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TEN CENTS

Philadelphians Hear Address By Frankfurter

Previous judicial experience and geographic considerations should not be prerequisites to an appointment to the United States Supreme Court, Associate Justice Felix Frankfurter, LL.B. '06, told a Philadelphia audience recently.

In presenting the first Owen J. Roberts Memorial Lecture under the auspices of the University of Pennsylvania Law School, Justice Frankfurter set forth his views concerning the experience and origin qualifications for a Supreme Court appointment.

"The correlation between judicial experience and fitness for the functions of the Supreme Court is zero," he said.

"During the 167 years since the day appointed for its first session, 90 justices have sat on the Supreme Court. The number of men over so long a period would seem to be sufficient to afford some light on the kind of experience or qualifications that may be deemed appropriate for service on the Court. Indeed, the actualities about the men who were appointed to the Court may well be wiser guides than abstract notions about the kind of men who should be named."

Past History

Justice Frankfurter reviewed the backgrounds of 75 of the 90 Supreme Court justices in the light of the suggestion that prior judicial experience is an essential prerequisite for a position on the High Court.

Of the 75, 28 had no previous judicial experience. The proposed requirement that a Supreme Court justice have no fewer than five years experience in a lower federal court would have eliminated at least 35 of the 75.

"Of the 12 chief justices within our period," he continued, "five had not any judicial experience at the time



Felix Frankfurter

tant business of the Supreme Court, judicial experience intrinsically fosters certain habits of mind and attitudes, serves to train the faculties of detachment, begets habits of aloofness from daily influences, in short, educates and reinforces those moral qualities, disinterestedness and deep humility, which are indeed preconditions for the wise exercise of the judicial function on the Supreme bench. Unhappily history again disappoints such expectation...

"Even though the history of the court may demonstrate that judicial experience whether on state or federal bench ought not to be deemed a prerequisite, what of the lower courts as a training ground for the Supreme Bench? The fact is that not one so trained emerges over a century and a half among the few towering figures of the court. Oblivion has overtaken almost all of them.

"More immediately relevant to our subject," Justice Frankfurter continued, "is the fact that even justices who have come to the Supreme Court fresh from a longish and conspicuously competent tenure on the lower federal courts do not find the demands of their new task familiar. Their lower court experience does not make the transition an easy one. . . . Thus it has been as true of capable justices who came to Washington from lower federal courts as of those who came

(See SPEECH on page three)

Californians

A talk by Professor Lon L. Fuller, a Stanford graduate, will highlight a luncheon meeting of the California Club on April 10 at 1:10 p.m. in the Mallory Smith Room in Harkness Commons.

Club officers for next year will also be elected.

Howe Talks on Holmes' Life; Will Help Edit Legal Journal

Professor Mark DeWolfe Howe described "Mr. Justice Holmes" as "an enthusiastic skeptic" at the Law School Coffee Hour last week, before an audience of 300 in Harkness Commons.

Professor Howe has just completed the first volume of a biography of Justice Holmes, *The Shaping Years*. He assured his audience, however, that the purpose of his talk was not to sell copies of his work.

Professor Howe developed his analysis of elements of the Holmes philosophy by characterizing the jurist as a man "possessed of an essentially rebellious attitude."

Justice Holmes' contact with the spirit of adventure and camaraderie in his military experiences during the Civil War was developed as a contrast to the crusading spirit which he carried to the army. Out of this evolved the Justice's philosophy of bringing to any cause "the stout heart," Professor Howe said.

Dual Contribution

Holmes' desire to excel, his constant "looking for applause from the elect" found its greatest expression in the law, where he discovered that he could make his contribution to both natural science and philosophy without the restrictive influence of his home as characterized by his father, the Autocrat of the Breakfast Table. With Holmes, "morality was simply a problem of taste rather than a matter of truth."

Professor Howe touched briefly upon the influence that a younger gen-

Nossaman Chosen to Judge Williston Competition Finals

Walter L. Nossaman, LL.B. '12, a specialist in California property law, has been selected to judge the final round of the Williston Competition. Mr. Nossaman, a native Kansan and an alumnus of Wichita College, is a member of the Los Angeles firm of Brady and Nossaman. He was on the board of governors of the state bar of California from 1950 to 1953, and was chairman of the real property, probate, and trust law section of the American Bar Association from 1948 to 1950.

The drafting problem which Mr. Nossaman will judge involves an estate plan under California law, Maurice S. Binkow, 3L of Miami Beach, Fla., chairman of the competition, has announced.

Final Round

Three teams of four men each competed in the finals; they were allowed a month to complete their solutions. A preliminary memorandum and a four-hour interview with the "client" (Paul T. Guinn, LL.B. '56, faculty assistant in charge of the Ames competition), furnished the raw material for the drafters.

The judge's decision is expected to be received late in April. Prizes totaling \$500, to be donated by the Boston Safe Deposit and Trust Company, will be awarded to the three top teams at a dinner, also to be sponsored by the Boston bank.

The competition as a whole involves three rounds. Individuals not participating in the upper rounds of the Ames competition, *Law Review*, or Board of Student Advisers may enter the qualifying round in the spring of their second year. Winners enter the semi-finals, held in the fall of the third year.

This spring's qualifying round at-

tracted the largest entering group in the six-year history of the contest. Thirty teams, of four men each, are competing. Twelve drafting problems have been presented to the qualifiers. These problems are set in six jurisdictions: California, Delaware, Massachusetts, New York, Pennsylvania, and the federal. No problem was given for the Commonwealth of Ames.

Included in the problems were such tasks as drafting wills, statutes, and contracts. For example, a New York

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Michigan Lecture Given by Griswold

Dean Erwin N. Griswold, speaking at the University of Michigan last week, urged academicians to take steps to preserve and safeguard academic freedom.

As featured speaker at the second annual Hayward Keniston Lecture, Dean Griswold characterized the organized development of academic freedom as a recent phenomenon, which is traditionally given little systematic attention.

In examining academic freedom in the light of the Fifth Amendment to the Constitution, Dean Griswold said, "I was one of those who said that such professors [claiming Fifth Amendment immunity] should not be automatically fired without investigation of the actual facts of their cases."

"I still say that, as I have today. But it also seems rather clear to me that most of the professors who claimed this privilege would have acted more wisely — and perhaps more courageously — if they had not claimed the privilege and had, instead, gone ahead and answered the questions, distasteful as that would surely have been.

Unfortunate Results

"By claiming the privilege, these professors brought not only on themselves but also on their institutions and on the academic world generally grave suspicions of wrong-doing.

"Large segments of the public got from this conduct, repeated in a number of cases, the notion that the universities were riddled with communists, that teachers generally were instilling insidious and seditious notions into the minds of the youth, and all to the great risk and danger of the community."

In concluding his address, the Dean characterized the objectives of academic freedom as the diffusion and enhancement of knowledge, and challenged the teachers in the audience to remember that the responsibility for academic freedom was one personal to them. To emphasize his point, Dean Griswold used the words of President Chadbourne of Williams College, spoken in 1873:

"Professors are sometimes spoken of as working for the college. They are the college."



Mark DeWolfe Howe

eration had upon Holmes after his appointment to the Supreme Court at the age of 61.

The speaker attributed a respect for younger people and a desire to be ahead of his own generation as the forces that brought Holmes into contact with men like Harold Laski, Felix Frankfurter, and Walter Lippman and provided the Justice with a broad and youthful orientation of ideas.

Justice Brandeis was credited with bringing to Holmes a new attitude toward the law, Professor Howe continued. Brandeis worked and looked outside the law to reach a wider scope of social awareness than did Holmes who was self-directed to the inner

(See HOWE on page four)

Quarter-finals

The Casner Law and Story Equity Clubs have won places in the semi-finals of the Ames Competition next fall. Casner Law defeated the Gardner Club on Thursday, March 28, in a patent case involving mandamus and change of venue.

Last Monday, Story Equity won a decision over the Casner Equity Club in a case where the issue was the duty of a labor union to bargain in good faith under the National Labor Relations Act.

The next argument in the quarter-finals will take place this evening at 8 in the James Barr Ames Courtroom, when the Langdell Club faces Griswold Equity.

Regional SBA Conference Schedules Panel Discussions

Delegates from fourteen law schools will participate in the eighth annual conference of the First and Second Circuits of the American Law Student Association, scheduled to begin here today.

The local chapter of the Student Bar Association is the sponsoring organization for the conference, according to Carter L. Gore, 2L of Staunton, Va., new SBA president.

Panel discussions on criminal responsibility and lawyers' finances and an address by Samuel P. Sears, LL.B. '21, will highlight the conference activities. Delegates to the meeting will begin registering today at 3 p.m. in Harkness Commons and the first business session opens in the large meeting room of Harkness at 6:30 p.m. today.

Professors on Panel

A panel discussion on criminal responsibility will be held in the James Barr Ames courtroom at 2 p.m. Friday. Panelists will be Assistant Professor Abram J. Chayes; Professor Jerome Hall of Indiana University Law School; and Visiting Professor Herbert Wechsler, a member of the Columbia Law School faculty. Louis L. Jaffe, Byrne Professor of Administrative Law, will act as moderator.

Professor Hall will defend the McNaghten rule as a test of legal insanity. Professor Wechsler will present the position of the American Law Institute's Model Penal Code, and Professor Chayes will present the Durham rule.

At 5 p.m., immediately following the panel discussion, there will be a cocktail party in Harkness for mem-



Samuel P. Sears

bers of the panel, conference delegates, and members of the Harvard Student Bar Association.

Saturday, at 2 p.m., a second panel discussion will be presented on "The Lawyer and Finances." Paul B. Sargent, '26-'27, Boston attorney; Edmund Burke, LL.D. '29, of Hale and

(See ALSA on page three)



Louis D. Brandeis

of their appointment as chief justice, and two more had none when they first came on the Court...

"It has been suggested that the appearance on the Court of Marshall, Story, Taney, Curtis, Campbell, Miller, Bradley, Hughes and Brandeis, all without judicial experience, is a 'curious accident.' But this accident has been thrown up by history over a period of 150 years. After all, these men were not self-appointed..."

Justice Frankfurter then considered the importance of judicial experience on a state court. He cited Holmes and Cardozo as examples of state court judges who found their previous experience not of indispensable significance to their positions as Supreme Court justices.

"But, it may be suggested, if experience on a state court does not adequately prepare even the greatest of judges for the problems that are the main and certainly the most impor-

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Self-censorship

Censorship by the state has traditionally been highly suspect in the United States. Another form of censorship is not as obvious. This is self-censorship. No individual goes through life without a certain amount of self-censorship, which may result from his own sense of propriety and responsibility, or from the pressures of society. That is his own business. But when an agent of mass communication imposes self-censorship upon itself, it becomes the right of the public to inquire into the cause. Recently, there have been disturbing manifestations of unhealthy self-censorship in the radio and television industry.

A conspicuous example of this was the action of station WGN-TV in Chicago, which cancelled a presentation of the film "Martin Luther" which it had scheduled last December. The station, which is operated by the Chicago Tribune, claimed that it withheld the film because of "emotional reaction." The Church Federation of Greater Chicago, a Protestant group, charged that the film had been cancelled because of pressure brought by the Roman Catholic Church. *The Commonwealth*, noted lay Catholic weekly, stated in its issue of Feb. 15, 1957, "There can be little doubt that the flood of phone calls and letters objecting to the film came from Catholics." (p. 499). Monsignor Edward M. Burke, Chancellor of the Roman Catholic Archdiocese of Chicago, said that no official action whatsoever had been taken by the archdiocese.

The Federation was not satisfied; when WGN-TV applied to the Federal Communications Commission for new broadcasting facilities in February, the Protestant group intervened and asked revocation of the station's license.

Controversy Spreads

The controversy spread in March. Two Jesuit universities, Loyola of New Orleans, and St. Louis, had applied to the FCC for television licenses. A group calling itself "Protestants and Other Americans United for Separation of Church and State" demanded that the FCC reject the applications, on the grounds that the Society of Jesus is an alien organization and thus ineligible for a license. Glenn L. Archer, executive director of "Americans United," admitted that his challenge was a "counter-attack" against the "banning" of the Luther film.

WGN-TV claims it cancelled the film "in good faith to prevent further misunderstandings, illwill or controversies." It achieved the opposite result. Monsignor Burke has said, "It has always been our persuasion and experience that the several media of communication in our area have been consistently objective in their presentation of those things which are in the public interest. We have sought through radio and television to present the Catholic faith in a positive manner. We certainly do not wish, and have never wished, to deny the same opportunity to those of other religious beliefs. The honest expression of a religious viewpoint is not merely a democratic right; it is indispensable to a democracy." Despite this, "Americans United" continue to maintain that WGN-TV yielded to sectarian pressures. Misunderstandings, illwill and controversy have resulted from its cancellation.

We do not mean to imply that the networks are not impartial in the administration of self-censorship. On March 10, the Columbia Broadcasting System was to have presented a radio talk by a priest on its program "Church of the Air." The Reverend Thurston N. Davis was to have discussed tensions between Roman Catholics and Protestants, which he ascribed to lack of understanding of the Catholic attitude on birth control, cen-

sorship, and parochial schools. CBS cancelled the program on the ground that it was too "controversial."

There are two other recent examples. Last week CBS cancelled production of a television play entitled "The Commentator," which was to have been presented in April on the "Studio One" series. The play dealt with the question of whether a news commentator and a network should editorialize. Asked to explain the network's reasons for cancelling the production, the executive vice president in charge of programs would say only, "We just decided not to do 'The Commentator.'" The producer of the "Studio One" series also refused to comment. Curiously, while preparation was underway in February on the play, CBS "killed" a radio script by Eric Sevareid, one of its news analysts, on the grounds that Mr. Sevareid was "editorializing."

Also last week, a physician who had accepted an invitation to appear on a National Broadcasting Company program to discuss the relationship between cigarette smoking and cancer was later informed that the interview had been cancelled. The physician was Dr. David M. Spain, Associate Professor of Pathology at Columbia University and director of laboratories at Beth-El Hospital in New York City. Dr. Spain was a member of the group that issued a report two weeks ago which linked smoking with lung cancer. The program was "Close-Up," conducted by Tex and Jinx McCrary.

Mr. McCrary denied that he feared recriminations from cigarette sponsors, and NBC denied issuing any order to cancel Dr. Spain's appearance. But a program production assistant who was present at a staff discussion of the interview remarked, "I was advised that this would be a hot situation to handle."

Carried Too Far

The examples cited involve cancellation of programs on diverse topics: the right of a commentator to editorialize; cigarettes and lung cancer; and religion. We think there is danger that the networks are carrying self-censorship too far. This is particularly true in the "Martin Luther" case.

There will always be basic differences of thought between Catholics and Protestants. As a result of the pluralistic nature of this country, it is essential that each exercise mutual respect for the rights of the other to enjoy the freedoms of society. Catholics on the one side who brought pressure resulting in cancellation of the film, and Protestants who sought to have the station's license revoked, have both served to damage relationships between the two groups. But WGN-TV, by banning "Martin Luther" with the avowed purpose of avoiding tensions, has created more.

Self-censorship is probably here to stay in radio and television. Even when there are no external pressures, networks will continue to prune from their schedules programs which are likely to offend either sponsors or a segment of their listeners. The argument "If you don't agree, you can always turn off your set," is not likely to be advanced by any members of the industry. Their formula seems to be avoidance of controversy. Even worse is the situation where a network refuses to present a controversial point of view, fearing that one of its sponsors will be offended.

But ideas which are new, valuable, and of lasting importance are nearly always controversial. It is for this reason that the industry is doing its greatest disservice to the public, and to itself. Radio and television are held in increasingly low repute by thoughtful audiences. Perhaps this is because innuendo breeds mediocrity.

The Late Spring

This week should be Spring Vacation, if the Law School followed the custom of the other branches of Harvard University. But despite the advent of spring, 1500 law students will continue with the learning process for two more weeks.

From April 14 to 20, three weeks before third year finals, classes will be suspended as we go through the mockery that is called a vacation. In actuality, it is a reading period.

Each year, the RECORD protests this indignity to the calendar. The late "vacation" will probably never be changed, because the third week of April was used for this purpose long before the RECORD existed.

If there is any sense to this schedule, we invite the Administration to explain it to the student body in next week's RECORD. If not, we urge them to abandon the pretense and label the recess for what it is, a paper-writing and reviewing period.

Braucher, Sohn Describe Courses: Legislation, United Nations Law

The RECORD continues its series on the second year "perspective" courses with discussions of Legislation and of United Nations Law. Legislation has been a traditional offering among the electives and was formerly given in three sections. Professor Robert Braucher will give the single section in the fall schedule now devoted to legislative procedures. Next week Professor Albert M. Sacks will discuss *The Legal Process*, a course developed in the past few years from the sections of Legislation he and Professor Henry M. Hart formerly taught. United Nations Law as presented by Professor Louis B. Sohn involves changes in the course given previously as *World Organization*. Professor Sohn discusses these changes in today's second article.

By ROBERT BRAUCHER

Next fall second-year students must choose one of eight courses known as second-year electives. One of these courses is Legislation; like the others, it meets for two hours a week during the Fall Term. The classes in Legislation are tentatively scheduled for 2 p.m. on Monday and Wednesday. To facilitate the choice, I am here elaborating the somewhat cryptic course description given in the catalogue.

The course in Legislation focusses on the legislative process rather than on the statutes which make up the end product. Thus the interpretation of statutes, though emphasized at many points, is not taken up in class as a separate topic. Following the casebook, Newman and Surrey, *Legislation* (1955), we begin with the role of the lawyer as legislative advocate, consider in detail the Federal Regulation of Lobbying Act, and take up legislative procedures. At the same time each student is assigned the task of running down the legislative history of a recent act of Congress selected by him.

Beginning in November, after the legislative history assignment has been completed, the class is divided into teams and each team is assigned a bill to draft. The bill-drafting assignment takes up about one-third of the total class hours. The bills assigned have commonly had some relation to the legislative process: in 1955 the three topics were (1) revision of the Canons of Judicial Ethics and of legislative rules governing the publicizing of court and legislative committee proceedings, (2) revision of the Internal Revenue Code to cover the treatment of lobbying expenses, and (3) tax concessions for political contributions.

While the teams are preparing their drafts, and after the drafting assignment is completed, class time is devoted to legislative-administrative relations and to legislative investigations. The examination in January 1956 asked three questions. The first called for expert response to questions asked by the



Robert Braucher
Professor of Law

Senate Committee to Investigate Lobbying, the second for advice of committee counsel on informal adjustment of the complaints of small businessmen to the Senate Committee on Small Business, and the third for a memorandum on criminal aspects of the testimony of Marilyn Monroe's husband and others before Congressional committees.

This description of the course does not answer two questions sometimes asked. How is this course an appropriate alternative to legal history or comparative law or jurisprudence? Isn't this a bread-and-butter course rather than an attempt to see the American legal system in perspective? My answer is that Legislation is like the other second-year electives in combining "practical" and philosophical elements. Lawyers receive fees for legislative work, as indeed they do for historical research or knowledge of foreign law. But legislative advocacy takes place in a setting quite different from the courtroom.

The study of the legislative process introduces the student to authoritative materials and to literature often neglected in other law school courses. Numerous opportunities are

By LOUIS B. SOHN

The last twelve years have seen such a rapid growth in the field of international organizations that it is no longer possible to deal with them in one single course on "World Organization." To cover the whole field, two courses and two seminars are now required. The new course on "United Nations Law" deals with a few general problems of the constitutional law of the United Nations itself; the third-year course on "Problems in the Development of World Order" probes deeper into a few selected areas of current interest; while two seminars consider legal problems of specialized agencies (such as the International Labor Organization and the Food and Agriculture Organization) and regional organizations (NATO, Organization of American States and the many European organizations), respectively.

There is hardly a parallel in history for the amazing growth of the United Nations since 1945; it compares favorably even with the development of the United States in the first twelve years of its existence. The new United



Louis B. Sohn
Professor of Law

Nations is quite different from the institution contemplated by its founding fathers. Despite many limitations contained in its constitutional Charter, despite the timidity and hesitation of its chief supporters and despite the outright opposition of several Member States—the United Nations is daily increasing its powers to maintain peace and order in the world.

The course on United Nations Law is concerned not so much with a detailed analysis of Charter provisions as with an investigation of the process of legal growth. It is quite easy to provide students with a general description of the structure, functions and powers of the various organs of the United Nations, and many college courses deal adequately with this need for general information. The purpose of the Law School course is different; it is intended not only to inform but also to enable students to become better acquainted with the mysterious process of creation of new law.

Where is the dividing line between law and non-law? What processes transmute a paper instrument, a treaty or a constitution, into a living system of organic law? Can a binding law be created without an international legislature to enact it and an international executive to enforce it? These general questions are investigated in the course, together with more specific ones, such as the following: How are international disputes settled? What are the methods for peacefully changing legal situations which are no longer just and equitable? Can the rights of nations to self-determination be furthered by the United Nations? What can be done to protect human rights internationally? What are the powers of the United Nations to prevent wars and to put a stop to an armed attack by one nation against another? How can these powers be further strengthened?

The materials considered by the students in this course are not cut-and-dried summations of a textbook but case histories drawn from the files of the United Nations. Students are asked to consider not only the main decisions but also the actual arguments presented by the best spokesmen in each constitutional debate. While class discussions center on the legal problems involved, these

(See SOHN on page four)

presented for comparison of the legislative tradition with a judicial or administrative tradition on such matters as the adversary system and its ethics, the modes of argument and proof, and the use of precedent. Some understanding of these analogies and of why they do not run on all fours may contribute insight into the more traditional subjects of law school study. If, as Professor Fuller said in an earlier piece in this series, the course in Jurisprudence presents the lawyer as "an expert in structure," a course in legislative structure may fairly be counted as a member of the same family.

New York Court Plan Killed As Legislature Fails to Vote

The Tweed plan for New York State court reform died last Saturday when the Legislature adjourned without taking action on the measure. The plan, which had been plagued by involvements with partisan issues, never came to a vote in either chamber. The Rules Committee of the Assembly, or lower house, postponed action on the proposal indefinitely.

Several revisions had been made by sponsors of the bill in an effort to win its adoption. These included a new family court system for New York City, a continuation of the present method of selecting justices of the peace, and elimination of a proposal to create an eleventh judicial district.

SPEECH

(Continued from page one)

to the court richly endowed but without judicial experience, that they actively set about educating themselves for the work of the court and were educated by it."

He then quoted a statement made by Attorney General Edmund Randolph made in response to inquiries by the House of Representatives into the federal judicial system that had just been set up.

"Those who pronounce the law of the land without appeal, ought to be pre-eminent in most endowments of the mind. Survey the function of a judge of the Supreme Court. He must be a master of the common law in all its divisions, a chancellor, a civilian, a federal jurist, and skilled in the laws of each state. To expect that in future times this assemblage of talents will be ready, without farther study, for the national service, is to confide too largely in the public fortune. Most vacancies on the bench will be supplied by professional men, who perhaps have been too much animated by the contentions of the bar, deliberately to explore this extensive range of science. In a great measure then, the supreme judges will form themselves after their nomination. But what leisure remains from their itinerant dispensation of justice? Sum up all the fragments of their time, hold their fatigue at naught, and let them bid adieu to all domestic concerns, still the average term of a life, already advanced, will be too short for any importance proficiency. Report of the Attorney General, read in the House of Representatives, December 31, 1790, p. 7-8. . . ."

Function of Court

Justice Frankfurter then considered the function of the Supreme Court as a factor in the selection of its justices.

"The court was of course from the beginning the interpreter of the Constitution and thereby, for all practical purposes, the adjuster of governmental powers in our complicated federal system. But the summary of the contemporaneous business before the court that is reflected in written opinions statistically establishes these constitutional adjudications and kindred public law issues as constituting almost the whole of that business. It is essentially accurate to say that the court's preoccupation is with the application of rather fundamental aspirations and what Judge Learned Hand

calls 'moods,' embodied in provisions like the Due Process Clauses, which were designed not to be precise and positive directions for rules of action. The judicial process in applying them involves a judgment on the processes of government. The court sits in judgment, that is, on the views of the direct representatives of the people in meeting the needs of society, the views of presidents and governors, and by their construction of the will of legislatures the court breathes life, feeble or strong, into the inert pages of the Constitution and the statute books."

From these considerations, Justice Frankfurter drew the conclusion that a method of selection of Supreme Court justices based on functional fitness "not only gives the greatest insurance that the court will best fulfill its functions. It also will, by the quality of such performance, most solidly establish the court in the confidence of the people, and the confidence of the people is the ultimate reliance of the court as an institution."

Part of the Republican opposition to the plan had stemmed from an earlier proposal to modify the mechanism for selecting justices of the peace. Democrats feared that when reorganization took place, the number of Republican jurists in the Tenth Judicial District would increase. A feature of the measure which provided stricter control by the judicial conference over court personnel disturbed members of both parties. A large percentage of court personnel are now appointed as a reward for services to political parties. The proposed reform, requiring competency as a prerequisite, would have sharply limited this practice.

— Mulroney

Yearbook . . .

The 1957 Harvard Law School Yearbook will be distributed during the week of April 8, according to Stuart A. Jackson, 3L of Queens Village, N. Y., editor of the book.

A memorial to the late Professor Zechariah Chafee, Jr., will appear in the book. Although at the time of Mr. Chafee's death on February 8, the Yearbook was already in the hands of the printer, it was possible to prepare the memorial because of the co-operation of Professor John M. Maguire.

"The Yearbook owes a great debt to Professor Maguire," Mr. Jackson said, "because without his help it would have been impossible to publish this tribute to Professor Chafee."

Copies of the book are still available to prospective subscribers. Books may be ordered from 23 Everett Street, Cambridge. The price is \$7.50 per copy, plus 40 cents for mailing.

calls 'moods,' embodied in provisions like the Due Process Clauses, which were designed not to be precise and positive directions for rules of action. The judicial process in applying them involves a judgment on the processes of government. The court sits in judgment, that is, on the views of the direct representatives of the people in meeting the needs of society, the views of presidents and governors, and by their construction of the will of legislatures the court breathes life, feeble or strong, into the inert pages of the Constitution and the statute books."

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ALSA

(Continued from page one)

Dorr, Boston; and Claude B. Cross, LL.B. '20, of Withington, Cross, Park and McCann, Boston, will comprise the panel. Professor Richard H. Field will moderate.

The conference banquet will be held at 7 p.m. on Saturday. Mr. Sears, a member of Brickley, Sears and Cole, Boston, will speak after dinner. A past president of the Massachusetts Bar Association, he was vice-chairman of the Massachusetts Judicial Survey Commission from 1955 to 1956. The Commission was instrumental in implementing the legislation which led to the 1956 reorganization of the district court system in Massachusetts.

Morning workshop discussions for conference delegates will be held each day from 9:30 a.m. until noon in Harkness Commons.

Chancery . . .

Philip S. Plexico, 2L of Birmingham, Mich., was elected Chancellor of the Chancery Club at the organization's annual elections recently.

Others taking office are David W. Robinson, 2L of Raleigh, N. C., vice-chancellor; Hugh Cannon, 2L of Cambridge, secretary; George M. Sanchez, 2L of Guatemala City, Guatemala, alumni secretary; and Robert L. Terry, 2L of Baton Rouge, La., and Eugene T. Herbert, 2L of Springfield, members-at-large.

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Commodity Markets Praised As Good Investment Outlets

Paul F. Glenn, LL.B. '55, reminded Bull and Bear Club members on March 29 that the commodity markets should not be overlooked by those seeking investment outlets. Mr. Glenn, one of four co-founders of the club in 1952, expressed amazement and pleasure at the growth of the club from thirteen original members to its present total of over three hundred. He added that attaining a comprehensive understanding of financial matters is a necessity for lawyers today, that this was the prime reason for the founding of the Bull and Bear Club, and that this involved the learning of the place and function of commodities in investment portfolios.

Mr. Glenn declared that, while \$29.7 billion worth of securities were traded last year on the New York Stock Exchange, more than \$30 billion worth of grain was traded during the same period on the Chicago Board of Trade. He pointed out, however, that corporate shareholders outnumbered commodity traders by eight million to thirty thousand. He explained that a larger number of participants in commodity trading would tend to reduce the danger of violent and irregular commodity fluctuations due to sudden "thinness" in markets here and there.

Noting that food companies often "hedge the market" to lower their inventory costs and risks of loss, Mr. Glenn suggested that this manipulation helped them stabilize their prices to consumers, who were thus not called upon to bear through higher

prices the companies' risks of supply losses. But, again, he stated, successful hedging depends on a large and active market of speculators.

Opportunities for individual profits in commodity trading are, in the opinion of Mr. Glenn, very great. He recalled a man in the 1940's who ran an initial capital of \$15,000 up to \$400,000 in the course of a year. Mr. Glenn said that the greater fluidity of the commodities market, as compared with the securities market, and the extremely low margin requirements, varying from about ten percent down to about five percent, constituted its advantages. He indicated as its disadvantages, on the other hand, the fact that short equity in margin trading can work against the speculator just as rapidly as it can work in his favor, the relatively short terms inherent in futures contracts, and the dependence of the market on weather and politics, national and international.

The next Bull and Bear Club meeting will be held tomorrow at 1:40 p.m. in the Wheeler Room of Holmes Hall. The election of officers and the awarding of prizes for the investment contest and the contest for articles contributed to *Ticker Tape* will comprise the order of business. — **Lawlor**



Herbert Wechsler

Wechsler Injured In Auto Accident

Visiting Professor Herbert Wechsler was injured in New York City early on the morning of March 25 when the taxicab in which he was a passenger crashed into a post near the Queensboro Bridge.

Mr. Wechsler was traveling to LaGuardia Airport to board a plane for Boston on his way back to the Law School. He suffered mouth and knee injuries but was not hospitalized. He has been staying at the home of a friend in New York City. Mr. Wechsler was expected to return to Boston last night and to resume his classes today.

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HOWE

(Continued from page one)

workings of the web of the law because of his skeptical approach.

Contact with these men was depicted as increasing Holmes' sensitivity and receptiveness for issues touching free speech and civil liberties.

The Holmes-William James schism was explained by Professor Howe as a mutual turning aside, each from the other. Holmes felt that James evidenced a strong and unacceptable tendency, diametrically opposed to his own. James' approach was characterized as a "desire to turn down the light and give miracles a chance."

New Post

Professor Howe has been recently appointed to the editorial board of the newly-formed *American Journal of Legal History*. The publication, which Chief Justice Earl Warren describes as the first English language periodical devoted exclusively to legal history, is sponsored by the law faculty of Temple University.

The *Journal* has been adopted as the official organ of the American Society of Legal History which was organized in Chicago in December, 1956.

Erwin C. Surrency, Editor of the quarterly *Journal*, indicates in an introduction to the first issue that, "This journal, regardless of the title, will not be limited to the publication of articles on the history of American law; instead, it will encourage publication of results of research in the history of all legal systems such as the English law, Roman law, and Canonical law as well as American law. Its purpose is to foster the study of the his-

tory of the law and its relations to other aspects of the nation's culture. . . . It is one of the purposes of this journal to encourage the study of the history of our legal doctrines and how these doctrines have reached their present status of development."

The first edition of the *Journal* carries lead articles entitled, "The Early History of Bailment," and "Legal Systems in Conflict: Orleans Territory 1804-1812." It also contains the entire record of the Philadelphia County Court of Quarter Sessions and Common Pleas for a part of the year 1695, and a note containing the names of the first judges of the federal courts appointed by George Washington.

The advisory board of the *Journal* includes Justices Felix Frankfurter, LL.B. '06, and Harold H. Burton, LL.B. '12, of the United States Supreme Court.

— **Mulroney**

WILLISTON

(Continued from page one)

problem called for a statute to protect broadcasters from libel suits. Another required a will to prevent a son from benefitting should he marry outside his religion. A federal problem required setting up a trust to avoid taxes.

A practicing attorney from each jurisdiction in which a problem is set will judge the solutions for the qualifying round problems.

— **Wethly**

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Reference Services Unethical; Comedian's Gaslight Enjoined

Law School alumni on the benches of Florida and California have handed down noteworthy decisions in the past few weeks.

Florida Circuit Judge Claude S. Ogilvie, LL.B. '24, has ruled that the Lawyer Referral Service of the Jacksonville Bar Association violates the canons of ethics of the American Bar Association and of the integrated bar of Florida. The ruling was based on newspaper and telephone directory ads

calling public attention to the service. Judge Ogilvie held these to be unethical means of soliciting professional employment, even though the names of no individual lawyers were included in the ads.

This is the first judicial ruling against the lawyer referral plan, inaugurated in 1938. Judge Ogilvie's finding is contrary to a 1941 opinion of the ABA's Committee on Professional Ethics and Grievances, which held that Canon 27 does "not prohibit the employment of advertising facilities by an organized bar to acquaint the lay public with the desirability of securing legal services . . . and to appraise the public of the maintenance of a Lawyers' Reference Service."

The ABA's board of governors, meeting in Chicago, decided that if requested to do so by the Florida Bar Association, the ABA would intervene in the appeal in the capacity of amicus curiae.

Benny's Burlesque

In California, comedian Jack Benny has asked the United States Supreme Court to determine whether burlesque of plays and films violates the copyright laws.

Mr. Benny, the Columbia Broadcasting System and the American Tobacco Company are seeking a hearing on a ruling which enjoined the comedian from showing a television presentation of a burlesque of the Metro-Goldwyn-Mayer film, "Gas-

light." Mr. Benny's parody was to be called "Autolight."

The injunction was sought by Loew's, Inc., and the order was issued by Judge James M. Carter, '24-'25, of the United States District Court for the Southern District of California.

The ground for the injunction was that the burlesque infringed Loew's copyright. The order was upheld by the United States Court of Appeals for the Ninth Circuit.

In their request for a hearing, the petitioners stated: "This case presents an important issue whose determination will have a decisive influence on the future of the art of parody and burlesque."

"The courts below have denied the right of 'fair use' to the author of a parody or burlesque and have held that a 'substantial' use of a copyrighted work which is usually essential to the creation of an effective burlesque or parody, constitutes infringement."

"If permitted to stand, it will have a stifling effect on parody and burlesque."

St. Thomas More . . .

The annual election of officers of the St. Thomas More Society will be held at 7:30 this evening in the Associated Harvard Clubs Room in Holmes Hall. A nominating committee has proposed the names of seven second-year men for the office of president and vice-president, and eight first-year men for the offices of secretary and treasurer. Within each of these groups, two separate votes will be taken. As in the past, nominations from the floor will be welcomed. Jack Driscoll, 3L of Belmont, chairman of the nominating committee, will preside at the election.

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Raft of technical tricks.

SOHN

(Continued from page two)

problems have to be weighed in the light of the surrounding political, social and economic circumstances. It is not only important to know *what* has been decided, but also *why* a particular decision was made in one way rather than another. Finally, the implications of each decision need to be explored: on the one hand, its value as a useful precedent and, on the other hand, the danger of its application in circumstances not clearly foreseen by those who made the decision.

Conclusion

There is a lot of confusion about the role which law and legal institutions play in international relations and many people succumb too easily to the notion that international problems should be solved by power politics rather than through development of law and its enforcement through adequate institutions. The purpose of the course on United Nations Law is to provide lawyers with a better understanding of the means available for solving international problems on the basis of law and justice.

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