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TEN CENTS

Yale Law Teaching Methods Undergo Extensive Revision

Yale Law School is continuing the revision of its curriculum, according to Dean Eugene V. Rostow. Designed to give students a "broad-gauged, policy-oriented exposure to law, not as a self-contained verbal system, but as a social phenomenon, in its full perspective of history, philosophy and social science," the revision was undertaken in the fall of 1954.

At that time, the late Dean Harry Shulman asked the Faculty Curriculum Committee to make a thorough appraisal of the course of study. The committee submitted two reports in 1955, which formed the basis for more detailed planning during 1956.

Stating that the program of curricular revision represents "a change in educational procedures, not in educational philosophy," Dean Rostow emphasized that it is designed to correct shortcomings and weaknesses in existing programs of instruction, "both at Yale and elsewhere."

The Dean said that most students not writing for the *Yale Law Journal* do not receive adequate training in legal writing or independent legal research. He warned that this leaves them unprepared for the demands of professional practice.

Danger of Repetition

The course of study in the second and third years, Mr. Rostow noted, tends to be repetitive, often boring, for students not participating in the work of the *Law Journal* or other activities. Finally, a need was seen for a program which will give the lawyer professional mastery in a branch of knowledge closely related to his own interests.

To correct these deficiencies, Dean Rostow is supervising several changes in the course of instruction. Each student in his first term will take one of his basic courses in a seminar, where he will receive his initial instruction in legal writing.

Another innovation is the requirement that each student during his fourth or fifth term take approximately half his work for credit in a divisional seminar, involving advanced

instruction, research, and writing in a special branch of law.

"The divisional seminars," the Dean explained, "will deal with broad and fundamental fields of law. They will constitute basic legal courses of an advanced character, taught by the methods both of seminar instruction and of individual reading, research, and writing," and will lead to a comprehensive examination in the field of law represented by the division.

Four Year Program

A four year program of law and graduate study designed to train law teachers and specialists is also being recommended. This plan would result not only in an LL.B., but would also earn the student an M.A. in an appropriate department of the Graduate School. The program was suggested by a four year combined course with the Harvard Business School which Yale conducted in the nineteen-thirties, initiated to train specialists in corporate and financial law.

Another part of the program listed a strengthening of the School's program in international and comparative law.

Dean Rostow emphasized that these curricular revisions were planned with the vital principle of maintaining a single course of study, so that all developments would be reflected directly in the training of LL.B. candidates, whom he characterized as "our first educational responsibility."

Avoids Fragmentation

"We wished," the Dean summarized, "to avoid the centrifugal growth of Institutes and other semi-detached bodies at the School, in the interest both of the teaching program and the intellectual life of the School." He concluded by admitting that "the proof of the pudding remains, of course. But there seems to be no doubt that these developments in the instructional program will have a considerable influence on law school practice in other parts of the country."

Makes Changes . . .



Eugene V. Rostow

Porter Questions U. S. Policy In Closely Guarded Session

Extraordinary security precautions were taken in the Capitol on February 28 when Charles O. Porter, LL.B. '44 ('47), Democratic Congressman from Oregon, attacked the regime of Generalissimo Rafael Trujillo, ruler of the Dominican Republic. Mr. Porter, the first president of the HARVARD LAW RECORD, is serving his first term in the House of Representatives.

Guided tours of the House side of the Capitol were suspended and plainclothesmen were stationed in the galleries while Representative Porter delivered his address, but there was no violence.

Mr. Porter charged that the United States policy of toleration, conciliation and condonation of the Trujillo government was partly responsible for the disappearance of an American pilot, Gerald L. Murphy.

Conflicting Accounts

Mr. Murphy, a native of Oregon, disappeared recently while working for a Dominican airline. The Dominican government claims that Mr. Murphy was killed by a fellow pilot, who then committed suicide. Friends of Mr. Murphy, on the other hand, have said that the young pilot confided to them that on March 12, 1955, he flew a "wealthy invalid" to the island nation. This was the same day on which Jesus de Galindez, who had written a thesis sharply critical of Trujillo, disappeared from his teaching position at Columbia University.

Representative Porter asserted in his speech that there was strong evi-

Alumni Committee Forms For Building Fund Drive

A committee of alumni has been organized to raise funds for the construction of buildings for the International Legal Studies program, according to Milton Katz, Henry L. Stimson Professor of Law and director of the program. On the recommendation of Dean Erwin N. Griswold, Nathan M. Pusey, president of the University, has issued invitations to alumni in twenty-four cities to assist in the group's fund raising efforts. So far, sixty graduates of the Law School have accepted.

The chairman of the new committee is Henry J. Friendly, LL.B. '27, of New York City. Other members of a "nucleus" which came together to help the Law School organize the full committee were George A. Brownell, LL.B. '22, James A. Fowler, LL.B. '19, John J. McCloy, LL.B. '21, Donald C. Swatland, LL.B. '21, Harrison Tweed, LL.B. '10, and Bethuel M.

Webster, LL.B. '25, all of New York City. Also on the preliminary group were Henry L. Shattuck, LL.B. '04 and Merrill Griswold, LL.B. '11, both of Boston.

Must Raise Funds

The task before the committee is the raising of enough money to construct two new buildings for the program. The larger is proposed as a new wing of Langdell Hall, located between the present north and west wings on ground now used as a parking lot. The smaller is to be a dormitory to house students enrolled in International Legal Studies.

The committee has stated that the cost of the two buildings will aggregate \$1,750,000. \$1,000,000 will be required to erect the wing on Langdell, which would provide additional classrooms, library facilities, and offices for the program, while \$150,000 would be set aside for its maintenance and operation. The dormitory will cost \$500,000 to build and \$100,000

dence to indicate that Mr. Murphy was murdered because he knew too much of Mr. de Galindez' disappearance. The Oregon representative de-

(See PORTER on page four)

Judges Announced For Quarter-finals

Judge Charles S. Bolster, LL.B. '22, of the Massachusetts Superior Court will preside when the Casner Law and Gardner clubs meet on March 28 in the first of the Ames quarter-final arguments. Sitting as associate justices will be two Boston attorneys, Herbert B. Ehrmann, LL.B. '14, and Hartley C. Cutter, LL.B. '32.

David W. Peck, LL.B. '25, Presiding Justice of the Appellate Division of the New York Supreme Court, will be chief justice for the argument on April 1. Story Equity and Casner Equity will compete to enter the semi-finals next fall. James Garfield, LL.B. '15, and John R. Quarles, LL.B. '28, both of the Boston bar, will complete the bench.

The Langdell club will meet Griswold Equity in the third quarter-final on April 4. The court will consist of Fred B. Perkins, LL.B. '22, as chief justice, with Robert H. Reno (Yale, LL.B. '41) and Charles M. Story, LL.B. '15, as associate justices. Judge Perkins sits on the Superior Court of Rhode Island, while Messrs. Reno and Storey are Boston attorneys.

Last Quarter-final

Completing the quarter-finals on April 8, the Chayes and Griswold Law clubs will argue before Judge Edward W. Day, LL.B., '25, of the United States District Court for the District of Rhode Island, who will sit as chief justice. Myer Israel, LL.B. '21, and James Barr Ames, LL.B. '36, both attorneys of Boston, will be associate justices.

The final argument in the 1957 Ames competition, between the Kaplan and Griswold clubs, will be heard on April 10 by Associate Justice William J. Brennan, Jr., LL.B. '31, of the United States Supreme Court; Raymond S. Wilkins, LL.B. '15, Chief Justice of the Supreme Judicial Court of Massachusetts; and William L. Henderson, LL.B. '19, of the Maryland Court of Appeals.

All arguments will begin at 8:00 p.m. in the James Barr Ames Courtroom.



Nathan M. Pusey

will be set aside to maintain and operate it.

In 1955 the Ford Foundation contributed \$500,000 toward the cost of the larger building, upon the condition that the Law School raise an equivalent amount before January, 1957. This matching fund had not been obtained when the period expired, but the Foundation granted an extension of one year. The committee must now raise at least a half million dollars by December 31, 1957, in order

(See BUILDINGS on page four)

Brandeis Memoir In March Review

The lead article in the March issue of the *Harvard Law Review* is "Mr. Justice Brandeis: A Centennial Memoir," by Paul A. Freund, Charles Stebbins Fairchild Professor of Law.

"The Effect of the Labor Dispute on the Administration of Government Contracts" by Sedgwick L. Green of the New York and Washington, D. C., bars is the second essay in the issue.

The Comment section features a jurisprudential piece, "Tu-tu." This title, somewhat unusual for a *Review* article, is an expression used by a hypothetical tribe in the South Pacific. A linguistic custom of the tribe is utilized to illustrate the author's premises.

"Remedies Against the United States and Its Officials" is the subject of a department on developments in the law.

Bull & Bear Club Will Hear Realtor

William Zeckendorf, president of Webb and Knapp, Inc., will be the Bull and Bear Club's guest speaker tomorrow at 1:40 p.m. in the large meeting room of Harkness Commons.

Mr. Zeckendorf has been well known in real estate circles for more than three decades. He arranged the purchase of land for the United Nations Headquarters in New York City. In addition to his activities in real estate, Mr. Zeckendorf is a director of the American Broadcasting Company and the New York City Anti-Crime Commission, and president of the board of trustees of Long Island University.

Tomorrow's meeting will be the last of the season at which members in the investment contest can make changes in their portfolios.

The club's final meeting of the year will be held on Friday, March 29, when Paul F. Glenn, LL.B. '55, of Dean Witter and Company will speak. Mr. Glenn's topic will be investment in commodities.

Law Wives

The Harvard Law Wives have scheduled duplicate bridge for law students and their wives on Wednesday, March 20, in the Wheeler Room of Holmes Hall.

Ralph G. Pagter, 3L of Washington, D. C., will direct the tournament. Play will start promptly at 7:45 p.m. Refreshments will be served, and regular bridge will also be played.



Herbert Wechsler

Massachusetts May Rewrite Definition of Legal Insanity

Massachusetts has set out to rewrite its statutory approach to legal insanity. One of the proposed drafts is based on the model penal code composed by Visiting Professor Herbert Wechsler.

The Legislative Committee on the Judiciary of the Massachusetts State Legislature has indicated that it will attempt to set up a special commission to study the problem, according to Silvio O. Conte, committee chairman.

The proposed legislation would replace the McNaghten rule which establishes the right and wrong test

as the basis for legal insanity in the state.

The Legislative Committee is presently considering two bills. One, filed by State Representatives Sumner Z. Kaplan, LL.B. '44 ('48), and Thomas C. Wojtkowski, is based directly on the model penal code.

Two Provisions

Under this bill, "(1) A person is not responsible for criminal conduct if at the time of such conduct as a result of mental disease or defect his capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of law is so substantially impaired that he cannot be justly held responsible.

"(2) The terms 'mental disease or defect' do not include an abnormality manifested only by repeated criminal or otherwise antisocial conduct."

The second bill, which attempts to

(See INSANITY on page four)

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Foreign Aid

The foreign student is many things to many people. To the average law student, he is a rather quiet fellow seen on occasions in Harkness and in the classroom. To the professor, he is a fresh sounding-board for new ideas. Radcliffe and Wellesley girls often find him a charming and exotic companion.

The recent announcements concerning the proposed expansion of the International Legal Studies Program call for a re-assessment of the position of the foreign student at the Law School. No one can gainsay the benefits to be reaped from the new wing of Langdell. But the construction of an "international" dormitory could in the long run have a more significant effect upon the student from abroad, for it may well bring about greater problems than those it purports to solve.

To House Married Students

This dormitory will contain quarters for a "combination of mature American students and foreign students." Presumably, the Americans will be graduate and third year students primarily interested in international law. Part of the building will house married students.

Close association with American students is one of the prime objectives of the exchange program. The foreign student has come thousands of miles not merely to study law, but to learn of his host country, and will carry home a lasting impression of his visit. The supplement to the pamphlet *International Legal Studies at the Harvard Law School — A Statement of Need* lists specific examples of men who have studied here and who now hold positions of responsibility in their native lands. It is essential that the foreign student be given every opportunity to gain as comprehensive a picture as possible of the American scene. An "international" house will hinder rather than abet the achievement of this purpose.

Little Contact

The program which the foreign student follows at the Law School does not foster contact with American students. Many of the students from abroad are pursuing advanced degrees, with the result that the course of study they follow is rigorous and keeps them constantly buried in the stacks of Langdell. In a few cases financial difficulties force the student from abroad to work, further isolating him from the main stream of the Law School. Classroom contacts are few, since there seems to be an unhappy policy in effect to seat all the foreign students together. Harkness affords new acquaintances, but in most instances only for one meal, which is an insufficient basis for anything more than an occasional nod.

What follows is that there are two places where the lasting associations of the foreign student are made. The stacks in the depths of Langdell constitute one such location, the dormitories the other.

It is no surprise that those met in the stacks are other foreign students, graduate students, and an occasional third year student. A weekly Graduate Coffee Hour, plus occasional other social events tend to solidify these students. It is natural then for a sort of "group feeling" to evolve. Yet those who would criticize the students from other countries for very often eating as a group at Harkness would do well to realize that this is a graduate group, rather than a foreign group, for American graduate students may be found within it, and is a product of the circumstances which surround the foreign student's daily life.

Only in the dormitories is any real contact

Letter to the Editor

TO THE EDITOR OF THE RECORD:

In the RECORD of February 21 there are two statements with which I violently disagree.

The first statement is contained on page four in an article by Assistant Professor Jack J. Rapoport of the Stetson University Law School, on family law problems. He states, "For it is generally accepted that more capable and outstanding lawyers shun the practice of family law, because among other factors, this field of law is thought to have less intellectual content and to present less of a challenge than do other areas of law."

Then on page two, Dean William L. Prosser, in discussing negligence and career insecurity, states (if I may transpose) that the lawyers who engage in negligence, criminal, and domestic relations practice are the "poorer lawyers" who tend to congregate around the "one case" client, whereas the "best men" are in corporate work, where they have security in practice and do not have to find new clients for each case.

Speaking of the lawyers who take negligence, criminal, and domestic relations cases, Dean Prosser states that top men in these fields are likely to be exemplary in both ability and character. But the vast majority cannot be at the top, he says, and the pressure they encounter tends to shape men of the profession who will become perhaps too good, rather than not good enough, in dealing with juries and putting cases to them. The expense and precariousness of such practice deter most large firms from engaging in it.

On behalf of trial lawyers, particularly those in the middle-sized and smaller cities of America, may I say a few words?

Having had extensive acquaintance through my classmates and otherwise with the corporate lawyers, house counsel and other one-client companies, and having extensive knowledge throughout the United States of trial lawyers, in my opinion there is no question but that the trial lawyer is at least a 50% better lawyer in every respect, including corporate practice, than is the corporate lawyer.

The corporate lawyer deals with facts that are predetermined; with statutes that are written out, and with rules and regulations which are set forth, but which may be subject to interpretation. The trial lawyer deals with human nature and American citizens; both as clients, and as jurymen and judges.

An established trial lawyer, while obviously having only one case for each client, will have a reputation; he will have a backlog of cases and clients ready for settlement or trial.

Domestic relations law is not the unremunerative field [which Professor Rapoport paints]. While the ordinary divorce case may be a matter of form and involve income of only \$150 to \$300, the lawyer must deal with human lives and future courses of

made with the average American law student. This provides a refreshing contrast to the daily work routine. To herd foreign students together in one dormitory would entirely eliminate this aspect of law school life.

The rationale behind the construction of the new dormitory is not difficult to discern. The ideal Harvard law student rises in the morning to discuss the day's cases with his roommate, dines in Harkness amid conversation concerning his morning classes, and goes to sleep reciting the rule in *Shelley's Case*. A dormitory of his own would enable the foreign student to sample such an existence. Yet such a result would go far to enervate one of the basic purposes of any student exchange program.

For Supplementary Use

But the proposed dormitory need not bring about these consequences. What is essential is that as many foreign students as possible be kept in the regular dormitories, with the new building used in supplementary fashion to house an overflow, rather than to provide a focal point for the international program. At present twenty-five of the sixty-six students from abroad live in the regular dormitories. This number should certainly not be diminished. There will always be some foreign students unwilling to live in dormitories, and others unable to afford it. Perhaps rooms at greatly reduced rates could be provided for the latter group in the new dormitory. More facilities for married students would also serve a useful purpose. Above all, complete information should be given to the foreign student offered rooms in the new dormitory, so that he may choose for himself the surroundings in which he will live.

The flourishing program of international studies enriches and enlivens the atmosphere of the Law School, and every effort should be made to further its development. The proposed dormitory can well serve this end, but only if it be given its proper place in the program as a whole. For it is better to plan to avoid future problems than to try to remedy them after they have come into being.

lives of children, together with the property rights of those involved. He has a duty to society and to his clients to act in the nature of a confessor and, if at all possible, to repair this breach in human relations. He acts as a doctor trying to cure a disease; if that is impossible, as a last resort he uses surgery and cuts the marital knot.

Many of the ablest lawyers in the country specialize in this field and create happiness through their efforts. Wealthy persons, too, have marital difficulties, and fees of \$5,000 are not at all unusual in marital relations cases. Further, the situation where a couple are reunited and enabled to live happily with their children, transcends all the joys of winning a corporate case and having that corporation sail smoothly on the seas of financial security.

The great trial and appellate lawyers of this country command incomes equal or superior to those of the heads of the biggest firms of corporation lawyers. . . . The criminal lawyers, so-called, are the ones who deal with the greatest human problems, where persons may be deprived of their life and liberty through human errors. . . . Their type of client, one who transgresses the law, is usually not of the better grade of society, else he would not be in his troubles. But he is a human being with intelligence, character, and a life to be led, and the lawyer whom he employs can frequently be a guiding influence in his life. . . .

Dean Prosser's idea that large firms will not engage in trial work is true, and the reason is that a firm is incapable of trial work. Only an individual can be a trial lawyer, just

as only an individual can be a surgeon. . . . A trial lawyer learns through his mistakes in trying a case, and refrains from making those same mistakes again. He cannot be taught trial law, but must learn it. . . .

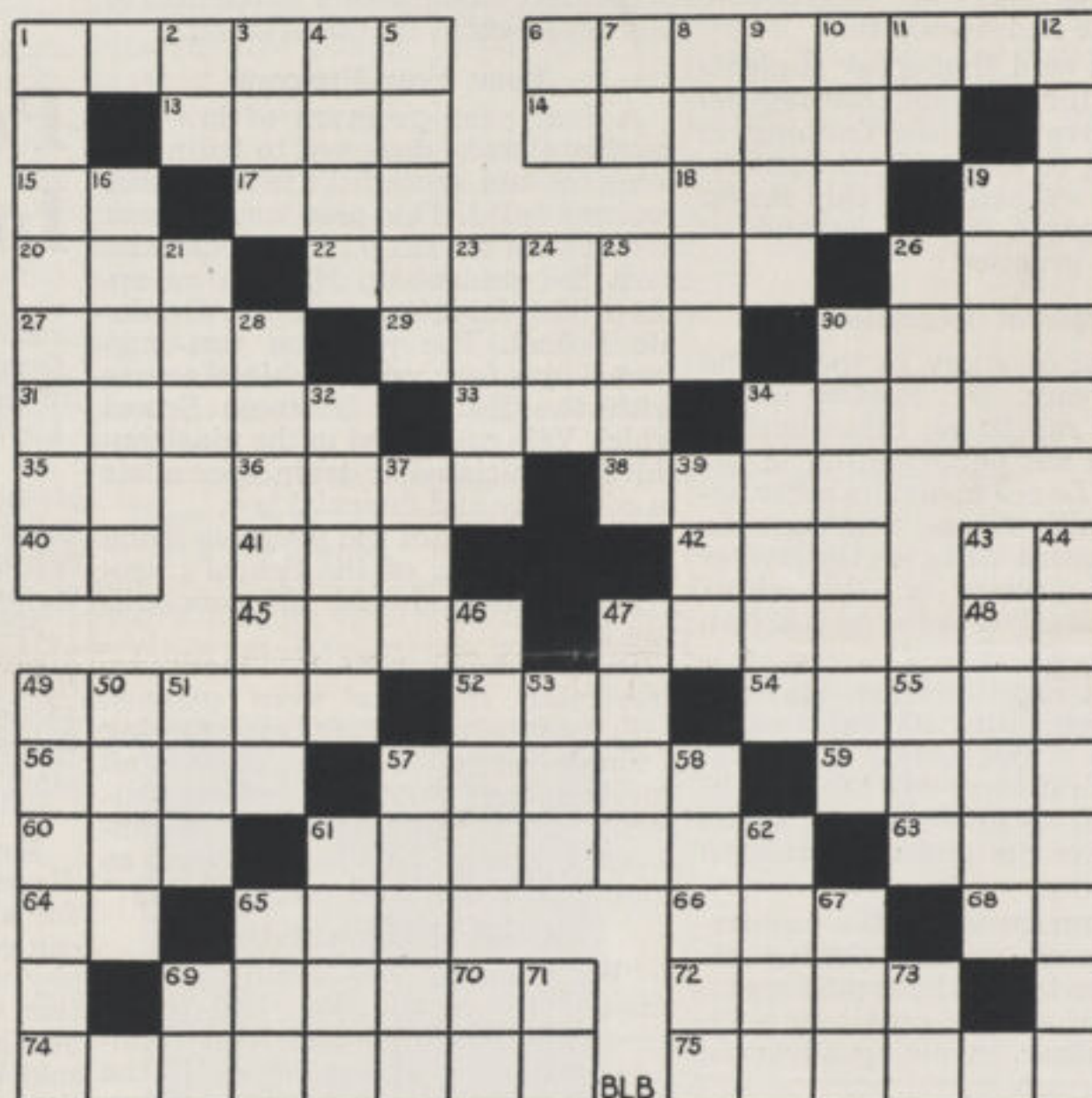
I well remember my friend the late John W. Davis, who grew up in the practice of law with my father. After some years of practice in the smaller cities as a trial lawyer, he rose, through successive steps, to be Solicitor General of the United States, later Ambassador to Great Britain, and then head of one of the largest corporate law firms in the United States. He told me that whenever a number of the heads of large New York law firms met to discuss a problem, he could always settle it quickly by suggesting that the conference be adjourned and the case filed in court and tried there. He was the only one of that group of heads of large law firms who could try a case and who even dared to.

And certainly the trial experience of former Governor Thomas E. Dewey, now head of one of the largest New York law firms, has stood him in excellent stead. . . .

As I have heretofore said, I know many corporate lawyers in the large cities, and I also know the trial lawyers of those cities. The corporate lawyers, while, of course, capable and earning their large fees and incomes, are no more ethical and no more honest, and a hell of a lot less interesting than are the trial lawyers in those same cities. . . . Give the corporate lawyer his due, but do not pick on the trial lawyer or hold him up as a poor, uncouth, untutored relative, or as a comparison object.

J. CAMPELL PALMER, III, LL.B. '29

Puzzle



ACROSS

1. HLS Dormitory
6. HLS Professor
13. Attestation
14. Apocryphal book
15. Saint (Abbr.)
17. Viscous distillate
18. Without
19. Small naval vessel
20. Article
22. Portion
26. Soak
27. Metal
29. Bewilder
30. Small windlass
31. Roman calendar day
33. Epoch
34. Canadian peninsula
35. Southern state (Abbr.)
36. Light tap
38. Soviet work quota
40. Street (Abbr.)
41. Swiss canton
42. Tap
43. Quiet exclamation
45. Infant sheep
47. Siberian river
48. Humorous exclamation
49. Wife of Abraham
52. Japanese herb
54. Less wet
56. Title of 25 down
57. Sudden sound
59. South African march
60. Equip
61. Slavic nationality
63. Feminine name
64. Midwestern state (Abbr.)
65. Completely
66. Water sprite
68. You
69. Biblical poems
72. West Indian shrub
74. President of Yale
75. Fessenden professor

DOWN

1. HLS Dormitory
2. Behold
3. Rug
4. Village of Greenland
5. Grind
6. Us
7. Plural suffix
8. Rock
9. Bully
10. Fetch
11. Army regulation (Abbr.)
12. Small
16. Neck part
19. Feeble sound
21. Long time
23. Manor court
24. Standard score
25. Name of a 56 across
26. Trust ingredient
28. Astronomical hypothesis
30. Watched by Key
32. Twilled fabric
34. Great
37. Filch
39. Metallic earth
43. Radiant
44. HLS Building
46. Rough edge
47. Localities
49. Cord
50. Continent
51. Tattered cloth
53. Peck
55. Outlawed Irish organization
57. Stringed instrument
58. Town in Utah
61. Salad
62. Number
65. Beast
67. Roman fourteen
69. Circular relationship
70. Milliliter (Abbr.)
71. Northern state (Abbr.)
73. Chinese linear measure

The answer will appear in the next issue.

— Balch

Airline Executive Discusses Civil Aeronautics Regulations

by STANLEY GEWIRTZ

Stanley Gewirtz, LL.B. '40, is a member of the New York and Utah bars. Assistant general counsel of the United States Office of Civilian Defense in 1942, Mr. Gewirtz served in the Air Force from 1943 until 1946. Thereafter he was executive assistant to the chairman of the Civil Aeronautics Board, and later vice president and assistant to the president of the Air Transport Association of America. Last year, Mr. Gewirtz was appointed vice president of National Airlines, Inc.

In less than two decades, regulated air transportation has grown to a position in our economy of vitality and resourcefulness. No longer an infant industry, it has earned its right to full partnership in our transportation family, capable of contributing a better-than-fair share to the country's economy and security.

The rapid growth of America's air transport industry, both in physical stature and in usefulness, has been so staggering that even the wisest of prophets would never have dared to predict what today is fact. Few, if any, industries have produced in so short a period of time so much progress with so many direct benefits in service to the public.

Precise Regulation

Before briefly noting the record of certificated scheduled air transportation in detail, it would be well to look at the general nature of the business. For, as one of the most — if not the most — precisely regulated of all public service industries, scheduled air transport submits to certain restrictions and must discharge certain obligations.

The industry is regulated not only as to basic policy but also as to the innumerable details of its daily business. And, in addition to its general obligation to be of public service, the industry has specific obligations to the commerce, the postal system and the national defense.

The regulations and the obligations both exist because Congress, some eighteen years ago, determined that a scheduled air transport system must be created to meet a public need. The administration of the law governing the development of the scheduled air transport industry was entrusted to a federal agency, the Civil Aeronautics Board.

Public Usefulness

One of the general objectives set was that the industry must be of general public usefulness. It is the task of the industry to provide a universal air service — service not just for passengers, but for mail and goods; service not just for the large cities, but for the country's smaller communities. In brief, the duty of the industry is to develop air transport. A second objective was that the industry must be competitive. A third objective was that the industry must become strong and self-sustaining.

How the objective of developing air transport has been served can be told in the growth of traffic, the addition of schedules, the introduction of new equipment, the production of more and more service at less and less cost to the public. How the objective of becoming more competitive has been served is conveyed in many ways: in the story of parallel services being established; in the vigor of the competition as reflected, to some extent, in the lusty promotional campaigns and the large volume of advertising sponsored by the industry. The drive for self-sufficiency is reflected in the fact that subsidy is a smaller and smaller proportion of industry revenues and, in recent years, has annually required a smaller appropriation, despite greatly increased service.

Highly Competitive

Two additional general observations may be made before going into detail. One is that, in addition to actually being the world's most competitive air transport system (if not the world's only competitive system), the American-flag airlines compete with the great foreign-flag systems. It is worth noting that this competition is no longer restricted to the international routes. Under established government policies, foreign-flag airlines are given traffic rights which compete, directly and indirectly, with

our domestic airlines. And, through special procedures, the foreign-flag airlines may receive hearings and decisions far more rapidly than is possible for our own airlines.

The second general observation is that, although this country's scheduled air transport has, as the figures show, discharged its obligation to be of service to the commerce, the postal system and the national defense, as yet it has not fulfilled completely the promise it has held for its investors. The measure of the industry's increased usefulness is to be found in gross traffic figures, in gross revenues. But the measure of its strength



Stanley Gewirtz

for the future is found partly in its net income. And the increase in net income has not been commensurate with the increase in grosses.

At the outset, it should be made perfectly clear that the Civil Aeronautics Act of 1938 was a carefully considered statute which was designed to create a system of regulated competition for commercial aviation. At the time of the passage of the Act, its sponsor in the House, Representative Clarence F. Lea, pointed out that the Act was necessary because "the industry has reached the point where unbridled and unregulated competition is a public menace . . ."

Restrictions Imposed

It was not surprising that the will of Congress changed the nature of the unrestricted competition previously inherent in air transportation and statutorily prohibited it for the future. Prior to and since the Act of 1938, other public service enterprises had or have been placed under public regulation, which meant that they were removed wholly or in part from the workings of a free enterprise system and from the play of unrestricted competition. This was not applicable only to those public utilities which we know as natural monopolies. This same type of economic control was applied to radio and television and, in the transportation field, to our railroads, our truckers, our bus companies and our pipelines as well as our airlines.

Need for Supervision

The purpose of this approach resulted from the understandable conviction that, in many circumstances, unchecked and unrestrained competition was harmful to the community. Certainly, the history of air transportation before 1938 gave further validity to this contention.

When Congress passed the Civil Aeronautics Act, the financial situation of the air carriers had become so chaotic as to shake the faith of the investing public in their financial stability and to prevent the flow of funds into the industry. Fifty per cent of the \$120,000,000 of private capital that had been invested in the air

transport system before 1938 had already been lost. Congress was aware of the history of "boom and bust" which had made the railroad industry a chronically sick industry. In 1938, when the Civil Aeronautics Act was passed, one-third of all railway mileage was in the hands of receivers or trustees.

The Civil Aeronautics Act was enacted to provide unified regulation of the air transportation industry in accordance with a comprehensive and long-range program based on sound economic principles. Congress intended to prevent uneconomic and destructive competition and wasteful duplication of services. The Senate committee which reported the bill that eventually became the Civil Aeronautics Act put the matter succinctly:

"Competition among air carriers is being carried to an extreme, which tends to jeopardize the financial status of the air carriers and to jeopardize and render unsafe a transportation service appropriate to the needs of commerce and required in the public interest, in the interests of the Postal Service, and of the national defense."

Act Must Be Considered

Accordingly, any evaluation of commercial aviation today and of the Civil Aeronautics Act of 1938 must be against a background of the purposes of the Act and the recognition that the Act enunciated a doctrine of restricted competition. Whether that Act has been successful, whether there is any validity to the contentions recently made for limitless freedom of entry, and whether the nature of the service suggested by new entrants and applicants would serve the public interest must be considered in the light of the Act's philosophy.

Whether or not air transportation is a public utility in the same sense that gas and electricity and telephone companies are, it should be clear from the preceding brief exploration of the basic thesis underlying the Civil Aeronautics Act that it probably is the most precisely regulated of all public service industries. Indeed, the Civil Aeronautics Board has concluded that the "statutory provisions of [the Civil Aeronautics Act], the legislative history, and decisions under the Act plainly establish that air carriers are to be regulated as 'public utilities' as that term is generally understood."

Airlines Also Responsible

It should be sufficient to point out that the nature of existing legislation imposes upon airlines which are certificated a substantial quantum of regulatory responsibility. As will be pointed out, the powers of the Board over air carriers, all of whom are by definition "common carriers," are, as the Civil Aeronautics Board itself stated, "consistent with and similar to those normally applicable to regulated public utilities."

In order to enter air transportation, you must be certificated by the Board. In order to receive a certificate, you must show not only that your service is in the public convenience and necessity but that you are fit, willing and able to perform it. A certificate, when issued, specifies the cities you may serve and the extent to which you can vary from the stringent requirements set out in that certificate.

Effect of Certification

Once an applicant has been certificated, he may not suspend services without Board approval nor abandon any service without permission granted by the Board after hearing and argument. However, the Board, after a hearing which it, itself, may initiate, may alter, amend, modify or suspend a certificate.

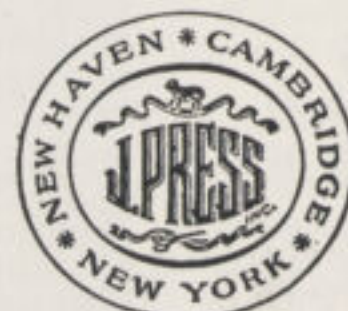
Airline prices are regulated. Individual and joint rates must be reasonable and non-discriminatory. All rates, classifications and rules must be published and uniformly observed. Tariffs believed to be unlawful can be suspended. Adequate service must be provided. A carrier cannot discriminate among persons, cities or types of traffic. A carrier certificated to carry the mail, although paid for it only on a compensatory basis, must carry that mail with a priority over all other traffic — despite the fact that mail travels more cheaply than people. If the Post Office Department prescribes additional mail schedules, (See AIRLINES on page four)

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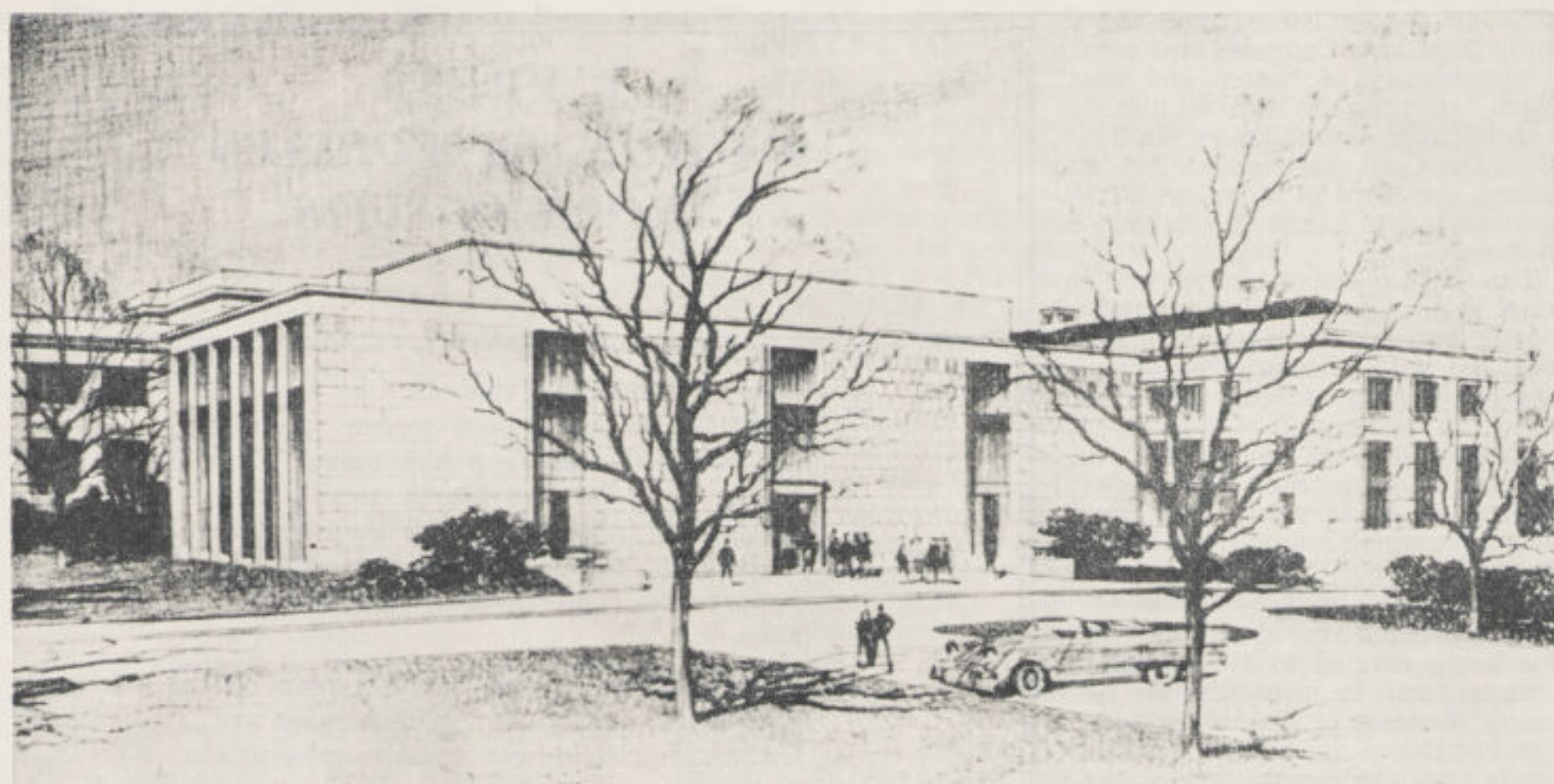
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Architect's sketch of proposed building for International Legal Studies

BUILDINGS

(Continued from page one)

to satisfy the terms of the grant. Contributions are being solicited from business organizations, foundations, and others whose activities give them a special interest in International Legal Studies.

The principal reason for the new wing, according to the committee, is to relieve the present overcrowded facilities in Langdell. Since World War II the School's faculty, including research associates and teaching fellows, has doubled; there are also seventy-five more graduate students. This additional personnel, together with an increased secretarial and clerical force, is now housed in the same space used before the War.

The material facilities of the library have correspondingly grown. Large numbers of books, particularly appellate briefs and records, must be stored in the basements of the School's dormitories; this often causes considerable delay to those who must make use of the material. Library officials have estimated that additional shelf space is required to hold 200,000 volumes.

More Space

The committee has emphasized that when International Legal Studies moves into the new wing, this crowding will be greatly alleviated. At the same time, it claims that the work of the program would be greatly enhanced by having its facilities and materials organized in a single building.

In discussing the projected dormitory, the committee has stated that to facilitate "informal association and friendship, there is need for a dormitory which would house a combination of mature American students and foreign students. The existing Law School dormitories, already overcrowded, are inadequate to house the entire undergraduate student body, much less graduate students. The need for this building is especially great in the case of students from Asia and Africa."

The dormitory would be large enough to accommodate sixty single

students and five married couples in the program. It would be situated along Massachusetts Avenue on the area now occupied by Kendall House and the Chancery Club.

Approximately 300 students at the Law School are now connected with the program. 200 of these are second and third year students taking courses or seminars offered in the field. The remaining 100 are graduate American and foreign students. Altogether, twenty-two courses and seminars are available.

Objectives of the Program

Four "principal operating targets" have been outlined by International Legal Studies. The first objective is the training of American lawyers in the legal aspects of international transactions and relations. Courses in this area, of which International Law, Legal Problems of Doing Business Abroad, and Legal Problems of International Trade are examples, are open to graduates and undergraduates alike. The aim is to build a foundation for their development of a practical capacity to deal with such problems, and to build this foundation as part of the preparation for their professional careers.

The second goal is the training of foreign students. These students include lawyers, government officials, scholars, and other graduates. At the present time eighty-five such foreign students are enrolled at the Law School, representing twenty-eight different countries.

Research is another objective. Examples of the subjects under scrutiny are the effect of tax policy and administration on investment by American companies abroad; the effect of the antitrust laws of the United States on industry abroad, and the status of international waterways.

Finally, the program is designed mutually to enrich American and other legal systems. Examination of the similarities and differences of these systems, the proponents of the program feel, may lead to deeper understanding of basic concepts, and practical improvement in the law.

— Oliver

INSANITY

(Continued from page one)

clarify and amend the present law, was prepared by Endicott Peabody, LL.B. '48. It adds to the present law only the statement that "a person accused of crime is not criminally responsible if his unlawful act was the product of mental disease or defect."

Mr. Peabody, speaking in support of the change, told the committee that psychiatrists have pointed out that "the common-law rule in this state as to what constitutes legal insanity has failed to keep pace with the great advances in medical knowledge that have taken place in the field of mental health."

"Few, if any, reputable psychiatrists of today would base an opinion as to the defendant's sanity on the criterion of whether he knows right from wrong or was controlled by an irresistible impulse," Mr. Peabody said.

James L. O'Dea, LL.B. '48, Middlesex County District Attorney, backed the Kaplan-Wojtkowski bill, but advocated a commission study, in his testimony before the legislative committee.

Mr. O'Dea indicated that when a psychiatrist takes the witness stand in a case involving questions of mental capacity, it is usually the decisive issue in the case.

— Mulrony

PORTER

(Continued from page one)

mandated a Congressional investigation of the Murphy case.

Mr. Porter censured, among others, former Congressman Franklin D. Roosevelt, Jr., whose New York City law firm represents Trujillo. Mr. Porter questioned "the propriety of their serving in a capacity to lend respectability to a regime which plots and carries out murders of American citizens and guests."

Other members of the House took issue with Mr. Porter's observations. Representative John M. Robinson, Jr., Republican of Kentucky, said he thought Mr. Porter should "withhold his indictment of a friendly government and its head until our own government has completed its investigation."

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AIRLINES

(Continued from page three)

a carrier must adhere to such prescriptions.

There is no phase of an air carrier's operations which is not regulated. Consolidations, mergers, acquisitions of control, purchases, leases and contracts to operate the properties of other carriers or other persons are subject to approval, all of this after Board hearing and all of it subject to the caveat that approval will not create a monopoly in restraint of competition. Interlocking directorates are subject to approval. Every pooling arrangement, even if it involves the joint use of a loading ramp or a gate position, is subject to Board approval.

Extensive Reports

Accounts and records must be kept on Civil Aeronautics Board-prescribed forms. Periodic and special reports must be filed. The records of every airline are subject to regular Civil Aeronautics Board inspection and audit. An air carrier is subject to the labor provisions of the Railway Labor Act. Above all, an air carrier is subject to Civil Aeronautics Board investigation into the management of its business, its practices, its methods of competition, and anything else at the will of the regulatory agency.

The foregoing requirements have been cited briefly to illustrate the nature of the business in which certificated air carriers are engaged. It is important to appreciate that, to a very great extent, the advantages granted by certification in the public interest are balanced by the obligations of enfranchisement.

The Civil Aeronautics Act, like others before it and since it, created a bipartisan regulatory agency, whose members are appointed by the President with the advice and consent of the Senate. It has the unquestioned responsibility to make decisions in the public interest and the public convenience and necessity.

A logical question is the extent to which, since 1938, the doctrine of regulated competition has produced, under CAB guidance, a sound air transport system, with particular reference to its competitive flavor and the absence of monopoly. Perhaps this question can be answered best by citing the record of certificated air transport, one shared mutually by the Civil Aeronautics Board and the regulated airlines.

Looking at the Record

The answer to the question "How well has the industry discharged its obligations?" is to be found in some description of how well it has served the commerce, the postal service and the national defense. A comprehensive description is not possible here, but perhaps an indicative description is.

The Post Office was responsible for the operation of the first scheduled services and, originally, mail pay was a form of subsidy. Today, the small and declining subsidy still required for some portions of the industry's vital public service is separate from mail pay. Out of each six-cent air mail stamp, the airlines today receive about a penny for service rendered; the rest goes to the Post Office. As to volume, there were about 210,000,000 air mail letters in 1938, as contrasted to a staggering 1,400,000,000 in 1955. And, in addition to air mail, the Post Office and the scheduled airlines are now cooperating in an experiment to move first-class mail by air whenever air service will expedite delivery.

As to the defense, our military leaders repeatedly have stressed the importance of a civil air fleet in being as a second line of air defense. And three times during the ten-year period beginning in 1941, the scheduled airlines helped to provide airlift during national emergencies: World War II, the Berlin airlift and the Korean airlift.

Civil Reserve Air Fleet

Today, the United States has the largest Civil Reserve Air Fleet in the world. That fleet, with its flight and ground crews, is subject to call on forty-eight hours' notice. The scheduled airlines contribute the bulk of the fleet: 300 four-engine aircraft, all capable of over-ocean flight and worth \$400,000,000. It would cost the American taxpayer each year close to \$300,000,000 to maintain and operate that fleet. Of course, it is not just the aircraft earmarked for mobilization in the Civil Reserve Air Fleet that have national defense significance. The other airliners would be engaged in providing essential civilian transportation services.

What figures can you use to measure the increase in usefulness to our commerce? In 1938, there were 23 certificated airlines; today there are 56. In 1938, there were 286 cities served at home and abroad by American-flag airlines; the figure is now 971. There were 345 airliners in service in 1938; there are about 1,500 in 1956, and the average speed and capacity are, of course, much greater. There were 284 daily schedules available in 1938, and more than ten times that number today. And the average air fare for today's service is almost exactly what it was in 1938, despite such increases in costs as reflected in a rise of 235% in airline wage levels and an increase of over 90% in consumer prices.

Capacity for Service

In almost every area of public service, the air transport industry has doubled — in many cases, tripled — its usefulness and capacity to serve. Public acceptance of air transportation and the industry's record of safety and dependability stand as proof of the progress.

The industry does have problems ahead, as any growth industry would. However, the industry's faith in itself and its own future is graphically demonstrated by the capital commitments that have been made for the jet age. Over the next ten years, the industry will spend upwards of three billion dollars, or almost four times its present net worth, for new equipment. This is the best test of the industry's faith in itself and in the contributions it knows it will continue to make to our commerce, our postal system and our national defense.

— END

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