



Harvard Law School Record

Earl Borgeson
(2)



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Barnes Reports On Brazilian Inter-American Bar Meeting

Sao Paulo, Brazil, was the site of the eighth conference of the Inter-American Bar Association, from March 15 through March 22. Representing the Harvard program in International Legal Studies was William S. Barnes, as one of the United States delegates. He was also elected to serve on the Council, the Association's executive body.

One of the many subjects under discussion was the analytical descriptive reports on tax law and tax administration now being developed by the Harvard program in International Taxation. This is a plan for the preparation and publication of a series of foreign tax reports.

Mr. Barnes stated that he was grateful for the opportunity of spending two weeks in Brazil at this time, since that country is the area of concentration for the course in International Trade and Investment this year. In relation to this, one of the many subjects discussed by the Conference was the problem of income tax incentives to international investment.

Other topics of interest were the possibilities for a uniform code of commercial law for Latin-American countries as an added incentive to trade; problems of liability of air carriers and the applicability of the Warsaw Convention; a proposal for a uniform code of ethics; and the improvement of immigration laws. Committees from all countries were also set up to work on U. N. charter revision in preparation for the next meeting of the General Assembly.

Naturally legal education and exchange of students came in for a great

deal of discussion too. Mr. Barnes met many Latin-American law students, some of whom presented him with an "Eleventh of August, 1903" banner. This it appears, is a date of historical significance in Brazil, especially so for law students. On that date, a group of budding advocates were instrumental in leading a small revolution. Latin-American law students, states Mr. Barnes, are a very active group of citizens.

This interest in education is emphasized by the presence of Dean Robert Story of the Southern Methodist University Law School, who was elected President of the Association, Dean Russell Niles, of the New York University Law School, and Dean Russell Rasco of the University of Miami School of Law, as well as representatives from almost all Latin-American law schools. Mr. Barnes noted that one of the things discussed was Harvard's lack of a special program of Latin-American law. This is deliberate, since such a program would result only in those students meeting other Latin-American students. Under present arrangements they have an opportunity to meet and study with other foreign students on more or less neutral ground, affording each an opportunity to benefit by the experience and problems of others. In connection with this Mr. Barnes stated that some American universities which have Latin-American programs are offering scholarships to American law graduates who know Spanish and wish to study Latin-American law. Interested students should communicate with him.

Controversial View On Future Of Asia Debated At Forum

Those who want "controversy" in the Harvard Law School Forum programs got some last Friday night when "The Future of Asia" was discussed by two leading authorities on Asian affairs, an articulate and vigorous former news-magazine editor, and a sometime aide-camp to General Douglas MacArthur.

Smouldering through four speeches, a radio broadcast summation, and several audience questions, the controversy finally broke over an issue which, typically nowadays, has more to do with Asia's past than Asia's future: Chiang Kai Shek.

The aide-de-camp, Col. Lawrence Bunker, put it most bluntly when he argued for U. S. air and naval support to enable Chiang's troops to reach the China mainland.

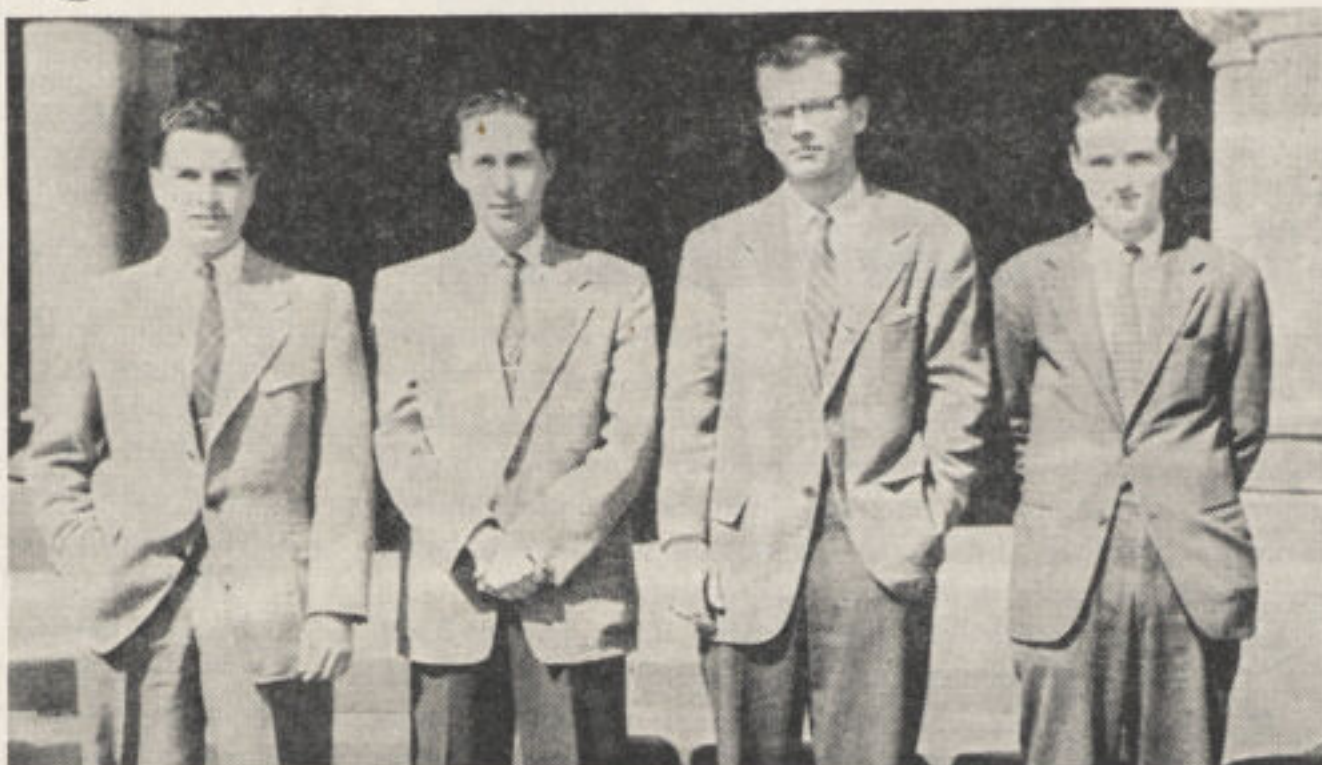
Bunker appeared to advocate use of Nationalist forces in Indo-China, too, until author Harold Isaacs spoke. Isaacs recalled the Nationalists' occupation of northern Indo-China after the war and testified that Chiang's occupiers had roused such fierce hatred that the Indo-Chinese were comparatively willing to welcome the French Union troops. He flatly predicted that following Bunker's proposal would cause three Indo-Chinese to desert to the Communists for every one of Chiang's troops sent there.

Calls Red China a Satellite

Dr. David Dallin, a distinguished Russo-Far Eastern expert, argued that Red China was a satellite of the Soviet Union which we should aim at restoring to independence, apparently letting recognition hinge upon that event. Meanwhile, Dr. John Fairbank, Harvard

(See FORUM on page three)

Baker-Smith Club Defeats Kent Club; Qualifies For Ames Semi-final Round



ORALISTS: l. to r., Irwin Kimmelman, Marvin Sachs, Townsend Brown, Ralph Earle.

Jaffe Wins Over Scott

The Baker-Smith Club earned its right to be represented in the Ames semi-final arguments when it prevailed over the Kent Club in a long and vigorous argument at the third Ames quarterfinal round, held in Langdell Courtroom on April 5. In a decision on the law, the court found for appellant, represented by the Kent Club.

The case was heard by the Hon. Francis S. Wyner, LL.B. '13, Special Judge, Municipal Court, Brookline, Mr. Joseph Abrams, Esq., LL.B. '27, and Mr. Roland Gray, Esq., LL.B. '38. Mr. Abrams and Mr. Gray are of the Boston Bar.

Suit By Director

At issue was the suit of Peter Bushnell, represented in argument by the Kent Club, who was seeking reimbursement for legal expenses amounting to \$5,287.95. They were incurred while he was defending himself in an anti-trust action brought by the United States. The U. S. alleged that his company had violated the Sherman Anti-trust Act by using the basing point system of pricing.

On advice of counsel he entered a plea of *nolo contendere* in this action and was fined \$250.

Bushnell sought reimbursement from his corporation in the United States District Court for the Ames District. He thereupon petitioned the Superior Court of the Commonwealth of Ames which granted a motion by the defendant, Ames Portland Cement Co., to dismiss the action, holding that a plea of *nolo contendere* was equivalent to a plea of guilty.

Statute

The applicable statute allowed for indemnification of a director when "sued . . . in any action arising out of his duties or out of any alleged wrongful act . . . (except where) . . . it shall be adjudged in such action . . . that such . . . director . . . is liable for negligence or misconduct in the performance of his duties . . ." Kent Club, on behalf of Bushnell urged the court to construe the statute as meaning that a plea of *nolo contendere* was not an "adjudication" within the meaning of the statute, and if it were, to hold that the plaintiff's participation in the pricing scheme was not such negligence or misconduct as to deny recovery.

Baker-Smith Equity Club, appearing for the Ames Portland Cement Company, argued for a contrary construction of the statute, saying that the act only applied to civil suits. The club also said that if reimbursement were granted, it would be an unconstitutional application thereof. The Act cannot be interpreted to grant recovery in this case, they said, because Federal legislation has pre-empted the field, and Congress has not authorized defendants in such suits to be entitled to recovery.

Club Members

Oralists for Baker-Smith Equity were Irwin Kimmelman of Newark, N. J., and Marvin A. Sachs of Bayonne, N. J. They were assisted on brief by Leslie M. Geller, Peterson, N. J.; Daniel A. Jenks, Jr., Holyoke; Kenneth J. Kircher, New Rochelle, N. Y.; Paul R. Puerner, Wauwatosa, Wis.; and Edwin S. Shapiro, New York City.

Oralists for Kent Club were Townsend Brown II of Sagaponack, N. Y., and Ralph Earle II of Newton Square, Pa. On brief were John P. Bankson, Jr., Pittsburgh, Pa.; Eugene M. Haring, Summit, N. J.; Nathan Hale, Greenwich, R. I.; Roger B. Hunt, New York City; Nathan C. Shiverick, Avon, N. Y.; and

(See AMES on page three)

Investment Group Hears Prof. Bates

"Insurance and the Investor" was the topic selected by Professor George Bates of the Harvard Business School for his address to the Bull and Bear Club in the Wheeler Room last Friday. Professor Bates offers the course in Investment Management at the Business School. He discussed various aspects of life insurance about which the intelligent buyer of insurance should be aware.

Professor Bates pointed out that it is a fallacy to believe that insurance costs less if you take it out when you are young. The premium you pay each year is used to pay the mortality expenses of the persons in your age group, as well as the administrative expenses of the company, and profits of the company if it is not a mutual organization. You are, in effect, buying insurance before you need it. On the other hand, there is a logical reason for buying insurance at an early age, namely that you thereby "insure your insurability".

Insure During Youth

Persons often develop physical troubles at a more advanced age which will prevent them from being regarded as an insurable risk by an insurance company. Another less logical reason for buying insurance when young is that it is a way of making people save money who would not be able to save it in any other way, because of a tendency to spend money when it is in a savings account or other liquid form.

Professor Bates stated that "level premium" insurance, which is the most popular form of life insurance, has resulted in the accumulation of huge reserves.

(See BULL AND BEAR on page four)

Legal Aid Bureau Picks Egan As New President

At a meeting of the general membership of the Harvard Legal Aid Bureau on the afternoon of April 1 Michael J. Egan, 2L, of Savannah, Ga., was elected to the office of President of the Bureau for a term of one year. He succeeds Ramon L. Posel, 3L, of Philadelphia, in the office.

Other Officers

Other officers elected at the same time to serve one year terms were: John F. Bok, 2L, of Beverly Hills, Calif., Vice President; Joseph A. Califano, Jr., 2L, of New York City, Secretary; Frederic Weiss, 2L, of New York City, Treasurer, and John M. Dailey, 2L, of New York City, Senior Director.

James F. Downey, III, 2L, of White Plains, N. Y. and Andreas Lowenfeld, 2L, of New York City, were elected to the posts of Junior Director. They will hold office until December, 1954.

Von Mehren Discusses 'Comparative Law'

One Of A Series On Second Year Electives

In the course entitled *Comparative Law—The Civil Law System* I try to do two things: first, to give the student a working familiarity with a few areas of the private law of France, Germany and Switzerland; second, to raise certain general and pervasive questions as to the operations of legal systems under modern conditions. The first aim can be characterized as practical in that an attempt is made to train the student so that he will be able to evaluate and check, assuming the requisite linguistic abilities, an opinion of foreign counsel.

The second aim is more jurisprudential and involves a consideration of such questions as: does the choice of codes instead of case materials as the normal



Arthur von Mehren

authoritative starting for legal reasoning affect noticeably the working of a legal system; what sociological information is necessary for an understanding of the way in which a particularly legal institution operates in practice. To a large extent, the discussion of these questions develops out of the consideration of the materials studied in connection with the first aim, that of giving the student a working familiarity with the private law of France, Germany and Switzerland. Certain aspects of these questions are, however, discussed separately.

Time Necessitates Revisions

In order to come even close to achieving these aims in thirty-six hours of class

(See VON MEHREN on page four)

The Harvard Law School Record

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

The Committee's Choice

Samuel P. Sears, LL.B. '21, has never shied away from public service. He has held many positions of respect in the community, while undertaking the pressures of a busy law practice. He was President of the Massachusetts Bar Association from 1950 to 1953. During the past week, his name has come before the public with his appointment as counsel to the Senate inquiry into the McCarthy dispute with the Army. His appointment resulted in considerable public comment. None doubted Sear's legal capabilities, but many questioned his ability to remain objective throughout these highly controversial proceedings.

Inquiries had shown that Sears has been at least a vocal supporter of McCarthy in the past. We do not question his integrity in accepting this appointment. We wish to submit, however, that the committee was ill-advised in its selection of him as counsel. In an investigation to clarify what have been, to say the least, contradictory statements, it was not politic to choose one whom many would identify with one of the disputants.

The present discussion might well be analogized to a judicial proceeding. Lawyers have become expert in the devious ways of distinguishing away authorities. The famous case of *Livingston v. Jefferson*, in which rather stringent venue requirements were set forth, continues to be criticized because of the personal relationships between the judge and one of the adversary parties. Chief Justice John Marshall, long a foe of Thomas Jefferson wrote an opinion stating that the accused Jefferson could not be served in this trespassory action except in the state where the actual trespass to the land occurred.

Had Marshall decided against Jefferson, his critics would have found him easy prey, asserting that the matter was prejudged, based on political differences rather than upon logical tenets of justice. The fact that Marshall decided the other way, however, has been taken by many to have been an attempt by Marshall to bend over backwards to insure that he would not be subject to public scorn, possibly stretching the legal reason to arrive at his conclusion.

Sears had been placed, or had chosen to, depending upon whose version you accept, in a position similar to that which Marshall occupied. No matter what result, and whether justified or not, the person conducting the hearings is publicly suspect. Depending upon the outcome of the investigation, one side or the other would have been able to explain away the outcome. This would defeat the very purpose of the hearings.

When you wish to clarify a controversial issue, there is little justification in placing in a position where he could conceivably affect the outcome one who himself is suspected of being partial.

Mr. Sears is a very capable attorney but there is no reason why the committee can not choose someone else equally competent who will not be publicly allied with any side. It was naive on the part of the committee to think that even after asserting his impartiality time after time, Mr. Sears would have been able to rid himself of this stigma. Any sort of investigation by the committee should have brought this danger into the open. Even in as inauspicious a journal as the Harvard Law School RECORD, in the edition of December 3, 1953, they could have found some pertinent information.

Mr. Sears is to be congratulated for realizing the significance of the forthcoming investigations, and resigning rather than invite criticism of the committee's objectivity during this hearing.

Gallery

JACOB J. KAPLAN
 VETERAN LAWYER
 JUDGE



Mr. Jacob J. Kaplan, better known perhaps as Judge Kaplan graduated from Harvard College in 1907 and from the Law School in 1910 where he was an editor on the *Review*. That year he joined the firm of Brandeis, Dunbar and Nutter in Boston which now bears the name of Nutter, McClellan and Fish.

A senior partner in the firm, Judge Kaplan specializes mostly in corporation problems. In this connection he served as one of the trustees who supervised the gigantic reorganization of the Waltham Watch Company from December 1948 until May 1952. Partly because of the difficulty of such a reorganization under Chapter X of the Bankruptcy Act, Judge Kaplan wrote a 30-page booklet on the problem entitled, *An Outline and Guide in Proceedings for Reorganization of Corporations*.

In 1928, Judge Kaplan was appointed a Special Justice of the Municipal Court of Dorchester District, and held this office until 1936. It is his hope that this year the Massachusetts General Court will vote to end the present system of part-time judges in the Commonwealth and adopt the plan, on which Vice Dean Livingston Hall worked, for a full-time judiciary.

Prefers Large Firm

If Mr. Kaplan were to find himself once again on the threshold of receiving a law diploma, he says that he would take a job with a large firm in preference to the job with a small firm. He feels that the various fields of law are so complicated today that in order to give a client the best possible advice it is necessary to put each problem before a specialist. This trend in the practice of law is paralleled in the field of medicine. A small firm, for example, could not expect to have an expert in each of 15 fields of law covered by the Massachusetts Bar Examination. Another advantage is that there is always someone in the firm who can pinch hit for the man who suddenly takes sick or is unavailable.

Nutter, McClellan and Fish is such a firm. At present the firm has 19 partners and 14 associates. When a new man enters the firm, he is alternated as far as possible between the different departments of the firm in order to determine in what field of law he has special capabilities.

Becoming A Partner

How long does it take to become a partner? Mr. Kaplan says it took him six years but that today the average associate must wait considerably longer. It depends, he said, entirely upon the quality, speed, accuracy and thoroughness of his work. Personality, of course, plays a large role. Unanimous consent of the partners is required before any man is brought into the firm and before he can be made a partner. Judge

Off the Record

Notice of Opportunity—Third Year Students

The Placement Office has heard of an excellent opportunity with the firm of Fair & Warner, in Miami, Florida. This is an office that specializes in handling the affairs of various exclusive resorts, including those located in the Virgin Islands, The Bahamas, Haiti, and Cuba.

N. O. Snow, Esq., of the firm, writes that he would prefer "a man who enjoys swimming, sailing, and deep-sea fishing, because it is frequently necessary for attorneys in the firm to meet with clients under these conditions." Because of the social demands placed upon the associates in this firm, the salary scale is relatively good. Beginning lawyers start at \$5,200, and the firm forecasts generous increases. Because Mr. Snow is anxious to make a decision as soon as possible, interested students should leave their names at the Placement Office not later than five o'clock, Thursday afternoon, April 1.

LOUIS A. TOEPFER
 Assistant Dean

(Editor's note: Three people applied.)

Kaplan feels that it would be unfair for the firm to employ a man unless he was considered to possess the qualities necessary for him to eventually become a partner.

What is expected of a new member of the firm? Mr. Kaplan emphasized two abilities: first, the ability to tackle any kind of legal problem and second, the ability to ascertain and determine all the relevant facts necessary for resolution of the legal issue. As Brandeis used to say, "Getting all the facts is 80 to 90 per cent of the whole job." For novice and veteran alike, this requires of the lawyer a patience and willingness to devote all the necessary time to his client. It means thoroughness and a mastery of the English language which, surprisingly enough few of us have.

Master The Language

Judge Kaplan says that the English language is a blunt instrument; its words are often a trap for the unwary. A lawyer must examine them under the magnifying glass for forethought and imagination to be sure that he selects that word which describes precisely the idea he has in mind. Another rule for the young lawyer to remember is that "probably sometime, somewhere a court has decided this issue in my favor; if I look far enough, and hard enough, I'll find it." Most job assignments given the beginner have a deadline which must be met regardless of the hour or day.

A lawyer, finally, should not forget his duty to the community at large. Because of his training in the organization and the mastery of facts, civic organizations often consult the lawyer on routine matters and it is the lawyer's responsibility to aid these organizations.

Judge Kaplan has put his advice into practice. In addition to extensive business connections with such firms as Filene's and the Shawmut National Bank, he is associated with the Boston Symphony, the Museum of Science, and is a trustee of Wellesley College.

H. F. M.

Letters to the Editor

TO THE EDITOR:

You print Dean Griswold's view "that a legislative investigation is improper when its sole or basic purpose is to 'expose' people." May I suggest that this overstates the case, that it lays too little stress on the educational function of Congress, the function of making democracy live by keeping the people informed. As Woodrow Wilson said, "The informing function of Congress should be preferred even to its legislative function." *Congressional Government*, 1901, p. 303.

The Dean's view cannot be meant to apply to exposure of corruption in public office, for example. Nor can it apply to all exposures of private citizens. The Kefauver crime investigation, for example, may well have had a basic and primary purpose to expose crime and to stimulate local prosecutors; it also led to important legislation. It was surely not beyond the power of Congress. I would suggest that the informing function should itself justify investigative activity, just as it justifies the printing of the Congressional Record and the franking of Congressional mail. Courts have sometimes spoken in terms like those used by the Dean, but happily courts do not have the last word on political questions.

The evil to be scotched, it seems to me, is narrower. It is the practice of compelling a suspected criminal—other than a public official—to expose himself, under threat of prosecution for the crime if he confesses, for perjury if he denies guilt, and for contempt if he refuses to answer. In such cases, the Dean's proposed safeguards do not meet the problem. To put more than one man on the subcommittee, to have a formal vote before a subpoena is issued, to give advance notice of the subject of inquiry, to permit counsel and publication of the testimony—all these merely put a good face on what remains an evil practice, reminiscent of the Star Chamber. In the absence of a full grant of immunity, the only respectable practice is to make the testimony of such witnesses optional with them—subject of course to such extra-legal pressures as the opinions of their employers or neighbors.

The same evil is not present when the conduct exposed is not criminal, or when the exposure is made by witnesses other than the suspect himself. And, when the witness is not a suspected criminal, the proposed safeguards will often hamper the investigation without serving any useful purpose. Not the least of the evils which may follow abuse of the investigative power is the development of red tape to bind and choke that power. We must not cause this important weapon of democracy to misfire too often. Against the right of privacy must be set the principle, "Let the People Know."

ROBERT BRAUCHER

(Professor, Harvard Law School)

Sub Judice

... UNTIL DEATH DO US PART

Mr. and Mrs. B joined in wedded bliss early in the year of 1940, only to find their love nest an unhappy one. And so, 13 months later, they separated. This past year found Mr. B. seeking a divorce in the California courts, alleging extreme cruelty in general terms. Mrs. B was not to be out-done. She filed her answer and cross-complaint, also alleging extreme cruelty. (Theirs was a mutual admiration.) Added were claims for support, attorneys' fees, maintenance amounts, and a share in the community property.

At the trial court, evidence was admitted of the past conduct and reputation of both parties prior to the date of marriage and also subsequent to the filing of the complaint.

It was shown in the lower court that during the time of happy matrimony, Mrs. B exhibited towards her spouse an attitude that was domineering, dictatorial, and generally contemptuous. Evidence showed that she used abusive, vile, and profane language towards Mr. B, calling him a "son of a b--" on several occasions. The afflicted's testimony was corroborated by several witnesses, by writings, and by what the trial court stated as "generally in the demeanor exhibited by the defendant in her testimony". The general attitude of the couple, exemplifying their uncongenial relationship was found on a tape recording of a telephone conversation between them, which was further littered with unladylike terms on the part of Mrs. B.

During the trial, Mrs. B complained that she was in need of some dental services, whereupon counsel for the husband said that Mr. B would "pay any reasonable bill for any medical or dentist services needed by Mrs. B, gladly, without a court order." Soon after, Mr. B was given a bill for \$1,500. He paid by check, which was filed in court, with typewritten words crossed out. He claimed she altered the check, which she of course denied.

The trial court found for the husband, deciding that the mistreatment and abusive language created mental cruelty, since it was adequately corroborated. They disallowed the evidence of prior activities of both parties.

Held: Acceptance of the disputed check did not constitute a voluntary acceptance of a judgment and the wife is allowed to appeal. *Bixby v. Bixby*, 261 P. 2d 286 (District Court of Appeals, Fourth District, California, Sept. 30, 1953.)

* * * * *

UNRECOMMENDED

Happiness Tours resented the use by the Basin Park Hotel and Resort of their advertising matter. Hence they brought action against the resort, complaining of unfair competition. Little did they expect the unusual counterclaim that followed.

The resort charged that *Happiness* had actually copied the advertisements from them, but went on to allege slander. They claimed that beginning in 1948 at the Chicago Tribune's Travel Show, *Happiness*, who was passing out literature, and selling tours to their competitor, the Crescent Hotel in Eureka Springs, defamed them as much as possible, stating:

"The Basin Park Hotel is an old dilapidated tenement house at the lower part of Eureka Springs, and that the Crescent Hotel where we (*Happiness Tours*) are sending our customers, is a large beautiful castle on which the owners have just spent \$150,000 to remodel..."

On other occasions, the Basin Park Hotel contends, the Tour told various people that:

"The Basin Park Hotel in Eureka Springs, Arkansas, is a broken down tenement house, with no modern conveniences and very poor rooms; it has no facilities for entertaining guests, and is not a safe place for guests to go..."

"There is only one hotel as far as we are concerned. We understand that there is an older place down in the older quarters of town which used to be the servants' quarters for the Crescent Hotel..."

"We wouldn't recommend anybody's going down in that part of town. So we could not sell you a tour down there."

And the Hotel claims it was said to some, "The Basin Park Hotel is no longer in business." **Held:** Plaintiff's motion for summary judgment should be granted. Where no breach of trust or breach of contract appears, equity will not enjoin libelous or slanderous statements injurious to plaintiff's business, trade or profession, but complainant will be left to his remedy at law, if he has any. Failure of defendant to swear to his admissions filed in reply to plaintiff's request stating that defendant did not sustain any loss is taken as an admission of the requested facts. *Heuer et al. v. Basin Park Hotel and Resort et al.*, 114 F. Supp. 604, (U. S. District Court, W. D. Arkansas, Harrison Division, Aug. 12, 1953.)

AMES—(Continued)

William P. Wood, Conshohocken, Pa. It was notable that the oralists were uniformly unfamiliar with the March number of the *Harvard Law Review*, and with several recent cases which the court's researches had discovered.

Jaffe v. Scott

The Jaffe Club defeated the Scott Club in the second Ames quarterfinal argument on March 31 in the Langdell Courtroom. The Chief Justice of the Ames Court of Appeals for this appeal was the Hon. Henry G. Wenzel, Jr., a justice in the Second Department, Appellate Division of the Supreme Court of New York. Henry Alperin, LL.B. '21, and John P. Eastham, LL.B. '52, both of the Boston bar, were the Associate Justices.

Oralists for the victorious Jaffe Club were Alan R. Trustman of Brookline and John David Stoner of Bloomington, Ind. Richard F. deLima of Scarsdale, N. Y. and Bradford P. Colcord of Cambridge appeared for the Scott Club.

The case, closely patterned on *Elfreida Lauer v. 1056 Lex Corp.*, 305 N. Y. 887, involved a contempt-of-court proceedings in which a woman was punished for carrying outside the courthouse a sandwich sign that called for removal of Irish Catholics from official and semi-official positions, on the ground that other groups were under-represented in those posts.

Counsel for the contemnor, the Jaffe Club, argued that the picketing was not

a criminal contempt; the order of the judge did not meet the procedural requirements of the Ames [New York] statute; the picketing did not disturb court proceedings or impair the respect due the court.

The Jaffe Club further maintained that conviction for contempt in this case would have deprived the appellant of her rights to free speech under the United States and Ames [New York] constitutions.

The final major point of the appellant was that the trial was not fair, either under the contempt statutes or under the due-process provisions of the Federal constitution.

Arguments of the Commonwealth

DeLima and Colcord maintained that the contemnor's actions were properly forbidden by the trial court, and that her conviction met the requirements of the Ames laws on contempt of court, both as to the substance of the offense, and the necessary steps to convicting the appellant.

Finally the Scott Club tried to show that the requirements of due process under the state and Federal constitutions had been satisfied.

Counsel on brief for the Jaffe Club included John B. Hook of Los Angeles, William N. Jenkins, San Diego, Calif., Curtis M. Karplus from New York City, Andreas F. Lowenfeld of New York City, Richard M. Sandler from Verona, N. J., and John Wood of Indianapolis.

Scott Club Briefwriters

Briefwriters of the Scott Club were H. Richard Beresford of Denver, Harry Heher, Jr., of Trenton, N. J., Edgar M. Masinter from Huntington, W. Va., John F. McGillicuddy of Harrison, N. Y., Kurt F. Pantzer, Jr., from Indianapolis, and Edwin F. Schaeffer, Jr., of Louisville, Ky.

FORUM—(Continued)

University Asian authority, saw no reason to grant recognition now, and considered the possibility of eventually splitting the Moscow-Peking Communist axis.

Fairbank emphasized, too, the impact of western technology upon Asia generally, and particularly Red China, pointing out that technology has been far more readily grasped than democratic ideas and practices. "Technology makes totalitarianism possible in Asia," Fairbank warned, "when it is coupled with ancient authoritarian traditions." Advocating a continuing policy of containment of communism in Asia, and a vigorous competition with communism in works of social and economic improvement there, Fairbank sharply criticized cuts in exchange educational scholarships and called for increasing use of "intellectual and cultural resources" in developing understanding and contact with Asian peoples.

Dr. Dallin developed the structure of totalitarianism in satellite nations, including Communist China, and argued that understanding "the radiation of power from Moscow" is the prerequisite of any successful American policy toward communism in Asia. While Bunker and Isaacs criticized Secretary of State Dulles' handling of foreign affairs, Dallin invoked recollections of Dulles' famous "liberation" speech in 1952 by calling for "moves by the United States to restore the independence of satellite states."

Moreover, Dallin insisted that until as recently as "nine days ago" nothing had been done by the United States to prevent the transmutation of nations into Soviet satellites. He cited cheerfully the intention now to increase aid to the French in Indo-China as the first move toward saving a nation from a satellite fate (thereby ignoring the Korean intervention, aid to British forces in Malaya, NATO, the Marshall plan, and assistance to Greece during the Communist guerilla action there.)

In the midst of such crossfire and misfire, Boston attorney Stuart MacMillan moderated.

April Law Review Examines Anti-Trust And Zoning Cases

The doctrine of primary jurisdiction in its application to antitrust cases is examined by Mr. Robert B. von Mehren in the lead article of the April issue of the *Harvard Law Review*, placed in the mails on Monday. A brace of articles commenting on the legality of certain types of zoning regulations is another feature of the current *Review*.

In his article "Antitrust Laws and Regulated Industries: The Doctrine of Primary Jurisdiction," Mr. von Mehren suggests that the doctrine is ideally

very critical article by Professor Charles M. Haar of the Harvard Law School, which appeared in the April, 1953 issue of the *Review*. In the current issue, Professors Val Nolan, Jr. and Frank E. Horack, Jr. of the Indiana Law School in an article entitled "How Small a House?—Zoning for minimum space requirements" defend the court's position. Professor Haar replies in an article, "Wayne Township: Zoning for Whom?" in which he explains in greater detail his reasons for his original criticism.

Professor Warren A. Seavey "comments" in the current issue on three recent decisions of the Federal Courts of Appeal involving the liability of the United States in tort actions. The professor asserts that all the cases were decided incorrectly. Each turns on the construction of statutory provisions and Professor Seavey applies what he considers sound methods of statutory constructions based on "fundamental principles" of tort law to support his position.

In the comment "Proposed Changes in the Laws Governing Injuries in Interstate Transportation," Mr. B. Nathaniel Richter and Mrs. Lois G. Forer take the position that F.E.L.A. coverage be extended to all employee injuries on interstate railways rather than have the modified negligence system, which that act established, replaced by an administratively operated Workmen's compensation system of liability without fault.

Mr. Richter and Mrs. Forer are practicing attorneys in Philadelphia.



Charles M. Haar

suited to resolve the possible conflicts between the national "ideal" of competition on the one hand, and the desired close regulation of certain types of industry of the other. The doctrine requires that in suits against those coming under the jurisdiction of an administrative agency, complaints must first be filed with the appropriate agency. Mr. von Mehren is an associate of the New York firm of Debevoise, Plimpton, and McLean. He is the twin of Professor Arthur von Mehren of the Harvard Law School.

The decision by the highest court of New Jersey in 1952, in the *Wayne Township* case, passing on the legality of many types of zoning regulations, provoked much comment, including one

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NEWS IN BRIEF

STUDENT BAR ASSOCIATION

J. Edward Lumbard, Jr., LL.B. '25, will be sponsored by the Student Bar Association, speaking on "Wire Tapping and the Fifth Amendment." The lecture will be given on April 12 at 5 p. m. in Langdell South Middle.

Arthur Garfield Hays, LL.B. '05, will be sponsored by the Harvard Student Bar, speaking on "The Impact of Public Investigations on Civil Liberties." The lecture will be given on April 15 at 5 p. m. in Langdell South Middle.

KING'S BENCH

On Wednesday, March 31, Professor Benjamin Kaplan addressed the weekly King's Bench luncheon. His topic was "McCarthyism As An Outcome of Recent History." Professor Freund will speak at next week's luncheon which will be held on Thursday, April 8, at 1 p. m. in the Mallory Smith Room of Harkness Commons.

LAW WIVES

The Harvard Law Wives Drama Group will present "Duo", two one-act plays, in Harkness Commons, this Friday, April 9, at 8:30 p. m.

Vicki Ciacchio, Gooloo Irani, and Ursula Moore are cast in the first play, a skit spoofing psychiatry. The second play, and old-fashioned melodrama entitled "Curse You, Jack Dalton!", will feature Dolores Mandel, Sis Farrell, Molly Rifkind, Annette Donovan, Anita D'Andrea, Ursula Moore, and Mary Wyle. There is no admission charge.

Tuesday, April 13, at 8 p. m., Miss Jessie Stuart, of the Prince School of Retailing at Simmons College will speak on "Becomingness" in the Wheeler Room.

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Kinne, Kauffmann Receive Top Posts In B.S.A. Election

The Board of Student Advisors has announced the election of Remsen M. Kinne III, 2L of Elmsmere, N. Y., as Chairman of the Board and John A. Kauffmann, 2L of New York City, as Assistant Chairman of the Board.

Mr. Kinne replaces David Melamed, 3L of Elizabeth, N. J. He is a member of Chancery Club and the E. Warren Ames Club. In 1952 he graduated from Dartmouth.

The Assistant Chairman, Mr. Kauffmann, will also serve as Facts Coordina-



Remsen M. Kinne, III

tor. He received an A.B. degree from Harvard in 1952 and is a member of Glueck Ames Club.

The other officers of the Board have been appointed by the Chairman-elect. They are: Richard E. Heath, 2L, of Somerville, N. J., Second-Year Facts Chairman; Richard W. Hulbert, 2L, of Somerville, Mass., First-Year Facts Chairman; Thomas B. Bardos, 2L, of New York City, Drafting Chairman; Peter L. Albrecht, 2L, of New York City, First-Year Administrative Chairman and Miles J. Alexander, 2L, of Wichita, Second-Year Administrative Chairman.

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VON MEHREN —(Continued)

instruction with students who cannot be expected to read foreign languages, it has been necessary to prepare special materials. These materials are still in the process of development but will deal next year with the following topics: a comparative treatment of the historical development of the civil law and the common law; procedure and administration of justice in France; the development of article 1384 of the French Code (liability without fault) and related German and Swiss developments; the law of contracts in French and German law; a comparative analysis of the judicial process. The readings on each of these topics, which will be discussed in approximately the order set out above, consist of prepared text and of translations of code provisions, court decisions and extracts from French, German and Swiss textbooks.

Relation To Common Law

A law student may find that a study of the foreign legal system will contrib-

ute to a better understanding of the common law. Faced with the variety of solutions which different legal orders have hit upon for the handling of relatively similar problems, a student should perceive with added clarity that the law's life is not the analytical delimitation of logical imperatives but the tentative and ever evolving solution, in terms of human experience and needs, of human problems.

Study Provides Perspective

At the same time, a study of these varying solutions should suggest to the student not only the variety of possible approaches to a particular problem but also make him aware of some of the criteria by which a rational and informed choice can be made between suggested approaches and solutions to a particular problem. Finally, a consideration of the reasons which lie behind the differing institutions of the common and civil laws is suggestive of the importance of history in understanding a contemporary legal system.

A. V. M.

BULL AND BEAR —(Cont.)

serves by insurance companies, which now approximate \$70 billion.

The method in which this sum is invested had become a matter of national significance. The way in which an insurance company invests its money should be considered by a buyer of insurance, for lower premiums will result from investments which produce a higher rate of return to the company. A buyer should also try to choose a company which selects its risks, i. e., the people it insures, very carefully, for lower mortality expenses will again result in lower premiums.

Professor Bates concluded by discussing the merits and disadvantages of buying annuity contracts in an attempt to realize tax benefits.

The Club's Investment Contest officially ended last Friday. Prizes will be awarded at the Annual Meeting of the Club on April 29. Nominations for officers were also made at the meeting on Friday.

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