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TEN CENTS

Ames Semi-finalists Argue 'Loyalty Oath' in Tax Case

The second of the semi-final arguments in the third-year Ames competition will be heard at 8 p.m. Tuesday evening, December 10, in the James Barr Ames Courtroom. Contestants will be the Story Equity Club (representing the plaintiff-appellant) and the Griswold Equity Club (representing the defendant-appellees). The case of *First Unitarian Church of Los Angeles v. County of Los Angeles, et. al.* will be argued before the Supreme Court of the United States of Ames.

Presiding over the court will be the Hon. John V. Spalding, LL.B. 1923, of the Supreme Judicial Court of Massachusetts. Associate judges will be Ernest Sargeant, LL.B. 1943 (47) m.c.l., of the Boston Bar, and Richard Bancroft, LL.B. 1929, of the Boston Bar.

Attorneys for the plaintiff-appellant will be Donald H. Burnett of Pendleton, Ore., and Carl M. Sapers of Chestnut Hill, Mass. Counsel on the brief include Hugh Amory of Natick, Mass., Herbert P. Gleason of Cohasset, Mass., William H. Hazen of Concord, Mass., William B. Hetzel, Jr. of Pittsburgh, Pa., John C. Pittenger of Nottingham, Pa., and Daniel Steiner of New York City.

The defendant-appellees will be represented by Julian W. Atwater of Batavia, N. Y., and James W. Venman of Bridgeport, Conn. Counsel on the brief include Gordon G. Budzicker of Winona, Minn., John French III of New York City, Robert A. G. Monks of Cambridge, Mass., Charles

Foreign Officials Study Taxes Here

Nineteen tax officials from abroad are studying at the Law School this year in the International Program in Taxation.

The eighteen men and one woman who comprise the group will familiarize themselves with tax laws and procedures of the United States and of Canada during nine months of study, concerning themselves especially with problems in taxation which relate to the further economic development of their own countries. About six Law School graduate students share class work with the tax officials.

Many Countries Represented

The participants come from Brazil, Colombia, El Salvador, Greece, Indonesia, Japan, Liberia, Mexico, Pakistan, Peru, the Philippines, Turkey, and Vietnam. They are sponsored by the United Nations Technical Assistance Administration and by the United States International Cooperation Administration.

Oliver S. Oldman, Lecturer in International Tax Law, is coordinator of the training curriculum of the group. He explains that "The program . . . consists of classroom and seminar work at Harvard, field observation at the United States Internal Revenue Service Offices in the Boston Region, a week or more of conferences with United States tax officials in Washington, and two weeks of conferences with Canadian tax officials at Ottawa, Montreal, and Toronto."

Taking Griswold and Surrey

"Included in the program are the course in Taxation given by Dean Erwin N. Griswold, special lectures by Stanley S. Surrey, Professor of Law and Director of the International Program in Taxation, and special seminars devoted to international tax problems. A large proportion of the

(See TAXES on page four)

Erratum

In last week's RECORD on page one in the story concerning the "Perry Como Case", it was reported that one of the judges, James Vorenberg, LL.B. '51 m.c.l., represented Irizzary y Puente in his suit against Dean Erwin N. Griswold. Mr. Vorenberg in fact represented Dean Griswold.



John V. Spalding

A. Morrison of Mount Vernon, N. H., Edmund R. Schroeder of New York City, and William H. Thigpen of Evanston, Ill.

The plaintiff is a non-profit religious body incorporated under the laws of the Commonwealth of Ames. It owns real property located in Los Angeles. An Ames statute declares that no person or organization shall receive exemption from taxation

(See AMES on page three)

Winner

The Chayes Club, led by oralists Emil W. Herman, 3L of Pittsburgh, and William Schurtman, 3L of New York City, defeated the Casner Law Club in the first of the semi-final arguments in the Ames competition Tuesday night in the James Barr Ames Court Room.

The case involved a dispute over the use of Perry Como's name in advertisements.

Law Students Held 'Cynical'

Law training for the majority of students facilitates a generally humanitarian outlook, with some stabilization in attitudes, accompanied by a decrease in hostile and cynical feeling and expression. There is retained, however, a considerable degree of cynicism in the average lawyer personality.

These were the tentative conclusions reached by two clinical psychologists in a study of members of the freshman and senior classes at the Yale Law School recently. Writing in 9 *Journal of Legal Education*, the authors, Leonard D. Eron and Robert S. Redmont, tried to determine the impact of professional training on attitudes and personality as a reflection on the nature and adequacy of professional training.

The study of the effect of legal education on attitudes is the third one of this nature. In a similar study conducted at the Yale School of Nursing,

(See STUDY on page four)

Fund for Republic Releases Freedom-and-Defense Booklet

The first of a series of pamphlets to be issued in connection with the Fund for the Republic's ambitious study of a free society has just been released by President Robert M. Hutchins, under the title of "Individual Freedom and the Common Defense." The author, military historian Walter Millis, goes into the question involved in the universal obligation for military service, the struggle against subversion in the United States, the difficulties of dealing with sedition, and the problems presented by the attempts to maintain national security through far-reaching provisions for secrecy.

Mr. Millis states that military obligations have "introduced significant



Robert M. Hutchins

distortions into the processes of American higher education. They are often severely restrictive of individual liberty; it is not clear that they have made any countervailing contribution to political liberty — which is to say to the common good, or, in this case, to the common defense.

"As to the justice and efficacy of the universal obligation as a whole, the answers are less obvious. In the first place, it has made several striking contributions to individual freedom. Universal and compulsory military

service provided both the mechanism and in large degree the rationale for one of the major advances in individual freedom in recent years — the advance of the Negro minority toward equality under the law. The desegregation of the armed forces was prob-

(See PAMPHLET on page three)

Hollis Discusses Atom Law At Meeting of Student Bar

Everett L. Hollis, LL.B. '39, former general counsel for the Atomic Energy Commission and currently employed by General Electric, a key company in the field of atomic energy development, last week spoke to members of the Student Bar Association on the topic "Lawyers and Atomic Energy."

Mr. Hollis began his speech with a brief history of the legislation passed since the end of World War II concerning public and private uses of atomic energy. He went on to explain the necessity for, and the importance of, the lawyer in this expanding field, pointing out the many legal problems to be faced and solved.

The McMahon Act of 1946 was passed by Congress during a time of substantial fear that this country's international monopoly of atomic energy was in danger, he said. Under the terms of this Act the national government retained ownership of fissionable material and of reactors which were used to produce that material in any significant quantities. Private activities were severely limited — although even in the beginning the private contractor system had been important.

With the diminishing of the belief that an international control system

South Carolina Senator To Discuss Civil Rights

J. Strom Thurmond, United States Senator from South Carolina and 1948 "Dixiecrat" candidate for President, will address the Law School Forum tomorrow evening on the subject of the "Civil Rights Act" passed by Congress last summer. Before its passage Senator Thurmond had denounced the Act in the longest speech ever heard within the walls of the Senate Chamber.

The former Governor of South Carolina has gained the national spotlight in recent years as the South's most outspoken champion of states' rights and segregation. In regard to the 1954 Supreme Court school integration decision, he has said, "We in the South must resist integration by every legal means . . . the decision directly violates the constitution and the South blames both political parties for it."

The 54-year-old Senator has had a colorful career in South Carolina politics. After graduating from Clemson College in 1923 with a B.S. in psychology, he served as county superintendent of education (where he gained distinction for (1) saving the county \$33,000 in school operating costs during the depression and (2) appointing the only South Carolina teacher ever electrocuted for murder), city attorney, county attorney, state senator and circuit judge.

Had Combat Record

During World War II Senator Thurmond saw action with the 82nd Airborne Division, serving in France, Belgium, Germany, Czechoslovakia and the Philippines. For his outstanding war record he has been awarded numerous medals, including the Legion of Merit, the Bronze Star, the Purple Heart and the Croix de Guerre.

Returning to his home state after the war, Mr. Thurmond was elected Governor of South Carolina in 1947 for a 4-year term. He became the unsuccessful States' Rights candidate for President in 1948.

Sets Precedent

In November of 1954 Mr. Thurmond became the first man ever to be elected to the United States Senate by a write-in vote. That year a total of 143,444 South Carolina voters wrote his name in on the ballot to elect him to the Senate.

Senator Thurmond resigned after serving only two years of his 6-year term. However, he was renominated without opposition and was elected to another 6-year term in the Senate, a term he is now serving.

Following Senator Thurmond's address the "Civil Rights Act" will be

discussed by a panel of authorities.

Professor Fleming James, Jr. will introduce the speaker and serve as moderator.

The Forum will be presented at the New Lecture Hall, located at the corner of Oxford and Kirkland streets. The program will begin at 8 p.m. Tickets will cost 95c and will be sold at the door.

Surrey to Preside Over Tax Session

Proposed legislation and current developments in federal taxation will be discussed at an all-day forum of the Federal Tax Institute of New England next Saturday. Under the chairmanship of Professor Stanley S. Surrey, the forum will be conducted in a morning and an afternoon session at the John Hancock Hall in Boston.

A panel of practitioners, including a representative of the Treasury Department who actively participated in the deliberations of the Department concerning many of its legislative proposals, will discuss the more important legislative proposals and their



Stanley S. Surrey

background. The subject matter will be presented in the form of a panel discussion.

The morning session will convene at 9:15. Wilson C. Piper, LL.B. '42, will discuss "Possible Pitfalls in Subchapter C". Mr. Piper is with the Boston firm of Ropes, Gray, Best, Coolidge and Rugg.

Raphael Sherfy, LL.M. '37, who is associate head of the Legal Advisory Staff of the Treasury Department will conclude the morning's activities by

(See GROUP on page four)

Law Wives

The Law Wives will hold their annual Christmas Party for children on Saturday, December 7 from 3 to 5 p.m. in the Wheeler Room of Holmes Hall. The chairman for this event is Mrs. Harold Adams.

The final meeting before Christmas vacation will be held Wednesday evening, December 11 at 8 p.m. in the North Dining Room of Harkness Commons. Arthur Fiedler, symphonic conductor of the Boston Pops Orchestra, will be the guest speaker and the evening will be one of informal questions on phases of symphonic music and the arts.

(See HOLLIS on page four)

A New Direction

A growing appreciation by some of the nation's law schools of institutional or project research is pointing toward a revolutionary orientation of legal scholarship.

Project research differs in two ways from the traditional, in-library, singlehanded legal study of cases, statutes and regulations. It is a staff or group program often organized as an administrative enclave, supplied with special funds and additional secretarial help and permitted flexibility in their teaching schedules. It deals with a problem different in scope and subject to a different scholarly approach.

Professor Cavers describes such studies: "Probably the inquiry will be directed to some manifestation of human behavior as it is affected by law or as it affects law. The inquirer may want to know to what extent certain legal rules work or are worked. He may see an opportunity for the improvement of some legal institution or process. He may be troubled by an area of difficulty in our society, say, in some phase of our economy; he may believe that a new law or a new procedure could relieve its problems. At the same time, however, he will be aware of the inadequacies of his own knowledge."

Marshaling and understanding the pertinent information is likely to lead to collaboration with engineers, or anthropologists, psychiatrists and political scientists. The study frequently demands field research to gather data to supplement or often replace written sources.

Broader Range...

Scholars increasingly are conducting or urging studies which do not bundle neatly within the cozy confines of law, economics, sociology or the like. These categories are only convenient analytic distinctions to facilitate the study of man by breaking him into more easily handled components. "Legal" man, "social" man, "economic" man are aids, not strait-jackets, in our quest to understand "total" man.

To cite a few examples. The Gluecks conduct research drawing on many disciplines. Professor Freund has stressed the need to know more "about the effect of judicial decisions on official conduct at the lowest operating level . . . [and] the impact of decisions on the drafting of ordinances and regulations and on their administration." In a fertile work entitled *Experimental Jurisprudence*, Professor Frederick Beutler discusses numerous areas of study under such broad classifications as city planning, social relief problems, criminal administration, problems of proof and legislative methods that can be best treated by a flexible research organization utilizing the cooperation of similar and/or various combinations of experts in relationships controlled by the nature of the data relevant to the problem studied. Professor James has recently cited the need for a specific study of the disposition of lump sum recoveries in tort actions.

It was the recognition of the need for greater understanding of American legal institutions and of the administration of justice through collaborative studies by lawyers and social scientists that led the Ford Foundation to support the University of Chicago Law School's three studies of the jury system, arbitration, and public attitudes on various aspects of tax justice. Likewise, sensing the beneficial impact on international investment and trade which a systematic and competent series of national tax studies would have, the Foundation has also assisted the World Tax Series at Harvard.

Crucial Reluctance...

There are, however, obstacles to progressing into this type of research above and beyond the usual difficulties of financing, procuring trained associates and plant space. We are referring to dissenting attitudes on the part of most law teachers. They tend, for the most part, to be wary and antagonistic to project research development. The faculty are in many ways the key ingredient in any shift or extension.

What then are their objections? First, a dislike of the inhibiting effect of group research which they feel often results in innocuous compromise, over-caution, neutralization of courageous hypothetical forays, etc. They point to history replete with products of individual genius and see few of collective origin. Some believe there would be an undue distraction away from the teaching function. Accustomed to a congenial and free atmosphere, they rebel against "placing an alarm clock on insight" by being shackled to deadlines, schedules and other requisites of teamwork. Finally, their training lies primarily in the field of traditional research.

It is true that some freedom is lost but this

Georgia, long a leader in the recognition and expansion of the right of privacy, recently carried its interpretation of this right one step further in *Gouldman-Taber Pontiac, Inc. v. Zerbst*, — Ga. App. —, 99 S.E.2d 475 (1957). Zerbst was employed by the Lockheed Aircraft Company near Atlanta. She had not paid a repair bill which the defendant had rendered to her for automobile repairs, claiming that the work had been done improperly. The defendant sent a letter to Lockheed, claiming that Zerbst was indebted to the defendant, and asking Lockheed's assistance in collecting the debt. Zerbst was called in by her employer, questioned, and told that the letter would be placed in her personnel file until the debt was paid.

Zerbst filed an action for damages for invasion of her right of privacy, claiming that she had been humiliated, and had suffered mental pain and distress. The defendant demurred, and the demurrer was overruled by the trial court. On appeal, judgment for Zerbst was affirmed unanimously.

In a concurring opinion, Associate Judge J. M. C. Townsend recognized that "the majority of decisions in other states are to the contrary," but felt that "the spirit and intent of Georgia law on the subject of the right to sue in tort for an invasion of the right of privacy is sufficiently broad to cover a case such as is here made." He noted that "The only reason a creditor or a collection agency acting as its agent can have for contacting an employer in regard to an alleged debt of the employee is that the creditor hopes by such means to enlist pressure in his behalf against such employee." (99 S.E.2d at 479).

In awarding Zerbst recovery without proof of special damages, Judge Townsend wrote "That the statement is not libelous will not prevent it from being tortious if it in fact constitutes an invasion of the rights of the person concerned, the debtor." (99 S.E.2d at 480).

The right of privacy, which was a principal issue in the model trial and appeal at the Law School two years ago, is generally conceded to have been first defined in an article by Samuel D. Warren and Louis D. Brandeis, *The Right to Privacy*, 4 HARV. L. REV. 193 (1890). An English court had maintained an action of a similar nature in *Prince Albert v. Strange*, 2 DeG. & S. 652 (1848),

is the inevitable consequence of any grouping, be it society or a university. It is the need (and this is the primary issue) which makes for toleration of some loss of freedom. There is a great need to increase scientific knowledge of human behavior; there is a great need to help the behavioral sciences become more useful in the solution of human problems; and allied to both of these is the necessity to develop personnel and institutional resources for work in the field. It is the massing of data, then, which will absorb much of the industry devoted. There should be a recognition that there is division of labor between data gatherers and correlators.

All these closely related objectives can best, and often only, be met by project research. The law teacher whose vocation is society's fiber has an undeniably key role to play in conceptualizing from the data and formulating policy.

The problem was sympathetically summed up this way by Professor Cavers:

As long as we have been able to discharge our obligations to research by exploiting the materials for study that the expressman and the book post deposit daily on our academic doorsteps, our lot has been a comfortable one. Our discontent with the resulting limitations on our knowledge has not yet made us zealous in the cause of broader research. We have lost the urge to be scientific that stirred our brethren in the Twenties and Thirties, but we have been excited by no other equally alluring objectives. . . . [W]e must decide whether research activities that require school assistance do deserve a place in our law schools that will permit them to engage, from time to time, the best efforts not only of our teachers, but of very able men drawn into our schools for this purpose. To resolve this question, our faculties must undergo a period of searching self-appraisal. We need to evaluate our contributions to knowledge and to assess our capacity to increase them. We need to consider whether we have responsibilities for the administration of justice and for the shaping of just laws that call for a more active role than that which we have traditionally played (emphasis supplied).

A balanced maturation of this field of collaborative project research should be a boon not only to legal scholarship and more adequate policy formulation but also to legal education. Students should receive greater exposure to instructors having specialized experience in his particular field of law. In this way more areas of the law would be opened up, thus permitting the seepage of the scientific attitude to the grass roots of the legal profession.

Current Case

aff'd 1 Macn. & G. 25 (1849), but had spoken in terms of an invasion of property rights rather than individual rights. In *Roberson v. Rochester Folding Box Co.*, 171 N.Y. 538, 64 N.E. 442 (1902) the New York Court of appeals rejected the doctrine, referring to a "clever article in the *Harvard Law Review*". (171 N.Y. at 547, 64 N.E. at 444).

The first American case squarely following Warren and Brandeis was *Pavesich v. New England Life Insurance Co.*, 122 Ga. 190, 50 S.E. 68 (1905). In *Pavesich*, the Georgia court held that the publication of a picture of a person in an advertisement, without his consent, constituted an invasion of his right of privacy, and entitled him to recovery without proof of special damages. A scholarly opinion by Associate Justice Andrew J. Cobb praised the Warren-Brandeis article, and recognized the right in express terms.

Since 1905, an increasing number of jurisdictions has recognized the right of privacy. New York legislatively overruled *Roberson*



Louis D. Brandeis

in 1903, N.Y. CIVIL RIGHTS LAW §50, which covers publication for purposes of trade or advertising.

The Zerbst case differs from *Pavesich* and *Roberson* in that the defendant's letter to the plaintiff's employer was never used for trade or advertising purposes, nor is there any indication that it became known to any but those three individuals. In fact, the court expressly noted that the letter was filed. The question is, then, did the defendant unreasonably and seriously interfere with Zerbst's interest in not having her affairs known to her employer?

Had the defendant written a letter to Lockheed making false accusations against Zerbst, he probably would have been subject to an action for libel. Under the prevailing law, "publication" to one person only will support a libel action; but truth is normally a defense. Thus if Zerbst did in fact owe the debt as the defendant claimed, the letter would not have been actionable. But all courts which recognize the right of privacy agree that truth is no defense, and malice is not necessary. By bringing the action on the latter basis, Zerbst avoided making an issue of whether or not she actually owed the defendant the money he claimed. And the Georgia court accepted this line of attack, saying by way of dictum that no creditor can attempt to collect in this fashion until he has actually obtained a judgment.

Serve Application of Privacy

Georgia is not the first state to carry the right of privacy to this extent. A defendant's letter to plaintiff's employer requesting aid in collecting a debt of \$145 was held to justify \$100 damages in *Quina v. Roberts*, 16 So.2d 558 (La. App. 1944). *Zerbst* and *Quina* appear to be extreme applications of a doctrine developed in a long line of cases that the right of privacy can be invaded by one attempting to collect debts. In *Zier v. Hoffman*, 33 Minn. 66, 21 N.W. 862 (1885), defendant inserted a newspaper ad reading "Wanted: E. B. Zier, M.D., to pay a drug bill." Defendant could have found Dr. Zier, but wanted to apply pressure. And repeated threats to sue, together with an appeal to the plaintiff's employer, was held actionable in *La Salle Extension University v. Fogarty*, 126 Neb. 457, 253 N.W. 424 (1934).

But Indiana has reached an opposite result on facts similar to those in *Zerbst*. In *Patton v. Jacobs*, 118 Ind. App. 358, 78 N.E.2d 789 (1948), the defendant had a collection agency send letters to the plaintiff's employer, alleging a debt. The letters were read by numerous fellow employees and executives. But the court affirmed a judgment for the defendant, limiting an action for invasion of the right of privacy to intrusions for news or commercial purposes into private affairs of an individual. The court explained that an employer has a legitimate interest in the debts of his employees, since he may be subject to proceedings for garnishment of their wages, and has an interest in keeping only reputable employees.

Whether one argues that Georgia has carried its development of the right too far, or that Indiana is lagging in the matter, many

forceful arguments are available. The Restatement of Torts seem to emphasize the need for interfering "unreasonably and seriously." Dean Emeritus Roscoe Pound, on the other hand, has emphasized the object of the interference when he described the right as "a modern demand, growing out of the conditions of life in the crowded communities of today. The interest is clear. Such publicity with respect to private matters of purely personal concern is an injury to personality." Pound, *Interests in Personality*, 28 HARV. L. REV. 343, 357 (1915) (Emphasis added.)

If one takes the Indiana view, he can argue that the Lockheed Aircraft Company has a right to know whether Zerbst owed the defendant money, since it might be subjected to the trouble and expense of having Zerbst's wages garnished, and since it may wish to protect its own reputation by not employing persons who won't pay their debts. And it is almost standard practice in most parts of the country for creditors or their agents to try to avoid expensive litigation by enlisting the aid of employers if there is difficulty in collecting debts. No doubt this has often proved effective, and has enabled them to collect debts which otherwise would be too small to justify litigation.

Adjudication Avoided

Georgia's position would scarcely be hailed by collection agencies. But Dean Pound would require the subject of the intrusion to be one of "purely personal concern." In *Zerbst*, there was some dispute as to whether the debt was a just one. That being so, did Lockheed really have any concern with the dispute between Zerbst and the defendant until those two had settled the status of the debt either amicably or by litigation? Zerbst had a right not to be compelled to pay this claim until it had been adjudicated in a court of law; for the defendant to place Zerbst in disfavor with her employer would seem to short-circuit this right.

Just as a man should be presumed innocent until proven guilty, so one should be presumed to have paid his bills until the contrary is shown. It can scarcely be contended that an employee should have a cause of action against an employer who has disciplined or discharged him for having even a nebulously bad reputation. But leaving aside the question of whether Lockheed's business reputation would be seriously impaired by Zerbst's standing in the community, a third person should not be allowed to cast a shadow on an employee's standing with his employer, for his own purposes. The Georgia court recognized that this procedure has often cost debtors their jobs, which may be their only means of paying the debts, to say nothing of earning a livelihood. At best, it will prejudice their chances for advancement. The creditor has no direct interest in the relationship between the employer and employee; he should not be allowed to meddle. The advantages of relieving over-crowded courts of minor litigation are here outweighed by the undesirability of settling disputed or even overdue claims through pressuring employees.

In short, only when a creditor has proven his claim should he be allowed to publicize it and jeopardize the job of a debtor. It is true that the work of collection agencies may be hampered; and it is a potent argument that many persons may find it more difficult to obtain credit in the first place. But at the present time, more and more citizens are working for large, impersonal employers. Unless we frankly adopt a doctrine that would make these employers collecting agents for creditors of their employees, it seems a strained argument that would hold them to have a legitimate interest in the small business dealings of each of their many employees.

— Oliver

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Has French Court Adopted Rule Of the Reasonable Obscene Man?

One would think that the Algerian crisis, inflation, and periodic Cabinet upheavals were burdensome enough to the Frenchman of today, but a recent decision of the Cour de Cassation Criminelle, highest criminal court in France, has heaped one more woe upon the residents of "La Belle France."

The court, in interpreting the famed Article 330 of the French Penal Code ("Any person who has committed indecent exposure in public will be punished with imprisonment of three months to two years and a fine of 4,000 to 48,000 francs"), has held that intent to expose is not necessary, but mere negligence is sufficient to put one within the terms of the statute.

The question then arises whether there is a standard of care here, and whether it involves the "reasonable obscene man."

Article 330 has already been the butt of numerous quips by French writers, and even the subject of a play, *L'Article 330*, by Courteline. In that comedy, which had its first performance in 1900, the accused, named La Brige, was placed in the embarrassing position of having a conveyor belt for crowds built in front of his apartment for an exposition in Paris, so that a great many people were always passing by his window. He tried in vain to stop this intrusion of his privacy, but found himself hauled into court by the complaints of 13,687 persons who saw him scantily clad in his room. Since there were too many witnesses, the prosecutor decided not to call any. Although

La Brige strenuously proclaimed his innocence, he was finally condemned.

The courts had developed a sort of "constructive notice" doctrine in those cases where the indiscretions in question occurred in public places. In these cases it has been held that even though there were no witnesses, the accused is guilty. On the other hand actual witnesses are required when non-public places are involved. A noted commentator has said: "Plus l'accès du public y sera facile, plus on devra se montrer rigoureux sur les précautions à prendre." (Accents omitted.) Crim. 18 fevr. 1938, D.H. 1938.

Thus in an early case (Cass., 6 oct. 1870, *Mercier*), a man bathing without a bathing suit in the Loire River was found not guilty by the lower court and the Supreme Criminal Court quashed the appeal of the prosecutor, on the grounds that there was no proof of intent. If the same fact situation were to arise before the same court today, since the river is a public place, a different result would be forthcoming.

Since reports of French cases are slow in being published and in crossing the Atlantic, the full ramifications of this new legal doctrine cannot be thoroughly analysed. However it seems certain that Frenchmen are now more conscious of their dress.

adopting against it methods which it may not use against the non-seditious or loyal members of the free community. Those subversives like the Communist writers who once stormed the Un-American Activities Committee, flaunting their constitutional rights as a means of concealing their own clandestine commitment to the destruction of those rights, need not as a matter of principle be granted all the immunities enjoyed by free men.

Open to Abuse

"But if this principle is accepted, it must at the same time be recognized as one peculiarly open to abuse. It cannot be applied in the suppression of any or every dissident or 'disloyal' political faith; it can safely be invoked only where the dangers to be apprehended from the sedition appear, under as calm, unbiased and realistic an analysis as is possible, to be real, grave, and 'present' dangers."

Commenting on the problems presented by governmental emphasis on secrecy, Mr. Millis states: "Secrecy affects the political liberties of all. It closes off, not only the operations of the secret agencies, but the work of the most important organs of public policy formation from the scrutiny of the public for whom they profess to act. . . . Secrecy is the foundation of the current system of government by 'leaks'. It is the unlovely parent of the calculated leak no less than of the calculated suppression. . . . The public, the supposedly final arbiter in great policy issues, is compelled to debate them on partial facts, the authenticity of which it cannot know. The result is conflict, not of policy but of propaganda, which would be impossible except for the original classification of all the relevant facts."

Mr. Millis concludes: "A sense of proportion is badly needed as to what we endeavor to protect from either covert or overt penetration. A sense of proportion is likewise needed as to how we protect it. The government should have recognized rights to control and keep confidential many types of official information, but it should also have recognized means of doing so without invoking the whole ponderous machinery of classification and the penalties attached to it."

"Its secret intelligence and police agencies should not be left totally beyond any form of public scrutiny or accountability; admitting that we must have intelligence and secret police agencies and that much of their work must be kept secret if it is to be effective, they should not be allowed the extreme, and on the face of it unwarranted, claim that any breach whatever in the secrecy of their operations constitutes a grave peril to the security of the state."

AMES

(Continued from page one)

without signing a specified "loyalty oath."

In 1954 the plaintiff filed with the County of Los Angeles an application for exemption from real estate taxes. It declined, however, to sign the loyalty oath as required by the Ames statute and its application was, therefore, refused. Subsequently the defendant levied taxes on the plaintiff's property which it paid under protest.

Plaintiff then filed suit for a refund of the taxes and for a declaration that the denial of tax exemption was illegal and void. The complaint stated that religious convictions prevented the plaintiff from signing the oath.

The trial court sustained defendant's demurrer to the complaint and dismissed the action. The Supreme Court of Ames affirmed in a 4-3 decision.

Plaintiff has appealed the decision and contends that the application of the Ames statute violates the First Amendment to the Constitution by infringing its right to free speech and religion, and violates the Fourteenth Amendment by depriving it of its property without due process of law.

— Binder

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CASH SALE

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An amended statement of policy with respect to the use, form and content of sales literature and advertising employed in the offering and sale of investment company securities was recently made public by the Securities and Exchange Commission.

The amendments to the statement of policy, which deal principally with charts and tables, would permit the use of both showing the record of an assumed investment in the securities of an investment company which would reflect either the acceptance of capital gains distributions in additional securities or the investment of dividends from investment income.

Under the amended statement of policy, charts and tables are not limited to a period of ten years, as before, but may be shown for the life of the plan or for a period of ten years plus additional periods of five years.

While this statement of policy is particularly applicable to the sales literature of open-end investment companies, it is also applicable to the sales literature of all other types of investment companies; and although it speaks in terms of shares, it is applicable to any other unit of investment.

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STUDY

(Continued from page one)

the seniors, while not more cynical than the freshmen, expressed significantly less humanitarian attitudes. Research conducted at the Yale School of Medicine indicated that seniors differ significantly from freshmen in that they profess a greater degree of cynicism.

Employing refined techniques for measuring attitudes and conducting



Eugene V. Rostow
Dean, Yale Law School

the interviews with meticulous specificity, the authors found that the characteristics of the law school sample differed from those obtained from the medical and nursing students.

With respect to the cynicism scale, law students scored significantly higher than did the medical and nursing students. The differences between freshmen and seniors in each of the schools did not go in the same direction, however, so that while the medical seniors attained significantly higher scores than the medical freshmen, the law and nursing seniors scored significantly lower than the law and nursing freshmen on this scale. Thus, the scores of the seniors in law and medicine are of the same order of magnitude; and the nursing seniors are significantly lower than the seniors in each of the other groups on this scale.

Measured by the humanitarianism scale, there are no significant differences between medical and law students at each of the two levels, although among the freshmen, the nursing students score significantly higher than either of the other two professional groups. There are no differences among the three groups at the senior level. There are interesting differences, however, between the freshmen and seniors in the different schools. While the magnitude of score on the humanitarianism scale is the same for the two levels in the medical school, in the law school the seniors obtain significantly higher scores, and in the nursing school significantly lower scores.

Anxiety Scale

The differences in the anxiety scale showed that law students, both freshmen and seniors, obtain significantly higher scores on this scale than do the medical students, although they are not significantly different from the nursing students.

Messrs. Eron and Redmont readily agree that the data "permits only the barest speculation," but they believe that the available information does indicate some change in student adjustment and attitudes in the course of professional training. Their discussion of possible motivations behind the initial choice of a law career make stimulating reading. They are concerned with the less articulated but "perhaps crucially important premises regarding career motivation [that are] found in the more private needs and ambitions of an individual." They write:

"Freshmen law students . . . in comparison with the other freshmen

TAXES

(Continued from page one)

work is devoted to the study of income taxes. Included in the materials used in the seminar studies are the volumes on taxation in the United Kingdom, in Brazil, and in Mexico, recently published by the World Tax Series under the direction of Assistant Dean William S. Barnes. This Series is part of the continuing activity of the International Program in Taxation."

The group will also gain experience with American methods of teaching taxation.

The International Program cooperates with the United Nations Fiscal and Financial Branch, and was founded with the aid of a grant from the Ford Foundation. It is a part of the Harvard Law School's broad program in International Legal Studies under the direction of Professor Milton Katz.

student groups in this study, are initially more cynical and either more anxious or less humanitarian. . . . These results may lead to some serious questions. Do law schools singularly attract students who are somewhat more uncertain and uncomfortable in their personal adjustments and, in addition or instead, are more blightingly skeptical in their attitudes than students who apply to other professions? What are the freshman law student's psychological expectations, explicit or implicit, that provide some of the motivational core for law training and, generally, a career in law?"

At the risk of oversimplification an abbreviated form of their hypotheses is presented. Since, state the authors, law appears to most laymen as authoritative, certain and decisive — a completely stable and generally invariant referent point, it may offer the prospect of relieving considerable personal anxiety and doubt. "To a person generally uncertain about himself, seeking the security of the clear and the definite, the apparent emotional benefit of absolute certainty and authority may be quite attractive."

Looks Forward

"Law has prospective meaning not only for the uncertainties and emotional discomforts of law-student personalities, but also for the relatively jaundiced outlook that appears to be another characteristic of our law-student group. . . . In so far as cynicism is also a destructively aggressive manifestation, the 'adversary system' offers the attraction of a socially acceptable and even a prestigious vehicle for the expression of destructive aggressive inclinations.

"The prospective student is seemingly offered a choice, and perhaps alternation, in his conscious or unconscious uses of law as a means of dealing with anxiety and cynicism, where both exist in the personality."

After the initial disillusion that stems from the realization that law is not so much magic based on unquestioned power and authority as it is reason, often based on a difficult choice of arguments and values, there ensues the process of developing skills in the dialectical method of law which when applied to actual problems reflect an orderly process of weighing and interpreting. This development, the authors believe, lessens most students' cynicism and there "evolves a kind of innocent and self-satisfied view of law and its relation to the individual student-lawyer, to clients, and to society."

Other factors influencing the magnitude and direction of attitude change through law schooling were described by the authors. Thus, "[t]o the extent that the training, orientation and curriculum are systematically concerned with social implications ('policy') and with psychological nuances, the student is offered insight and perhaps even some additional tools with which to cope with the unreasoned elements that are at least implicitly involved in legal procedure and decision. It is our hypothesis that this contributes to a lessening in the rejecting and cynical attitudes of students and lawyers, if they are able to see that the problems and issues

New Jersey . . .

New Jersey attorneys were urged recently to express their opinions to the State Supreme Court about the current system by which law school graduates are admitted to the bar in that state. The request for the lawyers' opinions was made by Justice John J. Francis when he spoke before 300 judges and attorneys at a Rutgers Law School Alumni Association dinner in Newark on November 18.

Justice Francis declared that New Jersey has made "great strides in law since the 1948 constitution", but "there is a field in which we have dawdled a little bit; that is the clerkship requirement."

The jurist remarked that a committee on training for the bar of the state's high court had earlier this year suggested a change in the present system, under which a law school graduate must pass the bar examination and serve a nine-month clerkship before he is admitted to practice. The committee offered a program which included the addition of a three-month practical skills course after graduation, followed by the bar examination and a six-month clerkship to allow limited practice under a preceptor.

Justice Francis said that the Supreme Court "had no expression of opinion on the report either from the students or from lawyers." He added, "The court is anxious for your counsel on it."

GROUP

(Continued from page one)

discussing "The Technical Amendments Bill of 1957."

The Forum will adjourn for luncheon at noon and will hear Fred C. Scriber, Jr., LL.B. '33, who is Under Secretary of the Treasury.

When the Institute reconvenes at 2 p.m. it will hear Herman Stuetzer, Jr., lead a discussion on "Accounting Methods and Changes." Mr. Stuetzer is with the Boston accounting firm of Lybrand, Ross Brothers and Montgomery. He will be followed by Jesse R. Fillman, who will speak on "Income Taxation of Estates and Trusts."

The program will conclude at 5 p.m. after "Estate Planning" has been discussed under William Sheldermine, Jr., LL.B. '40, of Nutter, McClenen and Fish, in Boston.

A registration fee of ten dollars includes attendance at both sessions and the luncheon. Applications are being accepted on a first come, first served basis, and may be sent to the Federal Tax Institute of New England, Room 723, 6 Beacon Street, Boston. The student rate of two dollars will not include the luncheon.

Dean Erwin N. Griswold is president of the Institute, and Chief Judge Calvert Magruder of the United States Court of Appeals for the First Circuit is vice president.

Dance . . .

The annual Winter Formal dance, sponsored by the Law School Dormitory Association, will be held in the Harkness Commons Ballroom Saturday evening from 8:30 P.M. to midnight.

Tuxedos or dark suits will be worn by the gentlemen while the ladies will be attired in formal gowns or cocktail dresses.

involved are comprehensible and workable.

Conveys Attitudes

"The role of the law teacher as a psychological conveyor of attitudes also appears to be of crucial importance. . . . The attitudinal overtones which an instructor reflects or deliberately asserts in his elucidation of methods and points of law provide cues to the student in how to value the methods and findings that are the primary substance of learning."

The authors conclude by indicating that the implications of further studies along this line together with the information gained by increased personal counseling for the student may "afford [an] empirical basis for setting standards of selection so as to screen out those personalities who prove to be the least satisfied and the least successful — from the standpoint of the psychology of the profession in the law-training program."

HOLLIS

(Continued from page one)

government from that which it played under the McMahon Act, Mr. Hollis declared. There was now created a new national policy encouraging "widespread participation" by private industry in the development of atomic energy for peaceful purposes. But still, he emphasized, the AEC subjects private activity in general to considerable regulation. Under the 1954 Act there is provision for a complex licensing system to (1) protect the public health and safety and (2) protect the security of the country.

One of the most important concepts in the AEC information control experiment, Mr. Hollis declared, has been that of "need-to-know." This simply means that the fewer people who know information the better are the chances of keeping it a secret. Thus the mere fact that individuals or companies can get security clearance does not mean that they can have access to all restricted data. Rather, the applicant must receive "access permits," by demonstrating that he has a potential legitimate use for this information in his business, trade or profession.

The Columbia Group

A group at Columbia Law School, the speaker said, spent several years studying liability for injuries caused by atomic reactor accidents, finally issuing a report recommending legislation. Largely as a result of the Columbia report, atomic indemnity legislation was passed and became law last September.

This legislation, however, deals only with accidents in this country, leaving the international problems still unsettled. Currently Harvard Law School, Mr. Hollis stated, is working on the latter problem, generally along the lines of the study by Columbia of the domestic situation.

In answer to a question from the audience, Mr. Hollis asserted that although it isn't necessary for the lawyer working in the atomic energy field to have an extensive background in physics or chemistry, this might be helpful in establishing a rapport between himself and those scientists with whom he must certainly come in contact during the course of his work.

— Finley

California Study . . .

The California Attorney General's Citizens' Advisory Committee on Crime Prevention has called for consideration of lowering the age limit for compulsory school attendance as a means of fighting juvenile delinquency. A report of the group called attention to "psychological ill effects on those who are not capable of meeting scholastic requirements."

Concluding a study on the problems of juvenile violence, the group urged that teenagers without academic aptitude be allowed to leave school and find work. The committee's report said there is considerable evidence that many sixteen and seventeen year olds turn to delinquency because they either will not go to school or will not behave while in school. This, the group claims, is primarily because they are not capable of coping with the academic studies required of them.

The committee recommended that further study be made of work opportunities for teenagers, and that a more realistic approach to the development of apprenticeship and work programs in the schools be made by labor, industry and educational institutions.

Among other suggestions was one to make consultant psychology and psychiatric services available to school districts to help the administrators and classroom teachers with children whose problems are too difficult for them to handle.

Turning to the effect of movies and television on juvenile violence, the California committee urged state Attorney General Edmund G. Brown to ask the legislature to appoint an interim committee to hold public hearings and to study the effect of the media of mass communications on crimes of juvenile violence and to publish a report of its findings.

Alumni Notes

LL.B. '29 — Edward Dumbauld's article "The Clear Field of Clearfield" has been published in the *Dickinson Law Review*. Mr. Dumbauld, a Uniontown, Pennsylvania, attorney, has also been appointed judge of the Court of Common Pleas for Fayette County, Pennsylvania.

LL.B. '30 — Ralph F. Bischoff has been appointed associate dean of the New York University Law School. Mr. Bischoff, who holds the rank of Professor, was law librarian from 1946 to 1949, and was secretary of the school from 1948 until 1951.

LL.B. '33 — Jackson N. Huddleston has been elected president of the West Virginia State Bar for 1957-58. He has been chairman in West Virginia for the past three years of the Harvard Law School Fund.

LL.B. '33 — The Director of the Federal Mediation and Conciliation Service has announced the appointment of Walter A. Maggiolo as Director of Mediation Activity for the Service. Mr. Maggiolo has taught at Fordham University and Holy Cross, and has lectured at Cornell University's School of Industrial and Labor Relations.

LL.B. '42 — Alf R. Stavig has formed a partnership for the general practice of law under the firm name of Shreck & Stavig, with offices at 306 Crocker-Anglo Bank Building, Sacramento, California.

LL.B. '48 — George A. Blackstone has resigned his position as Associate Director of the Division of Corporation Finance of the Securities and Exchange Commission in Washington, D. C., and has returned to private practice in San Francisco, being associated with the law firm of Heller, Ehrman, White & McAuliffe. Their offices are at 14 Montgomery Street, San Francisco 4, California.

LL.B. '48 — George H. Cain has been appointed assistant secretary of Cerro de Pasco Corporation, 300 Park Avenue, New York 22, New York. Mr. Cain is a member of the New York Bar, and serves on the administrative law committee of the Association of the Bar of the City of New York.

LL.B. '48 — Frank P. Davidson has been elected president of Technical Studies, Inc., a New York Corporation of which he is general counsel, organized to do research and development work toward a tunnel under the English Channel. Mr. Davidson and Cyril S. Means, Jr., LL.M. '48, who is executive vice president of the company, negotiated a syndicate agreement for a joint study of the project with the Suez Canal Company, the Channel Tunnel Company of England, the Société Concessionnaire du Chemin de Fer Sous-Marin entre La France et L'Angleterre, and the International Road Federation.

LL.B. '49 — Sidney M. Gewanter has been a member of the faculty of the Tax Workshop School in New York City since September 1956. He has also been appointed to the faculty of Pace College, New York City, to teach in their graduate program in taxation. Mr. Gewanter lectured at New York University's Sixteenth Annual Institute on Federal Taxation which was held in New York last month. Mr. Gewanter is associated with Jules M. Baron, LL.B. '49 in the practice of law at 135 Broadway, New York.

LL.B. '50 — George W. Schmidt has joined the legal staff of Nationwide Insurance at Columbus, Ohio. He was formerly on the legal staff of the Columbia Broadcasting System in New York City.

LL.B. '52 — Stanley L. Golden has recently been appointed co-chairman of the Taxation Committee for the Federal Bar Association of New York, New Jersey and Connecticut.

LL.B. '52 — Gordon L. Poole and his wife have announced the birth of their first child, David Wilson. Mr. Poole is with the firm of Lillick, Geary, Wheat, Adams & Charles in San Francisco.

LL.B. '54 — After two years as law clerk to Associate Justice Felix Frankfurter, LL.B. '06, Andrew L. Kaufman, a former editor of the *Law Review*, is practicing law with his father and brother, John M. Kaufman, LL.B. '49, under the firm name of Kaufman, Kaufman & Kaufman, with offices at 60 Park Place, Newark, New Jersey.

LL.B. '56 — Rudolph Kass is now practicing law with the firm of Jerome L. Rapoport, LL.B. '49, at 18 Tremont St., Boston.

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