past have accounted for much inharmonious music of the spheres under discussion. Those lawyers who have not found the Customs and Patent Courts objectionable would find that the Labor and Commerce Courts would be the same kind of institutions. If the ability to practice before a specialist court is not acquired overnight, no one should be surprised. It may be that a few lawyers need to be reminded that specialist courts are designed for the benefit of the litigants, not their lawyers.

An excellent example of a specialist court within an agency was the Emergency Court of Appeals which until recently handled the OPA disputes (Secs. 923-4, U.S.C.A. 50). This court had exclusive jurisdiction in the field covered by the OPA and its acts were reviewable only in the Supreme Court. One major difference is that its judges were federal judges borrowed from

various district and circuit courts, and subject to change. Setting up specialist judges for life may be open to the criticism that such entrenched power would be a drag on the administrators and result in a loss of flexibility. The answer to that charge is to recommend another look at the present situation where the drag is in the hands of—at best—eleven Circuit Courts of Appeal, whose judges can have only a nodding acquaintance with the specialties concerned and where uniformity in judgments, even erroneous ones, on close questions is virtually impossible.

On the State level, specialist courts exist to some extent. Their increase has been advocated for many years by many leaders of the bar as vital in the improvement of the administration of justice. Most lawyers and judges agree that the domestic relations court ought to be in the hands of specialist judges. A good many others believe that criminal courts require trained and experienced judges who can be held responsible. The traffic and police courts present similar problems.

In many cities today, however, the judges rotate mechanically among the different benches, preventing the rise of specialist judges who might conceive a sensible policy of sentencing, for example, and put it into effect. The complexity of our society requires the use of specialists in an organized attack on the intricacies of intrinsically intricate fields. Their intimate familiarity with the subject, their on-the-spotness and authority enable them to cope with difficulties as no one else is qualified to do.

2, 3 Restricted Review and Only in the Supreme Court

After a complainant has exhausted his administrative remedies, he can apply for help from a court on one or more of three grounds (*Rochester Telephone Corp. v. U. S.* 307 U. S. 125). First, he may allege imminent danger of irreparable harm, but since the specialist courts, as equity courts, would be fully competent to weigh the respective interests hanging in the balance, this ground could not be used as a chink in the armor of administrative finality. Second, he can claim that the agency erroneously interpreted its statute, but by the rule urged here the agency interprets its own statute. See *N.L.R.B. v. Hearst* 321 U. S. 111, just as the state courts interpret state legislation, both subject to correction by their respective legislative bodies but not by another court. Third, he can wrap himself in the Constitution on almost any pretext, so it is essential here that careful draftsmanship restrict review to the minimum. Recent developments, apart from the Dobson case, offer hope in this respect. For example, not long ago the question of valuation was considered by the court to be a "constitutional fact" but since 1944 an Act of Congress can make the agency's value determination final (*F.P.C. v. Hope Natural Gas Co.*, 320 U. S. 591). If there was notice and fair hearing, the Court is, and should be satisfied.

This can't mean, of course, that the Court would renounce its powers of passing on the merits or reasonableness of legislation. The judiciary still has the last word whether they choose to say or not. Powell has written that many cases are decided by the arbiters not the argument. That unideal inevitability is not the subject here. Let us say, rather, that the Dobson case stands for something important with respect to self-limitation by the Court; that the Court is wearied of wrestling with involved technical cases and approves of the functioning of specialists under Acts of Congress. Let us add, with a sidelong glance at Dean Griswold and Randolph Paul that the Dobson doctrine, though misapplied at the outset, is the path to peace and happiness for the specialist courts and the nation's highest tribunal.

Dean Griswold, after calling the Dobson decision "a tour de force" and "a deliberate, unwarranted fabrication of the law," explained the decision on two grounds, the first being the "administrative finality" idea expressed in *Gray v. Powell* (314 U. S. 402) where the Bituminous Coal Commission's interpretation of "producers" was held to be conclusive; and second the fact that most Supreme Court justices hate tax cases and dislike taxpayers because the cases are too petty and detailed. If one believes in the wisdom of administrative finality in this respect and realizes the amount of work these cases require of a conscientious but non-specialist justice, the idea of permitting specialists

to relieve the Supreme Court of these technical determinations is not regarded with dismay. Griswold further points out that in the Dobson case it was a major misconception to treat the Tax Court decisions as the considered judgments of the entire administrative body, as might be true in other agencies, because 90 per cent of the decisions are the work of single judges. Item 4 of the proposal offers a ready remedy for this shortcoming.

How to get the Supreme Court to follow its own self-limiting rule of only passing on clear questions of law and, as recommended here, only legal issues as are also plainly constitutional, is the nub, aye, the rub too, of the whole judicial review problem. It is the old problem of who polices the policemen. By the proposal, this knotty difficulty is confined to one court instead of left more or less at large, depending to some extent on statutes, among a hundred-odd federal courts as at this writing. Even if there were nine McReynolds, the confusions of the present situation would be materially reduced, with an important result: Responsibility for delineation of "spheres" and procedural standards would be centered on identifiable individuals. Their decisions might vary with the calendar, as Powell has pointed out with respect to the *Adkins* case (261 U. S. 525), but the current chaos in the tax field would be precluded because the Circuit Courts of Appeal having lost all say in these matters could offer no hope of conflicting decisions to either taxpayer or Commissioner. Reliable, uniform decisions can only come from a practicable scheme of affixing responsibility in one body.

4. The Administrative Council

The Administrative Council's work would be to act as a sort of Inspector-General to observe the agencies in action and as an evaluative committee to seek better methods. Several states have Judicial Councils that accomplish these functions for their system of courts with varying success. The federal courts, under their Director, Henry P. Chandler, offer a handsome example, though in a slightly different context, of what can be done in this respect. The Benjamin Report recommended this kind of commission in 1939, emphasizing that the powers bestowed on it were only those of an observer and adviser. It functions in New York today with signal success. The federal counterpart would make its expertise on the administration of expertness available to the agencies themselves as well as to Congress.

This is the proposal the Attorney General's Committee on Administrative Procedure made in its report in 1941. Their name was Office of Federal Administrative Procedure headed by a board of three persons, including the Director of the Administrative Office of the United States Courts, a CCA judge, and the Director of Administrative Procedure, this last a new position which would be filled by presidential appointment and Senate approval.

Political Pressure

The existing courts have no corner on the persons or processes necessary for the protection of human rights. Nor do they enjoy any immunity from political pressure; particularly, says Pound, with respect to the state courts in the states where there are primary elections, for that fact invariably means that the judges are machine-made. The legitimate desires of district and circuit judges to advance a bench may not make them susceptible to pressure. The Supreme Court justices may vote their minds instead of in reference to desires of becoming Secretary of State or President. U. S. Attorneys, however, are appointed and subject to the same kind of pressures that may affect administrators in agencies. Specialist judges would not be pressure-proof, but no judges are. In fact, the agency judges would have their work reviewed annually when appropriations were considered by the Congress, a raking over the coals from which some of our courts might profit but which is almost never done by any one. These remarks are not meant to imply wholesale derelictions on the part of the federal and state judges (or U. S. District Attorneys), but only to suggest that the holier-than-thou attitude of judges with respect to administrators or their courts has little basis in the nature of things.

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Effect of Tradition

That the courts are accorded more respect by the man in the street than the agencies is undeniable. Put the black gown of tenure during good behavior on the agency adjudicators, call them "judges," and the tradition of respect would be extended usefully and necessarily. The social and economic changes in our society over the last fifty years have immeasurably enlarged the area for disputes. A system of administering justice which ignores this fact is bound to lose whatever respect it originally merited.

Men and Super-Men

Pound has spoken derisively of the administrators as would-be "super-men." Landis, however, says that administrators on the contrary are just ordinary men, but that ordinary men acquire expert capabilities when they deal with a particular subject-matter continuously and are charged with certain responsibilities in the furtherance of policies decided upon by Congress. More aptly, might not the federal judges be accused of aspiring to be super-men when they presume to review the actions of these specialists?

Which "Road"?

Will the creation of specialist courts inside of the major agencies advance our society on the Road to the Serfdom, the Road to Reaction, or what-have-you? The answer is: No more so than the measure which reduced the number of Congressional committees. Initially, the political repercussions might be large because of the accession to power by a body of life-appointed specialist judges, but it is unlikely that they would ever attempt anything drastic in face of the fact that Congress retains the power to amend or abolish the particular agencies at will, just as the jurisdiction of the federal courts has always been subject to its control.

Whatever the future may bring in the way of rides down Roads, it is important right now that our specialists be allowed to make decisions within their acknowledged competencies and to end once and for all the interference by unqualified courts. Policies enacted by Congress should be free from this sniping and obstruction resulting from access by parties to the lower courts. As for the Supreme Court, short of a Constitutional amendment overthrowing its hegemony in favor of Congress, strong admonition by Congress from without and sober appraisal within might keep the Court from upsetting specialist court legislation.

If enacted, this proposal might tend to force the Supreme Court to apply an articulated and extended Dobson doctrine consistently or run the risk of being forever deprived of passing on the merit of Congressional action regardless of the Constitutional issues raised.

C. O. P.

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With Hemenway gymnasium as the field of battle the Harvard Law School squash tournament progressed into the second round without any noticeable upsets. In first round matches J. King defeated G. Chiozzi 15-3, 15-4; C. A. Sullivan defeated B. G. Sundlun 15-10, 15-12; A. F. Mather defeated D. A. Fowler 15-12, 15-12; D. C. Burroughs defeated D. Carton 15-13, 15-13; R. Mintz defeated A. Partwick 15-4, 15-6; F. W. Bynum defeated J. T. McNaughton 15-11, 15-10; R. Bingham defeated Dines 15-9, 15-7; R. Haydock defeated F. Witherby 15-10, 15-8; L. Schlusel defeated E. Goldston 15-13, 15-12; C. O. Porter defeated B. J. Gantt 13-15, 15-9, 15-10; G. Bearcovitch defeated F. McCarter 10-15, 15-12, 15-12; G. Harwood defeated R. C. Bailey 18-15, 15-11; J. Koufman defeated M. Broderick 15-4, 15-8; N. Darling defeated F. R. Kitchel; F. H. Griffin defeated J. Devine 14-15, 15-6; C. A. Lord defeated M. McLean 15-5, 15-5; R. Young defeated T. Metzger 4-15, 18-16, 15-11; D. Vail defeated C. 15-9, 15-9; P. Connihan defeated V. Read W. Taylor 15-11, 15-9; R. Graff defeated J. Raife 12-15, 17-16, 15-12; L. Zins defeated J. Case 15-8, 15-13; C. de Rham defeated E. Friend 15-5, 14-16, 15-4; T. Quintrell defeated C. Bridge 15-6, 15-7; W. B. Howland defeated C. McLaughlin 15-4, 12-15, 15-6; F. Murnaghan defeated F. I. Rothchild 18-16, 15-11; A. Santry defeated W. B. Macomber; C. Johnson defeated B. Stephenson 15-10, 15-10; W. Wick defeated C. Clapp; W. Kimball defeated N. H. Brown; O. Williams defeated J. Kilgore, 15-8, 15-9; J. Carey defeated W. D. McSweeney.

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