



Harvard Law Record

Ten Years' Service to the Harvard Law School Community

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PRICE TEN CENTS

Blackstone Wins

Quarter-Finals In Full Swing

The quarter-final round of the Ames Competition for the Class of 1957 began in the Ames Courtroom Tuesday. By next Thursday survivors will be pared to the four teams which will take part in next fall's semi-final.

The Blackstone Club became the first to reach the semi-final round bracket when it defeated the Gardner Club in an anti-trust case argued Tuesday night before a court headed by Justice William J. Brennan, LL.B. '31, of the New Jersey Supreme Court.

Another semi-finalist will be picked tonight when the Toepfer Club faces Casner Law, and the last two will be chosen next week when the Casner Equity and Griswold Clubs clash on Tuesday and the Field and Kaplan Clubs meet on Thursday.

Judge Edward J. Dimock, LL.B. '14, of the United States District Court for the Southern District of New York, will preside at tonight's argument between Casner Law and Toepfer, and Justice Arthur E.



Arthur E. Whittemore

Whittemore, LL.B. '22, of the Massachusetts Supreme Judicial Court will head the panel of three jurists at next Tuesday night's argument.

Tonight's case deals with a challenge to the Secretary of the Interior's grant of a mineral and gas lease on public land to a certain individual whose name has been drawn by lot in accord with a statute.

Representing the Toepfer Club as oralists will be Blair L. Perry, 2L of Williams—(See AMES on page four)



Henry M. Hart, Jr.



Albert M. Sacks

Legislation Course Revamped For Next Year's Curriculum

A new course, entitled *The American Legal System: Processes of Law-Making*, will take the place of *Legislation A* and *Legislation C* in next fall's curriculum as an elective for second-year students.

Professors Henry M. Hart Jr. and Albert M. Sacks will divide the teaching chores, each handling a section which will meet twice weekly. They are compiling and re-organizing editions of text materials which will replace the mimeographed edition used in legislation courses this past year.

The course will attempt to give students a coherent picture of the American legal system by dealing with the working interrelationships of various parts of the system. The major theme of the course will be to examine the various procedures of the American system, and to deal with the relationships between these procedures.

Private ordering, judicial and administrative enactments will all be considered. In examining the various institutions by which these decisions are made, students will focus their attention on the kinds of problems each institution solves well, and wherein lie its weaknesses.

The revised text materials will deal with the individual institutions, but in such a manner that the interrelationships between them will be clearly defined. The first and last chapters will tie the whole system together, while the main body of the text will deal in detail with problems arising from individual institutions. The course itself will emphasize those chapters dealing with private ordering, the courts in the field of unwritten law, the legislature, and statutory interpretation.

An unusual method will be followed in the presentation of these materials. The (See NEW COURSE on page four)

Senate Committee Plans Hearings in Austin Courtroom

The Senate Subcommittee on Disarmament will hold hearings in the James Barr Ames Courtroom on Monday, April 9, to find out the views on disarmament of Boston's public and academic community.

Associate Dean David F. Cavers who has been asked by the Subcommittee to make arrangements for the hearings, said two hearings has been scheduled. At the first meeting, all interested citizens may present their ideas, while at the second session, experts on world affairs will express their viewpoints.

Among the topics to be considered by the subcommittee, which is chaired by Senator Hubert H. Humphrey (D-Minn.) are weapons development in the United States and the Soviet Union, technical aspects of international inspection and control. The probable Soviet attitude toward disarmament, and legal, political and economic effects of disarming.

Boston was chosen as the first place to hold hearings, Senator Humphrey said, because of the great number of experts in the international field at Massachusetts universities.

Dean Cavers is one of the experts who has been invited by the committee to testify at the afternoon session. Other specialists who will appear before the Senate group include staff members of Harvard's Russian Research Center.

Griffin v. Javits

New York State's Attorney General Jacob K. Javits has been designated by the Law School Forum as the party of the second part for its scheduled debate, April 13, on racial integration in the South.

Mr. Javits will share the platform with Governor Marvin Griffin of Georgia at a meeting which Forum President Joseph L. Fisch, 3L of New York City, expects to draw one of the largest crowds of the year.

The Forum also has scheduled a meeting in Sanders Theatre tomorrow night where former Vice-president Henry A. Wallace and Law School Professor Mark DeWolfe Howe will discuss a key issue of the 1956 campaign—"The Role of the Vice-presidency".

Thorne to Teach Here; Three Others Promoted

Samuel E. Thorne, LL.B. '30, an authority on English constitutional history who is librarian and professor at Yale Law School, will join the faculty of Harvard University at the end of the present academic year in June.

President Nathan M. Pusey announced yesterday Mr. Thorne's appointment as professor of legal history and said that he would teach courses in three schools of the University—the Law School, Harvard College, and the Graduate School of Arts and Sciences.

Meanwhile, Dean Erwin N. Griswold also announced the promotion of three assistant professors to the rank of full professors at the Law School. They are Robert E. Keeton, John T. McNaughton, LL.B. '48, and Donald T. Trautman, LL.B. '51, all of whom have been members of the faculty since 1953.

Mr. Thorne has been the librarian of the Yale Law School since 1945 and a professor since 1948. When he joins the Harvard faculty he will devote his full time to classroom work, teaching courses in English legal history in the Law School and in medieval constitutional history in the College and Graduate School.

He is presently working on an edition of the collected papers of Frederic William Maitland, the nineteenth century English constitutional historian, and he also is preparing a collection of cases and material for teaching the history of the law of real property.

Professor Thorne served as librarian in the law schools of Columbia and Northwestern before World War II, and during the war he served in the U.S. Navy. A native of New York, he received the A.B. degree in 1927 from the College of the City



Robert E. Keeton

of New York, and then entered the Law School.

In his historical research, he has spent several periods in England on Guggenheim and Fulbright Fellowships and as Maitland Lecturer at Cambridge University. He is a member of the Council of the Selden Society, organized for the study of English constitutional history.

The newly promoted assistant professors are specialists in different fields—Mr. Keeton in trial procedure and torts, Mr. McNaughton in evidence and commercial law, and Mr. Trautman in contracts and conflicts of laws.

Mr. Keeton, a graduate of the Law School of the University of Texas, where his brother, Page, is dean, came to Harvard from private practice in Houston. He previously had taught at the Law School of Southern Methodist University in Dallas.

Mr. McNaughton, a naval officer on the war-time convoy runs to Murmansk, entered the Law School in 1946 and graduated *magna cum laude* two years later. He subsequently attended Oxford as a Rhodes Scholar, served with the Economic Cooperation Administration in Paris, ed—(See PROFESSORS on page four)



John T. McNaughton

New Film of Case in Point Produced by Student Board

A new edition of *Case in Point*, the Board of Student Advisers' color film explaining the Ames competition and the fundamentals of legal research, is in the final stages of production and will be ready for a showing to the faculty later this Spring.

The script of the new film was written by Robert S. Ryan, 3L of Upper Montclair, N. J., Vice-chairman of the Board of Student Advisers, in collaboration with Board Chairman Alan D. Hakes, 3L of Longmeadow, and Monroe H. Freedman, Faculty Adviser in charge of the Ames Competition. The film was financed by a grant from the West Publishing Co. of St. Paul, Minn.

The full-color, sound motion picture was made by Radio-TV Station WGBH, under the direction of Franco Romagoli, who brought to the production a professional polish and a relaxed tempo of presentation.

For this and other improvements Mr. Freedman gives credit to the earlier attempt, which was studied both for content

and technique. Some essential material has been added, while much that was superfluous in the former film has been cut. The new picture runs about forty-five minutes—five minutes less than the old one.

A complete change in the perspective of the presentation adds drama and interest. Instead of the relatively static context of a library tour, in which one person talks directly into the camera while four others look on, the perspective has been shifted to that of the law student who has had his library tour and attempts to apply what he has learned in the research of his first Ames case.

The action begins with the oral argument, flashes back to the student counsel picking up his facts sheet, and then shifts to a dramatization of the facts of the case itself, which involves an alleged false imprisonment of a young salesgirl by her employer.

The explanation of the methods and (See CASE IN POINT on page three)

Law Commission's Rejection Of UCC Believed Temporary

Rejection of the Uniform Commercial Code by the New York State Law Revision Commission does not necessarily place the Commission permanently on record against the Code, according to an analysis by faculty leaders who were active in preparation of the Code by the Commissioners on Uniform State Laws and the American Law Institute.

The New York Commission filed a 106-page report with the Legislature at Albany earlier this month in which it recommended that no Legislative Action be taken on the Code, or any part of it, at the present session. But, pointed out Professor Arthur E. Sutherland, a former Uniform Commissioner from New York, "the door definitely was left open for re-consideration at some future time."

Mr. Sutherland and Professor Robert Braucher, a Uniform Commissioner from Massachusetts, see the possibility of more favorable action in the Commission's conclusion that "the preponderance is in

favor of codification of all or major parts of commercial law."

Commission Advocates Revisions

The heart of the conclusions of the Commission was the decision that the Code was not satisfactory in its present form. In its report, the Commission made specific objections to the use of general concepts of reasonableness, novel terminology, the handling of interpretive comments, and the substitution of fixed rules for what formerly were flexible concepts. But even within the areas which were approached with an attitude of criticism, however, there were statements of approval of some of the Code provisions.

Mr. Sutherland emphasized that the Commission rejected the idea of permitting the field of commercial law to stand as it is, and also rejected the idea of amending existing uniform acts.

While conceding the validity of some of the criticisms of the Code, Mr. Sutherland (See BRAUCHER on page four)

Harvard Law Record

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Letters to the Editor

EXPULSED FOR FALSE CHARGES

TO THE EDITOR OF THE RECORD:

Your article of March 8, 1956 with reference to Autherine Lucy headed "Excluded Again" is shocking to every alumni of Harvard Law School in the South. When we attended Harvard many years ago, we were taught the necessity of getting the facts straight, but apparently you no longer consider that important. We of the South should by now be accustomed to the misinformation and propaganda in Northern newspapers who have little or no knowledge of the facts, but it is very disturbing to see our law school RECORD participate in such distortion.

You state: "In other words Miss Lucy was expelled for asserting her rights in the federal courts." This is absolutely untrue. Had her conduct been that of an ordinary college student, in all probability her attendance at the University of Alabama would have caused no further friction than the admission of similar students to schools of higher education throughout all of the South. We do not seek to condone in any way the violence which developed, but probably her being attended by photographers and press agents and tendering \$100.00 bills in payment for \$3.00 books did not endear her to the other pupils. Be that as it may, her continued attendance incited such violence that for her own safety the Board of Trustees excluded her from further attendance at classes until her safety could be assured.

Autherine J. Lucy and her attorney then filed in the United States District Court a verified petition in which in effect, she charged the Trustees with conspiring to encourage these riots as a stratagem adopted for denying her the right to continue to attend the University of Alabama. This charge of conspiracy was a serious charge and it was widely publicized throughout the entire nation. When the case was called before Judge Hobart Grooms, her attorney in open Court withdrew this charge over the protest of the Trustees, stating that Autherine Lucy and her attorney had not the slightest evidence to support this charge of conspiracy. Judge Grooms not only found as a fact that there was no basis for such charge, but further found as a fact that the Trustees had acted in good faith. Autherine Lucy was expelled, therefore, not for asserting her rights, but for making a false affidavit charging the Trustees with a crime when she and her attorney admitted they had no slightest proof thereof.

You might be interested to know that among the Trustees at the University is Justice Thomas S. Lawson of the Alabama Supreme Court. Also a member is Robert E. Steiner, Jr., LL.B., Harvard Law School, 1909, whose father graduated in the Class of 1884, and whose son graduated in the Class of 1949.

Entirely aside from the racial issues, it concerns us that the HARVARD LAW RECORD would make the next statement: "If there is any occasion on which a person should be privileged to allege *whatever he pleases*, surely it is the court pleadings of a lawsuit." Let me ask frankly whether the current conception of legal ethics at Harvard Law School encourages the teaching to law students of the doctrine that an attorney and client are justified in signing and verifying pleadings containing known misstatement[s] of facts. If so, I doubt seriously that any graduate of Harvard Law School, white or colored, could pass the Alabama Bar examination on Legal Ethics. While in most jurisdictions libelous

statements in pleadings give rise to a qualified privilege, I suggest that you read Rule 11 of the Federal Rules of Civil Procedure in which it is stated, "The signature of an attorney constitutes a certificate by him that he has read the pleadings; that to the best of his knowledge, information and belief there is good ground to support it."

You suggest that expulsion for the use of false and unfounded allegations in a complaint is a clear case of contempt of court. I submit that for a client and an attorney to invoke the judicial process by a verified petition containing unfounded false charges is not only a violation of Rule 11, but should itself be punished as contempt of court.

J. C. CRENSHAW, 1924-1926
March 20, 1956, Montgomery, Ala.

CHARGES JUSTIFY EXPULSION

TO THE EDITOR OF THE RECORD:

In connection with your editorial "Excluded Again" it should be borne in mind that the charges of conspiracy made by Miss Lucy against the Trustees were so wholly false and unfounded that her counsel abandoned them before hearing only a very few days after they had been filed in court.

Filing of false charges of misconduct or corruption against a judge by an attorney has frequently been held to constitute ground for suspension or disbarment. See cases collected at 7 C.J.S. 752-3, Attorney & Client Sec. 23 (d).

The fact that Miss Lucy is seeking to assert a constitutional right gives her no license to libel those who oppose her, even though there may exist a privilege which makes her immune to an action for damages. It would appear that the relationship of mutual respect which must exist between faculty and students of a university is sufficiently similar to that which should exist between counsel and court that the expulsion of Miss Lucy under these circumstances is not beyond the power of the trustees.

The wisdom of their action is of course another question.

Let there be any misunderstanding, I was born and raised in this Commonwealth and have never resided in the South.

FRANKLIN N. CUNNINGHAM, LL.B. '48
March 19, 1956, Boston

UNIVERSITY HAS DISCRETION

TO THE EDITOR OF THE RECORD:

Unquestionably Autherine Lucy had a legal right to enter the University of Alabama. However worthy your motives are in desiring that the negroes of the South get educational opportunities equal to the whites, your analysis of this particular case is lacking in both factual and legal objectivity.

Firstly, the substance of the contemporaneous newspaper accounts read by me indicate that on a hearing of the cause referred to, Lucy's attorney abandoned that portion of the proceeding relating to a conspiracy on the part of the Alabama administrators and stated that these charges were being withdrawn.

Normally the only curb on false pleadings are the ethical standards of the parties involved coupled with an additional curb on the lawyers through the ethical standards adopted and enforced by the several bar associations. False pleadings are usually privileged insofar as legal action for damages are concerned.

However, at this stage of the proceeding Lucy's substantive rights had been judicially determined and this particular proceeding was quasi criminal and had Lucy's charges been maintained the sovereign would have demanded either fines or jail terms to compel future obedience to its decrees.

The Supreme Court of Rhode Island [*Quinlan v. Breslin*, 61 R.I. 327, 200 A. 989 (1938)] in an action for malicious prosecution has this to say about charges which are dropped:

"The defendant here brought about the dismissal of her private complaint against the plaintiff by failing to prosecute the same. In so far as she was concerned, this amounts to a voluntary dismissal of the prosecution. The fact that her attorney, on the day set for the trial of the case, stated to the court that the plaintiff was not the person who had assaulted the defendant does not alter the situation. The failure of the defendant to prosecute the criminal case, thereby causing the discharge of the plaintiff, was prima facie evidence of the want of probable cause, and the presumption, thus created against her, called for the presentation of competent evidence by her that there was in fact probable cause for instituting the criminal proceedings."

Administrative officials of all institutions of higher learning have historically maintained a wide use of discretion as to what conduct constitutes grounds for dismissal. I am informed, for example, that Michigan expelled its student editor circa 1929 for critical activities concerning the administration for which he had the highest motives and Columbia University acted equivalently against a student editor circa 1932, immediately after the editor finished his term of office, for somewhat similar reasons.

CLEVE BURTON, LL.B. '44 ('47)
March 20, 1956, Shreveport, La.

The Record's Reply

In its editorial of February 16, 1956, the RECORD condemned President Carmichael's approval of the exclusion of Miss Autherine J. Lucy from the University of Alabama by its trustees acting, or claiming to act, in Miss Lucy's best interests following campus riots. Miss Lucy then went to the Federal District Court and obtained a second decree ordering her admission to the University, in the course of which proceeding her attorney made and then withdrew charges that the trustees had in some way conspired with the mob or encouraged the riots.

Next, the trustees, without consulting the court, "permanently expelled" Miss Lucy, assigning these reasons in the preamble to their resolution as quoted by the RECORD in its editorial of March 8, 1956:

"Whereas, the said Autherine J. Lucy has publicly charged in the said United States District Court for the Northern District of Alabama that her exclusion from attending classes on the university campus is a cunning stratagem adopted by the board of trustees of the University of Alabama for denying her the right to attend and pursue courses of duty at the University of Alabama; and

Whereas, the charges so made against said William F. Adams, J. Rufus Bealle, Dr. O. C. Carmichael and the members of the board of trustees of the University of Alabama are wholly false and unfounded. . ."

In its second and third editorials, dated March 8 and 15, the RECORD condemned the second exclusion of Miss Lucy. The RECORD stated on March 15: "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."

The fact that Miss Lucy's attorney withdrew the charges does not settle the issue. It is to be presumed, until shown otherwise, that he originally made the charges in good faith, then subsequently withdrew them for an honorable reason such as lack of sufficient proof under the circumstances as they now appeared to him. Nor is the issue settled even if the charges were made in bad faith, for the issue of punishment still remains.

The position of the RECORD is clear: The court, and not the University, is the one to decide whether and how Miss Lucy is to be punished for her attorney's act if he did in fact commit an improper act. The University acted wrongfully in taking the law into its own hands by expelling Miss Lucy. The fact that Miss Lucy has the court orders in her favor temporarily, at least, prevents the University from summarily expelling her without reference to the court as it can an ordinary student.

Legal Support

The RECORD believes that its position is soundly supported in the law, as in the case of *Emergency Hospital v. Stevens*, 146 Md. 159, 186 Atl. 101 (1924). The court in a previous action had enjoined a hospital from excluding a doctor on the grounds that the hospital had not amended its constitution and by-laws in a valid manner so as to dismiss the doctor. Three months later the hospital excluded the doctor on the ground that it had in the meantime validly passed the necessary amendments. The Supreme Court of Maryland, without taking up the amendments on their merits, affirmed the trial court's holding that the hospital was in contempt for its unilateral action in the face of the prior injunction.

The court at 146 Md. 165, 186 Atl. 103, had this to say of the hospital's legal position: "... That is to say, by way of excuse it submitted the proposition that it was clothed with the power of determining for itself when it should obey and when it should not obey an explicit and peremptory order

of a court of competent jurisdiction passed in a cause to which it was a party. In support of that proposition it contends that in no other way could it exercise rights which had accrued to it through changes in the conditions upon which the decree was based occurring after its passage which, if they did not nullify the authority of the injunction as a continuing command, at least made its continued operation inequitable and unjust. . ."

The court said further: "Certainly, where changes in the relations of the parties or the conditions upon which it is based, occurring after a final decree of the nature of that passed in this case, render its further operation unreasonable, unjust, oppressive, or inequitable, the court which passed it necessarily must have the right to dissolve it, and it is wholly unnecessary to resort to so disorderly a proceeding as the commission of a contempt to secure relief."

Action up to Court

Thus, even if Miss Lucy's (or her attorney's) allegations were so unfounded as to constitute want of equity, it was for the court and not the university to penalize her. In no other way can the power of the court to deal with segregation problems be preserved.

With regard to Mr. Burton's remarks, the RECORD has not and does not now question the University's right to sue Miss Lucy for malicious prosecution. Nor is any attack made on the university's general power to expel students. The only attack is on the university's right to expel Miss Lucy without first going to court to seek a modification of the injunction in her special and unique case.

Concerning Mr. Cunningham's statements, the RECORD does not defend Miss Lucy's right to commit libel or file false charges, assuming she did so. The RECORD, however, insists that such matters, including any punishment therefor, should be determined by the court with jurisdiction over the case, and not by the adverse party acting unilaterally.

With regard to Mr. Crenshaw's letter, the RECORD believes that Miss Lucy's attorney's withdrawal of his charges constituted ample vindication for the trustees, as the withdrawal was well publicized. Why, then, did the trustees have to go further and take away Miss Lucy's original right to attend the university?

Recent Articles

COPYRIGHT

Leon R. Lankwich, Chief Judge, United States District Court, Southern District of California, "Parody and Burlesque in the Law of Copyright," 33 *Canadian Bar Rev.* 1130 (1955).

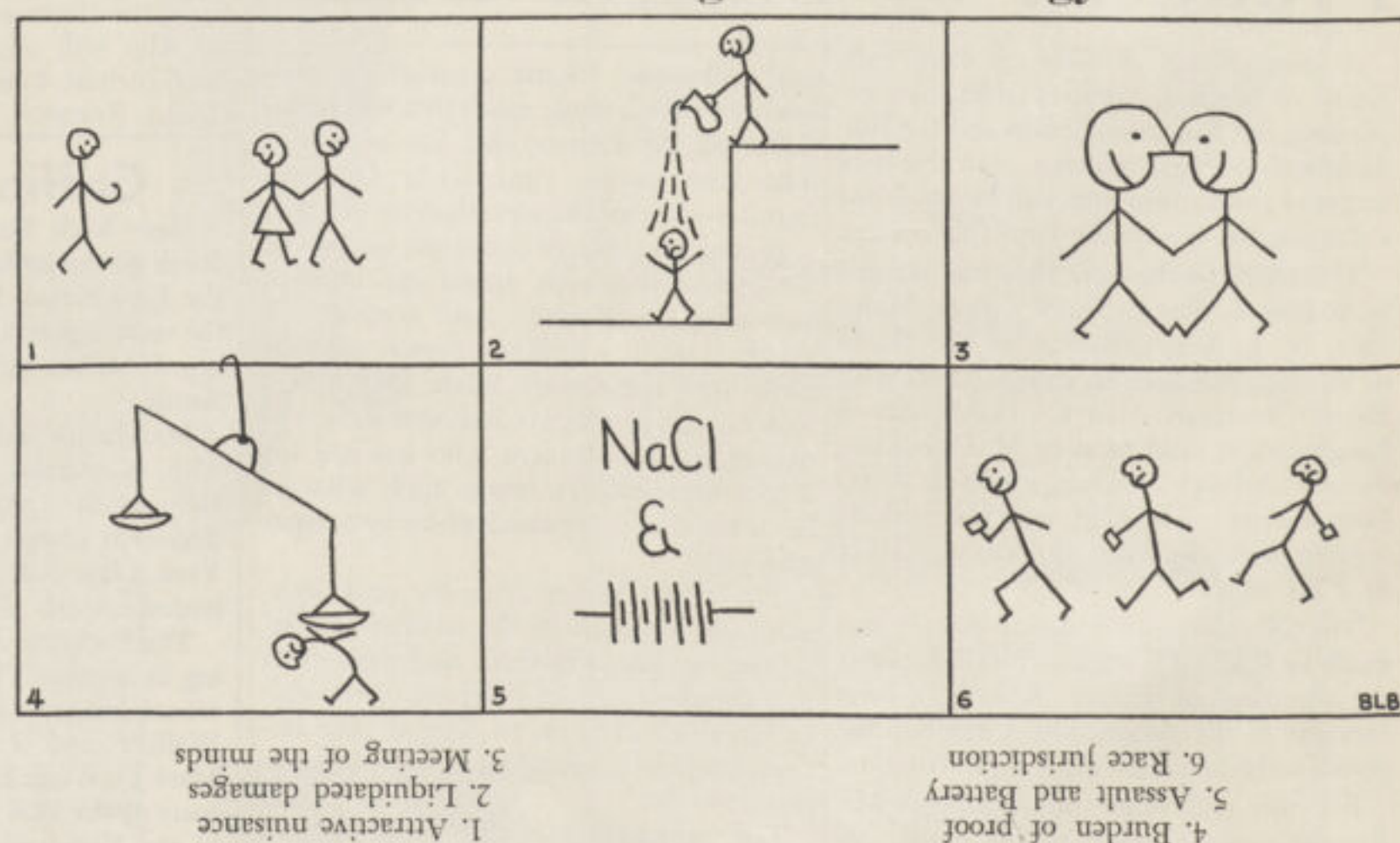
The courts have conceded the right to appropriate portions of the copyrighted works of others by the doctrine of "fair use." A parody or burlesque of a copyrighted work, the effect of which is to criticize, mock, or "spoon" the original, is permissible. The parody may be an independent creation, but will be an infringement if it tracks too closely the whole work. The controlling question is whether the parody or burlesque is a true parody or a mere subterfuge for appropriating another's intellectual creation.

PASSPORT REGULATIONS

Leonard B. Boudin, General Counsel, Emergency Civil Liberties Committee, "Constitutional Right to Travel," 56 *Colum. L. Rev.* 47 (1956).

The State Department is interfering with the constitutional right of citizens to travel by denying passports to those whose political views are unsatisfactory to the department. The regulations imposing political tests adopted by the department punish those who in the past have exercised First Amendment rights of speech and association. Citizens are restrained from exercising these rights abroad by the denial of passports. The exercise of First Amendment rights in this country is presently restrained by holding out the bait of a passport for those who forego these rights.

Problems in Legal Terminology



Above & Beyond the Call: 70 Years of Law Review

The *Harvard Law Review* has not always been a symbol of intellectual brilliance, personal achievement and honor. Founded in 1886 by third year members of the Langdell Society "for the serious discussion of legal topics and for other serious work on law," it openly copied the format of a contemporary Columbia Law School periodical, the *Columbia Jurist*.

For the first fifteen years of its existence, the now august *Bugle* printed a few legal articles and devoted itself mainly to departments of "lecture notes" and reports from the moot court clubs. In these years, the *Review* was little more than a college paper that elected first year men, ran gossip and kept its editors occupied.

In 1890, an anonymous member of the Harvard Law School Association gave \$600 to ensure the *Review's* prosperity. An increase in the number of subscriptions gave the publication the wide circulation and financial stability it has maintained through the years.

When a considerable surplus had been accumulated, it was decided to put the *Review* under the guidance of permanent Trustees. Dean Ames, Louis D. Brandeis, and R. G. Nutter were chosen Trustees.

The Scholars Take Over

By 1902, a complete re-organization had been accomplished. The Board of Editors realized that they were no longer editing a college newspaper. From that time the *Review* has been a publication for legal scholars and practitioners. First year men were excluded. The editors were increased from fifteen to thirty, eighteen in the third year class and twelve in the second year. All were chosen solely on the basis of grades.

The newly serious publication remained under student control. Advice and aid were sought from faculty members. But the early policy "that the interests of the paper would be more advanced by their remaining in the background" continued.

Choosing the Editors

Shortly after the first year marks leave Cambridge, the *Review* President sends out about twenty-five letters to the top men in the class. These letters are invitations to join the *Review*. They warn the new editors of the hard work that their positions will demand but few of those invited have ever had reasons so strong that they were forced to refuse. There was recently, however, a man who turned down an invitation to pursue his interest in trotting horses. In the second year, five to ten more men are chosen on the basis of the higher of the student's combined average or second year marks.

The formal acceptance of the new members takes place in November. But shortly after the President has received replies to his invitations, the advance sheets arrive and the work begins. By the end of August, the new editors have been introduced to their duties and have begun their 40-60 hour work week for the *Review*. This pace continues until after April 1.

The new editor finds himself in a situation which demands almost all of his time and energies. All of the material published in the *Review* undergoes extremely close examination by several editors and a Faculty member.

A current case is chosen only after the editors have read every published decision of the courts of last resort and of many lesser courts in English speaking and some European countries. After a case is chosen,



Paul M. Bator and Edward W. Keane, outgoing and incoming presidents of the Law Review.

research is done to determine the importance of the decision in the field. More than a week is spent on "writing up" the case.

Check and Re-Check

Even this method does not always ensure that an important case will not be overlooked. The editors still shake their heads over one of their predecessors who read the headnote on the *Palsgraf* case and closed the book thinking that it was only another negligence action.

The work on a note is more demanding. Preliminary research is first undertaken in the general field of a suggested subject. When an assignment is made by the Note Editor, the *Review* member assigned begins his research and makes a preliminary draft. The tentative draft is then reworked with a third year editor. The draft is then discussed with another editor. Later a professor expert in the subject is consulted.

The most exhausting part of an editor's work on a note are the "challenge quizzes." These are question sessions conducted by his fellow editors in which the materials, style, citations, and conclusions of the note are scrutinized. The author must be able to explain and defend everything about the note.

Finally, the note is cite checked. This requires a complete reading of the materials cited, by someone other than the original author. The final note is thus the work of many editors, which explains why

Associate Board

Frank A. Olson, 3L of LaGrange, Ill., former president of the RECORD, and William D. Hutchinson, 2L of Minersville, Pa., one time news editor, were elected senior editors of this newspaper at a meeting of the directors last week.

As senior editors, Messrs. Olson and Hutchinson will serve as advisors to members of the present editorial board headed by Henry J. Stern, 2L of New York City.

The directors also chose the following members of the Associate Board: Bruce L. Balch, 2L of Joliet, Ill., assistant department editor; Hartley J. Chazen, 1L of New York City, current case editor; Albert D. Barclay, Jr., 2L of Cranbury, N.J., photography editor; and James C. Paras, 1L of Boston, assistant advertising manager.

student work is published without signature.

With all this checking and re-checking, the *Review* editors are never sure that any note or current case will fulfill the standard of complete accuracy that the editors have set for themselves.

Editorial Problems

The majority of the twenty-five articles printed in each volume are selected from the 125-130 manuscripts submitted. These articles are also cite checked and researched to preclude error. Changes are made in form and content in consultation with the author.

The *Review* usually does not solicit any articles. The publication's policy is to avoid any commitment that will prevent the rejection of any article which is below the desired quality. Only the book reviews are done on request and these are written by experts on the subject. Book notes are done by student editors.

Three other main occupations of the *Review* editors are the summer project, Developments, and the Supreme Court Note.

The summer project is a two-man note on a subject that cannot be handled in library research. This study is supported by a grant from the Rockefeller Foundation and the Law School. The most recent note is "The Operation of Fair-Trade Programs" in the November issue written by Carl I. Kanter and Stanford G. Rosenblum.

The Supreme Court Note and the Developments in the Law articles are six-man projects requiring considerably more work than the current cases or notes.

Not Merely Soul-less Brains

"So far as I know," David Riesman, a former editor of the *Review* has written, "there is nothing in any professional group which remotely resembles the law review, this guild of students who, working even harder than their fellows, manage to co-operate sufficiently to meet the chronic emergency of a periodical. . . The resulting standards often become so high that the law teachers and practitioners are markedly inferior to the student in both learning and style and, in fact, often have to be re-written by the brashly serious-minded student editors."

The newly chosen *Review* editor finds himself in a situation that is very different from much of what he has known before. In the *Review* competition is extremely strong but relatively impersonal. All work is judged by almost totally objective standards. The competition is not against one

another but against a definite criterion of excellence. Work is the standard and it is demanded of everyone.

The little rivalry among the editors is mostly a rather friendly, half amused attempt to outdo their predecessors, who as the years pass have become legendary through their success in practice or academic careers. Each member of the new staff does not need to be told of the people who have been editors of the *Review*. The ambition and work orientation which carry a student into the *Review* find there a complementary atmosphere.

But perhaps the major accent of the publication is co-operation. Most work is done on an individual basis. But in the constant argument and reargument that surrounds the completion of a task, most personal involvement is submerged in the continuous interchange of ideas and the modifications of form, style and content that results from the dialectic opposition through which all material must run.

Problems of an Editor

Little time is left to the editor to pursue his regular law school studies. Cutting is frequent. There are few editors who are ever prepared for class. One editor who was prepared in two consecutive classes complained that he was ironically applauded in class, accused of failing to do his *Review* work, and was warned by his fellow editors that, if he did not stop, he would be tossed down the stairs.

More and more, *Review* editors find themselves joining together in the time remaining for relaxation. Roommates of editors report that they often hear them pacing up and down but almost never see them.

All editors are required to maintain an average not below 69.5. Most editors have lower averages in their second and third years than in their first. But continual exposure to difficult legal problems seems to develop an acute and rapid skill in analysis and legal reasoning and, despite the heavy work of the *Review*, few editors fall below the required average. The required average is, however, not completely inflexible. There have been cases when editors were not forced to resign after failure to achieve the established standard.

Election of Officers

The election of *Review* officers occurs in February. All of the second year editors are eligible for election to the ten positions on the Board. The third year editors meet and discuss each candidate carefully. Following this discussion, a vote is taken. The number of votes is recorded on the blackboard without the candidates' names. The editors voting then select a minimum number of votes as a cut off point. Those who have received less than the required votes are eliminated. They join with the third year students and the process is continued until a President is selected. The President then appoints his fellow officers. He is not required to give any consideration to the voting. It is, however, traditional for the

CASE IN POINT

(Continued from page one)

problems of legal research is narrated in the first person by the student counsel, over a motion picture that illustrates his progress step-by-step.

The major role in the movie, that of the first-year student counsel, is played by Paul McDonald, 3L of Medford. Mr. McDonald devoted considerable time to the film over a period of three months, and has turned in an excellent job.

Other members of the cast are Mr. and Mrs. Ryan, Gerald Gorman, 3L of Kansas City, Mo., Lester S. Cramer LL.B. '54, Mr. Hakes, Robert Glynn, 3L of Passaic, N.J., Frank Weil, 3L of Cambridge, Frederick N. Young, 2L of Dayton, O., Paul Zerby, 1L of Cambridge, William Herdridge, 3L of Ottawa, Canada, Lawrence Bilder, LL.B. '54, and Nancy Goldring, 3L of New York City.

Case in Point is shown to the entering class at the beginning of each school year, and is also rented by the Board of Student Advisers to other law schools and to bar groups. If there proves to be sufficient interest, copies of the new film may be offered for sale.

President to appoint the other officers from those who received the highest number of votes.

The *Review* is the oldest law review in the country. In addition it has the largest circulation. Its circulation of approximately 7,800 is about twice that of the *University of Texas Law Review*, its nearest rival.

The major source of income for the publication is its sales of subscriptions, "blue books", and reprints. Its net income last year was \$3,965 which covered all operating expenses. Any net profit is added to its investment funds, which total about \$109,000.

Matters of Corporate Structure

The *Review* has two governing bodies, one of which is largely honorary. The publication is a non-profit corporation whose Board of Trustees includes, ex officio, Dean Griswold and Professors Hart and Freund. The President and Treasurer of the *Review* are also ex officio members. The Trustees are chosen by the editors. A graduate treasurer is chosen by the Dean and the Board of Trustees and is himself a Trustee.

The second governing body is the Board of Overseers. The group is composed of one editor for each five volumes, and three Overseers-at-large. At present these are Dean Acheson, LL.B. '18, Judge William H. Hastie, LL.M. '30, of the Third Circuit and Henry J. Friendly, LL.B. '27, of the firm of Cleary, Gottlieb, Friendly and Ball. This group aids in the selection of the Board of Trustees.

—Langston and Scull

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Dewey Backs Nixon for VP, Asks Aid for Neutral Nations

A strong endorsement of Vice-president Richard M. Nixon was provided last week in Thomas E. Dewey's speech to the Student Bar Association. In answer to a question from the floor as to his views on the vice-presidency, Mr. Dewey replied that the success of Mr. Nixon's efforts in carrying out President Eisenhower's program on Capitol Hill was shown by the lack of publicity he received.

Mr. Nixon also received Mr. Dewey's praise as a roving ambassador of good will, and as the man who knows the most about the job of the vice-president of the United States. After this description, the former Governor of New York broke into his traditional broad grin and said he would not "compare" Mr. Nixon with other Republican possibilities for the nomination.

Speaking on the present world situation, Mr. Dewey said that World War I would have been averted if the Kaiser had been warned that the United States would intervene, and that World War II would likewise probably never have occurred had Hitler known the United States would come in on the side of the Allies.

He said the Korean War may well have begun because former Secretary of State Dean Acheson, LL.B. '18, had drawn up a defense perimeter that excluded South Korea.

The world cannot be described as one-third slave and two-thirds free, Mr. Dewey said. Actually, although 800 million people, or a third of the world's population, is behind the Iron Curtain, only about a fifth of the world, or 500 million, live in Western democratic states. The remainder, he said, are somewhere in between in nations newly freed from colonialism.

"The crisis of today is in the vast underdeveloped areas of South and South-East Asia," Mr. Dewey said. But India's neutralist attitude has not convinced Mr. Dewey that she is pro-Communist. "India

has a thousand-mile border with 800 million disciplined Reds. The better part of wisdom in such a case is to exchange amenities."

Mr. Dewey said that in the past ten years, "between Beirut on the Mediterranean and Saigon on the Pacific, 600 million people have acquired self government. This is the most massive liberation in the history of the world," he said.

Discussing the poverty and lack of capital and industry in India, for example, Mr. Dewey said that millions of people are living at an incredibly low standard. "But they want the fruits of a modern industrial society," he said, and they seem determined to get it, whether from the United States or the Soviet Union.

Mr. Dewey told his listeners to stop thinking of world affairs in terms of problems that can be easily settled and then forgotten, but to think of the long-range struggle between democracy and communism.

"Aid is not meant to buy friendship," Mr. Dewey went on to say. "Nobody likes his rich uncle who won't die and leave everything right away." But it is necessary for us to make other nations strong and healthy, he said, to resist totalitarianism.

About 300 students and faculty members filled Langdell North Middle to hear Mr. Dewey's talk last Wednesday evening. He was introduced by Vice Dean Livingston Hall.

Investment Contest Closes Next Week

Results of the Bull and Bear Club's Investment Contest will be announced and prizes awarded to the participants who have achieved the greatest appreciation on their "\$50,000 original capital" at the Club's final meeting next week.

Willis Ertman, 3L, of Kingston, Mass., supervisor of the contest, declared it will close tomorrow and that tomorrow's closing prices will be used in making the final tabulations.

The club last week heard William Kurtz, senior analyst of Paine, Webber, Jackson and Curtis, discuss the four securities he considered the most promising in today's market: Eastern Airlines, Allegheny Ludlum Steel, Burroughs Corp., and Warner Lambert.

Kurtz described these issues as undervalued growth situations, just below "blue-chip" quality. He explained his individual method of analysis which is based on the assumption that stock market prices move in response to expectations and forecasts, not actual figures.

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Robert Braucher

BRAUCHER

(Continued from page one)

questioned the effect that any future corrections might have in actual practice. The experience of Pennsylvania shows that both the courts and businessmen are generally pleased with the effects of the Code as it now reads.

Revisions of Code Difficult

Both Professors Sutherland and Braucher admitted that there are practical difficulties in answering all the objections of the New York Commission. Mr. Braucher expressed concern over the tremendous amount of work that will be necessary to harmonize all the viewpoints on the Code.

Many of the objections of the Commission would require reconsideration of some of the hotly debated provisions, although the report of the Commission stated that an acceptable code "can be attained with reasonable effort and time."

Another difficulty mentioned by Mr. Braucher was the matter of bringing the Code to the attention of the various state legislatures. Many of the legislatures meet only once in two years. Although the professors agreed that the Code still has vitality, they felt that the action of New York will probably prevent any further legislative action on the Code before the 1958 sessions.

The Uniform Commercial Code is a joint project of the American Law Institute and the National Conference of Commissioners on Uniform Laws. The sponsoring organizations, at a cost of \$350,000, culminated over twelve years of effort in the release of the Code in 1952. The only state to enact the Code has been Pennsylvania, which made it effective on July 1, 1954.

—Balch

Air Force Reserve Will Activate Unit

The Air Force has activated a new reserve squadron at the Massachusetts Institute of Technology which will offer specialized training in military law to Air Force reserve officers enrolled in the law schools of Greater Boston.

The training provided by the new unit will be similar to that already offered Army and Navy reservists by an Army detachment which meets at the Harvard Law School.

Plans for the Air Force squadron were announced last week by First Lt. Robert L. Kelsey, USAFR, 2L of Cedar Rapids, Iowa, acting on behalf of the unit commander, Col. Alexander Gillis, USAFR, assistant corporation counsel of the City of Boston.

Squadron to Meet

The Air Force squadron will meet in MIT classrooms on Wednesday evenings 24 times a year. Sessions will be scheduled so as not to conflict with law school examination and vacation periods.

No summer "camp" will be required in connection with the training, and it is the hope of Col. Gillis that sufficient funds will be available next year to pay all Air Force reservists who participate in the work of the squadron.

Full-scale operations will begin when law school classes resume in the fall. Air Force reservists may join the unit now, however, and men who enroll before the end of the present fiscal year will have first call on available pay billets.

Reservists may obtain further details by calling Sgt. Joseph Rodman, at the squadron office in the Central Square Post Office. The office is open from 8-4 on Mondays and on Wednesdays through Saturdays. The phone is UNIVERSITY 4-3515.

NEW COURSE

(Continued from page one)

text contains a series of representative problems in their general context, along with case and legislative matter interspersed with comment and essays by the authors.

The students will examine these problems from the viewpoint of the particular person who would in the ordinary course of events handle the problem, e.g. judge, attorney, legislator or administrator. Opportunity will be given for the discussion of individual legal problems, such as the responsibility of the courts for the creative development of law, *stare decisis*, and the difficulties of statutory interpretation.

AMES

(Continued from page one)

town, and Henry B. Shepard, Jr., 2L of West Newton. Speaking for Casner Law will be Mark L. Crane, 2L of Glencoe, Ill., and Samuel Gockjian, 2L of Shaker Heights, Ohio.

In next Tuesday's pairing Casner Equity and Griswold will argue the case of the *United States v. Patrick*. Patrick, who was discharged from a government position for failure to cooperate with a Senate committee investigating Communism, will be represented, on the orals, by the Griswold Club's Edward G. Bauer, 2L of Greensburg, Pa., and Clark Wagner, 2L of Hammond, Ind.

Appearing for the United States will be Will G. Barber, 2L of Lockhart, Tex., and Robert P. Moncrief, 2L of Kenilworth, Ill.

In the last quarter-final pairing next Thursday, the Field and Kaplan Clubs will argue *Ames Historical Museum v. Oliver*, a case dealing with the alleged improper disposition of a \$1,200,000 trust fund.

Judge Ernest W. Gibson of the United States District Court for Vermont heads a court which will hear arguments by the Kaplan Club's Daniel J. Sweeney, 2L of Yonkers, N.Y., and Daniel J. O'Hern, 2L of Red Bank, N.J., and the Field Club's Harry D. Martin, 2L of Pittsburgh, Pa., and Leonard H. Moche, 2L of Cambridge.

Chafee to Address Coffee Hour Tues.

University Professor Zechariah Chafee, Jr., who is ending his long career on the Harvard faculty this June, will make one of his last public addresses at the Law School when he speaks to the Coffee Hour in Harkness Commons next Tuesday afternoon. His topic will be "The Right to Be Silent."

The speech of Mr. Chafee is the one of the four remaining on the Coffee Hour's Spring schedule. In later weeks, the group will present Sir Leslie Knox Munro, the New Zealand ambassador to the United States; Tran Van Chuong, Viet Name ambassador to Washington, and Harvard President Nathan M. Pusey.

During the past two weeks the Coffee Hour presented talks by Professor F. L. Whipple, a member of the government's advisory committee on space satellites, who discussed developments in that area; Attorney Will Maslow, a specialist in immigration matters who talked of proposed amendments to the McCarran Immigration Law.

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