



Harvard Law School Record



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Hall Club Ruled Victor Over Wilson Club In First Of Ames Quarter-final Arguments

In the first quarterfinal Ames argument Monday night, the Hall club defeated the Wilson club. The case was heard in Langdell Courtroom by the Hon. Allan K. Grim, LL.B. '29, United States District Judge, Philadelphia. Robert H. Hopkins, LL.B. '25, and Charles Y. Wadsworth, LL.B. '35, both of the Boston Bar. Judge Grim acted as Chief Judge.

The Hall Club's oralists were Roger R. Phillips of Pelham, N. Y., and Mercer D. Tate of Philadelphia. Oralists for the Wilson Club were Ralph I. Lancaster, Jr., of Bangor, Me., and Joseph A. Califano, Jr., of New York City.

In awarding the decision to the Hall Club, the court decided the legal questions presented, as well as the relative merits of the two clubs' briefs and oral presentations. The court found for the defendants on the law. Chief Judge Grim said that the power claimed for the President exceeded the statutory authorization, so that the executive agreement was invalid.

Issues

The case, which is based on *U. S. v. Guy W. Capps, Inc.*, a case now before the Supreme Court, involved a suit by the United States to recover damages as a third-party beneficiary from an importer of Canadian potatoes. The United States' case was dismissed in the District Court on defendant's motion under Federal Rule 12 (b) 6. The government appealed to the Court of Appeals.

The defendant, Benton Farm Products, Inc., agreed with its Canadian supplier to sell the potatoes only for table-stock purposes. Instead, Benton sold the potatoes to a grocery chain.

The United States claimed that this action forced it to buy more potatoes to support agricultural prices. An executive agreement between the United States and Canada provided that Canada would require her exporters to the United States to insert a clause like the

(See AMES on page three)

Group Would Keep Daily Court System

The Special Commission on District Court Reorganization, of which Vice Dean Livingston Hall was secretary, has submitted its report to the Massachusetts General Court. The report was the subject of hearings by the Joint Committee on the Judiciary on March 24 and 25.

The special group, created by the legislature last summer, studied the proposal to create a system of full-time judges for the Commonwealth of Massachusetts. In its report, the Commission suggests that the part-time judge system be retained in several areas. Citizens of these areas had expressed concern because under the original plan daily courts would no longer be held in their towns.

Daily Criminal Courts

By retaining the part-time judge system as a permanent part of the Massachusetts judiciary, the Commission would preserve daily criminal courts in the less populous counties of the Commonwealth.

The original proposal for full-time judges made last year by the District Survey Committee would have retained all the present part-time judges but would not have provided for successors to the incumbents. Part-time judges would have been retained permanently in the Cape Cod counties. Under the Commission's new bill part-time judges will be retained not only in the Cape,

(See COURTS on page three)



ORALISTS: I. to r., Mercer Tate, Roger Phillips, Ivan Lancaster, Joseph Califano

Politicking By Labor Unions Discussed At Forum; Asia Problem To Be Aired

According to the majority of the panelists at last Friday's forum, labor unions were driven into politics by the Taft-Hartley Act, and are now entering their seventh year of extreme political consciousness. Gus Tyler, political director of the I.L.G.W.U., maintained that this was a departure from the view from Samuel Gompers, whose beliefs manifested a distrust of political action and a faith in collective bargaining.

He claimed the change was gradual, marked by excursions into politics to protect the basic tenets of collective bargaining. However, he stated that from 1933 to 1947 labor contented itself with endorsing candidates, and didn't actively enter the political arena until the "traumatic" experience of Taft-Hartley.

The full significance of the Act, he stated, has not been felt yet, but in an atmosphere of unemployment, when the natural bargaining power of the union has diminished, its effect will be disastrous. No claims were made of labor's power to deliver votes in block, but the most effective methods of accomplishing the unions' purposes included bargaining between the unions and the political parties, punitive endorsement of candidates, action in the primary elections, and limited experiments in third-party activity along the lines of the Liberal Party in New York City.

Robert Segal, attorney for the Massachusetts Federation of Labor and member of the Law School Association, emphasized that Taft-Hartley contributed to the political consciousness of the unions and also gave employment to many labor attorneys, a somewhat mixed blessing. He pointed out the anomalous position of the Northern manufacturer, who, while supporting sec. 14b of the Act, effectively encouraged a shift to the South, bringing about the oft-mentioned decline of New England.

Aims of Labor

In pointing out the reasons for labor's interest in the political arena, he added that the bill of grievances of 1906 was labor's first overt act in this field. However, labor's interest was not only in the protection and extension of collective bargaining, but looks to minimum wages, social security, unemployment compensation and universal suffrage as well, recognizing, while following its pragmatic course, that this is only possible within the framework of our democracy.

Labor's failures in political activity and tactics were set forth by Al Barkan, Director of the Textile Workers, CIO-PAC. He emphasized that the unionists outside affiliations coupled with the paucity of their knowledge of the mechanics of politicking largely contrib-

(See FORUM on page three)

Law School Reveals Seven Men Receive New Appointments

Dean Erwin N. Griswold has announced the appointment of two Assistant Professors of Law, the Ezra Ripley Thayer Teaching Fellow, three Teaching Fellows, and a Faculty Assistant. The appointments will be effective July 1, 1954.

Robert E. Keeton, presently at Harvard, holding the Ezra Ripley Thayer Fellowship, has received a two-year appointment as Assistant Professor of Law. Before coming to Harvard, Mr. Keeton was an Assistant Professor of Law at Southern Methodist University in Dallas, Texas. He is a graduate of the University of Texas receiving a B.B.A. in 1940, and an LL.B. in 1941. During the war he served as a Lt. Commander in the Navy. From 1945 to 1951 Mr. Keeton practiced law in Houston. During the past year he taught a first-year class in torts.

Donald F. Turner was also appointed in Assistant Professor of Law. Mr. Turner was law clerk to Mr. Justice Clark for the year 1950-51. He is presently in private practice in Washington, D. C. with the firm of Cox, Langford, Stoddard and Cutler. In 1941 he received his A.B. from Northwestern University.

Then he came to Harvard, where he received an A.M. in 1943 and, after returning from the war, a Ph.D. in Economics in 1947. In 1950 he received an LL.B. from Yale Law School. While there he was Editor-in-Chief of the *Yale Law Journal*.

Thayer Teaching Fellow

Harold W. Harowitz will be the Ezra Ripley Thayer Teaching Fellow for next year. The Fellowship permits its holder to be a graduate student at the Law School and at the same time to teach a course. Mr. Harowitz will teach a section in Commercial Law. The appointment is for one year.

He is presently an Associate Professor of Law at the School of Law of the University of Southern California. In 1943 he received an A.B. degree from the University of California and in 1949 a LL.B. m.c.l. from Harvard.

While at Harvard he was on the *Review*, serving as Book Review Editor for volume 62. From his graduation until 1950, when he joined the faculty of the University of Southern California, Mr. Harowitz was in private practice in Los Angeles.

(See APPOINTMENTS on page four)

The Record To Reprint Dean Griswold's Speech "Per Legem Terrae"

The RECORD has been receiving orders from all over the country for copies of Dean Griswold's speech on the Fifth Amendment. To date, thousands have gone out, with requests continuing to come in.

Such orders are still welcome, but we wish to announce that we are also making available copies of the Dean's later speech, *Per Legem Terrae*, which appeared in last week's RECORD. This speech, dealing with controlling the powers of Congressional subcommittees, was delivered at the Phi Beta Kappa initiation at Mount Holyoke College.

Requests for reprints of the entire text should be addressed to the Harvard Law School Record, 23 Everett Street, Cambridge 38, Mass. Individual copies will be available at the RECORD Office, while there will be a nominal charge for quantity order to cover costs. In writing, please distinguish clearly between the two speeches.

Bull & Bear Group Listens To Gilbert

A large crowd of interested students listened to Mr. Lewis D. Gilbert, "professional" minority stockholder, discuss "Building Corporate Democracy" at a meeting of the Bull and Bear Club in Harkness on March 24.

Mr. Gilbert is the recognized unofficial "champion" of independent shareholders in the United States. He attends many annual meetings of corporations throughout the country each year.

Mr. Gilbert described the proposals which independent shareholders are raising in proxy statements and at annual meetings this year. These include ending the stagger system of electing directors. Mr. Gilbert believes that all directors of a company should be elected each year, so that if stockholders wish to "change teams", they can do it at once rather than wait several years. He stated that part of the recent difficulties in the American Woolen Co. were due to the retention of the stagger system by that company.

Independent shareholders also seek to institute cumulative voting rights in those companies which do not already have them. Cumulative voting is now mandatory in twenty-one states, Mr. Gilbert pointed out, and he urged the lawyers present to make this proposal their freshman bill when they are elected to State legislatures.

Supports Robert Young

The reason that the independent shareholders are supporting Robert Young in his fight for control of the New York Central Railroad, Mr. Gilbert stated, is that Mr. Young has agreed to give shareholders cumulative voting rights. The present management has opposed such a plan. Mr. Gilbert predicted that Mr. Young would be successful in his present struggle.

Gilbert also favors placing a ceiling of \$25,000 per year on the pensions which are paid to any one former employee of a company. He believes that a retired executive does not have to maintain the same high standards of living as when he was active in management, and that therefore a small pension is adequate.

Excessive compensation for executives is another target of the independents. Mr. Gilbert believes that even in the largest corporations no executive's salary should exceed \$200,000 per year. He believes that the presidents of General

(See BULL AND BEAR on page three)

Howe Describes 'American Legal History'

One Of A Series On Second Year Electives

A profession which honors the memory of Maitland, Holmes, and Ames need not be persuaded that the avenue of history leads to the philosophic understanding of law, I take it, therefore, that no justification need be given for including the course in American Legal History in that category of courses somewhat smugly labelled by those who give them, "perspective courses." It might well be argued, of course, that the pretension of perspective would be strengthened if the word "American" were removed from the title. I should not deny the merit of that argument, but should only enter two pleas in confession and avoidance. First, I should say that any course which includes within its subject-matter the history of law in the Colonial period, as our course does, must necessarily concern itself with significant aspects of English legal history. Second, I should say that



Mark DeWolfe Howe

a course which meets but twice a week for one semester must at best be highly selective in its coverage. Experience

has shown, I believe, that courses which rapidly survey the whole sphere of Anglo-American legal history leave but a light and fleeting film of knowledge on the surface of the student's mind.

In view of these considerations the course in American Legal History has been organized around one central problem, and three subsidiary aspects of that problem. Its central concern might be described as that of discovering how the makers of American law, whether they have been courts or legislatures, have dealt with the reception and rejection of English law. With what must seem to some students to be a characteristic form of Harvard provincialism the study of the Colonial period in American Legal History has been rather rigidly confined to Massachusetts. If this limitation has justification it is to be found in the fact that the Puritans

(See LEGAL HISTORY on page four)

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Legal Responsibilities

On Nov. 3, 1953, G. David Schine consultant of the investigations subcommittee of the Senate's Committee on Government operations, was drafted into the United States Army.

Since that time Schine's tour of duty has inspired several reports and counter-reports relating to alleged special privileges awarded to him.

Under the temporary chairmanship of Senator Karl Mundt of South Dakota, an investigation subcommittee has been set up to fully examine the matter.

We comment below on two aspects of this affair which pose interesting problems for the legal profession, one as a personal matter for every lawyer, and the other as a policy matter.

Senator Mundt asked William J. Jameson, President of the American Bar Association, to be the subcommittee's chief counsel for the investigation. After consulting with the Board of Directors of the A.B.A., Mr. Jameson declined, saying that the Directors thought it would not be "appropriate" for him to serve. We can only interpret this to mean that the hearings were too controversial for the A.B.A. and his acceptance would therefore be to its detriment.

But lawyers are always in the thick of legal and political controversy. They have a duty to the public to help regularly constituted official groups discover the truth. This investigation clearly involves something more than partisan politics. It touches the veracity of some of our most prominent public officials.

In hearings of this scope the Senate is entitled to the best legal talent it can obtain. Lawyers should not be lax in serving the public. The A.B.A. represents the leaders of this country's bar, and is unfortunate that they have chosen to dodge their responsibility.

Senator McCarthy is playing a peculiar role when he insists that he have the right to cross-examine witnesses in the investigation.

We disapprove of using a committee hearing as a form of trial, but it is too late to take the issue to some other tribunal. This hearing is to determine guilt or innocence, and, we feel that there should be as close an approach to the normal judicial safeguards as there can be.

Cross-examination is an essential right of the accused and of the prosecutor. We would be in favor of seeing the right extended more widely in investigations of this type.

It is unthinkable, however, that McCarthy alone should have the right to cross-examine. His status as a Senator ought not to give him special privileges at the hearing. His status as an accused is no different from that of Cohn, Schine, or the various Army officials. The right must be extended to all the parties, but they must be permitted to exercise it through their counsel, since not all laymen have the necessary ability to cross-examine.

Veritas et Legem

This issue of the RECORD marks the first of the new Board and introduces a new flag. The old RECORD banner has been torn down and replaced. Its successor, we feel has perhaps more artistic merit and also is more significant as it relates the Law School to the University.

The University seal emphasizes the search for truth which is the preoccupation of the educated man. Within that overall area of endeavor we find the ancient, yet everchanging discipline of legal study. "From the old sheaves come the new corn." So the lawyer must seek the truth and apply it with an awareness of the lessons of the past, the needs of the present, and hopes for the future.

Gallery

JAMES BARR AMES
 Boston Attorney



James Barr Ames, member of the law firm of Ropes, Grey, Best, Coolidge & Rugg and head of their probate department, is a grandson and namesake of the late Dean Ames. The Ames family has been closely connected with the law school for three generations. Ames' father, Richard Ames, was for many years secretary of the school. The present Mr. Ames, like his father and grandfather before him, received his LL.B. from Harvard, graduating in 1936, and went directly to Ropes, Grey, where he has been a partner since 1948.

Mr. Ames was interviewed over dinner at Lincoln's Inn; and unfortunately for the cause of conventional reporting the conversation turned too often from the details of the background and accomplishments of Mr. Ames to the problems and the questions of the young man in law school. On the other hand, his comments to the several prospective lawyers about him gave a certain flavor to his story that a purely biographical presentation of fact might not have achieved.

Analyze Problems

At any rate, during the course of our conversation the question was put to him, "What in your opinion should we be getting out of law school?" "First and foremost," answered Ames, "you should be learning how to analyze problems and how to think and express yourselves clearly. This is a skill you will find applicable to all branches of the law and to fields outside the law."

In support of this generalization, he referred to his own experiences during the last war. As a Colonel in the Army Air Force, Ames was a member of the Advisory Council of General "Hap" Arnold (who strongly disliked reading any report longer than a page in length). Later he went to the Command and General Staff Schools and was subsequently sent overseas with General Spaatz' staff. In Europe, he was Assistant Air Advisor to Ambassador Winant. Toward the end of the war, he headed the Executive Office of the United States Strategic Bombing Survey, which assessed the effect of our bombing on the German war effort. In each of these capacities, he emphasized, the ability to analyze facts, to boil them down and get to the heart of a problem, was just as important as purely technical knowledge.

Ability to Negotiate

"There is another quality a lawyer must have and that is the ability to negotiate; to put legal training to the solution of real-life problems. Although you don't learn much of this in law school, the practicing lawyer is obliged to be interested in the community about him." A good example of what he meant might well be his own career. Ames is a past member of the Council of the Boston Bar Association and was recently Chairman of the Association's Special Committee on Probate Practice. Outside the law proper, he is a director of the Fiduciary Trust Company and of the Massachusetts Hospital Life Insurance Company and is Chairman of the Board of the Mt. Auburn Hospital in Cambridge. He has also been much interested in practical problems of local city government and has been active as a director and member of the executive committee of the Cambridge Civic Association.

At the law school, he was not only a *cum laude* student (he has been *magna* at the college) but was Supervisor of the Marshall Club and on the Board of Governors at Lincoln's Inn.

Elaborating on the human relations aspect of the legal profession, Ames suggested that the law school might possibly do more in this area, one of his favorite projects being an enlargement of Legal Aid. Inevitably we spoke of grades. "I was interested," commented Ames, "in a recent RECORD editorial in which the present emphasis on grades was criticized. There is some merit to the suggestion that students be classified in broader, general categories. But as long as the system is the way it is, the people who do the hiring cannot help but give a man's grades special consideration."

W. R. McK.

Letters to the Editor

TO THE EDITOR:

I have read the recent letter of Assistant Dean Louis A. Toepfer appearing in the Harvard Law School RECORD about placement opportunities in California. He referred primarily to San Francisco and Los Angeles.

As Administrator of Continuing Education of the Bar in California, it was my fortune to travel more than 25,000 miles in California during the past year. I find that there are many sections in California which are growing extremely fast and in which capable lawyers with a zeal for hard work would be welcome. Indeed, almost in every place that I visit I bump into a Harvard Law School man, even in the smaller and more inaccessible communities.

May I suggest that anyone who has an eye fixed on the California legal scene would do well to investigate the smaller places. There is a good living to be made in them, probably more quickly achieved in many instances than in the larger urban centers, and in addition, the way of living may be even superior. Just to mention a few, I direct the attention of new graduates to Sacramento, Santa Rosa, Stockton, Modesto, Fresno, Eureka, Salinas, Santa Ana, Riverside, San Bernardino, San Diego, Long Beach and many others of comparable size and importance.

However, as Dean Toepfer states, to achieve success requires a willingness "to pick an area . . . and then go and stay." Also, a little capital until the first clients help pay for the overhead is not to be overlooked.

FELIX F. STUMPF LL.B. '41

TO THE EDITOR OF THE RECORD:

It did my heart good to read in this morning's paper the seven points outlined by Dean Griswold for the conduct of congressional investigations, and the arguments advanced by Vice-Dean Hall for full-time judges. These two men are performing the finest type of public service, and are doing much to offset the argument that the legal profession has been abdicating its responsibility to the public in these trying times.

JOSEPH B. ABRAMS, LL.B. '27
 (Ed. note. Mr. Abrams is President of the Massachusetts Trial Lawyers Association.)

TO THE EDITOR:

I am writing you about what I think a good item for the RECORD. When I entered the Law School in '50 my eyes checked in at 20/20, but a year of close work reduced my distance vision to less than 20/50. What was happening was that the eye lenses had assumed as their normal shape the fat shape required for near vision and would no longer thin out for distant vision.

After writing to the heads of the American Medical Association and the American Optometrical Association I was finally directed to the Dean of the Massachusetts College of Optometry, Dr. Ralph H. Green. He prescribed "protective" lenses for me which protected my eyes from the abnormal strain placed on them by a career at the Harvard Law School. The action of these lenses is such that when I read a book twelve to fifteen inches away, my eye lenses no longer have to assume the very fat shape for abnormally long periods of time, but are somewhat more relaxed or thinned out.

A short item in the RECORD on this subject may help to save the eyes of many of my successors in the Law School.

ROBERT A. RIEGERT LL.B. '53
 March 25, 1954

TO THE EDITOR:

In the review of *Besig v. U. S.* under the heading "Sub Judice" in the issue of March 11, 1954, you may have done an unwitting disservice to a great and good man. You will be happy to know, I am sure, that Ernest Besig is more libertarian than libertine. He has for many years been Executive Director of the Northern California Branch of the American Civil Liberties Union, and, in that position, one of the most effective fighters in the West for the protection of civil liberties in every area of thought and action.

I am certain that his fight against the confiscation and destruction of Henry Miller's novels is motivated more by his desire to insure that you and I may read what we wish, without arbitrary judicial or administrative restrictions, than by a particular attachment to the content of those novels.

MAXWELL E. GREENBERG, LL.B. '49

Sub Judice

HUNGRY COWHAND

It was the last day of the fall festival in Guthenberg, Nebraska, and a rodeo was the afternoon attraction. When it was over the participants and spectators visited the saloons and beer taverns in the city, one of which was known as "Bert and Earls".

Arthur Houchin, his father, James, and the defendant Sall and his wife were amongst the tavern's numerous customers that evening.

Sall accompanied his wife to the rear of the place where she visited the ladies' rest room. He then started to converse with a mutual friend at Arthur's table. Sall allowed his cigarette to dangle and twice it came in contact with and burned James Houchin's hand.

After a warning, and a reply of "Do you want to make something out of it?" Arthur grabbed him and flung him out of the booth. Name-calling and a host of profane epithets followed.

In the affray, Sall's shirt was torn. This disturbed the angry Sall, who returned home for a clean shirt and then immediately came back to "Bert and Earls" to defend his honor.

He confronted Arthur, declaiming, "Dude, come out and settle it." A bartender escorted Sall away, but he waved his torn shirt and ranted, "You don't allow people to tear your shirt off and walk away from it."

The proud Westerner did not give up so easily. He waited outside until about a half hour later when Arthur, his father and a friend came out on their way home. Then he attacked. Sall popped the friend over the head with a handy beer bottle and had an accomplice take care of the older Houchin. He saved Arthur for himself.

Instantly, they were on the ground, and Sall on top. Arthur hit Sall with a beer bottle after feeling Sall injure his left ear. Getting the aggressor off him, Arthur cried, "... bit my ear off!" The human ear was found by police officers at the exact location where the struggle took place immediately after.

Held: Judgment affirmed. In a prosecution for mayhem consisting of chewing off an ear of the victim, Sall was guilty. Evidence was allowed to show that the defendant in two previous fights in the community with two other victims, had bitten one on the ribs and the arms (leaving the latter marks visible for two months), and had bitten the second on the chest. [*Sall v. State*, 61 N.W. 2d, 256] (Supreme Court of Nebraska, Dec. 4, 1953).

BEER

Miss Houpt owned a public dance hall in the town of Milliken, Colorado, and was allowed to operate it under a permit issued by the Trustees of the Town on a week-to-week basis. Miss Houpt also possessed a license to dispense 3.2 per cent beer. However, the Town enacted an ordinance forbidding the sale of 3.2 beer between the hours of 12 midnight and 8 a.m. on the following Monday.

The Town revoked Miss Houpt's dance hall permit after several disturbances resulting in stabbings and a death.

Quite indignantly, Miss Houpt brought action to enjoin the Town from enforcing the ordinance prohibiting the sale of 3.2 beer in the aforementioned period. She also claimed that the Trustees were unjustified in revoking her permit, calling their action "unlawful, arbitrary, capricious, and directed solely against the plaintiff."

Her case rested on the fact that fermented malt beverages containing not more than 3.2 per cent of alcohol by weight (commonly called 3.2 beer) is in fact intoxicating, causing it to be regulated under the Colorado Constitution, leaving the State sole control. This, in effect, would forbid the Trustees of the Town of Milliken to enter.

The actual effect of 3.2 beer was undetermined as to the date of Miss Houpt's trial, for the Supreme Court of Colorado previously said:

"The legislature in 1945 repealed its declaration that such beer was not intoxicating and left the scheme for its regulation adrift without an anchor. Since that repeal, there remains no legislative standard by which to test whether such beer is legally intoxicating and the question becomes one of fact, which must be determined by the trier of facts from the evidence."

Held: Judgment affirmed.

Trial judge correctly found that 3.2 beer is not intoxicating. (This was determined by "legal and competent evidence" submitted to the trier of facts.) The Court further held that in the absence of a finding that such beer was in fact intoxicating, the Trustees of the Town did have the right to reasonably regulate its sale. Since plaintiff admitted her open sale of such beer in violation of the ordinance, her permit was subject to revocation at any time. *Houpt v. Town of Milliken*, 260 P.2d 735 (Supreme Court of Colorado, Aug. 24, 1953).

Coffee Hour Gathering Hears Brinton Deliver Lecture On Anti-Intellectualism

Professor Crane Brinton spoke to the Coffee Hour this Tuesday on Anti-Intellectualism. The speech was a pleasant and non-controversial, devoted mainly to a definition of terms. In defining intellectualism, Brinton used as a base line the 18th century "age of rationalism" concept that all human beings can think straight. He defines an intellectual as one who works mainly with words and abstractions and is something of an artist at it.

As to "anti-intellectualism," the speaker first pointed out that this term as it



Crane Brinton

is generally used today is a "smear" word with no clear meaning. It is used to describe a number of different schools of thought.

On one hand there is what Brinton calls a "realistic anti-intellectualism" of which psychiatry is an example. The underlying premise of this "realistic anti-intellectualism" is that reason is at best a rather feeble candle in the totality of components that motivate and produce action. This school exemplifies a reaction from the overly optimistic attitude of the 18th century in re the infinite perfectability of man through education. It is not necessarily critical of rationalism *per se*. As Brinton expressed it though reason may be at best a feeble

candle this is no reason to blow it out. Second, we have what Brinton terms "romantic anti-intellectualism." The attitude of this school is that reason is a feeble, useless candle—let's blow it out. This school is characterized by the distrust of intellectualism and the desire to eliminate it. As Thomas Hardy puts it "thought is a disease of the flesh."

American "anti-intellectualism" is a variant of this. It manifests itself as a deep rooted distrust of the intellectual, educated classes in the society. It represents a basic hostility towards the "egg heads" who previously were known as the "longhairs" and before that as the "high brows."

Brinton concluded by pointing out that, interestingly enough, this American attitude is an ambivalent one, in that the American people, when polled regularly rate the learned professions highest on the social scale.

Cox Chosen Member Of Arbitration Board

Prof. Archibald Cox has been appointed one of the two public members of a six-man arbitration board which will meet next month to decide a wage dispute between the railroads and the Brotherhood of Locomotive Engineers.

The board will begin its hearings on April 26 and will hear evidence for about two weeks. The meetings will be held in Chicago.

The arbitration board was created after an agreement between the union and the railroads to submit their wage dispute to final and binding arbitration. This method of setting wages is approved by the Railway Labor Act.

The other public member of the panel is Prof. Richard Lester of Princeton University. According to the Labor Relations Reporter, the union had asked for a 30 per cent "skill increase."

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● OPEN SUNDAYS

AMES — (Continued)

one in question in all their contracts with United States importers. The defendant claimed that the agreement was made against the direction of Congress, and hence was unconstitutional. In oral argument this point was made by Roger R. Phillips, who also argued that the United States could not sue as a third-party beneficiary because Congress had not authorized that kind of suit in such a situation. Mercer D. Tate, the second Hall Club oralist, maintained that the law of Ames (Massachusetts) does not permit third-party beneficiaries to sue, and that the government's theory of damages was inadequate.

Plaintiff's Case

In urging that the judgment be reversed and the case sent back to the District Court for trial, the United States argued that the executive agreement was valid under the applicable laws and under the Constitution regardless of the laws. Lancaster urged that the President can make executive agreements that have the force of law in the United States, even if Congress has tried to forbid him making such agreements.

Califano argued that the contracts gave the government a valid claim as a third-party beneficiary. To avoid the Ames (Massachusetts) rule preventing recovery by third-party beneficiaries, he said that cases involving the Federal government should be tried by a uniform Federal common law, not State rules of decision.

Hall Club

For the Hall Club counsel on the brief included Paul D. Carrington of Dallas, William J. Erickson from Northfield, Minn., Charles D. Mahaffie, Jr., of Washington, D. C., Robert S. Medvecky from Stratford, Conn., Joseph A. Novak of Springfield, and Robert D. Peckham of Swisshome, Ore.

On Brief

On brief for the Wilson Club were Douglas K. Ferguson of Dayton, Ohio, William O. Forbes of Montreal, Que., Ronald R. Gagnon from Saylesville, R. I., William F. McMahon of Pawtucket, R. I., James E. Ratcliff, Jr., of Pineville, La., and Chas. Talbot of Walla Walla, Wash.

COURTS — (Continued)

but also in all but the major metropolitan counties of the state.

The original District Court Survey Committee was organized in September 1951, and consisted of the Deans, or representatives of the Deans, of all the Massachusetts law schools. Vice-Dean Hall was the chairman of the committee, and Lawrence B. Urbano, LL.B. '50, was the director of the survey. Its report was made public in the fall of 1952 and was overwhelmingly supported by members of the bar.

The new recommendations have been supported at the legislative hearings by Robert W. Bodfish, LL.B. '22, president of the Massachusetts Bar Association and a member of the Commission, and by the president of the Boston Bar Association, Sumner H. Babcock, LL.B. '27. As yet, however, the associations themselves have taken no stand on the amended plan.

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BULL & BEAR — (Continued)

Motors, Bethlehem Steel, and Du Pont would be willing to work for such a sum, and that amounts in excess of that figure would be much better utilized, from the stockholders' point of view, if they were spread among the junior executives. This ceiling includes any benefits which executives would derive from stock options or bonus trust plans.

Independents will also propose that annual meetings be held in more convenient locations, and that complete post meeting reports be sent to all stockholders who could not attend the meeting. They will continue to insist that all directors own stock in their companies. Mr. Gilbert pointed out that General Douglas A. MacArthur has recently acceded to his request and has purchased 800 shares of stock in Remington Rand.

Likes New Rules

Mr. Gilbert praised the recent S.E.C. changes in proxy rules, which require full disclosure of the name and address of the sponsor of every proposal in a proxy statement; and also require that all directors, not just those up for election, state their holdings of company stock in the proxy statement. Management must also notify an independent twenty days before a proposed proxy statement is to be sent to the S.E.C. if a proposal is to be omitted from a statement. This gives the independent an opportunity to present his side of the question to the S.E.C.

Favors Regional Meetings

Mr. Gilbert opposed the raising of the number of shares required for resubmission of a proposal to 6 per cent of the votes cast for the second year and 10 per cent for the third year. He also opposes the requirement that three annual meetings must elapse before a proposal which has been introduced three times can be introduced again. He believes that this period should be shortened.

Mr. Gilbert also favored the idea of having regional meetings and of having annual meetings held simultaneously in various parts of the country by means of a closed television circuit.

He stated that there remains much work to be done in eliminating the casting of unmarked proxies, of blind voting, and in imposing proxy requirements on unlisted companies. "The independents have just scratched the surface in the building of corporate democracy," Mr. Gilbert concluded.

CORBIN WINS PRIZE

The faculty has voted to award the Ames prize, in the amount of \$1000, to Prof. Arthur L. Corbin of the Yale Law School in recognition of his work "The Law of Contracts," according to an announcement from Dean Erwin N. Griswold.

The Ames prize is awarded from the James Barr Ames fund, and is given "for the most meritorious law book or legal essay written in the English language and published not less than one nor more than five years before the award."

Prof. Corbin's work was published during 1950 and 1951. Corbin is Professor Emeritus at Yale.

FORUM — (Continued)

uted to their slow start in this field, but that their success is increasing. He pointed out a small mill town in the South, where formerly the mayor and police chief were both mill executives. Today, both these positions are held by top union leaders. However, since Taft-Hartley, his union's organizing has been at a virtual stand-still, with his workers finding it necessary to set up circus tents in order to secure a meeting place.

Riesel

The fourth panelist, Victor Riesel, whose column appears daily in 187 newspapers throughout the country, stressed the danger of union activity in this sphere. While questioning the origins of the mandate carried out by organizations like the C.I.O.-P.A.C., he emphasized his view that there is no labor movement, merely a coalition of powerful unions. Though his frequent deviations from the subject of the evening were ably controlled by Professor Louis Jaffe, the moderator, he was able to predict that the C.I.O. would never see another national convention, basing his theory on the statements of three union vice-presidents, and expressed the belief that McDonald and his union would shortly leave their ranks. He also stated that while unions like the ILGWU might responsibly enter politics, gangster-ridden groups like the United Mine Workers, Teamsters, and Longshoremen make such entry inherently dangerous and undemocratic.

The forum was high-lighted by heated questioning from the floor, which again pointed up the basic fact that despite the necessity for clean-up from within, labor unions have followed the path of all large groups and have turned to politics in an attempt to accomplish their objectives.

Next Forum

Recent Communist successes in Indo-China and the forthcoming Geneva Conference highlight the vital issues of American foreign policy in Asia which will be discussed at the next Harvard Law School Forum. There is a real conflict of views on how we can best combat the expansion of Communism, and the Forum will present outstanding experts to bring these conflicts into sharp focus.

John K. Fairbank, Professor of History at Harvard, former head of the United States Information Service in China, and Special Assistant to the American Ambassador in Chungking, will contrast his views with those of Col. Laurence E. Bunker, former Aide-de-Camp to General Douglas MacArthur. He has been with the General since 1946 and is well aware of the communist menace.

Also speaking will be David Dallin, expert on Russian Asiatic expansion and author of many books including *The Rise of Russia in Asia*. Rounding out the panel will be Harold Isaacs, former war correspondent in the Far East and past Editor of Newsweek. He is now a Research Associate at the Center for International Studies at M.I.T. and author of *No Peace for Asia*.

The Forum is at 8 p.m. tomorrow at the New Lecture Hall. Tickets are 70c and available at the door.

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NEWS IN BRIEF

FASHION SHOW

Over two-hundred Law Wives and guests crowded into flower-laden Harkness Commons to see *Fashions On Trial*, produced by the Harvard Law Wives on Wednesday, March 24 at 8:30 p.m. This year's spring fashion show had as its theme "The Case of the Changing Silhouette." Carole Goldberg narrated "the case at bar" while Lois Stoval provided the musical background.

Margaret Chimples and Marilyn Matusoff were co-chairmen of the show with the following girls on their committee: Bessie Carrington, Virginia Carpenter, Ernestine Norgren, Elizabeth Stone, Sue Shae, Marilyn Medvecky, Ellen Fialkow and Joan Feder.

From the *Elaine Claire Shop*, 61 Church St., Anne Fogarty fashions were featured. Everyone received a sample of lipstick from the *Helena Rubenstein* salon. The *Stop & Shop* provided the flowers for decorations and also cookies and donuts.

Drawing of the door prizes took place at the conclusion of the show with the following firms donating the articles:

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MEETING

There will be no meeting of the Harvard Law Wives on Wednesday, April 7. However, on Friday, April 9, the Drama group will present two one-act plays in Harkness Commons.

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DANCE

The Beth Israel Hospital Junior Auxiliary will hold its last uncoupled dance of the season on Saturday evening, April 3 at Temple Kehillath Israel Auditorium (384 Harvard St., Brookline). Music by Gene Dennis; admission \$1.25 per person. All proceeds to Tumor & Cancer Clinic of Beth Israel Hospital.

OPINIONS

The Board of Student Advisers has announced that all opinions of the judges in the Ames Competition to be eligible for consideration for the prize for the best opinion must be submitted to the Board's office in Austin Hall by 5:00 p.m. April 5.

PARTY

A 'refreshment' party for the participants in the PBH basketball league will be held today in Harkness Commons at 4:00 p.m. The annual party will this year be given by the championship Spartans who seem to be making a habit of sponsoring these affairs.

Alumni Notes

LL.B. '17 — William C. Warren, Jr. has joined the Buffalo, N. Y., firm of Magavern, Magavern, Lowe & Gorman.

LL.B. '37 — Herbert Wilton Beaser has been appointed Associate Chief Counsel for the United States Senate subcommittee to Investigate Juvenile Delinquency. The parent body is the Committee on Judiciary. Mr. Beaser has recently served with United States delegations to the UN.

LL.B. '50 — Stanley B. Cohen has become associated with Leo Resnick of Washington, D. C. The firm will practice before administrative agencies and department of the Federal government. Mr. Cohen was formerly a trial attorney with the Federal Communications Commission.

LL.M. '53 — Lieutenant Jack Paul is now serving as a project officer at Headquarters, Air Material Command, Wright-Patterson Air Force Base, Ohio. Lieutenant Paul received his LL.B. from Stanford University in 1952.

Table Tennis Tourney

Five of the top contestants in the Law School Table Tennis Tournament played the five leading players in the Medical School, and won all five of the matches in a contest played March 24 in Holmes Hall.

The two finalists from the Medical and Law Schools' separate tournaments played best three out of five games. The other three matches were decided by the best two out of three games.

Defeated Med. School

Winner of the Law School tournament was Gordon Zimmerman, 2L, who defeated John Kaplan, 3L, for top honors. Other law school contestants who finished high in the intramural tourney and were members of the team that defeated the Medical School are Bill Gross, 2L, John Hook, 2L, and Charlie Meloche, 2L.

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LEGAL HISTORY —(Cont.)

were so constituted that they were both litigious and articulate in their litigiousness. As a result they left behind them a quite unusual mass of documents relating to fundamental problems of law. No student, I venture to believe, who brings any imagination to his reading of John Winthrop's *Treatise on Arbitrary Government* or of the record of the trial of John Wheelwright can fail to see that some of the basic problems in law are not only recurrent but persistently difficult of solution.

Course Materials

Proceeding on the assumption that no two-hour course can fruitfully deal with the whole span of legal history, another period of time has been selected for relatively intensive study. That is the period between 1790 and 1820 when all American courts were confronted by the problem of adapting the common law tradition to the aspirations of a free nation. Then, the materials for study are selected on a less provincial basis than was the case when Colonial developments were examined. Attention is given not only to the reception of English law in the eastern states, but of the transmission of something that has become American law to the Northwest Territory and other frontier communities. The impact of foreign affairs and domestic politics on other branches of law than constitutional law was probably never as significant as it was between 1790 and 1814 and the students, it is hoped, are given some critical appreciation of the effect of that impact on our legal institutions.

Heritage

The final problem which is considered with special attentiveness is that of codification. Although the movement for codification, with its roots in Puritanism and its sustenance in Benthamite utilitarianism, was never carried to the triumphal successes envisioned by its champions, it nonetheless brought to the surface of professional discussion profoundly important issues concerning the place and structure of law in a democratic society. The vitality of the movement was such that it left marks on our legal institutions and traces in our thinking about law which are still significant.

M. DeW. H.

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Professor: "Wouldn't you prefer 'to B and his first son'?"

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3rd Year Class Council Plans Beer Party May 7

The Class of 1954 will throw a beer party for itself and the faculty on Friday, May 7, 1954, at 3:30 p.m. on the lawn outside of Harkness Commons. A band and short appearances by Dean Griswold and members of the faculty will be featured. Good fellowship is the order of the day.

The Executive Council of the Class of 1954 met last Sunday and decided to request class dues of \$2 from each member of the Class of 1954 to finance the beer party and the functions of the Executive Council until the first class reunion, which will take place in 1959. Donald L. Rome was elected Chairman of the Council for the next three years. The Council will maintain tabs on the whereabouts of members of the class, circulate newsletters every year, and prepare and distribute a class directory after three years and again before the five-year reunion. It will also plan and organize the five-year reunion in 1959.

Two Dollars

All third year men are requested by the Council to submit their permanent addresses, the addresses at which they may be reached during the next year, the area of the country in which they plan to practice after army service, and last but not least, two dollars.

On Saturday, April 3, cards and envelopes will be distributed for this purpose before the property classes and taken up at the end of the hour. Class dues may also be sent to J. William Doolittle, Jr., Class Treasurer, Gannett House, Harvard Law School, Cambridge, Mass.

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APPOINTMENTS —(Cont.)

Three Harvard Law School men have received appointments as Teaching Fellows for one year. They are Morril Cole, LL.B. '50, David Gambrell, LL.B. '52, and Fred Wyle, candidate for LL.B. '54. Mr. Cole is now a Teaching Fellow. He had two years of private practice in Newark, N. J. before he returned to Harvard last year.

David Gambrell received a B.S. from Davidson in 1949. While at the Law School he was a member of the Legal Aid Society. He received his degree cum laude and, since graduation, has been in private practice in Atlanta, Ga.

Fred Wyle is presently at the Law School. He is a magna cum laude A.B. graduate of Harvard, 1951. In 1946-47 he served in the Army, primarily in Japan. During the past two years Mr. Wyle has engaged in interviewing escapees from behind the "Iron Curtain" for the Russian Research Center.

Monroe H. Freedman 3L, Cambridge, has been appointed Faculty Assistant for one year. In that capacity he will be in charge of the Ames Competition. He is a graduate of Harvard University, receiving an A.B. in 1952.

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