



Harvard Law Record

Ten Years' Service to the Harvard Law School Community

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PRICE TEN CENTS

Forum Meets In Discussion Of Socialism

Norman Thomas, the foremost spokesman of American socialism, and John Dos Passos, an apostate from the "revolutionary socialism" on which he once "banked his whole career" as a novelist, will debate "The Future of American Socialism" at a meeting of the Harvard Law School Forum in Sanders Theatre tomorrow night at 8 P.M.

The meeting of tomorrow is the first of the new term and first under the direction of the Forum's new president, Joseph Fisch, 3L of New York City. It will match two men who were leaders in the upsurge of American left-wing strength during the inter-war period, but whose ideological paths have diverged sharply in recent years.

Prominent Socialists

Mr. Thomas, although no longer the leader and Presidential candidate of the Socialist Party, is still active in the affairs of that organization. He is president of the corporation which publishes the *Call*, the party journal, and he is frequently a speaker for socialist causes.

Mr. Dos Passos, an author of more than 30 books, including such novels as *Man-*



Norman Thomas

hattan Transfer and the *42nd Parallel*, was a writer whose social criticism was in the tradition of Theodore Dreiser and Upton Sinclair. In the words of Max Eastman, himself a one-time radical polemicist who (See *FORUM* on page three)



Francis A. Allen



Herbert Wechsler

Judges Wanted

All second and third year students are eligible to judge arguments in the spring series of the Ames Competition. Volunteers should see the receptionist at the Board of Student Advisers office in Austin Hall by February 13.

This spring's competition will feature a reply brief system and single jurisdiction causes from a particular state, rather than from Ames. Both teams will simultaneously file initial briefs. Each team will then be given the option to file a reply brief.

Course To Be Offered In New York Practice

The Practising Law Institute will offer a five-weekend course at Harvard in New York practices, starting on March 9 and concluding April 7, it was announced last week by Dean Erwin N. Griswold.

As in years past, the annual course will be open to third-year students at Harvard and at the three other law schools in the Boston area—Boston College, Boston University and Northeastern.

Students Like It

The course will be conducted by Samuel H. Silverman of the firm of Paul, Weiss, Rifkind, Wharton, and Garrison. He has given the course in previous years, and "Student reaction," according to Dean Griswold, "has always been favorable."

Each weekend's work will consist of two sessions—one on Friday evening from 7:30 to 9:30, and another on Saturday afternoon from 2:00 to 4:00.

Kaufman Clears Calendar; Counsel Blamed for Delay

Judge Irving R. Kaufman, United States District Court Judge in the Southern District of New York, has added recently to his reputation as an outstanding jurist by attacking one of the most difficult problems facing the federal courts in this country. Along with the other judges of the District Court, Judge Kaufman has instituted, developed, and administered with remarkable success a project which is designed to alleviate the problem of congestion of the trial calendar in the Southern District of New York.

Judge Kaufman was born in New York in 1910 and was graduated from Fordham University School of Law in 1931. He was connected with the United States Attorneys office in the Southern District of New York from 1935 to 1940. During the forties Judge Kaufman set up a permanent lobbying unit for the Department of Justice and served as its head from 1947 to 1948. Since 1949 he has served with distinction on the bench of the Federal District Court.

Prior to September, 1955, the calendar of the District Court for the Southern District of New York was clogged with a backlog of 10,735 cases. This backlog often meant a delay of several years until trial. To remedy this situation, a Calendar

Committee, consisting of Judges Kaufman, Ryan, and Dawson, was appointed by Senior Judge William Bondy. Acting upon the recommendations of this committee, a new judge-controlled calendar system was instituted. The results were startling: in just two months judge Kaufman brought up to date a non-jury calendar which has been 30 months behind, and similar success was experienced by Judge Sylvester J. Ryan on the jury calendar. This remarkable achievement has been accomplished largely by placing greater control over the trial calendar in the judges of the court, and by dint of extremely hard work on the part of Judges Kaufman and Ryan.

(See *KAUFMAN* on page four)

Ouster of Segregated Schools Defeated at AALS Convention

A resolution to expel from the Association of American Law Schools those institutions which refuse to admit qualified Negro applicants was defeated at the Association's annual meeting in Chicago last December.

The product of a committee under the chairmanship of Associate Dean David F. Cavers of Harvard, the resolution resulted in a sharp division of the 110 member law schools. Fifty-two schools voted in favor, forty-four against, and eight abstained because of differences in opinion within their faculties. Six schools were absent from the meeting. A two-thirds vote was required for adoption of the proposal, since it was in the form of an amendment to the Articles of Association.

The AALS has existed since 1900 and serves as an accrediting agency of American law schools, a similar role to the American Bar Association's Committee on Legal Education.

Accrediting Bureau

Accreditation involves meeting such standards as size of the law library, number of professors, lighting and seating capacities of classrooms and libraries. Standard II-4 declares that "a faculty member should have academic freedom . . ."

Under this provision the University of Mississippi Law School was excluded from membership in 1930 as being under the political domination of the late Theodore Bilbo. In his committee report, Dean Cavers cited this action a generation ago as precedent for the current proposal.

Before Dean Cavers took the floor last December as advocate of the measure, the matter of segregation in Law Schools had been before the Association in the form of committee reports and resolutions dating back to 1950. In 1951 the Association amended its Articles, declaring one of its objectives to be: "Equality of opportunity in legal education without discrimination or segregation on the grounds of race or color."

Resolution Challenged

Dean Cavers' resolution was promptly challenged on a point of order by Prof. George K. Gardner of the Harvard Law School on the ground that the resolution was not germane to the purposes of the Association. This was defeated.

The issue was joined over use of the coercive sanction as an effective means to the accomplishment of the Association's objective. At the time of the debate and vote there were fifteen law schools subject to the possible sanction.

Five of these were state universities, already under a constitutional duty to admit Negroes because of the Supreme Court decision in *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954) and related cases. The remaining ten are not as yet subject to a constitutional duty, being private institutions.

Three members of Cavers' committee of nine, who had dissented from the majority report took the floor to argue against the Cavers proposal. Dean F. D. G. Ribble of

(See *CAVERS* on page three)

Professor Allen Resigns; Wechsler to Teach Here

Professor Francis A. Allen has handed in his resignation and will leave the Law School at the end of June to accept a position at the University of Chicago, it was announced by Dean Erwin N. Griswold this week.

To fill the gap created by the departure of Professor Allen and leaves of absence scheduled for other faculty members next year, Dean Griswold also announced the appointment of two visiting professors to serve at Harvard during the academic year 1956-57.

The two men who will teach at Harvard next year are Professor John P. Dawson of the University of Michigan Law School and Professor Herbert Wechsler of the Law

School of Columbia University.

Professor Dawson did his basic law work at the University of Michigan Law School. He then studied at Oxford as a Rhodes Scholar, and received the D.Phil. degree from that University in 1930. He has been a member of the Faculty of the University of Michigan Law School since 1927. During the war, Professor Dawson was Chief Counsel in the Rent Section of the OPA.

Later, he was Chief of the Middle East Division for the Foreign Economic Administration, and held a similar position in the State Department. During the year 1947-48, he was Foreign Trade Administrator for the Greek Government.

Professor Dawson's fields are Comparative Law, Restitution, and Contracts. At Harvard his principal teaching assignment will be in the field of Comparative Law, where he will take over some of the work of Professor Arthur von Mehren who will teach next year in Japan.

Professor Herbert Wechsler received his LL.B. degree at Columbia Law School in 1931. During the year 1932-33, he was law clerk to Justice Harlan F. Stone. Since 1933, he has been a member of the faculty of Columbia Law School. He was on leave of absence from 1940-46, working in the Department of Justice.

From 1944-46, he was Assistant Attorney General of the United States. Professor Wechsler is Reporter for the American Law Institute's Model Code of Criminal Law. His principal fields are Criminal Law, Federal Jurisdiction, and Constitutional Law, and he will teach courses in these areas at the Harvard Law School.

Professor Allen will leave Harvard in June after three years on the Law School faculty. A graduate of the Law School at Northwestern, Mr. Allen served as clerk to the late Chief Justice Fred M. Vinson from 1946-48.

From 1948 to 1952 he was on the Faculty of the Northwestern Law School. At Harvard he has conducted courses in Criminal Law, Criminal Procedure, and Real Transactions. He will continue with these fields at the University of Chicago.

Griswold Warns of Friction Between Law and Accounting

Dean Erwin N. Griswold has called for a closer association between the American Institute of Accounting and the members of the bar to reduce frictions arising in areas where the functions of two professions tend to overlap.

Writing in the December issue of the *Journal* of the American Bar Association, Dean Griswold cautioned against misunderstanding the broad prohibition to accountants against "practice of law."



Erwin N. Griswold

The Dean points out that the mere application of a statute, or regulation, or court decision, can be capably handled by accountants; and in the tax field, many, if not most certified public accountants are better qualified to handle many tax questions than a very considerable proportion of the members of the Bar.

The certified public accountants are, as a group, the best qualified in the accounting field, and the Dean warns that lawyers must be vigilant in the public interest to insure that completely unqualified persons are not given "what amounts to a federal license to carry on substantial legal activities in the federal tax area."

As for tax planning, including such problems as corporate adjustments and reorganizations, family partnerships and trusts, and other aspects of estate planning,

(See *GRISWOLD* on page four)

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Ten Years

This is the first issue of the RECORD's tenth anniversary year—and we are pleased to take note of it. Ten years is a short span in a University aged 320, but to us this first decennial is a milestone.

We are indebted today to the founders of this newspaper: Charles O. Porter, Charles W. Davis, Charles G. Sweet, Rinaldo A. Capone, Paul F. Hellmuth, Thomas J. O'Toole and Nathan C. Fitts. In establishing the RECORD in 1946, these men performed a service whose value, we hope, continues to this day.

The RECORD appreciates also the support of the Harvard Law School Association and its members, the encouragement of the Law School administration and faculty, and the time and effort of the hundreds of students and alumni who have produced this paper for the past ten years.

In the most recent of these years, the RECORD has initiated a series of special supplements—which have featured the Law School's construction program, the retirement of Professor Seavey, and the Bibliography on Communism prepared by Professor Sutherland's committee.

Today, the RECORD begins 1956 with a new flag, an Old English compromise between the Spartan simplicity of the first eight years and the Roman grandeur of the last two. The word "School" was dropped from the flag as four words could not fit in a line, and "School" added the least to our identity. It is retained in our corporate title.

As the RECORD enters its second decade, its editors and staff will continue their attempt to publish a competently prepared, interesting and informative newspaper. We are glad that in so doing, we shall be contributing to the development of the Harvard Law School community.

Darkness at Noon

The weather in Cambridge has been squalid for the past four weeks. Although it is as yet too early for the regular rainy season, we seem to be in for a preview of the usual March string of sunless days. The humidity, plus the blackening mounds of frozen snow that line the streets of this city, helped set the atmosphere for the midyear exams.

Conditions were not helped by the owners of an apartment house on Massachusetts Avenue, who chose this time to resort to the presumably economical practice of burning bituminous coal. Varied products of carbon's decomposition floated down over Everett Street for two days, forcing the closing of windows in all dorm rooms whose tenants lacked smog-proof eyes and throats.

It takes little law school learning to find this condition a nuisance that requires abatement. Cambridge weather is bad enough without the addition of man-made air pollution.

Gallery

JACOB M. BRAUDE
Municipal Court Judge



"Just as every dog deserves one bite, every kid deserves one chance." This is the guiding philosophy of Jacob M. Braude, Judge of the Municipal Court of Chicago since 1934. In the more than twenty years he has been on the bench, nine of them (1937-1946) presiding over Chicago's famed Boy's Court, Judge Braude has been a leading exponent of the maxim, "give the first offender a break."

Judge Braude is strongly opposed to the "get tough" theory toward juvenile delinquency. Citing his long experience with youthful law-breakers as authority, he refers to numerous cases where a second chance has given the community useful citizens instead of jail-hardened criminals. Of the 25,000 boys that have appeared before him, 72% never came back—at least not while they were of Boy's Court age (17 to 21), and most of the other 28% returned on charges so trivial as to be meaningless.

Judge Braude's system works this way. A first offender is "put under supervision" and the case is continued for six months or a year depending on the offense. The supervision is by the appropriate community church agency. If the boy keeps out of trouble and complies with any added obligations (like the requirement that a boy caught stealing from a library read and report on a book a week) the case is dismissed at the end of the period of supervision. The boy then has a clean record, distinguished from a guilty verdict that would be required before probation.

Extra-judicial Activities

Co-operation of the parents of the boy, the law enforcement agencies, and the boy's attorney, if

Little Known Causes of Action

Sec. 337—Action to Overpay Taxes, Definition—An action at law used to force the taxing authority to accept amounts tendered by the taxpayer in excess of his actual tax liability.

Sec. 338—Same, Hysterical Development—The action developed from a dictum by Lord Pepi in the old case of *Pigg v. Hogg*, 1 Original Reports 1 (1066) in which it was stated "that every taxpayer has an inherent right to give money to the King whether the King wants it or not." The doctrine was later expanded to tender of negotiable instruments in *Gotgelt v. Hasnot*, 2 Much 2 (1540) where the House of Lords sharply reversed the lower courts for holding (penalty for holding at that time was 10 yards or half the distance to the gaol) that the King might do a man wrong by putting him to the expense of giving money to innocent third parties.

Sec. 339—Same, Defenses—There are no defenses to this action. A plea by the defendant collector that the plaintiff was insane was rejected in *Batty v. Ball*, 423 Sayfon 2d 32 (World Series 1984). In an earlier case the Commissioner of Dismal Swamp at 119 Odious Reports 41 (1983) stated, "It seems . . . that this case reeks of public policy." The court then proceeded to hold the plaintiff, an attractive young girl.

Sec. 340—Same, Jurisdiction—Only courts of law recognize this action and equitable relief has been denied. *Matter of Suit's Estate*, 61 Outer Mongolia 259 (1865). The court in the *Suit* case, supra, after receiving a large bribe from the plaintiff, explained, "equity loves a generous man."

Sec. 341—Same, Current Decision—The action has been recently recognized in a foreign jurisdiction. *Kulaks, et al. v. Stalin, Dict'r*, 33 Ukraine 22 (1953). There the court held that there was no reason for the state to refuse an offer of private property, especially where it was shown that large numbers of owners voluntarily stated their intentions in open court. Secret Code of Civil Procedure, Vol. II, Ch. XIV, Title A, Sub-title b, Sec. 4(c)5, Par. e(2), Comment 1(b), page 936 (1949 B.C.)

Off the Record

The Secretary of the Bally Borough School District, Bally, Pennsylvania, is named *Austin A. Ames*. Submitted by FORREST G. SCHAEFFER, JR. LL.B. '53

any, are necessary for a satisfactory result. Oftentimes the activities of the court are extra-judicial. For example a boy found with a loaded pistol and picked up on a concealed weapons charge where the arresting officer didn't have a search warrant could get the case dismissed by a motion to suppress the evidence. A lawyer whose primary interest is to impress the boy's family that they are getting their fee's worth would make just such a motion. In that case the boy would go away with the belief that he had beaten the law and that a good mouthpiece would always get him off. If, on the other hand, the attorney can be convinced that it is the best interests of both society and the boy that the gun be confiscated and the defendant placed under a year's "supervision," the purposes of justice are best served.

In the vast majority of cases, of course, there is no question of the boy's guilt, procedurally or substantively, and the defendant often is without legal counsel. Here is where Judge Braude's techniques give the juvenile first-offender his second chance to be an asset to society. In addition, and if necessary, socio-psychiatric work is undertaken on behalf of the boy. The success of Judge Braude's methods, as opposed to a sentence in the House of Correction (sometimes appropriately dubbed the "House of Corruption") has gained national recognition.

Criminology Tests

Judge Braude's work in criminology extends far beyond his intense interest in juvenile offenders. As early as 1937 he advocated the use of the "Drunk-o-meter," a balloon test of the alcohol in a person's system. He also favors the use of the lie detector, not necessarily as evidence in court, but as a way of settling disputes without trial in civil cases, and freeing innocent suspects in criminal actions. According to Judge Braude, the polygraph may be inconclusive, but it can never be

wrong. In the hands of a competent technician, he maintains, it has proved its usefulness.

On the research side, Judge Braude helped found and was the first president of the Illinois Academy of Criminology in 1950. This pioneer group tests and screens new ideas in the field of criminal law and its applications, and in addition conducts a seminar institute periodically to bring professionals in the field up to date on the latest theories and techniques.

Judge Braude is Mid-West born (1896) and bred. He has an A.B. *cum laude* from the University of Michigan and his J.D. from the University of Chicago, after graduate study at Northwestern. Early in his career he was Assistant Attorney General and associate director of finance for the State of Illinois. He has maintained an active role in dozens of local and national organizations.

Timely Anecdotes

Starting as an undergraduate, Judge Braude now has 40 years of public speaking behind him. His principal hobby is tracking down and filing clever thoughts for speeches. From the over 9,000 stories, quotations and *bon mots* he has carefully accumulated over these years, Judge Braude has recently written a *Speaker's Encyclopedia*, published by Prentice-Hall. His theory is that many a "death by elocution" can be prevented by a timely anecdote. Further literary plans include a "Lawyer's Treasury and Bedside Companion," and a book explaining his views on Boy's Court work.

But Judge Braude's major endeavors are in the Municipal Court of Chicago where he has an appellate record of remarkably few reversals.

Recently a representative of the National Lecture Bureau referred to Judge Braude's new book as, "most practical and helpful." This statement is equally applicable to Judge Braude himself in all his varied activities. —Levin

Current Case

Does just compensation payable to owners of riparian land taken by the United States for use in improving navigation of a stream include the land's value as a hydro-electric plant site? In a 5-4 decision last month the Supreme Court said "No." *U. S. v. Twin City Power Co.*, 24 U.S.L.W. 4073 (U.S., Jan. 23, 1956). The land involved is 4,700 acres located on both sides of the Savannah River, condemned by the Government for its Clark Hill Dam project on the river.

From 1901 to 1911 the Twin City Power Company acquired the land in question for the development of a hydroelectric power project. Though no plant has been built on the site, the land has been the subject of frequent consideration and negotiation with respect to the proposed construction of a dam. At least two other companies have at some time sought to purchase the land from Twin City for the purpose of constructing a dam. In 1947 the Government took possession of the land.

Limited Compensation

The Government contended that compensation should be limited to the land's timber and agricultural value, which was found by the Federal Trade Commission to be \$151,000. The Commission and the Fourth Circuit Court of Appeals, 215 F.2d 592, included in the compensation the land's value as a hydroelectric site and awarded Twin City \$1,257,000.

The majority of the Supreme Court, through Mr. Justice Douglas's opinion, felt that since the Government had all rights to the water in the stream, and thus the water power, and could withhold from or grant to riparian owners use of the same, it does not have to pay riparian owners for land value created by the water. In other words, since the water power already belongs to the Government, it need not pay for any value that the proximity of such power may add to the land.

Dissent Broadens Market Value

The minority opinion, written by Mr. Justice

Burton and joined in by Mr. Justices Frankfurter, Minton, and Harlan, declares that "the proper measure of . . . compensation is the fair market value of the land at the time it is taken, and that this includes recognition of any fair market value of the land that is due to its riparian character." Mr. Justice Burton pointed out that if the potential use which it is claimed adds to the land's value is merely speculative, it will be disregarded. However, "the potential use of this land for dam, plant and reservoir purposes is far from speculative in the light of the 50 years of recognition of its availability and suitability for those purposes. . . . If a purchase price had been sought by negotiation in 1947, it is inevitable that a primary consideration would have been the value of the flowage rights and of the dam and plant locations in relation to water power development. We cannot realistically imagine that such a negotiation would have been limited to a consideration of the land's timber and its minor value for agricultural uses." [Italics added.]

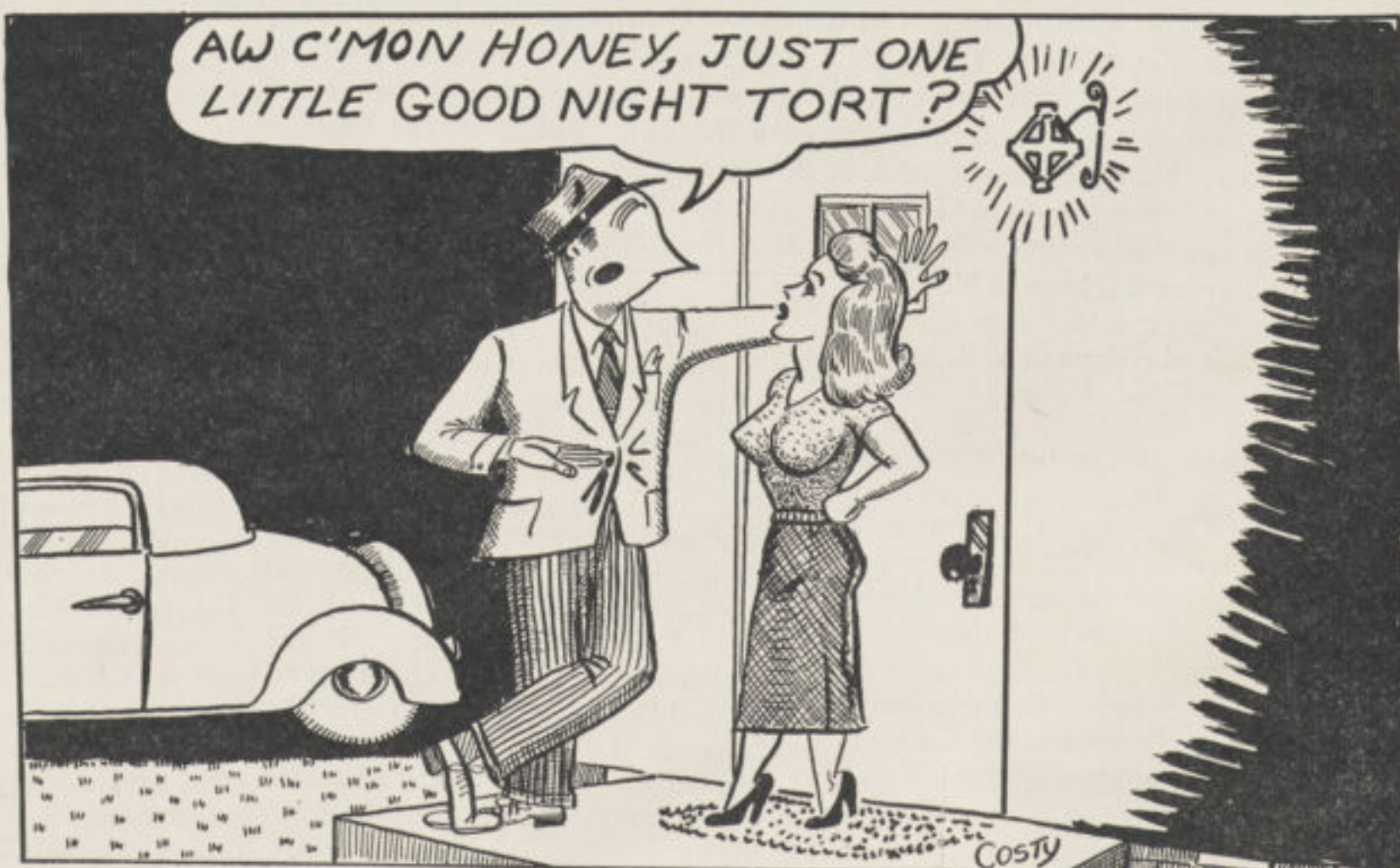
Burton Answers Douglas

In answer to Mr. Justice Douglas's point that the added value sought here is what the Government could take away without compensation Mr. Justice Burton quotes the following excerpt from the Court's opinion in an earlier case:

" . . . The United States . . . can [not] be excused from paying just compensation measured by the value of the property at the time of the taking merely because it could destroy that value by appropriate legislation or regulation."

The majority of the Court in this case seems to have lost sight of the fact that just compensation means market value, i.e., the value that would be determined by negotiations between the owner, as a willing seller, and a willing buyer if the Government were not in the picture. The fact that the value of the land might at some future date be changed as a result of Government legislation or regulation is simply one of the factors to be considered by the parties in negotiating the present value.

—Friedman



Foreign Investment Plan Suggested By Tax Experts

A new plan to stimulate American investment abroad has been suggested by two financial and tax experts who recently completed a study for the Harvard Law School's International Program in Taxation. They are E. R. Barlow, formerly an assistant professor at the Harvard Graduate School of Business Administration and Ira T. Wender, a member of the New York law firm of Lord, Day and Lord.

A two-year survey has led them to the conclusion that a mere reduction of current tax rates on foreign income will not materially encourage present non-investors. What is needed is a "dramatic appeal" which will change the attitude of business executives who have never adequately examined the possibilities of foreign investments.

With this need for a new approach in mind, Messrs. Barlow and Wender would have a firm doing business abroad set up a special foreign business corporation to handle its foreign trade. If the profits earned abroad were reinvested on the spot, payment of U. S. taxes would be "deferred." Only if these profits were brought home and used or distributed in this country would deferred taxes become due.

Should this plan be adopted, the authors foresee many beneficial results. Capital invested in countries of the free world will stimulate their economic recovery and improve their exchange situations. In turn, their increased industrialization and rising standards will develop a demand for more products from the United States.

What the two researchers hope for is a long-term outlook on the part of investors. Eliminating present complexities and inequities in the taxing of foreign profits will, they feel, bring the advantage of foreign reinvestment into clearer focus.

—Oliver

Two Law School professors—Zechariah Chafee, Jr., and Mark DeWolfe Howe—joined last month with a number of leading Massachusetts clergymen to petition the state legislature not to extend the life of its Special Commission to Study and Investigate Communism and Subversive Activities, which is due to expire this month.

Soft drink dispensing machines have been installed in the basements of Dane and Shaw Halls, according to an announcement by the Buildings and Grounds Committee of the Law School Dormitory Council.

SQUASH RACKETS

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Foreign Delegates Guests of Harvard

The steady flow of foreign visitors to the Law School to observe the work of its program of International Legal Studies continued unabated last month. During January, Professor Milton Katz, director of the program, was host to delegations from the Netherlands and Thailand.

The Dutch party included Dr. J. H. van Roijen, Netherlands Ambassador to the United States, and Dr. Egbert de Vries, Director of the Netherlands Universities' Foundation for International Cooperation and Rector of the Institute for Social Studies at The Hague.

The visitors from Thailand were Upramai Nom, Chancum Chan, and Indravudh Piroon. All three are members of the Thai bar and of the Thai Parliament. While here, they discussed the possibilities for greater cultural exchange among nations of the Southeast Asia Treaty Organization.

Professor Katz's office also has duplicated and has available for distribution a report of the Committee on International Law of the Association of American Law Schools showing the range of international legal questions involved in the work of government agencies other than the State Department.

The report is the work of a ten-man committee under the chairmanship of Dr. Philip C. Jessup of Columbia and including Professor Louis Sohn and Charles Fairman of the Harvard Law School. Copies of the report can be obtained by writing Professor Katz.

The American Law Student Association, student affiliate of the American Bar Association, has begun publication of a bi-monthly magazine, the *Student Lawyer Journal*.

The St. Thomas More Society, in conjunction with the Harvard Catholic Club (undergraduate) will sponsor an informal dance at the Harkness Commons on Friday evening, Feb. 10. There will be a "live" band and refreshments will be served. Dancing will begin at about 8 P.M.

Sparkman Speaks

Senator John J. Sparkman of Alabama, Adlai Stevenson's vice-presidential running mate in 1952, will address an opening meeting of the Law School Young Democratic Club in Harkness Commons Monday afternoon at 1:30.

Senator Sparkman will be the third prominent Democratic leader to appear at Harvard under the auspices of the Law School Young Democrats in two months. During December the student group presented House Majority Leader John W. McCormack of Dorchester, and last month they presented Senator Estes Kefauver of Tennessee.

At Monday's meeting, Senator Sparkman will review the Democratic outlook in this year's Congressional and Presidential campaigns.

FORUM

(Continued from page one)

has abandoned his left-wing stand to write for William F. Buckley's *National Review*. Mr. Dos Passos based his writings on "the validity of the revolutionary socialist theory."

"When the theory was disastrously shown up by the course of events," Mr. Eastman said, "Dos Passos had the clarity of mind to see it, and the courage to say it, and say it without fuzzy qualifications of self-excusing parentheses."

The later writings of Mr. Dos Passos reflect his change of orientation. His most recent work, *Most Likely to Succeed*, deals with a man whose "genius was corrupted



John Dos Passos

by false ideals". Another novel, due for publication this spring, is "on the theme of freedom".

Mr. Thomas, now over 70, was the valedictorian of Princeton's Class of 1905. He is also a graduate of the Union Theological Seminary and an ordained minister, but he gave up his work in the church in favor of politics when he was driven from his last Harlem parish in 1918 because of his opposition to American participation in World War I.

After the War he helped to found the Civil Liberties Bureau, the organization which later became the American Civil Liberties Union. He was a participant in several dramatic court fights in behalf of civil liberties, particularly those arising out of the Passaic, N.J. textile strike in 1926.

—Schumacher

Alumni Notes

LL.B. '26—Donald V. Carr, and Bruce Bolton, LL.B. '50, announce the formation of a partnership for the general practice of law under the firm name of Highbee, Coulter, Carr, Ames and Bolton, with offices at 822 University Block, Syracuse 2, New York.

LL.B. '34—Robert R. Bowie, a former professor at the Law School and present chief of the State Department Policy Planning Staff, has been appointed Assistant Secretary of State. His nomination is expected to face some opposition in the Senate.

LL.B. '43—Seymour S. Epstein is now associated with the law firm of Sulzberger and Sulzberger at 30 Pine Street, New York, New York.

LL.B. '48—Royal S. Radin has been appointed Assistant District Attorney of Richmond County, New York.

LL.B. '49—Sumner Thurman Bernstein has been elected a Councilman at Large for the City of Portland, Maine, to serve for a term of three years.

LL.B. '49—Carmie R. Dajoe, who formerly practiced law under the firm name of Sabin and Malarkey, is now practicing under the firm name of Sabin, Dajoe and Newcomb at 1111 Willcox Building, Portland, Oregon. Neil Malarkey, LL.B. '23 has withdrawn from the firm to become general counsel of M and M Wood Working Co.

LL.B. '49—Ray Garrett, Jr. has been appointed a Director of the Division of Corporate Regulation in the Securities and Exchange Commission.

LL.B. '49—Leonard L. Grimes has been elected Mayor of Marshalltown, Iowa. He took office on January 3, 1956.

LL.B. '50—Robert E. Bradley is now practicing law under the firm name of Robinson, Foreman, Rammekamp and Bradley at 201-207 Professional Building, Jacksonville, Illinois.

LL.B. '52—Leonard I. Garth, and Morrill J. Cole, LL.B. '51, have been made partners in the firm of Cole, Morrill and Berman at 45 Church Street, Paterson, New Jersey.

LL.B. '52—Eugene Feldman has announced that Brenner, Scher and Feldman have removed their offices to 21 East 40th Street, New York, New York.

LL.B. '52—Sheldon M. Goodman has announced the removal of his office for the general practice of law to 521 Fifth Avenue, New York, New York.

LL.B. '53—Mathew Foner, a past president of the Harvard Law School Record, joined the New York State Commission Against Discrimination in mid-November as a Field Representative. He is co-editor with Theodore R. Kupferman, of "Universal Copyright Convention Analyzed," published last fall.

ABA Opens Drive For New Members

A drive by the American Bar Association to increase its membership by 50,000 is in full swing and should be successfully completed by the end of this month, according to an announcement by ABA President E. Smythe Gambrell, LL.B. '22 of Atlanta, Ga.

At the same time, the ABA's Junior Bar Conference, the organization for lawyers under the age of 36, has launched a campaign to boost its membership by 15,000. William C. Farrer of Los Angeles heads the JBC drive.

The ABA's four-month campaign was designed to double its membership. President Gambrell said that the ABA includes only one-fourth of the nation's lawyers and that the proportion must be increased if the ABA is to properly serve the profession and public.

"Our profession," Mr. Gambrell said recently, "exists for the benefit of the public and must justify its existence by its service to the public. If it is to help in that important mission the ABA must increase its membership. The privilege of belonging to the ABA is open to every American lawyer in good standing."

CAVERS

(Continued from page one)

the University of Virginia Law School argued to the effect that:

1. State Universities, controlled by Trustees rather than faculties, and financed by State Legislatures, need a court decree as a necessary protection against prevailing public sentiment.

2. Next year's president, "a gentleman from the Law Faculty of the University of North Carolina," would be in a strong position to appeal for voluntary action.

3. "There is a soundly based hope" for voluntary action during the next year or two.

Dean Joseph O'Meara, College of Law, University of Notre Dame advanced the following arguments against the resolution:

1. "Equality before the law is such equality as the law requires. Anything beyond that is an ideal not yet attained. The law does not require the so-called private schools to admit Negroes." There is no violation of the law of the land, hence no support for the "use of force against the private schools."

2. Such a sanction "contains the seeds of disruption" because of the possibility of increasingly wider circles of application, e.g., hiring of secretaries, typists, and clerks.

3. Letters should be sent to the Deans of the non-conforming schools asking them, with deference and respect, to re-examine their positions.

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Clogged Calendar Cleared By Judges Kaufman, Ryan

(Continued from page one)

Before the institution of this new system, cases would work their way up to the Ready Calendar from the Reserve and Master Calendars of the court. At this point, the Calendar Commissioners would communicate with the attorneys to determine whether they were ready for trial. However, as Judge Kaufman points out, many lawyers would place cases on the docket without any intention of bringing them to trial. Nevertheless cases would advance steadily up the calendar regardless of their state of unpreparedness, since there was no method of screening them in advance.

Most often not until the cases were at the top of the calendar would the attorneys make any effort to prepare or settle the case. At the last minute, therefore, adjournment would be sought. Thus calendar commissioners were forced to call cases far down the list and these attorneys, in turn, would not be ready because they had been deceived by the long list of cases ahead of them. Trial judges would, therefore, often have to sit in idleness while their calendars were years behind.

Attorneys Blamed

Judge Kaufman places the fault for this predicament on the dilatory tactics of attorneys. He says, "The lawyers must bear some measure of the responsibility for the conditions which prompted the modification of the calendar rules. The excessive number of adjournments on the eve of trial threatened the effectiveness of our calendar control system." Judge Kaufman points to numerous instances in which attorneys were unprepared to go to trial after their cases had been on the calendar for years. They were unprepared because they did not anticipate early trial due to the length of the docket; and the docket was long primarily because the lawyers were unprepared.

In addition, Judge Kaufman points out that lawyers often made no attempt to settle until they were almost in court. "Lawyers would not approach the other side," he said, "they think it is a sign of weakness." For these reasons it was felt that a more realistic trial calendar was needed. Judge Kaufman explained: "If, by reason of a clearer view of the state of our trial calendars, parties realize that they may be reached for trial sooner than they expected, then settlements at an earlier stage may be consummated."

To remedy the burgeoning calendars,

and to get true trial calendars, a system of pre-pre-trial examinations was inaugurated. Ordinary pre-trial examinations are not normally used in the especially busy court in New York. The new calendar system consisted essentially of calling pre-trial examinations at a much earlier point than usual, and for somewhat dissimilar reasons. The entire civil calendar was divided between Judges Kaufman and Ryan—Judge Kaufman taking the non-jury calendar and Judge Ryan the jury side, and every case on the civil calendar was screened by the two judges well in advance



Irving R. Kaufman

of trial time. Judge Kaufman assigned 50 cases to calendar call each day.

Unlike the previous system under which calendar commissioners would determine whether cases were ready for trial by communicating with the attorneys by telephone, lawyers for both sides were called to appear before the judge. He then tried to determine whether or not the attorneys were ready for trial. If they were not prepared, and if they seemed to have delayed unnecessarily, the case might be marked ready, or off the trial calendar, subject to restoration upon conditions.

Other unprepared cases were retained on the calendar, but adjourned for a substantial period. This cleared these cases aside and made ready for those willing to go to trial. In addition, Judge Kaufman took the opportunity to determine whether the attorneys appearing before him were interested in discussing settlement. In this way he obtained over 300 settlements, and incidentally saved a total of almost two years court time.

Statistics

A statistical breakdown of the disposition of the cases called before Judge Kaufman in the period from October to December,

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GRISWOLD

(Continued from page one)

pension plans, and deferred compensation, the Dean feels that legal advice is imperative.

Dean Griswold questions the propriety of lawyers being hired by accounting firms to perform legal services for the clients of the firms, in light of the Canons of Ethics. And he submits that law and accounting should not be practiced simultaneously by the same person, but should be kept separate and distinct.

To insure this result, he suggests that perhaps the accountant-lawyer's membership in the Bar might be suspended if he desired to practice accounting, and his status as an accountant suspended if he preferred to practice law, allowing him to change at prescribed intervals if he so desires.

During November, Dean Griswold took part in an Academic Conference in celebration of the 75th anniversary of Marquette University discussing the Fifth Amendment with C. Dickerman Williams of New York. While in Milwaukee, he also spoke at the organizational meeting of the Harvard Law School Association of Wisconsin.

—Corcoran

ber, 1955 verified his theory that the calendar was loaded with "dead wood." He called 1,856 non-jury cases, and found that only 10% were actually ready for trial. And this was after the cases had been on the calendar for two or three, and in one admiralty case, twelve years. Of the additional cases called, over 30% were settled, and over 30% were unprepared and either marked off the calendar or adjourned.

Judge Kaufman explained that had not he and his colleagues started this judge-controlled calendar call procedure, most of these unprepared or settlement destined cases would have remained on the calendars until they reached a position near the top. At that time a further adjournment of most of these cases would seriously have impaired the court's functioning.

Urges Reforms

Through this procedure Judges Kaufman and Ryan eliminated in two months a cumulative backlog which represented over six and one half years of court time. To insure that a similar backlog does not build up in the future, the District Court has adopted a new rule which provides that no case can get on the trial calendar unless at the time of filing the note of issue the lawyer filing asserts that he is fully prepared to go to trial. However, Judge Kaufman indicates that there are several delay factors which are beyond the control of the courts. For example, he points out that much of the personal injury work, which constitutes the bulk of the cases before the court, is concentrated in the hands of a few lawyers who cannot handle all of the trial preparation quickly, and who consequently request inordinate delays.

In the long run, Judge Kaufman also sees a need for encouraging waiver of juries in personal injury and death cases, and perhaps legislation to increase the federal jurisdictional amount and to deem a corporation, for purposes of the diversity jurisdiction, a citizen both of the state of its creation and the state in which it has its principal place of business.

—Jacobs

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German Consul Denounced As "Meddler in Politics"

A West German consul's letter soliciting aid for the Kilgore Bill introduced in the Senate, which would restore to citizens of former Axis countries private property seized by the United States during World War II, has been attacked as "meddling in American politics" by G. Vernon Leopold, LL.B. '51.

The controversial letter was sent last November to Leopold and other lawyers



G. Vernon Leopold

by Dr. W. H. van Almsick, West German consul in Detroit. It referred to the impending vote by the International and Comparative Law Section of the ABA on the special Folsom Report which recommended that the Bar Association oppose the passage of the Kilgore Bill.

Enclosed with the consul's letter was a letter written by an unidentified attorney which stated reasons why the Special Report should be opposed and why the Kilgore Bill should be passed. Van Almsick's letter said, "Should agree with the opinion stated in that letter, I would appreciate it very much if you would bring the same confidentially to the attention of your attorney friends, even with changes you think appropriate."

Leopold, in a reply to the consul, said "I can well appreciate your interest as West German consul in this matter. However, . . . I most emphatically resent this attempt of yours to flagrantly propagandize and influence by judgment on a question of domestic policy, just as Americans, better than a century ago, resented similar attempts by one Citizen Genet of France."

"Your action and conduct in this matter

deserves severe censure as a most reprehensible breach of diplomatic custom and international law."

Leopold also stated that "Mr. van Almsick's conduct throughout the entire affair certainly does not evince an appreciation of the democratic workings of the great republic to which he is accredited. If allowed to pass uncensored, such conduct would set a dangerous precedent to diplomats and consular officers of powers less friendly to the United States than the West German Republic." Leopold has written to the State Department urging that they "consider and demand Dr. van Almsick's recall as consul."

In defense of his action, Van Almsick replied that he could see no objection to the sending of such letters, "As a former vice president of the German Bar Association, I am interested in the bill both as an attorney and as a believer in the general principle of the right to hear both parties."

The vote of the International and Comparative Law Section, which ended December 10, resulted in a three to one plurality in favor of adoption of the report recommending organized ABA opposition to passage of the Kilgore Bill.

—Dushoff

Forum Elects Officers For 1956 Spring Term

Joseph L. Fisch, 3L of New York City, was elected president of the Harvard Law School Forum for the spring term at a meeting early last month.

Other officers chosen at the same time were: First Vice-president H. Philip Howorth, 2L of Rock Hill, S. C.; Second Vice-president Warren M. Davison, 2L of Dorchester; Secretary Richard R. Hadden, 2L of Cambridge; and Treasurer Charles B. Turner, 2L of New York City.

Mr. Fisch is a Phi Beta Kappa graduate of New York University and served as first vice-president of the Forum during the fall term. He is a member of the Eight-Man Advisory Council of the Citizens Clearing Committee of the Southern District of New York.

The Council, composed of New York State Attorney-General Jacob Javits, former New York State Secretary of State Thomas Curran, and others, evaluates and then endorses candidates for judicial office.

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