



Harvard Law Record

Ten Years' Service to the Harvard Law School Community

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Soviet Law Journal Reports On Berman's Talk to Jurists

Professor Harold J. Berman's speech to a meeting of Soviet jurists in Moscow last September has been reported in a recent issue of *Soviet State and Law*, the leading Soviet legal journal.

Though on the whole accurate, the report omits mention of Professor Berman's remarks on the coexistence of law and terror in the Soviet Union and his reference to the Special Board of the MVD (Ministry of Internal Affairs) as "the chief legal instrument of terror in the past."

Comparison of the Soviet report with the original text of the speech, which Professor Berman has retained, also shows an interesting twist of his complaint regarding the unavailability of certain Soviet legal materials. Professor Berman said in his talk that since 1950 the Soviet Supreme Court reports and the decrees of the Coun-

cil of Ministers have not been received in the United States, and he pointed out that in the absence of reliable information American scholars "are apt to guess the worst." The Soviet article reported him as saying that American scholars, "not having the Supreme Court reports and administrative regulations . . . make serious errors."

Professor Berman's talk was on the subject of Soviet legal studies in the United States. He described the extent of Soviet studies in general in American universities and reported on courses in Soviet law given at Harvard, Yale and Columbia law schools. The talk was delivered in Russian to about 75 members of the Institute of Law of the Academy of Sciences, and was the first address ever given by an American to that body, which is the Soviet's leading organization of legal scholars.

Soviet State and Law has a circulation of about 15,000. It is a publication of the Institute of Law and of the Ministry of Justice, and is read by Soviet public officials, judges, attorneys and legal scholars.

Professor Berman, in commenting on the publication of the report, stated that it is the first mention of his name in any Soviet publication, so far as he knows. He said that his talk was very well received, "despite some squirming at the mention of the terror," and that after a period of questions and answers the Acting Director of the Institute closed the meeting by saying that "while we cannot agree with everything that Professor Berman has said, we welcome this renewal of contact between Soviet and American jurists."

The Acting Director added that in past years such contact was impossible, owing to the cold war, which, he said, "was not the fault of Soviet and American jurists."

In the course of his talk Professor Berman said that he had been surprised to find in Moscow how superior the quality of Soviet legal thinking is to the quality of Soviet legal literature which he had read. This, he states, was greeted with a roar of laughter, and when he later asked one of the audience why everyone had laughed so heartily at that remark, he was told, "Well, we all agreed with you."



Professor Harold Berman (r.) shown with Soviet jurist Dr. F. I. Kozhevnikov, a member of the International Court of Justice. Dr. Kozhevnikov invited Prof. Berman to speak before the Soviet Institute of Law.

Young Is Elected To Head Advisers

Frederick N. Young, 2L of Dayton, Ohio, was selected as Chairman of the Board of Student Advisers for the coming year at a final election meeting last Friday afternoon. The 23-year old graduate of Wesleyan University at Middletown, Conn., will succeed Alan D. Hakes, 3L of Longmeadow, as head of the 16-man group which administers the Ames Competition.

Elected Vice-Chairman at the meeting was James B. Moran, 2L of Escanaba, Mich. A graduate of the University of Michigan in 1952, he served in Korea before entering the Law School.

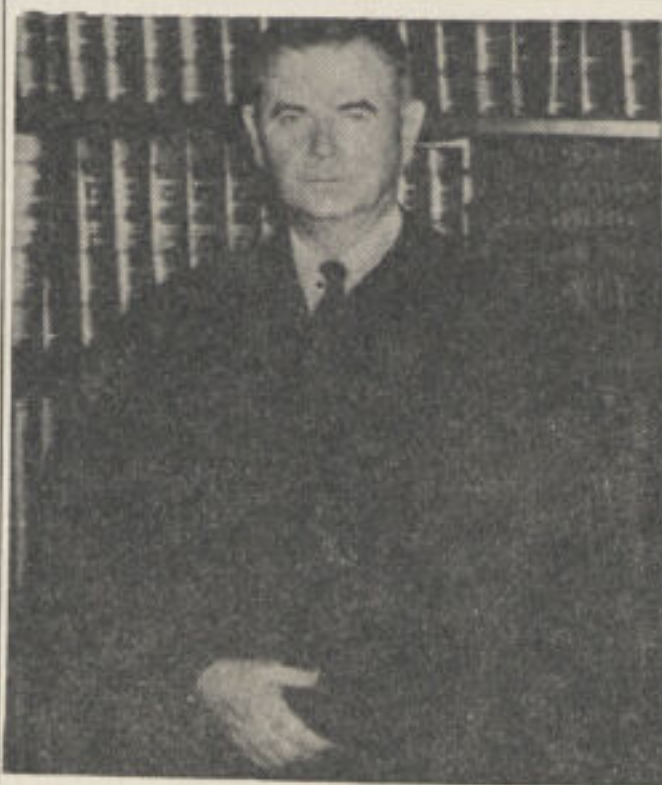
Appointments to the third-year Board offices have been announced by Mr. Young. They are as follows:

George B. Adams Jr., 2L of Cambridge and a graduate of Yale, has been named as Second-Year Administrative Chairman. Heading the Drafting Competition is Maurice S. Binkow, 2L of Miami Beach, Fla. He is a University of Michigan graduate. First-Year Administrative Chairman is Earl M. Colson, 2L of Brooklyn and Syracuse University.

Howard W. Phillips, 2L of New York City, succeeds to the position of Second-Year Facts Chairman. He is a Dartmouth graduate. First-Year Facts Chairman is Berton B. Subrin, 2L of Akron, Ohio, a Harvard graduate.

The election of Mr. Young was the final step in a three-step electoral process. The previous Thursday, March 1, the area of choice had been narrowed to four men by an initial nominating vote. After extended discussion, the members selected Mr. Young and Mr. Moran to occupy the two top posts on the basis of a cumulative vote. Friday's vote determined the Chairmanship.

Mr. Young is known to have received Law Review grades, but he declined membership on the Review, choosing instead to serve on the Board of Student Advisers.



William J. Brennan, Jr.



Edward J. Dimock

Gardner Faces Blackstone In Ames Quarter-Finals

The Blackstone and Gardner clubs will square off March 27 in the first Ames quarter-final argument of the year. Two days later, the Toepfer and Casner Law clubs will argue in the James Barr Ames Courtroom.

The first case, *Boraphane Co. v. United States*, will be argued before Justice William J. Brennan, Jr., LL.B. '31, of the New Jersey Supreme Court, with Robert Proctor, LL.B. '24 of Boston, and Ronald B. Smith, LL.B. '27 of Providence, as associate justices.

Cavers to Testify At Senate Hearing

Associate Dean David F. Cavers will testify April 15 at a hearing of the Disarmament Subcommittee of the Senate Foreign Relations Committee. The hearings will be held in Boston under the chairmanship of Senator Hubert H. Humphrey, Democrat of Minnesota. The Subcommittee is conducting hearings throughout the country to gather the views of community leaders on proposals for disarmament.

In addition to testifying, Dean Cavers will aid in locating other witnesses to present ideas to the Subcommittee. In this area, he is working with Professor Max Millikan of the Massachusetts Institute of Technology. Most of the testimony that will be offered will analyze problems presented by disarmament.

Another witness will be Professor of Law Louis B. Sohn, author of a number of studies on world organization and co-author with Grenville Clark, A.B. '95, of the recent book *Peace Through Disarmament and Charter Revision*. Professor Sohn will probably present a series of detailed proposals for disarmament under a supranational organization.

The Boraphane Company is the American party to a tripartite contract with French and British companies, aimed at dividing world markets for the sale of their prismatic glassware. This product is used extensively in outdoor and indoor lighting systems, and its manufacture involves much unpatented technical know-how.

An order of the lower court affirmatively directed Boraphane to compete in territories reserved to the French and British companies under its contract. Since the court's jurisdiction does not extend abroad, Boraphane fears that the order will not be accepted in either Britain or France as a defense to its breach of contract.

In the lower court Judge Monroe stated by memorandum opinion that although the defendant company argues that the government "should be satisfied with half a loaf," what defendant asks would in effect be to give the government "half a bridge."

Counsel are expected to concentrate on the question of whether the tripartite contract constitutes a violation *per se* of the Sherman Act, in view of the fact that it is tied in with licensing of the unpatented technique.

Blackstone will represent the appellant company with Irwin J. Hyman, 2L of Hartford, Conn., and Thomas E. Weesner, 2L of Wabash, Ind., on the orals. Edward Maguire, Jr., 2L of New York City and Charles B. Milliken, 2L of Simsbury, Conn., will speak for Gardner.

On March 29 Toepfer faces Casner Law when *Gottlieb v. McKay* is debated before Judge Edward J. Dimock, LL.B. '14, of the United States District Court for the South-
(See AMES on page four)

Evacuation Day

Saturday has been designated statewide "Evacuation Day" by Gov. Christian A. Herter of Massachusetts. There's no need, however, to fill a canteen and head for the Berkshires.

The Governor's proclamation has nothing to do with his recently announced civil defense plans. It simply commemorates the British evacuation of Boston during the American Revolution.

It was 180 years ago this week that Gen. William Howe took a look at the Yankee guns on Dorchester Heights and decided to pack his troops aboard ships bound for Nova Scotia.

SBA to Hear Dewey Speak About Politics

Thomas E. Dewey, former governor of New York and two-time presidential candidate of the Republican Party, will address an open meeting of the Student Bar Association in Langdell North Middle next Wednesday at 8 p.m. His topic will be "The Lawyer and Politics."

The talk by Mr. Dewey will treat the subject from "a non-partisan aspect", according to an announcement by SBA President Benjamin Wolman, 3L of Baltimore. The one-time governor will describe the problems a lawyer encounters when he enters the political arena.

Mr. Dewey will be the third political leader to address the SBA on that topic this year. During the fall term the Bar group heard talks by Gov. Theodore R. McKeldin of Maryland and Justice Joseph Cox of the New York Supreme Court, and in May it will sponsor a fourth address on this theme by Paul Butler, chairman of the Democratic National Committee.

A graduate of the University of Michigan and of Columbia Law School, Mr. Dewey first gained fame as a young racket-busting prosecutor in New York City during the early and mid-30's. He first served as an assistant United States attorney and then as United States Attorney for the Southern District of New York.

Later he was appointed a special prosecutor by Gov. Herbert H. Lehman to supersede District Attorney William C. Dodge of New York County in the in-



Thomas E. Dewey

vestigation of vice and racketeering. In 1937 Mr. Dewey was elected to Mr. Dodge's office, and in 1938 he first ran for governor of New York.

Mr. Dewey was defeated that time by the incumbent Gov. Lehman, but he had better luck in 1942 when he defeated his Democratic opponent, John J. Bennett, by 600,000 votes. Mr. Dewey was re-elected in 1946 and 1950, but did not seek a fourth term in 1954.

Meanwhile, Mr. Dewey was first considered as a presidential candidate at the Republican convention of 1940. He received more than 300 votes on the first ballot, but subsequently lost the nomination to Wendell Willkie.

Mr. Dewey won the nomination in 1944 and 1948, but lost the elections—to President Franklin D. Roosevelt in '44 and to President Harry S. Truman in '48. In the

As a result of his four races for governor of New York and his two tries for the presidency, Mr. Dewey probably has had more votes cast for him than any person in the history of the country except the late President Franklin D. Roosevelt. The latter ran on the national ticket five times.

The meeting Wednesday will be open to SBA members on presentation of their membership cards and to others on the payment of 25 cents.

Third Year Class to Elect Committee of Nine in April

The *Ad Hoc* Committee of the Class of 1956 has adopted the Class Charter and Election Rules under which the graduating class will go to the polls April 6 and 7 to elect its Marshal, Secretary, and first three Committeemen. These five will then elect another four class members to form a Class Committee of nine.

Nominating petitions with 20 signatures are due 4 p.m., Tuesday, March 27, at the Langdell receptionist's desk, together with certain other material specified in the Election Rules, which are published in this issue of the RECORD. Candidates may use either the nominating form printed in the RECORD or pick up a form from the receptionist.

Under the 1956 Charter, copies of which are available at the Langdell receptionist's desk, the Class Committee will conduct class reunions, collect class funds, and perform other functions for the purpose of holding the class together through the de-

ades. Its size, including the Marshal and Secretary, will vary from nine to sixteen members.

The Committee will hold office for life except for the Marshal and Secretary, who will be elected for a five year term in 1956, then for ten year terms until 2001, and thereafter for life. Except in 1956, the Committee itself will elect the Marshal, Secretary, and other Committeemen unless the Committee chooses to hold a class ballot.

However, the great power of the Committee is offset by a Charter article providing for a classwide ballot to amend the Charter upon petition by any 20 members of the class. This article itself may not be amended by the Committee.

The Marshal will preside at class functions and reunions. Moreover, he will preside on those occasions when the Committee meets in person.

(See ELECTIONS on page four)

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The Real Issue

The issue in the Lucy case is not whether the University of Alabama has a right to expel a student for alleged defamation of its officers. In the abstract, the University apparently has such power.

The issue is whether the University can expel Miss Lucy in the face of two court decrees ordering her admission. The fact that Miss Lucy has two court orders in her favor makes all the difference in the world as to how the University can proceed to test its right to expel her. The proper remedy, we think, is to bring a bill in equity seeking to modify the court order pending the litigation of the facts of the alleged defamation.

To take the position that the University should expel Miss Lucy first, and leave her to bring suit for damages or still another court order, is tantamount to saying that the courts are powerless to enforce the Constitution by specific relief. Each decree will be followed by a new University determination that the student is ineligible for admission until finally, we suppose, Miss Lucy will die of old age.

To take the even more extreme position, as some do, that the courts have no power to review the University's grounds for expelling Miss Lucy would lead to one of two conclusions: either that the courts have no power to interpret the Constitution or that the tax-supported University of Alabama is not an instrumentality of the state and is consequently beyond the reach of the Fourteenth Amendment.

If it be conceded that the courts *do* have the power to adjudicate the facts of Miss Lucy's case, then it follows that the court is entitled to enough respect by the University of Alabama to require that University to come into court for relief if it thinks it has a case on the defamation issue, rather than to go ahead and unilaterally expel her.

Grants-in-Aid

The new Grants-in-Aid program announced last week is a step toward the realization that financial need does not depend upon a 68 average. The administration deserves credit for making it possible for all students to finish their legal education without assuming an overwhelming burden of debt.

A questionable point of the new plan, however, is the computation of interest from the time of the loan, even before the student has graduated. If there is no possibility of the student's earning money at this time, the interest will only have to be paid by an additional loan.

It may be argued that immediate interest payments provide a reminder that the money granted is a loan, and help the Law School financially to make more loans. We question first, whether such a reminder is needed, and second, whether at this stage the School or the student would be helped most by the postponement of interest payments.

But this is a relatively small point, compared to the benefits provided by the Grants-in-Aid program. Genuinely superior academic effort will still be rewarded by Prize Scholarships, but for the majority of the student body, an artificial line of demarcation will be erased.

Gallery

ZENGO OHIRA
Fisheries Expert



Harvard Law School is host this year to Professor Zengo Ohira of the Faculty of Law of the University of Hitotsubashi, Tokyo, Japan. Professor Ohira is at Harvard on a one year grant from the Japanese government to pursue his studies in international law. He is chiefly interested in freedom of the seas, rights to continental shelves and fisheries. Professor Ohira's special interest in these matters is derived in part from Japan's conflict with Korea over fishing rights in the Sea of Japan. When asked for a prediction as to the outcome of this struggle for an economic advantage essential to both countries, Mr. Ohira said that international power politics, not law, would determine.

Legal Education Different

Professor Ohira finds Harvard Law School very different from his own university. The classes here are one half to two thirds as large as his own. The case method is entirely new. Questions from the class and discussion between student and professor are unknown in Japan. But Professor Ohira has been most favorably impressed by the American student's awareness of his nation's world responsibility. A similar awareness is seldom found among Japanese students. Most Japanese students, he said, are either apolitical or indifferent to large political questions. He believes that students at Harvard have a great opportunity to fulfill their part of America's responsibility and to develop better understanding between peoples. Harvard students must show kindness, understanding and friendship to the increasingly large number of foreign students in order to help them through the difficulties they encounter in a strange country. Professor Ohira believes that kindness and understanding towards these students will result in a necessary increase in international understanding.

To Combat Anti-Americanism

He has come to the United States for two purposes. The first is to understand and learn about the country in order to combat the anti-American feeling among his countrymen.

This feeling he believes is strong, but not necessarily enduring. It has arisen out of Japanese resentment over the long American Occupation and usurpation of farm land for airbases in a land-poor country. These grievances he feels have been too much enflamed by sensational newspapers and will subside when Japanese come to know America better. The second reason Professor Ohira came to the United States was to develop close personal and professional relationships which he believes are important for international understanding.

He is confident that Japan will remain a democratic country. But, he insists, we must realize that democracy is a Western political innovation and that it must be adjusted to oriental ways in order to become firmly established.

Trade Outlets Essential

He believes that some of the American Occupation policies have done a great deal to insure a lasting democracy in Japan. Anti-trust policies have destroyed the strength of the Zaibatsu business combines which had enormous control over the pre-war Japanese economy. Land reform and trade union policies have been successful in creating a strong barrier to the growth of communism among Japanese workers. But Professor Ohira's optimism is qualified. Democracy is still "to-hope" for Japan. The most pressing problem is now, and will continue to be, markets for her goods. American aid has been largely responsible for Japan's present prosperity. To guarantee this prosperity, Japan must also trade with sterling bloc nations, Southeast Asia and South America. The difficulties of trade with the communist countries are almost insuperable. Nevertheless it seems necessary for Japan to trade with Red China for coal and agricultural products.

Professor Ohira said in conclusion that international law is the regulation of power. "To learn law," he said, "you must go to the court, this country is the court of the free world." He reaffirmed his conviction that it is within the power of the United States to bring to an end in the interest of peace the conflicts among nations.

—Langston

Current Case

May employees be denied the right to strike against unfair labor practices where their collective-bargaining agreement contains a no-strike provision and/or where the employees fail to comply with the 60 day "cooling off" period provided for in the Taft-Hartley Act? In the case of *Mastro Plastic Corp. v. National Labor Relations Board* 24 L.W. 4106 (February 27, 1956) with Mr. Justice Burton writing for a 6-3 majority, the Supreme Court answered the above question in the negative.

This case involved a campaign to organize employees of the Mastro Plastic Corp. and the French-American Reed Manufacturing Co., petitioners in this case.

In November 1950 petitioner summarily discharged one Frank Ciccone, an employee of over four years standing, because of his activity in support of the then bargaining representatives, the Carpenters, and his opposition to the management-backed Paper Workers Union. The strike in question followed. In December 1950, after the strike had closed the plant, the company notified each employee that his employment was ended because he had walked out in violation of the no-strike provision in the contract.

Unfair Labor Practices

In January 1951 Carpenters initiated the present proceedings before the National Labor Relations Board, by charging petitioners with unfair labor practices. The board, upholding the findings of the examiner, found that the strike "was clearly caused and prolonged by the cumulative effects of the petitioners unfair labor practices; culminating in the discriminatory discharge of Ciccone." This decision was affirmed by the 2nd Circuit in 214 F. 2d 465. Certiorari was granted by the Supreme Court because of the importance of the issue in industrial relations and in the interpretation of the National Labor Relations Act.

The High Court decided that the actions of the employers here constituted unfair labor practices and that in the absence of statutory or contractual provisions to the contrary, the employees could properly have gone on strike. In seeking to narrow the issue the court assumes that the employees could have waived their rights to strike against unfair labor practices and that Congress by explicit statutory provisions, could have deprived strikers, under the circumstances of this case of their status as employees. The Court viewed the question before them as one of interpreting whether or not such a waiver was made by the Carpenters in their 1949-1950 contract and whether or not such a deprivation of status was enacted by Congress in section 8 (d) of the NLRA as amended in 1947.

Construes Contract As a Whole

Section 5 of the Carpenters' contract with petitioner provides that "the Union further agrees to

refrain from engaging in any strike or work stoppage during the term of the agreement". Viewed in isolation this would seem to prohibit a strike regardless of the reason thereof. But the court viewing the contract as a whole decided that the contract only purported to deal with the economic relationship between the employers and the employees.

Furthermore, the Court stated that employees may generally waive their right to strike, provided the selection of the bargaining representatives remains free. Yet, if we adopted the view that employees could not strike against unfair labor practices of the employer, we would be denying the employees a right to object to an ouster of their lawful bargaining representative or to object against employers forcing membership in a different union under a threat of discharge. Whatever may be said of the legality of such a waiver when explicitly stated, the Supreme Court decided that "there is no adequate basis for implying its existence without a more complete expression than appears in section 5 of this contract."

Section 8(D)(4) NLRA provides: "Any employee who engages in a strike within the 60 day period specified in this subsection shall lose his status as an employee of the employer engaged in the particular labor dispute for the purposes of sections 8, 9 and 10 of this act as amended." The Court holds in interpreting this section that section 8 (d) (4) must be read in connection with the rest of section 8.

Section Inapplicable

Section 8 requires that where there is in effect a collective-bargaining contract, no party to such contract shall "terminate or modify" such contract without giving notice to the other party of its proposals. Section 8 (d) (4) provides that employees are not to strike within 60 days after giving this notice. Therefore the Court held this section inapplicable to the case at bar because the instant strike was not to terminate or modify the contract, but was designed instead to protect the unfair labor practices of petitioners.

The Court in adopting this reasoning stated "that a contrary construction would deprive the employees of the right of striking against unfair labor practices merely because they had filed a notice of their desire to terminate or modify the agreement. This at the very time when they most needed the weapon of a strike to assure against employers' unfair interference with their choice of a representative. Too this decision is justified through legislative history." To hold that a worker who, because of an unfair labor practice has gone on strike, is no longer an employee would be to give legal sanction to an illegal act and to deny redress to the individual injured thereby. (Sen. Rep. No. 573; 74th Congress 1st Sess. pp. 6-7).

—Pagnani

Recently Published

FEATHERBEDDING

Norman J. Wood, Assistant Professor of Economics, University of Georgia, "The Wisdom of Outlawing Featherbedding," 6 Labor Law Journal 821 (1955).

Many labor unions have introduced rules restricting the output per worker. Several reasons are stated as to why the Taft-Hartley Act does not attempt to eliminate such featherbedding. First, it would be almost impossible to determine the exact number of men required in hundreds of industries and functions. Second, it would be difficult to establish a standard of reference for a fair day's work. Third, the unions should have some leeway to lessen the impact of technological change upon employment. Fourth, if a federal agency were to determine what constitutes featherbedding the production process might come under government control. This would be objectionable because (a) a government agency would be less qualified to do this than people in the industry, and (b) national politics would enter into the determination of production standards.

SECURITY AND FIRST AMENDMENT

Alanson W. Wilcox, Former General Counsel, Federal Security Agency, "Invasions of the First Amendment Through Conditioned Public Spending," 41 Cornell L. Q. 12 (1955).

"Congress may withhold all sorts of facilities for a better life, but if it affords them it cannot make them available in an obviously arbitrary way or exact surrender of freedoms unrelated to the purpose of the facilities." *American Communications Association v. Douds*, 339 U.S. 302, 417 (1950), opinion of Frankfurter, J. concurring in part and dissenting in part. If this is true, several existing limitations on public bounty may well be invalid. Among these are the requirement of a loyalty test for the licensing of an insurance salesman or refusal of a license to deal in second-hand pianos because of invoking the privilege against self incrimination in regard to alleged Communist Party activities. The vice of an unconstitutional condition is its tendency to bring about a forbidden result—the abridgement of First Amendment freedoms.

Letter to the Editor

TO THE EDITOR OF THE RECORD:

May I say a word about the editorial "Excluded Again" in your issue of March 8?

Every day we are told by press and platform that "the dignity of the individual" is the foundation of our social life. Do you agree? If so, I submit we must agree that Miss Lucy, the Federal and State judges, and the Trustees of the University of Alabama are all individuals and, as such, entitled to dignity and respect.

The business of the Federal and State judges is to administer justice according to law. This they cannot do unless parties are free to express their grievances with complete frankness—and it follows that they cannot and do not entertain actions for defamation based on anything said by a party or witness in the orderly conduct of a suit at law. But although defamation in the course of a lawsuit is not actionable, it remains defamation none the less.

The allegations made in her behalf by Miss Lucy's counsel charged the Trustees of the University of Alabama with a cowardly attempt to evade a law which they dared not defy. By withdrawing these charges without a hearing they left the Trustees without any opportunity to reply. It is at least doubtful whether any institution of learning can profitably instruct a student who thus expresses contempt for those who govern it, or whether anyone in sincere pursuit of instruction would wish to attend an institution whose authorities he held in such contempt.

Two months ago the issue was whether a Negro had the constitutional right to attend a tax-supported school. Today the issue is whether the Constitution guarantees to anyone of any color the right to insult his fellow citizens and then to demand instruction at their hands.

It seems to me that it is to this issue that editorial comment should now be directed.

GEORGE K. GARDNER, LL.B. '14
Professor of Law

(The RECORD's view on the Trustees basis for expelling Miss Lucy is expressed in today's editorial, "The Real Issue.")

Dinner Table Art Survives the Years

Harkness Commons Murals As Controversial As Ever

By BERTON SUBRIN

"Childish scribbling? Oh no, just the opposite," retorted Walter Gropius, when questioned about one of the murals in Harkness. "Miro is a painter of great caliber, a giant of personality," he added. "You see, art has its own language; listen to the painting for awhile, and you'll understand it."

Lest Gropius's approval be mistaken for unanimity, note the opinion of a graduate student when the Miro mural was first put in place: "The entire affair is in bad taste, and it's often sickening to eat facing it," the *Crimson* quoted him as saying. Even the *Art Digest* referred to the project in somewhat playful terms, announcing in May, 1950 that "Miro, Arp and Herbert Bayer will soon turn their talents to making fair Harvard fairer still, thanks to a prominent Law School graduate who has anonymously provided for three murals to decorate the new Graduate Commons in Cambridge."

At the time Gropius was working on plans for the Graduate Center, he was Chairman of the Department of Architecture of the University's Graduate School of Design. Costs were high, and it occurred to him that budget limitations might result in a building lacking the desired warmth and human inspiration. He asked, therefore, authority to commission works of art that would by their nature become integral parts of the building.

"In order to avoid too austere an appearance, it has been part of the plan from the beginning to provide designs of enjoyable forms and colors for strategic walls," explained Gropius.

Some Oppose Idea

Even when the idea was still in the discussion stage, there were those who felt that Harvard's carefully collected dollars should not be spent for "modern art". Some of the Law School alumni were particularly unhappy at having to raise funds for this purpose. Although architect Gropius, with the support of the Fogg Museum, was able to secure the consent of the Corporation from the beginning, it was not until an anonymous donor made a gift expressly on condition it be used for the art works that commissioning could get under way.

The first of the murals to arrive was the Herbert Bayer, which now hangs in the Mallory Smith Room. Like several of the other artists commissioned, Bayer had been one of the Masters at the Bauhaus, the famed architecture school Gropius started in Germany after the First World War. Bayer's mural, consisting of a series of intertwining lines amidst various shades of green, and two red splotches, provoked immediate comment from Harkness patrons.

Contest to Name Bayer Painting

Evidently, a great many who viewed the Bayer work were puzzled by its apparent failure to correspond to reality in any recognizable way. A *Crimson* article in October, 1950, reported that graduate students felt giving the mural a name might help, and toward this purpose they formed the "International Society for the Propagation of Taste and Discernment Among Intellectuals and Others." The Society offered a prize of fifteen dollars for the best name and explanation submitted to it.

Gropius agreed to judge the contest, and the names submitted ranged from "The Spiritual Search for Meaning" to "Nausea at Noon". Records have it that first place went to a second-year law student named Fred Ringel, who entitled the mural "The Garden of Eden". Despite the obvious pun, Ringel's explanation was that the painting was "strange and wonderful . . . radiant . . . and pleasant to the sight of our eyes as the Garden of Eden was pleasant to the eye of Adam and Eve."

Gropius qualified his choice by commenting that "naming the work of another artist is a difficult task. An artist's message addresses the intuitive faculties of the onlooker rather than his intellect." Nonetheless, Bayer himself entered the contest from Aspen, Colorado where he was working, and suggested the title "Verdure", explaining the picture as best he

could in the prose passage reprinted elsewhere on this page.

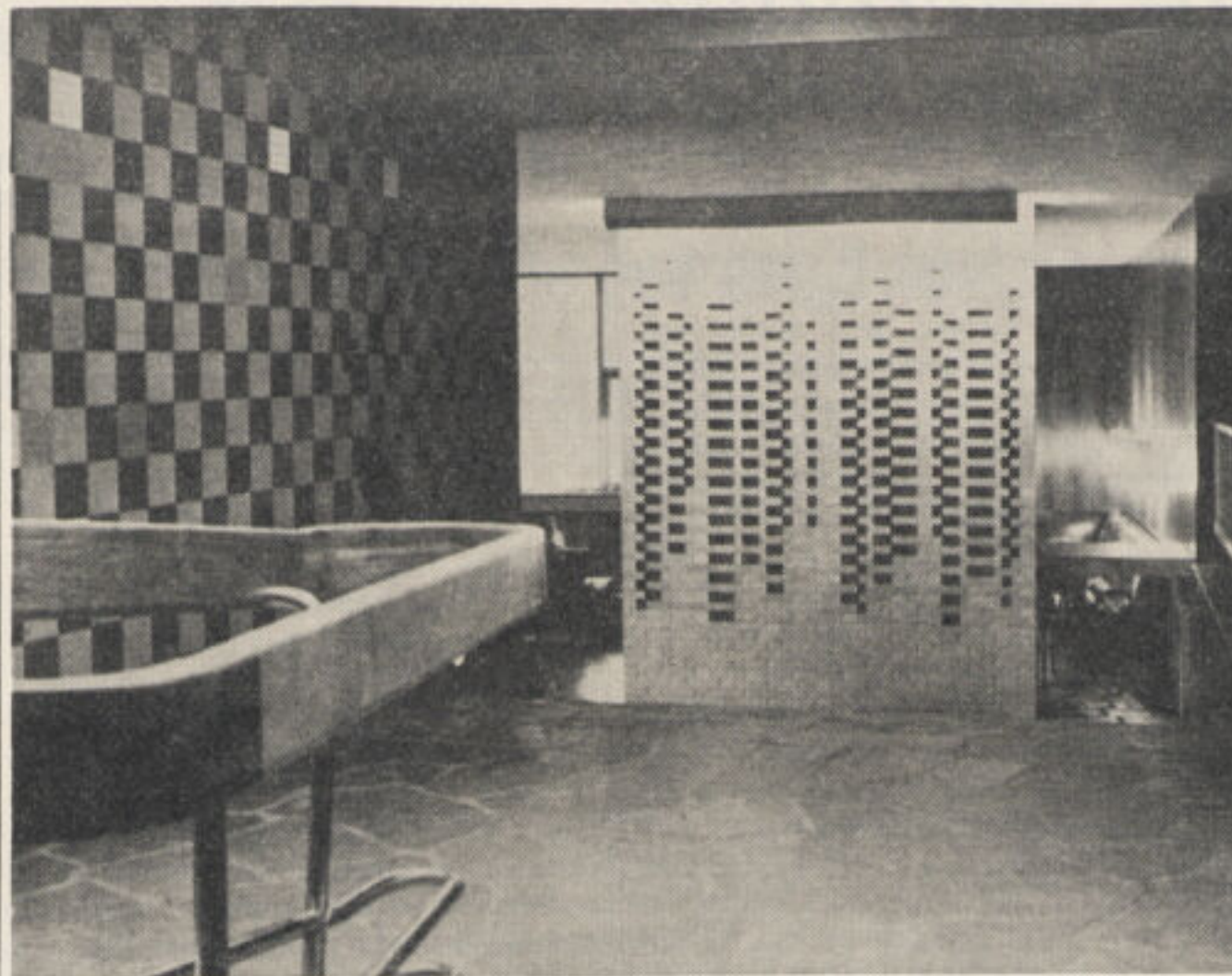
Tile Design

Bayer also did the tile design and glass squares which grace the ramp leading to the service areas. Gropius's purpose seems to have been largely functional: "It will not become monotonous as a regular pattern might after three years, nor can it be damaged by hands as might happen to an oil at that point on the ramp." However indiscernible to the untrained eye, there is a carefully worked out sequence of color patterns in the tile, designed to be interesting both at a distance, and from up close as seen by students waiting in line.

Arp Wood Reliefs

Jean Arp, designer of the wood reliefs in the Grille Room, was one of the leaders of the short-lived "Dada" reaction in Zurich, in 1916. Perhaps the oft-quoted words from his Dada diary—"I love nature but not its substitutes"—give some hint as to the meaning of his carvings.

Arp came to this country to visit while construction on the Graduate Center was in its early stages, and Norman Fletcher, one of Gropius's associates in The Architects' Collaborative, relates with great



This elaborate brick relief is both attractive and utilitarian. In addition to its value as artwork, it forms the back of a fireplace.

the Buckner Room, in Holmes Hall, but later it was decided they belonged more properly with the other art pieces in the dining halls.

Brick Mural in Swaine Room

Another former pupil at the Bauhaus, Josef Albers, planned the brick relief which forms part of the fireplace in the Swaine Room. Now Director of Design at the Yale School of Fine Arts, Albers was a visiting professor at Harvard the summer the work was being done. He kept close watch on the workmen as they laid the bricks, and was reportedly quite gratified at the interest they took in his attempt to create patterns pleasing to the eye.

Gropius enthusiastically points out that the Albers relief is an excellent example of the intimate relationship that should exist between architecture and sculpture. Fireplace and design are inseparable, with the bricks receding into the wall to become part of the functioning unit. The theme is

greet diners in September, 1951. Miro at first had planned the painting on a smaller scale, but made it more monumental when, on a trip to this country, he learned of the large space that was available.

Response to the Miro work was quick. Although the mural clearly depicts four main masses of colored geometric figures and lines, diners have offered a great variety of interpretations.

Student Opinions

A *Crimson* editorial of October 30, 1951, surveyed students' feelings. One observer suggested that, reading from left to right, the masses symbolize "a four-year old boy with an Oedipus complex, his old worn out father, a bull, and the boy's young, appealing mother." Another said that he found his dates were "extremely interested in the thing, and spent much time examining it." A fine arts instructor, recently asked for his opinion, volunteered: "You can interpret it all you want, but it's not exactly clean."

Gropius's explanation of the Miro work is in keeping with his general theory about modern art. "In other generations, there were clear standards and values, understandable to the man on the street. Now, the old society is gone, but a new society is not yet made," Gropius maintains.

"So, the artist has withdrawn into his own elements: color, design, abstract form. You mustn't look for outlines of things you know. Of the Miro in particular, there is human substance, but not the outline of a human being."

Gropius suggests that Miro's genius lies partly in his ability to portray excitement, or, alternatively, quieting down. When asked whether he saw any sexual connotations in the Harkness painting, Gropius confided: "Youth and vigor are always somewhat in Miro's pictures—all right, sex, if you want to call it that." Gropius relates having written to Miro, several years ago, asking whether there was a title to the massive work; the artist failed to reply.

Now Taken for Granted

At any rate, heated discussion over the murals and sculptures seems to have subsided in the last few years. Noon-day diners still on occasion make humorous references to "bilious green," but gradually students have become accustomed to the unusual colors, shapes, and designs. One gets the feeling that the art has become accepted and almost taken for granted, much like the round trays, cold eggs, and red-striped coupons.

Artist Tells All About Verdure

The following was written in 1950 by Herbert Bayer, who painted the mural in the Mallory Smith Room of Harkness Commons, to "explain" his mural.

For a modern painter the commission to paint a mural in a given space does not come too often in our time. To be given a wall in an architecturally outstanding building is almost unique, especially as in this case my painting will not be the only "piece of art," but will be in company with creations of some of the leading modernists in sculpture and painting.

I suppose, that given such opportunity, any "fine arts artist" will go ahead and paint to his heart's desire.

For me it was, first of all, a question of choice of subject matter. A purely abstract design I thought would not suffice nor survive to be lived with for a length of time. It should have a meaning as to help to retain the interest of the students who are to dine in this room. So the theme became a sprouting, glaucous verdure, an image of the idea of growing. Green, as a soothing, quieting and appetizing color. To contain enough variations towards more exciting yellow shades as well as towards cooler bluish tints. But green, as rich and juicy as possible without becoming aggressive.

It is a small room, the picture taking an entire wall. Thus the picture will make the room, and I could not share the opinion, according to which the composition of a mural should rather go and conform with the architectural elements—emphasis on horizontal-vertical directions and flat color areas. I want the convolution-like movement rather to be an opposite to it, to "open up" the wall, to extend the three dimensional enclosure, to break up the wall.

One joining wall is a large window and above the pictures, between it and the ceiling, is to be a long, narrow strip of frosted glass. This glass I liked to be clear, transparent as to see some trees moving their branches in the wind, together with the picture. The indoors and outdoors to be one, nature and a man made symbol of it.

Another consideration was the scale of the design elements. Planning a large form, more or less one structure over the entire length, I believed it necessary to compose it in a way that parts of it, when sitting close to it, can still be recognized and identified.

Picture Has Lightness

The slight movement of the surface texture, obtained by applying the pigment in short brush strokes, was to give it a certain luminosity and lightness, besides the impression of dynamic suspension, rather than static solidity.

Having the opportunity to design the electrical illumination, I believe that an even mixture of white and regular yellow incandescent lamps will support the coloring.

The "background" of the painting, on which the convolution is set, is no background, as it is in some places "foreground" as well. Thus it is activated to take part equally in the functions of all areas of the painting. This may be one means, I hope, to keep this picture "alive."



Two co-eds eat in the shadow of Jean Miro's massive mural. More interested in their food than in the artwork, the girls miss the meaning of Miro's symbolism.

amusement how Arp studied plans for his figures. The artist had cut out the forms he wanted from cardboard, and spent much time moving them about to find the most pleasing arrangements. He referred to them as "cow, moon, and child watching moon", and so perhaps the Supervisor at Harkness is not too far wrong when she tells the serving ladies to "dust off the little animals".

Carpenters in Arlington did the actual carving work on the redwood panels. Originally the reliefs were to be placed in

basically vertical, and rising, in keeping with the work's title, "America".

The curtains and bed spreads in the dormitory rooms are by Anni Albers, wife of Professor Albers, and herself a well-known designer of fabrics.

Miro Mural Arrives

Almost a year after the Commons opened, the mural by Joan Miro finally arrived. Delayed in Europe by a Paris exhibition, and by efforts to have it reproduced, the huge canvas reached Harkness in time to

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Young Poet Reconciles The Law and Literature

Several months ago, the Poet's Theatre of Cambridge presented a play, "Bandeirantes," by a young American poet-playwright, Hugh Amory, which was highly praised by the critics for its depth of perception and its poetic intensity.

Mr. Amory has a background which reveals the demands made by society on poets as members of the community. He was, during the Korean War, a sergeant in the Army in charge of a bomb disposal unit. At present he is a first-year student at the Law School. (We wonder whether the former or the latter is more poetic.)

Mr. Amory, a graduate of Harvard College in the class of 1952, was one of the originators of the Poet's Theatre. In 1950 he and a group of friends decided to get together to form a theatre where they could produce written material and obtain experience in actual production of plays. The fact that they would also receive an audience reaction entered as a primary consideration.

"The project grew, not unlike Topsy," Mr. Amory commented, "until we got the

"Perhaps," Mr. Amory suggested, "I bit off more than I could chew at this time. But I did learn a lot by doing 'Bandeirantes'. Many of the technical problems of character development, setting, practical theatre, and everything else that goes into a play were brought out in this production. Granted, there were many flaws, but I hope that I won't make them again."

This is essentially Mr. Amory's theory of writing a play. At college, he did not take any courses in playwriting, feeling that only by practical application can a poet produce a work suitable for stage presentation.

The Poet-Laureate of the Class of 1958 comes from the small town of South Natick, Mass. The only other member of his family to be affected by the writing bug is his brother Fred. Fred is at present living in Cambridge finishing work on a novel.

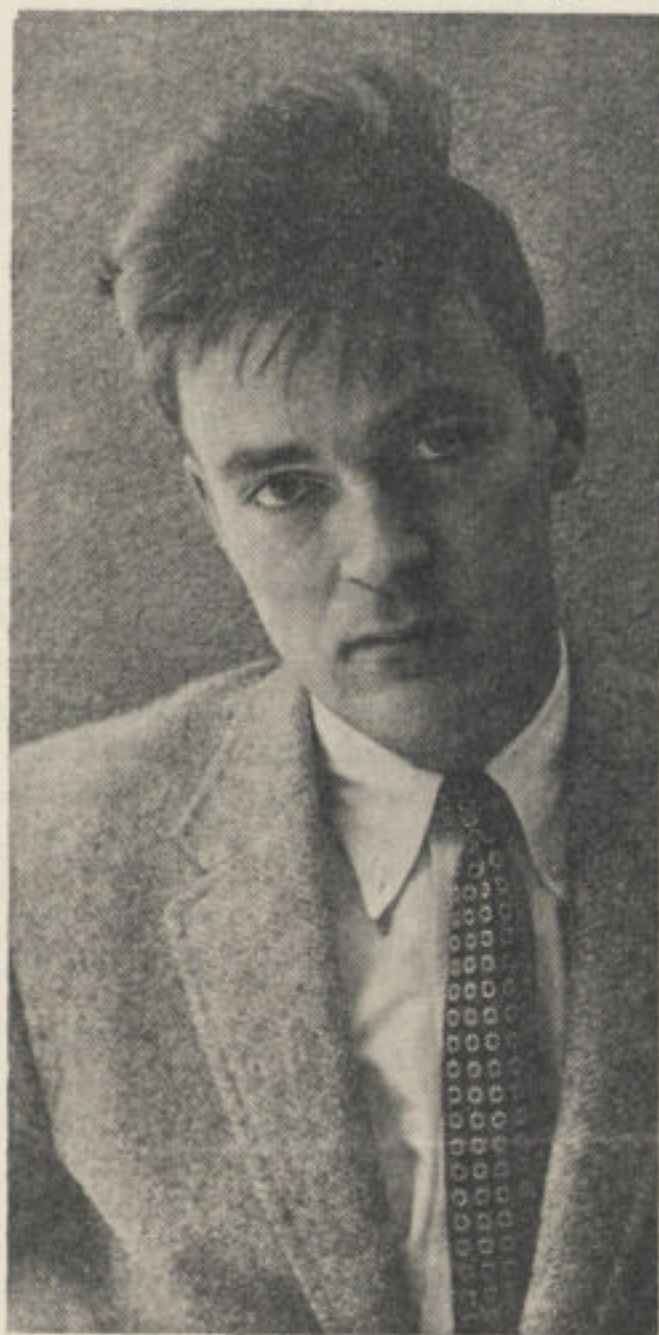
Since entering the Law School, Mr. Amory has found certain difficulties in dealing with the law that the ordinary student may not run into. "When reading a case," he said, "I am struck by the idea at times that this may make a fine short-story or that the personality of one of the contestants in the suit may work out as a character for a play that I have in mind. I think that I'm more interested in the mood of a case than in what it actually holds."

Mr. Amory feels that certain of the values that the law holds as over-riding considerations are, "at the present time, at any rate, irreconcilable with those that I previously held."

Mr. Amory intends to practice law, upon graduation, in a small Massachusetts firm. "I also want to continue to write. I know that they say that the Law is a jealous mistress, but others have done it. Anyway, I don't feel well until I have written down what I feel."

Mr. Amory has recently written some lyric poetry and has a play "mulling around in his brain. I expect that I will work on this new play this summer. Although I don't know for sure, I hope that the Poet's Theatre will produce this one too."

—Chazen



Hugh Amory

interest of the Cambridge community. At present we have a small theatre, only fifty-six seats, but we do have a full-time director. I am very proud of what we have accomplished in so short a time." The theatre is strictly an experimental organization which allows young playwrights to "learn by doing."

Another of Mr. Amory's plays, "Orpheus," was produced by the Poet's Theatre in 1951. "Bandeirantes," his latest production, takes its title from a Brazilian word which can be translated by the phrase, "pioneer tradition of a military nature."

The play deals with a group of Americans who are persuaded to go into the interior of Brazil to settle. The reaction of the characters to the essential external pressures makes up the basis of the play.

Foreign Study Program Applications Close Soon

Opportunities for study abroad are still available for the coming summer and for the academic year 1956-57, it was announced by John A. King, Jr., Secretary of the International Legal Studies Program. Applications will close on April 1 for grants covering a full year's study in Cuba, Denmark, Iran, Italy, Sweden, and the United Kingdom.

Awards covering tuition and maintenance also are available for summer study in Austria and Spain. Closing dates for applications are April 1 for Spain and April 18 for Austria.

Interested students should contact Mr. King at his office in Langdell Hall for further details.

1956 Nominating Petition

Name of Candidate

Candidate for

Address

Phone

Nominating Signatures

- | | |
|----------|----------|
| 1. | 11. |
| 2. | 12. |
| 3. | 13. |
| 4. | 14. |
| 5. | 15. |
| 6. | 16. |
| 7. | 17. |
| 8. | 18. |
| 9. | 19. |
| 10. | 20. |

I have read the Election Rules and the 1956 Class Charter (available at the Langdell receptionist's desk), and agree to abide by the same. I agree to submit herewith the material pertaining to my candidacy as required by the Rules, and agree further to serve if elected.

(Signed)

ELECTIONS

(Continued from page one)

The actual work of the class will fall largely on the Secretary's shoulders. He will handle communications among the dispersed Committee members. Also, he will prepare and disseminate class information by newsletters, directories, and other appropriate means. However, he will be assisted by other Committee members, of whom one may be designated Treasurer.

Election Rules

1. Any candidate for a degree from the Harvard Law School in 1956, or any special student leaving Harvard Law School in 1956 may vote and hold class positions; provided, such candidate or special student has not voted (nor held a class position) in a previous Harvard Law School class election.

2. Members of the *Ad Hoc* Class Committee shall not be eligible for election by the Class in the 1956 election.

3. Any member of the Class will be a candidate if, by 4 p.m. on Tuesday, March 27, 1956, he submits a nominating petition bearing the signatures of 20 members of the Class, and if he signs a statement that he has read these Rules, and the Class Charter, and that he agrees to serve if elected. Each candidate may run for only one post. Nominating petitions, the Class Charter, and these Rules will be printed in the RECORD, and will also be available at the receptionist's desk in Langdell. The petitions are returnable to the receptionist.

4. Voting will be held on Friday and Saturday, April 6 and 7, 1956.

5. Elections for the three positions as class committeemen will be by simple plurality. The ballot will contain the names of all candidates (in alphabetical order) and each voter may vote for three candidates (but no more). The three candidates with the highest number of votes will be elected.

6. Elections for Class Marshal and Class Secretary shall be by a cumulative system.

Each voter may indicate his first, second, and third preference for candidates in each office. First preferences will count as three votes, second preferences as two votes, third preferences as one. If the voter indicates only one preference, his preference will count as one vote; if he indicates only two preferences, his first preference shall count as two votes, and his second as one. That candidate for each office obtaining the largest number of votes shall be elected.

7. Any ties shall be resolved by lot to be drawn by the Chairman of the *Ad Hoc* Committee.

8. The *Ad Hoc* Committee will display posters with photographs of candidates and with information about each candidate's college or colleges, his home town, and his law school activities. All candidates are required to submit this information with their nominating petitions.

It is requested that candidates also submit two head-and-shoulder photographs of themselves (about three by four inches).

9. The *Ad Hoc* Committee will count the ballots. All questions concerning the interpretation of or compliance with these Rules or the validity of a ballot shall be determined by the *Ad Hoc* Committee.

The *Ad Hoc* Committee may disqualify a candidate for any violation of these Rules. Appeal from an *Ad Hoc* Committee ruling may be taken to Mr. Toepfer.

10. These Rules shall apply only to the 1956 election.

Chancery Elects...

Paul D. Paganucci, 2L of Watertown, Me., was elected chancellor of the Chancery Club at a meeting last week.

Mr. Paganucci was one of six officers chosen at the meeting. Others are: Vice Chancellor Edwin S. Wilkins, 2L of Jackson, Mich. and Secretary John C. Lifland, 2L of Jersey City, N. J.

Also Alumni Secretary Daniel J. O'Hern, 2L of Red Bank, N. J. and Executive Committee Members-at-large Clark L. Wagner 2L of Hammond, Ind. and Paul D. Holleman, 1L of Evansville, Ind.

AMES

(Continued from page one)

ern District of New York. Herbert P. Wilkins and Leonard Wheeler, LL.B. '25 both of Boston, will be associate justices.

The Secretary of the Interior granted a mineral and gas lease for public land to a certain individual after his name had been drawn by lot, a statutory procedure. Gottlieb, whose name was drawn second, brought suit on the grounds that the Secretary had violated a statutory mandate defining "qualified persons" for the drawing.

The person whose name had been drawn first was principal stockholder in a corporation which had also filed an application for the lease. Gottlieb contended that the corporation had thus received a double chance at the lease, which is forbidden by the statute.

In a similar case, the United States Court of Appeals for the District of Columbia, by a split decision, recently ordered the Secretary of the Interior to cancel the first lease and grant the lease to the plaintiff.

The primary issue on this appeal is expected to be whether this is an unauthorized suit against the United States as sovereign. A subsidiary issue involves the extent of the duty of loyalty a director owes to his corporation.

Toepfer's oralists, who will represent the appellant, will be Blair L. Perry, 2L of Williamstown, and Henry B. Shepard, Jr., 2L of West Newton. Speaking on behalf of the appellee will be Mark Crane, 2L of Glencoe, Ill., and Samuel Goekjian, 2L of Shaker Heights, Ohio, of Casner Law.

Democrats Vote...

Herbert P. Gleason, 1L of Cohasset, was elected president of the Law School Young Democrats Monday afternoon. Mr. Gleason graduated from Harvard in 1950.

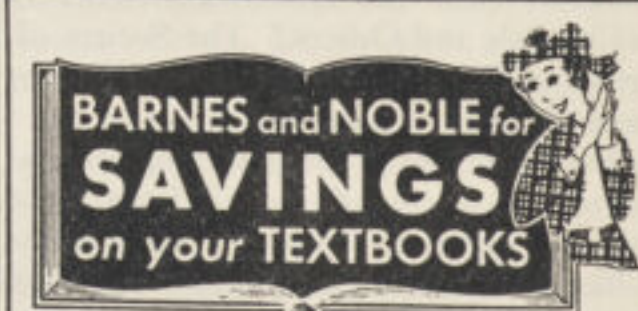
Elected as vice president and treasurer was Arthur N. Field, 1L of New York City (CCNY '55). Paul J. Bennett, 1L of Ames, Iowa, was named corresponding secretary; Betty Ann Lynch, 1L of Anchorage, Alaska, was elected recording secretary; and Raymon A. Guenter, 2L of Buffalo, N.Y., was named member-at-large of the Democrats' executive council.

Statement Revised

Vice-Dean Livingston Hall has announced a change in the Committee on Admissions' statement on "Pre-Legal Education," which was reported in last week's RECORD and which will appear in the Law School catalog for 1956-57. The second paragraph of the statement will now read:

"In general, the Committee prefers a liberal college education to one which is narrowly specialized. It recognizes with favor a showing of thorough learning in some wide cultural field of a student's choice, such as history, economics, government, philosophy, mathematics, science, literature or the classics. (This list is suggestive, not exhaustive.)"

As a result of the change, philosophy and mathematics have been added to the list of suggested undergraduate majors.



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