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TEN CENTS

First Meeting Of New Club Features Katz

A new student organization, the International Law Club, was launched last week with a spontaneity that underlined the need. Among its principal functions, according to chairman Robert D. Crane, 2L of Chicago, Ill., will be to provide (1) a focus for students strongly interested in public international law; (2) a forum for the foreign legal scholars who pass through the Law School during the year and



Milton Katz

(3) a clearing house for finding positions and careers in international law practice.

These objectives were endorsed in a forceful manner by the featured speaker, Professor Milton Katz. As formidable precedents for the future success of the Club, he referred to the RECORD and the Forum — both spontaneously organized student activities which in their incipient stages were the subject of great concern by the faculty but which nevertheless have continued to flourish.

Professor Katz's principal comments were centered around the subject "Frontiers of International Law." He described public international law "as a primitive and rudimentary legal system." This was not to deprecate the system but merely to state a fact "necessary for understanding where we are at." When international lawyers try to picture the system as something well developed, as they have done often, people lose confidence and gain skepticism when events and failings deflate such unwarranted pretensions, he stated.

"International law is only 550 years old at the most," he declared, "and was heavily immersed in the natural law and the practices of the foreign offices of six or seven nations." "Only recently has it had to accommodate itself to new situations and new cultures." Like the old common law on a

(See NEW CLUB on page four)

Openings

The RECORD invites all persons interested in joining its business and advertising staffs to contact Mrs. Betsy Casner, Secretary to the RECORD, at 23 Everett St.

Several positions are now open which require a very small weekly expenditure of the applicant's time and which will entitle the applicant to all the privileges and immunities of membership on the RECORD staff.

Art of Winning High Awards Explained by Attorney Belli

Melvin M. Belli, nationally prominent and controversial "attorney for the plaintiff," last Thursday evening treated a full house in the James Barr Ames Courtroom to an exposition of the role of the modern American lawyer in extracting damages in tort claims. The audience had come prepared to hear a few words on the subject; they heard them — and a few more. Under the auspices of the Student Bar Association, Mr. Belli remained on the speaker's platform for two-and-one-half hours, the session finally breaking up at 10:30 p.m.

Introducing Mr. Belli to the audience was Professor Robert E. Keeton.

The billing he was given as the "King of Torts" is a misapplication, Mr. Belli protested. "The real 'King of Torts' is Warren Seavey of Harvard."

He went on to say that the announced title of his address, "The Gentle Art of Ambulance Chasing," was also incorrect and misleading. Mr. Belli explained that the title of his speech should have read, "The Genteel Art of Ambulance Chasing by



Robert E. Keeton

Insurance Companies." While at the present time the plaintiff's attorney in the personal injury type of case is hampered by many restrictions on his activities, Mr. Belli asserted, "it seems perfectly proper for the claim adjuster to pop out of the exhaust pipe right after an accident and immediately report his findings to the insurance company." He pointed out "that the real party in most cases is not the defendant, but the insurance

Seavey Proposes Strict Liability Law In Favor of Atomic Radiation Victims

This afternoon at 1:45 (Pacific Standard Time) Warren A. Seavey, Bussey Professor of Law, Emeritus, will tell a symposium on "Atomic Energy and the Law" at the University of California School of Law at Berkeley, California, that a national law imposing strict liability in favor of persons injured by atomic radiation should be adopted by the United States.

David F. Cavers, Associate Dean and Fessenden Professor of Law, will also participate in the symposium, along with other experts from the fields of law, industry, labor, insurance and government. The legal aspects of recent developments in atomic energy will be discussed.

Professor Seavey will open the three-day symposium with an address entitled "Torts and Atoms." This speech is scheduled to appear in a future edition of the *California Law Review*. Professor Seavey has written, especially for the RECORD, the following summary of his address:

Great Urgency

"Not only in view of Sputnik, but in view of all recent events, there is great urgency for us to acquire more knowledge concerning atomic fission (as well as atomic fusion) as a reply to the Russian threat of technological superiority. For this reason it is urgent that we should develop commercial use of atomic fission through which countries lacking the fuel supplies which we have can raise their standards of living and thereby be persuaded not to rely upon spurious promises, which have thus far served to replace economic stability.

"The atomic reactor which represents the most important medium of present commercial use of the atom has, unfortunately, the potentiality of widespread harm. Although this risk is slight, the possible harm is so great that until recently it has been one of the deterrents to its widespread use.

"In 1957, by an amendment to the Atomic Energy Act of 1954, provision is made for insurance and indemnity by the government in case of disaster,



Warren A. Seavey

and commercial operations have begun. Under the present act tort liability is dependent upon the law of the state in which the harm occurs. I suggest an act which would create uniform rules of liability.

"Since the existence of atomic reactors can be justified only as a means of national defense, the victims of disaster should be assured of compensation. It is more important to protect the interests which they have than to rely upon the customary rules of negligence which might be used by some of the states. It follows, therefore, that the statute should impose strict liability in favor of those harmed.

Diversity Bad

"There are other reasons for a national law. Among these is the fact that if liability is left to the law of states, the wide variation in the amount of damages given for death creates an obviously unjust situation, since one killed in Massachusetts can get no more than \$20,000, while in other states damages have been awarded up to \$300,000.

"Further, neither the impact nor the harm may be immediately obvious to a victim; hence the statute of limitations should not begin to run until the victim is aware of substantial harm. Such a statute should also provide for the respective liabilities of

(See SEAVEY on page four)

N. H. Attorney General Says Court Encroaches on States

"Specious reasoning" and "sophistry" have been used by the Supreme Court of the United States in deciding recent civil rights cases. This charge was leveled at the nation's highest tribunal by the Hon. Louis C. Wyman, LL.B. '41 c.l., Attorney General of New Hampshire, in a debate Nov. 6 with Professor Mark DeWolfe Howe at the Boston College Law School Forum on the topic, "Recent Supreme Court Decisions on Civil Liberties."

Mr. Wyman, exhibiting a viewpoint much more prevalent a few years back, expressed alarm at recent Supreme Court decisions which "equate communism with lawful activity." Due to these decisions, he declared, the power of the states to control subversive activities has been cut in half.

Mr. Wyman stated that in the last few years a series of Supreme Court opinions have "derogated from the dignity, authority and sovereignty of the states." He attacked, in particular, the *Nelson* decision, which he termed "fundamentally unsound."

The *Nelson* decision was the most shocking of a series of cases, Mr. Wyman stated, because before the case was decided, "no one thought the Supreme Court would say that Congress had pre-empted the sedition laws of all 48 states. None thought that the Congress could do that even if it wanted to."

Nowhere in the Constitution, the Attorney General declared, is there a clause giving the federal government the power to prohibit the states from passing laws to combat conspiracies



Mark DeWolfe Howe

against the national government. The Supreme Court, in recognizing such a power, he charged, is ignoring the 10th Amendment.

Continually emphasizing the great danger of communism to the internal security of this nation, and forcefully denying that it is an exclusive concern of the federal government, Mr. Wyman stated that it is "the duty of both the federal and the state governments to keep abreast of communist activities in this country."

Mr. Wyman expressed his belief that the state governments have the Constitutional right to declare the ad-

(See DEBATE on page four)

Southern Club

The Southern Club will play host to the Wellesley College Southern Club at a social gathering in the Wheeler Room in Holmes Hall this afternoon at 4:30 p.m., President Tom Clark, 3L of Roanoke Rapids, N. C., has announced.

(See BULL & BEAR on page four)

President of Raytheon Talks On Defense Contract Issues

Charles Francis Adams, president of the Raytheon Manufacturing Company, spoke before the Bull and Bear Club last Friday on "Raytheon, Missiles, and National Defense."

Mr. Adams began his address by recalling that before World War II, Raytheon was a receiving tube company. When the War began they contracted for the magnetron tube, an important component in radar, and produced 80% of all those tubes turned out during the conflict.

In 1945, he continued, Raytheon was faced with the problem of what to do next, since their sales had risen from three to one hundred and seventy million solely on War demands. Because there was little else, the company continued producing military electronic parts while attempting to build a commercial side to their business. In 1950 the Korean police action

intervened. Since then, the demand for military components has continued.

The question with which Raytheon is constantly confronted, Mr. Adams stated, is whether a company should depend so much on one customer: the military, which absorbs 75-80% of their total output. Mr. Adams feels that the position of Raytheon is such

Medalie Describes Visit to Moscow

The Russian people's astounding and overwhelming curiosity about the United States dominated the novel Moscow Adventure of law student Richard J. Medalie.

Descriptions of the flood of questions — ranging from strictly personal to acutely political — poured at him during his stay last summer in the Russian capital featured the talk of Medalie, 3L of Minneapolis, Minn., at the Coffee Hour on Nov. 5. He was one of 160 Americans who participated in the Moscow Youth Festival, condemned by the State Department as a Russian propaganda maneuver.

During an experience like this, one is "placed in the role of a representative of the United States, whether he likes it or not," Medalie said. He found himself forced to explain and defend our position on many subjects — to the extent of saying things he

(See MEDALIE on page four)

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The Dangers of Openness

"The nature of foreign negotiations requires
caution and their success must often depend on
secrecy; and even when brought to a conclusion
a full disclosure of all the measures, demands
or essential concessions which may have been
proposed or contemplated would be extremely
impolitic. . . ."

George Washington before
the House of Representatives
on March 30, 1796

Over a century ago that discerning tourist
de Tocqueville wrote ". . . it is especially in
the conduct of their foreign relations that
democracies appear to me decidedly inferior
to other governments. . . . Foreign policies
demand scarcely any of those qualities which
are peculiar to a democracy; they require,
on the contrary, the perfect use of almost all
those in which it is deficient. . . . [A] democra-
cy can only with great difficulty regulate the
details of an important undertaking, perse-
vere in a fixed design, and work out its execu-
tion in spite of serious obstacles. It cannot
combine its measures with secrecy or await
their consequences with patience."

Time has not withered the abiding truth
of this perception. Many contemporary ob-
servers, including Walter Lipmann and Dean
Acheson, have analyzed in detail the depth
of this problem. Mr. Acheson has predicted
that "If, at the present time, the limitation
imposed by democratic political practices
makes it difficult to conduct our foreign af-
fairs in the national interest, this difficulty
will increase, and not decrease, with the
years."

Double Goal

One of the perplexing dilemmas of this
many faceted difficulty is that of publicity vs.
privacy in the conduct of foreign relations.
In a capsule it is the problem of attaining
both responsibility and efficiency in this area.

To say that there is a conflict of rival power
groups (officials and press) as well as a con-
flict of principles and that the objective is
achieve a balance of these interests tells us
as much as any preface to platitudes. Of course
we cannot cut across the most basic premises
of a democracy with a total shroud of secrecy.
Neither can we open up the floodgates of
publicity. The necessity of such caution and
secrecy was one fundamental reason for vest-
ing the power of making treaties in the Presi-
dent.

We must go further than wishing an ap-
propriate compromise and try to establish
informal rules of guidance in the matter.
This means being more specific.

First Phase

The conduct of foreign relations can be
broken down into three main phases. First
there is the phase of *determining policy*.
Here there has to be a compromise between
arbitrary power and reasonable concern for
the security which often only secrecy can pro-
vide. It cannot be denied that the people of a
democracy must have the ultimate control and
that knowledge gives power. Yet "common
knowledge" of all things spells weakness,
rigidity and chaos in foreign policy. It is
submitted, therefore, that insofar as policy
is concerned, it is sufficient if the people have
knowledge of the fundamentals, of the broad
lines and aims of policy. They do not need
and should not demand public utterances on
every detail of policy. Strategy should be
public as a rule, tactics should be private as a
rule.

For the opposite example take the Middle
East crisis of the past year. What the public
had a right to know so as to have a basis on
which to hold the government accountable

Late last summer Congress enacted Public
Law 85-269, now 18 U.S.C. §3500, which was
designed to overrule legislatively the decision
of the United States Supreme Court in *Jencks*
v. United States, — U.S. —, 77 S.Ct. 1007
(1957). Fears had been expressed by many
legislators that the effect of the decision
would be to paralyze the work of the Federal
Bureau of Investigation by exposing the work
of its informers and undercover agents.

The first paragraph of the enactment
reads, "In any criminal prosecution brought
by the United States, no statement or report
in possession of the United States which was
made by a Government witness or prospective
witness (other than the defendant) to an
agent of the Government shall be the subject
of subpoena, discovery, or inspection until
said witness has testified on direct examina-
tion in the trial of the case." Other parts of
the law provide that the trial court may
delete portions of the document not relevant
to testimony of the witness, before handing
it over to the defendant.

One of the greatest fears of those who op-
posed the Court's ruling was that a defend-
ant could, even before the trial, scour the
Government's files. The trial court's action
in the prosecution of James Hoffa last sum-
mer lent some support to these fears. But
two other cases — one federal, one state —
had already severely limited possible inter-
pretations of *Jencks* even before Congress
acted.

Delaware's View

Several twists were given to the line of
lower court cases interpreting the Supreme
Court's requirements for disclosure of prose-
cution files in criminal cases. In deciding
State v. Thompson, 134 A.2d 266 (1957) the
Superior Court for New Castle County, Dela-
ware, dealt with three separate defendants
who were charged with murder in the first
degree. Each defendant had filed motions
requesting pre-trial inspection of various
documents in possession of the State. The
State agreed to produce some, but declined to
produce statements of prospective witnesses
and police reports drawn up during the crim-
inal investigation. Defendant Thompson also
demanded, and was refused, the results of
polygraph tests, blood tests and fingerprint
examinations.

The defendants asserted that denial of
their requests would constitute denial of due
process. Unfortunately, the Delaware court
did not discuss the relevance of the evidence
sought to the State's charges against the
three. But the court was unanimous in deny-
ing their motions for production of the docu-
ments.

Assuming without deciding that their
course would be bound by *Jencks*, the court

was the main aim of our policy in the Middle
East. This they never clearly learned. What
the people did not have a right to know —
but got in rather sizable daily doses — were
the details of government thinking and reac-
tion as each moment of the crisis unfolded.

As an epicenter of world power, America
needs a more subtle policy for successful lead-
ership. Openness would be one thing in a
world of openness. But half the world is
closed. As one of our ambassadors to the
Soviet Union put it, the Russians are never
sincere, though sometimes serious. Is open-
ness possible for us under these conditions?

The second phase is *policy execution*, or
the broad province of diplomacy with its
personal conversations, international confer-
ences, calculated public acts and statements
and so forth. Here it is suggested that the
people have no right to know until the gov-
ernment deems it safe to inform. The execu-
tion of policy must be flexible and it cannot
be so if it stands in the spotlight of publicity
which spells rigidity. Execution demands
maneuver and compromise which are impos-
sible in the glare of publicity. Privacy of
deliberation is a condition essential to com-
promise.

Only at the risk of impotence and con-
stant frustration in the conduct of our foreign
policy can we demand to know and publish
daily the news of every inner government
discussion, of every diplomatic negotiation,
of every conversation over the cocktail glass.

Use of Publicity

Publicity should occur in the stage of poli-
cy execution only when all friendly and allied
parties are agreed upon it. It should occur
only when it *itself* serves the ends of policy.
Since the press does not recognize sufficient
restraint in this matter, the onus must rest
heavily on public officials and such confidence
has been sadly debased by the latter.

Many participants in international confer-
ences attest to this disruptive and stifling im-
pact of publicity "by the moment." Use of
the open conference gorgonzolas negotiation.
Maximum positions are stated by both sides
at the outset. These positions, played up by
the press, are virtually frozen. Every sub-
sequent position must stick close to the origi-
nal one lest the negotiator and his government

Current Case

declared that *Jencks* did not deal with pre-
trial discovery, but with the credibility and
impeachment of witnesses at trial. "As we
read the opinions in that case, the Supreme
Court held that when the prosecution calls
a witness to the stand, it accepts the obliga-
tion of disclosing to the defendant, for im-
peachment purposes, any prior statement of
the witness that the prosecution may have.



William J. Brennan, Jr.

This obligation to produce does not arise un-
der the *Jencks* ruling, however, until the
credibility of the witness has become an issue
during the trial of the case." (134 A.2d at
267).

No Reference to Discovery

The court then noted the lack of any ref-
erence in *Jencks* to Rule 16 of the Federal
Rules of Civil Procedure, which is concerned
with pre-trial discovery. Delaware's Criminal
Rule 16 is virtually identical to Federal
Criminal Rule 16. Since the court felt that
a federal court would not under the facts of
this case be bound by *Jencks*, it did not pass
upon the question of whether a Delaware
court would be bound by the Supreme Court's
ruling in that case, and denied the defendants'
motions.

In *Jencks*, the defendants had requested
reports which a witness had submitted to the
Federal Bureau of Investigation previously,
describing the defendant's alleged activities
in the Communist Party of New Mexico dur-
ing the years 1948 and 1949. Reversing a de-
nial of this request, Associate Justice William
J. Brennan, Jr., LL.B. '31, wrote "We hold
that the petitioner was not required to lay
a preliminary foundation of inconsistency, be-

then be accused by the patriotic home front
of selling out. As Jan Smuts wrote of the
Paris Peace Conference of 1919, with its
open sessions, "Under these conditions, prog-
ress in business is almost impossible. Even
Woodrow Wilson subscribed to the view of
private discussion of delicate matters."

The third phase concerns the *results of*
policy. Here, clearly, the people have a right
to know what has been agreed on their be-
half and to what they have been committed.
This is Wilson's policy of "open covenants."

What then can we conclude? Our foreign
affairs are not as well conducted as they might
be. This is true in part, at least, because there
is far too much accompanying publicity. There
is so much publicity because in a system of
government in which there is no official means
of holding the executive to steady accounta-
bility, the press has made itself the unofficial
means of enforcing accountability. There is
no reasonable secrecy in the conduct of our
foreign relations because there is no reason-
able method of systematically getting at the
broad lines of policy, and no reasonable con-
stitutional method of enforcing responsibility
between quadrennial elections.

Solution

By passing what at this point could be an
argument for the cabinet system, we are left
with non-legal suggestions directed toward
mitigating these deficient procedures. Our
system of government, to operate adequately,
seems to require that (1) public officials be
duty bound to go as far as they *safely* can in
giving out all possible information, especially
on broad lines of policy; (2) the information
media have a deep sense of restraint as to
what really *needs* to be known in the name of
democracy and what really *can* be made
known in the name of patriotism, security and
efficiency; (3) Congress consider its restraint
with regard to making secret information
public; and (4) the citizen realize that there
are limits on his right to know and on his need
to know. He can control his government
without knowing everything. He can ruin
his country *by* knowing everything.

If these four suggestions prevailed, we
would strike a much closer balance between
secrecy and openness in the conduct of our
foreign relations.

cause a sufficient foundation was established
by the testimony of Matusow and Ford that
their reports were of the events and activities
related in their testimony." (77 Sup.Ct. at
1012).

Justice Brennan continued, "The crucial
nature of the testimony of Ford and Matusow
to the Government's case is conspicuously
apparent. The impeachment of that testimony
was singularly important to the petitioner."
(77 Sup.Ct. at 1012). And he concluded, "Re-
quiring the accused first to show conflict
between the reports and the testimony is ac-
tually to deny the accused evidence relevant
and material to his defense. The occasion for
determining a conflict cannot arise until after
the witness has testified, and unless he admits
conflict, . . . the accused is helpless to know
or discover conflict without inspecting the
reports." (77 Sup.Ct. at 1013).

The Court in *Jencks* held that a conviction
is reversible if the Government, on the ground
of privilege, elects not to comply with an
order to produce, for the accused's inspection
and possible admission in evidence, relevant
statements or reports of Government wit-
nesses in its possession which touch upon the
subject matter of their testimony at the trial.
Several questions arose from this holding, of
which one was faced by the Delaware court
in *Thompson*: How far in advance of the
trial, if at all, may an accused demand such
documents? And may he do so through pre-
trial discovery?

The lower federal courts had evidenced
some confusion in applying the *Jencks* doc-
trine. Last June 20 the United States District
Court for the District of Columbia inter-
preted this doctrine as requiring pre-trial dis-
closure of FBI reports in *United States v.*
Hoffa (Unreported).

The Benson Case

A contrary result was reached in *United*
States v. Benson, 20 F.R.D. 602 (S.D.N.Y.
1957). There, acting under Rule 17(c) of the
Federal Rules of Criminal Procedure, the de-
fendant in a criminal case served a subpoena
duces tecum on the FBI to produce all rele-
vant statements and reports in its possession
by Government witnesses concerning the sub-
ject matter of their testimony in the coming
trial. The court granted the Government's
motion to quash.

"As I read the Supreme Court majority
and concurring opinions," Judge Palmieri
wrote, "I find no language which would just-
ify its application to pre-trial procedure." "Be-
fore the defense is entitled to disclosure of
any statements made by a Government wit-
ness for the purpose of discrediting him, the
credibility of the witness whose prior state-
ments are sought must be in issue." (20
F.R.D. at 603, 604).

Some argue that to open FBI files to
defendants would jeopardize the confidential
operations of that organization. Others argue
that it is just as important to give every ac-
cused person a fair trial, including the op-
portunity to impeach a prosecution witness
by introducing evidence of prior inconsistent
statements made to the prosecution.

Both *Thompson* and *Benson* were based on
the lack of any specific reference in *Jencks*
to pre-trial discovery under the Federal Rules
of Criminal Procedure, in holding that they
were not bound to order disclosure. *Benson*
further held that not being bound, it would
not do so when disclosure would necessarily
supply the defendants with a roster of the
names of Government witnesses in advance of
the trial, and when such disclosure would re-
sult in delay.

From a purely practical standpoint, the
recent Congressional action may have ren-
dered this matter academic. But changes in
the law are nearly always preceded by dis-
cussion which may not have direct applica-
tion at the moment.

It is not wise to attempt to predict what
the Supreme Court would hold if a case of
this sort involving pre-trial discovery were
before it. But it is hard to see why the same
doctrine should not apply there as during a
trial. There are many cases where the only
evidence that will put the credibility of a wit-
ness in question is some report or statement
he has previously made. If, as *Thompson* and
Benson hold, the witness' credibility must be
in question before the report or statement can
be obtained, then the defendant is no better
off. And if these statements or other docu-
ments are produced only at trial, few will
deny that the defendant's attorney is not at
a substantial disadvantage in making use of
them: which, after all, is what *Jencks* was
intended to avoid as much as possible.

Possibly disclosure of these documents
might supply the defendants with the names
of Government witnesses before trial, and
might result in some delay, as the court in
Benson warned. But it is the accused, not the
Government, who is guaranteed a speedy trial
by the Bill of Rights; and though the Consti-
tutional requirement of confrontation may
not reach prior to the proceedings, a trial
must not be a game of surprises. It should
be an attempt to reach the truth of a matter,
of guilt or innocence. If this means giving the
accused a better chance to impeach a witness
who may be lying — then so much the better.

Student Legislative Research Bureau Considers Wide Range of Topics

If the average person were asked what he thought of an organization that was concerned with the future welfare of Alaskan school children, people injured by radioactivity, sex offenders and inmates of nursing homes, he would probably shake his head in bewilderment.

But the fact is that the Harvard Student Legislative Research Bureau is considering legislation affecting each of these groups as part of its 1957-58 program.

The 35 members of the five year old Law School organization are now working on a total of 21 projects for a list of clients that includes some United States Congressmen, Massachusetts legislators, a committee of the Commissioners on Uniform State Laws, the Boston Bar Association, faculty members and a governor.

Divided up into teams, they are working under the general direction of President Paul H. Tobias, 3L of Cincinnati, Jack B. Helitzer, 3L of Flushing, N. Y., vice-president in charge of client affairs, and Arthur N. Field, 3L of New York City, vice-president in charge of research.

Chairmen of the individual teams doing the actual work on several of the projects include Peter D. Junger,

statute for introduction in the proper legislative body, or a research report on the problems involved. The projects in most cases were submitted to the Bureau on that basis by its clients, many of whom learned the Bureau's nature and function through an explanatory report sent to various government officials during last summer.

Not all of the projects will progress to the stage of drafting. Several are now going through a preliminary screening to determine whether or not a full scale research job is worthwhile.

Relevant factors here are the importance of the proposed legislation, the facilities of the Bureau for doing the necessary digging, and the educational value of the task to the members.

The preliminary researchers are also on the look-out for projects with hidden purposes, whether they be to lend the name of Harvard and the Law School to some form of special pleading, or to lend objective support by the Bureau to special interest legislation.

Functions Are Non-Partisan

The Bureau regards its function as strictly technical and non-political. All projects are accepted with the understanding that neither the Bureau nor the Law School endorses the underlying policies involved. Neither the Bureau nor its members will lobby for the passage of any bill.

The latter consideration is of prime importance to the group, lest it lose its objective and unbiased character. The Bureau is organized along the lines of the legislative reference services that have been founded in most states since the early part of the century, when the original service was inaugurated as a progressive reform in Wisconsin. Its function, like that of the state offices, is to do the jobs legislators cannot or will not do for themselves — to explore the implications of a given proposal and to draft prospective legislation.

The Bureau's particular value is that it is not subject to several of the liabilities that beset many of the legislative services, notably the appointment of political figures to their staffs and the application of direct and immediate pressures — political and otherwise — to their work. Since the Bureau's personnel are not beholden to pressure groups, they at least in theory offer a legislator a chance to get a dispassionate view of an idea or an issue. In short, the Bureau maintains the precious right to say "no" with impunity, a right which may not always be retained by those closer to the everyday realities of politics.

A good illustration of all this is provided by the study of the Massachusetts Sex Offender Law now being made for a Massachusetts state representative. The present law has serious problems inherent in it. Its operation was originally conditioned on construction of a treatment center that never was built, possibly because of lack of funds, and possibly because of a lack of personnel to staff such a center.

Emergency Enactment

The law was put into immediate operation in September as the result of emergency legislation enacted in response to public outrage at a brutal sex murder earlier in the summer. Behind the law were the laudable public motives of keeping dangerous people off the streets, and of treating them as being ill (though not as being insane), and attempting to cure them.

But good motives do not necessarily mean good results. Personnel to staff the treatment centers properly seems to be unavailable. Vigorous prosecution of sex offenders by district attorneys will only fill up inadequate treatment centers. Further, district attorneys have problems in enforcing the statute since much of its language is vague.

Thus a good idea in fact may turn out to be a practical monstrosity. The

Bureau's function is to investigate these problems and to report whether any legislation can aid in the solution of the problems which might be found to exist. Only then will such legislation be drafted. If legislation cannot solve the problem, it is the Bureau's responsibility to point out sources from which solutions might be forthcoming.

Although the Bureau is meant to be objective, nothing prevents its members from taking on highly controversial projects. Three of the current ones, all requested by Congressmen, surely fall into this category. One is an investigation of the recent statute which limited the application of the *Jencks* case, while another deals with the possibility of giving government workers appearing as defendants in security risk hearings the right to confront adverse witnesses.

Trade Union Legislation

The third Federal project now in progress offers another illustration of the problems Bureau researchers frequently face. The original letter, from a Western Congressman, suggested the possibility of studying "legislation providing for more democracy in unions." His request was no more specific than that, but a five-man team is now at work researching the problem, using such sources as case law, state statutes, law review articles, union constitutions, and the A.F.L.-C.I.O. Ethical Practice Code. Where possible, a project such as this also includes interviews with experts working in the field and with faculty members who may have an interest in or special knowledge of the subject.

Sometimes, the Bureau's end product may not be a proposed statute at all, but rather a research report outlining the problems involved and discussing the various alternative solutions.

Many Bureau projects such as the current study of hospitals' tort liability for injuries caused through the handling of radioactive materials, involve exploration in areas basically uncharted, at least in a legislative sense. Others consist largely of comparing existing laws on a subject (usually the laws of the 48 states) and determining what the ideal statute should include and how it should be worded. Such is the nature, for example, of the current investigation being conducted into debt pooling, i.e., the refinancing of an individual's obligations through a single credit source, for the ultimate use of the Commissioners on Uniform State Laws.

Laws for Alaska

A fertile source of projects of this comparative type has been the Alaska Legislative Council, which is working to develop a body of law for submission to the Alaskan legislature if and when the territory is admitted to statehood. Over the past few years the Council has been taking advantage of Alaska's potential asset of being able to start from scratch as far as its laws are concerned and is in the process requesting advice and reports from a variety of governmental and academic sources. The Council's calls on the Bureau — which have resulted in some of its most interesting work — have been so extensive that one member was prompted to observe, somewhat inaptly, that if "the foundations of Soviet Russia could be laid in the British Museum, why can't the foundations of the state of Alaska be laid at 23 Everett Street?"

Currently teams are working on a draft school code, and an automobile liability insurance act for the Alaska Council. And there is now a possibility that some of the Bureau's members will go to Juneau in future summers to work directly with the territorial government in devising its prospective civil and criminal laws.

Not all the work is as glamorous as this, however. There is the yearly

collaboration with the Counsel of the Massachusetts House of Representatives in preparing bills for submission to the next session of the legislature. This activity, now in progress and continuing until the beginning of December, involves work at the Counsel's office in the State House drafting in appropriate statutory form the proposals submitted to the Counsel by members of the House. In the busy season, which is now, it is simply impossible for the office to keep abreast of the task and the members of the Bureau are called in to help.

At recent Bureau luncheons the guests included four members of the General Court of Massachusetts. They were Lawrence F. Feloney of Cambridge, Mrs. Mary Newman, also of



Robert F. Mooney

Cambridge, Carter Lee of Quincy, and Robert F. Mooney, 3L of Nantucket. As with several of the Bureau's luncheons, the discussion centered on problems encountered by the legislators. One such difficulty unique to Massachusetts, which the guests mentioned, is the right of free petition which enables any citizen of the Commonwealth to submit a bill which is introduced by a member of the General Court and which receives consideration by the legislative committee. The human capacity for devising fantastic schemes is enormous and manifests itself in these legislative proposals. Naturally this increases the size of the job of drafting to be done by the House Counsel's office, and increases the need for Bureau assistance.

From a look at the files of the Bureau it appears that the current year's range of activity is fairly typical of the pattern evolved in the past five years. Some of the past topics for study have been mundane (controlling the number of liquor licenses in Boston's South End, poultry inspection).

), some off-beat (roomers' access to garbage cans, prohibiting female announcers from advertising alcoholic beverages on the radio), some more cosmic in their scope (assistance on the Uniform Blue Sky Law, a city planning program). This year's projects are similarly varied.

Within the last year, two Bureau drafts have, in substance, been enacted into law. Vermont has passed a modification of its rules against perpetuities, drawn by a Bureau team which worked closely with W. Barton Leach, Story Professor of Law. And New Hampshire enacted a law providing for limited financial responsibility for parents and guardians of juvenile delinquents who cause damage by their delinquency. The latter bill has been circulated throughout the nation through the National Association of Attorneys General.

Whether any of the drafts ultimately submitted this year will end up as law is problematical. But it is the Bureau's hope that its reports and draft statutes will at least serve as a point of departure for further legislative discussion of the 21 issues presented to it for consideration this year.

—James H. Duffy

Lecture . . .

Professor Edmond N. Cahn of the New York University School of Law will address the B'nai B'rith Hillel Foundation of Harvard University on Sunday evening, November 17, at 8 p.m. His topic will be "Religion and Law." The lecture will be given in Langdell North Middle.

Professor Cahn is the author of a number of books on law and legal ethics. Among them is *The Sense of Justice*, which was described in a *New York Times* Book Review as "The most compelling discussion since Aristotle on the subject of Justice."

Professor Cahn is also the author of *The Moral Decision*, and is the editor of the symposium "Supreme Court and Supreme Law."

In recognition of his attainments, the American Philosophical Society awarded him its Phillips Prize in 1955. The Phillips Prize has been awarded only eight times since it was established in 1888.

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3L of Alta, Canada, Joseph W. Morrisey, Jr., 3L of Topeka, Kansas, Daniel G. Partan, 3L of New York City, Gerald H. Sherman, 3L of Brooklyn, and Michael L. Weissman, 3L of Highland Park, Ill. Faculty advisor to the group is Professor Albert M. Sacks.

Ultimate goal for each of the projects is either a recommended draft

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SEAVEY

(Continued from page one)

the erector of the plant, the operator and those who supply materials."

Dean Cavers will open tomorrow's session with an address dealing with



David F. Cavers

the respective rules of the Federal and the State government in the regulation of atomic energy. He will discuss proposed Federal legislation delineating federal and state regulatory powers, emphasizing the A.E.C. bill which provides for non-conflicting federal and state health and safety regulations and federal-state cooperation in their enforcement.

Dean Cavers has explained that "because the Atomic Energy Act of 1954 is silent on the question of whether the Federal government is to have exclusive jurisdiction over matters concerned by the Act, there is uncertainty in the field of health and safety over whether the states will retain their traditional responsibility for maintaining safe working conditions."

"Some states have enacted regulations and laws governing radiation hazards. The Atomic Energy Commission has proposed to the Joint Congressional Committee on Atomic Energy an amendment to the 1954 Act which would recognize the validity of state laws not in conflict with Federal enactments."

Dean Cavers will take the position that the states could and should share the responsibility with the national government in some areas, but that other areas should be an exclusive Federal concern. — Binder

BELL

(Continued from page one)

his store of knowledge an ability to understand medical testimony and to evaluate it in the light of his own experience. If a certain amount of medicine were taught to lawyers, he said, they would have greater facility in drawing wills, trying certain criminal cases, and especially in handling cases involving personal injury.

The plaintiff's lawyer in a personal injury action finds that he is at a considerable disadvantage when he is up against an insurance company, Mr. Belli stated. Although all the work on the plaintiff's side must be done by lawyers, the defendant company can use an insurance adjuster to handle his work for him, for the adjuster is skilled in many facets of the law, even though he does not possess a law degree. This situation illustrates an area where the unauthorized practice

NEW CLUB

(Continued from page one)

national level, international law has been preoccupied with the problem of order and peace in the world, he asserted. Very little attention has been given to other functions which abet rather than restrain and which are bidding for recognition with ever increasing urgency.

"If we are to have an adjustable international legal order we have to establish a scheme of economic life and set limits to this system." In brief, he declared, the challenge to law is the establishing of a framework for a productive world economic order as part of a larger international order. To meet this challenge we must utilize the contributions of all legal systems including those of the Orient and Islam and not remain exclusively within the precedents and assumptions of the western world, he said. The development of this economic framework he described as a large part of the "frontier."

In addition to this economic function, international law faces the task of containing the use of force within tolerable limits. Despite three devastating wars in this century, Professor Katz recognizes a reduction of the area monopolized by the use of force and an increase in organized opinion thinking along these lines. As an example he cited the action by the United Nations which was instrumental in bringing the British, French and Israeli attacks on Egypt to an end.

However, to prohibit the use of force effectively, Professor Katz continued, there must be other remedies. "It is neither just nor practicable to expect nations to hold back force when there is no other redress left open to them."

Such considerations underscore the necessity to stress the law of the responsibility of states in the study of public international law. This subject he referred to as another great frontier area along with the many unresolved questions dealing with space, sea and air law and the arctic area claims. But, he stressed, if these new problems are placed within the context of responsibility of states, then they become only variations or new themes of basically old problems.

Mr. Katz carefully pointed out that, although the target of international law in the widest sense is what can be done through law in establishing a just world order, it was not *all* a matter of law. Just as so much of our national society is conducted on sanctions other than law (like the family institution), so it is also of the international sphere, he observed. Law will set the limits but much conduct will still remain beyond the limits of effective legal action and subject to those subtle sanctions and rules of conduct.

of law is rampant, declared Mr. Belli. The extensive use of demonstrative evidence was advocated by the flamboyant attorney because it is often the only means by which the jury can properly evaluate the facts in a case. Photographs and motion pictures are widely used by Mr. Belli and others in his field to give to the jury graphic knowledge of what otherwise might be second-hand and excessively abstract evidence.

The demonstrative evidence employed by Mr. Belli includes blowups of photos of accident scenes, of allegedly altered hospital records, etc., the introduction into court of human skeletons and artificial legs to illustrate medical facts, and, when possible, the showing of the plaintiff's injury itself.

In answer to a question from the audience, Mr. Belli stated that he takes the usual one-third contingent fee after costs have been deducted from the total judgment, and was vehemently opposed to the practice of some lawyers of deducting the costs and expenses of the trial from the client's share. He was equally opposed to the 50% fee extracted by other attorneys. — Finley

DEBATE

(Continued from page one)

vocacy to overthrow, not only the state government, but also the national government, a crime. If the federal government fails to prosecute for this offense, he maintained, the state should be free to.

Mr. Wyman charged the Court with "legislating, not interpreting." He criticized its members because they didn't need to seriously impair and weaken the powers of Congressional and state committees to decide the cases before them. The cases could have been determined on other grounds, he said.

Referring to the *Watkins* and other decisions, Mr. Wyman declared that the Supreme Court "does not like investigations with the use of compulsory process." But, he argued, you can't have an effective investigation without using it.

The Attorney General vigorously defended the right of legislative committees to summon witnesses before them and to require answers to questions about their past and present affiliations with "subversive" groups and their associates within these groups.

Professor Howe expressed his view that despite some "careless phrases, needless statements and even erroneous opinions," the direction of the recent Supreme Court decisions in the civil rights field is the wise one.

Professor Howe asserted that great dangers for civil liberties are involved when legislative committees pursue investigations for the purpose, not of gathering material germane to proposed legislation, but of identifying and exposing those summoned before

them. The "rights of witnesses have been treated with excessive roughness and brutality" in recent years, he charged. He accused recent legislative investigative committees of ceasing to act as legislators and "beginning to act as law enforcement and publicizing agencies."

When inquiries are conducted for illicit motives, limitations must be applied, he declared. This is what the Supreme Court recognized in the celebrated *Watkins* decision. Such decisions do not cripple investigations, he asserted, but protect human rights and individual liberties.

In regard to the threat of communism to our internal security, Professor Howe said that because communism is a national problem, it should be dealt with on a national scale and with a national policy. The decision in the *Nelson* case, he explained, was based upon an interpretation of a series of Congressional statutes passed since 1940 which illustrate an intention by Congress to deal with the communist threat exclusively. This interpretation, he asserted, was justified.

Professor Howe took issue with Mr. Wyman and declared that Congress does have the constitutional right to deal exclusively with any threat against the national, as opposed to the state, government.

Professor Howe expressed his opinion that increasing centralization of authority "is desirable, especially in the area of civil liberties." — Binder

MEDALIE

(Continued from page one)

might never have said in this country. "The nature of the questions show that people over there don't understand us. That holds true for many countries in Europe besides Russia," Medalie continued. "The discussions are more difficult when others don't have the same basic premises, and many traveling Americans are not prepared to cope with this sort of thing."

The questions would begin on a personal level, "Who are you, what do you do, where are you from?" More concrete matters would follow, and eventually the subject would shift to topics political. At first, the Russians were hesitant to broach this field, but, encouraged by the Americans, they soon poured out queries on segregation, the Rosenbergs, the Chicago children separated from their parents who were returning to Russia, and other such issues stirred by Red propaganda. They had been so carefully taught what to believe that it was no easy matter to convince them of the American position, Medalie said.

"We had to attempt to bridge an almost impossible gap," he commented. Soon, however, the Americans discovered that the "Russians, too, were human beings, just like you or I. Their chains exist but they are invisible. The peoples' backs are bent, but they walk upright," he said in regard to the Russian people's existence.

The former Fulbright scholar, who is an editor of the *Law Review*, said that only a dozen of the American delegation were either Communists or fellow travelers, and that a few more were so naive as to be impressed with the surface features of the Festival. But most of the group were level-headed young Americans who were not misled by the propaganda display, and who worked diligently to present the proper ideals in Moscow.

The most disappointing thing to Medalie was the ill-preparedness of the American group. "We were armed with a few United Nations reports on Hungary, and a handful of pamphlets of other kinds. If we had known, we could have passed out thousands of copies of the UN report alone."

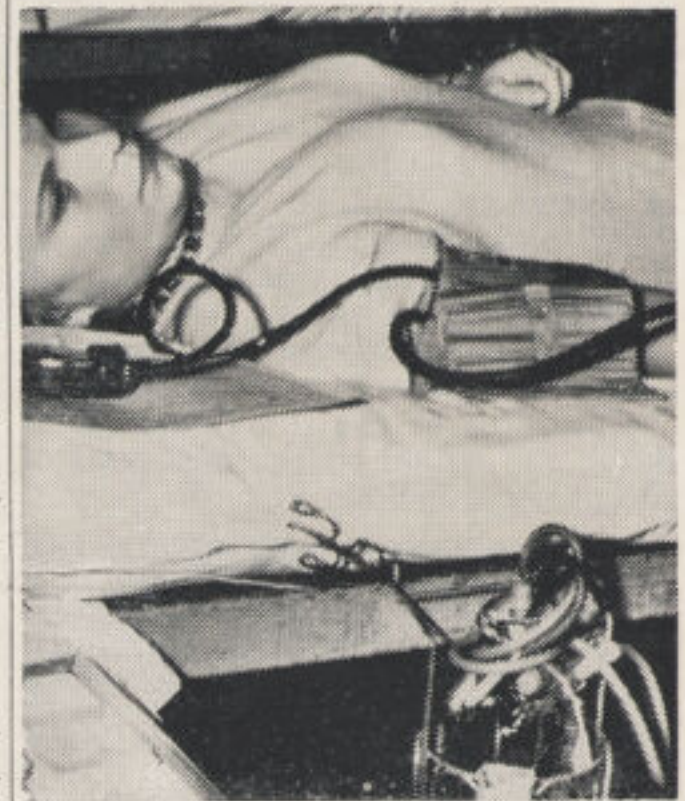
By comparison, he noted, Egyptians brought skillfully-done brochures telling the "truth about Suez," illustrated with smiling photographs of Nasser; the Hungarians brought booklets giving the Communist story on destruction of the fascist counter-

PBH Blood Drive Will Begin Today

The annual Blood Drive at the Law School will begin today as members of the Dormitory Council canvass the dormitories while letters are sent to students not living in the Graduate Center or in Hastings. Don D. Etter, 3L of Denver, Colo., chairman of the Law School Committee of Phillips Brooks House, which is sponsoring the Drive, announced that solicitations will continue until next Wednesday. Walter J. Handelman, 3L of New Rochelle, N. Y., is coordinating the Drive.

Next week Radcliffe students posted at strategic locations in Harkness Commons will attempt to supplement the letters and the dorm contacts.

Blood may be given by law students during the week of Decem-



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ber 2-6, when the Red Cross Bloodmobile will be set up at Memorial Hall.

Mr. Etter also announced that the Law School Committee of Phillips Brooks house will sponsor a smoker this afternoon at 4 p.m. in the Harvard Associate Clubs Room in Holmes Hall for interested first and second year men. Beer will be served.

revolution in their nation and others pleading for the return of our "kidnapped children" stolen into Austria and the west; and other Red-tinged groups did the same, including, for example, exposés of the espionage work done by Radio Free Europe among their literature.

The theme of the festival, which was attended by 35,000, was "Peace and Freedom." Both Russians and Americans tend to think in terms of black and white, Medalie said, and it is easy to misunderstand one another. "That theme is easily changed into fighting the enemies of peace and freedom. The evil is in seeing peace and freedom perverted to other purposes."

Medalie said he could not be sure what effect the Americans' statements had. "But I think that our talks might have put a nub of a germ of an idea into their minds. It might have been a dent in the armor." — Footlick

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