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TEN CENTS

Edmund Cahn Talks on Law And Religion

Religious inertia has left a vacuum in our communal life which the law is, in its own irregular, clumsy way beginning to fill. This was the conclusion of Professor Edmund N. Cahn of the New York University Law School Sunday evening in an address before the B'nai B'rith Hillel Foundation on the subject of "Religion and Law."

The noted authority on legal philosophy told his audience that the separation of church and state does not and cannot divorce religion from the law. Professor Cahn declared that the present day alienation of religion from law is unnatural and detracts from the meaning and effectiveness of both.

There is an "immense overlap between the interests of religion and law," Professor Cahn told his audience. In all primitive societies this is recognized, he said, and their strands are interwoven in the social fabric of the community. But ever since the time of St. Paul the Western world has been witness to an unnatural and debilitating alienation of religion and the law.

This estrangement can be attributed to major historical causes, Professor Cahn asserted. Back in the "apostolic age" there was an irreconcilable conflict between the law of Rome and Christian dogma. This law was denounced by Paul and was feared and hated by the Christian community, for it persecuted their religion and killed their saints. The detestation for law and secular rule impressed deep upon the minds of the Christians of this time and has never

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Dean Pound Eyes Adoption Of Universal Law by World

"A world law for world relations is attainable," a world law not based upon a world-state. This was the prediction of Roscoe Pound, Dean Emeritus of the Law School, in an address before the Brooklyn Bar Association last week.

"There is today a quest of a universal regime of justice . . . of law as transcending and putting limits to nations. The complex, crowded, economically unified and mechanically operated world of today increasingly makes for a world law with local re-



Roscoe Pound

gimes of laws made for and adapted to local special conditions and needs."

The 87-year-old scholar was careful to distinguish between law and a body of rules of law. "The vital, the enduring part of the law is in principles — starting points for reasoning, not in rules."

Defining "law" as an organized system of social control, Dean Pound traced its advances and development in four stages which he labeled (1) the strict law, (2) equity and natural



Sheldon and Eleanor T. Glueck

Progress Report Indicates Validation of Gluecks' Table

The New York City Youth Board has released an encouraging progress report on its delinquency prediction study utilizing the Social Prediction Table developed by Professor Sheldon Glueck and Dr. Eleanor T. Glueck.

This is the first experiment in the prospective validation of the Table in order to determine whether or not potentially delinquent children may be detected when as young as six years of age. The half-way results of this ambitious project show that 88.9 per cent of the 220 children selected in

1952 are presently behaving as predicted.

The profound significance of this study requires a brief explanation. It has long been the Gluecks' belief that the most effective way to combat juvenile delinquency is to reach the individual before his anti-social patterns of behavior have become deeply rooted. In short the preventative approach should be taken just as it is in medicine.

The chief obstacle in the way of pursuing this method is the difficulty of telling far enough in advance which youngster is likely to become a juvenile delinquent. The field of delinquency prevention has long needed a predictive device which will enable it to determine at an early age such a likelihood.

The already classic work by the Gluecks — *Unraveling Juvenile Delinquency* (1950) developed the predictive tables which provided the tools with which to prognosticate early in

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Griswold to Greet Justice Dept. Men

Tomorrow afternoon at 2:30 Dean Erwin N. Griswold will make the welcoming address for the members of the "Attorney General's Recruitment Program for Honor Graduates" in 1957 at the Department of Justice in Washington.

The Program was inaugurated by the Department of Justice in 1953. This year it has enlisted 66 young lawyers from 37 law schools throughout the country.

Harvard graduates in the group include Maurice S. Binkow, '57 of Miami Beach, Fla., Norman Hyman, '57 of Detroit, Mich., William A. Klein, '57 of Chicago, Ill., Lewis A. Rivlin, '57 of Cambridge, Mass. and Bruce J. Terris, '57 of San Francisco, Calif.; also Robert Livingston, LL.M. '57 of Cambridge.

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SBA Speaker

Francis Juggins, noted criminal lawyer, will address the Student Bar Association this afternoon at 1:30 in the Harkness Commons Lounge.

Mr. Juggins is a graduate of the Boston University Law School and has been a member of the Boston Bar since 1901. He was a consulting attorney in the famous Sacco-Vanzetti case which made newspaper headlines in the 1920's.

The topic of Mr. Juggins' address will be "54 Years Before the Criminal Bar."

First Year Orals Begin Tonight

First year men will enter the final phase of the fall series of the first year Ames Competition today, when first year arguments will commence. John E. Merow, 3L of Little Valley, N. Y., Chairman of the Board of Student Advisors, announced that by Dec. 16, 64 first year courts will have completed arguments, culminating several months of orientation activities sponsored by the Board.

According to Hubert T. Weinshienk, 3L of Denver, Colo., five completely new fact situations are being used this fall in addition to some eight revisions of old cases based upon recommended improvements from last year.

Faculty members, second and third year students are serving as judges at these arguments. Three judges will hear each argument.

Different Schedule

Activities introducing the class of 1960 to legal advocacy began on Thursday, Oct. 3, with the movie *Case in Point*. The usual schedule was revised this year, so that the West Lectures given by Ellis E. Champlin were held during the week of Oct. 7-11, prior to the library tours. As a result, attendance at the lectures explaining the proper utilization of the various law reporters, indices and encyclopedias was much larger than normal. As a result, the Board is of the opinion

(See AMES on page four)

Model Appeal To Be Heard Next Monday

Calvert Magruder, Chief Judge of the United States Court of Appeals for the First Circuit, Stanley E. Qua, '04, former Chief Justice of the Massachusetts Supreme Judicial Court, and Visiting Professor Harry Street have been named judges for the Model Appeal to be held in the James Barr Ames Courtroom Monday evening, Nov. 25. Judge Magruder will preside.

Attorney for the plaintiff-appellant will be Dean Erwin N. Griswold. Professor A. James Casner has been retained as attorney for the defendant-appellee.

Assisting Dean Griswold on the brief for the appellant were Malcolm Bell, 3L of Brooklyn, and Paul G. Zerby, 3L of St. Louis, Mo. Professor Casner was assisted on the brief for the appellee by Louis Altman, 3L of



Calvert Magruder

Englewood, N. J., and Paul H. Baris, 3L of New York City.

The case involves an assistant manager of a jewelry store (the defendant) who was kidnapped at gun point one evening. He was discharged from

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Two Pioneers in Space Law Will Discuss Recent Trends

Andrew G. Haley, senior partner of the Washington, D. C. law firm of Haley, Wollenberg and Kenahan, president of the International Astronautical Federation, and former president and managing director of the American Rocket Society, will share the rostrum at Sanders Theater with Dr. Welf Heinrich, Prince of Hanover, Germany, in a discussion of "The Law of the Age of Space" next Monday, Nov. 25, at 8:00 p.m. The newly organ-

izing an intensive speaking tour of leading law schools in this country in order to explain the immediate problems of space law, primarily the problems of jurisdiction, and their various solutions.

Was FCC Counsel

Mr. Haley is a practicing attorney specializing in the legal aspects of radio, television, hydroelectric power, and all branches of rocket propulsion. Formerly counsel for the Federal Communications Commission, he was legal advisor to the International Telecommunications Conference in Atlantic City, N. J., in 1947. He was a delegate to the International Astronautical Congress which met at Rome in September of 1956.

Readers of the RECORD are well aware of many of Mr. Haley's views on the subject of space law and meta-law, as he published two lengthy articles on the subject, appearing in the Nov. 1, 1956 and Feb. 7, 1957 issues of the RECORD. These two articles proved to be months ahead of their time, as they discussed, among other

(See SPACE LAW on page four)



The Prince of Hanover

the latest pictures of Soviet and American satellite developments will be shown.

During the month of November Mr. Haley and Dr. Heinrich are conduct-

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Hit or Miss

Each day for those in the Law School who venture forth from the hallowed confines of Langdell, Harkness, Hastings et al. to reach Harvard Square there is enacted the tense drama of crossing Massachusetts Avenue from Gannett House to the Cambridge Commons and vice versa. Wave after wave of automobiles and trucks engulfs this stretch of roadway from seemingly all directions, and the pedestrian, lacking Moses' wand to part this onslaught, must call upon every ounce of wit and reflex he possesses to emulate the chicken and get to the other side. Only when a tender-hearted driver pauses to let pass an accumulated horde of Radcliffe girls and their bicycles is there any real opportunity for unharried passage.

An underground tunnel or a foot-bridge would perhaps be too much to request. Traffic signals would not.

CONSERVATION: AN AMERICAN STORY OF CONFLICT AND ACCOMPLISHMENT. By David Cushman Coyle. Rutgers University Press, 1957. 284 pp. \$5.00

Conservation has long been in need of re-statement. It also needs to be brought up to date. The very word itself, long inadequate to encompass even the multifold concepts of its original agitators, brings to mind popular associations (Pinchot, T. Roosevelt, the C.C.C.) which are not being joined by more recent symbols to evidence periodic invigoration of a social doctrine.

Conservation as a movement and ideal has not been understood properly even by its articulate laymen supporters. Properly conceived, conservation is not a restriction of consumption in order to promote investment in the future. Rather, it attempts through public and voluntary schemes to regulate consumption from wasting or destroying what is left in the field and tries to build up the total supply of natural resources by scientific management and coordination.

The history of conservation, once its promoters showed that it paid on a commercial level, reflects a continuing struggle over who was to be the primary agent — public or private, state or federal, this government agency or that government agency. Private opposition over a particular plan usually had the initial advantage of concentrated and organized energy — the public interest was usually diffused, the private interest was pinpointed. But again and again, and this is what is perhaps most instructive from reading a history of conservation, conservationists in and out of government rallied public opinion into public support and through the embarrassing rays of exposure defeated, contained or supplanted those whose self-priority was incompatible with the "social interest."

As public projects and advisory bodies gained a greater foothold and acceptance in reforestation, reclamation, water, flood and navigation control, and soil conservation, the emphasis began to be centered upon more comprehensive plans such as river basin development where all the uses of water were

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to be considered along with the effect of the land on the watershed. Sound management policies require such a multi-dimensional approach. The dilemma posed is whether the federal government can go along the path inexorably cut by science. The strain of demand upon inadequate or undeveloped resources over the past 15 years may suggest that the time is approaching for the establishment of new institutions and broader frameworks. Conservation has surged under T. Roosevelt and the New Deal; it has declined somewhat in other years.

The question of the contemporary challenge and response of conservation must be confronted soon. The depletion of our raw materials forcing us to import many basic products such as iron from Venezuela and Labrador, the growing population pressure on our water, land and natural recreation resources, the plain fact that our material demands per capita are far greater than early in the century when a general store could satisfy 95% of consumer desire — and above all the requirements of security suggest the need for burgeoning public interest in the new conservation — above and beyond the planting of a tree on Arbor Day.

David Cushman Coyle has provided us with an enormously readable yet sophisticated account of the conservation movement in the United States from its official inception in May of 1908 at Theodore Roosevelt's Governors' Conference to the second Roosevelt's administration and down to the present. Mr. Coyle consistently performs an invaluable service to the reader by suggesting and pointing out policies and trends rather than adamantly concluding. In this manner there is a minimum of partisanship (except with the philosophy of conservation) and a maximum introduction of the many variables operating in this field.

He illustrates how much is left to be worked upon, how persistent are the efforts of private power, grazing and lumber interests and how science will not for a long time undermine the need for conservation.

This last point is particularly significant in its relation to popular support and enlightenment. Added to the omnipresent apathy now

is the illusion that, to cite a few examples, food can be grown in water tanks, power can be derived from the sun, that atomic energy will substitute for conventional fuels in the near future. This attitude makes conservation seem both old-fashioned or strictly confined to more esthetic objectives like national forests and parks. In some detail Mr. Coyle answers these and other similar contentions by discussing the time element, commercial feasibility and deleterious consequences yet to be solved like radiation.

The author is graphic in his description of the wonderful fruits of conservation not only in this country but also abroad. "The world needs conservation as it needs technical progress and free institutions," he writes. He believes that this country has the opportunity for developing much good will as a world leader in this movement.

The problem which remains with the reader at the end of the book is not primarily related with the challenge or need of combating waste or necessity for popular awareness. These are all made quite clear. The problem deals with institutions flexible and democratic enough to meet the requirements of conservation before the urgency for conservation catches us off guard and has a unhealthy impact on our social institutions. We must be ever mindful that the "tyranny of eminent domain" may be good for the land but bad for the people. Too often there is a tendency to inevitably accept more and more federal government control as the only means of meeting a problem cutting across so many social and political boundaries.

Perhaps the time has come when creativity will be an element in policy formation to establish greater patterns of voluntary initiative, of federal-state-county-municipal co-operation and public-private coordination. Conservation may demand imaginative and comprehensive planning on a broad scale; but conservation is also notoriously grass roots. Granted, these pose administrative challenges of the most delicate magnitude. But the federal government also is an ever growing administrative challenge. And who can frankly say that the latter direction leads to more responsible and effective democracy and citizen participation?

Current Case

Justice Benjamin N. Cardozo once wrote in a dissenting opinion, "The attempted distinction between accidental results and accidental means will plunge this branch of the law into a Serbonian bog." He was referring to the majority view in *Landress v. Phoenix Mutual Life Insurance Co.*, 291 U.S. 491 (1934), where an accident insurance policy covered death resulting from "external, violent, and accidental means." The insured suffered sunstroke while playing golf. The Court held that since the insured had voluntarily exposed himself to the sun's rays in his sport, his death was not caused by external accidental means, and his beneficiary therefore could not recover.

A few months ago the Florida Supreme Court narrowly skirted the edge of Justice Cardozo's Serbonian bog. In *Gulf Life Insurance Co. v. Nash*, 97 So.2d 4 (Fla. 1957), a beneficiary brought an action against the insurer on a life and an accident insurance policy. The accident policy covered the insured only if he should meet his death as a result of bodily injury caused solely by "external, violent and accidental means," the same phrase used in the *Landress* policy.

Playing with Firearms

Nash, the insured, was present at a party and apparently decided to amuse his friends in an unusual manner. He took a pistol from a drawer and held it to his head, evoking screams from several young ladies who were also present. He exchanged this pistol for another, and in apparent high spirits went into the bathroom where he examined the weapon. Upon his return to the festivities he pointed the gun at his chest and began pulling the trigger, despite the cry of a companion to stop because the gun might be loaded. As it happened the gun was loaded, and upon the third pull of the trigger the weapon discharged.

Nash immediately cried out, "My God, the gun was loaded. . . . I am shot. Call a doctor." He then fell, mortally wounded. (97 So.2d at 7).

On appeal from a judgment in favor of Nash's beneficiary, the court had little difficulty in affirming a finding that the death was not by suicide. The problem arose over whether the conditions of the accident policy excluded liability for this unusual death.

Clearly Not Suicide

Associate Justice Elwyn Thomas, who wrote the opinion for the majority on the issue of suicide, recognized that Nash undoubtedly intended only to frighten his friends, and probably miscalculated the number of times he could snap the trigger with impunity. "But he was engaged in a dangerous, foolhardy act, and although the result was not intended, the means were deliberate

as distinguished from accidental." (97 So.2d at 7).

Justice Thomas illustrated what he considered to be the importance of distinguishing deaths that result from accidental means from those that result from means which are voluntary by comparing *Union v. Equitable Life Assurance Society*, 310 Pa. 342, 165 A. 388 (1933), with *Hesse v. Travelers' Insurance Co.*, 299 Pa. 125, 149 A. 96 (1930). In the former case, a man died from inhaling carbon monoxide gas while working on his car in a garage with an open door. It was held that death was by accidental means, since he had involuntarily inhaled the gas, and recovery was granted. But in *Hesse*, a patient died from an anesthetic administered preparatory to an operation. The Pennsylvania court held that since the patient had voluntarily inhaled the gas, the only unforeseen element was the unexpected result, and recovery was denied.

Applying this distinction to the case before him, Justice Thomas thought that since Nash had voluntarily aimed the weapon at himself and had pulled the trigger, his death was not by the "accidental means" necessary to satisfy the terms of the policy.

In what is stated to be a partial dissent but actually became the majority view of the court on this issue, Associate Justice E. Harris Drew rejected the distinction and affirmed the judgment of the lower court awarding recovery on the accident policy.

Referring to the cases cited by Justice Thomas, and adding a twist of his own to Justice Cardozo's words, Justice Drew said "This line of cases has created a morass of decisions which have become shrouded in a semantic and polemical maze." (97 So.2d at 8). He criticized holdings such as *Koester v. Mutual Life Insurance Co. of New York*, 36 Del. 537, 179 A. 327 (1934), where the death of the insured by gunshot wound incurred while struggling over a loaded weapon with his wife was held not to be by accidental means. The Delaware court had said that such a result was not unforeseeable nor unusual, but might well have been expected to occur in the course of such a struggle.

Intrusion of Negligence

"As much could be said of the great majority of accidents," Justice Drew wrote. "It seems to me that such doctrine of foreseeability is a doctrine totally unsuited and unadaptable in construing accident policies. Moreover, the rationale of these cases seems to be founded not only in the doctrine of foreseeability but intrinsically in negligence on the part of the insured." (97 So.2d at 9). The justice concluded, "It is a classic example of a distinction without a difference. As a practical matter, the average person buying

accident insurance policies assumes that he is covered for any fortuitous and undesigned injury." (97 So.2d at 10).

There are still many jurisdictions which are concerned over this "distinction without a difference." It should be recalled that Justice Cardozo dissented in *Landress*, and the United States Supreme Court has apparently not changed its position in that case. Much the same thinking was expressed in *Smith v. Travelers' Insurance Co.*, 219 Mass. 147, 106 N.E. 607 (1914).

On the other hand, in *Metropolitan Life Insurance Co. v. Henkel*, 234 F.2d 69 (4th Cir. 1956), Chief Judge John J. Parker referred to the doctrine in *Landress* as being repudiated by an increasing number of jurisdictions. New York is among this number. In *Burr v. Commercial Travelers' Mutual Accident Association*, 295 N.Y. 294, 67 N.E.2d 248 (1946), Judge Albert Conway said "Our guide must be the reasonable expectation and purpose of the ordinary business man when making an insurance contract such as we have here." (295 N.Y. at 301, 67 N.E.2d at 251). The court held that in New York there is no longer any distinction between accidental means and accidental results.

Liberal Construction

A long-established doctrine for judicial interpretation of insurance policies is that the terms of a policy should be construed in a manner most favorable to the insured. This is entirely fair, when one considers the unequal bargaining position of the parties, and the imperfect understanding by most individuals of the subtleties involved in many contractual clauses. Bearing this in mind, it is unnecessary and probably improper to look behind the court decisions and try to explain them on the basis of judicial sympathy for the poor widow and orphan, or hostility toward the wealthy companies.

Ordinary Meaning

Few will argue that an individual who pays for an accident policy should not benefit if he suffers what is by common understanding termed an "accident." It can be argued that Nash's reckless acts even by common understanding sound less like an accident than what would have been the case had he inadvertently dropped the pistol, and it had discharged and wounded one of his guests. But it is in searching for the line dividing these extremes that courts are led into that Serbonian bog where a court of the same jurisdiction may reach irreconcilable results from one time to another.

The modern trend which refuses to distinguish between accidental means and accidental results is commendable. It is at best

The Record Recalls

Ten Years Ago: 1947

The Law School faculty announced the inauguration of a legal writing program for fifty students of the 4th term. The program was designed to provide an opportunity to do supervised work similar to that done on the *Law Review* through preparation of four short memoranda and one long piece.

George Bernard Shaw commented on the legal profession in a letter to the RECORD. "In all the registered professions the supply of masters falls short of the demand and has to be filled up by practitioners who can do only what was done last time. The legal profession is no exception." G.B.S.

Five Years Ago: 1952

The Law School Forum presented a panel on the "natural school" of writing. Speakers included Mrs. Vachel Lindsay, Mickey Spillane, Erskine Caldwell, and Ludwig Lewisohn.

Calvert Magruder, Chief Judge of the United States Court of Appeals for the First Circuit, presided at the model appeal case, *Parr v. West*. Dean Erwin N. Griswold argued for the plaintiff; Professor Covington Hardee appeared for the defendant. The lower court decision for the plaintiff was upheld.

One Year Ago: 1956

Professor Paul A. Freund presented a Centennial Memoir on Justice Louis D. Brandeis at Sanders Theater in commemoration of the 100th anniversary of the birth of Justice Brandeis.

The model appeal of *Brumbaugh v. Aircraft Pictures, Inc.* resulted in a reversal and remand. Judge Calvert Magruder announced the decision in favor of the appellant, represented by Dean Erwin N. Griswold. Professor Henry M. Hart, Jr., represented the appellee.

a logical distinction having no importance in the world of reality. The man who succumbs to carbon monoxide while repairing his automobile and the patient who dies from anesthetic during an operation are both considered victims of an "accident" by most holders of insurance policies, and rightly so. To grant recovery to the beneficiaries of one and deny it to those of the other seems to negate the whole purpose of accident insurance, which is to provide a method by which one can afford protection to himself or his beneficiaries if he should be injured or killed by some unforeseen contingency.

— Oliver

Advocacy Booklet To Aid Students

A forty-nine page Supplement to "Introduction to Advocacy" entitled "Readings on Oral Advocacy" has been released by the Law School in an effort to assist second and third year students in their law club work. The paperback booklet contains four articles dealing with oral advocacy from the viewpoint of the judge as well as the advocate.

In the order printed these are: "The Argument of an Appeal" by Hon. John W. Davis (reprinted from 26 *American Bar Association Journal* 895 (1940); "The Appellate Court" by Hon. Walter V. Schaefer (reprinted from the University of Chicago *Law School Record*, Vol. 3, No. 2, March, 1954); "The Advocate as a Lawmaker in the Reviewing Courts" also by Justice Schaefer (reprinted from 1956 *University of Illinois Law Forum* 203; and "Oral Advocacy" by Frederick Bernays Wiener, Esq. (reprinted from 62 *Harv. L. Rev.* 56 (1948)).

Perhaps the most useful of the four statements is that by the late Mr. Davis with its concise, concrete and comprehensive discussion of standards by which oral arguments should be governed. Justice Schaefer's two articles render a valuable insight into oral advocacy as seen from the bench. This is a kind of empathy which an advocate would do well to cultivate. As Mr. Davis put it: "... a discourse on the argument of an appeal would come with superior force from a judge who is in his judicial person the target and the trier of the argument. ..."

Mr. Wiener's paper overlaps considerably with the previous writings but nevertheless places old precepts in new foci and fulfills a mnemonic and amplifying purpose.

The preface by Vice Dean Livingston Hall contains a list of additional



Milton Bordwin

readings on the subject for those desiring to probe further. Practicing lawyers as well as aspiring students can learn much from this collection. Milton Bordwin, Faculty Assistant in Charge of the Ames Competition, was instrumental in its editing and printing.

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STUDY

(Continued from page one)

a child's life the probability of future delinquent behavior.

Their findings and the three predictive tables which evolved from their study represent a decade of massive study of two matched groups consisting of 500 persistently delinquent boys selected from a correctional school population and 500 non-delinquent boys selected from the public school population in high delinquency areas of Boston. The variables on which the groups were matched were age, intelligence, ethnic derivation and neighborhood conditions.

Cutting across academic barriers the Gluecks worked with a staff composed of social investigators, psychologists, a physician, psychiatrist and a physical anthropologist. Data concerning 402 potentially "causal" factors were gathered, verified and checked on the 1000 youths, and the two groups were compared factor by factor.

Three predictive tables were constructed using those factors which (1) most sharply differentiated between the two groups; and (2) were also presumed to operate in a young childhood population, for example, at the point of entry into school.

Each table is made up of the five factors that differentiate most clearly between the delinquents and non-delinquents and a child can be scored on each factor (the Gluecks call these *weighted failure scores* derived from the percentage incidence of delinquents in each subcategory of a table).

Then a total score is summated. It is from the total score that the probability of delinquency is derived. It is the Social Factors Prediction Table that the Youth Board is testing in the present investigation. This Table is based on the following five factors:

1. Discipline of boy by father
2. Supervision of boy by mother
3. Affection of father for boy
4. Affection of mother for boy
5. Cohesiveness of family

Each category is broken down into more specific descriptions.

Retrospective studies of the Social Prediction Table had already yielded results which were encouraging and suggestive of the value of working further with this predictive instrument. No investigation, however, had applied the Table to a group of children prior to the onset of overt symptoms of delinquency. The New York City Youth Board, a municipal agency, both by the nature of its functions and the availability of its resources, was in a position to initiate such a prospective predictive study and did so in the fall of 1952.

All boys entering the first grade classes in two public schools located in a high delinquency area in New York City during the academic year 1952-1953 were candidates for inclusion in the study. The families of all the 220 boys were interviewed.

The interview material relating to the five social factors cited above was

Bill ...

The Massachusetts legislature recently passed a bill providing for state regulation of all health and welfare funds benefiting 25 or more employees, except employees of savings banks and public service employees. The measure will become effective on October 1, 1958.

The statute makes trustees responsible in a fiduciary capacity for all money, property, or other assets received, managed, or disbursed by them, or under their authority, on behalf of a trust.

A special commission of the legislature under the chairmanship of State Senator Silvio O. Conte has been and will continue to study the field of trust regulation. The committee is scheduled to report to the 1958 legislature and it is expected to recommend substantial strengthening of the measure.

scored by two independent raters, and in accordance with the Glueck Table the scores were assigned. Agreement between the two raters was required before a probability score was considered final.

The chances of delinquency were divided into a four-class breakdown: 8.2, 37.0, 63.5, or 89.2 out of 100. Those boys scoring 63.5 and 89.2 were considered as potential delinquents since they had more than a 50% chance of becoming delinquent.

Follow-up procedures consisted of annual school interviews with teachers and data from social agencies and police records. Data covering the boys' behavior for the four-year period since the study was begun were classified into an eight category behavior classification according to their current involvement or non-involvement in delinquent or pre-delinquent behavior.

The present report relates the behavior of 220 boys to the predictive scores assigned to them four years ago. These boys are now between 9½ and 10½ years old.

Summary

The report summarized that the findings "reveal that the majority of the boys [88.9%] are behaving in accordance with the prediction made when they entered school. The majority of those who were rated with a low probability of becoming delinquent are currently presenting no serious community problem. The majority of those who are already showing delinquent or pre-delinquent tendencies were assigned a high probability of becoming delinquent."

Of particular significance is that the ethnic origin of the boys in the Youth Board study group is *much more varied* than and *differs considerably* from that of the Glueck study group in which there were no Negroes or Puerto Ricans and in which English, Irish, Italian and Polish parentage was dominant. These preliminary results indicate that the Table is predictive for a much broader group and is an encouraging sign in the direction of broad utility.

Early Detection

In the Foreword to the Youth Board's report, Mayor Robert F. Wagner has this to say:

"Should the trend noted in this progress report continue, it would constitute a significant contribution both for the preventive and treatment aspects of this important social problem. Screening methods based on this research and utilized by trained personnel at the point of school registration could quickly select those children in need of various types of help. Such an instrument could be applied to large segments of the school population and we would thus have for use a social 'geiger counter' for detecting potential delinquency at an early age where help would be the most effective."

"Referrals could then be made to those public and private agencies which would assume responsibility for the various treatment aspects of a delinquency program. This would permit the pinpointing of services of the delinquency-oriented groups to the high risk children and their families. It would also conserve the time of much professional personnel whose services are now dispersed in many directions."

He called the Board's investigation as one "providing a scientific base for program planning in the City of New York."

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NEWS IN BRIEF

DANCE

The fifth dance of the season sponsored by the Harvard Law School Dormitory Association will take place this Saturday, November 23, from 8:30 p.m. to midnight.

Jerome J. Sussman, 2L of Brooklyn, social committee chairman, recently announced the schedule of dances for the remainder of the 1957-58 season. The Winter Formal will be held on Saturday, December 7. Tuxedos or dark suits are optional for the men with women in formals or cocktail dresses. The committee requests that in accordance with long standing custom no corsages be worn.

Other dances are slated for February 8, March 1, March 22, the Spring Formal on April 5, and the final dance on May 3.

Activities cards offering admission to all dances continue to be available from Law School Dormitory Association representatives. Guest cards, good for one admission for a non-Law School guest and his date, are available at \$1.00.

DIRECTOR

Milton Katz, Henry L. Stimson Professor of Law, Director of International Legal Studies at the Law School and former administrator of the Marshall Plan in Europe, has been elected a director of the International Friendship League.

Immigrants ...

A New York Municipal Court Justice, Henry Silverman, has ruled that the affidavits of support filed out by sponsors of nearly all immigrants to the United States are unenforceable.

In *California v. Renel*, the first court test ever made of the issue, the State of California sought to compel Mr. and Mrs. Renel, the sponsors, to pay for the support of an immigrant nephew in a state mental institution. The court held on October 4 that the affidavit of support filed by the Renels created only a moral, not a legal, obligation.

The affidavit is a standard State Department form. The sponsor, by signing it, declares that he assumes the responsibility of supporting the immigrant and guarantees that he will not become a public charge. Such affidavits have been filed for more than 90 per cent of the almost six million immigrants admitted to this country since 1924.

Attorneys for the State of California have announced that they will appeal the decision to the New York Supreme Court.

APPEAL

(Continued from page one)



Harry Street

his captor's automobile near his employer's jewelry store and ordered, under threat of his life, to enter the store and rob the safe of the jewels contained therein. The gunman, declaring that he would return in five minutes, drove away. The defendant did as he was told, failing to use an available telephone inside the store.

The gunman, on his return, was noticed by a passing policeman. The gunman, firing in the officer's direction, struck the plaintiff's husband, a passerby, who died from the wound one year and three months after the shooting.

Two years and two months after the shooting plaintiff brought this action under a wrongful death statute. The complaint contained (1) a negligence count and (2) a battery count. A one-year statute of limitations for negligence actions and a two-year statute of limitations for battery actions is involved.

The trial court ruled that the negligence count was barred by the statute of limitations and granted the defendant's motion for summary judgment as to this count. The case went to trial on the battery count and the jury found for the defendant.

The plaintiff has appealed the decision on the ground that the trial court erred in granting the defendant's motion for summary judgment on the negligent count and improperly charged the jury on the battery count.

— Binder

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Joiner Foresees Added Attorneys

A recent predictive study by Professor Charles W. Joiner of Michigan Law School (9 *Journal of Legal Education* 466) concerning the supply and demand of lawyers for the next fifteen years has graphically shown some of the pressures to which the nation's law schools will be subject.

On the supply side, Professor Joiner estimated that the persons available for law school or other graduate study will increase over the 1955 level as indicated in the following:

1960-1962 will see a 23 per cent increase over 1955; 1965-1967 will see a 70 per cent increase over 1955; and 1970-1972 a 133 per cent increase over 1955.

As to the demand for lawyers all indications point to a rapid growth. In 1920 there were 122,519 lawyers in the country or 116 lawyers per 100,000 population. By 1950 the number had grown to 212,605 or 141 lawyers per 100,000 population.

The figures showed that while the total population had increased 43 per cent in the period 1920-1950, the lawyer population had increased 73 per cent in the same period — or a rate of increase on the part of lawyers of 70 per cent greater than the rate of increase of the population.

Saturation of Demand

Though this increase may reflect a saturation of the demand of lawyers, Mr. Joiner prefers a more probable explanation. He writes:

"It has been demonstrated that the lawyer population varies from state to state in about the same ratio as does the general economic activity. Various economic factors, which along with others make up the gross product, have shown themselves to be from ninety-four per cent to ninety-eight per cent accurate as predictions of lawyer population, state by state. In other words, the greater the economic activity of a state, the greater the number of lawyers which that state needs and can support. . . ."

"From 1910 to 1950, the gross national product has almost tripled, while the lawyer population during the same period has almost doubled. This indicates that there is about a two to three ratio of lawyer population increase to gross national product increase. It has been conservatively estimated that the gross national product will be approximately sixty per cent greater in 1957 than in 1955. Thus it would not be unrealistic to predict that there will be a need for two-thirds of sixty per cent, or forty per cent, more lawyers in 1970 than in 1955."

On the basis of the available data, he foresees a need by 1970 of from 70,000 to 88,000 more lawyers than at present. This is about equal to the increase in the bar's size between 1925 and 1955.

If the lawyer population is to increase by 80,000 in fifteen years the bar must show an absolute increase of 5,300 lawyers a year. This means an additional 2,800 graduating seniors a year or an average of a thirty-two per cent increase in the senior class size of 1955 (8,800) during the next fifteen years, if the need for lawyers is to be met.

What impact the demand for lawyers will have upon potential law school

SPACE LAW

(Continued from page one)



Andrew G. Haley

things, the legal implications of space satellites.

Mr. Haley has also written a book, *Law of the Space Age*, which is about to be published by the Public Affairs Press.

Dr. Heinrich, in 1953, submitted as his thesis to the faculty of law and political science at the Georg August University, Göttingen, a work entitled *Air Law and Space*.

POUND

(Continued from page one)

their conduct without any general lawmaking or declaring political organization. . . . Such a law of the world shall not need formulation by agencies of an omniscient superstate nor promulgation by a Parliament of man.

Dean Pound stated that this world-law will be based upon "what in the United States we call due process of law." He described the elements of this due process as: "An independent, unbiased and courageous tribunal; full notice in advance to all interested parties of the nature of the controversy to be determined and the claim or claims to be urged or charges to be preferred by the parties; a procedure affording full and free opportunity for each party to present evidence in support of his or its case to the tribunal, to cross-examine witnesses, and to argue both the credibility, weight and relevance of the evidence, as to each item and as a whole, and the legal propositions applicable thereto; and a judgment according to law, not the will of the tribunal, and not directed directly or indirectly from without."

Dean Pound predicted that once the world law becomes established it may lead to an eventual world-state.

applicants depends on many variables other than law school admission policies and is difficult to assess. The following figures are suggested by Professor Joiner as reasonable indicators of the increased number of applicants for admission to the law schools:

1960 increased by 21 per cent of 1955
1965 increased by 58 per cent of 1955
1970 increased by 105 per cent of 1955

"The increase in law school applicants," he writes, "will probably vary from state to state. This will probably occur in about the same ratio as the population increase and the increase in economic activity vary among the states. However, throughout the whole of the United States, society will pressure the law schools to train more lawyers and to a greater extent applicants will demand admission to law schools."

He ended the paper urging the necessity for planning to prepare for the great demand for law training. He stressed that law school administrators, law school faculties, university administrators, and the legal profession must not shut out the

CAHN

(Continued from page one)

been completely removed from the thinking of the Christian community.

During the Middle Ages, the kings and princes, who were at that time synonymous with the law, were used as tools of various religious sects to carry out inquisitions, burnings at the stake, and wholesale executions. The fact that religion and law were so united at a time when religion was passing through a most fanatic and the law a most brutal stage has fostered the belief that religion should be kept separated from the state and the law at all costs.

The 1955 Phillips Prize winner declared that clergymen are generally ignorant of the law and that what one does not understand, he tends to fear and distrust. Professor Cahn also denounced attorneys for their "ignorance of the judicial process and of moral philosophy."

Professor Cahn charged that "despite the writings of Cardozo, Holmes and Jerome Frank," most lawyers assume that the law is impersonal and stagnant in its nature. The average attorney's lack of understanding of moral philosophy was deplored by the New York University Professor who stated that lawyers think, talk and argue in terms of platitudes when any moral question or problem is brought before them. "Lawyers as a profession are becoming a collection of well-paid, glorified clerks," he asserted.

A "reciprocal understanding that both divine law and human law are in constant process of growth, change and emergence" must be fought for, Professor Cahn told his audience. Because this fact is not understood, he said, "law and religion stand rigidly apart, and the gulf between them grows ominously wider."

Religion in America is approaching "a great and unnoticed crisis," Professor Cahn declared, because "for the first time in the general course of Western history since the advent of Christianity, law often equals and occasionally surpasses religion in the quality of its announced faith and practical works."

But the threat, Professor Cahn emphasized, is not to religion only, but also to law and the administration of justice, for "in a democratic society like ours, law is tethered to the opinions and moral standards of the general public, and if religion fails to lead and edify these, the advancement of law will inevitably suffer."

Declaring that religion is "losing its status as conscience's helpmate and becoming a mere thing of rhetoric and ceremony, a background for weddings . . . and for funerals," Professor Cahn denounced the clergy of today for their failure to provide leadership on the ethical and moral issues facing modern society, while the Supreme Court has at the same time been "endeavoring continually to elevate the legal plane of human dignity."

In the field of race relations, Professor Cahn declared, the courts have been advancing and supporting Negro rights to equality, but the churches have furnished little or no leadership.

In the area of the Bill of Rights, he continued, the Supreme Court has been endeavoring to preserve the postulates of free speech, association, inquiry and communication. But the voice of organized religion, here

realities of the great population surge and the changing lawyer-population ratio brought about as the result of the increasing complexity of modern life. "Consideration of these problems should not be postponed," he declared.

"Planning necessarily must involve:

1. an increase of plant and equipment accommodations;
2. acquisition of funds for a vast increase in teaching strength; and
3. a re-examination of admissions policies, particularly those of schools not using selective standards of admission.

A re-examination of educational and research policies in light of modern knowledge and the foregoing problems is needed, too, but other size planning cannot wait for the completion of this study."

CHERCHEZ LA FLAMME

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again, has been strangely missing. "Amid the noise and clamor of shameful McCarthyism," he asserted, "there were probably fewer ecclesiastics on the side of freedom than on the side of obscurantism and repression."

Professor Cahn deplored the fact that only a minority of religious leaders have dedicated themselves to the abolition of capital punishment, which he characterized as an "uncivilized and anti-religious practice." Though in England the law has almost abolished the death penalty, he charged that "the heads of the established church did much to resist and retard the achievement."

Professor Cahn was introduced by Rabbi Richard L. Rubenstein.

— Binder

Alumni Notes

LL.B. '30 — Eugene Eisenmann has been appointed editor of *The Auk*, quarterly journal of the American Ornithologists' Union. Mr. Eisenmann is a research associate of the American Museum of Natural History in New York, and a Fellow of the Linnaean Society of New York.

LL.B. '40 — Robert H. Gardiner has been elected president of the Fiduciary Trust Company, Boston, succeeding Francis C. Gray, LL.B. '15, who has been made chairman of the board. Mr. Gardiner is president of the Massachusetts Society for the Prevention of Cruelty to Children, and a director of the New England Forestry Foundation, Inc.

LL.B. '48 — John L. Casey, Jr., was recently appointed chairman of the Citizens for Brownell, an organization seeking to promote the candidacy of Attorney General Herbert Brownell for Governor of New York in 1958.

LL.B. '50 — Kingsbury Browne, Jr., is with the Boston firm of Choate, Hall & Stewart, and is specializing in taxation.

LL.B. '51 — The marriage of Joseph R. Zepf to Charlanne James was celebrated recently. Mr. Zepf is with the firm of Guernsey, Butts & Walsh in Poughkeepsie, New York.

LL.B. '54 — Archibald C. Spencer and Elizabeth B. Wells were married last month. Spencer is with the firm of Best, Flanagan, Lewis, Simonet & Bellows and is living in Wayzata, Minnesota.

LL.B. '56 — I. Austin Heyman's article "The Non-resident Alien's Right to Succession under the 'Iron Curtain Rule'" has been published in the *Northwestern University Law Review*. At the Law School, Mr. Heyman was editor of the *Student Directory*.

LL.B. '57 — Henry T. Dunker, Jr., is law clerk to Judge Peter Woodbury, LL.B. '27, of the United States Court of Appeals for the First Circuit.

— Bruce M. Bogin has been admitted to the New York Bar and is with the firm of Gottschalk & Stern at 521 Fifth Avenue, New York City.

AMES

(Continued from page one)



John E. Merow

ion that the library tours which followed during the week of Oct. 14-18 were much more meaningful for the 509 participants.

Mr. Merow also announced that prizes will be awarded for the best first year brief and oral argument. Awards will consist of a book selected by the winner from the West Publishing Company lists.

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Myths . . .

Law school mythology was discussed by Fleming James, Jr., Visiting Professor of Law, recently at a Loss Club luncheon at the Coach Grille in Harvard Square. Several myths have currency on the Yale and Harvard campuses, according to the Yale Law School Professor.

One myth denied by Professor James is that Yale is the place to learn sociological jurisprudence. While it is true that the Yale law student has a freer hand in the selection of electives after his first term, experience has indicated that students tend to gravitate towards generally acknowledged basic courses. Professor James also observed that he could see little foundation for the Harvard myth that Yale students do not have to work as hard as Harvard law students.

Contrary to a popular myth, Professor James said, "I do not feel that the Harvard Law School is impersonal." He indicated that there was less difference between a class of 55 and a class of 125 "than I would have thought." He also indicated that the larger classes at Harvard lend themselves to the Socratic method very well.

Report . . .

In his annual Report to the President of Harvard University, Dean Erwin N. Griswold remarked that the Law School is now training men who will be leaders in the legal and business life of the Twenty-first Century.

"The students who graduated this June will be returning for their fiftieth reunion in 2007. In the year 2001 many of them will be at the peak of their professional eminence and responsibility."

Dean Griswold felt that the greatest benefit the next century's lawyers will obtain from the Law School is their training in methods and techniques. In the Twenty-first Century, he wrote, "they will probably draw little from the specific information which they received here."

"It seems likely, though, that they will be still drawing heavily on their basic legal training, on method and approach, on their handling of authorities, both in cases and in statutes, on thorough sifting of facts, on careful and precise reasoning, on the importance of fine distinctions, and the utility of accurate lawyerlike English composition."

Mr. Griswold emphasized that the educational process of law students is only beginning when they receive their degrees. "The materials with which lawyers work change rapidly. Lawyers have to be flexible and versatile in the practice of their profession. They must be students all their lives. The greatest contribution which the Law School may be able to make to them is training in the methods of using these materials so that they may effectively face and resolve new problems as they may develop."

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