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Harvard Law Record

America's Oldest Law School Newspaper

VOL. 25, NO. 4

CAMBRIDGE, MASS., THURSDAY, OCTOBER 17, 1957

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TEN CENTS

Women Protest Exclusion From Voluntary Defenders

The Harvard Voluntary Defenders recently adopted a resolution which in effect banned women from the organization, and two women applicants for membership in the group issued a sharp protest at being excluded from consideration as future Defenders. Marilyn G. Rose and Eleanor R. Voss, both 2L, the latter a member of the RECORD staff, expressed "surprise and disappointment" at this discrimination in an exclusive interview with the RECORD.

The text of the resolution in question is as follows: "We are opposed to accepting for membership any person not able or permitted to perform all the functions of a full time member of the Voluntary Defenders."

The officers of the Defenders issued the following statement to the RECORD:

"The Boston Voluntary Defender Committee, the group of lawyers supervising our organization, has requested that we not send female students to jail to conduct interviews

of indigent defendants. Since jail interviews occupy the majority of the members' time, the above request sharply limits the participation of women in the organization.

"The Harvard Voluntary Defenders, however, have taken no stand on the desirability or capability of female students interviewing prisoners. Our decision is simply that we do not wish to have as members persons unable, from whatever cause, to perform fully the work of the organization."

But Miss Rose and Miss Voss took a different view of the situation.

"Much to our surprise and disappointment, we were recently informed that our applications to the Harvard Voluntary Defenders would not be considered because we are women.

Ignores Facts

"We appreciate the reluctance of the Boston Voluntary Defenders to permit women to interview male prisoners in the penitentiaries of the Commonwealth. But we do not feel that this policy (which, incidentally, ignores the fact that women comprise the vast majority of American social workers who deal with the same fringe groups) can logically exclude women from all other activities of the Harvard Defenders, e.g. research, brief writing, investigations, interviews of women prisoners and juvenile delinquents.

"Reserving for other forums the question of women's place in criminal law (see 25 HARVARD LAW RECORD, No. 2, Oct. 3, 1957, regarding the mention of a woman assistant DA in Alaska!), we believe that the morale of the Voluntary Defenders would not suffer, as feared by their spokesmen, if a few members were prevented only from visiting male prison-

(See DEFENDERS on page four)

Makarios

Archbishop Makarios of Cyprus will be the featured speaker this Friday evening, Oct. 18, at the season's first Law School Forum program. Sharing the platform will be a panel composed of Professor George Kirk, Dr. A. J. Meyer, and Mr. Carlyle Morgan.

Professor Milton Katz of the Law School will serve as moderator of the affair. The program begins at 8:00 p.m. in Sanders Theater. Tickets will cost 95c and may be purchased at the door.

Panel to Talk On Arbitration

A meeting on arbitration will open its doors to Law School students at the Massachusetts Institute of Technology Faculty Club, Memorial Drive, Cambridge, this afternoon at 3 p.m. Two panels, separated by a cocktail hour and dinner, will deal with "The Arbitrator and the Advocate" and "The Impact of Arbitration on Management and Union Decisions."

The first panel will be presided over by Dr. A. Howard Myers, North-

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Back Rows Visible to Scott After Successful Operation

Students sitting in the back rows of Austin North had better be prepared on their assignments in Trusts, announced Austin W. Scott, Dane Professor of Law, in a recent statement to the RECORD, because now he can see them, and will be able to call upon them to recite. For years Professor Scott has suffered from cataracts in his eyes, and his inability to spot people sitting beyond the front rows in his classes had become legendary.

Students sitting in the rear have been known to waive handkerchiefs to attract his attention in order to participate in the discussions.

However this past summer the condition of Professor Scott's eyes reached a point where an operation was necessary, and it proved to be extremely successful. With his new pair

of glasses, Professor Scott can now read any kind of print, including the handwriting in examination books, which in the past often had to be read to him. His vision with glasses is now 20/20.

Professor Scott told of a middle-age woman who had a similar operation on her eyes successfully performed, and who, upon seeing herself for the



Austin W. Scott

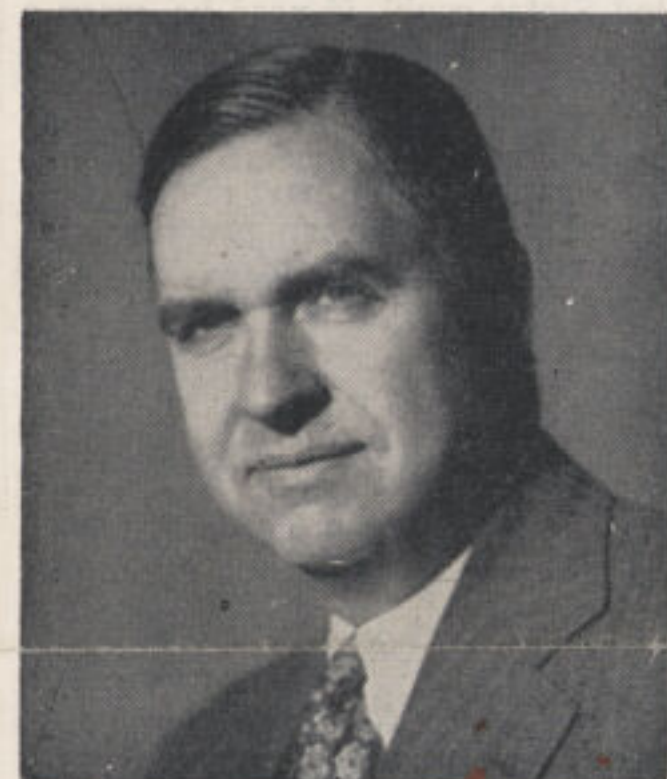
first time in a new light, was so dismayed that she broke down and wept. However he gave assurances that restoration of perfect vision did not have a like effect upon him.

Besides teaching two sections in Trusts, Professor Scott is currently engaged in preparing for print materials for a revision of the Restatement of Trusts, which was approved last May at the annual meeting of the American Law Institute in Washington, D. C. He hopes that the revision will be published sometime in 1958.

Professor Scott is also preparing Reporter's notes, which will appear

(See WIVES on page four)

(See SCOTT on page three)



Erwin N. Griswold

Dean to Speak In California

Dean Erwin N. Griswold will deliver one of the major addresses at the University of Southern California Law School's tenth annual Institute on Federal Taxation. The three-day Institute will be held on the USC campus October 23-25.

Dean Griswold will be heard at Friday's session, October 24, to explain the role of the lawyer in tax practice. He is expected to comment on the growth of tax practice in the legal field, the relationship between state and federal tax law and regulation, the desirability of cooperation between lawyers and accountants in the tax field, the employment of lawyers by Certified Public Accountant firms, and the position of the lawyer who is also a CPA.

Others to Speak

Following Dean Griswold's presentation, John W. Queenan, CPA, of the firm of Haskins & Sells of New York, will speak on the role of the accountant in tax practice. Both speakers will then discuss current problems in the relationship between lawyers and accountants in tax practice.

The Institute this year includes 29 tax authorities who will place before California lawyers and accountants problems, methods and practices which have been designed to present an overall picture of the scope of tax work in the two professions. They will also suggest to the audience possible solutions to inter-professional conflicts which have arisen in past years.

Others speaking on the Institute program include: Joseph P. Driscoll, LL.B. '43, who will discuss "Tax Problems of Partnerships;" Louis M. Brown, LL.B. '33, who will speak

(See GRISWOLD on page four)

Varied Activities Planned By Harvard Law Wives

By Mrs. Truman S. Casner

(Mrs. Casner is President of the Law Wives and Secretary to the RECORD.)

"Husbands continue to go through Law school by the sweat of their fraus." Mrs. Erwin N. Griswold, permanent sponsor for the Harvard Law Wives, has been known to repeat this statement to each group of new wives as they gather together for the first time at the beginning of the school year, and it never seems to lose its appropriateness as a catch-phrase for the Law Wives.

The organization, begun in 1929 when only a handful of law wives met, is now heading into its twenty-eighth year. In 1913, Mrs. Zechariah Chafee relates that she was the only law wife. It must have been a pretty lone-

ly existence. In those days it was improper for women even to carry their own packages home from the store.

Post-war Growth

Needless to say, times have changed considerably since then. Women not only carry bundles home from stores, but the Law Wives are now some 445 strong.

Up until the early post-war period, the group was small enough to meet in members' homes. In 1946, however, the organization contained 700 wives, as a result of the large number of returning veterans engaged in the accelerated year-round program of studies. In that year the Law Wives occupied Kendall House, and since there was no place for students to eat on campus (Harkness Commons did not exist then), the wives ran a soup kitchen which served hot lunches each day.

Now the wives meet every Wednesday evening. There is a monthly bridge session, with all the other Wednesday evenings being devoted to speakers engaged from both within

Leach and Sputnik

W. Barton Leach, Story Professor of Law and Brig. Gen., U.S.A.F.R., warned last Tuesday's "Coffee Hour" audience that the "sweet talk" the nation has been hearing from high administration and Defense Department officials is largely "bunk," and that the Soviet Union is demonstrating a real Military superiority over the United States in important fields.

Sputnik is significant, he observed, because it uses the same rocket propulsion system as the ICBM. It was only the most recent in a series of rude shocks. General Leach blamed a short-sighted budget for retarding U. S. military advancement.

Field and Sutherland Meet In Ninth Annual Model Trial

Weeks of pre-trial preparation by over 500 first-year associate counsels will come to fruition this afternoon at 5 p.m. when the case of *Sanders v. Bennett* comes to bar in a packed James Barr Ames courtroom in the Superior Court of the Commonwealth of Ames.

One of the two counts alleged by the plaintiff has already been thrown out of court by the Honorable Reuben L. Lurie, LL.B. '26, Justice of the Superior Court of the Commonwealth of Massachusetts, who has come to the Ames bench for the Model Trial. The second count, which charged negligence, was precluded by the Ames statute of limitations.

The plaintiff, Myra Rubin Sanders, has charged that her late husband died because of gunshot wounds suffered when Ira M. Bennett was allegedly engaged in a burglary. The first count, which charges Mr. Bennett with assault and battery was not barred by the statute of limitations.

One of the key defense witnesses is expected to be Marsha Mather, a part time model to whom the defendant is engaged. As one of his defenses, Mr. Bennett has claimed that he was forced to be in Karron's Jewelry Shop, 613 Third Avenue, Gray, Ames, by a local police character Philip Ricker and another unidentified man. The defendant says that he went to the jewelry store out of fear

of physical harm to both himself and Miss Mather.

In a pre-trial order, Judge Lurie listed stipulations made in a confer-



Marsha Mather

ence with Professor Richard Field, chief counsel for the plaintiff, and Arthur Sutherland, Bussey Professor of Law and chief counsel for the defendant.

The opposing counsels agreed that Joseph A. Rubin died May 30, 1956 as a result of a gunshot wound inflicted on March 1, 1955, the date of the alleged burglary.

Agreement was also reached on the police record of Ricker and the facts that he was divorced from Pearl Collins Ricker, had failed to make ali-

(See TRIAL on page three)

Bulls & Bears Listen to Erpf

Armand Erpf, a partner of the New York investment banking house of Carl M. Loeb, Rhoades and Co., spoke to the Bull and Bear Club last Friday on the topic "Pursuit of an Honorable Estate Through Risk."

Mr. Erpf argued that as long as a man can exercise intelligence, courage and will in taking risks, individualism will endure. Despite the efforts of our social system to the contrary, the "bull" and the "bear" have not become extinct, said Mr. Erpf, and the rebellious organization man can be redeemed from his fate by taking risks in the investment world.

In telling how one so inclined pursues the honorable estate through risk, Mr. Erpf proposed several areas of examination. The first of these dealt with the individual and economic cycles, in which he came out strongly in favor of the individual following his own star. In the next, he traced the transition of property from land to paper securities, and in so doing exposed the unsavory origins of the now respectable banker. He went on to say that the buyer of securities is now protected from much of the chance which in earlier times troubled the speculator, but that true risk still remains.

In another point, Mr. Erpf enforced his argument for individuality through risk, maintaining that "all men are equal in the face of the future." His last topic offered suggestions to "pilgrims" travelling from "refined poverty to troubled riches. Mr. Erpf said that one should always

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Harvard Law Record

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

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

Going Up

The appearance of Sputnik has caused a wide variety of reactions. The ever-ready Congressional investigation has been demanded. A mid-westerner claiming some sort of proprietorship in the sky has called upon the Soviets to desist from their trespassing. The stock market continues its downward trend. Newspapers regularly advise their readers as to the whereabouts of Sputnik and all its various component parts. The astronomer has become the man of the hour. All kinds and sorts of rumors concerning American sorties into the upper atmosphere have been voiced.

Slow to realize the tremendous implications of Sputnik, America seems to view the satellite in the same light as everything else in this world of ours. There is peace, prosperity, Ike, and fuzzy optimism. One can even detect a hint of the old "we'll get 'em yet" football spirit.

But what is not felt is the necessity to revitalize completely our approach to what was once completely in the realm of science-fiction. Khrushchev's boast that warplanes are now museum-pieces may not be literally true in the immediate present, but the horizons opened up by the "Red Moon" are enormous.

The same type change in thinking concerning warfare suggested by the H-bomb will have to come about in the area of space travel, but this must come about more quickly and more effectively. For the present propaganda gains reaped by the Russians may pale before what the outer atmosphere has to offer.

In this area it is difficult for the non-scientific observer to speak in terms of actual results. Nevertheless it is plain to all eyes that the new frontier is overhead.

The unruffled optimist may attempt to detract from the analogy of the frontier by pointing out that in the proper reaches of the atmosphere it is not who gets there first which is really significant, but who gets there with what.

He may be right. Perhaps the U. S. satellite will accomplish more or be of greater scientific value than its Red predecessor. But the fact remains that the Soviets have taken the lead and will not yield their primacy without a fierce struggle on the scientific front. The United States must offer more than Congressional investigations and front-page nonsense.

Resiliency is a hard quality to come by, but if this country is to survive it must adapt to any kind of change which nullifies old ways of thinking. So far the adaptation has been slow. A little haste now may mean much less waste later.

Trial and Error

Somewhere in the first year class there may be a man who will not be among the five hundred odd people jammed into the James Barr Ames Courtroom this afternoon to witness the litigation of the case of *Sanders v. Bennett*. He may have a fairly valid reason for his absence: flu, broken bones, wife about to have a baby. If so, then too bad.

But this student may not have such a good excuse. He may be tired, or perhaps he may prefer to attend a Radcliffe jolly-up. Or maybe he just doesn't like group work.

No more trial work can be found in the Law School curriculum until the third year course in Trial Practice. The values of visual education are manifold. And then too, it's a mighty good show.

Book Review

By Harry H. Ransom*

LIMITED WAR: THE CHALLENGE TO AMERICAN STRATEGY.
By Robert Endicott Osgood. Chicago.
University of Chicago Press, 1957.
307 pp. \$5.00.

In the decade since World War II official Washington has been grappling, not too successfully, with the challenge to American strategy served up from the laboratories of our scientists, the production lines of our technologists and the malefic minds of the Kremlin.

Those who sit around the National Security Council table at the White House to advise the President on how to wage and win the Cold War know that the United States now has military force which is one million times more destructive than that available in World War II. They know of the supersonic speeds of modern aircraft and of the imminent capabilities of globe-circling missiles. They are aware of America's prodigious resources. But they sometimes seem to sit in a quandary when faced with the challenging question of how we project our national power toward the attainment of national objectives.

Perhaps the most urgent problem in contemporary America is: How to utilize our vast power and resources in pursuit of national security? A very specific slice of the problem is this: How to utilize the full spectrum of available military force as a rational and effective instrument of policy?

On this latter question, who are the experts? Hundreds of these in Washington and in subsidiary government operations today toil to find solutions. Strategic planners in the Pentagon, policy planners in the Department of State, operations analysts and weapons evaluators working for each of the armed services, thoughtful colonels in armed forces war "colleges"—all, literally thousands, are at work on the problem.

Two of the most important contributions to thought on the problem have emerged, however, from outside of the government, from the groves of academe. Interestingly, these have been the work of Harvard men. Robert E. Osgood's (A.B. '43; Ph.D. '52) *Limited War* is not receiving the national attention currently given Henry A. Kissinger's *Nuclear Weapons and Foreign Policy* (Harper, 1957). Those who examined closely a recent photograph in *Life* of Vice-president Nixon observed that he had in hand a copy of Kissinger's book. It is unlikely that Mr.

Nixon or others at his level in Washington will get around to reading Osgood's *Limited War*, for, although it appeared several months earlier than, it has been overshadowed by, the Kissinger work.

This is unfortunate, for *Limited War* serves as a valuable companion piece to Kissinger's work. Osgood's book is somewhat narrower in scope and does not come face to face with the military hardware which has created the fundamental problem. Nonetheless I believe the view from the Ivory Tower, which Osgood's tends to be, offers a perspective on a problem sometimes not available to one in the midst of the maddening crowd. Osgood is a political scientist at the University of Chicago.

Major Thesis

Osgood's major thesis is that wars—or threats of war—must always conform to the principle of political primacy. Thus, he writes, "military power should always be subordinate to national policy" and "the only legitimate purpose of military force is to serve the nation's political objectives."

This sounds only reasonable and right, but the facts are—as Osgood demonstrates in scholarly fashion—that the United States has not always seemed to comprehend this relationship. American tradition has been that war is for generals and peace is for diplomats, and never the twain shall meet. In our great wars, once "declared," we have turned over military operations to generals who have set out in pursuit of victory, defined usually in copybook terms. In times of what appeared to be peace, our statesmen have isolated themselves from military affairs. Military force was regarded as useful largely for Armistice Day parades.

Osgood's formula for security, like his principle of political primacy (adapted from Clausewitz) is hardly original. He recommends that we sustain strategy and forces capable of deterring "such major aggressions as would cause total war" or capable of deterring or defeating "lesser aggressions, which could not appropriately be met except by means short of total war." Additionally, and this is a major theme of the book, the United States must be able to demonstrate convincingly to those engaged in local aggression, a willingness and ability to wage effective limited war.

Osgood argues that until 1950 the United States met the problem of limited war in dilettante fashion. Although the capstone of our foreign policy, "containment," called for a limited war doctrine and capability, our strategy and forces were designed primarily

Current Case

The tradition of free and open trial was further advanced recently in New York, when the highest court of that state held that a trial judge cannot prevent a newspaper from obtaining a transcript of his charge to the jury. The defendant in *New York Post Corporation v. Leibowitz*, 2 N.Y.2d —, 163 N.Y.S.2d 409 (1957) was Judge Samuel S. Leibowitz, who spoke at the Law School a year ago under the sponsorship of the Student Bar Association.

Litigation began in 1955. The defendant in a criminal case being tried before Judge Leibowitz, one Surrey, was charged with manslaughter in the first degree arising out of the shooting of a fifteen year old boy. The trial, held in Brooklyn, had received much newspaper publicity. After Surrey had been acquitted, a *Post* reporter requested from the court stenographer a transcript of the Judge's charge to the jury. The stenographer agreed, but later declined to furnish a copy to the reporter on the grounds that he had been forbidden to do so by the Judge.

The *Post* brought an action for an order to require the stenographer to furnish a transcript upon payment of the required fees, and to restrain Judge Leibowitz from giving any order forbidding him to do so. The New York Supreme Court dismissed the petition, 208 Misc. 322, 143 N.Y.S.2d 897 (1955), and the Appellate Division affirmed the dismissal, 286 App.Div. 760, 147 N.Y.S.2d 782 (2d Dept., 1955).

In its arguments before the Court of Appeals, the *Post* was joined by the American Society of Newspaper Editors and the *Herald-Tribune* as amici curiae.

Majority Opinion

Writing for the court, Associate Judge Stanley H. Fuld began by restating cases to the effect that what goes on in the courtroom is public property. He noted that Surrey's trial was open to the public, and that no attempt had been made to restrict attendance by press or public. Since Surrey had been acquitted, neither he nor the prosecution desired a transcript, but the *Post* did, apparently because "some question arose with regard to the trial judge's charge to the jury." (163 N.Y.S.2d at 483).

The lower courts had held that the statutes conferred a right only upon a judge, a defendant, or a prosecuting attorney to obtain a transcript of the charge. The Appellate Division felt that the stenographer could furnish a transcript to anyone he chose, but that a party without interest in the proceedings had no legal right to obtain it.

Judge Fuld interpreted N. Y. JUDICIARY LAW §301 as authorizing the Judge to direct the stenographer to write out his notes, but as not authorizing the Judge to forbid him from furnishing transcripts to others. "In our view, [the Judge] clearly exceeded his power in undertaking to direct the stenographer not to furnish any transcript of the charge to the appellant." (163 N.Y.S.2d at 413).

As to the proper remedy for the *Post*, the court felt that mandamus would lie, brushing aside objections that petitioner sought relief in the nature of prohibition, which would not be available against a judge acting in an administrative capacity.

Mandamus Held Proper

Judge Fuld held that a trial judge's charge to the jury is a "decision" within the meaning of N.Y. CONST. art. VI §22, which states that "judicial opinions or decisions shall nevertheless be free for publication by any person." Thus, mandamus would lie to prevent Judge Leibowitz from forbidding the stenographer to release a transcript to the *Post*.

But this settled only one of the issues. It remained to be decided whether or not the *Post* had a clear legal right to compel the stenographer to furnish a transcript. The court reexamined N. Y. JUDICIARY LAW §301, which declares that a court stenographer must write out his notes for "a person entitled by law to a copy of the same." The lower courts of the state had construed this provision narrowly, holding that the newspaper was not so entitled by law.

To answer this question of interpretation, the court quoted N. Y. PUBLIC OFFICERS LAW §66, "A person having the custody of the records or other papers in a public office, within the state, must, upon request, and upon payment of, or offer to pay, the fees allowed by law . . . make one or more transcripts therefrom." Judge Fuld held that the office of official court-appointed stenographer is a "public office" within the meaning of the statute, and that his stenographic notes are "records or other papers." In view of the constitutional provision setting a policy of free publication, "So read, the statutes entitle any member of the public to obtain a copy of the trial judge's charge upon payment of the fees allowed by law." (163 N.Y.S.2d at 417).

The action of the lower courts in dismissing the petition of the *Post* was reversed, and the case remanded for further action consistent with the opinion.

Though the decision was unanimous, two members of the court disagreed with specific portions of Judge Fuld's opinion.

for the total war contingency. We were infatuated with the atomic bomb, preoccupied with fear of a third, total, war, and captivated by the notion that security could be bought cheaply.

Then came Korea, America's most unpopular war. Korea with all of its frustrations, its impatient generals, its inhibited airmen, its blockade-minded seamen, its irritated and anxious Congressmen and its profound political and strategic consequences.

Here was a war which the plucky Mr. Truman struggled to keep limited, and succeeded. Here Americans learned about limited war, although they did not learn to like it and perhaps do not yet understand it. Out of the cauldron of Korea emerged a concept, if fuzzy, of limited war. In Korea the containment policy was baptized in fire. The psychological impact of Korea almost rent our society but it brought home, as perhaps no other experience could have done, the requirements of America's new role in world affairs. Osgood's section on Korea is the high spot of the book.

It remains a question whether the lessons of Korea have been learned by a majority of Americans. Osgood is uncertain about it. Certainly current national policy is not providing the military forces required for effective containment.

Policy of Containment

Osgood develops the argument that we should pursue a clearly-defined containment policy, backed up by a capability and will to oppose aggression which threatens our concrete political aims. He wants an American military doctrine based upon a rational and realistic correlation of military force and politics. He calls upon the United States to play the game of "responsible power politics."

This book is a successful attempt to rationalize a containment strategy, under which the United States could, if need be, wage a limited war for limited political objectives. It is best in its historical interpretation and analysis of recent foreign policy. It is weakest when dealing with modern weaponry which has created a large part of the problem. But, after all, who can penetrate the fog enveloping the face of future warfare? We can only be certain it is a Frankenstein monster.

Scholarly minds are at least now willing to tackle the problem. We must "learn of war" if we are to prevent war, which is a form of global mental illness.

*Research Associate, Defense Studies Program

Chief Judge Albert Conway would have based the decision on somewhat narrower grounds. He was careful to state that "on the facts of this case" the trial court abused its discretion in not directing the stenographer to furnish a copy to the "newspaper or any other person having an interest therein." (163 N.Y.S.2d at 418). It would seem that Judge Conway does not recognize a right on the part of the press or public in general to obtain a transcript, but feels that the question of allowing it should be decided on the facts in each case as it arises. Unfortunately, Judge Conway did not elaborate, and there is no way of knowing what criteria he would use if he were to make such a decision.

Associate Judge Charles W. Froessel also concurred, but felt that a judge's charge to the jury is not a "decision" within the meaning of that term in the section of the state constitution quoted by Judge Fuld. Since the public policy of the state calls for publicity, and since there is no statutory bar against giving out transcripts, "When any member of the public submits a valid reason for desiring a copy of the minutes of a public trial, it is not only the right but the duty of the court to approve such request." (163 N.Y.S.2d at 419).

No Criteria Suggested

Like Judge Conway, Judge Froessel appears to believe that each case should be decided on its own facts, and that there is no absolute right of press or public to obtain a transcript. And he similarly suggests no substantial criteria, except that the person seeking the transcript should have a "valid reason."

If, in a given case, a newspaper should be held to have a valid reason to obtain a transcript of public proceedings, it is difficult to see why any member of the public should not have equal access to the record. Whatever publicity there may be will not come from individuals. It might be argued that a judge should have the power to discourage "snoopers". But the reputation of one who has already been a defendant in a public trial will hardly be damaged any further by someone who has a transcript of those proceedings.

The opinion of the majority of New York's highest court is fortunate, in that it recognizes a right of press and public to obtain transcripts of open-court proceedings. It is unlikely that many individuals will ever exercise this right. But the press is charged with the duty of reporting the administration of justice fairly and truthfully. To deny it accurate and official records of public trials would seriously hamper the performance of this mission.

— Oliver



Professors Arthur E. Sutherland and Richard H. Field, who will be adversaries this evening in *Sanders v. Bennett*.

TRIAL

(Continued from page one)

mony payments after being laid off from work, and had debts to the General Motors Acceptance Corporation of \$266.50.

They also agreed that Mrs. Sanders has ceased to receive \$2,500 a month compensation from Cohen and Fairchild, stock brokers, of which her husband was a retired partner. They also stipulated that the plaintiff incurred \$2,000 medical expenses and \$1,000 funeral expenses.

Arnold Karron, Jr., manager of the store, is in the Netherlands and

will not be available to testify. His deposition was taken last week.

The pre-trial order lists five statements of fact to be decided at the trial this evening:

Issues of Fact

1. The existence of a conspiracy as charged in the complaint.
2. Whether or not battery was committed.
3. Whether battery was in the scope of conspiracy.
4. Whether Mr. Bennett was the victim of coercion.
5. The amount of damages suffered by Mrs. Sanders.

SBA Hears Public Attorney Explain State Law Problems

"Most Republicans are for and most Democrats are against capital punishment in Massachusetts. The only explanation I can think of for this is that most murderers are Democrats." The levity of these words characterized the address of Mr. Arnold H. Salisbury, Assistant Attorney General of Massachusetts, as he spoke before an enthusiastic assembly of the Student Bar Association last Thursday evening.

Mr. Salisbury, in a speech filled with amusing and interesting anecdotes, explained to his audience some of the major functions and duties of the Attorney General's office.

"The Attorney General has the responsibility of handling all the legal business of the state," Mr. Salisbury stated. His office must give advice on a daily basis to various department heads, answer requests from the Governor for advice on the constitutionality of proposed legislation, represent the Judiciary of the state in suits brought against them, and handle much work for the state in the fields of motor tort, workmen's compensation, eminent domain, probate, etc. Yet the largest part of the usual business day in the Attorney General's office is spent interviewing people who seek advice, or information, or who want to register complaints with the state.

Much of the information and advice sought is pretty silly, Mr. Salisbury informed his audience. He told of how

the Massachusetts General Court in 1942, after the disastrous fire at the Coconut Grove night club in Boston, passed a law requiring all doors in places where people gather to be fixed so that they would open upon the slightest pressure. Mr. Salisbury relates receiving a call soon afterwards from the Commissioner of Corrections asking if that law applied to his institutions.

Defective Bill

Poking an amused finger at the Massachusetts legislators, he told of the time a bill rearranging the state holidays was passed to take effect on January 1 if thirty-one other states had passed substantially similar legislation. No one, however, was designated to find out if the other states had passed such legislation. The Attorney General's office, consequently, was flooded with calls by people who wanted to know if the law was in effect; but nobody knew. It wasn't until sometime in July that some unsung hero made a telephone survey of enough states to conclude that the law was not in effect.

The Criminal Division of the Attorney General's office, which Mr. Salisbury heads, has supervisory powers over the nine state district attorneys throughout the Commonwealth, but seldom interferes with their work. This division handles 150 to 200 extradition cases a year, Mr. Salisbury stated, and makes reports and recommendations to the Governor for or against requesting or granting extradition. It makes similar reports and recommendations in regard to requests for executive clemency.

The Criminal Division drafts a good bit of legislation in the criminal field. Noting much recent interest in the subject, Mr. Salisbury went on record as favoring the state-wide establishment of some sort of "public defender" system. "No prosecutor likes to prosecute a case against a defendant with no counsel," he stated.

—Binder

William Clark Dies in Ceylon

William Clark, LL.B. '15, a long-time federal judge who once ruled that the Eighteenth Amendment was unconstitutional, died in Nuwara Eliya, Ceylon, last week. He was 66.

Judge Clark was born in Newark, N. J. He was graduated from Harvard College in 1911, and also received an M.A. from the University. Admitted to the New Jersey bar in 1916 he served in World War I and spent three years with the firm of Lindabury, Depue and Faulks.

In 1923 the late jurist was appointed to the New Jersey Court of Errors and Appeals. In 1925 he was named to the United States District Court for the District of New Jersey. At 34, he was one of the youngest men ever to attain this position; but he will be better remembered for his opinions than his precocity. Deciding *United States v. Sprague*, 44 F.2d 967 (D.C.N.J. 1930), Judge Clark concluded his decision with the words "We hold the adoption of the Eighteenth Amendment to be invalid." (44 F.2d at 986).

The case was immediately appealed to the United States Supreme Court, and quickly reversed, 282 U.S. 716 (1931). Justice Owen J. Roberts wrote the opinion for a unanimous Court. Dean Erwin N. Griswold was on the brief for the Government.

In 1938 Judge Clark was appointed to the United States Circuit Court of Appeals for the Third Circuit. A year later he affirmed the right of schoolchildren who belonged to the Jehovah's Witnesses denomination to refrain from saluting the flag in public schools. *Minersville v. Gobitis*, 108 F.2d 683 (3d Cir. 1939). Judge Clark cited such diverse authorities as Lord Grenville, Webster, Roger Williams, St. Matthew, and Hitler. On appeal, however, he was again reversed by the United States Supreme Court, 310 U.S. 586 (1940). Another alumnus of the Law School, Justice Felix Frankfurter, LL.B. '06, wrote the Court's opinion.

Three years later the Supreme Court overruled *Gobitis* and upheld Judge Clark's original contention that schoolchildren could refuse to salute the flag on religious grounds. *West Virginia Board of Education v. Barnette*, 319 U.S. 624 (1943). Judge Clark resigned from the Third Circuit bench in 1942 and served in Europe as a colonel in the United States Army. While he was abroad, a replacement was appointed to the court. When the Judge returned to this country after the War, he brought suit against the United States on the grounds that he was entitled to his former position under the "G.I. Bill of Rights." His suit failed in the lower courts.

The late jurist was named Chief Judge of the Military Government Courts in Germany in 1948. In 1953 his term expired; after several acrimonious clashes with the office of the United States High Commissioner, the State Department revoked his diplomatic passport and he was ordered to return immediately to the United States.

Judge Clark was vacationing with his wife in Nuwara Eliya when he was stricken with a heart attack last week.

SCOTT

(Continued from page one)

for the first time in the Restatement. These will be his own product, and will not have to be submitted for approval to the ALI.

Another project to which Professor Scott is devoting his current attention is the preparation of a pocket supplement to the second edition of his five volume treatise, *The Law of Trusts*. The supplement will cover around 1,500 cases decided and numerous statutes enacted since the treatise went to press.

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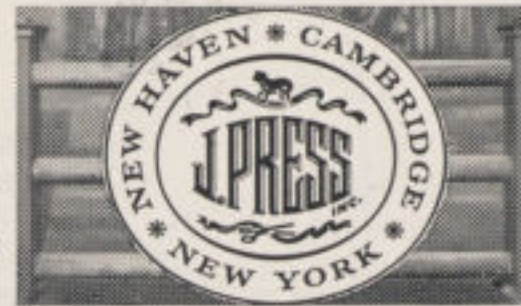
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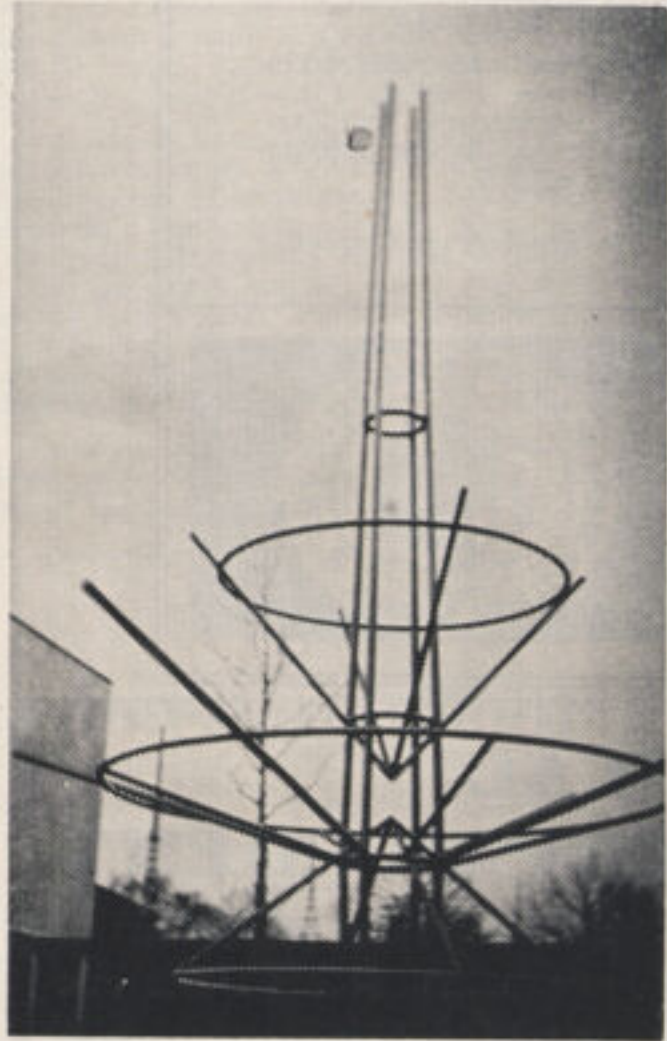
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Scholars Miss World Series Game As NBC Films Gropius Program

Partisans of the Milwaukee Braves and the New York Yankees were evicted from the first floor lounge in Holmes Hall and had to watch the televised proceeding of the sixth game of the World Series elsewhere, as a camera crew from NBC-TV filmed one of its "Wisdom" series programs in the Wheeler Room.

Subject of the film was Walter A. Gropius, Professor of Architecture Emeritus, of the Harvard University School of Architecture and Design, and chief designer of the Graduate School Center. Professor Gropius was the senior member of the Architects



World Tree

Collaborative, the group which in 1948 had charge of the design of the Center.

The "Wisdom" series features conversations with people who have made

substantial cultural contributions to present day life. Others already filmed have included Professor Arnold J. Toynbee, Prime Minister Pandit Jawaharlal Nehru, Maestro Pablo Casals, Dr. Paul J. Tillich, and Igor F. Stravinski.

In addition to the interview, films were taken of the dormitories in the Center and of Harkness Commons. The World Tree, the theme for which had been suggested by Professor Gropius, was also filmed.

Scheduled for Winter

The program, produced by Robert D. Graff, will probably not be shown until late this winter. Regular telecast time is 2:30 p.m. on Sundays.

Construction of the Graduate Center, a three million dollar project, began during the summer of 1949, after the temporary veteran's housing project on what was then known as Jarvis Court had been pulled down. Before World War II this area, where the Center is now located, was largely devoted to tennis courts, and some seventy years earlier it had been the scene of Harvard's first football games.

The Center was formally dedicated on October 6, 1950, and was hailed as a radical departure in university construction.

BULL & BEAR

(Continued from page one)

speculate — never gamble — and divest himself of all investments.

On what to look for in securities, he suggested "validity, solidity, coupled with ample appreciation." And as a word to the wary, he claimed that "the majority is usually wrong," for otherwise the majority would be rich and prosperous.

In concluding his argument for asserting individuality by pursuit of an honorable estate through risk, Mr. Erpf maintained that the exercise of risk in the world of finance is a strong bulwark for "the creative genius of man against the stagnancy of bureaucracy — the United States against Russia." And to the skeptical, when queried on his philosophy on losses, he replied, "Try to avoid them!"

— Lambros

DEFENDERS

(Continued from page one)

ers and 'restricted' to the multitudinous other tasks of the organization. "It is our earnest hope that the Voluntary Defenders will, in the near future, see fit to change their policy, so they may at last avail themselves of the talents and energies of all Harvard Law students in the years to come."

The function of the Harvard Voluntary Defenders is to provide assistance to the Boston Voluntary Defender Committee in representing indigent persons accused of crime in Massachusetts.

Their work involves interviewing defendants in the Greater Boston jails, investigating the circumstances surrounding the alleged crimes and accompanying to court the Boston lawyers who are handling the cases.

The organization also prepares petitions of habeas corpus for men incarcerated in out-of-state-prisons and assists assigned counsel in preparing briefs for indigent defendants appearing before the Massachusetts Supreme Judicial Court.

New Members

The following second year men were selected for membership in the group:

Robert B. Bourne of Far Hills, N. J.; Donald J. Cantor of West Hartford, Conn.; Ansel B. Chaplin of Truro, Mass.; Peter C. Dorsey of New London, Conn.; Arthur F. Flaherty of Worcester, Mass.; Robert E. Goldman of Brooklyn; Constantine Hutchins of Needham, Mass.

Also Paul A. Renne of Minneapolis, Minn.; Robert J. Ridgley of Binghamton, N. J.; Stanley Sher of Milwaukee; Joseph L. Steinberg of Pasaic, N. J.; Charles W. Werhane of Lake Forest, Ill.; and Thomas W. Wiley of Cambridge.

NEWS IN BRIEF

Law School intramural touch football play gets under way this weekend. This year's league is composed of nine clubs. They are the: Chancery; Frauds; Hunt Bros.; Interpleaders; Rebels; Slovak Seven; Spunkies; Tortfeasors; and Veterans.

The league will operate under the direction of Dick Weber, 2L of Toledo, Ohio, Chairman of the Dormitory Council Athletic Committee.

Roscoe Pound, Dean Emeritus of the Law School, addressed a luncheon meeting of the Southern Club last week. Thomas Clark, 3L of Roanoke Rapids, N. C., is president of the group.



Robert M. Segal

1942 Class Here For Gala Reunion

The Law School Class of 1942 will hold its 15th Reunion at the Law School on October 18th and 19th. The Reunion Committee is headed by Robert M. Segal of Boston and includes Lawrence Lock, Ralph H. Willard, Jr., Peter Coogan, Irving Helman, Austin Broadhurst, Gardner N. Stratton, Harold Roitman, Rodney Robertson, George J. Devlin, Richard L. Hobbs, Harry Rice, Stanley M. Epstein, Thaddeus Beal. All members are from Boston. Secretary of the class is Robert Zeller of New York.

Harkness Reception

The Reunion Program includes registration and reception on Friday evening at Harkness Commons for class members and their wives. Saturday events include visits to classes at the Law School, a class picture, a buffet luncheon at the Weld Boat House, the Harvard-Columbia football game and a class dinner at the Law School.

Invited guests at the class dinner include Dean and Mrs. Erwin N. Griswold, Chief Justice Raymond S. Wilkins of the Supreme Judicial Court of Massachusetts, Chief Judge Calvert Magruder of the First Circuit Court of Appeals, Wilkie Bushby, President of the Law School Association, Assistant Deans Wesley E. Bevins and William L. Bruce, Warren A. Seavey, Bussey Professor of Law, Emeritus, Austin W. Scott, Dane Professor of Law, and other members of the faculty.

Approximately 100 members of the Class of 1942 are expected to attend this, the second reunion in their history.

GRISWOLD

(Continued from page one)

on "The Accountant as Problem Discoverer;" and Leonard Cohen, LL.B. '38, whose topic will be "Optical Adjustment to Basis of Partnership Property."

Marks Revisited . . .

The following statement is printed to clarify last week's remarks on "Marks."

Previously, if the sum of a first-year student's grades in Criminal Law and Agency equalled a failing grade, it was counted as a one-course failure.

Today, if a student receives a passing mark in either course, he may be charged with only a one-half course failure, no matter what the total may be.

ultimate responsibility of hospitals and doctors was a question which produced more disagreement, while the ethics of several particular practices were the subject of inquiry from the audience.

The program concluded with the showing of motion pictures related to the panel topics. "The Doctor Defendant" and "The Medical Witness" threw further light on the preceding discussions.

The "Medico-Legal Day" was the first effort of its kind, and the hope was expressed that law and medical student interest will enable the program to become an annual event.

WIVES

(Continued from page one)

and without the Law School. Members of the faculty are called upon four or five times during the year, and the interim dates see a wide variety of topics discussed by speakers from the Boston and Cambridge areas, with an occasional out-of-town-tossed in for good measure.

The topics of the talks are as varied as the interests of 445 women. One week one might find a professor from the Law School relating his experiences in some foreign country during his sabbatical year. For wives concerned with raising a family a pediatrician or child psychologist is usually invited once a year.

Other programs last year included a capital punishment discussion, a piano concert, a lecture by an interior decorator, Professor McNaughton's talk on the Lindbergh kidnapping, and Visiting Professor Wechsler's experiences at the International War Crimes Trial at Nuremberg.

Approximately once a month the wives plan a special event to which the husbands are invited. Plans in the making this year include a "Pot Luck" supper and movie, a Christmas party for the small fry, a "Barristers' Ball" and a fashion show.

An introductory tea given by Mrs. Griswold earlier this month marked the start of the year for the Law Wives. It is hoped that another banner year is in the offing and that the "sweat of the fraus" will be substantially reduced by the activities of the Law Wives.

ARBITRATORS

(Continued from page one)

eastern University, and includes Lon L. Fuller, Carter Professor of General Jurisprudence; Professor John A. Hogan, University of New Hampshire; and George H. Mason, LL.B. '26, of Vaughn, Esty, Crotty, and Mason.

The second panel will be headed by Professor Robert L. Stutz, University



Lon L. Fuller

of Connecticut, and includes Mitchell Sviridoff, president of the Connecticut State Labor Council of the A.F. of L.-C.I.O.; Saul Wallen, arbitrator; and Leslie E. Woods, Director of Personnel and Industrial Relations at the Raytheon Manufacturing Co., in Boston.

The meeting is under the sponsorship of the National Academy of Arbitrators, in co-operation with the American Arbitration Association, the M.I.T. Industrial Relations Section, and the Northeastern University Labor Relations Institute.

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Alumni Notes

LL.B. '38 — Sidney I. Roberts' firm of Roberts & Holland has announced the removal of their law offices from 230 Park Avenue to The Chrysler Building, 405 Lexington Avenue, New York 17, New York.

LL.B. '50 — Harvey Greenfield, a New York attorney, has been elected Vice-President for the Southern District of New York of the Federal Bar Association of New York, New Jersey and Connecticut. He continues as a member of the Board of Trustees and Co-Chairman of the Committee on Taxation of the Association. Mr. Greenfield was elected a member of the Board of Trustees of the City Club of New York last spring.

LL.B. '52 — The engagement of Robert Carswell to Mary Killeen Wilde of Lenox was announced last week. Mr. Carswell is with the New York law firm of Shearman, Sterling and Wright.

LL.B. '53 — S. Gilmer Towell is engaged to Juli Galway Shea of New York City, it was announced last week. Mr. Towell is with the New York law firm of Dwight, Royall, Harris, Koegel and Caskey.

LL.B. '57 — Bruce L. Balch recently passed the Illinois bar examination and is now associated with Seymour P. Golden in the practice of public accounting in Rock Island, Illinois.

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