

Harvard Law School Record



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New Tax Code To Be Studied In Law Review

Analyses of various portions of the Internal Revenue Code of 1954 will occupy the entire Articles section of two numbers of the *Harvard Law Review*, the first of which will appear in the middle of December.

Roswell Magill and Henry W. de Kosman of the New York City firm of Cravath, Swaine & Moore have collaborated in an article which gives the general approach of the new Code, paying detailed attention to the income, deduction, and gains and losses sections.

The first section of a two-part article by Prof. A. James Casner on Estate Planning under the '54 Code will also appear.

Profs, Lawyers Contribute

Tax Accounting under the new Code will receive the combined attention of Maurice Austin, of the New York bar; Prof. Stanley S. Surrey; Dean William C. Warren of the Columbia Law School; and Robert M. Winokur, of the San Francisco firm of Taylor & Schwartz.

Included in the Notes section in the December issue will be the conclusions of the summer project investigation of "Tripartism in Labor, Commercial, and International Arbitration" by Helmut Furth, 3L of Washington, D. C., and Bernard Gold 3L of New York City, which was referred to in an earlier issue of the *Record* (Vol. 19, No. 2).

The constitutional limits on the admissibility in the federal courts of evidence obtained from the records which the law requires to be kept is also "Noted."

Pogo, Popeye, and their brethren are considered in a Note titled "The Protection Afforded Literary and Cartoon Characters Through Trademark, Unfair Competition, and Copyright."

Latest News From England

A new recent Statute section reveals that the English have repealed the sections of the Statute of Frauds relating to marriage, sale of goods, and work to be completed within one year. It is still too early to tell what effects this change will produce, according to the *Review*.

The conflicting interests of accountants and lawyers in the tax practice field were pointed up in the case of *Agran v. Shapiro* in which the California Superior Court held that a Treasury circular allowing lawyers to practice before the Treasury did not protect the accountant against charges of unauthorized practice of law in that particular case.

The Recent Cases section also notes *Commissioner v. Hirshon Trust*, decided by Court of Appeals for the Second Circuit, which held that where a corporation distributed assets the basis of which was less than the corporation's earnings and profits, but the current value of which was greater than the corporation's earnings and profits, the shareholders were taxed on receipt of the distribution to the extent of the full current value of the assets.

STUDENT BAR MEETS

On Friday, Dec. 3, at 4 p.m. in Langdell North the Harvard Student Bar Association will present F. Trowbridge Vom Baur, general counsel for the Department of the Navy, speaking on "The Lawyer in Government." The meeting is open to everyone, but there will be a 25-cent admission charge for non-members.

AMES STANDINGS

Unofficial standings in the qualifying rounds of the Ames Competition at the end of four rounds have been released by the Board of Student Advisers. In making the figures available to the *Record*, the Board stressed that there is no assurance that any of the clubs listed below will qualify for the quarter-final rounds this spring. More than half the competing clubs have not yet argued, and the point scores (See *AMES STANDINGS* on page four)

Review Has Ended Research Program

Almost unnoticed, the Legal Research Program came to an end last spring after a short history of five years. It was organized in the fall of 1949 under the auspices of the *Harvard Law Review* to provide third-year men with experience in general legal research, including the writing of notes and memoranda. The best of these notes were occasionally printed in the *Review*.

In its most active years, the Program numbered about 40 volunteers. Half the men did the research work in lieu of required seminars while the others volunteered extra-curricularly. The work was generally conceded to be of valuable assistance in the planning and writing of third-year papers.

Interest began to lag in the Program a few years ago. Finally, last fall very few men volunteered, and no memo-

(See *LEGAL RESEARCH* on page four)

Alumnus Reports on Trip:

European Labor Unions Tied To Political, Social Doctrines

(Below is a condensation of a report based on a six-week trip that Robert M. Segal, LL.B. '42, made this summer to France, England, Italy, Switzerland and Austria. Segal met with labor union leaders, news and radio correspondents, representatives in the radio, TV and film industries, officials in the United States foreign service and labor attaches at the Embassies of the United States.)

Labor unions and labor law in European countries differ markedly from their United States counterparts. Contrary to the pragmatic or practical viewpoint that is typically American with its emphasis on individualism, democracy and optimism, the labor unions of France, Austria, and Italy have concerned themselves more with politics, legislation, philosophy and reform movements, such as Socialism. The two approaches have created basic differences between European and American labor relations.

Unlike the principle of "voluntarism" of American unions which rely on collective bargaining to determine employment rights, the labor unions of Europe rely on government intervention and legislation. Employment conditions and rights are found in the civil laws which regulate such terms as wages, cost of living adjustments, bonuses, family allowances, sick pay, social insurance, discharges, severance pay, vacations and other fringes, which are the normal subjects of collective bargaining in this country.

National agreements are the rule in

Six Positions Open As '55-'56 Fellows

Applications are now being received from those persons interested in obtaining teaching fellowships for 1955-56, according to Assistant Professor Robert E. Keeton.

Professor Keeton, who supervises the group work program, suggests that third-year and graduate students, as well as alumni readers of the *Record*, who are interested in the possibility of a fellowship, contact him for details.

In the selection of teaching fellows, an effort is made, Professor Keeton explained, to secure a balance between men with experience in law practice and men who have just been graduated and so are in close touch with problems and viewpoints currently prevailing in the student body. Usually the staff has included a graduate of a law school other than Harvard.

A teaching fellowship gives the holder faculty status, and he may not be a candidate for a degree, Professor Keeton said. However, a teaching fellow is given the opportunity to visit certain classes being conducted in the Law School.

Fair Salary Offered

The salary paid to the teaching fellows is in line with what they would receive in law offices in large cities.

A committee of the faculty under the chairmanship of Professor Warren A. Seavey is primarily responsible for the

(See *TEACHING FELLOWS* on page three)

Hall, Baker-Smith Equity, To Compete In Semi-Final

On Monday, Dec. 6, at 8 p.m. in the James Barr Ames Courtroom, the Hall Club and the Baker-Smith Equity Club will argue in the first semi-final round of the Ames Competition. The winner of the contest will meet the winner of the Jaffe Club-Seavey Club argument on Dec. 8 in the Ames final next spring.

Irwin Kimmelman of Newark, N.J., and Marvin A. Sachs of Bayonne, N.J., will be the oralists for the plaintiff-appellant (Baker-Smith Equity). Appearing for the defendant-appellee (represented by the Hall Club) will be Roger R. Philips of Pelham, N.Y., and Mercer D. Tate of Philadelphia.

The case, which involves problems of federal diversity jurisdiction and of conflict of laws, will be heard by a court over which the Hon. Stanley H. Fuld, LL.B. Columbia '26, who is a judge of the New York Court of Appeals, will preside. The other members of the United States Court of Appeals for the Ames Circuit are the Hon. John W. Ford, LL.B. '14, of the Court of Common Pleas in Youngstown, Ohio, and William A. Edwards, LL.B. '21, a member of the Rhode Island bar.

Insurance Company Sued

The case, *Troil v. Langdell Fidelity & Guaranty Corp.*, is an action by the guardian of a weak-minded person against an insurance company organized under the laws of the State of Langdell. The guardian is suing the insurance company for damages done to her ward, Alexander Hammerstein, by one Vincent Kresge. Hammerstein was injured by a car driven by Kresge; Kresge was covered by a public-liability insurance policy issued by the Langdell company.

Troil, the guardian, is suing in the United States District Court for the Commonwealth of Ames under an Ames statute that permits an injured party to sue directly the insurance company of the tort-feasor. It is the validity of this statute that is the principal issue in the case. The insurance contract between Langdell Fidelity and Kresge, the alleged tort-feasor, provided that Langdell Fidelity would not be obliged to pay out anything on the contract unless the amount of the assured's liability had been determined in court (or the various parties concerned agreed as to the amount). This provision of the contract runs directly contrary to the Ames statute.

(See *SEMI-FINALS* on page four)

P. B. H. Will Present Armed Forces Panel

Officers from the five branches of the armed services will address students of the Law School at 8:15 p.m. next Wednesday, Dec. 1, in Austin North. They will discuss programs offered by the Army, Navy, Air Force, Marines, and Coast Guard, and the availability of these opportunities to Law School graduates. Special emphasis will be placed on the possibilities for legal work in the Services.

This presentation is under the auspices of the Law School Committee of Phillips Brooks House. It will afford men of draft age an opportunity to acquire official information on this subject. Such information normally is available only at the Recruiting Sergeant's desk.

Officers who will speak include: Army—Colonel Robert E. Doe, Headquarters, Massachusetts Military District.

Air Force—Captain Thomas D. Farrell of the Office of the Staff Judge Advocate and Captain Bernard B. Brasser of the Directorate of Reserve Administration.

Marines—Captain Karl E. Moore who is responsible for officer procurement for the New England area.

(See *ARMED FORCES* on page four)



Hon. Stanley H. Fuld

Appeals Court Upholds Crane

Judgment of the trial court for the plaintiff-appellee, Willard Crane, was affirmed unanimously by the Supreme Court of the Commonwealth of Ames in the model appeal argument held last Wednesday in the James Barr Ames Courtroom. A standing-room audience of over 500 first-year men heard Dean Erwin N. Griswold and Vice Dean Livingston Hall argue the case.

In spite of several errors in the trial proceedings, Chief Justice Calvert Magruder, LL.B. '16, and Associate Justices Harold T. Davis, LL.B. '21, and Laurence C. B. Gower upheld the judgment rendered by Ames Superior Court Judge Bailey Aldrich, LL.B. '32, because there had been "no substantial injustice."

More significant than the merits of the case was the fact that the jury had not complied with the judge's instructions about the procedure of rendering a verdict. This resulted in a highly technical appeal in which both parties and the court attempted to deduce what facts the jury actually had found.

Deans Dispute Inconsistency

Both Dean Griswold for the plaintiff-appellee and Vice Dean Hall for the defendant-appellant spent most of their 40-minute arguments on the problem of the alleged inconsistency between the verdict on the libel count and the verdict on the interference with an advantageous relationship count. They also considered the correctness of Judge Aldrich's treatment of privilege in his jury charge.

In giving the appellate tribunal's decision, Chief Justice Magruder stated that the court believed that the withdrawal of the question of privilege from the jury on the libel count was error, but not sufficient for reversal since the verdict was for only \$1. There were also some errors in the charge on the interference count, but these, too, did not affect the result adversely.

It was debated academically whether truth would be an absolute defense to the interference with an advantageous relationship count, as it would be to the libel count. Since this problem did not arise in the case at bar, the court did not decide it. However, Justice Magruder was very interested in it, and com-

(See *MODEL APPEAL* on page three)



Robert M. Segal

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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.

'Speak No Evil'

The recent ruling that military and naval cadets may not participate in any debates on the subject of recognizing the Communist government in China is absurd. We think the decision has only two arguments to support it, neither of which is sound in itself nor strong enough to stand up against the better arguments on the side of free debate.

The reasons that may be advanced for this order are (1) Officers should learn to obey their political superiors, i.e., the President, heads of departments, and the Congress. When they debate matters on which decisions have already been made, they acquire the bad habit of questioning policies which do not concern them. (2) The appearance of cadets in public arguing against a decision of the federal government would be a propaganda boon to those (the Soviet Union) who oppose the decision.

The answers to these points are short: (1) Discussion in a college debate does not constitute disobedience, and is no more likely to lead to insubordination than any of those adverse private discussions of policy in which the future officers may be expected to engage in later life. (2) Everyone knows that college debate is for fun and for academic purposes, not for expressing the views of the speakers. The cadets would not be arguing from belief, necessarily, but for the wholesome academic exercise of seeing two sides to every question.

Consider, too, the other arguments against the ruling: The implication of the Army's statement is that the non-recognition is set, immutable, and above reproach. Such a doctrine is entirely antithetical to our ideals of freedom. To teach future officers a doctrine that policy may not be discussed poses a threat that military men will become less willing to consider changes in any set policy, and that they will tend even more to regard disagreement as dangerous, disloyal, and improper.

The Army's announcement stated that recognition of China was "Communist doctrine" and therefore should not be discussed. Does this mean that we should know nothing of the other side's viewpoint; that we must avoid even academically any examination of its merits; that anything the Soviets choose to endorse is "Communist doctrine" and therefore something that good Americans, good anti-Communists, must not endorse or even consider for endorsement? Apparently our good friend the United Kingdom is operating under Communist doctrine, for the U.K. long ago recognized China.

The military furnished its own *reductio ad absurdum* in suggesting that the Army and Navy teams debate the other national debate topic of the year—the merits of agricultural subsidies. If any program in our federal government has become a set policy, it is agricultural subsidies. To encourage a debate about that policy certainly leads to as much questioning of authority as does discussion of the recognition of Red China.

The blunt truth is that the Army and Navy order is a real threat to freedom of speech, that represents a failure to understand the nature of open discussion in a free society, and that it dangerously weakens the basic American belief that every man, even a military officer, should learn to think for himself.

Gallery

DAVID R. HERWITZ
Assistant Professor of Law
Harvard Law School



Although this is his first year as professor, David R. Herwitz, newly appointed Assistant Professor of Law, is no stranger to Harvard Law School. As a student here during the post-war accelerated program, he was elected to both the Board of Student Advisers and the *Law Review*, where he held the position of Treasurer. Subsequently he became a teaching fellow in 1951. Mr. Herwitz states that as a result of the two Law School connections, "I am the only man who has played football with the *Law Review* team and lost to the Faculty, and later played with the Faculty team and lost to the *Law Review*."

Tax Court Clerk

He attended the University of Wisconsin for part of his undergraduate years, receiving his Bachelor of Science degree from the Massachusetts Institute of Technology. During the war Mr. Herwitz was enrolled in the Naval V-12 Program. He is unmarried.

Upon graduation from Harvard Law School in 1949, Mr. Herwitz went to Washington, D.C., for a year as a clerk with the Tax Court of the

United States. Of his experiences there he states: "It is more desirable to take a job in Washington if you plan to stay for more than one year. Later years are much more valuable than the first."

From Washington, Mr. Herwitz returned to take up his Harvard teaching fellowship. He feels that this program is a valuable part of the student curriculum as well as being an excellent way for a graduate to find out whether he enjoys teaching law. As for student benefit from the program, he believes that the work done on the mock trial is of particularly great value. Also, contact with the students in smaller classes is a healthy and stimulating addition to the ordinary large-lecture first-year approach.

Praises Group-Work Program

After the teaching program, Mr. Herwitz joined the firm of Mintz, Levin and Cohn in Boston, where he engaged in general practice. He is now on leave of absence from the firm. He teaches Accounting, Corporations I, and Agency at the Law School.

Mr. Herwitz has had previous teaching experience at Northeastern University where he was a lecturer in Trusts at the undergraduate school and Corporate Finance in the graduate program. The law school of that university has since been de-emphasized and Mr. Herwitz sees this as unfortunate. One result is that the feature of continuing education for practicing members of the Massachusetts bar will be lost. Formerly there was at Northeastern an opportunity for the lawyer to obtain detailed information about special areas of the law that he did not have the chance to investigate in law school. Such a program is of importance to the community, he feels.

Enjoys Legal Research

Mr. Herwitz enjoys teaching, especially since it allows deep research into intriguing problems. A varied general practice has a great many attractions, he freely admits, but he states that one frequently does not have the opportunity for the same degree of detailed research except, perhaps, in a brief to an appellate court. He also enjoys the "give and take" with the students as it is found at Harvard, rather than the lecture type of approach to law.

A. L. M.

Letters to the Editor

TO THE EDITOR:

Although I have not been "placed" in the usual sense of the word, I wish to express my appreciation publicly to the Placement Office of the Law School for their efforts on my behalf. Deans Toefer and Peck and their staff are given, I believe, too little credit for their effort and their understanding. Often, recent graduates who fail to secure a position with a leading law firm in the city of their choice impute some, if not all, of the blame to the Placement Office, when the fault may lie either in themselves or in the shortsightedness of the prospective employer. This is particularly true where the applicant finds that there are discriminatory bars in the way of his employment, bars which have nothing to do with fitness for the work. I am confident that the Placement Office hopes that these bars disappear. To what extent the Administration of the School should—or can—challenge discrimination in this field is another question.

The Law School is not, of course, an agency of social reform. It is all the more notable, then, that under the leadership of its courageous

Dean, the School has been in the forefront of the struggle to maintain the Anglo-American tradition of liberty under the law. The terms "conservative" and "liberal" have been so abused as to be virtually devoid of meaning, yet in the words of Dean Griswold we find a revitalization of the term "conservative" as maintaining and preserving the best in our legal heritage. He has filled the old vessel with the new-old wine of freedom, rich and precious as blood.

It is apparent from this letter that even rigorous legal training has not substantially tempered my discursive bent. An old dog, you know. Much easier to mold the twenty-year-olds so that they follow the well-marked, though tortuous, trail without glancing either to right or, heaven forbid, to left. The provocative discussion of intellectual life at the School by Visiting Professor Cowen in the October 1954 issue of the *Bulletin* offers several strictures well worth consideration. Yet the training that has developed not only the giants of the past but a Griswold of the present holds much of unique worth.

LESTER S. CRAMER, LL.B '54.



"Care to make a swap?"

Sub Judice

BABOONERY

Mrs. Smith got into her car. She tried to start it, but her attempts proved futile. Thus this illustrious lawsuit arose in the sovereign state of Georgia.

Mrs. Smith did what the "reasonable woman" (as distinct from the reasonable man) would have done in like circumstances—she abandoned the vehicle and returned to her house to telephone a man—the reasonable mechanic—to come and fix her automobile. The evidence does not indicate whether or not said mechanic ever arrived.

Upon returning to her car, Mrs. Smith found that it was occupied by a baboon (not a party to this action). Evidently the baboon was no more successful than Mrs. Smith in getting the car started, for he left the car and started "in a menacing manner" toward Mrs. Smith, who reasonably decided to go back into the house. She tripped on the doormat and bruised herself while executing her retreat. The baboon followed rapidly and Mrs. Smith saved herself only by rudely "slamming the door in his face."

Foiled, the baboon sensibly returned to the car, where he found a fascinating object—Mrs. Smith's pocketbook—which had foolishly been left in the car. The baboon "threw out, lost and destroyed its contents, including currency and other valuables." No charges for larceny or trespass were preferred against the baboon but this evidence was used to indicate the animosity and bitter feeling he had toward Mrs. Smith, ostensibly because of her failure to have her car in proper running order.

Mrs. Smith alleged that her fall and the resultant bruises were caused solely by the "assault upon her person made by said baboon and was caused by [her attempt] to escape from said menacing and advancing baboon."

As a result of the baboon's being in the automobile and advancing toward her, Mrs. Smith suffered severe nervous shock and fright and will continue so to suffer. This nervous shock was received by Mrs. Smith "as a direct result of said fall and the bruises and injuries to herself caused by said fall."

Mrs. Smith brought suit against Chandler, who was the owner of the baboon. The basis of the alleged liability was that Chandler "brought and kept upon his land said wild and vicious animal, the nature of which he knew and the vicious propensities of which were apparent to him. He so kept said baboon which he had brought upon his property at his own risk; and to the severe danger of his neighbors and petitioner, the said baboon was able to escape and trespass upon the land and automobile of petitioner." Mrs. Smith sought damages for lost property and her fall and nervous shock.

The baboon, it seems, was in conspiracy with an elk, also the property of defendant, who, for reasons not disclosed by the evidence, with his antlers tore apart the cage in which the baboon was incarcerated, thereby directly and immediately causing the escape of the baboon.

Held: Judgment for plaintiff affirmed. Notwithstanding the elk's intervening causation, Mr. Chandler was held liable in the amount of \$10,000. In refusing to overturn this verdict, the appellate court noted that though the verdict was "generous," it was "not necessarily excessive."

Stephens, J., dissenting, expressed his doubt as to the effects of the baboon's assault, in view of the fact that Mrs. Smith's neurosis did not appear until about a year after the events above related, although her "experience" with the baboon haunted her day and night. The evidence did not reveal any neuroses or other psychiatric disturbances affecting the baboon as a result of his experience with Mrs. Smith.

(Chandler v. Smith, 50 Ga. App. 667, 179 S.E. 395 (1935).)

Off the Record

(The following University Notice, somewhat altered, was found on an entrance to Hastings Hall one Saturday night.—Ed.)

NOTICE

In the interest of those who come to the Hastings Hall [Harvard Stadium] each Saturday to enjoy alcoholic beverages [a football game], it is requested that all spectators refrain from bringing [alcoholic beverages] party to the [game]. Obvious violators will not be admitted.

Hastings Hall
The [Harvard Faculty] Committee on Alcoholism
[Athletic Sports]

HARVARD LAW SCHOOL FACULTY, 1954-55



FIRST ROW, left to right: Professor Baker, Professor Emeritus Powell, Professors Seavey, Chafee, Vice Dean Hall, Dean Griswold, Associate Dean Cavers, Professors Gardner, Scott, Katz, Maguire.
SECOND ROW: Professors Howe, Fuller, Cox, Casner, Sutherland, Assistant Librarian Treadwell, Professor Berman, Librarian Borgeson, Professors Allen, McCurdy.
THIRD ROW: Teaching Fellows Gambrell, Osmond, Judge Magruder, Assistant Dean Peck, Professor Jaffe, Secretary for International Legal Studies King, Assistant Professor Turner, Assistant Librarian Putnam, Professor Sohn, Assistant Professor Herwitz.
FOURTH ROW: Secretary Dimmitt, Mr. Freedman (Faculty Assistant in Charge of Ames Competition), Teaching Fellows Sher, Wyle, Professors Leach, Kaplan, Field, Braucher, Brown, Assistant Dean Toepfer, Visiting Professor Gower.
FIFTH ROW: Teaching Fellow Cole, Assistant Professors McNaughton, Sacks, Haar, Professors Brewster, Loss, Assistant Professor Trautman, Ezra Ripley Thayer Teaching Fellow Horowitz, Professors von Mehren, Freund, Assistant Professor Keeton.
Not Pictured: Professor Emeritus Hudson, Professors Glueck, MacLachlan, Surrey, Assistant Dean Bevins, Mr. Barnes (Director, World Tax Series), Teaching Fellow Hamilton. Professors Hart, Hardee, and Bowie on leave 1954-55.

MODEL APPEAL

(Continued from page one)

mented upon it as a still unsolved problem.

During Dean Griswold's argument there were several points at which humor enlivened the proceedings. In interrogating the Dean as to the privileges of an alumnus to advise his alma mater, Professor Gower posed a sample situation. "To take an absurd case," he said, "if Mr. Hall were the dean of a law school, and now I'm coming to the absurdity, and he were about to appoint me to a chair, and you [Dean Griswold] were an alumnus (You are, I assume, an alumnus of some law school) and knew that I was living with, er, a bigamist, wouldn't you feel obligated to communicate this?"

Dean Griswold later admitted that alumni did owe a duty to their school, and that he had said this many times, especially in respect to "a certain law school." And then, in speaking to the visiting professor from England, instead of "your honor," he commented, "Perhaps I should say M'lud."

The appellate briefs were prepared with the assistance of Ralph Earle, II, of Newtown Square, Pa., and Nathan C. Shiverick of Avon, N.Y., for the appellant, and Leonard B. Boehner of Mal-



Hon. Calvert Magruder

vern, Iowa, and Edgar M. Masinter from Huntington, W.Va., for the appellee.

Mr. Magruder is Chief Judge of the Court of Appeals for the First Circuit, and a Lecturer here. Mr. Gower is a Visiting Professor of Law here and Professor of Commercial Law of the London School of Economics and Political Science of the University of London. Mr. David is a Boston attorney with the firm of Nutter, McClennen & Fish; and Mr. Aldrich, Judge for the Federal District Court for Massachusetts.

TEACHING FELLOWS

(Continued from page one)

selection of the teaching fellows. Emphasis is placed by the committee on personal qualifications likely to make the applicant an effective leader of group discussions as well as on law school records.

The individual teaching fellow's work concerns itself with the group work program for the first-year law students. Each teaching fellow is in charge of a group of 15 to 20 first-year students for an hour and 20 minutes each afternoon in the week.

During the morning the teaching fellows plan their programs, and work on the projects to be employed in the group meetings each day. During the first few weeks of the fall the fellows plan the conduct of the model trial; the appeal was held two weeks ago in the James Barr Ames Courtroom.

Conduct Practice Exams

After the model trial, the work of the group meetings turns toward short projects in the various fields of study in the first year. At the end of the first semester a practice examination is given to all first-year students, and the results are discussed individually with the student by the fellows. The examination usually consists of a question from each of the first-year courses.

Later in the year the group work considers examination questions from each course in preparation for the final examination period.

The group work sessions end after the spring recess, to allow the students to spend more time in individual preparation for examinations. However, the teaching fellows spend these last few weeks preparing the work for the next academic year, and work primarily on the next year's model trial.

HARVARD LAW WIVES

On Wednesday, Dec. 1, at 8 p.m. in the Wheeler Room of Holmes Hall, Professor Raymond W. Miller, special consultant to the United Nations and the United States Department of State on Far Eastern Affairs and of the faculty of the Harvard Business School, will speak on "Women in Asia," illustrating his remarks with colored slides.

On Saturday, Nov. 27, the Law Wives will meet at 1 p.m. in the lobby of Harkness Commons and from there will tour the Isabella Stewart Gardner Museum in Boston, which displays Renaissance art.

Alumni Notes

LL.B. '43—Bernard Dunau who formerly represented the National Labor Relations Board before the United States Supreme Court and Courts of Appeals has joined Samuel H. Jaffee in the practice of law. The new firm, Jaffee & Dunau, specializes as consultants and attorneys in labor and industrial relations matters. The firm is located in Washington, D. C.

LL.B. '48—Joseph H. Flom has become a member of the firm of Skadden, Arps & Slate of New York City.

LL.B. '50—Norman S. Fink, formerly with the Legal Division of Remington Rand, Inc., has announced the opening of his offices for the general practice of law in New York City.

CLASS OF 1950

Members of the Class of 1950 who live in New York City, or its vicinity, or are able to be in the city on Saturday, Dec. 4, are holding their fourth annual reunion cocktail party beginning at 4 p.m. at the Harvard Club, 27 West 44th Street (Ladies Entrance).

Wives and dates are invited, as are members of the Faculty. The affair will be "pay-as-you-drink," according to the ad hoc committee.

Rackets Restrung

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NEWS IN BRIEF

LIBRARY HOURS

There will be no libraries open in the University on Thanksgiving, according to the librarians concerned. The Law School Library will resume its regular hours Friday and will be open until 10 on Sunday evening.

GRISWOLD'S SPEECH

On Saturday, Nov. 27, at 7:35 p.m. WGBH-FM will rebroadcast Dean Erwin N. Griswold's speech, "The Fifth Amendment As A Symbol." This speech, which was reprinted in the RECORD on Oct. 21, was originally given on Oct. 19 before the Connecticut State Bar Association's meeting in Hartford.

STAFF OPENINGS

The RECORD still has openings on its staff for news and feature writers, advertising solicitors, photographers, and cartoonists. Interested students should visit the RECORD office next Monday afternoon at 4.

P.B.H. DIRECTORY

The Law School directory published by the Law School Committee of the Phillips Brooks House is now available at the Receptionist's desk in Langdell Hall. There is no charge for the booklet.

ARMED FORCES

(Continued from page one)

Coast Guard—Lieutenant J. A. Spear. Navy—Rear Admiral Ira H. Nunn, the Judge Advocate General of the Navy, and Capt. Kevin Hern, LL.B. '34. The date of Dec. 1 was chosen to enable students to act on information gained from the panel after they return home for the holidays.

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SEGAL ON LABOR

(Continued from page one)

ees, thus complicating labor relations. Furthermore, because of the great extent of nationalization of industries in France, Italy, and Austria, a greater percentage of the work force in these countries is government employees. Although these employees have the right to strike, the close relationship of the unions with political parties has in practice limited this right. In Austria, Italy, and France, the Socialist Party draws heavy support from the free trade unions, and trade union leaders are members of Parliament. At the same time, the Communist-controlled unions have not succeeded in recent years in using strikes for political purposes although Communist unions still predominate in the labor movements in France and Italy. With union security outlawed and with no representation elections, several unions are found in the same plant covering groups of employees, thus complicating labor relations.

Whereas American unions rely on grievance and arbitration machinery to handle problems during the contract term, foreign trade unions and their members rely on special labor courts. These courts are available to unorganized workers and have jurisdiction over cases arising out of employment contracts or labor relations. These courts have jurisdiction over the employment rights of the employee under the law as well as under any collective or individual contracts, which can merely supplement his substantive rights.

Lawyers' Work Similar

In these labor courts, labor lawyers perform some of the same functions as the American labor lawyers. Some lawyers are retained by the labor union while others are retained directly by the individual employee. They not only handle the court litigation, but also work with the government works councils and are consulted about the employment relation under the law. On the other hand, they rarely engage in collective bargaining, arbitration, or internal union affairs. In addition their practice differs in other respects. In Italy, for example, there are two classes of lawyers: (1) the *avvocati*, who advise clients, draft papers and briefs and argue the cases in court; and (2) the *procuratori*, who subscribe all papers and pleadings and handle the more ministerial functions. Because the lawyer's relation to his client is regarded as one of personal and individual trust, the practice of law in partnerships is not permitted in Italy, and the lawyer's office consists of one or two rooms set aside in his own home where he has a secretary and one or two law clerks.

Leaders Worried About U. S.

Several problems concerning America were raised by unionists and others in the various countries I visited. First, they look to America for world leadership but they are worried about our isolationist tendencies and they fear that we will leave Europe. Secondly, they would like to be able to sell more of their products in America to help out the unfavorable balance of payments; at the same time they deplore such actions as the recently changed tariff policy on watches as a barrier to better trade relations with the United States. Third, they look with dismay on the recent trend and methods of some of our Congressional committees, and inquire whether we are losing the freedoms and tolerance which they have always associated with the United States. Finally, they hope that labor will play a more important part in any Atlantic Community to aid the free world in its fight against Communism.

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Advisers Vanquish Bugle On Gridiron

On Veterans' Day the Board of Student Advisers and the *Law Review* tangled again on the gridiron, with the Advisers musing the Bugle 12-0. In swamping the *Review*, the Board earned sweet revenge for the 6-6 tie that the *Review* managed to eke out in the last clash between these two football titans, late last October.

The bitter battle was fought on the Business School gridiron, and was characterized by bruising body contact.

The Advisers scored their first touchdown on a run around left end by Paul F. Marx, 2L of Beverly Hills, Calif. The second Board tally was made on the last play of the game when Remsen M. Kinne, 3L of Elmsmere, N.Y., rifled a pass to Marx, who was standing in the *Review's* end zone.

Irked by the *Review's* charge after the last contest that sideline use of a female member of the Board was unfair, the Advisers ordered their female member, Nancy H. Goldring, 2L of New York City, into the lineup. To the chagrin of the *Law Review's* faltering warriors, Miss Goldring speared a blazing pass, and ran 20 yards after the completion before the Bugle team could stop her.

AMES STANDINGS

(Continued from page one)

for the clubs listed have not been verified.

The averages are computed by totaling the score on the brief and the average of the two oralists' scores.

Standing Of The Clubs

Club	Record	Average
Hardee	4 - 0	140.0
Scott	3 - 1	141.875
Gardner	3 - 1	141.75
Casner Equity	3 - 1	141.5
Jaffe	3 - 1	140.5
Field	3 - 1	139.5
Toepfer	3 - 0	142.667

The Toepfer Club was scheduled to hold its fourth argument Monday night.

The club with the highest average in the first four rounds, on the basis of unofficial tabulation, was the Griswold Club, with a 2-2 record and an average score of 144.

A total of 34 law clubs have entered the qualifying round. The top eight will be selected to compete in the quarter-finals.

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20	1.43	2.33	1.71
21	1.47	2.38	1.76

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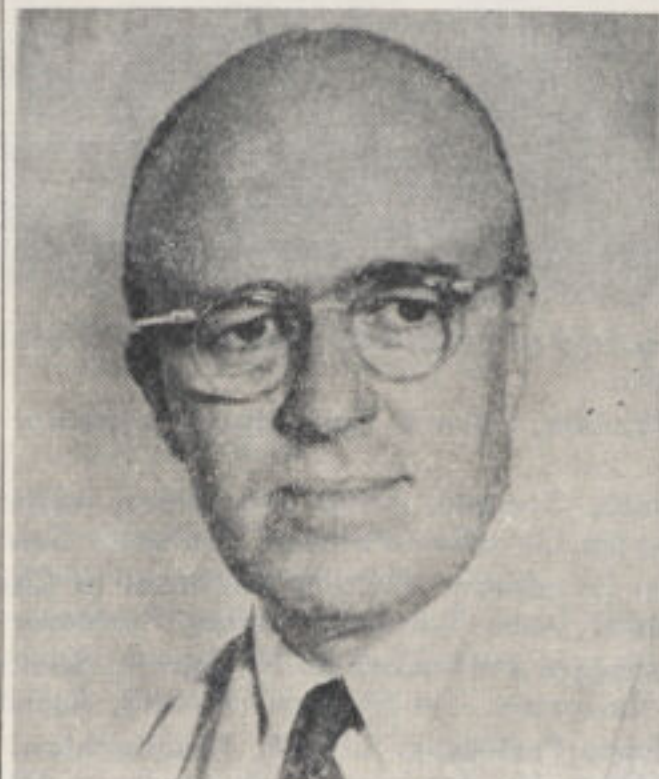
SEMI-FINAL

(Continued from page one)

The insurance company is resisting the action by Troil in order to force her to sue in the Ames state courts, where damages in automobile accident cases are consistently lower than those in the Ames federal district court. According to the insurance company, Troil was appointed guardian of Hammerstein principally because she was a resident of Ames, and thus could sue the Fidelity Company, a Langdell corporation, in the federal courts: Hammerstein himself is a Langdell citizen, and if he were to sue Langdell Fidelity there would be no diversity.

Judgment of the District Court

The District Judge dismissed the action. He was not concerned with the allegation that Troil was appointed guardian to create a fraudulent diversity jurisdiction. (However, the jurisdictional point will be raised in the Court of Appeals by Langdell Fidelity.) Instead, he said that the direct-action statute was



William H. Edwards

unconstitutional. He based his decision on a recent case decided by the Fifth Circuit Court of Appeals, in which a Louisiana statute identical with the Ames statute was held unconstitutional.

The basis for holding such a law unconstitutional is that the insurance company has certain rights from its contract with the assured, and the direct-action statute attempts to deprive the company of those rights without due process. The law, it is said, also violates the full faith and credit provision of the Constitution, and the clause prohibiting impairment of the obligations of contracts.

The case is further complicated because the Fidelity Company had filed with the Ames Secretary of State a document by which it consented to just the sort of direct suit that is attempted in this case. The defendant-appellee contends that this consent was coerced,



Hon. John W. Ford

while the plaintiff-appellant maintains the opposite view.

Another subsidiary issue involves the capacity of Troil to sue in a court in Ames: she had not qualified as a guardian in the Commonwealth, and the insurance company argues that she has no right to sue outside the state in which she was appointed, Langdell. The appellant claims that the defendant waived the objection by failing to object in the proceedings in the District Court.

Fruitful Source Of Litigation

The case is significant because it involves a type of statute that has become increasingly common in the last several years. The Louisiana statute in particular has been a fruitful source of Federal litigation, and has caused many conflicting decisions in the Fifth Circuit. The Supreme Court has granted certiorari in the case on which the District Judge relied here. According to the appellant's brief, there are nearly 30 jurisdictions in which some form of direct-action statute has been enacted.

With more states requiring that all motorists carry public liability insurance, direct actions against insurance companies apparently will assume great importance.

The RECORD will carry the results of this case in the issue of Dec. 9, together with a full discussion of the oral argument by both parties.

LEGAL RESEARCH

(Continued from page one)

randa were handed in during the winter. As a result, the *Law Review* office of Legal Research Director was vacated, and the whole program was disbanded. Dennis Lyons, 3L of Passaic, N.J., President of the *Law Review* states that although the scheme has been currently abandoned, it may be reinstated in the future if sufficient interest is shown.

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