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TEN CENTS

Dean Griswold Wins Lawsuit In 1st Circuit

The United States Court of Appeals for the First Circuit on Monday unanimously affirmed a dismissal of the \$3 million suit by a Latin-American tax lawyer, J. Irizarry y Puente, against Dean Erwin Griswold and the Harvard Law School.

The suit was brought in the United States District Court for Massachusetts in the spring of 1956 by Mr. Puente, who charged that Dean Griswold stole his idea for a world tax series and assigned the Law School's World Tax Service to carry it out. Mr. Puente asked one million dollars in actual damages, two million dollars in punitive damages, an accounting for profits and injunctive relief.

The complaint alleged that, in correspondence passing between Puente and Griswold in the spring and summer of 1950, Puente disclosed to Dean Griswold his plan for a Latin Tax Research Law Institute, and that some months later Harvard announced its own plans for such a series. Before Harvard entered the picture, it was alleged, Puente had many subscribers to his tax series, who cancelled upon learning that Harvard was launching a similar project.

Chief Judge George C. Sweeney of the District Court concluded that there was no genuine issue as to any material fact and on February 26, 1957, granted a motion by the defendants for summary judgment. The District Court's decision was based upon the ground that there was nothing novel or original in the idea of a

(See GRISWOLD on page four)

Leach Is Critical Of Defense Budget

The successful launching of Sputnik by the Soviet Union dramatically points to the fact that more money must be spent by the United States for military defense, declared W. Barton Leach, Brig. Gen., U.S.A.F.R., and Story Professor of Law, before an audience of eighty at the Harvard International Development Society last Thursday evening.

United States policy makers are not likely to find the right answers to



W. Barton Leach

our defense problems, he told his audience, because they are asking the wrong question. The question should be, Prof. Leach submitted, "What military force do we need to protect ourselves and support our foreign policy?" But the question defense planners are asking is: "What military force can we buy on \$38 billion a year?"

Professor Leach strongly opposed a security program whereby "defense

(See LEACH on page four)



Erwin N. Griswold

Williston Judges

Names of four attorneys who will judge entries in the semi-final round of the Williston Competition have been announced by Karl Berolzheimer, 3L of Chicago, chairman of the Competition. They are Stuart Marks of the New York firm of Kaye, Scholer, Fierman & Hays; Arthur L. Stevenson, Jr., of the Boston firm of Goodwin, Proctor & Hoar; Joseph M. Wells, of Ross & O'Keefe in Chicago; and Crosby Roper of Covington & Burling in Washington, D. C.

The attorneys will judge drafts prepared by twelve competing teams, who will begin work on October 25. The teams have one week to submit their solutions, which involve drafting a legal memorandum and some other document.

Noted Defender to Address Student Bar Group Tonight

Edward Bennett Williams, Washington defense attorney, will speak this evening in the James Barr Ames Courtroom at eight p.m. under the sponsorship of the Harvard Student Bar Association.

Mr. Williams has moved to national prominence as a defense attorney in the last several years by representing with a large measure of success figures who have gained the national spotlight in a somewhat negative fashion.

Teamster's Union President James Hoffa, businessman Frank Costello, the late Senator Joseph McCarthy and *Confidential* magazine have been numbered among Mr. Williams' recent clients.

The speaker has chosen "Experiences of a Defense Attorney" as the topic of his address and seemingly he will have a wealth of experience upon which to draw.

Recognized as one of the top trial lawyers in the country, the Washington advocate will bring to the Rostrom fourteen years of experience before the trial bench, Congressional committees and the conference table.

Georgetown Graduate

Mr. Williams, a 1941 graduate of Holy Cross College, received his LL.B. from Georgetown University Law School and was admitted to the bar in 1945. Since then he has directed most of his attention to the criminal defendant's bar. He has also found time to maintain a position on the law faculty of Georgetown University and has recently been appointed to the board of directors of the American Civil Liberties Union through which he hopes to be able to effectuate a liberalization of criminal defense procedures.

"If I go into court in a civil case to defend a man's bankroll, I can get the names of all the witnesses on the other side. I can take depositions from them before trial and I can subpoena relevant documents and records. But in criminal cases where I defend a man from going to prison, those protections are not available to me. I find it hard to believe that the framers of the Constitution intended that property rights should have better procedural protection than a man's rights to his freedom and his good name," Mr. Williams has said.

Among the more famous clients that Mr. Williams has represented

are the late Sen. Joseph R. McCarthy, Polly Adler, Teamster's President James Hoffa, *Confidential* magazine, gambler Frank Costello, former OSS



Edward B. Williams

officer Aldo Icardi, Actor Burt Lancaster and architect Ian Woodner.

When questioned in a television interview on the diverse personality of

(See WILLIAMS on page four)

Long Delay Seen In Desegregation

Twenty years will pass before desegregation filters down and throughout the "solid seven" states of the South, opined Professor Arthur E. Sutherland Sunday evening in a talk before the International Student Association of Greater Boston.

He stated that the greatest roadblock to desegregation was "the huge power of sheer inertia, of not doing anything until you have to." This passive strategy of non-action is facilitated by the highly decentralized school systems of the states, he said.

Describing the three forms of Southern legislative resistance — interposition, disestablishment of the public school system and spurious classification of school districts — Professor Sutherland discounted the effectiveness of these measures and predicted that they would either fail in the courts or not be attempted at all.

He foresaw a similar fate for the state acts aimed at putting the local National Association for the Ad-

(See SUTHERLAND on page four)

Christianity & Law

The first meeting in connection with the discussion group on Christianity and the Law will be held next Monday in the Wheeler Room of Holmes Hall at 8 p.m. Professor Harold J. Berman of the Law School, and Professor J. L. Adams of the Divinity School, will lead the discussion which will be centered around a series of articles in the current issue of the *Christian Scholar*. Copies of this publication are now on reserve in the Law School Library.

Second Law School Forum To Feature Aneurin Bevan

An address by the Rt. Hon. Aneurin Bevan, Member of Parliament and Foreign Secretary in the Labour Party's "shadow cabinet," will feature the year's second Law School Forum tomorrow evening.

The dynamic Welshman's outspokenly independent and left-wing policy positions have made him the most talked-of and controversial figure in post-war English politics. He has been the Labour Party's boldest and most consistent critic of United States foreign policy.

'Non-Asian' Illness Hits Law Students

A spreading flu epidemic has been decimating normally crowded Harvard Law School classes. Tests indicate, however, that it is not the heralded "Asian" flu. But "Asian" or domestic, it has already swept an estimated 400 law students off their feet and onto cots.

Dr. Dana L. Farnsworth, Director of University Health Services, reports that Stillman Infirmary, which handles patients from the whole University, has treated over three times as many students in the last four weeks as it did for the same period a year ago. The Infirmary treated only 940 patients in all of last year; this year it has already handled 502. Five-sixths of these patients, he stated, are suffering from either the flu or some related respiratory infection.

Dr. Farnsworth reports that tests conducted in University laboratories indicate that the flu germ presently plaguing students is not the celebrated "Asian" menace. This information provides small comfort, however, because the effects produced are roughly the same.

Dr. Farnsworth warns that there is a danger that the dreaded "Asian" type of flu which has been sweeping the country will strike the Law School in the near future. To counter this threat "Asian" flu inoculations were

(See FLU on page four)



Aneurin Bevan

of a miner's lodge. After two year's attendance at Central Labour College in London, he returned home and became involved in local politics. He was elected a Labour Member of Parliament from his home district in 1929 and has been returned with comfortable majorities each election since.

Mr. Bevan early established himself in the House of Commons as a powerful speaker and a forcefully independent thinker. In 1939 he was expelled from the Labour Party for several months for his participation in the Popular Front Movement. During the Second World War Mr. Bevan was conspicuous as a constant critic of Sir Winston Churchill's Coalition Government. He was an editor of the noted left-wing weekly paper, *The Tribune*, from 1940 to 1945.

Was Health Minister

When the Labour Party assumed the reins of the British government in 1945 Mr. Bevan served in Mr. (now Lord) Attlee's cabinet as Minister of Health, where he was responsible for setting up the National Health Service. He retained this post until January, 1951, when he became minister of Labour and National Services. Finding himself in growing disagreement with the policies of the Attlee Government, the "fiery Welshman" resigned from his cabinet post the following April.

After the 1951 general election, won by the Conservative Party, Mr. Bevan

(See BEVAN on page four)

Wives List Movie, Pot Luck Supper

Husbands of Law Wives have been admonished not to forget the Wives' annual Pot Luck Supper at 6:30 Saturday evening in the large meeting room of Harkness Commons. Mrs. Truman S. Casner, president of the group, has announced that *Phantom of the Opera*, a full-length feature movie starring Nelson Eddy, Jeanette MacDonald and Claude Rains, will be shown after supper.

The next meeting of the Wives will be held on Wednesday, November 6 at 8 p.m. in the large meeting room. Professor Harold J. Berman, who has recently returned from the Soviet Union, will relate his experiences during a visit to that country last year.

(See MOON on page four)

Harvard Law Record

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Letter to the Editor

Two weeks ago the RECORD printed a story
 telling of the resolution adopted by the Har-
 vard Voluntary Defenders which, in effect,
 banned women from the organization.

The RECORD printed in the same article a
 letter received from two young ladies ex-
 cluded from the Defenders protesting such
 discrimination and disputing the facts upon
 which the policy allegedly was based. The
 following reply was received from two mem-
 bers of the organization.

TO THE EDITOR OF THE RECORD:

Since discrimination is a policy which no
 one is able to defend with any degree of suc-
 cess, it is fully obvious, even to the most ar-
 dent woman hater, that the Voluntary De-
 fenders should be unable to defend their
 policy of discrimination against the fairer
 sex. And this is proper; or at least it would
 be proper if the Voluntary Defenders were
 taking such a medieval view of underestimat-
 ing the power of a woman. But they are not.
 Here's why:

Voluntary Defenders have several pur-
 poses, as the RECORD article in question
 eventually points out. For Defenders, the
 primary purpose, however, is to assist the
 Boston Voluntary Defenders in providing
 legal aid to indigent persons accused of crime.
 Hence, the role of interviewing and investi-
 gating is supreme. Even the RECORD notes
 that the preparation of writs of habeas cor-
 pus for out-of-state prisoners and briefs-on-
 appeal for the Massachusetts Supreme Ju-
 dicial Court is an "also" man.

When the two women involved applied for
 admission to the Defenders, a decision was
 made that the group could not, consistent
 with its purposes and out of fairness to those
 members on whom the burden of the "dirty"
 work would fall, accept these people. As to
 the interviewing role, the decision was made
 by the Boston Defenders, whose view is bind-
 ing upon the Harvard group; as to the in-
 vestigating role, the decision was made upon
 the simple logic that one would have to be
 irresponsible and insensitive to allow a wom-
 an to go down, often at night, to South Boston
 or Roxbury, or the South End in search of
 facts or witnesses.

Not Against Girls as Girls

This decision was not directed against
 these girls as girls; it was directed against
 them as people who, for one substantial rea-
 son or another, could not undertake any more
 than part-time Defender work, and the gravity
 work at that. The decision is as much di-
 rected against the male applicant who states
 in his interview that he refuses, or is for
 some reason unable, to go to the tough neigh-
 borhoods but would be more than happy to
 see men already in the jails.

The important thing to note is this: these
 women come to the Law School apparently
 believing in equality between men and wom-
 en, especially equality of opportunity. It is
 with this philosophy in mind that they apply
 to the Voluntary Defenders. And yet, when
 they are refused admission for a want of
 equality of contribution, they plead the fact
 of womanhood and request second-class citi-
 zenship.

(The undersigned are members of the Vol-
 untary Defenders; however the views ex-
 pressed are our own. We should like, in clos-
 ing, to note our pride in the Defenders as an
 organization for having taken an intellectu-
 ally honest position in refusing to consider an
 application not qualified on its face and not
 ducking the issue by avoidance, that is, by
 allowing the applications of these girls to be
 considered and then turning them down os-
 tensibly on their merits as future Defenders,
 "all things being equal.")

Bruce M. Ramer, 3L
 William F. Looney, Jr., 3L

Among the Visiting Professors of Law
 each year, there is usually a distinguished
 representative of one of the English Univer-
 sities. This year is no exception, with the
 presence of Professor Harry Street of Man-
 chester University, England. He has had
 considerable experience teaching in the field
 of torts and in administrative law at Man-
 chester and Nottingham.

Professor Street is teaching the traditional
 first year course in Torts as well as a new
 seminar on Damages in Torts and Contracts.
 In addition he will participate in a seminar



Harry Street
 Visiting Professor of Law

on Comparative Administrative Law with
 Professor Arthur T. Von Mehren.

"Teaching a course at Harvard in torts, of
 course, involves some major differences from
 presentation of the material at Manchester,"
 commented Professor Street. "The law of
 torts in the United States is much more com-
 plicated than that of Great Britain. The us-
 ual principles are common to both, but at
 home many of the complications have been
 eliminated by statute. When you are familiar
 with a set of law which does not have to deal
 with concepts such as the 'last fair chance'

In cases decided within four days of one
 another last May, the courts of Kentucky and
 Maryland expressed widely divergent views
 on appropriate sanctions for misconduct by
 members of the Bar. Each court appears to
 have dispensed sanctions somewhat dispro-
 portionate in relation to the offenses of the
 errant attorneys.

Kentucky State Bar Association v. McAfee,
 301 S.W.2d 899 (Ky. 1957), was a per curiam
 decision rendered by the state's Court of
 Appeals. McAfee had been convicted in 1956
 by the United States District Court for the
 Western District of Kentucky, of willfully
 and knowingly failing to make his 1952 in-
 come tax return to the Director of Internal
 Revenue. He was sentenced to be imprisoned
 for nine months and to pay a fine of \$5,000.

Bar Association Acts

In 1957 the State Bar Association filed a
 certified copy of the District Court's judg-
 ment in the Kentucky Court of Appeals, and
 the latter court issued a rule against McAfee
 to show cause why he should not be disbarred.
 McAfee offered several defenses, but the
 court was principally concerned with his
 claim that the offense for which he had been
 convicted under 26 U.S.C. §145 does not in-
 volve "moral turpitude" which would war-
 rant his disbarment. He relied heavily on
In re Hanninan, 43 Cal.2d 243, 272 P.2d 768
 (1954) where disbarment proceedings had
 been brought against a California attorney
 for similar reasons.

The Kentucky court agreed with this con-
 tention, dismissing the proceedings with only
 a reprimand to McAfee. "Attached to
 [McAfee's] brief is a copy of the brief filed
 in the Supreme Court of California in the
Hanninan case which fully covers the ques-
 tion of whether a conviction for failing to file
 a federal income tax return involves moral
 turpitude. A reading of this brief convinces
 us that it does not." (301 S.W.2d at 900).

Moral Turpitude Required

The California Supreme Court, however,
 had not been so thoroughly convinced by this
 brief. It held that an attorney could be sum-
 marily disbarred only if the offense for which
 he had been convicted necessarily involved
 moral turpitude. It cited federal cases to
 show that "an intent to defraud is not an
 essential element of section 145(b) and that
 a conviction under that section does not
 necessarily involve moral turpitude." (43
 Cal.2d at 250, 272 P.2d at 772) (Emphasis
 added).

Whereas the Kentucky court dismissed the
 proceedings against McAfee, the California
 court referred the matter to the Board of
 Governors of the State Bar for hearings and
 a report on whether Hanninan's offense in-
 volved moral turpitude warranting disbar-
 ment or suspension. Hanninan's brief was

Gallery

or the distinctions between "licensees" and
 "invitees", it becomes an interesting experi-
 ence to pick up the American complications
 and present them to the Law School students.

"In addition, the American courts have
 created more new torts: they seem to be
 more for the plaintiff and may help him
 through by defining a new tort such as that
 in intentionally causing mental suffering."

Asked about classroom procedures at Har-
 vard compared with Manchester, Professor
 Street replied, "There is no basic difference
 in method as far as I'm concerned. I use the
 case method in my courses at home. However,
 the use of the case method is the exception
 in the British law schools. There is generally
 a reliance upon a straight lecture system
 which is supplemented by small discussion
 groups. Here the case method in a larger
 class is the usual procedure."

"Up until the past month there had been
 no British case books for student use. There
 had been regular collections of cases avail-
 able but none designed for teaching pur-
 poses. I have had to rely on a Canadian case
 book when giving my courses. This gives
 you an idea of how unusual the case method
 is considered at home."

"I naturally enjoy the work here because
 of the changes involved in working with new
 materials. And the American student seems
 more ready to discuss, argue, and volunteer
 comment in class. It seems to be on more of
 a man-to-man basis rather than a teacher-to-
 student basis."

More Discussion

In response to a question about the effect
 of the numerous jurisdictions in the United
 States upon the teaching of a consistent body
 of tort law, Professor Street indicated,
 "There is a greater discussion of policy
 questions in the classroom due to the numer-
 ous alternatives shown in the various states.
 Comment is usually on what is the best law
 whereas in Britain, because there is a unitary
 jurisdiction, discussion centers around a
 search for what the law actually is."

Professor Street's new third year seminar,
 Damages in Torts and Contracts, will be
 conducted in the spring semester. Although
 other seminars and courses might touch on
 the problem of damages, this appears to be
 the only Law School course which will really

Current Cases

indeed persuasive on the Kentucky court;
 but a careful reading of the decision which
 California's high court had rendered on that
 brief should have caused them to state their
 holding in somewhat less sweeping terms.

The second disbarment case decided last
 May was *Fellner v. Bar Association of Balti-
 more City*, 213 Md. —, 131 A.2d 729 (1957).
 Fellner had been charged in the Criminal
 Court of Baltimore with inserting slugs in a
 parking meter on a city parking lot. He
 also gave a false name to police officers when
 he was arrested, and two boxes of slugs were
 found at that time in his automobile. He
 entered a plea of nolo contendere, and was
 fined \$250. Proceedings were then instituted
 against him before the Supreme Bench of
 Baltimore City, and he was permanently
 disbarred by that court.

Before the Maryland Court of Appeals,
 Fellner argued that his guilt of conduct suf-
 ficient to warrant disbarment had not been
 established, and that in any case the punish-
 ment was too severe.

Ames Judge Rules

The court's opinion was delivered by As-
 sociate Judge William L. Henderson, LL.B.
 '19, who sat on the tribunal hearing the final
 Ames argument at the Law School last year.
 "In the instant case," Judge Henderson
 wrote, "the offense committed by the appel-
 lant was not a casual or thoughtless one. The
 evidence supports the inference that he re-



William L. Henderson
 Associate Judge
 Maryland Court of Appeals

sorted to a deliberate and systematic practice
 of cheating the city by the use of slugs.

"Morally, the offense was as great as
 though he had stolen money deposited by

delve into the problem. "The seminar will
 investigate the general question of the ade-
 quacy of damages in tort and contract. We
 will inquire into what ends they are serving.
 Finally the very practical question of meas-
 uring the damages themselves will be con-
 sidered. It is hoped that those in the seminar
 will find the material quite useful in prepara-
 tion for work in trial."

Courses Taught

Professor Street normally teaches courses
 in Torts and Constitutional Law at Manches-
 ter. These courses are given during the first
 year of a three year LL.B. program. He
 also presents a third year elective in Admin-
 istrative Law.

Interest in these fields is evidenced by his
 major publications — *Governmental Liabil-
 ity: A Comparative Study; The Law of Torts;*
and Principles of Administrative Law (co-
 authored with Professor J. A. Griffith of the
 London School of Economics). The last two
 works are basically student textbooks.

The work on the comparative study of gov-
 ernmental liability is the product of study in
 the United States at the Columbia Law School
 in 1947-48 as a Commonwealth Fund Fellow.
 The book presents a study of administrative
 law in the United Kingdom, the United
 States, and France.

Manchester Degrees

Professor Street graduated from Manches-
 ter University in 1938 with the LL.B. degree.
 His practice as a Solicitor began in 1940 but
 was interrupted by World War II and service
 as a Flight Lieutenant in the Royal Air Force
 from 1942 to 1946. He returned to Manches-
 ter as a Lecturer in Law and remained there
 until 1952 except for his visit to Columbia.
 During his first stint at teaching at Manches-
 ter, he received the LL.M. and Ph.D.
 degrees. The latter is the British equivalent
 of the American S.J.D.

From 1952 to 1956 Professor Street was a
 member of the Faculty of Law at Notting-
 ham University, serving as a Professor and
 Head of the Department of Law. He returned
 to Manchester in 1956 to assume the post of
 Professor of Public Law and Common Law.

Professor Street, his wife, and three chil-
 dren are living in Cambridge during their
 visit.

— Cottrell

others in the meters, and amounts at least to
 fraud or deceit. It is not without significance,
 as bearing upon his moral fitness, that he has
 never yet admitted that he did wrong. . . .

"[H]e did not take the stand before the
 Supreme Bench. This is not a criminal pro-
 ceeding, in which the defendant has a right
 to stand mute. There is no constitutional
 right to practice law. . . . 'No moral character
 qualification for Bar membership is more im-
 portant than truthfulness and candor.'" (213
 Md. —, 131 A.2d at 731).

Element of Distinction

In the *McAfee* case, the facts found by the
 federal court which convicted and sentenced
 the attorney were not set out by the Ken-
 tucky court, so it is not possible to compare
 the equities of the decision with *Fellner*. But
 it is obvious that the criminal penalties meted
 out upon attorneys bear little if any relation
 to the professional sanctions imposed by
 courts. It has been argued that disbarment
 should be adjudged on the basis of how close-
 ly the misconduct relates to an attorney's
 professional activities, e.g., embezzlement as
 opposed to involuntary manslaughter. It is
 here that the elusive element of "moral turpi-
 tude" is utilized to distinguish mere miscon-
 duct from misconduct warranting disbarment.

Little Difference

Yet the offenses of willfully and knowingly
 failing to file an income tax return, and in-
 serting slugs in a parking meter, do not really
 seem to be of a vastly different character so
 far as fitness to practice law is concerned.
 And the wide variance in the sanctions im-
 posed — a reprimand as opposed to perman-
 ent disbarment — suggests that one of these
 courts, more likely both, may be wrong in
 its judgment.

If the sanction imposed by the Maryland
 court in *Fellner* seems excessive, at least the
 court reviewed the defendant's case exhaust-
 ively: both the prosecution in the Baltimore
 Criminal Court, and the disbarment proceed-
 ings before the Supreme Bench of that city.
 The Kentucky court in *McAfee*, on the other
 hand, issued a reprimand to the defendant in
 an opinion based largely on a brief submitted
 to the California Supreme Court. Inasmuch
 as the California court did not wholly em-
 brace this brief, the holding of the Kentucky
 court seems doubly unfortunate.

The action of California in the *Hanninan*
 case seems commendable. All such cases of
 alleged misconduct on the part of attorneys
 should be judged not by a legalistic inquiry
 of whether or not an offense involves "moral
 turpitude," but rather by how far the mis-
 conduct is a departure from a minimum
 standard required for legal practitioners.

— Oliver

Antipopular Groups Attack Constitutional Safeguards

By DANA C. BACKUS

(Mr. Backus, LL.B. '29 C.L., is a New York attorney who has taken an active interest in the Campaign for the 48 States. His wife, Louise Burton Laidlaw Backus, is a well known contributor of verse and essays to magazines.)

Proponents of constitutional amendments, which have received no approval from the Congress, are now seeking the call by 32 states of a convention empowered to revise the Constitution of the United States. A self-styled right wing group, known as the "Campaign for the 48 States," is sponsoring action in the state legislatures. Their proposals are as follows:

1. *By-Passing the Congress in Making Amendments: The 12-State Gwynn Amendment.* One present method of amending the Constitution provides for the Congress, by vote of two-thirds of both Houses, to propose amendments which, when ratified by three-fourths of the legislatures of the several states, become a part of the Constitution. The 12-state amendment would by-pass Congress by permitting any twelve state legislatures to submit amendments to the 48 states.

Pressure Tactics

This proposal is an excellent example of pressure group philosophy. The founders of our country correctly provided that an amendment must clearly appear to be in the national interest by getting Congressional approval by two-thirds vote. This safeguard is a vital one. In the Congress the spotlight of public opinion can be focused on an amendment to determine its worth to the United States as a nation. Only those who despair of the popularity of their cause would suggest another plan. And it must be remembered that if the 12-state amendment went through, it could be used as readily by pressure groups of the left as by those of the right.

So little regard do the proponents have for popular feeling that they

have inserted in their proposed amendment a prohibition against a state's revoking submission of an amendment or revoking its ratification of an amendment even before the requisite number of other states had acted. They would impair state sovereignty by prohibiting a subsequently elected legislature from changing the state's action, regardless of changed conditions.

The Convention Method

The alternative method of amending the Constitution (now in Article V) is for the legislatures of two-thirds of the states to call for a constitutional convention to amend the document, subject to ratification thereafter by 36 of the 48 states. While this route has never been used, the backers of the 12-state amendment are trying to follow it to obtain their own amendment. Through June 30, 1957, calls for a convention to consider the 12-state amendment have been made by Idaho, Illinois, Indiana, Michigan, South Dakota and Texas.

2. *The Tax-Limitation Amendment: The Dirksen-Gwynn Amendment.* This is a proposal to prohibit income taxes in excess of 25 percent. Naturally, at first blush it has an appeal, but we must support the national government for the protection of all of us.

The income tax now produces about half the federal revenue, and the corporate income tax (top rate, 52 percent) produces one-half of this half. So the first effect of the amendment would be to cut the tax bill of the large corporations in half. Also it would throw the federal government into a deficit position of about ten billion dollars. No serious student of the budget thinks that it can safely be cut by any such amount. If we are to remain free of communism, we must pay for our own defense.

Alternative tax sources would throw the additional burden on the very persons who are the principal constituents of the state legislatures who are asked to vote for the amendment.

Ignores Ability to Pay

The companion proposal to abolish federal inheritance and gift taxes also ignores ability to pay. The greatness of America was built by people who worked for their money. Our freedoms were earned — not inherited. And today any husband can pass on to his wife, by gift and inheritance, at least \$120,000 before even initial federal gift tax or death duties begin. The only requirement is that he have the money at the start.

Fiscal policy of the United States needs constant scrutiny, but the way to make balanced progress is to look at the picture as a whole and not from the point of view of the impact of only certain taxes. This proposal, which would also call for a constitutional convention, should be defeated, and states that may have adopted the call in the past would be well advised to rescind the call under today's conditions. From time to time since 1939, 28 states have submitted calls for conventions dealing with some form of tax limitation, but 12 of the states have rescinded their action. The 16 states which have not rescinded their calls are Delaware, Florida, Georgia, Indiana, Iowa, Kansas, Maine, Michigan, Mississippi, New Hampshire, New Mexico, Oklahoma, Pennsylvania, Utah, Virginia and Wyoming.

3. *The Compulsorily-Balanced Budget Amendment: The Byrd-Bridges Amendment.* Hoping to cut

the power of the United States to levy taxes, the advocates of these amendments go on to ask that the budget always be balanced (unless three-fourths of each House of Congress vote otherwise in times of dire emergency on recommendation of the President).

Naturally, a balanced budget is desirable but an unbalanced budget may be a national necessity, just as in a particular year illness or other emergency may require an individual to spend beyond his current income. To provide that an extraordinary majority must recognize the emergency is not good governmental planning. It is both unwise and an undemocratic violation of the principle of majority rule. Just before World War II, the continuation of the United States draft of men for the armed forces was sustained by one vote in the House of Representatives. That one vote did much to save our country, which was about to face the Pearl Harbor catastrophe. But with the compulsorily-balanced-budget amendment the saving vote might have gone down the drain for lack of funds to implement it.

Furthermore, the Congress, through the debt-limit statute, has a tool for controlling deficits. To ask for drastic reduction in the power of Congress to levy taxes and then ask for a compulsorily-balanced budget is contradictory. It is an effort to push the United States back in the direction of the impotent Articles of Confederation, from which it was rescued in 1789. Only one state, Indiana, has called for a convention concerning this amendment.

Defer Bricker Amendment

Strategy of Supporters of the Three Amendments. The campaign for the 48 States has deferred its promotion of two other amendments it originally pushed. One of these (the Mundt-Coudert amendment) would have altered the method of choosing electors to elect the President. They have also deferred support of the Bricker amendment. This proposal to limit the sovereign power of the United States to make and enforce treaties navigates under misleading sails. Treaties cannot now do what the Constitution forbids.¹ Yet the proponents of the amendment, while talking of this point, actually advance an amendment which would weaken our country in this war-threatened world. The amendment has had many phrasings. One would have made the treaty ending the Revolutionary War unenforceable. All would burden the treaty power with ill-defined restrictions. All would hamper the power of the President as Commander-in-chief to act in defense of our country. Small wonder that both President Eisenhower and President Truman oppose the Bricker amendment.²

Yet the deferring of support for the Bricker amendment is more apparent than real. Under the rules proposed by Indiana, the Convention when once in session could act on the Bricker amendment or any other submitted by any state. The scope of such a convention could work to discourage any state from calling for particular action, for it might find itself in a minority position on other issues important to it.

There is a motivating distrust of popular suffrage, which appears from the way the proponents of the amendments would set up rules for their proposed constitutional convention. If their proposed rules were adopted, the states would not have voting power at the convention in proportion to their population. One-state one-vote is the rule requested, and half of the

(See AMENDMENTS on page four)

¹BRICKFIELD, *supra*, at 91.
²Reid v. Covert, 353 U.S. —, 77 Sup.Ct. 1222, 1230-1 (1957).

³The Committee for Defense of the Constitution by Preserving the Treaty Power, 42 West 44th St., New York 36, N. Y., has publications expressing opposition to the Bricker Amendment. Calls for a constitutional convention on the subject of treaty making have been voted by Florida, Georgia, and Indiana. BRICKFIELD, *supra*, at 90.

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Alumni Notes

LL.B. '41 — *Seymour Kleinman*, who had been Assistant to the General Counsel of C.I.T. Financial Corporation, has become a member of the firm of Goldstein, Golenbock & Borell, with offices at 295 Madison Avenue, New York City. While at the Law School, Mr. Kleinman was Book Review Editor of the *Law Review*.

LL.B. '51 — *Marcus D. Grayck* recently had an article published in the *Tax Law Review*. The name of the article is "Taxing Income That is Applied Against the Purchase Price" and it appears at 12 *Tax L. Rev.* 381 (May 1957).

LL.B. '53 — Since September 30, *Robert A. Jelinek* has been employed as a lawyer by the advertising firm of Young & Rubicam, Inc., 285 Madison Avenue, New York City. Mr. Jelinek was previously with the law firm of White & Case in New York.

LL.B. '55 — *Stanley Tannenbaum* has become associated with Nathan Reibel in the general practice of law with offices at 1143 East Jersey Street, Elizabeth, New Jersey.

— *Paul Walter* is now separated from the armed forces and engaged in the general practice of law as an associate of the firm of Tydings, Sauerwein, Benson & Boyd, 900 Baltimore Life Building, Baltimore, Maryland. He also announces the birth of a son, Harold Mark Walter, on August 21.

— The wedding of *Joseph Felix Nocco* and *Barbara Giola Romano* was celebrated in Piermont, New York, on October 26. Mr. Nocco is with the Yonkers firm of Reardon & Ball, and is on the faculty of New York Law School.

LL.B. '56 — *Raphael J. Shortlidge, Jr.*, was married to Eleanor Quail last Saturday in Lakeville, Conn.

LL.B. '57 — *George W. Beatty* has been selected under the Attorney General's 1957 Recruitment Program for Honor Law Graduates. Mr. Beatty, who has been assigned to the Tax Division of the Department of Justice, is one of seventy graduates chosen this year.

— The engagement of *Janet Lee Andrew* to *Anthony Partridge* has been announced. Mr. Partridge, who is now with the Washington, D. C. firm of Covington & Burling, was Treasurer of the *Law Review* last year.

WILLIAMS

(Continued from page one)

the clients he represents, Mr. Williams said:

"The Sixth Amendment in the Bill of Rights does not say that every accused person is entitled to counsel except Joe McCarthy or Earl Browder."

In a speech to the New York Bar Association last winter, the thirty-seven year old attorney said in defense of his profession, "No one would say that Dr. Paul Dudley White was sympathetic to Marxism if he treated Eugene Dennis for a coronary disease. But if one of our counsels Dennis on the defense of his liberty, we are at once suspect."

Because of the notoriety of some of his clients, Mr. Williams has been the source of some criticism from the press for methods which some consider "sleight-of-hand law." In coming to his defense, a Washington pundit has said, "Every proper man should be grateful for the spectacle of talent used to keep a guilty man out of prison rather than to put an innocent one in. Edward Bennett Williams is one of the glories of our time because he saves the rascals he represents from the feeble malignity of the state and reserves them for the majestic vengeance of God."

Professor Richard H. Field will introduce the speaker. The meeting will be open to the public.

— Mulroney



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GRISWOLD

(Continued from page one)

foreign tax service which the plaintiff disclosed to Griswold and that the plaintiff accordingly had no proprietary rights in that idea upon which to base his complaint.

It is the correctness of this dismissal which the Court of Appeals last Monday unanimously affirmed.

The opinion of the Court of Appeals was delivered by Circuit Judge Albert B. Maris of the Third Circuit. (Judge Maris replaced Chief Judge Calvert Magruder, who disqualified himself.) The opinion, while holding that the ground of lack of novelty and originality taken by the District Court was sufficient to sustain its decision, added two more independent grounds to support it.

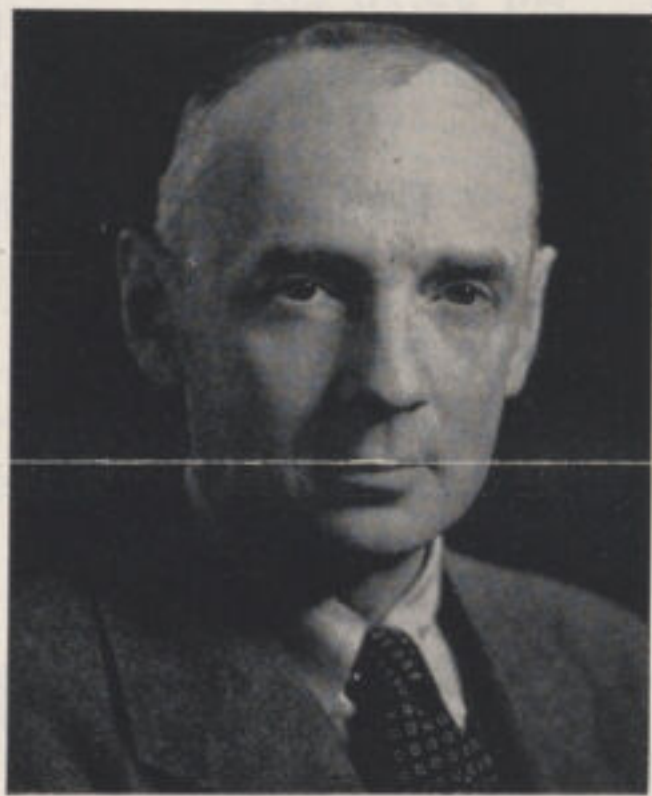
The second ground was based upon undisputed evidence that the plaintiff's idea had been disclosed to many others, including 1500 business and banking institutions and law firms throughout the country, before Dean Griswold was informed of it. The court said that, "The unconditional public disclosure of an idea by the originator makes it the property of all and operates to deprive the origi-

SUTHERLAND

(Continued from page one)

vancement of Colored People out of business. Queried on the miscegenation laws, he expressed the opinion that they were unconstitutional and "not worth the paper they're written on."

As forces working for eventual desegregation, Professor Sutherland pointed to the church, the changing attitudes of young whites, growing industrialization with its resultant



Arthur E. Sutherland

intermixture of white and negro laborers and the spread of education. These trends will go a long way, he concluded, toward bringing about desegregation on a consensual basis, for this is the only way the changing will be effected.

FLU

(Continued from page one)

given to law students last Saturday, Monday and Tuesday.

These "shots" were provided free of charge to all students desiring them. The vaccine was purchased by the University from private pharmaceutical houses.

Two injections are required to produce immunity. The second one will be given students in two weeks, it has been announced.

The University Medical Staff, which had been inoculated with the "Asian" flu vaccine, has spent a busy month treating victims of the present epidemic. Only one member, thus far, has been visited with the flu. This leads to the possibility that the "Asian" vaccine may produce an immunity to the present campus-camping germ. There is no proof of this, Dr. Farnsworth has cautioned, but it is a possibility.

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inator of any further proprietary rights in it."

The third ground was based upon the distinction the law makes between the theft of an idea and the infringement of a copyright. In order to sustain a suit for the former it must be proved that the idea was acquired and used in violation of a contractual or fiduciary relationship. The opinion stated, "Such a gratuitous unsolicited disclosure as the plaintiff made to Griswold could not impose upon the defendant a contractual or fiduciary relationship."

The defendants were represented by Charles B. Rugg, of the Boston firm of Ropes, Gray, Best, Coolidge and Rugg.

— Binder

AMENDMENTS

(Continued from page three)

states present and voting could send amendments to the 48 states for ratification. Contrast these proposed rules with those of the political-party conventions, where the states are represented basically in proportion to their representation in the Congress.

But the proponents go even further to evidence their distrust of popular suffrage on these proposals. A suggested rule is that the state delegates shall be only three: the highest officers from the upper and lower houses of the state legislature, and the third delegate selected by those two. There is not the shadow of statewide popular suffrage here on the issues to come before the convention. There is carefully avoided any suggestion for the popular election of delegates to the convention or for the sitting Senators and Congressmen to serve as convention delegates, in either case with state votes apportioned according to population.

It is a fair conclusion that the proposed convention method of sponsoring constitutional amendments is not intended to be representative of the will of the people. It is hoped that none of the amendments will receive further support in the state legislatures, and that any state which has issued a call for a constitutional convention in regard to any of them will rescind the call.

LEACH

(Continued from page one)

planning starts with a dollar sign, not with an analysis of military requirement."

Gen. Leach cited the Soviet successes in weapons development and production as an indication of the impolitic character of this type of defense planning. "It is clear from the Soviet success in beating us to an earth satellite that they are well ahead in important segments of missile development — certainly in rocket propulsion and probably in guidance," he declared. Since the United States has given highest priority to missile development, he expressed the fear that Russia may have bested us even more in areas to which we have given lower priority.

Gen. Leach outlined six major strategic objectives of our defense policy:

1. Defense of the continental United States, both as a national territory and as a military base,
2. The maintenance of a "long-range atomic striking force of overwhelming capacity, served by a global base structure and capable of attacking any target anywhere,
3. Support of our "commitment to NATO,

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BEVAN

(Continued from page one)

and his supporters took a more and more independent and left-wing position in Parliament, where he donned the garb of his party's most vigorous and vehement Socialist.

The 60-year-old Bevan was elected Treasurer of the Labour Party in 1956 and now serves as Labour Party whip and spokesman on foreign affairs in the House of Commons. He has travelled extensively during the past few years and has recently returned from a trip to the Soviet Union where he talked privately in Moscow with Communist Party chief Nikita Khrushchev.

The outspoken left-wing critic has frequently differed with Labour Party leader Hugh Gaitskell on major points of policy. Recently, however, Mr. Bevan has forsaken his more radical followers and has spoken out in favor of the official Labour Party program. Just last month he repudiated his left-wing supporters on the issue of the hydrogen bomb.

This change of position and the present spirit of Party cooperation being displayed by Mr. Bevan has been attributed to a sobering realiza-

4. Support for our military position in Korea, where the United Nations is still legally at war,

5. Maintenance of "forces capable of meeting peripheral or brush-fire outbreaks of the type in Korea, Indo-China or Formosa, wherever they may occur,"

6. The control of the oceans of the world to prevent their use as an avenue of aggression.

Prof. Leach stated that our program for continental defense was retarded by an early belief that the Soviet Union would not master the technical problems of atomic weapons and long-range jet aviation, and "we didn't credit them with production capability of a high order."

Ever since we have admitted the need of a tight continental defense, we have hesitated, because, in Gen. Leach's words, "it was all horribly expensive" to support a massive air defense program.

Doubt Sufficiency

Prof. Leach declared that "The development of the Soviet Badger, a medium-range jet bomber, and the possibility that the Soviets will develop a 1500-mile guided missile of reasonable accuracy cast doubt upon the sufficiency of our ring of Strategic Air Command bases."

In regard to NATO, Gen. Leach questions the reliability of the force because it is influenced by "French requirements in North Africa, the fiscal crisis in the United Kingdom, and political difficulties in West Germany." He concluded, "One can only say that the resources available to General Norstad are marginal at best if we are thinking about actual resistance to invasion."

Prof. Leach expressed doubts about the ability of the U. S. to handle what he termed "brush-fire" wars because of the present lack of military manpower. He also stated that the Air Force does not possess enough air transports to insure adequate troop mobility.

In regard to the Navy, he indicated that the United States has no adequate defense against a submarine threat, and said, "In the anti-submarine warfare field the development of technology seems to be satisfactory. The difficulty is that this defensive operation — like air defense — requires enormous quantities of high-cost equipment."

Prof. Leach stressed that the chief source of the weaknesses in our defense system is the political unwillingness to spend sufficient funds to accomplish our objectives. He stated that our defense is, at best, far below the secure position that people might surmise from "general and uninformative" official statements made by high government officials "speaking with the solemnity that is appropriate to important utterances." — Manley

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— Binder

MOON

(Continued from page one)

Two of the divisions of this group — Cryovac, and Dewey & Almy — are located in Cambridge. The Chemical group has net fixed assets 57% of the consolidated net fixed assets of the company. However, because many of these ventures are new, and because a great deal is expended on research and development, it contributes only 35% total profit.

The Libyan Oil venture, said Mr. Moon, could represent a tremendously profitable enterprise. The geological structure of North Africa induced Grace to take a short term calculated risk and explore concessions in the kingdom of Libya. The prospect has appeared exceptionally hopeful since the Suez Crisis, as oil found here would not be dependent on the canal for shipment.

Panagra Airlines, which Grace owns with Pan American Airlines, has also been a profitable venture.

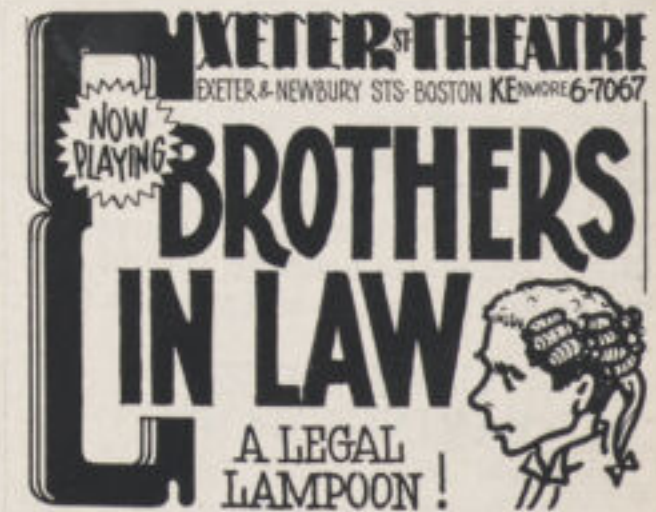
Mr. Moon indicated that W. R. Grace & Co. is particularly suited for this unique diversified operation by virtue of its character. It lacks complacency, continually searches for ways of improving, and is always on the look-out for new areas of expansion. Because considerable flexibility is necessary to run the company, Mr. Moon said that (besides the staff of fifteen counsels) many lawyers are found in the management, since their legal background has given them the requisite flexibility for such operations.

— Lambros

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