



Harvard Law School Record



VOL. 20, NO. 12

CAMBRIDGE, MASS., THURSDAY, APRIL 28, 1955

PRICE TEN CENTS

Prosser Hails Seavey's Aid On Torts Book

(This article was specially written for the RECORD by William L. Prosser, Dean, University of California School of Law.)

I first set eyes on Warren Seavey at the meeting of the Association of American Law Schools in Chicago in 1936. I had just been invited by the West Publishing Company to write a book on Torts. To this day the reasons for that invitation remain obscure, since I was a young unknown who had taught the subject only two years and clearly knew nothing much about it. Seavey was the editorial adviser for West, and it is obvious that he must have made the choice, although he never has been willing to admit it. No doubt he has been somewhat appalled at the consequences. At any rate, I always have regarded him as the Spaniard who blighted my life.

Surprise Awaited

Visitors from West had cheerfully assured me that Seavey would tell me all about how to do the book. This proved to be the optimistic overstatement of the century. The quizzical little man whom I encountered in the halls of the Stevens Hotel gave me no advice whatever, and told me nothing at all. He did not hold my hand and administer soothing words. Instead he talked to me with gentle irony and asked frustrating questions which effectively demolished the few and bad ideas that I had. He treated me, in short, exactly like one of his Torts classes. The conclusion that emerged after an hour or two of this was that the way to write the book was to go home, start on page 1 with some word, of which I would find a great many in any good dictionary, and write the book. It was a most excellent conclusion, and no one could have offered me a better one.

There followed four years and a half, during which the chapters which I ground out were sent to Seavey for comment and criticism. Line by line, word by word, and case by dreary case in the footnotes, he read the manuscript and took the bugs out of it. The letters that he wrote me would have made a book in themselves, and a most interesting and valuable one, which unhappily is lost forever. I shudder still when I think of all the egregious blunders from which he saved me, and I am overcome with contrition at the memory of all the ideas he offered, which I unblushingly appropriated and set forth as my own. In all justice and equity the book should have been called Prosser on Seavey on Torts.

Renewed Friendship

When I came east to teach at Harvard in 1948, I renewed the old friendship of the letters. Teaching a section of Torts alongside of Seavey is an enlightening but unsettling experience for any man. Mysterious strangers from outer space began to appear in the back of the room and heckle me with baffling questions which made hash out of the carefully engineered classroom discussion. Far be it from me to suggest that they were deliberately planted by any one; but the questions themselves left no possible doubt as to their source. When I repaired to Seavey's office to untangle these disturbing matters, we had a daily discussion of the law of Torts, in which my neglected education was continued.

I never won any of the arguments. So far as I am aware, no one has ever won an argument with Warren Seavey. One of the legendary evenings in the history of the Law School Association is the night that

(See PROSSER on Page Six)

Last Issue

With this issue the Record concludes publication for the academic year 1954-1955. Volume 21 will begin following registration in the fall.



Warren A. Seavey

★ Editorial ★

Many words have been written about Warren Abner Seavey.

Many tributes have been said, many praises have been sung. At the age of seventy-four, Professor Seavey retires from active participation as a member of the faculty of Harvard Law School.

The RECORD pays homage to the retiring scholar, in this, our final issue of the scholastic year, and we endeavor, in a humble way, to add to the dedications at the retirement of a great man. But it is not the finish of a career, for law and teaching cannot be taken away from him. And so, in the future he will continue on.

Loved by student, faculty and alumni alike, Professor Seavey will always remain an integral part of the Harvard Law School. Only recently, the Class of '55 feted the famous educator. Perhaps most vivid is the inscription on the plaque presented to the professor by the Faculty. The words were "Presented by his colleagues on the Faculty to Warren Abner Seavey, A.B. 1902, LL.B. 1904, Bussey Professor of Law. . . . To commemorate nearly thirty years of teaching at the Harvard Law School. He has been a friend to generations of students and teachers, who have been trained by his searching mind, through his work on the Restatement of the Law, he has revitalized Torts, sought out the tangled principals of Restitution and Judgments, and given new shape to ancient concepts in Agency. As chairman of the Committee on the Curriculum in 1934-1936, he had a major share in refashioning legal education at the Harvard Law School. March 7, 1955."

His magnificent mastery of the Socratic method has become fable not only in the portals of Langdell Hall, but to law students throughout the country. Keen wit and snappy retorts have left many a student speechless. Yet, Mr. Seavey possesses that rare element of genuine interest and concern in the law student. Officially, as adviser to veterans he manifested this concern. Unofficially, his efforts have even gone further. A warm and concerned attitude developed throughout the long period of teaching. It is evident during class, before class and after class. It is evident when a friendly smile protrudes.

This very month, Professor Seavey concluded his efforts as a member of the Grading Committee. As the only faculty member on the committee, he spent time and effort in a search for a better marking system. His opinions, sincere and logical, seem to have manifested themselves in the report finally adopted by the Committee.

He is a living nullification of the idea that a true scholar is detached from the outside world. He combats the odious belief that the successful lawyer is callous as well as shrewd. Few will argue that Professor Seavey is not as human as they come. And this has indeed not distracted from a highly successful career and undisputed respect as a legal mind that the retiring professor has enjoyed and will continue to enjoy for a long period to come.

Today, THE HARVARD LAW SCHOOL RECORD joins in tribute to the great man. We present but a small fraction of a work-packed life. We print only several comments by his contemporaries and associates. What we offer is only an indicia of much more behind it. Spiritual appreciation oft cannot be adequately described in the written word.

In September, the platforms of Langdell Hall will no longer sport the famed Professor. To others falls the task of teaching Torts, Restitution, Agency. But the influence of Professor Seavey will remain far into the future, not only at the Harvard

(See EDITORIAL on Page Five)

Seavey To Retire After 49 Years As Law Teacher

Warren A. Seavey, Bussey Professor of Law, admired by generations of law students as a practitioner of the Socratic method of teaching, retires June 30 from the faculty of the Law School. His retirement will climax 49 years as a teacher of law.

Mr. Seavey's very active teaching career began early in this century. In 1906 he was invited to organize a law school at the Imperial Pei Yang University at Tientsin, China, and accepted the assignment.

The school taught Common Law, Roman Law, and Chinese and Japanese law to students who took a five-year course. He later sent for four other Harvard graduates to assist him. Teaching was done in English, which, fortunately, all the students understood. The chief difficulty was the lack of books. For a while this was solved by a few Harvard casebooks, and a large store of hypothetical cases. Later an effective library was established.

For his efforts, Mr. Seavey received the Decorated Order of the Double Dragon in 1911. The award now hangs with other memorabilia in his Langdell office.

Mr. Seavey returned to the United States in 1911 to become a lecturer on Pleading at the Law School. His stay here was shortlived, however, for he left the following year to become a Professor of Law at the Oklahoma University Law School.

Married Days

When he went to the Tulane University School of Law in 1914, he took with him his new bride, formerly the Miss Lydia A. White of Seneca Falls, N.Y. The Seaveys have three children: Gordon Crowell, Robert Warren, and Barbara Jean.

At Tulane, Mr. Seavey served as a member of the law faculty for two academic years, 1914-1915 and 1915-1916. He also served as Secretary of the law school at that time. He is described as one of the "guiding spirits" in the establishment of the Southern Law Quarterly, which made its initial appearance in January, 1916. The Quarterly is now the Tulane Law Review. Officially, he served as the first faculty adviser of the Quarterly.

During his first year at Tulane there were 14 members of the law faculty, four of whom were full-time teachers. This number increased to five full-time teachers during his second year at the school, but the number of students decreased from 95 to 78.

Mr. Seavey taught the following courses at Tulane: Agency, Constitutional Law, Contracts, Partnership, Public Service Companies-Carriers, Torts, and a series of six lectures on the Introduction to the Study of Law.

First World War

From 1916 to 1920, Mr. Seavey was officially a member of the law faculty of Indiana University. However, in 1917 he was called to active duty as an infantry captain, assigned to the 334th Infantry. The war ended just as he was transferred to the frontlines.

At about that time, in 1919, the American Expeditionary Force University was being organized at the University of Beaune in France. Mr. Seavey explained the situation in these words many years afterwards (1946):

"No one had considered a law school. I went to Beaune, and, after explaining how simple it would be to have one, I was permitted to recruit seven lawyers as instructors and 170 students. We wangled two buildings used by medics for barracks. The students remade them into classrooms and managed to 'borrow' without discovery enough material to furnish the school. We then had a complete law school except for books; the mimeograph and hypothetical cases took up most of the slack."

Following the First World War, Mr. Seavey accepted the post of Dean of the College of Law of the University of Nebraska, which he held for six years. At Nebraska, he became one of the co-founders of the Nebraska Law Bulletin, in which he has published many articles over the years.

Mr. Seavey left Nebraska in 1926 to be-

come a professor of law at the University of Pennsylvania and to take part in the work of the American Law Institute.

At Pennsylvania, Mr. Seavey quickly became immersed in law school activity. He taught the first-year course in Torts, the second-year course in Evidence, and the third-year course in Quasi-Contracts, and served on the faculty committees on Electives and the Law Review. The latter by this time was a specialty with him.

He remained at the University of Pennsylvania, however, for only one academic year, for in 1927 he was called to a full professorship here at the Law School where he has taught ever since.

Many honors have accrued to Mr. Seavey during the last 30 years—and much work has passed over his desk. It was in 1938 that he became Bussey Professor of Law, and in 1947 that his colleagues elected him president of the Association of American Law Schools.

Honorary Degrees

Over the years, Mr. Seavey has received two honorary doctorate degrees: in 1928 from the University of Nebraska, and in 1947 from Brooklyn's St. John's University. The latter citation read:

"Seldom has a University been privileged to pay tribute to an individual whose contribution to legal education can compare with those of the man whom St. John's University honors today.

Founder of the law school at the Imperial University of Pei Yang, he was decorated by a grateful Chinese government with the order of the Double Dragon.

Professor of Law for over forty years in the Universities of Oklahoma, Tulane, Indiana, Nebraska, Pennsylvania and Harvard, he numbers among his pupils many of the country's outstanding lawyers.

Captain in the United States Army during the First World War, he became Director of the American College of Law for the American Expeditionary Force.

(See CITATION on Page Six)

Policy Required Seavey Retirement

The retirement of Professor Warren A. Seavey has again focused interest on the retirement policy of Harvard University, the policy of which governs the tenure of professors and other officers in the Law School.

By a statement approved by the President and Fellows of Harvard College in 1952, "officers of instruction will normally be retired at the end of the academic year in which they shall have attained the age of 66 years but may be asked by the Corporation to continue in service beyond that age, subject to terms specified in each individual case." According to Vice Dean Livingston Hall, these extensions are generally made on a year-to-year basis.

The tenure of officers of administration is more severely restricted. Extensions beyond age 66 may be made only by concurrent resolution of both Governing Boards (Corporation and Board of Overseers), and in no case can an administrator remain in office after he is 70.

Generally, 75 has been the maximum age of professors, beyond which the Corporation has not allowed an extension.

Words From Seavey

On Agency

I have often heard from persons who are impatient with legal conceptions the question: Why define the agency relation? Is this not merely an abstract conception to which no legal consequences attach? It may be answered that the courts have long been accustomed to a method of thought which leads them first to find a relation and then to attach legal consequences to it; whether or not it is logical to attach the same consequences to all relations which are found to be agency relations (since the bond binding a principal and an agent is much stronger in some cases than in others), it is a simple and hence a convenient method, as well as one which, on the whole, has probably made it possible to deal more justly with the generality of cases than if no category had been attempted. At any rate it is the method used by the courts. . .

—"Agency Since the Restatement," American Bar Association Journal, vol. 23, 1937.

On the Restatement

The Restatement was created by twenty-five thousand cases a year, the gist of our American courts. In the old days when the world was young, or at least younger—in the days of Coke, and later of Blackstone, Kent and Story—it was comparatively easy for a man to read substantially all the cases. It was not difficult for the court to find most of the pertinent cases, and if it could not find cases (and it frequently could not in this country because the libraries were small and books were hard to get) it had the time to reason out the principles upon which it could reach results which is desired in the particular case. The modern self-styled realist says that there is no such thing as law. This may be true, but at least the men who lived one hundred years ago, our forebearers, though there were living principles of law upon which they decided cases. With the welter of decisions this huge yearly mass of twenty-five thousand caused by the fact that we have many jurisdictions, all dealing with what is fundamentally the same system of law—it became impossible for the courts to give the time which they should give to the development of law. At any rate, rightly or wrongly, we have come to be case hunters. We try to go through this enormous mass of cases and find cases on all fours. Now, that is a good business, of course. If one can find a case on all fours it is a great help to the court. It is also at times a great help to the lawyer since, if the case is with him, he does not need to think or argue about principles.

But from this condition two things have resulted. In the first place, owing to the congestion in the courts, we have been more and more inclined to follow precedent and to accept too literally the doctrine of *stare decisis*. If a thing has been decided, it has been too easy for the courts to fail to use that judicial discretion which distinguished the great courts from the small courts. Secondly, we were in danger of losing the great heritage, which I feel we have—one country and one law, a land in which but one system of law is enforced throughout. Now, of course, I know that with our different states we shall always have different adjudications. We all know that even with a statute which is common to all, such as the Negotiable Instruments Act, the judicial interpretation will vary. The ideal of a law common to all is one that we cannot attain. But at least it is an unmixed evil that this vast mass of case material encourages states to remain in their own little niches. It is so much easier to find cases in one's own state and to follow them, disregarding decisions in all the other states, that judges are apt to take the line of least resistance. Hence the American law is beginning to split apart. And having examined in the last few years many thousands of cases—I hate to say how many, because I never did count them, but I am quite sure there were between twenty and forty thousand cases—I venture to say that there is no point, no single point of any importance, upon which American courts have not disagreed. In other words, wherever it is possible to disagree, American courts have done so.

Now, this is highly unfortunate, and it was to this problem that the great men of the American Bar Association addressed themselves. Their effort was to bring back to our American law some semblance of order and consistency. With this in mind they devised the plan of this Institute. This consists of something like seven hundred lawyers and judges, including the Chief Justice of each state, so that every state must be represented, and substantially all the lawyers of prominence who are willing to yap railroad fare to Washington once a year. As explained before, the preliminary writing is confined to small groups with a reporter, who is primarily responsible, at the head of each. The first severe check is by the council, which is a carefully selected group of about thirty men who meet twice a year to go over the work before it is submitted to the annual meeting. This is all under the immediate personal supervision of the Director, one of the most severe task masters I ever experienced, who requires us to cross each

"t" and dot each "i" in exactly the right spot. Following the council cross examination, comes that of the yearly meeting, where again everything is thrown open to discussion. Thus the whole theory of the American Law Institute is that there should be group work of the most intensive kind. This is perhaps the greatest experiment in cooperation which the American Bar has seen.

—"The High Spots of the Agency Restatement," An address before the Nebraska State Bar Association, December, 1933.

On Torts

In spite of these varied purposes served in actions of tort, harm is the tort signature. In general, the action is based upon the theory that one person has caused harm to another. Thus it is distinguished from criminal law, which directly vindicates the interests of the state; from the law of contracts, which gives sanction to promises; and from the law of restitution, which seeks primarily to prevent unjust enrichment. It is true that in such actions as those for trespass and defamation, the existence of harm is sometimes a legal fiction, and that a person may become responsible for harm done by things or persons under his control although his exercise of control has in fact caused no harm. Nevertheless the causing of harm is predominantly the basis of tort actions. . .

—"Principles of Torts," 56 Harv. L. Rev. 73.

On Teaching Law

For the 41 years in which I have been teaching law, I have been increasingly convinced that we are the most fortunate of men in the work which we are doing. There are compensations in other professions; teachers of other subjects very likely enjoy their work. I don't believe, however, that in any profession or in any other branch of teaching can there be found work comparable to what we have. We are always dealing with a selected group of bright young men; we continually find new matters and are forced to develop ideas because we are dealing with a subject continually changing in content. We are able to participate in the important events of national life. There is no other work of which I am aware in which men have a greater opportunity of affecting the lives of those around them. It is true that our work is not such that we are likely to come into great national prominence; those with ambition for this should not teach. It is true also that the rewards of practice may be greater financially. But if you like to affect human lives, if you enjoy building character, if you are interested in exploring human problems, if you are happy in being with young men, the rewards from a life of teaching law are,

I believe, far greater than are likely to come from any other kind of work. . .

—Address, Annual Meeting of the Association of American Law Schools, 1947 Handbook, p. 122.

On Retiring

Record Reporter. We understand that you are planning to retire at the end of this year?

Warren A. Seavey. At least I will become Emeritus, with no official duties.

R.R. May I inquire what are your plans?

W.A.S. Sorry. No plans, except that I hope not to be idle. I shall do this and that, I expect—a revision of the Agency Restatement, perhaps help in revising some of the other Restatements; a few casebooks; a little editorial work; perhaps even a little teaching, that modicum of it which is suitable for extreme age.

R.R. Are you planning to teach elsewhere?

W.A.S. Again, no plans. It is pleasant here, with old friends, conversations with Professor Scott about cabbages and kings and even Trusts now and then; with Pound, whom I hope can be persuaded to resume the occupation of his office here; and with other members of the faculty who drop in—and the students, with their problems and kind hearts.

Cigars And Bovril

R.R. You are not now seeking another place?

W.A.S. Not now, although I shall be opportunistic—a term here and there to bring to life again I. de S. and his wife, or Mr. Fmwick, whose servant, in violation of orders, sold cigars and bovril. I don't think I would like to make a permanent connection, as has Eddie Morgan, who is now giving Vanderbilt students the affection and understanding which I wish you boys might share.

R.R. How did you happen to go to teaching?

W.A.S. I planned to be a mathematics instructor but, discovering that I was not much of a mathematician, was persuaded to study law.

R.R. How did you happen to go to China?

W.A.S. Looking forward to teaching, I had asked Dean Ames to let me know of any available opportunity. After practicing, or at least having an office in Boston for two years, I was told by the Dean that the Viceroy of Chili Province in China was trying to modernize education there and that there was an opportunity to take some of the Harvard system to the Orient. It looked good to me. Incidentally, I suggest that if any of you have an opportunity to go to a foreign country so that you can look back upon the life here, it is worth while taking as a means to help your understanding of world problems.

R.R. Did you like it there?

The Harvard Law School Record

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

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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.

W.A.S. I could not have asked for better treatment either from the government or from the students. The students were a choice lot and used Harvard casebooks. Later, I sent for a number of Harvard men to carry on the work both before and after I left. However, I thought five years was enough. Obviously, I have been terribly disappointed that the work done there should have proved of no lasting value to the country.

R.R. I note that during the first World War you were a director of the AEF University Law School. What was this and how did you get there?

W.A.S. After Armistice Day about two million Americans were left stranded in France away from transportation. For these, various educational facilities were set up, including the University at Beaune. As an officer, I was given the opportunity to join this and, since no one else had suggested a law school, I proposed it. For three months we operated a school of about 160 students, with casebooks mimeographed from the isolated volumes found in the camp library and as instructors lawyers selected from the available men in the Army. We had moot courts and everything a law school needs, except a library and a hope for future existence.

R.R. Do you wish you had entered practice instead of teaching?

W.A.S. I know of no life which would have given me so much enjoyment and also which, assuming reasonable success, would have been so useful. I owe more than I can tell to the generations of young men who have done their best to keep me young. It is a wonderful thing to find scattered over the entire country friends who were once my students.

Great School

R.R. Is there anything else which you would like to say?

W.A.S. Yes. Although I hope this is not my swan song, there is one idea I would like to give you. I wonder if you fully appreciate what you are getting here. Years ago a young Italian boy having only one arm expressed his gratitude for the accident which had deprived him of the other arm, but which had enabled him to secure an education and come to this school. I would like to remind you that you are in a school which compares with the greatest in tradition and accomplishment because of the efforts of great men in the past: Story, who gave to the school a national reputation; Langdell, who devised a method of learning; Ames, who made the method practical; great teachers, Smith, Beale, Williston; the great jurist Pound and now another great Dean.

I wonder if you appreciate the opportunity you have here to meet other students from all parts of this country, and indeed from all countries in the world, with almost limitless library facilities, and above all, with a highly selected group of young men whom I believe to be unique in the degree to which they have the qualities for a successful and useful life. In fact, it is the quality of the student body which makes the school what it has become. May I suggest to you that the three years spent here should be the most fruitful and I hope the most enjoyable of all your years.

One thing more. I owe to the School most of the good things which have come to me. The students of the school have been with me always. May I hope that even after I no longer meet them in a formal way, they will continue to find their way to my ever-open door.

(Editor's Note: The preceding interview—both questions and answers—was prepared by Prof. Seavey.)

Professor in Action . . .



Alumni Association Meeting To Stress World Studies

The Harvard Law School Association will hold its annual meeting in Harkness Commons on Saturday. The planned program includes a business meeting in the morning, a discussion with the Dean and the faculty in the afternoon with particular emphasis on the International Legal Studies Program, and a dinner in Harkness Lounge for the faculty and members of the Association.

The Harvard Law School Association has been in continuous operation since 1886. A board of officers and a 12-man Council coordinate the activities of 24 local associations, of which five—Georgia, Florida, Tennessee, Maryland and Cleveland—were formed within the past year. Each local association elects a vice president to represent it at the annual meeting of the national organization.

The Association furnishes support to the School in many ways. Each year it contributes over \$10,000 to the National Scholarship Program, which is designed to maintain the national character of the student body by furnishing scholarships to students who live far from New England. It also plays an active part in the Annual Giving Program.

Over the years the Association has contributed to the Law School more than 20 portraits of judges, professors and prominent members of the bar. Every five years it sponsors publication of the Harvard Law School Quinquennial Catalog. In addition, it sends the HARVARD LAW SCHOOL RECORD to each member who has indicated a desire to have it sent. At present over 6,000 alumni receive the RECORD through the Association.

Some local associations each year provide a tuition scholarship for the Law School, and others have organized placement committees. Robert N. Miller, LL.B. '06, has been president of the Association for the past two years.

Ames Award Goes To Oralist Newell

Richard F. Newell, 2L of Berkeley, Mich., has been judged the best oralist in the Ames Quarter final Arguments. Mr. Newell is a member of the Scott Club. The winners of the spring competition were announced Monday by the Board of Student Advisers.

The prize for the best oral in the first year competition was divided between Stuart Jackson 1L of New York City and James Bridgeland 1L of Akron, Ohio. Mr. Jackson is a member of the Loss Equity Club and Mr. Bridgeland of the Patterson Club.

First prize for the best first year brief in the spring series went to Robert Ambrose 1L of New York City and Richard C. Torbert 1L of Maplewood, N.J.

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Alumni Notes

LL.B. '27—Allen Whitfield has recently been nominated by President Eisenhower to be a member of the Atomic Energy Commission.

LL.B. '40—Philip E. Gordon announces the formation of the firm of Addenize, Sisselman & Gordon with offices in Newark, New Jersey. Mr. Gordon has been elected to the office of Councilman of the East Ward of the City of Newark, New Jersey.

LL.B. '42—Gerald M. Smith announces the opening of his offices for the General Practice of Law in New York.

LL.B. '48—Guy George Gabrielson, Jr., has become a member of the New York law firm of Guy George Gabrielson and Albert L. Wolfe which will hereafter be known as Gabrielson, Wolfe & Gabrielson.

LL.B. '49—Warren M. Gordon announces the opening of his office for the practice of law in Inglewood, California.

LL.B. '50—Samuel Dash who has been First Assistant District Attorney of Philadelphia County, was recently appointed Acting District Attorney of Philadelphia County following the resignation of District Attorney Richardson Dilworth, who is seeking the Democratic nomination for Mayor of Philadelphia.

Benjamin Greshin has opened an office for general practice at Smithtown, Long Island, N.Y.

LL.B. '51—Ernest D. Oakland has accepted a job with the Bureau of Foreign Commerce. Previous to this he was with the Housing and Home Finance Agency, Office of the Administrator, Washington.

Gerald B. Franklin has been appointed General Counsel of the Family Drive-In Theatres, Inc. Mr. Franklin is engaged in the practice of law in Manhattan and in Nassau County.

Erwin I. Grant and Sidney P. Schreiber have formed a law partnership under the name of Grant & Schreiber. Their offices are located in Hollywood, California.

Marcus D. Grayek has joined the firm of Silver, Saperstein & Barnett in New York.

LL.B. '52—N. Ronald Silberstein is serving as Law Clerk to Judge John C. Knox, Chief Judge of the Federal District Court for the Southern District of New York.

LL.B. '53—Stanley Rothenberg has received the degree of Doctor of Law from the University of Utrecht. His book "Copyright and Public Performance of Music," was published in 1954 by Martinus Nijhoff, The Hague, and can be obtained in the United States.

LL.B. '54—Sheldon H. Hoffman and Arthur I. Goldstein announce the formation of a partnership for the general practice of law in Forest Hills, New York.

John O. Hargrove was graduated from the U. S. Naval Officer Candidate School.

SCHOLARSHIPS

The deadline for submitting applications and renewals for second and third-year scholarships and awards is May 15. Further information may be obtained at the Financial Aids Office, 23 Everett St.

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Katz Named To Stimson Chair Created By Ford Fund Grant

Milton Katz, Director of International Legal Studies and former administrator of the Marshall Plan in Europe, has been appointed as the first Henry L. Stimson Professor of Law, it was announced recently.

The professorship honoring Henry L. Stimson was made possible by a grant, announced last January, from the Ford Foundation. Mr. Stimson, Secretary of State under Herbert Hoover and Secretary of War under Franklin D. Roosevelt, was a stu-

dent at the Harvard Law School from 1888 to 1890. He received an honorary Doctor of Laws here in 1942.

A graduate of Harvard College in 1927 and the law school in 1931, Mr. Katz has alternated between government service and legal research and teaching. After eight years in various federal departments, he returned to Harvard Law School as a member of the faculty in 1939. Reentering the government at the outbreak of World War II, he served first as Solicitor for the War Production Board and the U.S. Executive Officer of the Combiner Production and Resources Board in 1941-1943. Service in the Office of Strategic Services was followed by active duty in the navy in the Mediterranean and European theatres. He received the Legion of Merit and a Commendation Ribbon.

Bryne Professor of Administrative Law after the war, Mr. Katz left the faculty in 1948 to take an appointment as General Counsel for the Economic Cooperation Administration in Europe. In 1950 he became U.S. Special Representative to the Marshall Plan countries in Europe, with the rank of ambassador. Concurrent with this position, he served in 1950-1951 as the head of the U.S. delegation to the Economic Commission for Europe and as the U.S. member of the Defense, Financial and Economic Committee of the North Atlantic Treaty Organization.

He was appointed Associate Director of the Ford Foundation in 1951, serving in this capacity until his return to Harvard in 1954. He has since continued in an advisory association with the Ford Foundation.

As Director of International Legal Studies, Mr. Katz has been instrumental in the rapid post-war expansion in this field. The development of the program has been in response to the pressing and increasing need in both governmental service and private practice for lawyers trained in the handling of international legal problems. In January the Ford Foundation granted \$2,050,000 to Harvard for the further development of the program. This grant was one of several to national law schools.

Besides his Stimson professorship, Mr. Katz will continue as a trustee of the Carnegie Endowment for International Peace, a Fellow of the American Academy of Arts and Sciences, a trustee of Music Associates of Aspen, and an elected director of the Harvard Alumni Association.

A native New Yorker, he is a member of the New York Bar.



Milton Katz

ERRATUM

The article on the University of Michigan Law School which appeared in the RECORD on Mar. 31 was written by Mr. Alan R. Hunt, graduate student at Harvard Law School, not by Mr. Gordon M. Lucey as reported.

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NEWS IN BRIEF

WIVES TO HEAR GOWER

Lawrence C. B. Gower, Visiting Law Professor will address the last formal meeting of the Harvard Law Wives for the current school year, Wednesday, May 4 at 8 p.m. in Harkness Commons. Prof. Gower will speak on "An Englishman's Impression of the United States."

On Saturday May 14, 1955 the Law Wives will conclude their activities for this year with a luncheon at 1:15 p.m. in the Mallory Smith Room of Harkness Commons. Those interested should call Mrs. Tate, ELiot 4-2981 for reservations.

LIBRARY IN USE

Library attendance during Easter vacation ranged from one-third to two-thirds of normal, Assistant Librarian Philip A. Putnam has reported. Use of the stacks and seminar rooms was heavy during the four days the library was open, and reading room attendance ranged from 44 to 136. On normal weekdays, 200 is the average reading-room count.

FORUM ELECTION

Gordon Werner, 2L of New York City, was elected president of the Law School Forum at a meeting on April 12. Others elected, all of whom will serve during the Fall Term, 1955-56, are Joseph Fisch, 2L of New York City as 1st vice-president, Harry L. Freeman, 2L of Omaha, Neb. as 2nd vice-president, Warren M. Davison, 1L of Dorchester as secretary, and Steve Wolfberg, 1L of South Bend, Ind. as treasurer.

FELLOWSHIPS IN JAPAN

Students from all three years who are interested in fellowships to Japan are asked to contact Richard W. Rabinowitz, Director of the Cooperative Program with Japanese Law Schools, at Langdell Hall. The fellowships, which run for three years, were explained in the last issue of the RECORD. Beginning in 1956, a total of four students from Harvard, Michigan, and Stanford law schools will go to Japan to continue their legal education.

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Colleagues Laud Seavey at Retirement

The Director of the American Law Institute wanted a restatement which would cover quasi-contracts and constructive trusts. Professor Seavey had had great experience and success with Torts and Agency and he was asked to undertake this job. Mr. Scott was then appointed a reporter with Mr. Seavey and they were given two years in which to complete the Restatement of Restitution. Mr. Seavey, with characteristic imagination, decided that all could be included under the new name of Restitution. He created a new branch in the law which is generally recognized in the U.S. today and somewhat in England. Lord Wright gave much praise to the work.

The Restatement of Restitution dealt with matters which were not torts nor contracts, but from which violations or breaches recovery must be had. He dealt with it on the notion of unjust enrichment and with a great deal of imagination rapidly picked it up and zealously created a new subject. The Restatement of Restitution was so successful that L. Hand, J., asked Mr. Seavey to undertake the Restatement of Judgments, which Prof. Seavey con-

Warren A. Seavey is compelled by his age to retire from his keen and wise teaching, but still we hope for him to continue his wise writing.

After he graduated from Harvard College and Harvard Law School and had practiced law in Boston for two years, then he accepted a position as the head of the Law School in Tientsin, China, and remained five years.

His success was shown by his being given an Order of the Double Dragon in China.

After remarkably various and successful positions, he was called in 1927 to the Harvard Law School. He had previously taught many branches of the Law but now he concentrated at Harvard in Agency, Torts and Quasi-Contracts. In these subjects he not only taught, but deftly and wisely solved the difficult problems successfully. During this period he has been a Reporter for Agency and Quasi-Contracts in The American Law Institute, with great success.

He has written also a number of acute legal essays. His successful work in Harvard is shown by his teaching, so that he was permitted to stay until his seventy fifth year of age, the ultimate now ever permitted.

SAMUEL WILLISTON

According to Sir Frederick Pollock the least of us is proud who may point to so much as one stone of the immemorial and yet ever freshly growing fabric of the common law and say "the work of my hands is there." The work of Professor Seavey's hands is upon more than one goodly stone in the fabric of the common law—in torts, in agency, in restitution, and in the law of judgments. He stands in the goodly company of those who have shaped American law as teachers and writers: Story, Greenleaf, Parsons, Washburn, Langdell, Ames, Gray, Thayer, Williston and Beale, to name only those no longer active. His work as a reporter in the American Law Institute Restatements keeps up the succession which led Maitland to speak of the glory of Bologna, the glory of Bourges, and the glory of Harvard.

Now that he is retiring from teaching he is not the sort of man to be idle. There is much that he can still do for the fields of law in which he has worked so faithfully and fruitfully. May he be spared many years to the continually greater effectiveness of American law as an instrument of justice.

ROSCOE POUND

In 1935, Professor Warren A. Seavey accepted the duties and responsibilities of General Editor for the American Casebook Series, published by the West Publishing Company. More than sixty titles in this Series have been published under his leadership and an additional dozen are now in preparation. He has always maintained that a new casebook project is not merely a commercial venture, but primarily a vital part of legal education.

To him the competency, teaching ability and scholarship of the prospective author presented elements which could be translated into teaching tools whose adequacy would be reflected in the legal training of the bench and the bar. Under his direction as General Editor, an outstanding series of casebooks, covering practically the entire law school curriculum, has been produced.

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In His Twenties

sented to do along with Prof. Scott. Mr. Seavey again went to work with his instinctive zeal completing section II. Prof. Scott was the Reporter for section I.

Professor Seavey not only contributed much to the development of the two subjects in which he was primarily interested, Agency and Torts, but he did much to mold the law of Restitution and of Judgments. In undertaking to restate the law in these two fields, he brought to bear that quality of "fertile generalization," which, as Mr. Justice Frankfurter has said, characterized Dean James Barr Ames. He brought to light the general principles which underlie the more specific rules evolved by the courts. He showed how in the field of Restitution the concept of unjust enrichment ran through the myriad of cases involving diverse situations. He added the term "restitution" to the legal categories. He and his associates in restating the law of Judgments invented the term "collateral estoppel," which had never been used before but which has now become a commonplace in the decisions of the courts including the Supreme Court of the United States.

Mr. Seavey is a remarkable fellow. He starts out on a project with not too much knowledge, but grows increasingly with the subject. He has an infinite ability to grasp fundamentals. While working with him, I got to appreciate him very much.

AUSTIN W. SCOTT

Editorial

(Continued from page one)

Law School, but wherever these phases of the law are taught. And such influence will continue to be stressed wherever law is enforced. The doctrines he has grasped and molded are in a large part now the law. The future most certainly will produce more molding and change, but along the line, the influence of the prior contributors linger on.

Though retiring from the Faculty of the Law School, Professor Seavey will continue in legal research and will continue his teaching career as well. The law is his life. And he remains unwilling to depart with it.

At retirement, Harvard Law School does not say farewell. Though absent from the platform, not so from a busy office. Even when not here, his influence will not be gone from the law he has helped mold. His contribution to student thought—past, present and future, as well—can never be varied by physical absence.

Those of us at the Law School pay tribute to Warren Abner Seavey today. We shall continue to do so for many years to come.

M. K.

"Finally, as to this Association. During thirty-six of the forty-one years of my teaching I have been coming to these meetings. May I be forgiven for saying that what I have received most has not been a better knowledge of the law, nor even assistance in pedagogical methods, for which ostensibly we gather, but the warm feeling which comes from being among friends. I have attended few round table conferences (mea culpa) and have missed many general sessions. But year after year I have sat in the anterooms, returning to renew acquaintance, to swap experiences, to watch with pride the growth in mental stature of the younger men and with dismay the graying of my contemporaries. In commending these meetings to those of you who are relatively new in this Association, may I say that they will bring you much good. You will meet a lot of intelligent, hard-working men, having similar interests, eager to find answers to their problems and to help you in yours. There will sometimes be a heavy drain upon slim exchequers; there will always be an interference with your holidays, but from these meetings you will receive an ever increasing dividend in satisfaction and friendship. May I hope you will receive from them the enjoyment they have given me."

So concluded Warren A. Seavey his presidential address to the Association of American Law Schools on December 28, 1947. After some hesitation I have picked it to serve as a typical expression of Mr. Seavey's presidential philosophy. If it doesn't sound like presidential philosophy, it is because he never sounded like a president. I find my assignment rather an ungrateful one: to write of Mr. Seavey's Association activities. It is true that he was President of the Association, and a first rate one, but one instinctively thinks of him in other capacities. As a teacher. As a legal analyst. Or, as his own words suggest, a helpful friend to young men.

Definitely, Mr. Seavey is not what is known as "a good organization man." (Although certainly he is not a bad one.) The Association is full of good organization men. One could readily list a dozen names, of men whose mature professional life has been largely devoted to Association



New Bussey Professor

activities—one almost said "politics": sitting on innumerable committees, writing endless reports full of words which, laid end to end, might perhaps reach to the moon but certainly served no other useful purpose, bustling about in the corridors of the Stevens or the Edgewater Beach and looking important, rising solemnly up in meeting to move that the pending motion be amended to read. . . .

Mr. Seavey has been none of these. Not that he was backward in his duties as President. Quite the contrary. There is ample testimony to that effect. He was both conscientious and highly informed. "He had taught at so many schools, of course, that he knew amazingly well the background and history of legal education in this country." So writes one closely connected with his administration. I myself have happened to have occasion to read some of his professional correspondence during the time of his incumbency. It is written largely in his own hand, not too legible and tending to slope off to the southwest. (And it still does; if anyone is writing on "Seavey as Seen by a Psychiatrist," I am glad to contribute this item.) The correspondence is also unfailingly crisp and to the point. Whether or not he enjoyed administrative business (my informant notes that he was "impatient with

Tutor At Chinese Law School . . .



Prof. Seavey, pictured above with a number of his students, was for five years head of the law school at Tientsin Chili Province in China. Introducing Harvard methods of legal education, he was active in the modernization of the existing system. His success is reflected by being awarded the Order of the Double Dragon by the Chinese government.

'Adventures Of George Priddy' Or Prof. Seavey Takes A Fall

(This feature has appeared before in the RECORD. The original was printed on Nov. 20, 1946 and was written by Kenneth G. Weinberg, LL.B. '48; it was reprinted on Oct. 17, 1951.)

George Priddy shuddered as he dragged himself wearily up the steps of Langdell South. The thoughts of encountering the babbling, jostling mob of students that was exploding out into the corridors between classes was frightening enough on an ordinary day, but today George felt that he would be entirely unable to fight his way through the wave of wild-eyed lawyers into the quieter brand of mayhem of Professor Seavey's torts class. He felt that he might easily be carried all the way back to Austin Hall by the surge of students.

Priddy braced himself, took a deep breath, fought his way into Langdell South and sank exhausted into seat No. 21.

"Perhaps," thought Priddy, "if I keep my head down and write furiously the entire hour I can sit down this one time without being crucified."

As Priddy squeezed into his seat in the front row, Professor Seavey was already asking, "Any questions?"

Priddy slumped into his chair, put his chin in his hand, and pretended to be—in fact was—deep in thought. . . .

A dead silence hung over the room. Suddenly a murmur of excitement buzzed through the class. Priddy's hand was going up! The great George Priddy was going to tangle with Seavey again. The students were tense with anticipation and lifted their pens to be ready to transcribe anything Priddy might say, and perhaps a few of the things that Seavey would say.

A Bitter Pill

But Professor Seavey was not so eager for battle this time. He had encountered Priddy before, and after 30-odd years of leaving those students who were foolish enough to dispute a point with him gasping for breath and groping for words, it was a bitter pill to come up against an adversary like George Priddy.

routine administration") he dispatched it with the same brisk efficiency with which he dispatches anyone, be he eminent judge or law student, who asks a foolish question about Agency.

I fear I am failing in my task. I have too great and longstanding an admiration and affection for the man to be interested in dissecting the details of his administration. The Association, some might say, has had too many good organization men as its chief executives in the last twenty-five years. One can be happy to see on the list the name of a man so definitely un-stuffy, and so great a teacher and scholar. To quote for the last time: "A humane and warm and wonderful guy beneath a somewhat crusty manner; very much interested in young men and getting his charge out of law teaching from the annual renewal of experience with each arriving generation." To which this writer would add: Amen.

—PHILIP MECHEM

Priddy, of the incisive, clean, killing logic and of the sharp, witty tongue with perhaps a touch of scorn, bided his time. Seavey looked desperately and almost pleadingly throughout the room for another upraised hand while Priddy leaned back in his seat, stifled a yawn, and lifted his upraised arm still higher.

Professor Seavey finally resigned himself to his inevitable fate, and tightly gripping the arms of his chair, said, "I believe you had a question, Mr. Priddy?"

Always the showman, Priddy waited a few seconds for the students to edge forward a little in their seats, and finally, when the room had become so quiet that the only sound that could be heard was Professor Chafee's voice coming from Austin West, Priddy began to speak.

The Question

"If A is juggling dynamite in Harvard Square, and B, in his automobile going 95 miles an hour in the wrong direction, hits and kills a newsboy, C, thus throwing Boston *Daily Records* all over the Square, the headline on which so infuriates A that he throws his dynamite at D, causing him to drive his bus through the front door of the Wursthau, killing four diners and 12 bus passengers and ruining six kegs of beer, will B be liable to A for the loss of his dynamite?"

Professor Seavey loosened his collar, ran his hand through his hair, and tried bravely to smile.

"Well," he began, "I feel that—"

"What!" interrupted Priddy. Only it sounded more like "Whaaaaat!" "You feel! I'm not interested in what you feel, Sir. I may be slightly interested in your thoughts, but hardly in your emotions, so let's confine ourselves to thinking and forget the visceral reactions."

An appreciative chuckle rolled around the classroom and came to rest under Justice Brandeis' portrait.



Today

Reddening slightly, Seavey cleared his throat and began again: "Well, if the actual cause . . ."

Priddy was at him at once. "Oh, I see, I see; you mean actual cause as distinguished from cause. Perhaps you can discern a distinction there but I'm sure I can't."

(See PRIDDY on Page Six)

PRIDDY

(Continued from page five)

This time the class was more outspoken in its approval and admiration. "Whattaman Priddy," someone whispered. "Bravo," another shouted. "Hear, hear," rang out still another. With a smile of Christian charity Priddy raised his hand to still his admirers.

Gamely, but with the look of a man who knows there is not much hope, Seavey tried once more; "But the . . ."

Sensing certain victory, Priddy plunged in for the kill. "Just what do you mean by 'THE'?" We'll have to be more careful of our terminology, Professor."

Complete Rout

The rout was complete and the class knew it. The man on Priddy's right could not resist clasping Priddy's hand in a warm, respectful handshake, while the man on his left asked if he might borrow his notebook sometime. Priddy gave him a paternal smile and said, "Sorry, lad, but I never take notes. Keep it all in my head. It's much neater that way, you know."

The rest of the class, too far away for personal adulation, merely stamped their feet and whistled.

Rising to his feet, Professor Seavey quieted the class and made the noble gesture by paying a glowing tribute to Priddy.

"Gentlemen," Seavey was saying, "in all my years of teaching, I had never met a man who could stay on the same field with me when it came to splitting a hair or distinguishing a distinction. Today I met a man who did. His name is Mr. Priddy . . ."

"Mr. Priddy," Seavey's voice boomed out, "if Mr. Priddy is here will he please state the next case?"

"Hey, stupid, isn't your name Priddy?"

Seavey's Works

Cases on Equity Jurisdiction (with R. T. Evans); Tientsin, (1910); for use of students at Pei-Yang University.

A Selection of Cases on Agency; Tientsin (1911).

Notice Through an Agent; U. of Pa. L. Rev. and Amer. Law Register, Vol. 65, (1916) pp. 117-21.

Rationale of Agency; 29 Yale Law J. 859; (1920).

The Constitution; in "Government Under the Constitution", pp. 35-41; U. of Neb., (1928).

Speculations as to "Respondeat Superior"; Harvard Legal Essays in Honor of Beale and Williston, pp. 433-65; (1934).

Nebraska Annotations Upon Agency Restatement; 12 Neb. Law Bull. 247; (1934).

Explanatory Notes on Restitution and Unjust Enrichment (with A. W. Scott); (1936).

Restatement of the Law of Restitution (Reporter); Amer. Law Institute, (1936).

Cases on Torts Supplementary to Ames' and Smith's Cases (with C. Magruder and S. Thurston); for use at Harvard Law School, (1937).

Notes on Certain Important Sections of the Restatement of Restitution (with A. W. Scott); (1937).

Student Edition of Restatement of Restitution; (1937).

A Message to Students (with E. M. Morgan and E. S. Thurston); 5 Harv. Law School Yearbook 12, (1941).

Discussion of Restatement of Judgments Tentative Drafts Nos. 1 & 2 (with A. W. Scott); (1941).

New Army Wins a Skeptic; American Defense, Harv. group. (1941).

Judgments, Restatement Tentative Drafts Nos. 1 & 2 (with A. W. Scott); (1941).

Cases on Torts (with E. S. Thurston); West, (1942).

Cases on Agency; West, (1945).

Studies in Agency; West, (1949).

Cases on Torts (with Page Keeton and E. S. Thurston); West, (1950).

Introductory Notes to Agency (with L. Hall and W. C. Hardee); (1950).

Agency: Council Draft No. 2 on Selected Sections 5-346; Amer. Law Institute, (1954).

Cogitations on Torts; U. of Neb. Press, (1954).

Mimeographed Materials on Agency; for use at Harvard, (1954).

Purporting to Act as an Agent by Ratification; U. of Chicago Law Rev., Vol. 21, No. 2, (1954).

Harvard Law Review Articles

Negligence: Subjective or Objective? Vol. 41, p. 1.

Mr. Justice Cardozo and the Law of Torts 52:372.

Principles of Torts 56:72.

Res Ipsa Loquitur: Tabula in Naufragio 63:643.

Embezzlement by Agent of Two Principals: Contribution? 64:431.

Reliance Upon Gratuitous Promises of Other Conduct 64:913.

Swift & Co. v. Schuster: Liability to One Aware of Danger 65:623.

Nuisance: Contributory Negligence and Other Mysteries 65:984.

The Effect on Tort Damages of Events Occurring Before Trial 66:1237.

The Waterworks Cases and Stare Decisis 66:84.

"Liberal Construction" and the Tort Liability of the Federal Government 67:994.

Seavey Book Advocates Basic Tort Law Reform

Cogitations on Torts. By Warren A. Seavey. Lincoln: The University of Nebraska Press. 1954. Pp. 72. \$2.00.

Among his students and readers Professor Seavey has a well-earned reputation as an expert at demolishing judicial opinions. The time limitations of the classroom and the space limitations of the law review article afford little opportunity for the dispelling of this rather one-sided impression.

But constructive comment has its day when the critic is presented with an opportunity to speak his mind about a whole field of the law, apart from the facts of a particular case or the wisdom of a particular opinion. Such an opportunity was provided Mr. Seavey when he was invited to be the 1953 speaker in the Roscoe Pound Lectureship Series of the University of Nebraska College of Law. His lectures were published late last year by the University of Nebraska Press under the title "Cogitation on Torts." It is in the third and last of these lectures, entitled "The Future," that Professor Seavey summarizes, and presents his reasons for, the positive reforms in the law of Torts which he thinks desirable.

The rules of conversion, he feels, need change. "I have been obliged to tell my students that if by mistake one were to take another man's hat, believing it to be his own, and were intercepted on the spot, an apology and tender of the hat would not relieve him of a duty to pay its value."

Cases involving multiple defendants prompt suggestions along several lines. First, where the injured person incautiously settles with one of the tortfeasors, the rule that the settlement operates as a discharge of the claim against the other is unjust. Second, since the courts have universally permitted indemnity where it was

found that the fault of one tortfeasor was greater in kind than that of the other, contribution between tortfeasors equally at fault, at present denied in more than 20 states, should also be allowed. There is no particular reason why one of them should escape his share of the loss simply because the injured party has been able to recover the whole amount from the other.

Contributory negligence should not totally defeat a plaintiff's right to recover, Mr. Seavey suggests. Where both parties are negligent, at least where one is not greatly more at fault than the other, there should be a division of the total loss. Thus where only one party is hurt, damages should be mitigated by the plaintiff's negligence, as is done under the Wisconsin statute and the Federal Employers' Liability Act. Where both parties suffer loss, he suggests the adoption of the admiralty rule by which the damage is totaled and divided between the two, or the admiralty rule in some other countries by which the total is divided in proportion to the degree of fault. Since almost all the present rules of contributory negligence are court-made, he urges that the courts have power to change them.

The rules on defamation could also profit from an overhauling, Mr. Seavey feels. First, the ancient distinction between libel and slander is inapplicable where a statement is made in a public speech. Here an oral statement is likely to do as much harm as a written one, and the rule of libel, which imposes liability even in the absence of pecuniary loss, should apply. Second, the rule of libel which makes the speaker or writer an insurer of the truth of what he says should not apply to the publication of statements which have unknown defamatory connotations.

Third, an untrue but reasonably believed defamatory statement should be privileged where it refers to a candidate for, or holder of, public office. "The electors should be free to state what they reasonably believe. It is far better to have the statements made

But the greatest existing obstacle to the attainment of justice in the field of Torts, Mr. Seavey suggests, lies in the realm of procedure. Plaintiffs with clearly legitimate complaints are too often denied prompt justice because the courts are overcrowded with claims which are of doubtful validity, if not fraudulent. "I am not prepared to say what I think should be done. . . . However, I do suggest that the courts have not done as well as they could do, where by rule of court and within constitutional principles they have power to limit the right to trial by jury or openly where they can be met and if not true, disproved, than to drive them into despicable whispering campaigns or publication in pamphlets by unknown authors." Fourth, injunctions against the publication of defamatory statements should be granted. Those objections are invalid, Professor Seavey insists, which hold that such injunctions are an interference with free speech and that the injured party has an adequate remedy at law.

Finally the doctrine of *stare decisis* comes in for its share of discussion. In some branches of the law, such as those dealing with interests in land and in commercial transactions, predictability of decisions is of great importance. But in the law of Torts its chief merit is that it gives a prospective litigant some indication of his chances of prevailing in court. "One who has been at fault and has caused harm to another . . . is in no position to complain that he should not pay for the harm he caused merely because of a prior decision on similar facts that no cause of action existed." As the economy of our country changes our ideas of justice are constantly being modified. Therefore "whenever both justice and expediency are found united in requiring that a cause of action be either created or destroyed under given circumstances, the fact that an earlier decision would lead to the opposite result should not be a bar; it should have only the effect of causing the court to examine its premises more carefully." The book ends with a quotation from Cardozo: "If judges have woefully misinterpreted the mores of this day, or if the mores of their day are no longer those of ours, they ought not to tie in helpless submission the hands of their successors."

—FRANK N. GALLAGHER

Seavey's Classroom Procedure Described By Former Student

(This article was originally written by Irving Constant, LL.B. '48, and appeared in the RECORD, Sept. 18, 1946.)

It is by preference that Warren A. Seavey, Bussey Professor of Law, teaches at Harvard Law School. It is during this period that the students' development is most rapid and the instructor can see the marked progress in his classes, a source of excitement to the man who, like Mr. Seavey, loves to teach.

But first year students do not always care for Mr. Seavey's teaching methods. The first case taken by the class is *I. DeS. & Wife v. W. DeS.*, and in the second week the class is still working on the same case. Men leave the room in a bewildered state, their notebooks empty.

"I don't know what it's all about," they cry. "I can't get any notes. Why don't they get someone to teach us torts?"

Teacher's Teacher

Mr. Seavey seeks to teach law that can't simply be put into notebooks and regurgitated into blue-books at the examination. An instructor should speak far less than fifteen percent of the time, he thinks. Once,

suffering from laryngitis, he was able to conduct his class merely by nodding or shaking his head, looking shocked or pleased and whispering a word or two. In class he listens to a student state a proposition, then utters a piercing "Oh, is THAT right? Is THAT right?" and waves at another student whose hand is up. Soon the discussion is being tossed back and forth between half a dozen students.

Sometimes, the Professor is backed into a corner by a student, but he almost never answers a question. Sitting behind the desk, slight figure far back in the chair, peering owlishly through his glasses, he listens politely to the sometimes heated questions, smiles and says: "What do you think?" or "It's all a matter of degree, is it not?" Or he may go off into a hypothetical case such as "Now suppose I lead a tiger through Harvard Square on a string at six o'clock on a Saturday evening, am I liable if . . ." leading the student down the garden path.

Seavey infrequently answers a question, summarizing what law there is on the point, but usually the frustrated student is forced to think the problem through himself and find his own answer. The end of the hour often finds the men gathering in small groups trying to thrash out the problems, which is exactly what he wants them to do.

As a student Professor Seavey learned teaching from two great men who were able to inspire their students. From Joseph Beale he learned the case system in which students are forced to examine all possibilities by themselves. James Barr Ames taught him the fundamental unity of the law; to teach in conjunction with other instructors so that students will have not merely a series of compartmentalized courses, but a body of interrelated learning.

While there are some weaknesses in present law school training, the large size of the classes is not one of them.

"The ideal number of students in a class should be over one hundred. Otherwise the discussion drags, the instructor is likely to talk too much," he explained. "It is true that many men are too shy to speak in a large class, but they are able to get a great deal by following the discussion."

To Law students he has this to offer:

"Don't worry about making a lot of money. You'll make enough to live on, which is all you need. Do what you most like to do, if it is constructive. Incidentally, there is no better job than teaching law. But whatever you do, give the best you have."

Double Dragon . . .



This award was presented to Prof. Seavey in 1911, one month before the Chinese empire was overthrown. In English, the citation reads:

CERTIFICATE OF AWARD
Imperial Commissioner Plenipotentiary, Member of the Privy Council, Minister of Foreign Affairs, His Royal Highness Prince Ching, hereby certifies that The citizen of the United States of America, Professor of Pei-yang University, Warren Seavey, having been recommended by the Viceroy of Chili, Ch'en K'uei-lung, was, upon reexamination, reported by the Council to the Throne for the award of a Class Three A Star

Decoration and that The Council, having received on the ninth day of the ninth month of the third year approval, has authorized the making of of Hsüan-t'ung the Imperial order of the star medal according to regulations and the issuance of this certificate to the recipient:

The citizen of the United States of America, Professor Warren Seavey of Pei-yang University, Hsüan-t'ung third year, the tenth day of the ninth month Star Number 38 (Note: This certificate bears the sign of the Imperial Double-Dragon and the seal of the Privy Council.)

PROSSER

(Continued from page one)

he took on the Torts teachers of America in a round table meeting, and conducted them as a class. Those of us whose discretion exceeded our valor sat in the back of the room without opening our heads, and enjoyed the discomfiture of our esteemed but foolhardy contemporaries, who were reduced one by one to sputtering futility. Some of them never have been quite the same men since. Such was always my fate too in the quiet of that office. Usually I remained unconvinced, like many a student; and I have since written at least three articles to say all of the things I could not think of at the time; but I always departed with the knowledge that I had gone one round with the champion, and been knocked out cold.

There is no greater master of the dia-

lectic method, the fine art of telling a man nothing whatever, but driving him as sheep are driven by a shrewd old dog to work out the conclusion for himself. When I have sat in his classes I always have left in open-mouthed wonder at a skill that I have never had; and when I have sat at his feet and been shepherded down the path in the same way, I could only grin in rueful appreciation.

There is no one teaching law whom I regard with greater affection and respect. His contributions to the law every one knows, and they speak for themselves. Less known is his contribution as a teacher, not alone of Harvard classes, but of other teachers in his field. If one who has benefited much more than the rest may offer a word of tribute on the eve of his retirement, I should like to say that I am greatly in his debt, and very grateful.