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TEN CENTS

Transfer Sends Kaplan to Yale For One Year

Professor Benjamin Kaplan will be a visiting professor at Yale Law School during the next academic year. In return, Yale will send Professor Fleming James, Jr., to Harvard for the same period under an exchange arrangement between the two schools.

Professor Kaplan received his LL.B. in 1933 from Columbia Law School, where he was an editor of the *Columbia Law Review*. He practiced law in New York from 1933 until World War II, when he served in the United States Army.

Taught Here Ten Years

In 1947, shortly after his return from military service, he joined the faculty at the Law School. Appointed a professor of law in 1948, Professor Kaplan has conducted courses in Civil Procedure, Contracts, and Copyright, Trademark, and Unfair Competition.

Professor James graduated from the Yale Law School in 1928. He has been on the faculty since 1933, and a professor of law since 1938. He is currently chairman of the Connecticut Board of Labor Relations.

During his year at the Law School, Professor James will teach Civil Procedure and Torts.

Jaffe Plans Tour In '57-'58 Leave

Louis L. Jaffe, Byrne Professor of Administrative Law, will spend the academic year 1957-58 on sabbatical leave in Europe. Professor Jaffe and his wife will leave this country on June 17, and will spend the summer in Spain and southern France.

Although they plan to reside in Rome, Professor and Mrs. Jaffe hope to spend his first leave in a twenty-one year teaching career traveling to Sicily, Greece, and other centers of art and culture throughout the Mediterranean area.

Professor Jaffe has indicated that during this period he intends to expand and integrate a number of his writings into a new text on Administrative Law. One drawback to the

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Speakers at Forum Analyze Private Censorship of Films

The latest in the current series of Law School Forums brought together three New Yorkers who could find little ground for dispute at the New Lecture Hall last Friday night.

Hypothetically at least the parties seemed likely to fall into opposite camps: Patrick Murphy Malin, president of the American Civil Liberties Union and Morris L. Ernst, author and attorney, were to disagree with Godfrey P. Schmidt, Fordham University law professor and president of AWARE, Inc., an organization of "watchful Americans."

Changed Role

Professor Benjamin Kaplan, in his role as moderator, introduced the topic, "Censorship in the Movies and TV," and outlined the projected course of the discussion. He indicated the changed role of censorship on the contemporary scene, emphasizing the position self-appointed units now play in "the agonizing problems of the private censorship field."

Mr. Malin, partially hidden behind a battery of microphones, declined to pick up the gauntlet.

Mr. Malin traced the decline of the more formalistic elements of quality control in the motion picture industry and dismissed TV for the moment with the thought that "the FCC has

Drafters

The deadline for individual entries in the Williston Competition has been set for Thursday, February 21 at 5 p.m., the Board of Student Advisors has announced. The competition will actually start on Friday, March 1. Second year men not in the Ames quarterfinals are eligible for this competition in statutory drafting, and may register at the Board office in Austin Hall.

Progress Reported By Dept. of Justice

Reports from the Department of Justice indicate that the federal judicial mechanism is gathering considerable momentum.

The Criminal Division of the Department has reported that while crimes within Federal jurisdictions are increasing, so too are prosecutions and convictions.

From another part of the Department came the report of Deputy Attorney General William P. Rogers that his section's intensive drive to reduce the current backlog of pending cases and to bring the Department's caseload to a current acceptable status was continuing with considerable success.

Racketeering Fought

The Criminal Division, headed by Assistant Attorney General Warren Olney, III, is continuing with some measure of success its current drive against labor racketeering under the increased pressure of public sentiment. During the year 1956 there were 14 convictions for labor racketeering and 30 indictments are presently pending against 60 defendants.

Working in close cooperation with the Criminal Division, Mr. Rogers' office has reduced cases and matters pending in United States Attorneys Offices by nearly 30%. Much of the credit for the gain against the backlog is attributed to the relatively new Attorney General's recruitment program for honor law graduates.

This program permits recent graduates of high standing to enter responsible positions in the Justice Department and benefits both the graduates by giving valuable practical experience, and the department by allowing a speedup of procedural functions.

Zechariah Chafee, Jr., Is Dead at 71; Professor Championed Civil Liberties

Zechariah Chafee, Jr., University Professor Emeritus, author of the Federal Interpleader Act, and defender of civil liberties, died last Friday at 71 at the Massachusetts General Hospital. Professor Chafee was admitted to the hospital after suffering a heart attack at his home in Cambridge.

A member of the Harvard Law School faculty for forty years until his retirement last June, Professor Chafee this year served as Lowell television lecturer. He completed a series of programs over

Boston's educational television station a few days before his heart attack. The lectures will be distributed nationally to 22 educational channels.

A memorial service for Professor Chafee was held Sunday at 4 p.m. at Memorial Church in Harvard Yard. Interment, at Swan Point Cemetery, Providence, was private.

Despite the knowledge that he had a heart condition, Professor Chafee refused in recent years to curtail his schedule of writing, speaking and teaching. He maintained his office at Langdell Hall and appeared there regularly until last week.

Scott Voices Regret

Austin W. Scott, Dane Professor of Law, who was appointed to the faculty in 1909, expressed his regret at the news of Professor Chafee's death. "I have worked with Professor Chafee and have known him intimately for more than forty years. I have lost one of my best friends and counselors," he said.

On Monday, Professor Benjamin Kaplan, who took over Professor Chafee's course in Equitable Remedies this fall, spoke for ten minutes in class in praise of his departed colleague. When Professor Kaplan was asked to take over the course, he said, he insisted on receiving from Professor Chafee a memorandum on how the course was to be taught. Mr. Kaplan received a detailed memorandum on interpleader a short time before Mr. Chafee died.

Two weeks ago, Professor Chafee spoke out on what he termed an important aspect of civil liberty, racial discrimination. He criticized piecemeal enforcement of the Supreme Court's segregation decision by private litigation, and called for President Eisenhower to give a fireside talk appealing for Southern co-operation.

The Harvard Law School Library has placed on display a collection of pictures of Mr. Chafee and copies of some of his published works. The exhibit is in cases north of the Langdell Reading Room desk.

(Chafee's biography on page three)



Zechariah Chafee, Jr. (1885-1957)

Pound, MacLeish, Maguire Wrote in Honor of Chafee

Dean Emeritus Roscoe Pound, attorney Morris L. Ernst and Professor Archibald MacLeish paid tribute to Zechariah Chafee, Jr., on his appointment in 1950 as University Professor. Their remarks are quoted from the 1951 Harvard Law School Yearbook, which was dedicated to Professor Chafee. In 1956, on Professor Chafee's retirement, Professor John M. Maguire wrote "In Tribute," for the Yearbook. Professor Arthur E. Sutherland's scroll in honor of Professor Chafee was presented at a RECORD banquet on May 1, 1956.

Roscoe Pound

Dean Emeritus, Harvard Law School
University Professor Emeritus

I deem it a privilege to be allowed to join in the tribute to Professor Chafee . . .

Born, bred, and educated in the state and city of Roger Williams, he might have been predisposed to become a leading advocate of freedom of belief, opinion, speech and writing. Trained in law in the common-law atmosphere of the Harvard Law School he might well have been expected to stand for effective maintaining of the guarantees of the bill of rights in times of war and postwar reconstruction when experience has shown that these guarantees are peculiarly needed and exceptionally liable to infringement.

In his student days in the law school he took special interest in equitable relief against defamation and injuries to personality and the connection of the problems of equity jurisdiction in such cases with constitutional and political questions as to freedom of speech. Prosecutions under the Espionage Act during and after the first World War led him to study the whole subject from every side, legal, constitutional, political, historical and philosophical. Be-

(Continued on page four)

Visiting Professors Selected To Lecture Here Next Year

The appointments of three visiting professors of law for the academic year 1957-58 were announced this week by Dean Erwin N. Griswold. They are Professor Harry Street of the University of Manchester, England; Professor Clark Byse of the University of Pennsylvania Law School; and Professor Phil C. Neal, LL.B., '43, of the Stanford University Law School.

Professor Street, who is a solicitor, formerly taught at the University of Nottingham, and recently returned to the University of Manchester, where he took his own degree.

Wrote on Administrative Law

In 1947-48, Professor Street was a Commonwealth Fund Fellow at Columbia Law School. He is the author of *Principles of Administrative Law* (with J. A. G. Griffith) (1952); *A Comparative Study of Governmental Liability* (1953); and *Torts* (1955). At the Law School, he will teach Torts, and will participate with Professor Arthur T. von Mehren in a seminar on Comparative Administrative Law.

Professor Byse graduated from the University of Wisconsin Law School, and holds LL.M. and S.J.D. degrees

from Columbia Law School. He taught at the State University of Iowa before World War II. After the war he joined the University of Pennsylvania Law School faculty, and became a professor of law there in 1948. He will conduct courses in Administrative Law and Contracts during the coming year.

Professor Neal served as law clerk to the late Justice Robert H. Jackson of the United States Supreme Court. He is a member of the California bar and practiced in San Francisco for several years. Since 1948 he has been on the faculty of Stanford University Law School, and became a professor of law in 1954. While here, Professor Neal will teach a course and a seminar on Administrative Law.

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Zechariah Chafee, Jr.

In his book "The Blessings of Liberty," Zechariah Chafee, Jr., described the development of the ban on compulsory self-incrimination, which was early (but not originally) expressed in the Fifth Amendment. He warned of the dangers of relaxing this bar: the purge trials, the parroted confessions, the brainwashing which has now replaced less refined tortures in other countries. He sought to remind us that the Fifth Amendment, the right not to speak, as he called it, may sometimes be a shield for malefactors, but is still part of the Bill of Rights — rights which are designed to protect the innocent.

Basic to his philosophy was the concept of freedom of speech. This right has been challenged constantly since its inception; it is always more easily lost than won, for passivity will never keep it secure. Unless freedom of speech is exercised, it will atrophy.

Many who have been outspoken in their exercise of free speech, particularly in universities, have come under criticism by those who feel that the State must be watchful of what academicians teach. These usually self-appointed guardians seem to fear that, like Socrates, teachers may corrupt the youth of the land.

Zechariah Chafee, Jr., was criticized by some for his insistence on the liberty of the teacher as an integral part of free speech and free thought. Some felt, perhaps, that he and others on the lecture platform might be corrupting the youth.

Those of us who were privileged to read his writings, or hear him speak, or perhaps converse with him, do not feel that we have been corrupted. It does not matter whether we agree with all, or even part of what he said. If freedom of speech is to be secure, there must be men who are not afraid to speak.

Zechariah Chafee, Jr., was such a man.

A Final Call

Two weeks ago, the RECORD published a letter written by Professor Chafee in which he expressed his dissatisfaction with the manner of implementing the recent decisions of the United States Supreme Court outlawing racial segregation in public schools. Mr. Chafee declared, "There is one man in the United States who could do something to better the situation, and that is the President. He ought to give us a fireside talk on the whole question and appeal to law-abiding and thoughtful men in the South."

Mr. Chafee did not mean that a fireside talk would solve the problem of racial discrimination. But President Eisenhower, in addition to being a national leader, has great prestige in the South, as demonstrated by his electoral success in that region. A statement from him would carry considerable weight among moderate Southerners.

The President of the United States occupies a unique position. Unlike congressmen, he does not represent a district or state. His constituency is the whole nation, and he is the spokesman for all its citizens, particularly those who have no other spokesman. The Negroes of the South have called upon him to take some action to expedite implementation of the Supreme Court's decisions on school and bus segregation. Private individuals and the NAACP do not have the unlimited resources necessary to wage a court-by-court fight to win compliance with these decisions.

The President is the leader and representative of all the American people. We add our voice to that of Mr. Chafee in calling upon the President to speak out for those of his constituents who are striving to invoke the law of the land.

Massachusetts Legislature Weighs The Uniform Commercial Code

By ROBERT BRAUCHER

Professor of Law, Harvard Law School

House No. 130, now pending before the Joint Committee on the Judiciary of the Massachusetts General Court, embodies the Uniform Commercial Code as revised by the 1956 recommendations of the editorial board appointed by the American Law Institute and the National Conference of Commissioners on Uniform State Laws. A similar bill has been introduced in Indiana, and preliminary work is going forward in other states. In Pennsylvania, where the Code has been in effect since July 1, 1954, an amending bill embodying the 1956 recommendations will undoubtedly be introduced at the current session.

The Code

The Uniform Commercial Code was promulgated by the ALI, the National Conference and the American Bar Association in 1952. Begun in 1940, the Code comprises some 400 sections, replacing the Uniform Sales Act, the Negotiable Instruments Law, the Bank Collection Code and numerous other statutes sponsored by the American Bankers Association, the Bulk Sales Acts, the Uniform Warehouse Receipts Act, the Uniform Bills of Lading Act, the Uniform Stock Transfer Act, and numerous statutes governing chattel mortgages, conditional sales, trust receipts, factor's liens and assignments of accounts receivable. The current Massachusetts bill consists of 187 printed pages; with official comments, the 1952 edition ran to 816 pages.

The New York Study

Since its enactment in Pennsylvania the Code has been subjected to intensive study by public and private groups both there and elsewhere, including the Pennsylvania State Chamber of Commerce, the American Bankers Association and legislative research bodies in Missouri, Texas and Virginia. Massachusetts Annotations to the Code were published in 1953. By far the most important review of the Code took place in New York, where the New York Law Revision Commission dropped all other work in the years 1953-1956, held a series of public hearings on the Code, employed some 17 consultants, and reviewed the Code in exhaustive detail.

The New York report rendered early in 1956 was generally favorable to the Code concept and project, but it made specific adverse reference to the drafting or policy of parts of some 67 sections, and recommended "comprehensive re-examination and revision in the light of all critical comment obtainable."

Revision

In anticipation of critical comment the sponsors reactivated a joint editorial board in 1954, and the board appointed subcommittees to keep in touch with critical comment and recommend amendments where needed. The subcommittees were carefully balanced with law professors and practicing specialists; each subcommittee had at least one practitioner from Pennsylvania. Early in 1955 the editorial board approved a series of amendments, primarily in response to criticisms made in Pennsylvania and at the New York hearings, published as Supplement No. 1 to the Code.

During 1955 and 1956 the subcommittees maintained contact with the working bodies of the Pennsylvania State Chamber of Commerce and the New York Commission, and undertook the "comprehensive re-examination and revision" of the Code. Late in 1956 the Editorial Board completed action on re-

commendations for amendment and authorized the publication of cumulative revisions changing 277 of the 401 sections. Most of the changes were made to clarify or to harmonize details; the basic structure of the Code remained intact.

The Massachusetts Bill

Massachusetts House No. 130 was introduced by Representatives Lee, Murphy and Randall on the petition of Willard B. Luther and others. In addition to Mr. Luther and the other Massachusetts Commissioners on Uniform Laws, the petitioners included deans and professors from four Massachusetts law schools, counsel for the Massachusetts Federation of Labor and Congress of Industrial Organizations, leading members of several bar associations, members of leading law firms in Boston, Worcester, Springfield, Pittsfield and Greenfield, and representatives of a number of banks and other financial institutions.

On January 22, 1957, the Joint Committee on the Judiciary held its public hearing on the bill. In addition to a number of individual petitioners, the following organizations noted appearances in support of the bill: Massachusetts Federation of Labor, Congress of Industrial Organizations, Massachusetts and Boston Bar Associations, Massachusetts Bankers Association, Massachusetts Council of Retail Merchants, Associated Industries of Massachusetts, Greater Boston Chamber of Commerce, Boston Retail Trade Board, Massachusetts Motor Truck Association, Boston & Maine Railroad, CIT Corporation, John Hancock Mutual Life Insurance Co., and Deere & Co. After the various articles of the Code had been explained by people who had participated in the process of annotation, review and revision, the arguments of the proponents were concluded by Eugene W. Walrath of Syracuse on behalf of Deere & Co., a national organization selling farm machinery through the 48 states, and by Carl Funk, Esquire of the Philadelphia bar. No one appeared in opposition.

A Businessman's Reaction

Extracts from Mr. Walrath's testimony follow:

"We are interested as business people primarily for the sake of uniformity. We have been operating under the Pennsylvania Code. When our business people and our lawyers first saw this Code we were somewhat dismayed but very quickly as we got into it we recognized it was almost an answer to our prayers. We have a serious problem trying to keep our contracts and instruments in conformance with the laws of the forty-eight states. . . .

"We are supporting this not with any idea of getting any special privilege. We would like to know what we are supposed to do. Nationwide it is very difficult to do so. . . .

"Our people in our general offices in Moline, Illinois, are following the efforts of the people working on the Code in other states, Indiana, Illinois and California. Frankly Massachusetts is highly regarded in the financial world and the banking world and in the middle west. In New York state of course it is a guess, but it is the consensus of opinion that if Massachusetts did adopt the Code the other states would snowball. We think [New York] will be guided by what Massachusetts does. We think if Massachusetts turns it down the Code is dead for twenty years and that would be a catastrophe."

Current Case Comments

A lower court judge in California last month ruled that a Negro has no cause of action for damages against a dentist who has denied him service on account of his race, despite sections 51 and 52 of the California Civil Code, forbidding discrimination in public establishments.

The sections in question specifically enumerate inns, restaurants, hotels, eating houses, barber shops, bath houses, theaters, skating rinks, and public conveyances.

In *Coleman v. Middlestaff*, 25 U. S. LAW WEEK 2332, Judge Kurtz Kauffman of the California Superior Court, Appellate Department, Los Angeles City, noted a decision of the California Supreme Court to the effect that the statute in question applied to places similar to those enumerated, but did not apply to cemeteries. *Long v. Mountain View Cemetery*, 278 P.2d 945 (Cal. Dist. App. 1955).

In determining whether a dentist's office was "similar to those enumerated," the court referred to *Rice v. Rinaldo*, 119 N.E. 2d 657 (Ohio App. Ct., Montgomery Co. 1951), where it was held that a dentist's office was not "similar" to establishments listed in an Ohio statute almost identical to that of California. The Ohio court had applied the doctrine of

ejusdem generis. This rule of construction is, in effect, that if a legislature had intended general words to apply, uninfluenced by particular words and without restriction, it would have employed general words in the first place.

The plaintiff in the instant case had argued that since the public policy of California is opposed to racial discrimination, the policy must be applied to private as well as public actions, and no specific statute is necessary for its enforcement. The court, however, distinguished the case from *Williams v. Boiler-makers*, 27 Cal.2d 586, 165 P.2d 903 (1946) which held the statute applicable to labor unions though they were not specifically enumerated. Judge Kauffman claimed that labor unions as organizations are analogous to public service businesses, such as public conveyances, whereas dentists do not come under the same classification. He refused to accept the *Williams* case as applicable to the plaintiff's contention.

If the case is appealed, and if the California Supreme Court decides that dentistry is not a public service, the Court will be presented with this question: should the state prohibit an individual from refusing to do business with another solely on the grounds of the other's race?

Book Review

AFRICA'S CHALLENGE TO AMERICA, by Chester Bowles. 134 pp. University of California Press, Berkeley and Los Angeles, 1956. \$2.75.

Chester Bowles' *Africa's Challenge to America* is a welcome addition to the limited body of serious literature on the subject of the importance of Africa's emergence as a vital part of the Western World with respect to American foreign policy. Based upon a series of lectures delivered in March at the University of California, the book serves well as a provocative introduction to the problems of the Dark Continent. As is usual with such primers, however, one could wish that the former Ambassador to India had contented himself with a narrower subject and then investigated the problems of specific areas more deeply.

Mr. Bowles enunciates a few essential propositions as unifying factors in a diplomatic approach to the general area: (1) All African peoples to a greater or lesser extent are caught up in a "Revolution of Rising Expectations," of which the goals are political self-determination, racial equality, and economic prosperity. (2) The explosive incidents of post-World War II African history are the results of the frustration of this revolution by a ruling class on a basis of color. (3) The retention of African raw materials is indispensable to the economies of the free world. (4) Such retention can only be achieved by indigenous social, economic, and political advance; military force will never hold the allegiance of underprivileged peoples. (5) America, despite its postwar negativism, still captures the imagination and hopes of the African peoples. (6) America must return unequivocally to the ideals of Jefferson, Lincoln, Wilson, and Roosevelt if Africa is to remain in the Western Orbit over the long haul.

Scope Is Too Wide

To some extent the author has perhaps done his readers a disservice in undertaking to examine the continent as a whole. Although the unifying factors are considerable, it seems to me that the unique nature of the problems in certain great areas of the continent are more significant. [Mr. Bowles is fully aware of these centrifugal forces, but the cumulative effect of the book is to underplay them as a basis for over-all policy.]

The area from Cairo to Casablanca, for example, contains a white, Semitic, Arab-speaking population whose problems must be considered within the context of both our Middle Eastern and our NATO policies.

On the other hand, the area south of the Sahara and west of Lake Tanganyika has been generally closed to white settlement, and there seems to be a reasonable hope that the peoples there will eventually achieve political self-determination and economic interdependence with the "mother country," whether it be Britain, France, Belgium, or Portugal.

At the opposite extreme is the area south of the Sahara and east of Lake Tanganyika, where the presence of substantial numbers of settlers will continue to jeopardize a peaceful resolution of the Revolution of Rising Expectations.

At the bottom of the continent, the Union of South Africa, which has had white settlers for three hundred years, presents the special problem of an attempt to permanently segregate the Negro population.

Trusteeships

In addition, the United Nations Trusteeships — British Tanganyika, Italian Somaliland, Belgian Ruanda-Urundi, French and British Cameroons, French and British Togoland, and South West Africa under the Union of South Africa — are wards of the world organization, and in some respect their administration subject to its supervision.

Finally, there are the historically independent countries of Ethiopia and Liberia which, despite their independence, are among those most in need of help.

In terms of "Africa's challenge to America," Mr. Bowles only presents a penetrating and satisfying solution to the area of Africa under trusteeship. In dealing with the remaining seven-eighths of the continent, the former Ambassador is forced to fall back upon words about the importance of evolving an affirmative policy. Such words no doubt need to be spoken, but along with them must go a considerable amount of thinking about the particularized problems of those areas. Mr. Bowles' summation is only the very beginning of that vital effort.

The answers to these decisive questions are in themselves largely dependent on the willingness of the colonial powers to recognize the inevitability of African self-determination and to accept the fact that only the pace, method, and cost remain in question.

America's role will be determined by her ability to shake loose from her present negative fascination with what Moscow is doing, avoid panicky action, and apply her influence and resources toward the responsible solution of the problems that constitute the African dilemma.

Ansel B. Chaplin, LL

University Professor Chafee Had Variety of Interests

Zachariah Chafee, Jr., was born in Providence, on Dec. 7, 1885. He came from a leading Rhode Island family, and after graduating from Brown in 1907, worked for his father's firm, the Builders Iron Foundry, for three years. He then entered in Harvard Law School, where one of his classmates was the late Robert A. Taft. After graduation in 1913, he practiced with the firm of Tillinghast & Collins in Providence.

In 1916, Mr. Chafee joined the faculty as assistant professor of law. He was appointed full professor in 1919, Langdell Professor in 1938 and University Professor in 1950. The university professorship, one of the highest faculty honors, permits the holder to "work on any of the frontiers of knowledge." Professor Chafee retired in 1956, becoming university professor emeritus.

Expressed Fears

"A nation gets only as much freedom of speech as it wants, and I fear this nation doesn't seem to want much right now," he told the RECORD last year when announcing his retirement from the Law School faculty. "Leading members of the bar shouldn't be afraid to take civil liberties cases," Mr. Chafee continued. "They must play a positive role in the formation of public opinion on this and other matters."

While teaching here, he drafted the Federal Interpleader Act of 1936. In 1947-48 he was a member of the United Nations Subcommittee on Information and Freedom of the Press. In 1948 he was a United States delegate to the United Nations Conference in Geneva, Switzerland.

Widely known for his contributions to the law of Negotiable Instruments and Equity, his published works include *Freedom of Speech* (1920), *The Inquiring Mind* (1928), *Cases on Equitable Remedies* (1939), *Free Speech in the United States* (1941), *Government and Mass Communications* (1947), *Some Problems of Equity* (1950), *The Blessings of Liberty* (1956) and *Three Human Rights in the Constitution of 1787* (1956).

FORUM

(Continued from page one)

opponents and the audience off stride by agreement and exposition. "The debate here is not on the ends, but on the means," he said.

It remained for Mr. Ernst to bring the issues into focus after being introduced by Professor Kaplan as "the man who, with James Joyce and Ulysses, gave an unknown judge a chance to become immortal."

Mr. Ernst approached the problem of censorship somewhat more forthrightly than his two predecessors. "Men have always been frightened of ideas," he said. Censorship is dependent entirely upon "how easily you are scared." American censorship problems arise because: "Our people have an opinion on everything although they know very little about anything. Ideals are really the only things that are precious to man, and you can't censor them."

— Mulroney

At the Law School Professor Chafee taught Equitable Remedies and Unfair Competition, and he conducted courses on Fundamental Human Rights and Legal Protection of Literature, Art and Music at the College.

Professor Chafee considered his greatest work to be the Federal Interpleader Act, which was passed in 1936. This act has done much to simplify multi-party litigation. Mr. Chafee described the Act in articles in the *Yale Law Journal* in 1936 and 1940.

A member of the American Philosophical Society, the American Academy of Arts and Sciences, and the Massachusetts Historical Society, Professor Chafee was long prominent as a lecturer and author on civil liberties, freedom of the press and human rights.

Professor Chafee received the Abraham T. Alper Memorial Award for outstanding contributions to the defense of basic constitutional rights from the Civil Liberties Union of Massachusetts last May. In that month, he was guest of honor at the HARVARD LAW RECORD's annual dinner. In April, he spoke at the *Law Review* banquet.

Mr. Chafee received many honorary degrees; an LL.D. from St. John's University in 1936, D.C.L. from Boston University in 1941, and Litt.D. from Colby College in 1944.

But Professor Chafee was not universally praised. On July 2, 1952, at a hearing of a Senate subcommittee, Senator Joseph R. McCarthy (R-Wis.) named him as one of seven persons "dangerous" to the United States.

Dean Erwin N. Griswold, who spoke at the service Sunday, paid this tribute to Professor Chafee:

"The depth of his knowledge, his vigorous standards of scholarship, and his command of clear and graceful English, spoken as well as written, made him a great teacher, respected and admired by thousands of students now practicing throughout the land. . . . He was, too, a man, a friend, a human being of rare warmth and charm. Those of us who were privileged to know him as a colleague will always treasure our memories of him."

Freund to Deliver Lecture in Newark

Paul A. Freund, Charles Stebbins Fairchild Professor of Law, will deliver the second annual lecture sponsored by the Harvard Law School Association of New Jersey, on Monday, February 18 in Newark. His subject will be "The Supreme Court and Fundamental Freedoms."

The Association has stated that its purpose in presenting the lectures is "to develop a better understanding of the role of the law in our present-day society, both by the legal profession and by the public."

Semi Formal...

The current series of Dorm Council dances comes to an end this Saturday night with a gala Valentine's Day dance. Dress will be optional. As usual, set-ups will be provided. The music will begin at 8:30 in the Large Meeting Room at Harkness Commons, and continue to midnight.

JAFFE



Louis L. Jaffe

(Continued from page one)

project, he said, is the apparent lack of a complete set of the United States and Federal Reports in Italy. He hopes to be able to remedy this defect before leaving the United States, perhaps by inducing the West Publishing Company to present a free set to the city of Rome.

In preparation for his leave, Professor Jaffe is studying Italian. He expects to resume teaching here in the fall of 1958.

Lincoln's Inn...

The Lincoln's Inn Society has announced the election of David W. Scully, 2L of Bryn Mawr, Pa., as its president for the coming term.

Other officers chosen are: vice-president, Stephen M. Boyd, 2L of St. Louis, Mo.; secretary, Jervis S. Finney, 2L of Eccleston, Md.; treasurer, Herbert H. Browne, Jr., 2L of Columbia, S. C.

Positions on the Board of Governors are held by: James E. Bacon, 2L of Gilbertville, N. Y.; Walter L. Boyden, III, 2L of Beverly, Mass.; Gordon A. Millsbaugh, 1L of Bay Head, N. J.; J. Daniel Nyhart, 2L of Indianapolis, Ind.; Charles W. Ufford, 1L of Haverford, Pa., and James T. Wood, III, 2L of Pasadena, Calif.

Alumni Notes

LL.B. '41 — Logan Cresap, Henry D. Valentine, and Byrd D. Wise have formed a partnership for the general practice of the law under the firm name Wise, Valentine & Cresap. Robert E. Canfield, LL.B. '28, will be associated with the firm as counsel. Their offices will be at 122 East 42nd Street, New York 17, New York.

LL.B. '48 — Landis, Cohen, Rubin and Schwartz have announced the opening of their European Office at 211 Bellerivestrasse, Zurich, Switzerland, with Saul G. Marias as their European partner.

LL.B. '50 — Melville B. Nimmer has opened his offices for the practice of law at 233 South Beverly Drive, Suite 203, Beverly Hills, California. He recently resigned as attorney for Paramount Pictures Corporation.

LL.B. '52 — Richard A. Norris and Arthur S. Meredith have formed a partnership for the general practice of law under the firm name of Meredith and Norris with offices to be located at 52 West Main Street, Somerville, New Jersey.

LL.B. '52 — Edgar J. Graef, Jr., and Katherine Wetherbee Graef report the birth of a second child, a daughter, on April 8, 1956.

Forum Tomorrow Evening To Study Education Trends

The Harvard Law School Forum will be host to Harvard's President Nathan M. Pusey, historian Henry Steele Commager, and president Robert M. Hutchins of the Fund of the Republic in Sanders Theater, Memorial Hall at 8 p.m. Friday.

Under the title "The Changing University" the speakers will discuss the rapidly rising college population, the shortage of teachers and the need for expansion and growth in university facilities.

Wein Lauds Jazz; Recalls Peak Era

George Wein, visiting lecturer at Boston University on the history and development of jazz, outlined the scope of American jazz for his audience at Coffee Hour last week.

Mr. Wein, one of the founders of the annual Newport Jazz Festival, traced the development of jazz as an "art form" and spoke wistfully of the late 'thirties as the "golden era" of jazz.

He charged the limited appeal of modern jazz on the American scene to the absence of any real leader within the field. "No modern giants have lately appeared to walk the land and influence the music world," he declared. "Metaphysically speaking, there is no Benny Goodman to draw the fans to him and to jazz as a whole."

Mr. Wein was introduced as one who speaks with authority on the "drawing power" of jazz. He is the owner-manager of Storyville, Boston's only jazz night club.



Nathan M. Pusey

and writer at Amherst and Columbia, and has done much to make American history come alive for the layman as well as the scholar. Dr. Pusey served as president of Lawrence College in Wisconsin before coming to Harvard in 1953.

Erwin D. Canham, editor of the *Christian Science Monitor*, will be moderator, according to Forum president Zelig Robinson, 3L of Baltimore.

Warren A. Seavey, Bussey Professor of Law, Emeritus, previously scheduled as moderator for the evening, will be unable to attend because of illness.

Tickets at 95 cents each will be sold at the door.

Law Wives...

The Law Wives' annual cocktail party for the faculty will be held in the Large Meeting Room of Harkness Commons on Saturday, February 16 from 4 until 6 p.m. Student wives are asked to bring *hors d'oeuvres*. Contact Mrs. Thomas Marshall, Cocktail Party Chairman, at MI 8-2598, to make arrangements.

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HARVARD SQUARE

Chafee's Contributions to Equity and Civil Rights are Praised by Colleagues

(Continued from page one)

ginning with an outstanding article, *Freedom of Speech in War Times*, 32 HARV. L. REV. 932 (1919), a succession of books has made him our leading authority on law and free belief, opinion, writing and speaking.

Nor has his scholarly scrutiny stopped there. During the first World War he began to inquire into methods of prosecution in enforcement of the Espionage Act and like legislation, and his article, *A Con-*



Roscoe Pound

temporary *State Trial*, 33 HARV. L. REV. 747 (1920), followed by his masterly report, *Lawlessness in Law Enforcement*, made significant contributions to the history of American law which must someday be written. As a result of the article in the trial of Jacob Abrams, Professor Chafee, Professor (now Mr. Justice) Frankfurter, Professor Francis B. Sayre, Edward B. Adams, Librarian of the Law School, and I, who had signed a petition to President Wilson for a pardon of Abrams (which was granted) were tried before the Visiting Committee on May 9, 1921, and were acquitted. He has stood for freedom under law for a generation . . .

Morris L. Ernst

General Counsel,
American Civil Liberties Union

I leave to others the happy chore of listing, appraising and praising the important writings of Zechariah Chafee in the field of civil liberties. I assume there can be little disagreement that Chafee has substantially affected our national thinking, and even our national policy with respect to the folly of man's fear of ideas. Further, there can be little doubt but that Chafee, among all the non-bench writers of our generation, has had greater impact on our oft hysterical and censorious thinking than any other lawyer. For such services he is well entitled to the honorary degree of "Defender of the Faith."

During the past decades our folkway has been frightened by the advancing power of trade unions, the secret underground activities of foreign governments, and the very indigenous and somewhat New Englandish fear of sexual excitement. On the first two generic levels all of us who acted as advisors or even courtroom barristers, could not have operated with success without the collations of material contained in the Chafee "bibles." His fortitude and wisdom on these levels acted as spiritual guides for all of us in the ranks, and the quality of his selfless spirit seeped down from the tops of our culture even to the level of the police courts and the lower reaches of magistracy. At the top levels of our culture he made a contribution comparable to that of Roger Baldwin in the operational field.

I would be less than frank, however, if I did not add that Chafee has had an

amusing blind spot when appraising the alleged need of societal protection against obscenity. . . .

But this is only a minor blind spot, it seems to me, in comparison to the great contribution made single-handed by Chafee. In all frankness I have, in an inverted sense, a much more severe criticism. Why did he never teach at the Law School the subject matter of his great contribution to the law and our folkway? Can't we even now get this bender of our folkways to teach at his Law School the problems of *The First Freedom*, which he now teaches at Harvard College. Our gamble that truth wins out in conflict of thought should long ago have had a position of importance for future legal luminaries, at least as important as the study of "negotiable instruments," one of the professor's pets. The negotiability of "ideas" — man's most precious commodity — touches on more than an act of faith, particularly in this era of expanding quantity and quality of "negotiation" of ideas. Why can't we get Chafee to start a course dealing with the printing press, the silver screen and the ether wave? Such instruction might bring into sharper reality the Chafee philosophy and also educate some future practising disciples. Such a course would deal with postal powers, the regulatory concepts of the Federal Communications Commission, the monopolies of the Associated Press, the giants of Hollywood, world shortages of newsprint, et cetera, et cetera.

It need not be pure philosophy — which at best is a means to an end. Above all it might bring some new vision, for example, to our attempts to control communism by



Morris L. Ernst

inviting individuals to step up to the public counter and ask for the privilege of registering as pariahs and treasonable folk.

I envy Chafee his contribution to our society and his deserved reputation in the field of his writings as distinguished from the field of his teaching. But we might by now have had wiser leadership throughout the nation if Chafee had taught at Harvard Law School courses on Civil Liberties. Hundreds of students might now, as practising lawyers, find that protection of ideas is as exciting a part of the law-game as protection of property.

Archibald MacLeish

Boylston Professor of Rhetoric
and Oratory, Harvard University
Former Librarian of Congress

When a great lawyer is also a great humanist it's hard not to write of him as a great man. Zech Chafee wouldn't care for the epithet, but it may well be too late for him to protest. History has glanced at him and history has a way of calling those she looks at by the names that please her. If Zech had stuck to Bills and Notes he would



Archibald MacLeish

have had his portrait in Langdell and the lively gratitude of generations of Law Students but his Yankee modesty would not have been troubled otherwise. It was when he began to think and then to write and finally to act in defense of the rights of men to be men — of the right of an individual to be an individual — that the first of the muses memorized his name for her chronicles. For he was born — or rather he grew up — into a time in which the defense of the right of an individual to be an individual was a notable, not to say an astonishing thing. People, although they talked about freedom, and made wars for freedom, had ceased to believe in freedom. Particularly the freedom of an individual to be an individual. Freedom to think as nobody else thought, or as nobody but a very few thought, was considered dangerous if not downright treasonable. People who thought in that way were pinks if they were not actually reds and therefore fair game for any newspaper publisher with the Constitution and his circulation to maintain. To say nothing of any politician who wanted to get, or to stay, elected. For a lawyer then, particularly a lawyer who was also a Professor, more particularly for a lawyer who was also a Professor at Harvard — for such a man to begin to think and to talk and to act in defense of the right of an individual to be an individual was to ask for trouble and therefore, considering the quarter from which the trouble threatened, to ask for fame. Zech has, of course, other claims. He is not only the principal defender of the freedom of the human mind in this country — which means, things being what they are, in the world. He is also a man who cares about the human mind — about what comes out of it — about its capacity, its inventiveness, its forms, its reasons, its aspirations, its fantasies. Which is another way of saying that he is a civilized man in a time when not many men are civilized. I don't know how you can add Zech Chafee up — sound scholar, lucid writer, devoted citizen, cherished friend, courageous man — without using the adjective which will embarrass him. If he is not, quite simply, a great American then words have lost their meaning.

Arthur E. Sutherland

Bussey Professor of Law,
Harvard Law School

To ZECHARIAH CHAFEE, Jr.
A teacher, who, fortunately for us, tells us with vast kindness the lamentable facts of our shortcomings;
A scholar, whose insistent search for truth has never dwindled into niggling pedantry;
A civilized man, who each day demonstrates that graciousness dwells with true learning;
A free man, whose whole life has shown that this freedom, had at great price, is what first of all he cherishes.

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John M. Maguire

Royall Professor of Law,
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Of Zechariah Chafee, Jr., I cannot write without overflowing gratitude to the kind Providence which produced him, and to my own lucky star which has already granted me nearly 40 years of association with him. That association began soon after he joined the Harvard Law School faculty in 1916, and he firmly cemented my affection and admiration by taking me (in the humble capacity of novice cook) on a coastal cruise during the early summer of the next year. You come to appreciate a man's quality very fast by bucketing with him in a small and somewhat porous single-sticker through a strong wind and over a rough sea from the Cape Cod canal across Massachusetts Bay to Marblehead, and thence on along the Maine coast to Sorrento. Half-a-dozen others were with us at various stages of that cruise, each very different from the rest, but all good fellows and all devoted to Zech. The experience gave me just respect for his wide human appeal.

World War I put us in camps somewhat opposed. My task was counter-espionage work under John Lord O'Brian, involving exercise of very summary governmental



John M. Maguire

powers, while Zech began that vigorous fight for individual freedom and tolerance which he has ever since carried on. We talked with some measure of disagreement over his first book on *Freedom of Speech*. He must have felt that I inclined too much toward restraint and suppression, while I thought his tune would have been slightly different if he had been responsible for the conduct of unruly alien enemies. But my thinking in the long run bent more and more toward his, which ultimately held its own in a memorable hearing before the Law School Visiting Committee of the Harvard Overseers.

After the disturbances of war had died down, Zech patiently and wisely criticized drafts of my early efforts at legal writing, and in 1923 it was he who brought me the

Law School's invitation to become one of its teachers. When I began in Cambridge, he turned over lock, stock, and barrel for my use his whole apparatus covering the course on Evidence. This was a tremendous aid to a greenhorn, for it had grasp and range which keep Zech even now an authority on this subject although he has not taught it in over three decades.

Releasing Evidence, Zech plunged wholeheartedly into Equity and soon established intellectual mastery. This was no mean achievement, since he had to continue a great line of succession — Langdell, Ames, Scott, and Pound. Quite likely it is fitting to dub him the Last of the Harvard Chancellors. For in this School at least fate has dealt a shattering blow to the pedagogic integrity of Equity. Irresistible intrusion of new material upon the curriculum relegates fragments of the once solid Equity courses to incidental treatment under other main titles. To be sure, one course bearing the name still remains, and that course will be ably taught; but the empire of Equity is gone.

Not that Zech has been staggered. The structure of his professional life never rested against any single prop. His is the pervasive culture which should mark a truly learned lawyer, and his intellectual interests spread as far as his friendships. Read the tight-printed 3 3/4 inches devoted to him by *Who's Who in America*, and count the multiple useful capabilities that leap to the eye. He has dealt with significant matters all the way from race-tracks to colonial legal history. His concerns are nationwide and international. Consider too that the position of University Professor has — as Sir Hamilton A. R. Gibb recently said with reference to his own like position — given every department of Harvard a call upon him.

How Zech has been able to do all these things will reward a moment's thought. His own talk bearing upon the point is often downright deceptive. He has in faculty discussion sometimes grumbled so dolefully against the prodigious workload cast upon law professors that a listening stranger might well have marked him as an eater of the lotus. Nothing could be further from fact. My own belief is that Zech draws a sharp line between slaving and striving. He will slave tractably for no man, but has schooled himself from youth to strive swiftly, tenaciously, and efficiently.

Much of the efficiency comes from remarkable power of communication. He speaks and writes fluently, and with force and particularly endearing friendly humor galling none save those who have momentarily or permanently lost the power to smile. Zech himself strongly maintains this power, and through it has helped make bad times tolerable and good times better. During these years of danger, change, and doubt his steady faith has had worth beyond calculation to the Law School and the University. The closing words, simple and emphatic, inscribed on one of Boston's public monuments well befit him:

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