



Harvard Law Record

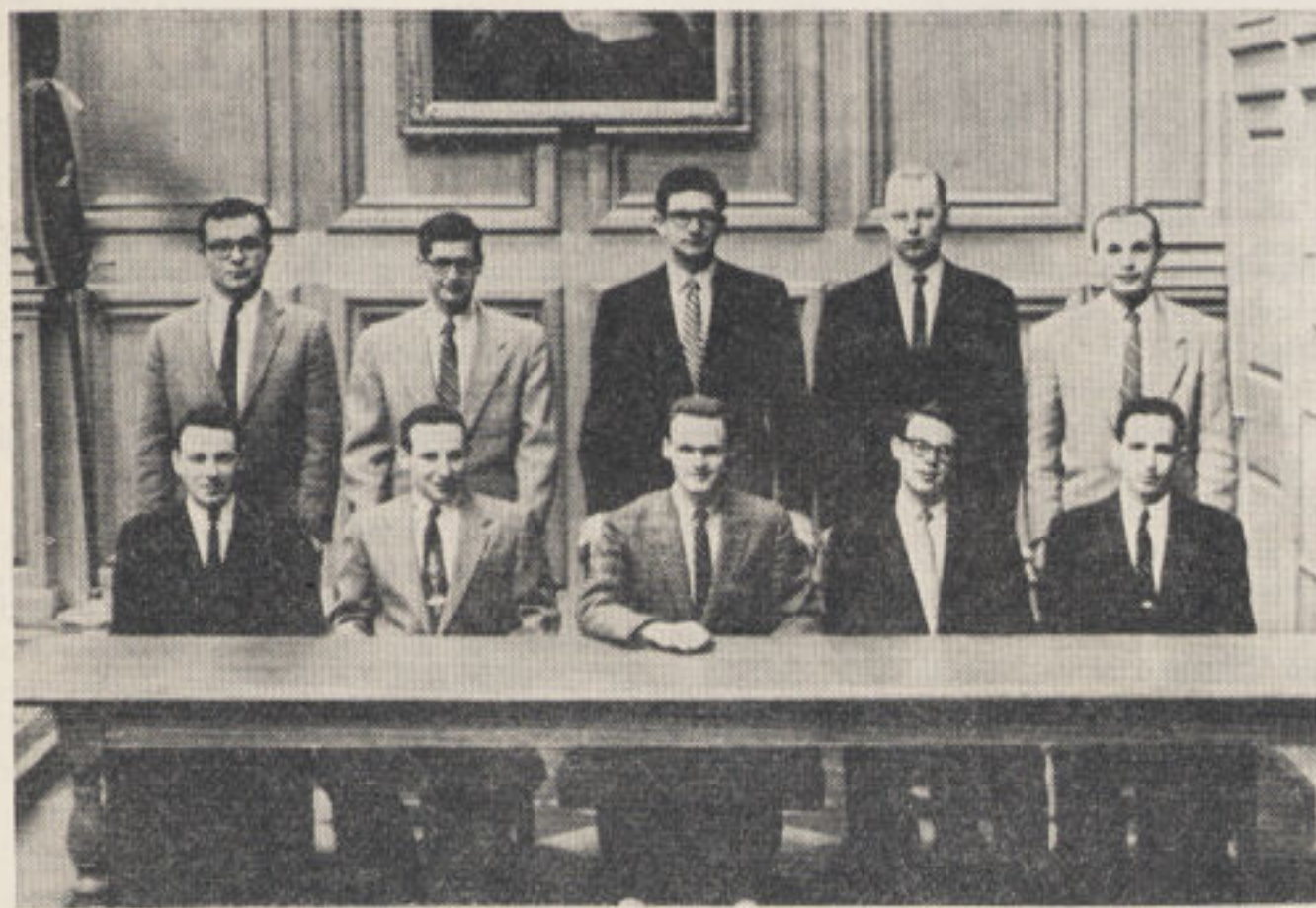
Ten Years' Service to the Harvard Law School Community

VOL. 22. NO. 8

CAMBRIDGE, MASS., THURSDAY, MARCH 22, 1956

PRICE TEN CENTS

Law Review Board for 1956-57



The recently elected Editorial Board of the Harvard Law Review (RECORD, March 1) poses for its first group picture in the James Barr Ames Courtroom. Shown here (seated, left to right), are Anthony Partridge, treasurer; David Sachs, case editor; Edward W. Keane, president; Verne W. Vance, Jr., case editor; and Howard I. Kalodner, book review editor. Standing (left to right), are Bruce J. Terris, articles editor; David L. Shapiro, note editor; Paul Bender, developments editor; Thomas H. Hagoot, note editor; and Herbert B. Olfson, articles editor.

Four More Law Schools Get \$1 Million for World Studies

The Ford Foundation, which already has given Harvard more than \$2,000,000 to support its program of International Legal Studies, announced another million-dollar grant this week to finance similar undertakings at four other law schools.

The Foundation awarded \$375,000 to the Law School of New York University, \$275,000 each to the University of Texas and Tulane, and \$100,000 to Southern Methodist University at Dallas, Tex.

All of the money has been earmarked for the development of the four law schools' international legal programs. New York University was the only one of the four, however, to announce detailed plans for the use of its grant.

Institutes Expanded

According to Dean Russell D. Niles, NYU will expand the programs of its Inter-American Law Institute and its Institute of Comparative Law. The latter Institute, now in its third year, concentrates on study and research in foreign law for American lawyers. The Inter-American Institute provides training in this country for lawyers and students from Latin America.

With proceeds from the Ford grant, the Comparative Law Institute will introduce a new two-year graduate curriculum for young American lawyers. Students will spend the first year at NYU taking courses in the civil law and in foreign language, and the second year will be spent abroad.

The new grants bring to eight the number of American law schools which have received awards from the Ford Foundation.

School Names Dobrovir To Internship at UN

William A. Dobrovir, 2L of Merrick, N.Y., has been nominated by the Law School to participate in the United Nations Intern Program at UN headquarters in New York this summer.

The final selection of interns will be made by the UN Intern Selection Committee later this spring. Students will be chosen from various countries to spend the summer working with UN staffs and attending special seminars in international problems.

Mr. Dobrovir was "selected from among many well-qualified second-year students," according to John A. King, Jr., Secretary of the International Legal Studies Program, who supervised the nomination procedure at Harvard.

Griffin to Speak

Governor Marvin Griffin of Georgia has accepted an invitation of the Law School Forum to debate the issue of Southern segregation at a Forum meeting on April 13.

The Forum announced its plans for appearance of Gov. Griffin early this week and said the Southern leader would share the platform with another speaker who has not yet been chosen.

Governor Griffin, a political protege of former Georgia Governor Herman Talmadge, took office in January 1955. He is outspoken in his defiance of the Supreme Court's decision banning public school segregation.

The Forum's next program is set for March 30 when former Vice-President Henry A. Wallace and Law School Professor Mark DeWolfe Howe will discuss "The Role of the Vice-Presidency."

Walter V. Schaefer To Speak Here As Holmes Lecturer

Justice Walter V. Schaefer of the Illinois Supreme Court will deliver the 1956 Holmes Lecture in the James Barr Ames Courtroom of Austin Hall on April 26, it was announced last week by Dean Erwin N. Griswold.

The lectureship was established at the Law School by a legacy of the late Justice Oliver Wendell Holmes of the Supreme Court. Recent Holmes lecturers have included the late Justice Owen J. Roberts and the late Dean Harry Shulman of the Yale Law School.

Justice Schaefer has been on the bench of the Illinois court since 1951. For 11 years previously, he was a Professor of Law at Northwestern University. He served as a Commissioner of the Chicago Housing Authority from 1940 to 1946.

A resident of Lake Bluff, Justice Schaefer graduated from the University of Chicago and its Law School. He practiced with the Chicago firm of Tolman, Sexton and Chandler.

During the 1930's, he saw government service with the legal departments of the Agricultural Adjustment Administration, and the Reconstruction Finance Corporation. He was Assistant Corporation Counsel for the City of Chicago from 1937 to 1940.

Commercial Code Opposed In New York Group's Report

The New York State Law Revision Commission has recommended to the Legislature at Albany that it reject the Uniform Commercial Code in its present form and that the Code be returned to the Commissioners on Uniform State Laws and the American Law Institute for further study and revision.

The Law Revision Commission, an official state agency created in 1934 and now headed by Dean Emeritus Young B. Smith of the Columbia Law School took its action early this month after an exhaustive study extending over three years and costing a third of a million dollars.

The Commission filed a 106-page report with the Legislature in which it endorsed the concept of a uniform commercial law. But it objected to many of the detailed provisions of the present draft Code adopted by the Uniform Commissioners and the ALI in 1952.

In this report the New York Commission said it considered all of the arguments for and against codification. "The preponderance," the report concluded, "is in favor of careful and far-sighted codification of all major parts of commercial law. . . Such a code would be of greater value to the public and legal profession than the enactment, even with revision, of separate uniform laws."

But, the Commission warned, the "Uniform Code is not satisfactory in its present form and cannot be made satisfactory without comprehensive reexamination and revision in the light of all critical comment obtainable. The needed re-examination will require both time and money and constant consultation with the various groups affected."

Stern Elected To Edit Record

Henry J. Stern, 2L of New York City, was elected president of the HARVARD LAW RECORD at a meeting of the newspaper's Board of Directors last week. A 1954 graduate of New York's City College, Mr. Stern was editorial manager of the RECORD for two semesters. He succeeds Frank A. Olson, 3L of La Grange, Ill., as president.

As editorial manager, the Board elected Ralph Nader, 1L of Winsted, Conn. Mr. Nader graduated from Princeton Univer-



Henry J. Stern

sity magna cum laude in 1955. The RECORD's new business manager is William A. Day, Jr., 2L of Omaha, Neb. (Harvard '52).

Also elected to the nine-man board that will produce the next twelve issues of the RECORD were Frederick H. Condon, 1L of West Haven, Conn. (Yale '55), as (See RECORD ELECTS on page three)

Faculty Discusses Whether to De-emphasize Commercial Code's Role in New Curriculum

The faculty's commercial law specialists are debating whether and how to revise their course curricula in the light of New York's recent rebuff to the Uniform Commercial Code.

Professor Arthur E. Sutherland indicated last week that the Code may play a less important part in the work of future second-year commercial law courses. But, he said, the Code can not and will not be overlooked by his students.

The Code, at the moment, has been enacted by only one state, Pennsylvania. But in the expectation that it would soon be adopted by others, it has been one of the most important topics of study in the various commercial law sections.

New York Unfavorable

Expectations about the future of the Code suffered a jolt two weeks ago when the New York State Law Revision Commission recommended to the Legislature that the Code be returned to the Commissioners on Uniform State Laws for further study and revision.

This action has been interpreted generally as one which (a) eliminates any



Arthur E. Sutherland

possibility of the Code's enactment in New York in its present form and (b) seriously prejudices its chances for adoption elsewhere.

The new outlook for the Code is prompting Professor Sutherland and his associates, such as Professor Robert Braucher, to reconsider their classroom approach to the Code. "We may de-emphasize it a bit," Mr. Sutherland said, but he also indicated that no major curriculum changes are necessary.

Some Uniform Laws Enacted

The core of the present second-year commercial law course is, he said, the various uniform laws which already have been enacted by most of the states. They will retain their position as the main focus of study.

The Uniform Code will remain in the curriculum, too. For one thing, it has been enacted by one of the largest Northeastern states, Pennsylvania, and, for that reason alone, it can not be ignored.

In addition, Professor Sutherland pointed out, the Code performs many of the functions of a Restatement and is of persuasive authority in many states when the case or statute law is uncertain. The Code also has value as a pedagogical tool.

Business Opposes Code

The report of the Commission accurately reflects, observers feel, the view of most New York business interests directly concerned with commercial law. The Commission, in the course of its study, heard testimony by representatives of all such groups, and the record of the Commission's proceedings fills some five file drawers.

The action of New York, a traditional bell cow in commercial law matters, also is expected to exert a powerful influence on the fate of the Code in the other states where it is being considered. But this influence may not be fatal, according to Harvard faculty members Arthur E. Sutherland, Jr., and Robert Braucher, a Uniform Law Revision Commissioner from Massachusetts.

The Code, from all reports, has met with considerable success in Pennsylvania, where it took effect on July 1, 1954. And the experience of the Keystone State will also weigh heavily in other areas where adoption of the Code is being debated.

Pennsylvania, indeed, is so well pleased with the Code that its Legislature is expected to pass legislation (See COM. CODE on page three)

Letters to the Editor

CAPITAL PUNISHMENT

TO THE EDITOR OF THE RECORD:

In your edition of March 1, 1956, there is a letter from Dean Pound suggesting that the case of *State v. Sawtelle*, 66 N.H. 488, bears on the efficacy of capital punishment. My deep affection and high regard for my old teacher in Jurisprudence makes it difficult for me to believe that this case really diverts his thinking on the value of ferocious punishments as deterrents in the criminal law.

Sawtelle, who lived in New Hampshire very close to the Maine line, lured his victim to a barn in a lonely spot and there killed him. The place was so close to the boundary that one of the issues in the case was whether Merrill's barn was in New Hampshire (which retained capital punishment) or in Maine (which had abolished it). There were a number of good reasons for Sawtelle to choose this spot for the murder. If one of these reasons was to enact the crime on Maine soil, then Sawtelle, who was thoroughly at home in the neighborhood, was pretty careless about selecting such a dubious locus as Merrill's barn, when he could have found a spot clearly beyond the boundary line.

But what of it? Some years ago a gang of professional criminals, with headquarters in Pawtucket, Rhode Island (which had abolished capital punishment) continually crossed the border into Massachusetts to commit their robberies and stick-up jobs, resulting in several murders. Surely this does not prove the superior efficacy of life imprisonment. Drawing general conclusions from single instances is not a very reliable process. It is not Dean Pound's usual approach, as I well know. Not only was I one of his most devoted disciples, but it was my privilege, under his direction, to survey the Criminal Courts of Cleveland for the "Cleveland Crime Survey". To ascertain what really influenced the course of criminal justice, we charted the history of hundreds and even thousands of criminal cases. So far as the criminal law affects the crime rate—there are other factors—we know that the imminent risk of apprehension and the near-certainty of conviction operate far more powerfully than the severity of penalties on the printed page of the statute books.

Homicide Rate Unaffected

Maine and Rhode Island have managed without capital punishment for about a century. The homicide rates in those states are usually no higher, and frequently lower, than in neighboring New England states. The same observations apply to other states which have abolished the death penalty when compared with their neighbors. In some states where capital punishment was abolished and then restored, the homicide curve has not been affected one way or the other by these shifts.

In recent years there have been two British parliamentary committees and one Canadian parliamentary committee which have made exhaustive surveys concerning the alleged superior efficacy of the death penalty. All of this material as well as a large number of studies on the subject by competent authorities is available. Are not these far-reaching reports on the experience of mankind with the death penalty more worthy of consideration than the over-worked case of Isaac Sawtelle, which seems to be the only "fact" offered by proponents of the death penalty to prove its superior deterrent quality?

HERBERT B. EHRLMANN, LL.B. '14

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Published weekly on Thursday for twelve weeks of each term by The Harvard Law School Record Corporation, 23 Everett St., Cambridge 38, Massachusetts. Subscription price: \$2.00 per term, \$4.00 per year (24 issues) mailed; student subscription \$1.50 per term mailed, \$1.00 per term distributed at the Law School. Individual copies 10c each at the Law School, 20c each mailed. Business and Editorial Offices, 23 Everett St., Cambridge 38, Massachusetts. Telephone, Kirkland 7-7600, extension 447.

Entered as second-class matter November 19, 1946 at the post office in Boston, Massachusetts, under the Act of March 3, 1879.

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WALL STREET MORALS

TO THE EDITOR OF THE RECORD:

A recent letter by Roy L. Prosterman criticized the "sinking" moral tone of an article written by me (RECORD, March 1) which condensed "The Wall Street Lawyer" by Martin Mayer, appearing in *Harper's Magazine*. A brief discussion of the moral implications of the problems raised by that article and Mr. Prosterman's letter may well be in order.

First, it was never my intention to condone the activities of this group of lawyers. Neither was it my intention to disregard the fruits that accrue to them. As Mr. Prosterman aptly puts it, "... the successful Wall Street Lawyer (is) a man whose life is the very 'best'." What I tried to do was to reflect Mr. Mayer's feeling that this group of attorneys had failed in its duty to its profession and to the public. I tried to show that the Wall Street Lawyer has been given great power—and equally great responsibility. He has taken the privilege, but, to some extent, failed in his responsibilities.

Business Morals Discussed

However, it must always be remembered that "morality" in the abstract may be difficult of effective operation in daily business life. The Wall Street Lawyer is deeply enmeshed in the life of the business community. Whatever may be the moral tone of this business group, it is generally recognized that it can never approach that of any professional community. The problem facing these attorneys, then, is how to maintain their own professional standards ("serving the Law and not the client") and still be of service to the business community which employs them. Secondly, in our advocacy system (whose merits and traditions are too deeply imbued into our social system to even be questioned at this point), it is only natural that a certain amount of partisan effort be evident.

Unquestionably, the Wall Street Lawyer has failed in some of his responsibilities to the community (most notably by maneuvering, or at least, giving aid and comfort to the stock and bond organizations that led to the crash of 1929 and the subsequent world depression) and may even today be failing in these responsibilities. All this does not mean, however, that the moral standing of the business community would be higher without his participation. It can only be a matter of speculation on what excesses might be perpetrated without the stabilizing influence of the legal profession.

Tighter Selection

The problems facing any member of our profession practicing in the business community will not be solved by recrimination and damnation. They might be alleviated by a tighter selection of the personnel who enter the profession, closer policing of the individual activities by the profession itself, and above all a refusal by individual attorneys to engage in quasi-legal activities demanded by the client which might do damage to the whole community. The last possible remedy would have the effect of educating the public that the legal community is not available for the purposes of moral prostitution.

As far as the student is concerned, it may be advisable always to keep in mind the words of Mr. Justice Stone that closed Mr. Myer's article:

The zeal of the student for proficiency in the law, like that of his elder brother at the Bar, comes from a higher source than selfishness. It is devoted to his conception of a useful and worthy institution. But that conception is a distorted one if it envisages only the cultivation of skill without thought of how and to what end it is to be used. . .

—HARTLEY CHAZEN, LL

Gallery

ALPHEUS THOMAS MASON

Princeton Professor



Alpheus Thomas Mason is that rare combination of teacher and scholar found only too seldom in the liberal arts college.

As teacher, the 56-year-old Princeton professor carries a schedule second to none in his department. During a year he lectures and precepts two undergraduate courses in his special fields, American political thought and Constitutional interpretation, as well as conducting graduate seminars in each.

Rigorous Taskmaster

An enthusiastic teacher, Mason demands, and gets, a high degree of interest from his students. His upperclass course in "con interp," for example, has perennially been rated by the *Daily Princetonian* as the "toughest" in the politics department, if not the university. In a 15-week term, his students are required to brief some 100 cases covering the development of American jurisprudence from 1789 onward, to absorb an incredible amount of Court history from his weekly lectures, and to prepare three original 5,000-word "decisions" on such knotty problems as the Bricker Amendment, segregation, use of the Fifth Amendment and intergovernmental taxation.

"I don't mind if my students take 'gut' courses (vernacular for a curriculum filler)—as long as they aren't mine," Mason observes wryly.

Nor do his graduate students have an easier time of it. A short paper is required from every one each week, with seminar discussions based upon them.

Sharp in Class

Mason is a relentless taskmaster in the classroom, telling poorly prepared students they will end up as "plumbers" or cuttingly addressing them as "Dr." "Mr. Justice." Yet he is without question one of the most popular teachers at Princeton. Students may moan and complain while his courses are in progress, but they almost universally hail him when the final exams are over. A stalwart friend of the *Princetonian*, he readily helps out the cub reporter in distress with highly quotable observations on current problems within his purview. He also maintains an interest in the omnibus campus political organization, the Whig-Closophic Society, giving advice when it is solicited.

Mason's office door is usually open to undergraduates seeking advice about courses or law schools, and to students merely wishing to engage him in conversation on a variety of subjects, from the method of club elections at Princeton to Supreme Court decisions. Indeed, he might well be termed the university's unofficial adviser to pre-law students. Almost without exception they end up at his office for advice.

On preparing for law school, Mason has decided views. He cautions the prospective law student to broaden his interests, to range beyond merely "practical" courses in politics. Master the English language," he says, "and take subjects in art, and literature and music—you'll get the technical business soon enough in law school." But lest the advisee embark on the program of a dilettante, he advocates a thorough grounding in such subjects as accounting and corporation finance, in English Constitutional development, American history and, of course, "con interp" and American political thought.

Numerous Works Published

Despite these manifold academic chores, Mason finds time to continue his scholarly researches. Within the past two years, his publications have included numerous law review articles (the most recent being a study of the World War II Saboteur's Case in the March *Harvard Law Review*), a casebook in Constitutional interpretation, a revised edition of *Free Government in the Making*, a basic text in American political theory, and *Security Through Freedom*, a collection of lectures delivered at Cornell last year on U.S. "political thought and practice." In addition, he has held and continues to hold numerous committee assignments at the university and is active in such groups as the Social Science Research Council and the American Political Science Association.

Perhaps the major work of his career, a biography of Chief Justice Harland Fiske Stone, will appear this fall. A mammoth, 400,000 word volume, the book covers Stone's career from his deanship of the Columbia Law School on through his 21 years on the Supreme Court. The work promises to be a significant one in the field of American jurisprudence, documented as it is with papers from Stone's private files. Not only will it be a comprehensive study of the formulation of one man's judicial thinking, but it will chronicle the history of the Court during the Taft regime, the hectic 1930's and the turbulent new court era that ended with Stone's death in 1946.

Wrote on Brandeis

Mason himself regards the book as more "comprehensive and complete" than the definitive *Brandeis: A Free Man's Life* which he published a decade ago.

Current issues do not escape the Princeton professor either. He has watched the aftermath of the 1953 segregation decision with interest, convincingly tracing the decision itself to Stone's opinion in *U.S. v. Carolene Products* (304 U.S. 144) and *Minersville School District v. Gobitis* (310 U.S. 586).

In the present age of "progressive moderation," Mason thinks he detects recurring signs of the familiar "normalcy" of 30 years ago. His controversial position on such aspects of current political thought as "welfare capitalism" led the publisher of his *Security Through Freedom* to note that "it is a volume that will anger some and encourage others."

A native of Maryland, Princeton's teacher-scholar attended Dickinson College and took his Ph.D. at Princeton. He has been a full professor there since 1936 and was appointed McCormick Professor of Jurisprudence, the chair held by Woodrow Wilson and Professor Emeritus Edward S. Corwin, in 1947.

Mason's son-in-law, Joseph E. Batchelder, Jr., is a first-year student at Harvard Law School.

—James H. Duffy

Recently Published

SEPARATION OF POWERS

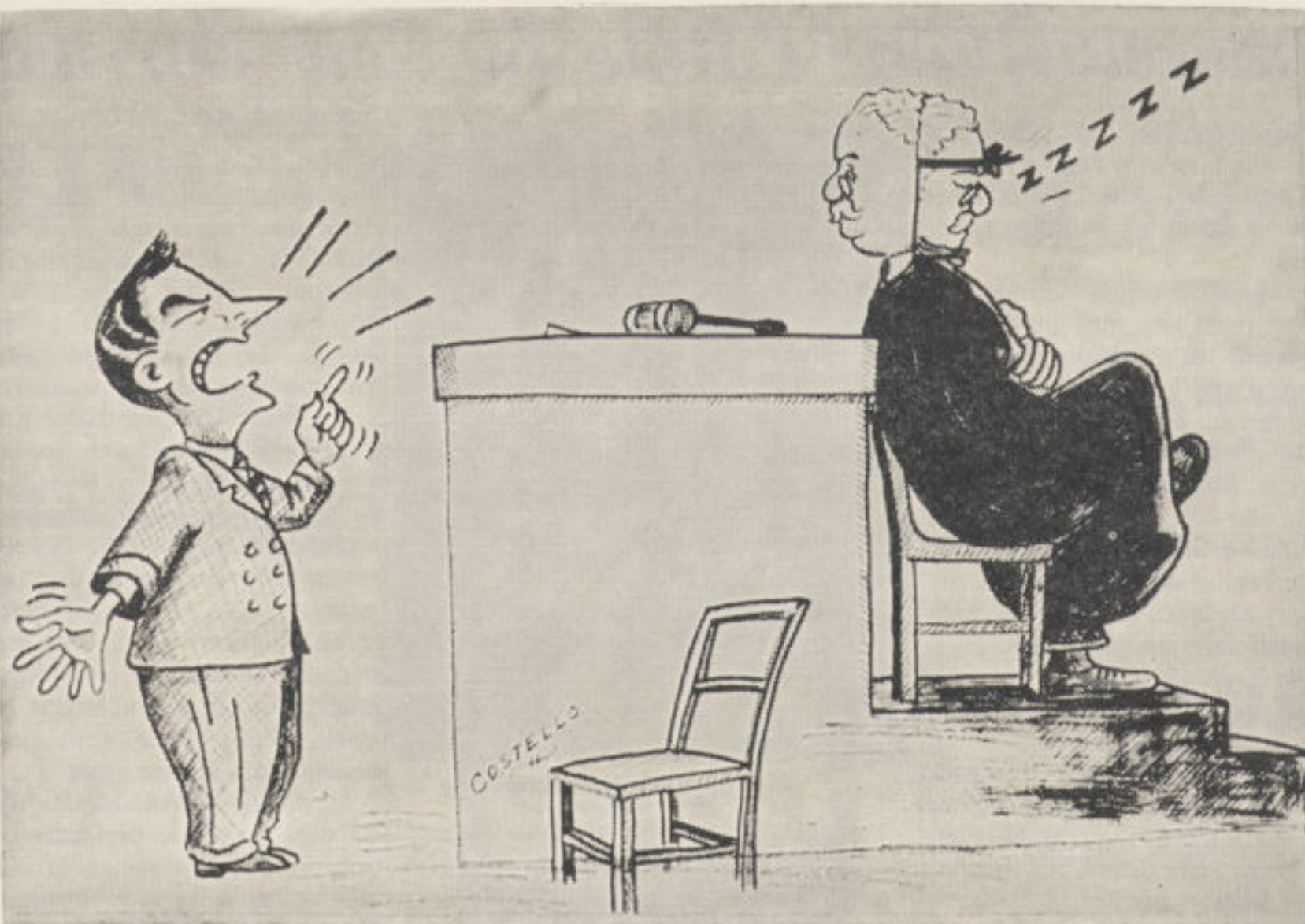
Herbert Brownell, Jr., Attorney General of the United States, "Separation of Powers: Executive and Legislative Branches," 60 Dickinson L. Rev. 1 (1955).

Section 638 of the Department of Defense Appropriation Act of 1956 reserves to the appropriations committees of the Senate and House the right to disapprove action by the Secretary of Defense in contracting out work formerly done by personnel of the department. This violates the constitutional principle of separation of powers by usurping executive power and engrafting it upon members of the legislature. While Congress may enact legislation governing the making of contracts, it may not delegate the power to make or disapprove contracts to its committees. The section cannot be sustained as a proper condition attached to an appropriation. The section is severable and does not affect the validity of the remaining provisions.

CONTRACT LIABILITY

Daniel Stack, "The Liability of the United States for Breach of Contract," 44 Georgetown L. Jour. 77 (1955).

The United States will not be held liable on a contract when obstruction or non-performance results from its public acts as a sovereign. This is an equitable rule designed to protect the government when laws, regulations or orders interfere with the contract. The interference must be justified as necessary to the proper conduct of government independently of the contract.



International Legal Studies Articles Listed

Several recent articles on the work of the international lawyer provide answers to two questions frequently asked by students interested in specialization in International Legal Studies:

With what kind of problems does a lawyer specializing in international matters deal, either in private practice or in public service?

How should a person intending to do legal work in the international field prepare himself professionally for such activities?

International Legal Studies as a "professional window opening upon the problems of international relations and foreign policy" and as a "part of the daily grist of the lawyer's mill" are discussed by the Law School's Director of the program in this field, Professor Milton Katz, in *International Legal Studies: A New Vista for the Legal Profession*, 42 A.B.A.J. 53 (1956) and 7 *Harvard Law School Bulletin* 8 (1956).

Domestic Law Important

Two articles discuss the types of international problems encountered in private practice. They both lay emphasis on the fact that facility in international law, comparative law, or the law of international business may supplement, but cannot replace, a sound grounding in, and practical experience of domestic law. Arthur H. Dean, who has had a distinguished career in private practice and in public service, has written *The Role of International Law in a Metropolitan Practice* in 103 U. of Pa. L. Rev. 886 (1955). Another survey from a similar perspective is Ball, *The Lawyer's Role in International Transactions*, 11 *Record of the Association of the Bar of the City of New York* 61 (1956).

C. Wilfred Jenks, an Assistant Director-General of the International Labour Office, has set down in *Craftsmanship in International Law*, 50 Am.J.Int'l.L. 32 (1956) the skills which an international lawyer should have. The standards which he sets are extraordinarily high, and they must be taken as a counsel of perfection. A noteworthy feature of the article is a succinct introduction to the bibliography of international law.

Report Also Available

Finally, a Report of the Committee on International Law of the Association of American Law Schools entitled "How Many International Legal Questions in the Operation of the United States Government" lists the Government departments which deal with matters involving international law and indicates the specific topics of that law with which they are concerned. Copies of the introductory portions of this report are obtainable from R. R. Baxter in Langdell Hall.



Frederick S. Wyle

Wyle to Judge Drafting Final

The task of drafting Congressional legislation to resolve some of the conflicts in state laws relating to divorce and alimony has been assigned to the three teams in the final round of the annual drafting competition.

Judge for the final round will be Frederick S. Wyle, LL.B. '54, a San Francisco attorney who was a teaching fellow at the Law School during the academic year 1954-55.

Mr. Wyle was a member of the winning team in the Ames final of 1954 when the two clubs argued a complex divorce case. He also assisted Dean Erwin N. Griswold in preparation of the Dean's *amicus* brief in the Supreme Court case of *Granville-Smith v. Granville-Smith*.

This was the case, decided about a year ago, in which the Court knocked out, as unconstitutional, the liberal divorce laws which had turned the Virgin Islands into a tropic Reno.

Members of the three third-year teams in the final round are:

Team 1—William F. Cody of Holyoke, Brook Mitchell of Bronxville, N. Y., Dixon L. Stanton and Carl L. Zanger of New York City.

Team 2—Erik P. Wolt of White Plains, N. Y., Thomas Withycombe of Eureka, Mont., Charles J. Frisch of Minneapolis, Minn., and Andrejs Gots of Dorchester.

Team 3—John R. H. Blum of Manhasset, N. Y., C. Kenneth Orski of Sunnyside, N. Y., David A. Watts of Glencoe, Ill., and George H. Walker of Greenwich, Conn.

Sid Stutz Selected Student Bar Prexy

The Student Bar Association has elected Sidney A. Stutz, 2L of Urbana, Ill., as president for the next academic year. Mr. Stutz, who was graduated from the University of Illinois in 1954, succeeds Benjamin Wolman, 3L of Baltimore, as SBA president.

Virgil N. Woolfolk, 2L of Lawton, Okla., was named first vice-president of the group at its Monday afternoon election. Betty C. Fortier, 1L of Derry, N.H., will serve as second vice-president. As secretary, the Barmen chose Carter L. Gore, 1L of Staunton, Va.; and Thomas A. St. Pierre, 1L of Seattle, Wash., will act as treasurer.

The SBA luncheon speakers program, which has brought a half dozen attorneys to talk at the Law School so far this year, will be headed next year by Arthur L. Harper, Jr., 2L of Andover.

COMMERCIAL CODE

(Continued from page one) pected this spring to enact the Uniform Commissioners' first proposed Uniform to the basic Code. This supplement was announced in 1954 and was followed by another supplement last summer.

The Code is a continuing project of the Commissioners, and they are constantly reviewing it in the light of experience and changing business practice. A more thorough-going review in the next few years may be the way out of the impasse apparently created by New York's recent action.

Rackets Restrung

One Day Service
TENNIS & SQUASH SHOP
67a Mt. Auburn St. Cambridge
Opp. Lowell House — TR 6-5417

Yale Law School Revises Curriculum With Help of Ford Foundation Funds

"The only difference today between Yale and Harvard Law Schools is that the course names at Yale are couched in sociological terms." This statement, made last year by a Harvard professor with a Yale background, was made in reference to the fact that Yale's once radical curriculum changes had been gradually accepted by the other law schools, and that Yale had veered slightly back to the norm after its extreme departure.

But the difference is being resurrected, according to a recent announcement by Dean Eugene V. Rostow of the Yale Law School, who was appointed last July to succeed the late Harry Shulman. According to his article in the February issue of the *Yale Alumni Magazine*, "... it is fair and dispassionate to report ... that the (Yale) Law School is about to enjoy a new birth of achievement, which should match in every way the various Golden Ages of the past."

Three major changes are to be made in their curriculum: (1) One of the first term courses (a term is the equivalent of a semester) will be given in small seminars, (2) In the fourth and fifth terms, one half of the courses will be in seminar form, and (3) an optional four year program will be initiated which will combine M.A. and LL.B. degrees.

The chief financial support for the change is a Ford Foundation grant of \$1,600,000 made last December. Because



Eugene V. Rostow

the planned revision will make heavy demands on the faculty, Yale Law School plans to increase its teaching staff by 20%.

The first term seminar will be the only first year course not given in the orthodox lecture form. Its purpose will be to give regular experience in small group discussion combined with sustained and intensive classroom conversation from the beginning of the student's law school education.

In the upper-class seminars, each student will be required to undertake a serious research project. Not all of the advanced courses will be taught by the Yale Law Faculty. Members of related departments of Yale University will be utilized. Thus economists will teach taxation, business law, anti-trust, and other forms of governmental regulation.

Dean Rostow emphasizes that these seminars will not supplant the orthodox law

course, but are merely the same courses "taught by other, more intensive, and more adult means."

The M.A.-LL.B. program will be optional, and is designed for the training of legal specialists. Students who elect this program will take the regular first year of Law School, and then a year in the Graduate School in one department or another. The final two years of law school would be devoted partially to courses requiring the students to use their new professional skills in the study and solution of legal problems.

Legal Writing Stressed

The changes are being made as a result of proposals made by a Curriculum Committee of the Yale Law School. They are in response to two conclusions reached in regard to law school methods: "The first is that traditional law school training does not give non-Law Journal students enough experience in independent research and legal writing. Lawyers tell us that, except for Journal editors, many young law school graduates, both from Yale and elsewhere, are not ready to prepare first-class briefs, memoranda and letters of the kind which practice demands. They are trained in analysis but not in synthesis. They can take their problems apart; but they are not yet ready to solve them in a mature, professional way. The corollary of this conclusion is that law school training is by and large too heavily weighted on the side of standardized classroom procedures. Courses tend to be repetitious in method, and we often find some boredom among second and third year students not working on the Law Journal, or not deeply engaged in honors work or seminars."

Yale Law School proposes to integrate law and social studies on a much larger scale than ever before, but this is "not in the interest of making lawyers into economists, historians or sociologists, but in order to make them better and more deeply trained lawyers."

Dean Rostow also speaks of the rapid changes in the world order, and the new problems which have to be solved: "conflicts among groups over status and authority; conflicts which threaten civil rights in the name of the safety of the state; problems of family life and crime, of education, of health. As lawyers, we must face the urgent task of improving the administration of justice, and of perfecting and improving our methods of economic control."

He is of the opinion that if the work of

the law is to be crowned with success, the law schools "must continue to generate the great ideas by which men live." This requires creative originality in scholarship, and Dean Rostow says this should be their primary concern when looking for new faculty members. With the proper faculty and the revised curriculum, Dean Rostow feels that Yale will be better equipped to produce lawyers able to meet the challenges of the problems of modern society.

Specifically, the Ford Foundation grant will be used for parts of the new curriculum which will have special relevance in the training of law teachers and the pro-

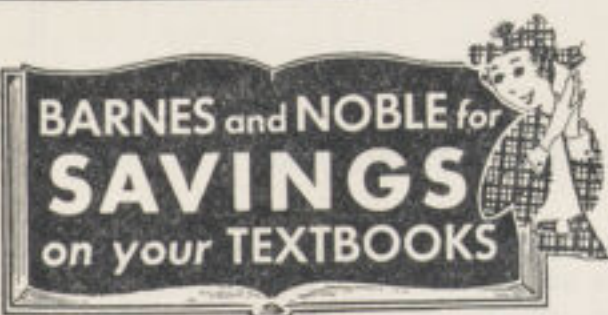


Harry Shulman

gram in international legal studies. The grant also provides for the establishment of two new professorships, one in comparative law and the other in law and social science.

Research funds for international legal studies and fellowships for foreign students made possible by the Ford grant are regarded as vital by Dean Rostow. "The increasingly complex relationship of the United States to the rest of the world makes it absolutely imperative for American lawyers of the coming generation to be trained in comparative and international law, particularly if they are to carry out their traditional role of leadership in American life. All the great policy problems of law in our time have vital international ramifications, and these we can't afford to neglect."

—Dushoff



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Jersey Group Presents Plan To Cut Rising Divorce Rate

Recommendations designed to reduce New Jersey's "appalling" divorce rate, as well as cut the harms caused by divorce, have been presented to the New Jersey Supreme Court by the Court's Committee on Reconciliation. The Committee's proposals, the result of a year-long study, demand sweeping changes in New Jersey marriage and divorce practices.

The report asks for action by the Legislature and the Supreme Court to provide pre-marital and post-marital counseling, extension of the period between application and issuance of marriage licenses, and mandatory conciliation, in some cases, before the beginning of a divorce action.

Noting that 80 to 90 percent of New Jersey divorce actions are undefended, the Committee suggests legislation to compel the appearance of the defendant in every suit. The report also urges that a trial judge should have authority to refer an action to the Probation Department for investigation, before, during or after the hearing.

Conciliation Urged

The forty-four page report strongly urges the creation of a new state agency to be called the State Family Counseling Service. Such an agency would be available for both pre-marital and post-marital guidance. Much stress is laid upon the need for some means of intervention before a marriage is "hopelessly wrecked."

The Committee declares that divorce statistics clearly indicate that not enough thought is given to marriage. It recommends that a brochure be given with every

license to explain the seriousness of marriage and especially the difficult adjustments that marriage involves.

The report praises highly the premarital guidance program of the Roman Catholic Church. It advises that similar programs be established in cooperation with religious and educational institutions.

Recommend New Oath

In urging a new civil marriage ceremony, the group argues that the present short and unimpressive ceremony lacks "an impact of seriousness" present in a marriage solemnized by a member of the clergy. The new marriage ceremony would remind those about to be married that "this union is not to be entered into lightly, but soberly, advisedly and reverently" with the knowledge that "the life of love is sacrifice."

The Committee points out that a wife who has custody of children requires immediate financial aid pending the reconciliation proceedings. "If the parties are husband and wife and separated against the wish of the wife or because she claims justifiable cause," the group concludes, "prima facie that should be sufficient to justify a temporary award." The Committee recommends that this court intervention should be avoided unless the couple cannot agree on an amount for support."

In an extensive survey of procedures in New York, Illinois, Minnesota and California, the Committee finds that the divorce situation in New Jersey would be greatly improved by the adoption of statutes now in effect in California. The report points out that in 1950, 1951 and the first half of 1952, 2,755 new matrimonial cases were begun in Los Angeles. Reconciliations numbered 973.

"Supermarket" States Deplored

The group deplors the introduction of "supermarket" practices into divorce legislation by many states. The group notes that conditions in New Jersey are not as serious as in those states. "Still," it concludes, "the difference between a big cancer and a little one is a matter of degree. Eventually, unless the little one is checked or excised before it metastasizes, the end result is the same—destruction."

—Langston

Jaffe Finishes Review Series

Dr. Louis L. Jaffe, Harvard's Byrne Professor of Administrative Law, will continue his study of judicial review of administrative action in the April issue of the *Harvard Law Review*.

Dr. Jaffe's article, one of three to be published in the April *Review*, is entitled "Judicial Review: Question of Fact". It complements his article, "Judicial Review: Question of Law", which appeared in the *Review's* early in the year.

Surrey Writes on Tax

Other contributors to the April issue are Professor Stanley Surrey and Joseph W. Bishop, LL.B. '40, of the New York Bar. Professor Surrey deals with "Definitional



Louis L. Jaffe

Problems in Capital Gains Taxation" while Mr. Bishop writes of "Corporate Directors' Right to Indemnification".

The issue also includes five notes by the student editors. One of these is the *Review's* annual report on the geographical distribution of the student body.

Other notes are entitled: "Private Bills and the Immigration Law", "The Effect on Public Utility Rate Making of Liberalized Tax Depreciation Under Section 167".

Also "The Federal False Claims Act: The Informer as Plaintiff" and "Municipal Housing Codes". The April issue will be the first published under the partial direction of the *Review's* newly-elected officers for 1956-57.

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