

The Harvard Law School Record

VOL. 18. NO. 1

CAMBRIDGE, MASS., THURSDAY, FEBRUARY 4, 1954

PRICE TEN CENTS

Roy Blough, U.N. Economist, Discusses Taxing Agriculture

On Thursday evening, in Langdell North, Mr. Roy Blough, Principal Director of the Department of Economic Affairs of the United Nations, delivered an introductory address to members of the Conference on Agricultural Taxation and International Economic Development.

Mr. Blough described the problem of the taxation of agriculture as being one



Roy Blough

phase of the larger problem of the development of backward countries. He noted how little study has been made of the economic effects of various methods of taxing farmers. The purpose of the Conference was conceived to be a greater insight into methods of agricultural taxation and the stimulation of further research.

Mr. Blough noted that there are many

indications of a world wide movement toward government sponsored industrialization. It belies the Marxian theory that a "laissez-faire" industrial economy precedes government intervention and control. Instead, indications are that private enterprise will follow where

(See TAXATION on page three)

Yearbook Reveals Dedication To Taft

The Yearbook recently made public the fact that the 1954 edition will be dedicated to the late Senator Robert A. Taft, and that the lead tribute to his memory will be a letter written exclusively for the Yearbook by President Eisenhower. The tribute from the President, which has already been received by the Yearbook staff, makes clear the high personal regard for Senator Taft and the esteem in which he was held by the President, his friends and official counsellors.

The dedication section to Senator Taft will also contain a tribute from University Professor Zechariah Chafee, Jr., a classmate of the late Senator at the Law School. The Yearbook is making arrangements to have a third personage of national prominence write a tribute to complete the usual dedication trilogy.

The Senator was a natural choice for the dedication this year, not merely because of his close ties to the Law School, but for his distinguished career in the public service.

(See YEARBOOK on page three)

Bricker Amendment Criticised As Placing Unwarranted Restrictions On Executive

(The following article was written exclusively for the RECORD by Stuart De Bard A.B. '36, LL.B. '39. Mr. De Bard was president of the Boston Junior Chamber of Commerce in 1948. He is the former director of the Massachusetts branch of the United Nations Association and is a holder of the Legion of Merit for five years' service in the Navy.)

Senator Bricker and other Senators believe Roosevelt lost the family horse at Yalta. They now propose to lock the stable of executive agreements and to keep the key themselves.

A later article will discuss the salient points of Secs. 1 and 2 of Senate Joint Resolution 1 (as reported), known as the Bricker Resolution, which would amend the United States Constitution. Section 1 would add to the Constitution the obvious fact that treaties concluded under it are subordinate to it while Section 2 would require all treaties affecting internal law to be implemented by statutes and would, in effect, repeal the supremacy clause as to treaties, by permitting the President and the Senate to make treaties only as to matters within the few specifically delegated powers.

The subject of this article is Sec. 3 of the proposed amendment of the Constitution. It reads:

"Congress shall have power to regulate all executive and other agreements with any foreign power or international organization. All such agreements shall be subject to the limitations imposed on treaties by this article."

Executive agreements are not mentioned by that name in the Constitution but States were barred from entering into any Treaty, Alliance, Confederation, Agreement, or Compact (Art. 1, Sec. 10). Francis B. Sayre, when Assistant Secretary of State, distinguished them from treaties as follows:

"International agreements involv-

ing political issues or changes of national policy and those involving international arrangements of a permanent character usually take the form of treaties. But international agreements embodying adjustments of detail carrying out well-established national policies and traditions and those involving arrangements of a more or less temporary nature usually take the form of executive agreements."

(See AMENDMENT on page four)

Labor Law Changes 'Minor', Claims Cox

Prof. Archibald Cox told radio audiences on January 15 and 17 that President Eisenhower's proposed changes in the Taft-Hartley act will have no important effects on labor-management relations.

Speaking over WGBH-FM Prof. Cox said that most of the changes recommended by Eisenhower on Jan. 11 are unimportant, although desirable. Only the construction, maritime, and amusement industries will be significantly affected, according to Cox. These industries will benefit by a change that would permit employers to negotiate a contract before workers are hired, which is now against the law. But, reported Prof. Cox, the realities of the situation have forced these industries to violate

(See LABOR on page four)

RECORD SMOKER

The RECORD announces that it has a number of vacancies on its editorial and business boards. Interested first and second-year students are invited to a Smoker to be held February 11, 1954, at 23 Everett St. in the third floor den.

Experience is not required for positions on either board.

Reply-Brief System Initiated By Board In First-Year Ames

Two innovations have been integrated into the second round of the first-year Ames Competition, which commences this week. Round 3 and 4 are to venture into the reply-brief system and single-jurisdiction cases.

The reply-brief system, used for the first time in the first-year Ames, has been used in upper arguments in past years. Under this system, counsel for the appellant submit their brief, which is then answered by counsel for the appellee, and followed by a reply by the appellant's counsel.

The U. S. Supreme Court and most of the appellate courts today use the reply brief system. Only recently, the Supreme Judicial Court of Massachusetts changed from simultaneous to reply briefs. Ames counsel will benefit from a procedure which more closely approximates actual trial practice, and better arguments are expected as a result of adopting such a plan.

Single jurisdiction cases, disposing of the "49th State of Ames," will be installed in many of the third and fourth rounds. The Board will designate the particular state whose law is to be followed. The briefs and argument will be based solely on the law of that particular jurisdiction. This type of case is new to the Ames competition. The plan will give students more experience in dealing intensively with a single body of law and analyzing their facts in light of such law.

Issues of law will continue to be chosen from first-year courses. Lawrence Bilder, 3L, Board of Student Affairs.

(See AMES on page three)

Bull And Bear Club Will Hear Address By Securities Expert

Bull and Bear Club members are looking forward to Feb. 10, when Mr. Benjamin Graham, nationally famed expert on security analysis and finance will be in Cambridge to speak to an open meeting of the Club on the topic "How to Evaluate Common Stocks."

Mr. Graham is the co-author of the well-known text *Security Analysis*, which is used in approximately 95 per cent of the college courses in investment man-



Benjamin Graham

agement and security analysis throughout the country. He is President of the Graham-Newman Corporation, a "closed-end" investment company which has had a very successful history under Mr. Graham's leadership.

All law students are welcome at the meeting, which will be held in the Harkness Meeting Room at 1:45 p. m. Students at the Business School have expressed an interest in the meeting, since Mr. Graham's text is used in their course in Investment Management.

This afternoon at 1:30 the Bull and

(See GRAHAM on page four)

Fortas Protests Debasement Of 'The Right To Counsel'

Abe Fortas, Esq., of the District of Columbia Bar and formerly Under-Secretary of the Interior (1942-1946), called on the legal profession and the public last Monday afternoon to protest the debasement of a basic American ideal, the right to counsel, in the recent and current Congressional investigatory



Abe Fortas

hearings. Speaking on "The Role of Counsel for the Witness in Public Investigations," the second in a series of Harvard Student Bar Association lectures on the topic of public investigations and the role of lawyers, Mr. Fortas confined his remarks to the operations of Congressional committees investigating subversion. He pointed to the rules of these committees which provide that the counsel of a witness confine himself to giving legal advice to his client, without being allowed to ask clarifying questions, address the committee, or suggest substantive answers to his client. In effect, the lawyer becomes a "discreetly animated Corpus Juris"; at least one of these committees doesn't even allow a counsel to volunteer advice to his client. Lawyers who incur the displeasure of the committees through failure to live up to a "professional" standard of conduct, or who fail to conduct themselves "properly," may be censured, ejected from the hearing, or cited for contempt.

The net result of these restrictive rules is that "the right to counsel" becomes the right to have counsel present in the hearing room, and little more.

A basic idea of fairness among civilized peoples is that a person who is accused is entitled to the assistance of counsel in a public interrogation. Witnesses before Congressional committees investigating subversion are just that—"accused persons," whose lives and fortunes are greatly affected by the public interrogations to which they are subjected. Under present committee rules, the assistance of counsel has become little more than the presence of mute counsel in the hearing room.

The role of the lawyer may be roughly classified by two cases—that of the witness who will invoke the Fifth Amendment, and that of the witness who will not invoke it. Where the witness will refuse to answer on grounds of self-incrimination, the lawyer is confined to advise his client when he may invoke this right. He may not protect him against two favorite techniques of these committees, baiting and enticement. Both of these techniques relate to the

(See SBA on page three)

Katz Will Return Next Year To Direct The International Legal Studies Program

Professor Milton Katz, formerly the holder of Byrne Chair of Administrative Law, has been reappointed Professor of Law, effective July 1, 1954. Professor Katz left Harvard in 1948 to become general counsel for the E.C.A. in Europe.

In 1950, Mr. Katz was appointed U.S. Special Representative to the Marshall Plan Countries in Europe, with the rank of Ambassador. He also served as U.S. member of the Defense, Financial and Economic Committee under the North Atlantic Treaty and as senior American

Kent Club Winner In Drafting Contest

Charles H. Randall, Jr., LL.B. '50, announced today that the Kent Club won the Ames drafting competition. The winning club won over the Toepfer-Bacon-Leach Club.

Three members of the Boston bar had to select the better draft agreement for a merger of two investment companies to form a diversified open-end management investment company. In their decision the judges noted that the decision was very close.

The judges were John E. Rogerson, LL.B. '37, Raymond B. Roberts, LL.B. '34, and Charles Jackson, Jr., LL.B. '35.

Winning Club

Members of the Kent Club include Robert D. Hartshorn, Jr., of Cambridge, Samuel Hoar, Jr., of Cambridge, Winslow M. Lovejoy, Jr., from Chestnut Hill, Roger V. Pugh of Rye, N. Y., Michael E. Pulitzer from Bar Harbor, Maine, and

(See DRAFTING on page four)



Milton Katz

delegate to the United Nations Economic Commission for Europe. He resigned these posts in 1951, and has been Associate Director of the Ford Foundation since then.

In returning to Harvard, Professor

(See APPOINTMENT on page three)

The Harvard Law School Record

Published weekly on Thursdays for twelve weeks of each term by *The Harvard Law School Record Corporation*, 23 Everett St., Cambridge 38, Massachusetts subscription price: \$2.00 per term mailed, \$4.00 per year (24 issues); student subscription \$1.50 per term mailed \$1.00 per term distributed at the Law School. Individual copies \$.10 each at the Law School; \$.20 each mailed. Business and Editorial Offices, 23 Everett St., Cambridge 38, Massachusetts. Telephone KIRKland 7-7600, extension 447.

OFFICERS

BURTON T. GANS President
CHAS. H. W. TALBOT Editorial Manager
JOEL S. GREENBERG Business Manager

EDITORIAL BOARD

ARNOLD F. CIACCIO Associate Editor
HERBERT WASSERMAN News Editor
WILLIAM WESTLING Copy Editor
ROBERT BELMONT Advertising Manager

DEPARTMENT EDITORS

Marvin Stern Edmund Rosenkrantz
Current Case Gallery
John Bernstein Paul F. Glenn
Cartoons Features

Matt Kessler
Treasurer

EDITORIAL ADVISORY BOARD

George Chimples, Melvin Cohen, Herbert D. Lewis

STAFF

Philip Brawner, Jeremy E. Goldstein, John Hook, Martin Kramer, Alan G. Miller, Herbert F. Murphy, Jack Polish, David J. Swartz, Don Wallace, Robert Whitstock, Fred Wyle.

Entered as second-class matter November 19, 1946, at the post office in Boston, Massachusetts, under the Act of March 3, 1879.

Perpetuities In The Bay State

Massachusetts Senate Bill 361, now before Senator Richard H. Lee, LL.B. '28 and his Committee on Legal Affairs, is an outstanding example of cooperative action in the public interest by all branches of the legal profession—legislators, practicing attorneys, judges, and professors. The Bill undertakes to simplify the Rule against Perpetuities, notorious for centuries as a breeder of futile litigations and a technically-ridden obstacle to reasonable estate plans.

It is not unusual for professors to call attention to needed reforms, as was done in this instance by Professor Leach in *The American Law of Property* under the editorship-in-chief of Professor Casner. But it is far less usual for lawyers in practice, on the bench and in the legislatures to do something about it.

Prime movers in regard to this statute have been Mr. Guy Newhall, LL.B. '01 and Senator Charles V. Hogan who introduced the Bill and Mr. Frank Grinnell, LL.B. '98, tireless worker for many law reform projects, who placed it before the Abstract Club of Boston and the Board of Delegates of the Massachusetts Bar Association, obtaining general concurrence and practical suggestions for amendment. The Chief Justice and several Associate Justices of the Supreme Judicial Court aided the cause with their considered views.

At a recent Committee hearing representatives of some ten leading law firms gave their time to listen to the testimony, express general approval, and offer advice.

It should be pointed out that those who appeared are of that rather small group at the bar who, through specialized knowledge of the Rule against Perpetuities, have something approaching a monopoly in this esoteric branch of the law. In pressing for adoption of the Bill they were in substance renouncing this favored position in the interest of the general practitioner and a more workable body of law accruing to the benefit of the public.

We congratulate Senator Lee and his Committee, Senator Hogan, Mr. Newhall and Mr. Grinnell, and the many other lawyers who have given of their time and professional skill in this unselfish effort. Nor can we refrain from mentioning that Ronald Cracas, 3L contributed valuable research analyses during the process of drafting the Bill.

No breaking waves will dash high, no shot be heard round the world, when this Bill passes. But in its sphere it is a pioneering effort and a minor revolution. Who ever heard of *simplifying* the Rule against Perpetuities! The Sacred Codfish of Massachusetts may be proud.

Yearbook Dedication

We note with approval that the 1954 Yearbook will be dedicated to the late Robert Alphonso Taft, LL.B. '13. This man, certainly among the most renowned and illustrious of Harvard Law School graduates, served in the Senate in a manner unparalleled since the days of Henry Clay. A tireless legislator, humanitarian and public servant, Robert Taft's intellectual sincerity was a refreshing diversion. The untimely death of this great American has left all of us, regardless of our political affiliations, with a deep sense of sorrow and public loss.

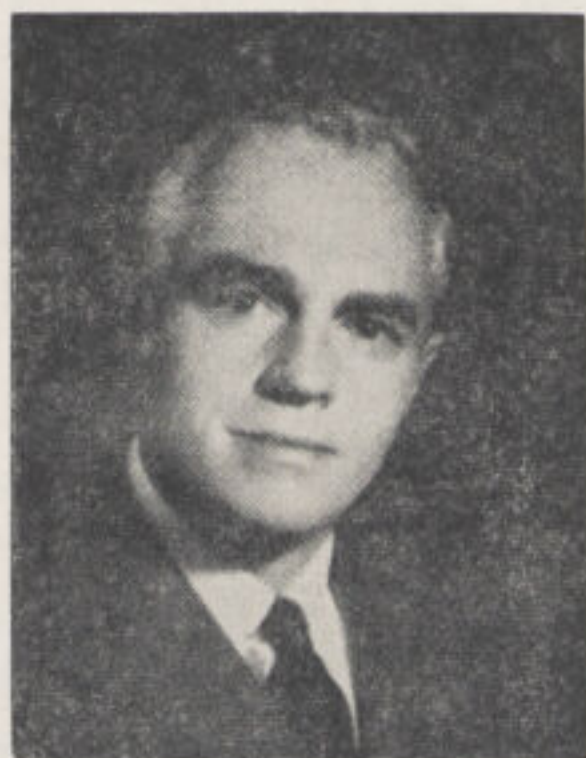
The RECORD compliments the Yearbook on its selection of Robert Taft for this worthy tribute.

Gallery

J. EDWARD LUMBARD

United States Attorney

Southern District of New York



Chauvinism is what you might call it, but the United States Attorney for the Southern District of New York, though he remains geographically rather remote from the Harvard scene, is ready to reassert his Harvard affiliation any time the opportunity presents itself. Mr. Lumbard is a member of the class of 1925 of the Harvard Law School, and boasts of it as the greatest class ever to have graduated from the Law School.

"For the most part, the members of this class were of the age group where they had been eligible for service in World War I. And just at the time when the New York firms everywhere were growing and anxious to absorb these young lawyers, they were finding their bearings in practice. As a result, many members of the class of '25 rose to senior partnerships in a comparatively short time."

Harvard Graduate

Mr. Lumbard is a cum laude graduate of Harvard College, class of '22, from where he went to the Law School. Upon graduation he took his first job in the office of the United States Attorney for the Southern District of New York under Harvard graduate Emory R. Buckner, who had come to the office when another graduate, Henry L. Stimson, was in charge.

Unlike many of his classmates who have left legal practice to assume important positions in industry, Mr. Lumbard has continued in practice and has kept in close contact with civic affairs. After graduation and until 1933, when he joined the firm of Donovan, Leisure, Newton, Lumbard, and Irvine, Mr. Lumbard was kept busy at the Federal District Attorney's office and as a special assistant to the Attorney General of New York State. In 1929, he was President of the Young Republican Club of New York, and in 1944 he was an Assistant Chairman of the Republican National Committee and was an active member of Gov. Dewey's staff in his campaign for the Presidency. Mr. Dewey himself, is an alumnus of the Southern District office. In June 1947, Mr. Lumbard was appointed Justice of the Supreme Court of New York but was defeated for reelection in an overwhelmingly Democratic district, and served until the end of that year. In March 1953, he was appointed United States Attorney for the Southern District of New York.

Worked on Major Cases

Of late, Mr. Lumbard has handled many cases of national prominence in their later stages. He was the prosecuting attorney for the United States in the Rosenberg case and argued the case on various appellate levels. His office handled the appeal in the Remington perjury case, and the contempt case against Robert Thompson, the convicted communist who fled to a West Coast hide-out while awaiting sentence after his conviction in the Dennis case. Both of these were successfully prosecuted in favor of the Government. Much of Mr. Lumbard's current efforts are directed toward the federal investigation into the New York waterfront racket set-up.

Mr. Lumbard finds that the volume of work handled by his office today has increased almost three-fold over what it was twenty years ago. There are at present 50 lawyers in the office but Mr. Lumbard is attempting to increase his staff 50%. The methods of admission to the office have also changed; whereas before graduates were taken on as law clerks, now they are sworn in as affiliates and must pass the bar exam before officially qualifying for the position. The office handles both criminal and civil work, with 60% of the work concentrated upon the former. Mr. Lumbard has been given a free hand in recruiting his staff by Attorney General Brownell. "In interviewing applicants, we are looking

for people of integrity, those who inspire confidence and who are articulate. In a two or three year stay in this office a man is kept busy constantly. He has much more responsibility placed upon him than he would for a similar tenure elsewhere and is forced to make many decisions on his own. The experience gained here is invaluable in becoming a well-rounded lawyer."

Of the 50 lawyers employed in the office, nine are Harvard graduates. Mr. Lumbard's office is also the first public law office in the United States, to his knowledge, which uses law school students in the regular work of the office on a regular program with the law schools themselves. There are now 44 such students in the office, doing a minimum of ten hours work a week. They are assigned to an Assistant United States Attorney and work with him on those cases which have his attention. The duties include legal research, factual research and digesting, attending conferences, drafting papers and briefs and attending court sessions. In addition they plan to invite 30 to 40 law students to work with them this summer after their second year of law school. This naturally leads to the employment of some of these students on a full time basis when they graduate.

Proud of School

Mr. Lumbard points to Harvard Law School, particularly to the class of '25, with pride. It is in this class which boasts the greatest percentage of contributions to the Law School Fund. Mr. Lumbard remains friendly with many of his classmates and feels that students should realize that their present associates are those with whom they will have much in common all throughout their lives. They are enduring friendships, and from every other standpoint, law school friendships are well worth cultivating. On his own part he has been largely responsible for organizing the alumni along the idea of class reunions. He also suggested the idea which developed into the summer session at Harvard last year, in conjunction with the A.B.A. convention being held in Boston. Until April 1953, Mr. Lumbard was National Chairman of the Harvard Law School Fund.

On the Law School today he has this to say: "Under the capable leadership of Dean Griswold, the curriculum has been altered so that it is more varied and interesting than it was in my day. Not only has Harvard Law School continued to be active in attracting a first rate student body and a first rate faculty and in keeping abreast of the current practice of law, but under Dean Griswold it has enlisted the loyal and valuable support of its alumni."

H. W.

Off the Record

HAPPY NEW YEAR IN MOSCOW

Sitting around in the Kremlin
While softly falls the snow,
Tossing off the vodka
To the pals we used to know.
How closely we worked together
Watching the Soviets grow
Some died before a firing squad
Many years ago.

Open the photograph album
Where the leaders of Russia stand.
Eight out of ten were traitors
Betraying the fatherland.
Izvestia was filled with letters
From the people, who loved them so.
They fell before a firing squad
Many months ago.

One friend was praised in Pravda
As Stalin's right-hand man.
He exiled a million peasants
When collective farms began.
He built sixty-seven steel mills
And made their furnaces glow.
He stood before a firing squad
Many weeks ago.

Of all our investigators
No other of us was best.
No prisoner lived long whom he questioned.
He beguiled us with many a jest.
How happy we were at his country house
Hunting in the snow.
We took him before a firing squad
Just a few days ago.

Khrushchev consults Vishinsky
About his difficult tasks.
Molotov smiles at Malenkov
And after his sick child asks.
A band of staunch old comrades
Defying the capitalist foe—
The firing squad is practising.
Who'll be the next to go?

Zechariah Chafee Jr.

Sub Judice

THE HONOR OF YOUR 'PRESENTS'

"This is the pathetic and often repeated story of the bride who could not tear herself away from her parental domicile and of the groom who did little, if anything, to make her assume her proper place and responsibility in the new home. Their marriage has degenerated into a game of 'who shall torture whom' and their child has become the tragic victim of their spite and malice. The game was started in some other tribunal and this Court is only a stopping place on their weird journey . . .

"For ever since man came to abandon the nomadic life, settled in communities and divided the land so that each had his own property, he began to select his woman and from that day to this, marriage in some form or other has become an honored institution bringing with it myriad questions, moral and legal."

Thus Justice Chimera begins his decision when Ma and Pa Avnet, the star-crossed lovers of our story go to court to decide who owns the wedding presents. The judge goes on,

"For with the advent of the Enabling Acts woman became free to own her own property and from that day to this, the popular misconceptions have come into being. Lawyers and laymen alike have been heard to say at one time or another that household furniture and effects are presumed to be the property of the husband, the property of the wife, and then again the property of both jointly, this without regard to who purchased it or who brought it into the marital domicile . . .

. . . what of household goods and furniture purchased with money wedding gifts or which came as gifts in kind? Does it make a difference whether the money or the object itself was delivered into the hands of the bride or of the groom—whether it came from the bride's "side" or from the groom's "side" . . . The authorities which I am called upon to examine are few and elusive to put it mildly. Indeed I find that only Emily Post, presumes to speak with confidence in this regard . . . She says,

"Wedding presents are all sent to the bride, and are according to law, her property."

"It may be that in 'polite' society all wedding presents are sent to the bride but as Miss Post goes on to say:

"The bridegroom seldom receives presents. Even those who care about him in particular and have never met his bride, send their presents to her, unless they send two presents, one in courtesy to her and one in affection to him . . ."

"The fact is, however, that not all wedding guests have been trained in the niceties of 'polite' society and unfortunately many of them have never read Miss Post's book,

"More than that—there is a tendency to give money instead of things these days and in the average wedding, it is not unusual for each side to deliver the money gift into the hands of its own."

"While no one will challenge Miss Post's eminence as an arbiter of good taste, I doubt that her pronouncement on the law in this regard may be accorded the dignity of stare decisis. It would have been nice had she cited a competent judicial decision of such sweeping magnitude. Had she done so there would be no need for this opinion."

"Donors send wedding gifts to the bride for one of three reasons: (1) Because they wish the gift to be the exclusive property of the bride in which case the character of the gift may be a clue to the intention, or the intention must be otherwise unequivocally expressed; (2) because as Miss Post says, etiquette dictates that "wedding presents are all sent to the bride"; and finally (3), because by indicating the bride-to-be's residence on the invitation notices, the donor is politely told where to send the gift." Held; Complaint dismissed on the merits as to everything except the personal effects of the plaintiff-wife.

Justice Chimera concludes "In passing I might say that more so than in any other period in the long history of mankind, this is the age of "50-50" marriages. The time has come to say clearly that all wedding gifts whether from the bride's side or from the groom's, excepting such items which are peculiarly adaptable to the personal use of either spouse, and those gifts which are specifically and unequivocally 'earmarked' as intended exclusively for the one or the other of the spouses, commonly intended for general use in the household, are the joint property of both parties to the marriage. This reasoning should apply as well to the things of like use purchased with cash wedding gifts not otherwise 'earmarked'."

Avnet v. Avnet, 124 N.Y.S. 2d (Munic. Ct., Sept. 15, 1953).

Suggested by Arthur Sherman LL.B. '53, former Current Case Editor.

S B A —(Continued)

doctrine of waiver. If a witness declines to answer whether he is or has been a Communist, he is then asked whether he committed espionage on a specified date. There may be no reason whatsoever to suspect the witness of espionage, but the committee hopes to bait the witness into answering "NO" to questions about espionage, with the aim of then asserting that he has "waived" his rights under the Fifth Amendment with respect to questions regarding his membership in the Communist Party. The witness may desperately want to answer "NO" to questions of espionage, but counsel and witness cannot be sure that if this answer is given, the committee's view of the doctrine of waiver will not be upheld in a later contempt proceeding. While the law on waiver is not clear, Mr. Fortas thought that several committees have an exaggerated view of the scope of waiver.

The other favorite technique of committees is enticement. The committee will ask a series of borderline questions of the witness invoking the privilege against self-incrimination. The witness is put into a dilemma. If he answers the question, he may be waiving his right to refuse to answer other questions. If he refuses to answer, he may be guilty of contempt because of the lack of legal grounds for refusal. To decide whether to answer or not in the heat of committee hearings, under the pressure of coverage by radio, newspapers and television media, is a very difficult task for the lawyer.

Though his role in hearings where his client invokes the Fifth Amendment is very much restricted, the lawyer for a witness who does not invoke the right against self-incrimination is really unemployed, Mr. Fortas commented. He may give a spurious feeling of comfort to his client by the fact of his presence, but he does not "assist" his client in any way at the hearing. His presence under these circumstances is an illusory guarantee of fairness where none exists.

Act Of Faith

The decision whether to take the case of a person summoned before an investigative committee must in the last analysis be an act of faith on the part of the lawyer. If he has misjudged the client, if the client has not told him the truth, the consequences may be disastrous. But perhaps there are times, Mr. Fortas declared, when lawyers like other men ought to act on the basis of faith in their fellow men as well as faith in their own judgments. Mr. Fortas closed his lecture with an appeal to the legal profession and the public to demand procedural reform for the conduct of committee hearings, and for the restoration of the right to counsel "in full fact and not in mere pretense."

YEARBOOK —(Continued)

Senator Taft was a member of the Class of 1913, the President of the Law Review, and attained one of the highest averages in the history of the school. He often referred to his training here as of invaluable help to him during his political career.

**NEWS
IN BRIEF****AMES**

All club supervisors who have not already obtained blanks for judges should do so immediately at the office of the Board of Student Affairs.

Second and third-year men who decide to judge Ames arguments should leave their names with the receptionist at the Board.

SECOND-YEAR STUDENTS

The Harvard Student Legislative Research Bureau is pleased to announce several semester openings for qualified second-year students. The work will involve research and drafting for various cities, towns, and state agencies throughout Massachusetts, New York, and other areas, with real clients who have a particular problem and ask for assistance to meet it legislatively. The work is interesting—the experience invaluable. Interested students should leave their names, addresses and phone numbers at the Bureau offices, 23 Everett Street.

CONTEST

The Conference on Personal Finance Law of the American Law Student Association has announced that the subject of its 1953-54 Essay Contest will be "Interest and Charges for Lender's Services."

Any law student in the United States who is a member of a student organization affiliated with the American Law Student Association is eligible.

Manuscripts are to be submitted not later than March 1, 1954. The prizes total \$900. For further information consult the RECORD.

ADRIANS LUNCHEONETTE
SANDWICHES HOT MEALS
featuring —
HAND-CUT DO-NUTS
1695 Mass. Ave. Open 7 A. M. - 12 P. M.

**THE MISSES
LITTLEFIELD**
HARVARD SQUARE

PROFESSIONAL TYPISTS

4 Brattle Street TR. 6-7495
Harvard Square



Harvard Law School Year Book

23 Everett Street
Office Hours 2-5 P. M.

SKI EQUIPMENT

Complete Line

TENNIS & SQUASH SHOP

67A MT. AUBURN ST. CAMBRIDGE
Opp. Lowell House — TR 6-5417

AMES —(Continued)

visers, is in charge of both the new projects. Facts will be issued for all of the first year rounds this week and until Feb. 19.

A new Drafting Competition, open to second year students, will begin its first round on Feb. 15.

Real States Used

Problems are to be drawn from subject matter of second-year courses and will be based on the substantive law of a single state. Requests of the participants as to which state should be selected will be honored. The drafts will be judged by practicing attorneys in the states so chosen.

APPOINTMENT —(Continued)

Katz will assume the position of director of International Legal Studies. He will continue his association with the Ford Foundation as program counsellor.

Still Developing

The current International Law Program is conducted primarily on the seminar level. Courses are available to third-year and graduate students, and a limited number of second-year students. The program is still in the developmental stage, and various projects are being added to the curriculum. Professor Katz will be responsible for the organization and integration of these programs.

Research now in progress is concerned with problems affecting Latin America, Europe, India, and Israel. Special attention is being given to international trade and investment. A major project, in cooperation with the Fiscal Division of the United Nations, is concerned especially with tax problems of under-developed countries, and provides special training for their tax administrators.

48 Foreign Students

Instruction in international legal problems provides an opportunity for American and British Commonwealth law students, trained in common-law systems, to work effectively with lawyers trained in the European and other legal systems. The School is serving increasing numbers of advanced students in law from abroad. This year, 48 foreign students from 27 countries are enrolled in the School.

**Chafee, Hart, Freund
Get Honorary Degrees**

Three professors from Harvard Law School have recently received the honorary degree of Doctor of Laws. On Dec. 18 Professor Zechariah Chafee received his fifth honorary degree at the University of Chicago's convocation. On Jan. 11, Columbia University bestowed like degrees upon Professors Henry M. Hart and Paul A. Freund during its bicentennial celebration.

TAXATION —(Continued)

government has prepared the ground. He pointed out the recurring problem of the threat of increased unemployment caused by the introduction of technological methods of production. Another problem has been the devotion of backward peoples to their rudimentary methods of farming which form part of their social structure. For example, in countries overrun with innumerable small farms, attempts to transform individual enterprise into more efficient cooperative endeavor through association or incorporation have not been successful. Each small farmer's objective is to own and till his own separate acre.

Different Solutions Needed

Mr. Blough also reminded the conference that tax policies adapted to one country's needs will not work in other nations where the psychology of the inhabitants and the economic conditions require different solution.

From his work on a World Economic Report to the Economic and Social Council of the United Nations, the speaker concludes that the world economy improved last year. There was less inflation and deflation although the problem of greatly unbalanced exports and imports of many nations continues.

A look into the future reveals a golden opportunity for backward countries to elevate their economies because foreign capital is available, technological developments are waiting to be utilized, and there is an international striving toward equality of wealth among nations.

Dependent Economies

The economic future of the free world largely depends upon the economic health of the United States. "When the United States sneezes Europe develops pneumonia," he said.

EXPANSION SALE

Now in Progress

	REG.	NOW
ALL SHOES	\$19.95	\$14.95
HARRIS TWEED OVERCOATS	55.00	37.95
ALL REP SILK TIES	2.50	1.95

*All other merchandise in Store
Drastically Reduced*

Grimson Men's Shop

36 DUNSTER ST. — CAMBRIDGE

It's time to begin reviewing with—

SELECTED ESSAYS

from the **HARVARD LAW REVIEW**

CONFLICTS OF LAWS (1952 ed.)	\$1.75
CONSTITUTIONAL LAW (1952 ed.)	2.25
FEDERAL TAXATION	1.75
TORTS (1952 ed.)	1.75
TRUSTS (Austin W. Scott)	1.75
WILLS, FUTURE INTERESTS, AND ESTATE PLANNING (1953 ed.)	2.00

Call at Gannett House or send orders to

HARVARD LAW REVIEW ASSOCIATION
CAMBRIDGE 38, MASSACHUSETTS

What Makes a Suit Good?

Given an unlimited choice of styles, materials and makers, the layman judges suit quality by its maker's name and a cursory inspection of the fabric. Obviously, neither is a dependable measure of quality. In fact, a famous tailor may turn out a suit of apparently acceptable fabric which has none of the requisites of a good garment.

There are some two hundred points on which the quality of a suit may be judged. In materials, seen and unseen, and in each of the two hundred operations of workmanship, Duncan Macandrew spares no time, no expense. The end product is, as you would expect, a tailor's suit—the kind of garment which men in the trade recommend for unchallenged value.

*Ready-to-wear Suits, \$50
Made-to-order Suits from \$69*

Duncan Macandrew

MERCHANT TAILOR and IMPORTER
11 Dunster Street • Cambridge

468
BROADWAY

Broadway Super Market

CAMBRIDGE,
MASS.

BROADWAY SUPER RARE-BLENDED
WHISKEY

86 PROOF 4/5 QT.
\$3.25

IMPORTED
SCOTCH

whiskey

4/5 QT.
\$4.49

Straight Whiskies are 4 yrs. or more old. 40% Straight Whiskey. 60% neutral spirits distilled from grain. 25% Straight Whiskey 4 yrs. or more old. 15% Straight Whiskey 5 yrs. or more old.

HARVARD BRAND — 100% SCOTCH WHISKIES — 86 PROOF

8/2/88

AMENDMENT—(Continued)

Neither Mr. Dulles (hearings on S. J. Res. 1, p. 828) nor Senator Bricker (98 Cong. Rec. 927) believe it possible to draw a satisfactory line of demarcation between the proper spheres of treaties and executive agreements in a statute, to say nothing of a constitutional amendment.

The proposal to transfer final power from the executive to Congress would prevent the President as commander-in-chief from executing military agreements with allies or accepting the surrender of enemies. The proposal would involve Congress in the minutiae of the conduct of foreign affairs—the dates of meeting of foreign ministers, regulations governing garrison forces in England, and the like. The proposal does not, because it cannot, solve the basic complaint of the proponents that the Potsdam and Yalta and other executive agreements executed in wartime contained both political and military agreements, both necessarily secret. A military commander automatically influences policy both by his actions in the field and at conferences with our allies. We have not adopted the system of placing political commissars over military commanders. This would be the effect of the proposal at the higher level.

Congress Takes Over

The proponents of the amendment say that in "regulating executive agreements, Congress would prescribe in a series of acts the 'conditions, limitations, or prohibitions' under which such agreements might be made." (Majority Report, S. J. Res. 1, p. 29.) Congress could, so far as appears, relegate the President's role in foreign policy to that of the Queen of England and dispense entirely with the State Department unless its advice were needed.

The Founding Fathers planned checks and balances in the conduct of foreign affairs. To moderate the power given to the President to conduct foreign policy, many powers were given to Congress. Beside the power of impeachment, the power of the purse, the power of investigation, the power of the Senate to

approve appointments and to ratify treaties, Congress was given power to "make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States or in any Department or Officer thereof." (Const. Art. 1, Sec. 8.) It has legislated that all executive agreements be published within a year of their dates. (64 Stat. 980 (1950), 1 U.S.C. § 112 a).

Present Congressional Power

Congress can, as to internal law, modify or repeal a treaty or an executive agreement (justifying the other party's repudiation). Executive agreements cannot supersede treaties or Federal statutes, which, with the Constitution, are the Supreme Law of the Land. *U. S. v. Guy W. Capps, Inc.*, 204 F. 2d 655 (4th Cir. 1953). None has been held unconstitutional.

Some 85 per cent of the executive agreements have needed and obtained prior or subsequent Congressional implementation. Examples are the Reciprocal Trade Agreements. The rest were largely temporary military or procedural agreements. President Eisenhower, who strongly opposes sections 2 and 3 of the Bricker Resolution, has offered to present borderline cases to the proper Senate Committee before entering into such agreements.

In the vast majority of cases involving executive agreements the President and Congress have acted in concert. Justice Jackson, in the Steel Seizure cases (343 U. S. 635, 638) discusses the separateness but interdependence of these branches, and concludes that the system works well as written. Cooperation between them is preferable to domination by one over the other.

Step Too Radical

In 1940, several writers contended that executive agreements and treaties were interchangeable and the executive branch could ignore the Senate at will. This thesis is properly condemned. Reasonable men do not disagree as to the proper method in most cases. The powers of Congress are adequate to present

Alumni Notes

LL.B. '22—*Horner C. Fisher* of West Palm Beach, Florida, is President of the Florida Bar Association.

LL.B. '29—*G. Robert Witmer* was elected Justice of the Supreme Court for the Seventh Judicial District of New York in November, 1953. Judge Witmer will serve for 14 years, as of Jan. 1, 1954. He was formerly Surrogate of Monroe County.

LL.B. '42—*C. Henry Glosky* has been elected to the Senate of Massachusetts. Sen. Glosky has served several terms in the Massachusetts House of Representatives.

LL.B. '49—*Roswell B. Perkins* has been nominated to the Assistant Secretary of Health, Education, and Welfare of the United States.

GRAHAM—(Continued)

Bear Club will hold a closed meeting in the Wheeler Room in Holmes Hall to ratify and adopt the proposed Constitution and By-Laws of the Club. Copies of the new book *Understanding The New York Stock Exchange* will be distributed at the meeting. Members may also make changes in their portfolios in the Investment Contest at the meeting.

President Paul F. Glenn announced that William H. Vogt III, 2L of Rochester, N. Y., has been appointed manager of the Club's Investment Contest.

its claim to consultation in the few borderline cases. To emasculate the executive branch by entrusting foreign policy to Congress is a radical step totally at variance with the need for prompt, vigorous, and effective United States' leadership of the free world.

With Congress keeping the keys to the stable, the President would rarely be able to get the foreign-affairs horse out in time to raise an alarm or to rescue an imperiled neighbor or even to plow the field.

Experts At Forum Agree About Jazz

Experts at the Harvard Law School Forum last Friday night agreed that jazz is serious music, to the delight of the pro-jazz audience.

The members of the panel were George Wein, owner of Storyville and Mahogany Hall, well-known Boston jazz emporia, the noted folk-singer Richard Dyer-Bennett, Nicholas Slonimsky, music critic and Nat Hentoff, associate editor of *Downbeat* magazine. Moderator was Father Norman O'Connor, the Catholic chaplain at Boston University.

The experts agreed with Mr. Dyer-Bennett that jazz (which they were unable to define) is essentially an urban folk-music. They decided that among its characteristics are improvisation, polyrhythmic devices, spontaneity, and an emphasis on vocalized instrumentation.

Jazz, it was decided, is basically different from what Western civilization usually considers serious music because of its non-written nature. Modern (in the last few centuries) Western music on the other hand is mostly written; the composer and the conductor have become the most important musical figures. Non-Western musical cultures still stick to unwritten music, in which improvisation plays a significant part; the only artistic success is in playing, not in composing.

DRAFTING—(Continued)

Edward G. Sparrow of New York City.

The members of the Toepfer-Bacon-Leach Club are David R. Baker of Durham, N. C., Richard D. Harburg of Philadelphia, John G. Kilpatrick from Watertown, Gavin P. Murphy of New York City, Jack H. Olive from Ruston, La., Clyde G. Patten from Wellesley, and Theodore M. Swain, Urbana, Ill.

LABOR—(Continued)

the law, so that the change would only approve what already happens.

Other proposed changes are less important, Cox said. Three relaxations in the ban on secondary boycotts were proposed, but the only one which will have a practical effect, in Cox' view, is one which would permit unions to boycott construction jobs if non-union workers are employed there, or to boycott plants where "hot goods" are being processed by a company to help another company break a strike.

When asked about the proposed Federal strike vote, Prof. Cox explained why the unions are opposed to this proposal, and why he thinks it unwise.

The measure rests, says Cox, on the assumption that the union does not represent the workers, and that strikes are called against the wishes of the men. Except for a few recent prominent strikes, Cox thinks that it is usually the union which wants the strike less than the men, and which tries to exert a moderating influence. This assumption about the non-representative character of the union is regarded as an affront by organized labor, Cox believes.

The basis of Cox' opposition is the great expense in money, time, and manpower that such polls would require. Also, he says, the pressure of such an election would arouse extreme sentiment just when the best interests of labor-management relations would call for a more moderate approach by the parties to the dispute.

Prof. Cox did not see any change in the law that would effect the "emergency" type of strike, like a national steel strike. In summary he told the interviewer that it is "unlikely that there will be any great practical changes" either from the President's proposals, or from the bill which Sen. H. Alexander Smith (R., N.J.), chairman of the Senate Labor committee, has introduced to implement Eisenhower's suggestions.

"JOE" KEEZER

PAYS MORE FOR YOUR
USED CLOTHING
See Joe Before You Go Home—Sell Your Old Clothes
Call KI 7-2455 or bring your clothes to

HARVARD COMMUNITY EXCHANGE

1094 MASS. AVE. CAMBRIDGE
Longest "Old Clothes" Man at Harvard University

MEDIUM RARE
ROAST BEEF SANDWICH 45c

Arthur Parker's

79A MT. AUBURN ST.
Cor. Mt. Auburn & Dunster Sts.

ROAST BEEF DINNER 70c
AU JUS

**MASS. & GARFIELD
GULF
SERVICE STATION**

* TUNE UPS
* LUBRICATIONS
* WASHINGS
* MUFFLERS, TIRES, BATTERIES
ALL ACCESSORIES

1725 Massachusetts Ave.
Between Harvard & Porter Sq.
EL 4-9203

ROBINSON BAR REVIEW

(Established 1929)

88 TREMONT ST., BOSTON Capitol 7-9594

Review for JULY Bar Examination begins on MONDAY, FEBRUARY 8, 1954 at 6 P. M. Tremont Temple Building, Gilbert Hall.

FREE LECTURES: Monday, February 8, Tuesday, February 9, and Thursday, February 11, at 6 P. M.

ALL SUBJECTS required for MASS. Bar Examination given in most thorough manner. About 1000 pages of Notes.

Chez DREYFUS
FRENCH CUISINE COCKTAIL LOUNGE
BANQUET ROOM
MODERATE PRICES
Open Daily Except Sundays
44 CHURCH ST. KI 7-4311

**CHERCHEZ
LA FLAMME**
BARBER SHOP
EIGHT EXPERT BARBERS
21 DUNSTER ST. EST. 1898

**LAW SCHOOL BOOKS
USED AND NEW**
Law Outlines—Books of All Kinds
HARVARD BOOK STORE
1248 MASS. AVE. TR 6-9069

SQUASH RACKETS
Largest Variety in New England
TENNIS & SQUASH SHOP
67A MT. AUBURN ST. CAMBRIDGE
Opp. Lowell House — TR 6-5417

If you've been waiting for a

SALE

of all-purpose outer coats for men...

HERE IT IS!!

SALE

Combination

Topcoat - Overcoat

Rightfully you cannot call this an overcoat sale nor a top-coat sale because this famous-name, heavy tweed coat serves both purposes perfectly. With its 100% wool lining zippered in place it's as warm a coat as you could require on the coldest days. As a matter of fact, the tweed shell and the wool lining in combination give you greater warmth than an overcoat. Take the lining out and there's your topcoat. These coats are of heavy imported Scotch tweed in the medium and dark shades of gray. Here is an unusual value in warmth and an excellent value in the quality of fabric, tailoring and style. See them today.

Regularly \$69.50

NOW \$57.75

3 MONTH PAYMENT PLAN AVAILABLE

ALSO... our sale of fine quality suits and overcoats is in progress

The COOP