



Harvard Law Record

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TEN CENTS

Scotti, Fraenkel to Speak On Legalized Wiretapping

"Should Wiretapping be Legalized?" will be the subject of a forum sponsored by the Harvard Student Bar Association in the James Barr Ames Courtroom on Wednesday evening, October 8, at 8 p.m.

Alfred J. Scotti, Chief of the Rackets Bureau of the New York District Attorney's Office, will defend the legalization of wiretapping against the arguments of Osmond K. Fraenkel, executive vice president of the National Lawyers Guild, and a member of the board of directors of the American and the New York Civil Liberties Unions.

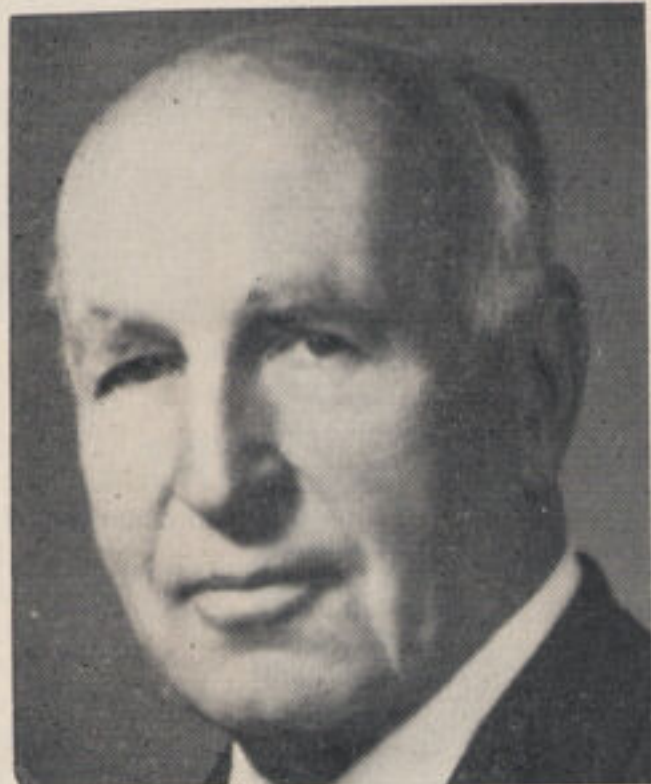
The moderator will be Samuel Dash, LL.B. '50 c.l., former trial attorney for the Department of Justice and former District Attorney of Philadelphia, who is now director of a committee of the Pennsylvania Bar Association which deals with investigative methods and devices for obtaining evidence which affect individual privacy.

Professor Mark DeWolfe Howe will introduce the participants and will summarize the legislative and judicial history of the wiretapping question.

Liberal

Mr. Fraenkel is a prominent figure in the field of civil liberties. He is the author of several books and writes *The Supreme Court and Civil Liberties*, a pamphlet published periodically by the ACLU. His articles have appeared in many legal publications, including the *Harvard Law Review*.

Mr. Fraenkel wrote a popular article opposing the use of wiretapping by law enforcement officers, which



Osmond K. Fraenkel

appeared in the April 24, 1958, issue of the RECORD.

Mr. Scotti, a veteran of 20 years as a member of the District Attorney's office in New York City and chief of the Rackets Bureau since 1947, has supervised many major racket investigations, including the notorious college basketball scandals, and investigations leading to the conviction of Johnny Dio and Frank Erickson.

This will be the first in a series of evening discussions to be sponsored by the Student Bar Association this year. Members and their dates will be admitted without charge. A small admission fee will be charged to non-members.

The speakers will answer questions from the audience at the conclusion of the formal debate.

Coffee Hour

The first Coffee Hour this year will present Professor Austin W. Scott who will give his famous talk on "The Traditions of The Law School." The talk will be in the Harkness Commons Meeting Room at 1:30 p.m. on Tuesday, October 7.

Registration Up; Veterans Fewer

Fifteen hundred and ninety-four students are registered at the Law School for the academic year 1958-59, according to Miss Margaret Quinn, Registrar. This number includes 535 first year students, 474 second year students, and 496 third year students. It also includes 67 graduate and 22 special students.

The enrollment this year is 29 students higher than last year. But the percentage of veterans and married students has dropped. In the academic year 1957-58, 29% of the students were married. This year less than 26% are married. In the academic year 1957-58, 38% of the students were veterans. This year less than 35% are veterans.

Seventeen hundred and fourteen persons applied for membership in this year's first year class. This was 6% higher than the previous year.

Twelve members of the first year class are women. This is the same number that registered the year before. There are now 8 women students in both the second and third year classes.

Of the 475 students who took last year's first year examinations, 23 failed. This was 4.9%. The rate compares with 3.8% in 1957, 6.3% in 1956, and 6.7% in 1955.

Guild Off the Hook

The United States Department of Justice has discontinued an effort of five years' standing to place the National Lawyers Guild on the Attorney General's list of subversive organizations.

Osmond K. Fraenkel, executive vice president of the Guild, will appear before the Harvard Student Bar Association on Wednesday evening, October 8, in the Ames Courtroom. He will debate the subject of wiretapping by law enforcement officers.

Faculty Announces Program For Practicing Attorneys

The Faculty of the Law School has announced a program of instruction for practicing lawyers to be held at the Law School from July 20, 1959, to July 31, 1959. According to Professor A. James Casner, director of the program, twelve courses will be offered, each running for two weeks. The courses will be of several types. One type will include courses, instruction in which is designed to lay a



A. James Casner
Director

Program of Instruction for Lawyers

foundation for the practicing lawyer who wishes to begin work in the field and to enable the lawyer already working in the field to reexamine its significant phases and to consider recent developments in the area. A second category includes general courses which are significant to the practicing lawyer regardless of his type of practice. A third category consists of so-called perspective courses. These will present to the lawyer an opportunity to reflect deeply about the law and its functions in society. The fourth category will consist of seminars at an advanced level for specialists who have worked fairly extensively in a particular area of the law.

Professor Casner states that while it is expected that the majority of the registrants will be alumni, the program is open to any lawyer who is a member of the Bar, and therefore, alumni have been urged to send in their applications as early as possible.

The various courses in the program will be presented by members of the Faculty of the Law School. The following is a list of the courses and professors:

Male Students Outshine Females

The proportion of failures and withdrawals for female students at the Law School is about twice as high as the corresponding proportion for male students. According to figures contained in the Dean's Report to the President of the University, 8 out of a total of 80 female students registered at the Law School in the period 1950 through 1955 failed. This is a rate of 10%. Sixteen withdrew, a rate of 20%.

Women were first admitted to the Law School in the year 1950. Since then 113 female students, including 12 this year, have registered as candidates for an LL.B. degree, an average of between 12 and 13 per year. The highest number ever registered in one year was 19, in both 1951 and 1953. Six of the 1951 group ultimately withdrew before completing their three years.

The figures show that only 70% of the females that registered in the 1950-55 period received their LL.B. degrees.

1. Basic Courses in Specific Fields

ESTATE PLANNING: A. James Casner, Weld Professor of Law; INCOME TAXATION AND CORPORATE ENTERPRISE: Ernest J. Brown, Professor of Law; LABOR LAW: Archibald Cox, Royall Professor of Law; TAXATION OF INTERNATIONAL TRADE AND INVESTMENT: Stanley S. Surrey, Jeremiah Smith, Jr., Professor of Law.

2. General Courses

THE DRAFTING AND INTERPRETATION OF STATUTES: Albert M. Sacks, Professor of Law; INTERRELATIONS OF STATE AND FEDERAL LAW: Henry M.

(See PROGRAM on page four)

Treasure Room Displays First-Year Case Reports

First year students-at-law tend to subject themselves to a great deal of self-examination with regard to their class preparation, note taking, and general legal aptitude. For those who are still wondering what they learned in their first torts class, the Treasure Room of the Law School Library offers an opportunity to examine the notes taken by Mr. Justice Frankfurter in his first torts class as an entering student in 1903.

The exposure of the Notebook of that famous law student is part of the Treasure Room's current display of rare books which reflect the origin of some of the better known material covered in the first year curriculum.

A sixteenth century report of *I. de S. and Wife v. W. de S.* (1348) is displayed with early marginal notes and

teenth century lawyer's guide to cases like *I. de S. and Wife*.

A fourteenth century registry of writs is opened to a writ of trespass. (See TREASURE on page three)



Felix Frankfurter

underlinings that probably suggest the use to which most students have put the margin on page 5 of Seavey, Keeton, and Keeton: *Cases on Torts*. There is also an early report of the *Case of the Thorns* (Y. B. 6 Ed IV, fo. 7, pl. 18) which will be used to prick Professor Robert Keeton's students when they reach page 88. *I. de S. and Wife* originally came from a manuscript report that lawyers used in the years A.D. 1300 to 1535.

The ancestor of the Digest system, with which all first year students become familiar when they write their first Ames briefs, is shown in the form of Brooke's *Abridgment*. This volume was the sixteenth and seven-

Student tensions, curriculum evaluation, and research in law schools are among the topics discussed by Dean Erwin N. Griswold in his *Dean's Report* to the President of the University.

With regard to periodic complaints about student tensions or pressures the Dean had the following comments:

The Harvard Law School has long been a "tough" School. It has been a place where students are expected to work, where they are left very largely to their own responsibility, and where they are held to a high standard based on examinations on substantial quantities of intensive work. It has been a hard place to stay in, a hard place to graduate from, and, in recent years, a hard place to get into. The faculty of the School believes implicitly in these high standards, and believes that they affect significantly the quality of the education provided by the School.

The atmosphere of the School is largely set by the students, and they have long provided an atmosphere which is conducive to work. From time to time there have been complaints about "tension" and "pressure." There are some who assert that the School is too "competitive." The Faculty of the School do not



Erwin N. Griswold

believe in tension or pressure or competition as ends in themselves. They do believe in maintaining high standards of legal education, and students who seek such education are likely to find that they have not entered Nirvana. The Faculty wants to be wise and kindly in formulating the education it provides.

School is 'Tough,' Griswold Reports; More Funds Needed for Research

There is no place here for mortification, or for self-mortification on the part of our students. We have done much in recent years to facilitate the student in his pursuit of legal education. The First Year Group Work Program, a greatly increased number of smaller classes, a Financial Aid Program available to nearly all students, a greatly expanded placement office, and increased opportunities for student participation in extra-curricular activities having an appropriate relation to law study, may be cited as examples. But we have not relaxed our standards, or our insistence that standards must be met.

Dean Griswold said the criticism "that some aspects of American education have been 'soft'" does not apply to the Harvard Law School.

The *Dean's Report* reveals that the faculty "will begin to turn its collective mind toward an extensive re-examination of the teaching program of the School." He expects the appointment of a committee in the spring or fall of 1959 to study the curriculum and report recommendations to the faculty in 1960.

This will be the third committee of this type appointed in the past twenty-

(See REPORT on page four)

Harkness Revises Meals Policy

After two full weeks of experience with the new Harkness Commons meals policy (reported in last week's RECORD), the following changes have been announced by Vice Dean Livingston Hall:

(1) A second serving line for breakfast will be open between 8 and 9 a.m., Mondays through Saturdays. Student help in part will staff the counters during that hour.

(2) Unlimited seconds will be permitted at all meals, subject to the following exceptions:

- (a) 2 milks;
- (b) fruit or juice, total of 2;
- (c) extra desserts — 10c;
- (d) extra main course at evening meal — 50, 40, or 30 cents.

Esdaile to Speak

J. Newton Esdaile, a veteran Boston trial attorney, will be the luncheon speaker at a meeting of the Student Bar Association at 1:30 p.m. today in the Harkness Commons Meeting Room. Mr. Esdaile is a partner in the Boston firm of Esdaile, Morris and McKenney, a member of the Massachusetts and Connecticut bars, and a former president of the Massachusetts Chapter of the National Association of Claimants Compensation Attorneys. A specialist in the presentation of tort cases with difficult medical aspects, he will discuss the problems facing the practicing trial attorney.

Harvard Law Record

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Letter to the Editor

To the Editor of the RECORD:

May I call your attention to certain remarks erroneously attributed to me in the HARVARD LAW RECORD of September 25th.

The error occurs in the article by Mr. Robert Crane on the International Law Club which appears at page 2. In that article Mr. Crane quotes from an unsigned note on International Legal Studies appearing at page 196-97 of the Harvard Law School Year Book for 1958. I do not know who the author of that note may have been. I am not the author. Nevertheless, in making several quotations from this note, Mr. Crane attributes them to me. Incidentally, he even attributes to me one remark which the note itself specifically ascribes to an unidentified observer.

I should appreciate your bringing these corrections to the attention of your readers.

Milton Katz

Director of International Legal Studies

Matthew Levy, New York Judge, Known as Scholar on the Bench

"Scholar on the bench" is an apt description of Matthew M. Levy, a judge who, thirty-six years out of Harvard Law School, has never stopped studying law and the social sciences.

Now in his eighth year as a Justice of the New York State Supreme Court, Matthew Levy has won the approval of bench and bar as a conscientious jurist, whose carefully prepared opinions are quoted widely by courts, professors and law journals.

Born 59 years ago in Brest-Litovsk, then part of Czarist Russia, Matthew Malitz Levy was the fourth of eight children. The Levys came to America in 1903, settling in Savannah, Georgia. The children went to Savannah's public schools.

Sometimes young Matthew would play "hooky" from school. But often he could be found not at the river bank but at the courthouse, listening to Confederate veteran and

lin Roosevelt, Democrat, in 1936. In 1937, he was one of the leaders in the successful Fusion campaign to re-elect Fiorello H. LaGuardia as Mayor of New York City.

That was the first year for the proportional representation election of City Councilmen, and the old party machines were accused of widespread frauds during the extended count of the paper ballots. Levy was appointed a Special Assistant State Attorney General to investigate the voting canvass. His vigorous day and night watchfulness put an end to the illegal tampering of the ballots and earned for him the accolade of the Grand Jury which investigated the election. In 1938, Levy was appointed by LaGuardia to an unexpired term of one year on the Municipal Court, known in New York as the "Poor Man's Court".

Judge Levy's first candidacy for the bench, however, had come in 1934, when he was the Socialist Party nominee for the State Supreme Court. At that time only 35 years old, he won the approval of New York City's conservative bar associations and of the non-partisan Citizens Union, but was not elected.

Labor Lawyer

At the bar Levy had a general practice and specialized in labor law. During the depression of the 1930's, he also became counsel for tenant's groups. Levy supported the worker's right to organize in labor unions, the tenant's right to bargain collectively for better conditions in slum residential areas, and the individual's protection of his civil liberties.

Judge Levy was the candidate of the right wing of the American Labor Party and of the Fusion Party to succeed himself on the Municipal Court. He was defeated for reelection by the major parties. As Levy put it, "I received an unwelcome but overwhelming mandate from my constituents to return to the practice of law."

Resuming practice in his own firm, Judge Levy represented a variety of clients, including the theatrical unions of Hollywood, where he strongly opposed Communist penetration at a time when Soviet sympathy in this country was at its zenith. In one of his last cases before he resumed the bench, he won a \$75,000 jury verdict in a negligence action against the City of New York, based upon proof that the police were incompetent in the use of firearms and thus shot an innocent bystander instead of a fugitive at whom they were aiming.

Judge Levy has been a stalwart of New York State's Liberal Party since 1944, when that party was founded by right-wing members of the American Labor Party who sensed that group's downward slide under Communist influence. Over the last dozen years, the Liberals have supplanted the ALP as the third force in New York politics. In 1950 the Liberal and Democratic parties engaged in a joint campaign, and Judge Levy was the nominee of both parties for the bench. He won easily then, and resumed his judicial career, now as a judge of New York's Supreme Court.

Civic-minded

Always active in communal affairs, Judge Levy is a trustee of Lebanon Hospital, the Federation of Jewish Philanthropies, and the Harvard Law School Association of New York City. He was a founder of the United Jewish Appeal in New York. He was president of Phi Beta Kappa Alumni in New York and for ten years he was president of The New Leader, a liberal weekly periodical.

It is not often that decisions of a New York State Supreme Court justice are passed upon by the United States Supreme Court. One of Judge Levy's recent cases was thus appealed. In *Burke (Brown) v. Kingsley Books, Inc.*, 208 Misc. 150, 142 N.Y.S.2d 735 (1955), *aff'd* 1 N.Y.2d 177, 134 N.E.2d 461, *aff'd* 354 U.S. 436, Judge Levy upheld the constitutionality of a New York law providing for an injunction, after trial, against the sale of obscene printed matter. He found the periodicals in question, titled "Nights of Horror," to be patently pornographic and held the statute sufficiently clear and specific to be valid. He also differentiated an injunction after trial from an illegal "prior restraint."

Affirmed

His decision was affirmed unanimously by an equally divided Court of Appeals (the affirmances were on two different grounds), and upheld by the United States Supreme Court in a 5 to 4 decision wherein the minority wrote three dissents.

But Judge Levy is no prude. In a second Kingsley case, 8 Misc.2d 306, 167 N.Y.S.2d 615 (1957), he held that so-called "strip tease nudes," a series of pictures showing women in progressive stages of undress, were not per se obscene, as nudity was not the same as pornography.

Problems like this, however, do not arise frequently, before a trial court judge. His ability is measured by his competence in the day-to-day administration of justice, in the disposition of seemingly unimportant as well as momentous causes; for each case, serious to one litigant, Judge Levy firmly believes, is thereby significant to all litigants. It is in this constant effort to do justice that Matthew Levy finds his greatest challenge.



Matthew M. Levy, LL.B. '22

former ABA president, Peter Meldrim, then a judge in Chatham County, Georgia. It was in Judge Meldrim's courtroom that young Matthew Levy first met the law.

On graduating from Savannah High in 1916, Levy went on to the University of Georgia, where he was elected to Phi Beta Kappa. He was graduated in three years, having taken time out to serve as a second lieutenant toward the close of World War I.

At Harvard

In 1919, the future jurist came North — to Cambridge, Massachusetts — and plunged into the first-year curriculum at the Harvard Law School. But the vistas of the University and the culture of the Hub were more exciting to young Levy than his first year law courses (a plausible preference) and his grades showed the result of this diversion. Second year, Levy was more devoted to his professional studies, and made Law Review. Third year, he found a job in New York City, and there courted Pearl Gold Spivak, whom he married on May 13, 1922.

Always politically interested (at Harvard, a member of the Liberal Union), Levy became active in New York as a non-partisan. He campaigned in New York, Connecticut and New Jersey for the elder LaFollette, Progressive, for President in 1924; Norman Thomas, Socialist, in 1928 and 1932; Frank-

Sub Judice

Logic is logic, that's all I say.

— "The Deacon's Masterpiece"
Oliver Wendell Holmes

In the State of Kentucky, when a man dies, his widow inherits only one-half of his personal property. In the case of *Bedinger v. Graybill's Executor and Trustee*, 302 S.W. 2d 594 (1957), a woman created a testamentary trust. She directed the trustee to pay one-half of the trust corpus to her son during his life. She directed the trustee to pay the remaining one-half to the son's "heirs at law," according to the laws of descent and distribution in force at the time of his death. If he had no "heirs at law," this one-half was to be distributed to certain charities.

The mother died. Subsequently, the son died, leaving a widow. He had no natural children. Prior to his death, however, and at the age of 58, he had adopted his 45-year-old wife, under the applicable Kentucky statutes providing for the adoption of adults, in the same manner as minors. *Ky. Rev. Stat., sec. 405.390.*

The widow-daughter claimed one-half of the remainder interest in the trust as the widow of the deceased. She also claimed the other one-half of the trust as the daughter of the deceased.

Her claim was disputed, to no avail, upon the grounds that her adoption was invalid because it was repugnant to the common law concept of the unity of husband and wife, and because it would create an "incestuous" relationship.

The Court was startled but logically held that the law is the law, and the widow-daughter inherited all.

Recession, Job Prospects Noted By New Placement Office Report

Economic recession seemed to have little effect on job opportunities for members of the 1957 graduating class, Russell H. Peck, assistant dean, observed in his annual report on the Placement Office of the Law School. He noted that job openings for graduates with some years of experience did decline in the recession and the total number of openings reported to his office fell to 575, from 705 in the preceding year. In both last year and the preceding year 196 firms visited the Law School to interview students.

Members of the class of 1957 have settled in 32 states and the District of Columbia. They are also in Ethiopia, Europe, India, Japan, Puerto Rico, and South America. There were 473 members of the class, of which 35 are listed as either unemployed or have not reported their status. By June 1, 1958 had notified the placement office that they had found jobs. In addition, 216 went into military service.

Four hundred and ten members of the class of 1958 participated in 3131 interviews in the placement office. Last year 58 firms or individual practitioners asked for second year students to serve as clerks. Dean Peck reports that he learned of 88 second year students who found openings as clerks.

Summer Jobs

"Each year," Dean Peck reports, "more and more people, both lawyers and law students, decide that a summer job is valuable. This belief persists even though, reviewed as a recruiting device, the summer job program does not seem particularly effective. From the records of the classes of 1957 and 1958 we find that 44% each year had summer jobs. Only 20% of the 1957 summer clerks later took permanent positions with the same firms. Twenty-seven percent of the 1958 men took permanent jobs with the summer firms." He notes that law firms are giving much more attention to the summer



Russell Hastings Peck
Director of Placement

job program. "They realize that the impression which their firm makes on a second year man can be extremely important, not only because it might persuade him to take a permanent position with the firm, but also because the report he gives his classmates when he returns to school can have a substantial effect on the firm's popularity with other potential candidates."

For the past two years, the Placement Office has asked firms not to announce any minimum average for applicants to their offices.

"Our problem is this: many firms state as a qualification that a man have 'B or better' grades. A succession of interview notices bearing the 'B or better' proviso appears on the bulletin boards, and 285 students begin to wonder whether there is any hope for them. Part of the Placement Office's job is to assure these people that there is hope; we know there is because we have watched other

Placement Table for 1957 Graduating Class:

	Number	Percent	1956 Class Percent
Law Offices	223	52	52
Own Practice	2	-	-
Bus. Concerns	22	5	3
Government	20	5	6
Clerkships	25	6	6
Banks	9	2	1
Insurance	3	-	1
Teaching	2	-	-
Study & Research	17	4	4
Accounting	5	1	1
Miscellaneous	-	-	2
Military	99	23	23

classes, and we have seen most of the firms who say "B or better" hire C men. While every life entails some anguish, we think we might make the lives of high strung third year students a trifle less tense. To this end this year, we would like to omit, as much as possible, references to grades in notices posted for students. We still want to know your wishes, of course; while we choose students for interviews by lot, we are also guided by the qualifications you express to us and by our knowledge of the candidates. We will try, as always, to include on the interview schedule as many students as possible who match your requirements. Because there are so many students who should have interviews, however, it seems desirable that each interview schedule contain a cross-section of the class. Employers from cities and states which interest many students often find it advisable to spend more than one day on interviews in Cambridge.

Grades

"We understand fully the dilemma of the interviewing lawyer who feels that grades are the only thing he has to go on. Nearly all lawyers know, however, that the performance in law school examinations is but a partial indication of a man's ability to succeed as a lawyer. If school grades were a sure index, there would scarcely be any need for personal interviews. Furthermore, as suggested above, Harvard Law School students are a finely screened group. Chosen from about 1700 applicants, even students near the bottom of the class placed well above the national average of those who took the Law School Admission Test. The Dean and Faculty are convinced that virtually all our graduates are very able people. Academically, of course, some are abler than others; but the difference is one of degree, is very small, and its significance for law practice may often be nil."

During the last year, 182 returning servicemen were registered in the placement office. Reports of employment were received from 77. Because servicemen register far in advance of their release, Dean Peck observes that ordinarily only about 25 percent of the group is immediately available for employment.

Clerkships

Clerkships were held last year by 34 graduates of the school; 5 with the U. S. Supreme Court, 8 with the U. S. Court of Appeals, 8 with the U. S. District Court, 12 with state supreme courts, and 1 with the Washington, D. C., Juvenile Court. Early figures for the present year indicate that 5 will be with the U. S. Supreme Court, 7 with the Court of Appeals, 10 with the District Court, 2 with the Tax Court, 8 with state supreme courts, and 1 man will continue his Juvenile Court clerkship, and another is serving a clerkship to a Judge of the Common Pleas Court in Pennsylvania.

The recession influenced the market for experienced men, with only 46 openings reported, compared with 115 in the preceding year. There were 180 applicants, compared with 150 the previous year. Only 37 reported that they found new jobs. The others were employed, but searching for new positions.

— Manley

Upperclassmen Refuse Rooms; Dormitories List Vacancies

There are empty stables in the Law School corral. Dormitory rooms may be had for the asking. But not enough are asking.

Strangely enough, a record number of close to 700 students applied for rooms in the Law School dormitories this year. This included a new high of 350 first year men.

Ninety names adorned the waiting list for dormitory rooms less than three weeks ago, at the time the fall term opened. However, the men on this list rapidly found lodgings elsewhere in the community. At the present time, not only has the waiting list evaporated, but a few dormitory rooms are now unoccupied.

The reason for this state of affairs is that an unprecedented number of upper classmen accepted dormitory accommodations for this year and then later released them. (Students may release their rooms at any time, but continue to pay rent until other occupants are found to take their place). Assistant Dean Wesley E. Bevins, Jr., head of the dormitory office, has expressed disapproval of this practice.

The six Law School dormitories, Ames, Dane, Hastings, Holmes, Shaw, and Story, can accommodate about 500 tenants. Hastings Hall, the oldest and largest of these, and the one with the most spacious rooms and greatest sound insulation, is by far the most popular of the group. It accommodates 114 students. No rooms are presently available there. The other dormitories can accommodate students as follows: Ames, 108; Dane, 63; Holmes, 43; Shaw, 63; and Story, 106.

Half of the rooms in these dormitories are reserved each year for incoming first year students. The remainder are rented to upper classmen.

Dining Hall Statement

Because of the heavy number of first year applicants for rooms this past summer, no first year student who neglected to sign the optional Dining Hall statement (which requires those who sign it to eat their meals at the Harkness Commons Dining Hall if and when requested) was assigned a dormitory room at the original drawing in July. Not enough of the more sophisticated upper classmen, however, signed this statement to make the signing a prerequisite for them in the July drawing.

Twenty-five law students on the graduate level occupy dormitory rooms this year, an unusually large number. Because the demand for rooms by law students proved so ephemeral, a number of students from other graduate schools of the University have found places in the dormitories. At last count, 2 students from the Graduate School of Arts and Sciences and 3 students from the Divinity School were dormitory tenants.

State' Taxes Hit New High

A record high of \$88 per person was the average tax paid to the state governments in the United States during the fiscal year ending June 20, 1958, according to figures released by Commerce Clearing House. This was about one dollar higher than the previous fiscal year, the former high.

The highest per capita state tax was again paid in Nevada. This was \$138, but was a decrease from the record high of \$145 established in Nevada the previous year. The State of Washington ranked a close second at \$137. New Jersey had a per capita state tax figure of \$51, the lowest in the nation.

The State of California collected \$1.67 billion in taxes last year, the highest in the nation. The State of New York ranked second with \$1.5 billion.



Wesley E. Bevins, Jr.

TREASURE

(Continued from page one)

(See Field and Kaplan: *Materials for a Basic Course in Civil Procedure*, p. 222.)

In the property field, the statute *Quia emptores* (1290) (Casner and Leach: *Cases and Text on Property*, pages 259-61), an original seventeenth century deed, a nearly contemporary printing of the *Statute of Uses* (1536) (Casner and Leach, Ch. 15), the case involving the Pusey horn (*Ibid.* p. 247), and the Charter for Maryland given by Charles II to Lord Baltimore in 1633 are all on display.

Because of the expense of legal libraries, seventeenth century lawyers made their own notes and abridgments of cases. One volume from the manuscript library of Sir Edward Turner, Chief Baron of the Exchequer, and of his father Arthur Turner, sergeant-at-law, is opened to *Courtney v. Glanville* (See Field and Kaplan, p. 271).

A volume of *The Reports of Sir Edward Coke*, Chief Justice of Common Pleas (1606-13) and of the King's Bench (1613-15) is opened to *Slade's Case* (Fuller: *Basic Contract Law*, p. 427 and Field and Kaplan: *Materials for a Basic Course in Civil Procedure*, p. 248).

In addition to volumes directly connected with the first year courses, Miss Edith G. Henderson, Librarian in charge of the Treasure Room, has displayed a few of the Law School's legal incunabula. The oldest printed book in the collection of the Law Library is a treatise on mercantile contracts by Rev. Johann Nider, a priest of the Dominican Order and professor of sacred theology. This was published c. 1468, less than 20 years after Johannes Gutenberg invented movable type. There is also a code of canon law compiled by Pope Boniface VIII, c. 1300 A.D., and printed in Mainz, Germany in 1473.

Also, there is a *Codex of the Corpus Juris* compiled under the orders of Emperor Justinian, 528-534 A.D.

In addition to Mr. Frankfurter's notes, Harvard lore on display includes the history of the trial of Professor John M. Webster, of the Harvard Medical School, for the murder of Dr. George Parkman in 1850. (See Hall and Glueck: *Cases on Criminal Law and Its Enforcement*, p. 39). Also, the "Black Book" in which Mr. Justice Holmes recorded events in his life is on display.

—Manley

Erratum

Last week the RECORD reported that Mike Parker, 2L of Los Angeles, won \$2,360 on the CBS quiz show "Dotto." In fact, however, it was Mike Cooper, 2L of Tenakly, N. J., who won this sum. Our congratulations to Mr. Cooper. Our regrets to Mr. Parker.

Alumni Notes

LL.B. '22, S. J.D. '25 — *Maurice H. Merrill*, Research Professor of Law at the University of Oklahoma, delivered the Edward G. Donley Memorial Lectures at the West Virginia University College of Law on April 10 and 11. His topic was "The Public's Concern with the Fuel Minerals."

LL.B. '42 — *Gerald M. Smith* has moved his office to 100 William Street, New York, N. Y.

LL.B. '49 c.l. — *Robert A. Kirtland*, former Assistant United States Attorney for the Southern District of New York, and LL.B. '50 m.c.l. — *Andrew J. Schoen*, have become members of the firm, Rosenman, Goldmark, Colin & Kaye, 575 Madison Ave., New York 22, N. Y.

LL.B. '49 — *Rodman C. Herman* has moved his office to the National Newark Building, 744 Broad Street, Newark 2, N. J.

LL.B. '50 — *Arthur W. S. Chantry* has formed a partnership for the general practice of law with Harold E. Patterson. They are located at White-Henry-Stuart Building, Seattle 1, Wash.

LL.B. '50 m.c.l. — *Lawrence W. Keppeneus* has returned to New York City to resume practice. He will continue to be associated with the firm of Cahill, Gordon, Reindel & Ohl.

LL.B. '52 — *Richard A. Norris* and *Arthur S. Meredith*, of Meredith and Norris, have moved their offices to the Somerville Professional Building, Corner Bridge and High Sts., Somerville, N. J.

LL.B. '58 — *Robert W. Oliver* is now Deputy Legislative Counsel for the State of Oregon. His address is 401 State Capitol, Salem, Oregon.

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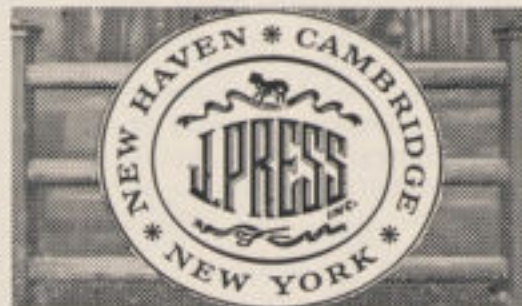
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REPORT

(Continued from page one)

five years. A committee under Professor Sidney Post Simpson reported to the faculty in 1936, another under Professor Lon L. Fuller reported in 1947.

Dean Griswold indicated that many of the problems connected with the School's large size will be studied. He also suggested that the committee will consider "the place and scope of research activities in the Law School's program." The following are Dean Griswold's comments on research in law schools:

Speaking in very general terms, it may be said that American law school faculties have not been unduly receptive to the development of research activities other than those involved in the writing of law review articles and treatises along familiar lines. There have been a relatively few law teachers who have worked hard and effectively to broaden and diversify the contribution of the law schools to knowledge and to the application of knowledge to the improvement of the law. But law schools generally have not been notably successful in opening up new fields for research activities and new methods for their pursuit. In this, law teachers have lagged far behind their fellows working in the fields of the natural sciences, including medicine, and well behind many of those working in other areas of the social sciences.

There are many reasons for this. In the first place, teaching schedules in many law schools are heavy, and effective preparation for case method instruction is particularly time consuming. Most law schools have a large number of students per teacher. Most fields of the law in this country, with its more than forty-nine legislatures and judicial systems, are changing and developing very rapidly, so that a teacher must work hard just to keep himself current with the materials in his field. Influenced by these factors, law teachers turn naturally to the compilation of teaching materials (in which many scholarly notes are embedded), and to the writing of articles on questions that come to the fore in the classroom. This leaves little opportunity for inquiries in other directions or for the development of basic studies which would involve investigations into the actual operation of legal processes and institutions.

Another reason may lie in the natural bent of the persons who have, in general, been chosen for law school faculties over the past generation or two. Emphasis has always been placed on scholarship and effective classroom teaching, but, more and more, law teachers have been picked from those who would be very likely to succeed in practice if they chose to do so. This has been partly the result of an urge from the profession to make the law schools more "practical." Moreover, as faculties came to be made up more and more of persons with this outlook, they tended to choose others of like approach to join their ranks. These have made good law teachers, and good writers of technical professional articles. It may be, though, that these choices have not produced the persons best qualified and most likely either to probe deeply into the fundamental assumptions and values of our legal system or to propose and carry out significant investigations into the many areas in which the law stands in need of improvement.

Another reason, as always, has been financial, and this in turn reflects organizational factors. Law school faculties do not have the pyramidal structures commonly found in other branches of a university. In contrast to the large array of assistant professors, instructors and assistant instructors, fellows and candidates for advanced degrees who provide much of the research personnel in other fields of university study, the Harvard Law School (with the largest full-time Faculty of any American law school) has in the past year had only three assistant professors, no instructors, one lecturer, and seven fellows (all carrying heavy teaching schedules) on its full-time Faculty.

Lacking an array of junior instructional personnel on which to draw for staffing research activities,

the law schools would be obliged, first, to free faculty members of professional rank for substantial periods of time, a year or more, to pursue research objectives that go beyond limited studies which are consistent with regular teaching responsibilities. If these studies were to involve field investigations or the large-scale examination of case records and the like, research staffs would have to be recruited to carry them out. Today no law school has the financial resources to enable this to be done on any substantial scale; indeed, most law schools have none whatever. As a result, research in law schools which cannot be fitted conveniently into full-time teaching schedules is being largely done on a specially financed "project" basis.

Project research presents many problems and difficulties. Sometimes the projects are good ones. In other cases, their value is impaired because the teachers who have initiated them have been more concerned to shape their projects in ways that they believe will attract foundation support than to formulate proposals that reflect their own best thinking. If there is pressure on faculty members to participate in a research project, they may find themselves working on something in which they have no substantial interest. Moreover, in some quarters there is a certain prestige element in having a grant from a foundation; and sometimes the persons who can obtain grants are not the ones who are best qualified to do original constructive thinking.

After thinking about this problem for a long time, it is my present view that no significant progress will be made with respect to it until some law schools have substantial amounts available for research of their own choosing, to be allocated and managed by themselves, without the necessity of obtaining ad hoc foundation approval, or research contracts with the government or private organizations.

The necessity of submitting proposals for grants and contracts inevitably trenches on the independence of the scholar and of the faculty of which he is a part. He must fit his time schedules, the lines of his inquiries, and the form of his findings into the terms of his initial undertaking. In many areas of importance for legal research, the issues involve controversies with which outside sources of financial support do not wish to become

Law Wives

On October 8, Miss Helen Kent, an interior decorator with Raymond Fallona, Inc., of Brookline, will address the Harvard Law Wives in the Harkness Commons Meeting Room at 8 p.m. Miss Kent's topic will be "Personality in Decorating."

identified. There is a natural tendency, therefore, to put forward proposals for "applied" research which can be directed to an immediate problem and designed to suggest an immediate result. Such studies are analogous to research done in the research department of a business corporation.

If our law schools are to address themselves to the many perplexing problems that are emerging in today's complex society, they need to be in a position to free their best men to pursue whatever lines of thought and investigation as persistent probing into these problems may suggest. The scholar ought not to be expected to map out and budget in advance the route his explorations should follow. He cannot be sure at the start or even after his research has been fairly launched just what help he will need from other legal scholars and from experts in other fields. And he should have confidence that if his studies lead him to take hotly contested positions, he need not fear the possible embarrassment of financial supporters.

Moreover, it may well be that, though research directed to present problems in law is important, we need more basic research, research which is aimed primarily at enriching our understanding of law and its role in society. Such research can only be done well when an able scholar is led by his own thinking to want to do it. He should not have to depend on the fact that someone outside his school and university also wants to have the research done. If resources are needed to make this sort of independent, relatively impractical research possible, they should be at the disposal of the academic community of which the scholar is a part. Yet, with few exceptions, basic work of this sort has heretofore been possible in law schools only as it has been fitted into the interstices of busy teaching schedules. Even on these terms, a good deal has been accomplished by individuals; but much more could be done if the potentiality of such work was better appreciated, and if there were means to make it possible.

Law schools have not heretofore had the means to provide for truly independent research. This Law School is relatively well off, having a larger endowment than any other law school in the country. Yet, its total endowment is little more than 3% of the endowment of Harvard University, and this small proportion is one which has been declining somewhat in recent years. We have some 13% or 14% of the students in the University; and no thoughtful lawyer will agree that the potentiality of the School can properly be measured by its existing endowment.

What is needed is a substantial fund for unrestricted research purposes. If an endowment of, say, \$5,000,000 was made available to the Law School, it would provide the means for (1) freeing Faculty members to engage in full-time research work when they might want the opportunity, and (2) enlisting and training men of high caliber for research to work with Faculty members on occasion, or to undertake special investigations under the general direction of the Faculty. An additional \$1,000,000 could provide the facilities which such a development would entail. If, without a campaign, the Law School could obtain a few large gifts and grants aggregating \$6,000,000, and if comparable gifts and grants were made to other law schools qualified to receive them, the results produced within ten years would greatly exceed those which can realistically be expected now from a succession of ad hoc grants. Such a grant would represent a transfer of the basic responsibility for financing research to the institutions which have the responsibility for conducting it. It would be not long after such a move had been made that people would be wondering why the development had been so long delayed.

Yet, in the law school world, \$6,000,000 has hitherto been an unobtainable sum. When it is compared with some of the apparatus

Twenty-two Join Research Bureau

The Harvard Student Legislative Research Bureau has announced the election of 22 new members, selected from applicants standing in the top half of their class academically.

Mord Bogie of New York City and Alfred J. Dietsch of Montebello, Cal., were two third year students chosen. Second year students selected were:

Perry Ausbrook of Ocean City, N. J., Charles P. Barnes of Cambridge, David Barr of Stratford, Conn., Richard M. Coleman of Dartmouth, Mass., William G. Dakin of Cambridge, Bradley B. Davis of Kings Point, N. Y., Stephen E. DeForest of Seattle, Wash., Samuel B. Fortenbaugh III of Radnor, Pa., Herbert J. Korbel of New York City, Jon R. Lind of Wilmette, Ill., Robert H. MacKinnon of Fort Wayne, Ind., Donald F. Melhorn, Jr., of Toledo, Ohio, David W. Mitchell of San Gabriel, Cal., John A. Pike of Winchester, Mass., Robert L. Robinson of Jamaica, N. Y., Robert C. Silver of Wilkes-Barre, Pa., Robert M. Trien of Newark, N. J., Loyd R. Trimmer of Towanda, Pa., Barton Veret of Omaha, Neb., and Robert W. Worley, Jr., of Wayne, Pa.

and other things for which sums of the order of \$6,000,000 are devoted, one wonders whether a wise allocation of funds would not find a way to make provision of this order in the legal field.

The School's problems in providing research funds over the past several years are perhaps best illustrated by our efforts to finance the World Tax Series. This research, under the general direction of Professor Stanley S. Surrey, and the administrative direction of Assistant Dean William Sprague Barnes, has now produced several volumes of a series which will, on a uniform basis, make available throughout the world information about the tax systems of many of the countries of the world, information which has not heretofore been available except to specialists in the laws of the particular countries covered. If this task can be continued, so that the full series is published, it will be a notable achievement in the task of dissemination of knowledge, which is clearly one of the functions of a university. Yet, though the knowledge is of great practical value to governments and to international business, this undertaking has been beset from the beginning with great financial difficulties. We have never had any sure source of funds. For the most part, we have lived from hand to mouth. Over the past year and a half, an aggregate of \$80,000 of unrestricted Law School funds has been put into the work. As of the present writing, we still need to raise most of the funds for the present year. Large amounts of administrative time are now necessarily devoted to fund raising. It would be a very fine thing, indeed, if the Law School had available annual funds for research, a portion of which could be assigned, for the time being, to this task, and other portions to other activities which members of the Faculty might wish to conduct, all under the general direction of the Faculty, and all without the necessity of constant recourse to foundations and other donors.

Here is, I think, a splendid opportunity for some foundation. We make no claim that this School is the only place where such a grant could be wisely used; but this is surely one of the places where a gift for research in law, without restrictions, could be very fruitful.

In the meantime, until some such opportunity should be provided, the Faculty will want to give careful consideration to its opportunity and its responsibility in the area of research within present resources. Great contributions have been made by members of the Harvard Law School Faculty over the past years, and there is no doubt that these contributions will continue. In its deliberation with respect to the organization and the conduct of the School, the Faculty will want to examine the question of the most fruitful way to develop and conduct research activities in the future.

Movie

"Case in Point," a movie on legal research produced by the Board of Student Advisers, will be shown to first year students at 8 p.m. this evening in the Ames Courtroom. The West Lectures on Legal Research will be held Monday through Friday at 4 p.m. in the Ames Courtroom.

PROGRAM

(Continued from page one)

Hart, Jr., Charles Stebbins Fairchild Professor of Law.

3. Perspective Courses

COMPARISON OF AMERICAN AND SOVIET LAW: Harold J. Berman, Professor of Law; JURISPRUDENCE—AN INTRODUCTION TO LEGAL PHILOSOPHY: Lon L. Fuller, Carter Professor of General Jurisprudence.

4. Seminars for Specialists

ANTITRUST PROBLEMS IN MERGERS AND DISTRIBUTION: Donald F. Turner, Professor of Law;



William L. Bruce
Associate Director

Program of Instruction for Lawyers

CURRENT PROBLEMS IN SECURITIES REGULATION: Louis Loss, Professor of Law; PROTECTION UNDER INTERNATIONAL LAW OF AMERICANS AND THEIR PROPERTY ABROAD: Richard R. Baxter, Professor of Law; TAX ASPECTS OF REAL ESTATE TRANSACTIONS: David Westfall, Professor of Law.

The facilities of the University will be made available to the members of the program, and it is expected that a large number of members and their families will live in the Law School dormitories, and take their meals in University dining halls.

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Sen. Saltonstall Talks Tomorrow

Senator Leverett Saltonstall (R) of Massachusetts will deliver an address on Republican policy, concentrating on national defense and foreign policy, at 8 p.m. tomorrow evening in the Harkness Commons Meeting Room.

Senator Saltonstall graduated from the Harvard Law School in 1917. He has held public office since 1920,



Leverett Saltonstall

served three successive terms as Governor of Massachusetts beginning in 1938, and was elected to the United States Senate in 1944. He is currently the senior Republican member of the Senate Armed Services Committee and the second ranking Republican on the Senate Appropriations Committee and Senate Republican Policy Committee.

The address is being sponsored by the Harvard Law School Republican Club. J. Robert Barr, 2L of Wilmette, Ill., has announced that this will be the kick-off of the Club's fall speakers program. The program will be open to all interested students.

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