

Harvard Law School Record



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PRICE TEN CENTS

RECORD Board Elects Kramer, Stern, Kessler New Officers

Martin Kramer, 2L of New York City, has been elected President of the HARVARD LAW SCHOOL RECORD. Mr. Kramer, who is now Editorial Manager of the RECORD, graduated from the Wharton School of Finance and Commerce of the University of Pennsylvania. At Penn, he was features editor of the *Daily Pennsylvanian*. He succeeds Chas. H. W. Talbot, 3L of Walla Walla, Wash., as President of the RECORD.

As Editorial Manager, the Board of Directors elected Henry J. Stern, 1L of New York City (C.C.N.Y. '54). At City College, Mr. Stern was managing editor of the semi-weekly student newspaper *Observation Post*. He is currently Copy Editor of the RECORD. The RECORD's new Business Manager is Matthew C. Kessler, 2L of New Rochelle, N.Y. (Antioch '53). Mr. Kessler was Treasurer of the RECORD last semester.

Other directors chosen were Leonard S. Goodman, 1L of Coraopolis, Pa. (Penn State '54), News Editor; Frank A. Olson, 2L of La Grange, Ill. (Harvard '53) as Department Editor; William D. Hutchinson, 1L of Minersville, Pa. (Moravian '54) as Copy Editor; Gordon M. Lucey, 1L of Leonia, N.J. (Hampden-Sydney '54) as Features Editor; Stuart A. Jackson, 1L of New York City (N.Y.U. '51) as Advertising Manager; and Mitchell Blankstein, 1L of Washington, D.C. (George Washington '54) as Treasurer.

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Martin Kramer

Horsky To Speak On Law In D.C.

Charles A. Horsky, author of "The Washington Lawyer" will speak on The Lawyer in Washington at 4:30 p.m. today in Langdell North. Sponsored by the Student Bar Association, the address will be free to members of the S.B.A. There will be a charge of 25 cents to non-members.

"The Washington Lawyer" covers the diverse fields of lobbying, the intangibles of administrative agency practice, the problems of the ex-government lawyer, and the responsibilities of the bar for the loyalty program. In his address Mr. Horsky will focus on some of the qualities which characterize Washington practice.

Mr. Horsky was born in Helena, Montana, received his A.B. from the University of Washington, and LL.B. from the Law School in 1934. He then served as law clerk for Judge Augustus Hand.

Mr. Horsky has had wide experience in legal work in Washington, where he worked with the Office of the Solicitor General, in addition to serving on Justice Robert H. Jackson's staff during the Nuremberg Trials. He is presently a member of the Washington firm of Covington and Burling, where he is mainly concerned with Supreme Court and administrative agency practice.

1925 Class Meets Here On April 1, 2

The Class of 1925 is holding a reunion on April 1 and 2 at the Harvard Law School to mark the 30th anniversary of its graduation from Law School. Of 216 living graduates between 65 and 100 are expected to return to Cambridge for the occasion.

The Class will meet for an informal supper at Harkness Commons on April 1 at 6:30 p.m. Eli Whitney Debevoise, former General Counsel and Assistant U.S. High Commissioner in Germany, will preside. Various members of the Class will talk informally.

On Saturday morning the members of the Class will visit the Law School prior to lunch at Harkness Commons, at which Pearce Browning, Jr. of New York will preside. On this occasion wives and families of members of the Class will be present. In the afternoon a symposium on "Where Do We Go from Here?—The Life of the Lawyer in the 30 Years Ahead" will be held in the Austin Hall courtroom.

Ames Final April 7

The date of the Ames final argument has been changed from April 13 to April 7. Justice Tom C. Clark of the United States Supreme Court will be chief justice in the case, based on the Massachusetts statute requiring the placing of children in homes of the same religious faith as the child's parents "whenever practicable."

Kalodner Is C.J. At Ames Argument

Harry E. Kalodner, Judge of the United States Court of Appeals for the Third Circuit, will become for this evening Chief Justice of the United States Court of Appeals for the Commonwealth of Ames.

With his associate judges, Harry Kisloff, and Seymour P. Edgerton, both proctors in admiralty, he will hear the case of *The Ames Dredging Corporation v. Lakatos* in the Ames Competition quarter-final argument at eight o'clock in the Roscoe Pound Room of Langdell Hall.

Tonight's argument will see David L. Rose, 2L of Gardiner, and John A. Whitney, 2L of Glendale, Ohio, arguing for the defendant-appellant and the Langdell Club against John A. Corry, 2L of Springfield, Ohio and Robert Rosenman, 2L of Cambridge, representing the plaintiff-appellee and the Hardee Club. They will argue a case in admiralty involving construction of the Jones Act, "the FELA of the sea," and the application of the hearsay rule in the federal courts.

The cause of action arose when plaintiff's husband, a member of the crew of defendant's dredge, drowned after falling from a launch returning him to the dredge after a drinking bout ashore. Plaintiff contends that defendant's failure to comply with the general maritime practice of



Harry E. Kalodner

providing protective railings on craft used for the transportation of personnel made the launch unseaworthy. While returning a general verdict of \$17,500 for the plaintiff, the jury in answering special interrogatories found that the absence of guard-rails made the vessel unseaworthy but did not constitute negligence on the part of defendant. On appeal defendant contends that the Jones Act cannot be construed to allow recovery on a finding of unseaworthiness without negligence.

At the trial one of the deceased's drinking partners testified that in the hour and a quarter before boarding the launch the deceased had had seven beers and seven shots of whiskey. The plaintiff introduced in evidence a signed statement obtained from the witness shortly after the accident in which he stated that the deceased had had only one beer. The jury found specially that the deceased was not drunk at the time of the accident. On appeal defendant contends that the signed statement, being hearsay, was inadmissible as affirmative evidence.

Plaintiff had been estranged from her husband and had received no support from him since 1934. The court's instruction to

(See QUARTER-FINALS on page three)

At Two Forums

UN, Israel, Arabs All Blamed For Middle Eastern Discord

Speaking Friday night during Part I of the Law School Forum on "Harmony In the Middle East," His Excellency Abdul Monem Rifa'i, Ambassador from Jordan to the United States, placed the responsibility for the solution to the Arab-Israeli problem upon the western powers, the UN and Israel. "Having brought upon the Arabs their present difficulties," he said, they must work to create an "atmosphere of confidence" which will lead to harmony in the Middle East.

The discussion was opened by Stringfellow Barr, President of St. John's College, who indicated the close relationship between peace in that area and peace in the rest of the world. "The Arab-Israeli quarrel is, among other things, a function of the cold war; without a genuine peace elsewhere, there appears to be no chance for peace in the Middle East." He pointed to the economic problems of the area as being the key to discord, and advocated "concentration on building peace, rather than preventing war." Economic facets of the UN are ignored, he said, even though "help from the rest of the world is very much in order."

Mr. Rifa'i, too, noted the importance to the world of the situation, calling Israel "the cornerstone of Middle East stability," and stating that the peace of possibly the entire world rests upon the Israeli question. The Arab nations have the largest non-communist border upon the world's communist area, he said, and are rich in oil and agriculture, making them a valuable ally for the West. Yet, the ambassador indicated, "aggression is conquering peace with the consent and support of the world community." The political movement of Zionism has as its aim the eviction of the natives of Palestine, and has already caused the flight of 900,000 Arab refugees, he claimed. "Now living on international charity," these refugees represent but one of the evils of Zionism; others Mr. Rifa'i listed were the challenge posed to the loyalty of Jews in every nation, and the

(See ISRAELIS on page four)

His Excellency Mordecai Kidron, Deputy Permanent Representative from Israel to the United Nations, indicated his nation's desire to achieve harmony in the Middle East during the second part of the Law School Forum on the Middle East on Saturday night.

Mr. Kidron traced the highlights of seven years of rebuffs to Israel's overtures for peace, by Jordan and other Arab nations, deploring the "obdurate refusal to



Benjamin Nunez

sit at the same table or speak from the same platform" which led to the two-part Forum program. He expressed his belief that until those nations will agree to negotiate in an attempt to reach peace, there can be no hope for an end to the present crisis. "Israel is ready to sit down tomorrow to discuss the solutions of our problems," he said.

Professor William Langer moderated the discussion, which opened with an address by His Excellency Rev. Dr. Benj. Nunez, Ambassador to the UN from Costa Rica. A sociologist and former Minister of Labor for his government, Rev. Nunez placed strong emphasis upon the use of the sociological concept of "com-

(See ARABS on page four)

Anti-Red Law Is 'Confusing,' Prof. Howe Tells Democrats

Deception of the public and the compounding of complexity and confusion were both scored as products of the Communist Control Act of 1954 by Professor Mark DeWolfe Howe, in a talk to the Harvard Law School Democratic Club on March 16.

Widely heralded and accepted as an "outlawry" statute, the legislation in reality is only a small change from the McCarran Act of 1950, Prof. Howe explained.

The statute relates back to the McCarran Act, in being qualified with a proviso that nothing in the Control Act is to be construed contrary to the previous act.

Consequently, for the most part, the law imposes no sanctions, and establishes no action as criminal which has not been so for the past four years. "The public has been deceived into believing, contrary to fact, that the Control Act makes membership in the Communist Party illegal," Prof. Howe stated.

"Doubtful Constitutionality" The superimposition of the new act on past legislation has also caused the "present setup to be confused, messy, and of doubtful constitutionality in many respects." No one is quite sure what is and is not legal because of the lack of consistency between the Smith Act of 1940, the McCarran Act, and the Control Act.

Prof. Howe pointed out that the McCarran Act, passed in 1950, does not make membership in the Communist Party

illegal. Members are presently being prosecuted under the conspiracy doctrine of the Smith Act, passed in 1940. The area is further confused by a multitude of state laws, he added.

Proper Controls Weakened

"The confusion both jeopardizes civil liberties and lessens the effectiveness of legitimate controls," Prof. Howe said. "A drastic revision of the whole area of criminality of subversive activities is desirable, so as to establish whether party membership is illegal, and whether federal law will preempt the field, and to tie the three major statutes into a comprehensive and consistent whole."

Although doubting its political feasibility, Prof. Howe felt, in view of the negligible political activity of communist action groups at the present time, that the desired results could be best achieved by repeal of most present legislation, coupled with a reliance on a combination of state law and the federal doctrine making advocacy of the violent overthrow of the government a criminal offense.

New Jersey

The annual banquet of the Harvard Law School Association of New Jersey will be held May 25. The committee in charge of the banquet asks members of the association to remember this date.

Seavey To Teach At Washington U.

Speaking at the student luncheon for Prof. Warren A. Seavey March 15, Dean Erwin N. Griswold revealed that Prof. Seavey will be writing and studying here for the first semester of the next academic year. During the second semester he will teach at Washington University, St. Louis, Mo. The Dean made the announcement in the course of introducing Seavey to approximately 200 students, who had gathered at the Hotel Continental for the affair.

Prof. Seavey expressed regret at his forthcoming retirement. He told the group that his first concern was for students. He went on to say he liked students, he especially liked law students, and he liked Harvard law students best of all. "The professor lives only for the students," he remarked.

He advised his listeners that there are three extremely important things in life: one's wife, work that one enjoys, and a community where one enjoys the people.

Before Prof. Seavey spoke, Fred Smithline, 3L of New York City, presented him with a pipe and a combination humidifier-piperack on behalf of the students. Philip N. Costello, Jr. 3L of Deep River, Conn., gave Seavey the original of the cartoon which appeared in last week's RECORD.

Research Bureau Chooses Manwell

The Harvard Student Legislative Research Bureau chose officers for 1955-56 at a three-hour election meeting held March 10. John P. Manwell of Fayetteville, N.Y. was elected to succeed William D. Walsh, 3L of New York City as President of the Bureau. Elected to the position of Director of Client Relations was Donald L. Crowley of Newark, N.Y. Charles J. Johnson, Jr., a resident of Cambridge, will assume direction of the organization's research and drafting teams as the new Research Director. Newly elected to the position of Treasurer was Stanhope Browne of Cincinnati, Ohio. John R. Allen, a resident of Cambridge, was elected Secretary. The new officers, all of whom are second-year men, will take over direction of the Bureau after that organization's annual banquet the first week in April.

The Harvard Law School Record

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Harry Shulman

The RECORD joins the faculty and student body of Yale Law School in mourning the death of Dean Harry Shulman, who passed away March 20. Having heard Dean Shulman lecture at Harvard as recently as last month, we are aware of the wisdom and experience of this legal educator. His untimely death, just nine months after his appointment as Dean, is a loss both to Yale and to the legal profession.

Empty Shelves

Now that the third-year class is in the peak of its paper-writing activity, shelves in the Langdell reading room are becoming curiously empty in some places. Statute books disappear and bound volumes of the law reviews leave the library in the middle of the afternoon. Some reference books are gone only overnight, but many disappear for days on end, sometimes until a particular student is through writing his paper.

This kind of petty thievery is against the library regulations. But more important, it is a real handicap to other students. Too many eager researchers assume that they are the only ones who are interested in the United States Code Annotated, and make off with some particularly interesting Title. The effect on other people who need to refer to the missing volume is devastating.

The illicit borrowing of books is primarily restricted to third-year students, because they are the ones who find a treatise or statute book particularly useful over a period of several days. It is often very convenient to be able to continue a piece of research after the library has closed. The usefulness of the purloined book, however, is hardly a good excuse. All too often, other people, who have just as little time to complete their papers, are delayed until a book is returned.

There are three possible solutions to the problems of these important books that do not circulate. The library may find it possible to permit students to take them home. Students themselves can avoid holding out books for long periods. The library could impose a rigid check-out system like the one at Widener. This alternative, in addition to its other objections, would require a substantial diversion of funds needed elsewhere in the School.

Letting the books circulate, particularly state and federal statutes, would have some advantages. Increasingly, the seminars are paying attention to the laws of particular states. Most of us would rather obey what we would consider a sensible rule for overnight circulation than break a rule which (whatever its justification) would seem unduly restrictive. When books are checked out in the usual way, it is possible to remind borrowers when some important book is overdue. Those who have been obeying the rules right along will not be put at a disadvantage in working on their papers in their own rooms.

If the library does decide to let the statute and other volumes circulate overnight, the decision cannot take effect until next year. Until such a decision is made and carried out, authors of papers would perform a great service to their fellow-students if they would make it a point not to hoard books.

The changes we suggest in the circulation rules should not be taken as a sign of serious discontent. All in all, library service here is improving rapidly. Still, we would like to see statutes circulate overnight.

Gallery

RALPH H. DEMMLER

Chairman

Securities and Exchange Commission



—Chase Ltd., Photo

Ralph H. Demmler, having a quarter of a century of legal practice to his credit, was appointed Chairman of the Securities and Exchange Commission by President Eisenhower in June 1953, for a term of five years. Born in 1904 in Pittsburgh, Pa., he attended Allegheny College, took his LL.B. at the University of Pittsburgh Law School in 1928, then served a year as part-time Faculty Fellow in charge of moot court and instruction in legal bibliography at the same law school. He was associated with the firm of Watson & Freeman for eight years until, following its dissolution, he joined in forming the firm of Hirsch, Shumaker, Demmler & Bash. In 1943 he joined Reed, Smith, Shaw & McClay, also in Pittsburgh, from which he withdrew to accept the SEC appointment in 1953. Demmler, an impressive youthful-looking man with a relaxed manner of speaking, has one son, John, who is now a first-year law student at Harvard.

Although he has argued a few criminal and civil cases, and once took part in a three-month jury trial of an action claiming damages from the directors of a defunct insurance company, Demmler has tended to specialize in corporate finance, a field which has brought him into contact with many attorneys and companies far beyond the borders of his native Pennsylvania.

Pittsburgh Business District

His most interesting case took two-thirds of his time from 1949 until 1953. On that occasion his firm represented the Equitable Life Assurance Society in the Gateway Center Project, a great undertaking for the building of a new business district under the Urban Development Authority of Pittsburgh. Although the constitutionality of the condemnation proceedings was tested in state and federal litigation, culminating in a favorable memorandum decision of the United States Supreme Court, the great bulk of the work consisted of negotiating long-term leases, the settlement of

claims of property owners and occupants, and the procurement of scarce materials for the new construction. It is a matter of interest, Demmler pointed out, that the contracts forbid racial and religious discrimination in the leasing and use of the new business properties.

As soon as he was sworn in at the Securities and Exchange Commission, Demmler found himself at work. Unlike many agencies, the SEC meets every day for a five-hour session around the table. He stated that the basic purpose of the SEC is "to keep the capital markets fair and honest, and that its basic technique is to get adequate information to the investors so they can make intelligent investment decisions."

A Hard-Working Rascal

Demmler, a man of few hobbies and diversions, humorously described himself as a "hard-working rascal" who takes home every night a briefcase full of staff memoranda to study. The SEC preserves the essential features of the adversary system, its staff acting as prosecutor, the five commissioners as judges, and an independent staff as writers of the opinions recommended to the full Commission. When action is thought necessary to insure a proper interpretation of a statute administered by it, the SEC may intervene as *amicus curiae* in private court litigation. But the SEC frequently turns down requests for intervention made by a litigant who seeks merely to add the strength of a governmental agency to his side of the case.

Demmler is outspoken in his belief that "there ought to be more cross-fertilization than there now is between law and public life, and also between business and public life. Paths cross so frequently that a man who does not understand the government side of a question is less able to do his own job effectively. More than that, the private man can bring some increased efficiency and fresh viewpoints to government." Nevertheless, he stressed that the SEC has opportunities for careers for young men fresh out of law school as well as for seasoned private practitioners.

Law Or Theory

A central problem in administrative law, Demmler believes, is the fact that administrators and their staffs tend to believe, perhaps unconsciously, that their own carefully thought-out theories are *ipso facto* the law. But this kind of law is not always effectively communicated to the rank and file of lawyers and judges.

The administrative process tends of necessity to fragmentize the law into little pieces. A man of broad legal perspective himself, Demmler feels that the law is not so much a set of rules to be learned as it is a habit of thought; a skill, never quite lost.

F.A.O.

Off the Record

PROF. SEAVEY (in Restitution): Is it not true that every man is presumed to know the Law?

STUDENT: Yes.

PROF. SEAVEY: Then what are you doing here?

Letters to the Editors

The general public does not seem to know that unions have always been suable for such violations. The cry that unions should be incorporated or that Taft-Hartley was necessary in order to make them suable had no factual basis. The corporate device is a method of restricting responsibility rather than extending it. Lawyers surely know that unions have always been suable as unincorporated associations and that this responsibility went much farther than the responsibility of a corporation.

The old Danbury Hatters case [*Loewe v. Lawlor*, 208 U.S. 274 (1908)] is the classic example where not only the union but also its members were the recipients of adverse judgments. There have been scores of cases brought against unions on various grounds. Regardless of the defense used, it could never be that the union was not suable.

Mr. Wolbarsht wrings his hands for the employer with a contract and with a union which flouts the contract and refuses to honor even the arbitration clause. I once represented a laundry workers local in the reverse situation. The employer flouted the contract and completely rejected any arbitration although it was clearly set forth in the agreement. Even the U.S. Conciliation Service could not make the employer live up to his word. We finally started legal proceedings. There was no question but that both parties were responsible in court for violations of the contract. However, it was estimated that it would be two years before our case could come to trial. The union had to give up because the employer repudiated his contract and the law courts were too slow to be effective. In contrast to unions being beyond the reaches of the law, there are thousands of cases where employers have used the courts as instruments for destruction of unions without resources necessary for defense in protracted litigation. I write this merely to show Mr. Wolbarsht that if the scales of justice are tipped

Recently Published

POLITICIANS ARE NECESSARY TOO

Robert F. Bradford, former Governor of Massachusetts; 32 HARV.BUS.REV. 37 (1954).

A top-flight business executive who finds himself in a political post often runs into serious trouble because he is not a politician and does not understand the nature of politics. In private life a businessman's decision has authority when made, but a politician's decision in public life is no more binding than the interplay of conflicting interests and opinions makes it. The real authority of a political decision cannot always be predicted in advance. The politician's craft is the skillful resolution of conflicts. If a politician can ruin a private business it is equally true, if less obvious, that a businessman can do much harm if he runs a government like a private business. Good politicians are necessary to keep our free institutions functioning.

ADMINISTRATIVE LAW

Berman, J., Recent Developments in the Federal Administrative Process. 28 TEMP.L.Q. 212-28.

AGENCY

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COPYRIGHT LAW

Kaplan, B., Publication in Copyright Law: The Question of Phonograph Records. 103 U.P.A.L.REV. 469-90.

Peck, D.L., Copyright—Infringement of Literary Works—An Elemental Analysis. 38 MARQ.L.REV. 180-92.

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Conrad, E., Push-Button Evidence? 41 VA.L.REV. 217-33.

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Wirtz, W.W., New NLRB; Herein of "Employer Persuasion." 49 N.W.U.L.REV. 594-618.

"No-Man's Land" in Labor Relations—A Survey. 43 GEO.L.J. 67-97.

INTERPLEADER

Zimmerman, Wendell, & Heller, Effective Interpleader Via Interstate Compacts. 55 COL.L.REV. 56-71.

in this field, the tipping favors the employer as against the union.

TILFORD E. DUDLEY, LL.B. '31
ASSISTANT DIRECTOR, CIO-PAC

TO THE EDITORS:

No one familiar with the past policies of the HARVARD LAW SCHOOL RECORD can have been surprised to note, on the first page of your issue for March 3, a lengthy report of a speech on Asia by John Carter Vincent, who is fetchingly described as "a former career diplomat and high State Department official."

Nor can it have come as a great shock to anyone familiar with Mr. Vincent's past views on Asian questions to learn that he favors the evacuation by the Chinese Nationalists of Matsuo and Quemoy and a UN plebiscite on Formosa.

But, lest someone unfamiliar with the RECORD or Mr. Vincent be misled into supposing that you have published the views of a distinguished expert on Asia, I wonder if you can be induced to print the following remark made by Secretary of State John Foster Dulles when firing Mr. Vincent:

"I have, however, concluded that Mr. Vincent's reporting of the facts, evaluation of the facts, and policy advice during the period under review show a failure to meet the standard which is demanded of a Foreign Service Officer of his experience and responsibility at this critical time."

WILLIAM A. RUSHER, LL.B. '48

(The RECORD has no control over the selection of speakers at coffee hour programs, or at other Law School functions. Whether the speaker is named John Carter Vincent or Roy Cohn (RECORD, March 17) we report his appearance here and the remarks he makes. Such reporting is not endorsement.—Eds.)

Civil, Religious Courts Compete In Israel; New State's Jurisdictional Patterns Unsettled

(The following article was written specially for the RECORD by Theodor Meron, a graduate student from Israel.)

One of the interesting phenomena in the legal life of Israel is the fact that personal status is, as a rule, governed by the religious laws of the group to which the parties belong. Another typical feature is that matters of personal status are not administered in the civil courts, but in the ecclesiastical courts of each religious denomination. Thus, some matters of personal status of a Jewish resident in Israel are subject to the jurisdiction of the rabbinical courts, which apply the Jewish religious law to the settlement of the dispute. Matters of personal status of foreign Christians, or foreign Jews who did not become domiciled in Israel are adjudicated by civil courts which apply the *lex patriae*, that is, the law of the country whose nationals the parties are.

Accidental Development

This situation, in its essential features, is not a result of deliberate legal planning but a somewhat unfortunate inheritance from the past. Until 1917 Palestine was a part of the Turkish-Ottoman Empire, the policy of which was to grant complete religious autonomy to each religious denomination and to delegate to the ecclesiastical courts of each religious group jurisdiction over questions of personal status of its adherents. The British Mandatory government essentially continued that policy.

In 1948 the newly established state of Israel was faced with the following situation: the rabbinical courts had exclusive jurisdiction over all matters pertaining to marriage, divorce, alimony and "confirmation of wills" of Jewish Palestinian citizens, (later an Israeli law granted to the rabbinical courts such jurisdiction over all Jewish residents) while the state—District courts were vested with jurisdiction over all other matters of personal status such as guardianship, legitimacy, adoption of minors, succession, maintenance, administration of property of absent persons and wills. The rabbinical courts could exercise jurisdiction over the latter types of cases only with the consent of all the parties concerned. The civil courts when dealing with matters of personal status would likewise in the absence of state law apply the religious law of the litigants. Nevertheless, in an identical type of problem an ecclesiastical court and a district court might arrive at different results. The main reason for this undesirable difference is that the rabbinical courts consider themselves bound by religious law only and not by the common law rules of conflict of laws, of procedure and of evidence, which are applied by the civil courts.

Non-believers Protected

There is an interesting relationship between the civil courts and the ecclesiastical ones. The civil courts have residuary jurisdiction and the party wanting to prove that an ecclesiastical court has jurisdiction bears the burden of proof. The ecclesiastical courts are independent of the civil courts and no

appeal lies from the highest rabbinical court to the civil supreme court. No existing provision of law indicates expressly the supremacy of the civil courts of general jurisdiction over the ecclesiastical courts. Nevertheless, in practice the civil courts have exercised control over the ecclesiastical courts. In the first place, the rabbinical courts have no sheriffs, no execution officers, and they depend, therefore, upon the district courts' "officers of execution" for implementation of their judgments. Whatever the theoretical justification for this may have been, the practice has been that in special circumstances the sheriff has refused to



Theodor Meron

execute rabbinical judgments. He has done so when the party against whom the execution has been demanded has shown that the ecclesiastical court has exceeded its jurisdiction, or when a judgment was contrary to natural justice (in a "due process" sense). This practice has been upheld on a number of occasions by the Supreme Court sitting as the High Court of Justice. It seems to be based on the assumption that the civil courts are superior to the ecclesiastical courts. Considering the sacred and therefore immutable character of religious law and the somewhat antiquated procedure of the ecclesiastical courts, the practice of the sheriffs has performed the important function of safeguarding the rights of the citizen against unjust ecclesiastical judgments.

Control Of Religious Courts

This, to be sure, might be considered an interference of the state with religion. However, it should be noted that the ecclesiastical jurisdiction is the only one available to a non-believer as well as to a believer in certain types of matters. Therefore, the rights of the non-believer also require protection.

If an ecclesiastical court has exceeded its jurisdiction the Civil High Court of Justice may issue a writ prohibiting the court from exercising jurisdiction over matters not within its authority.

The practice has been established to the effect that the ecclesiastical courts are considered as inferior ones, and a decision of such a court holding that it has jurisdiction over a certain case does not con-

stitute *res judicata* and may be challenged in the High Court of Justice.

A statute provides that when a dispute arises whether a certain matter is in the exclusive jurisdiction of the ecclesiastical court, such dispute may be determined by a special tribunal consisting of civil and ecclesiastical judges (the civil judges being in majority).

Legal Training Not Required

The Jewish ecclesiastical courts consist of rabbis, trained in the Jewish religious law, but having no general legal training. A bill is now pending in the Parliament, according to which the State will have a say in the appointment of ecclesiastical judges, as these will be appointed by a procedure substantially similar to that governing the appointment of civil judges. This might become an important factor in ensuring a qualified ecclesiastical bench. Pending the adoption of such a law the Parliament ratified the appointment of rabbinical judges who had been appointed by the Chief Rabbinate since the establishment of the State.

The ecclesiastical judgments are now regularly reported. Such reports might, in course of time, become an important source of easily accessible material concerning the Jewish law.

No Stare Decisis

In theory, the ecclesiastical courts do not recognize the doctrine of *stare decisis*, which is strictly followed by the civil courts. But great importance is attributed to the decided cases as well as to the expert or authoritative opinion.

All these questions are not merely legal but also constitutional, social and cultural. The main question is that of the proper relationship between religious and secular institutions, or in more general terms, between the State and the Religion. These problems, which are comparatively clear in the U.S.A., are far from being clear in Israel. To illustrate: The ecclesiastical institutions are introducing minor changes in the religious law of the personal status and the state has recognized these changes without considering the problem whether this is consistent with the supreme legislative authority of the Parliament. The Parliament has also introduced changes in the religious law of personal status, e.g. in the law of equality of women's rights. In most of the laws passed an honest attempt has been made not to change substantially the religious laws of personal status so that the rights of the orthodox persons would not be impaired. But were substantial changes introduced, it is reasonably doubtful whether the ecclesiastical judges would give them effect and they would probably dispute the supremacy of Parliament in these matters. Public opinion is strongly divided on the problem of the role of religious law and religious jurisdiction. The minority is violently opposed to any changes in the existing status-quo, and being of opinion that the religion is superior to the state it demands all future legislation be based on religious precepts.

Public Wants Reforms

The majority would like to reform the personal law (a research into a law providing for an unified system of matrimonial property which will apply to all the religious groups is now being prepared by the Harvard-Israel Research Project), grant jurisdiction over all personal matters to the civil courts and establish (now not existing) civil marriages and divorces system. Considering the predominant problem of consolidating the various cultural groups into one nation, by minimizing the frictions and divisive issues it is only natural that the majority does not press their demands now and that few changes have been effected in the existing status quo.

The whole question of proper relationship between State and Religion has not yet been given all the thought and attention that it rightly deserves.



Seymour P. Edgerton

QUARTER-FINALS

(Continued from page one)

the jury included earnings and life expectancy of the husband as elements of the measure of damages. On appeal defendant contends that the widow cannot recover damages on this basis without an affirmative showing of dependency.

NEWS IN BRIEF

DORMITORY COUNCIL

Student parking will be allowed in the staff area in the rear of Walter Hastings Hall, on both sides of the driveway, Saturday nights from 6 p.m. to 1 a.m. This area was formerly restricted for the exclusive use of the Law School staff.

The new arrangement, which was secured by the Dormitory Council, went into effect last week.

In making the announcement the council stated that the time restriction would be rigidly enforced. Students' cars remaining in the area after 1 a.m. will be tagged and fines imposed on delinquents.

Passover Services

Passover services and meals will be offered at the Hillel House, 5 Bryant Street, beginning on the evening of April 6. Reservations are now being taken for any or all meals during the Passover week. Reservations must be in by March 30.

DANCE

On Saturday the Dormitory Council and Graduate Council will sponsor an informal dance in Harkness Commons. The Krokodillos, an undergraduate singing group, will perform at halftime.

The dance will begin at 8 p.m. Admission will be by Dorm Council or G.S.A. card.

1955-56 PROCTORSHIPS

Applications for seven Law School proctorships for the academic year 1955-1956 are now available at the Dormitory Office in the basement of Hastings Hall. The position of proctor is a Corporation appointment and carries a stipend of one-half one's room rent.

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Australian Dean At Coffee Hour

Dean Robert W. Baker of the University of Tasmania Law School, spoke at last Tuesday's Coffee Hour on Australian-American Relations. Dean Baker predicted the continuance of the close relationship established on a broad scale during World War II.

Briefly tracing the geographical and historical position of Australia and New Zealand, he noted the looking to America which followed the fall of Singapore in 1942. The Australians have felt a continuing respect and gratitude to the United States for the defense of their homeland, and particularly the Battle of the Coral Sea, which proved to be the turning point in Southeast Asia.

Much U. S. Investment

American business has continued to invest in Australia. Examples of these economic ties are General Motors' establishment of an Australian car factory by an \$18 million investment, and Philip Morris' endeavor to corner the East Asian market in cigarettes with an Australian factory.

In the area of foreign policy, Australia has followed the American position on Formosa and China, since here national interests coincide. The SEATO and ANZUS treaties have bound the two countries to the same mutual security agreements in the Pacific. Australia agreed to the latter pact despite the opposition of the United Kingdom.

Australia has been internally concerned with increasing its population by encouraging white immigration. Over one million of its 10 million population has immigrated since 1946. Negroes and Chinese are barred from entering the island.

The main problem today in Australian-American relations is the lack of convertibility of sterling and dollars, which limits the exchange of the two groups' people.

Dean Baker received his Doctor of Civil Laws from Oxford, and has been Dean since 1947. During the war he served with the Australian Navy.

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Henry J. Stern

RECORD

(Continued from page one)

The new board will take over with the next issue of the RECORD and will continue for the first eight issues next fall. This covers a span of 12 issues, with four more this term and the remainder in October and November.



Matthew C. Kessler

The RECORD's annual spring banquet and cocktail party will be held on Wednesday, April 13 in the large meeting room of Harkness Commons.

There are still openings on both the editorial and business branches of the RECORD for those interested in becoming staff members. Application may be made at the RECORD offices, 23 Everett St.

Alumni Notes

LL.B. '35—George M. St. Peter has joined a firm to be known as St. Peter, Lessel-yong & Hauer in Fond du Lac, Wisconsin.

LL.B. '41—Charles L. Follansbee has left the Law Department of Gulf Oil Corporation after seven and one-half years, and is opening an office for the general practice of law in Tulsa, Oklahoma.

LL.B. '48—John W. Johnston has become a member of the firm of Helms & Mulliss in Charlotte, North Carolina.

John S. Welch has become a member of the firm of Latham & Watkins in Los Angeles.

LL.B. '49—Alvin Sliverman has become a partner in the firm of Wien, Lane, Klein & Purcell in New York City.

LL.B. '52—Thomas W. Pearlman was reelected Republican State Representative from the Fourth District in Providence, State of Rhode Island, during the November 1954 elections.

Marvin W. Weinstein resigned as law clerk to Judge Arnold Raum of the Tax Court of the United States and began working immediately thereafter as an attorney in the Tax Division of the Department of Justice.

LL.B. '53—Jack Sexton is an attorney in the Trial Section of the Tax Division of the Department of Justice.

LL.B. '54—Ralph Edgar Corey announces his association in the practice of law with J. Harold Hughes in Honolulu, Hawaii.

Joel S. Greenberg is working for the Navy Department as an attorney advisor. He is attached to the Bureau of Ships under the office of General Counsel.

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Landlord-Tenant Relations;
Hints To Apartment Seekers

By VALERIE HANDLER

As Spring approaches many students will be faced with the tasks of seeking apartments for next year, finding people to take over their unexpired leases or merely subletting their apartments for the summer. Undoubtedly there are men walking around the Law School who feel very much alone in their particular situations. This article is designed primarily to cheer them up with a bit of practical information and advice.

What are some of the ways you can find out about available apartments? Two organizations connected with Harvard are especially helpful in finding apartments and rooming situations for students. They are the Harvard Wives, (located in Weld Hall) and Phillips Brooks House. Students who are vacating either permanently or for the summer only list their apartments with these organizations. The information given usually includes: when the apartment will be available, rental, location, number of rooms, convenience to transportation, and often pertinent comments of the present tenants as to the bad or good temper of their landlords, presence of squalling children, brawling neighbors, wild musicians underneath or above them, and other interesting factors. Another place to look for notices of available apartments or to post a situation wanted is on the bulletin boards in Langdell Hall and in particular in Harkness Commons where students from many departments of the university pass through daily. It is important to note that not everything can be told on a file card; so the next step is to pay a visit to the present tenants after the proper phone call. It might be tempting to just pop in on someone while you are in the neighborhood, but that someone, if she hadn't had the opportunity to clean her apartment that day would not be too happy to see you.

What are some of the things to keep in mind and inquire about when you finally meet the tenants?

Watch The Floor

It might be a good idea to take a look at the floors in the apartment. Are they rotted or cracked? If they are either inquire as to whether or not the landlord intends to make the necessary repairs. These conditions never improve with age like cheeses, so its best to take care of them immediately. Ask about the heat and water. Are there 2 hours of heat and 22 of cold? Are there great changes in water pressure, scalding you to death one minute and chilling you up the sides of the shower the next? At least if you are warned in advance you stand some chance of survival. (This from an old shower climber!)

If you are looking for the apartment without your fiancé or wife try to keep her in mind when it comes to inspecting the kitchen of these apartments. Is the stove in good working order? Is there adequate freezing space? (at least enough space for a few cuts of meat and a package of frozen vegetables). And of utmost importance, is there adequate cupboard space and storage space for pots and pans. Lack of the above, I might add, is the major complaint of most student apartment dwellers. The next item is inadequate closet space. Cambridge apartments are notorious for their small closets, but there are some exceptions to be found. How much of the furniture in a furnished apartment belongs to the tenant and what goes with the apartment.

Little Visitors

One hates to bring up the next point, but it is necessary to inquire about the presence of ants or worse in the apartments. One unsuspecting wife I know would not

go into her kitchen for a week after seeing a colony of little visitors, and her husband had to do the cooking. So, if you don't feel up to trying your culinary skills a little investigation and extermination beforehand is in order.

Try to ascertain if the walls are paper thin and if the tenants are bothered by even the slightest noises. Nothing is more distracting when you are trying to study than live flute duets at midnight or a high fi set which has been turned up to deafening. These points may seem very small in themselves, but even a few of them put together spells an apartment you don't want.

What About Utilities?

What matters should you take up with the landlord directly? To begin with some landlords include some utilities in with the rental, other include all utilities and some include none at all. This is a point to settle from the start. The importance of this matter was brought to my attention not too long ago by a good friend whose husband has been having extensive correspondence with the Gas and Electric Company. It seems that he never quite settled the question of who would pay for the utilities in their apartment—the landlord or the tenant. After living in the apartment for the better part of five months, never once receiving any bills for gas or electricity, an astronomical bill arrived on the scene. They had assumed that the landlord was paying the utility bills and the landlord assumed that they were taking care of it. This case is still going strong and as yet no one has paid the Ames Gas and Electric Company.

Special Problems

What are some of the peculiarities that you come across when you want to rent an apartment in this area? Though it would be most ideal from the financial standpoint to rent an apartment from September to June it is very often impossible to hold onto a desirable apartment (without paying rental) until September if you should see it in late Spring. It is customary in these parts for landlords to have September to September leases and people often sublet in the summer of the year they are coming back to school and in their unexpired terms. Naturally the tenants will be more inclined to recommend you for their apartments for the following year if you will take over their unexpired term. Another factor which often influences who gets a certain desirable apartment is who is willing to purchase the furniture (some or all of it) and trimmings from the present tenants. Very often people put a lot into a so-called furnished and, of course, unfurnished apartments and most of them take quite a beating when it comes time to vacate. Buying another person's furniture is often quite feasible and you in turn can sell what you had to buy to the people who come around to you when your notice goes up.

Above all don't be panicked into taking the first thing you see and certainly try not to be too discouraged after the first two tries, assuming that all apartments are the same in your particular price range. It just isn't so. Look as often as you can at as many as you can (without losing what you consider a fairly good proposition) and then make the decision. It is sound advice to any person not to sign anything binding until his fiancé or wife as the case may be can see the apartment he has chosen. On the other hand, a situation often arises whereby a quick decision within a day or so is necessary. The best preparation for such a contingency is enough previous experience in sizing up apartments so that one may make a quick decision intelligently.

ARABS

(Continued from page one)

munity" as a tool for achieving harmony in the world. "Take the human being as the final objective," he advised. "Forget grievances and sit together around a table to solve your problems." Rev. Nunez advocated the use of the past as a source of experience to indicate errors which are to be avoided, but criticized the attitudes of all who indulge in accusations and recriminations, trying to discover "who is to blame" rather than working together for the future.

A positive approach is badly needed, he said. "Mankind is returning to the Arab countries with many times the knowledge we have received from our origins in the Middle East. The entire area should take advantage of this opportunity to work as a group to satisfy the needs of all the peoples concerned."

Rev. Nunez expressed the hope that, through a truly collective security arrangement in the Middle East and the cessation of the present armament race, there will soon be "a victory over hate, a victory over distrust."

Mr. Kidron, speaking for His Excellency Abba Eban, Israel's Ambassador to the U.S., who was ill, stated that the problem, as his nation sees it, is one of Arab "grudges" towards, and "isolation" of Israel. Arab hostility towards Israel takes three forms, he said: a grim guerrilla warfare marked by daily armed incursions and marauding, an economic blockade against Israel-bound goods in Suez, threats of the loss of Arab markets to those nations dealing with Israel, and a political boycott which is designed to prevent friendly nations from entering relations with Israel.

Israel is quite naturally alarmed by an "isolation ordained by the Arab states"—an isolation which sees it excluded from all recent pacts concluded between Middle Eastern nations—as it affects the region's the flow of U.S. and British arms to Middle Eastern nations—as it effects the region's military balance.

These two anxiety-producing factors are but some of the problems Israel faces "in its attempt to re-establish and restore a national home for Jews in the area from which they came." Stressing the positive approach to common problems, Mr. Kidron expressed the hope that a Pan-Middle-East Union may some day emerge from good will and good intentions, to maintain a state of harmony in that region. But, he cautioned, negotiation is the key to harmony, and the Arab nations continue to refuse Israel's offers to discuss all problems. "The rancors of the past," he concluded, "are not good guides for the future."

—Grossman

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