



Harvard Law School Record



VOL. 21, NO. 11

CAMBRIDGE, MASS., THURSDAY, DECEMBER 8, 1955

PRICE TEN CENTS

Passport Case Will Be Argued On Wednesday

The case of *Otto Popper v. John Foster Dulles* will be heard on appeal to the United States Court of Appeals for the District of Columbia, in the second semi-final argument of the Ames competition on Wednesday, December 14. Hon. John Biggs, Jr., LL.B. '22, Judge of the Court of Appeals for the Third Circuit, Claude R. Branch, LL.B. '11 and Talcott M. Banks, LL.B. '31, will hear the arguments of the Hardee-Sacks and Morgan Clubs at 8 p.m. in the James Barr Ames Courtroom.

Mr. Popper, a Professor of Economics at Ames University, applied for a United States passport for a European trip last February. It was not until this September, after nineteen months of what he alleges to be harassing and unreasonable delays, that Mr. Popper was finally denied his passport by the State Department. The denial of his application was based on the finding that his travel abroad would not be in the best interest of the United States.

Popper Called Pink

The finding was predicated on testimony of the hearing officer that "reliable information" indicated that Mr. Popper had in the past "adhered to the Communist Party line." Mr. Popper was president of the Independent Workers League, an organization on the Attorney General's list, but the professor alleges that the organization was not given a hearing (while the defendant indicates that such hearing was never requested), and that in any case it is a violation of the Constitution to deny him a passport because of such affiliation. He further claims that he has not been informed of the nature of the charges made against him and the identity of the informants.

Other issues in the appeal are:

- the propriety of recourse to the courts before Mr. Popper has exhausted his administrative remedies (i.e. an appeal to the Board of Passport Appeals).
- the power of the three-judge court to issue a writ of mandamus to the Secretary of State regarding the function here in dispute,
- the substance of Mr. Popper's claim against the validity of any Congressional acts,
- the failure of plaintiff to state a claim upon which relief can be granted—which was the ground taken by the District Court in dismissing the complaint.

The case is of current interest because of its similarity to others, none of which have yet reached the Supreme Court, and because it involves the issue of the Secretary of State's discretion in matters of foreign policy and the question of the extent to which passport policy is related to our interest in foreign affairs.

John A. Corry of Springfield, Ohio and Robert Rosenman of Cambridge are the oralists for the Hardee-Sacks Club, which represents the appellant. They will face (See AMES GAMES on page four)

Young Elephants Elect 1956 Campaign Officers

Richard P. Houlihan, 2L of Brookfield, was elected chairman of the Law School Committee of the Harvard Young Republican Club in a vote of the membership in Holmes Hall last week.

Bruce B. Paul, 1L of Denver, Colo., was named vice-chairman, and Charles Bechhoefer, 1L of Washington, D. C., was picked as Operations Director.

Other officers who will lead the Young Republicans into the 1956 campaign are Secretary Betty C. Fortier, 1L of Derry, N. H., Publicity Director Albert M. Fortier, Jr., 1L of Brookline, and Membership Chairman Donald Berlin, 2L of West Orange, N. J.

Aides & Maids

Members of the Legal Aid Bureau and their lady guests met in the Harkness Meeting Room on Saturday evening, December 3, for the Bureau's annual cocktail party. Approximately 120 people attended, including Dean Erwin N. Griswold and members of the Faculty.

Stevenson Sweeps Democrats' Survey

Adlai E. Stevenson '25, who lost as the Democratic candidate for President three years ago, is the 1956 Presidential preference of more than half of the 800 students who participated in last week's poll by the Young Democratic Club.

Mr. Stevenson received 56.3 per cent of the students' votes, according to Poll Director Charles S. Doskow, 1L of Croton, N.Y., and led a field of 15 Presidential possibilities from both parties.

The ballot used in the poll did not include the name of President Dwight D. Eisenhower. "The President is undoubtedly the most popular man the Republicans have," Mr. Doskow explained, "but we don't think he'll run next year, and it seemed better to leave him off the ballot."

Chief Justice Earl Warren, a Republican from California, finished second with 18.8 per cent of the votes. A former governor of New York and the present chief executive of that state were next in line.

Nix on Nixon

Thomas E. Dewey, the defeated Republican Presidential standard bearer in 1944 and 1948, was preferred by 7.4 per cent and Governor Averell Harriman, Mr. Dewey's successor at Albany, by 3.0 per cent. Vice-president Richard M. Nixon received the votes of less than two per cent of the students.

More than 40 per cent of the poll participants identified themselves as Democrats. About one-quarter called themselves Republicans, and 35 per cent said they were Independents. Mr. Stevenson was the most popular among all categories except the Republicans.

The Democrats' 1952 candidate, a one-time student at the Harvard Law School, was picked by 84.6 per cent of the voters from his own party. He was preferred by 52 per cent of Independents, and by eight per cent of the Republicans.

Mr. Chief Justice Warren was the popular choice. (See STEVENSON on page four)

Katz Comments on Geneva Conference Warns Against Cutting Arms Strength

The United States came out of Geneva "as a whole, fairly well", according to Professor Milton Katz. The onetime Marshall Plan administrator spoke to the Law School Young Republican Club last Thursday. Mr. Katz said that those who decry the conference attack it on points which it "was never supposed to accomplish".



Milton Katz

Professor Katz envisages no permanent adjustment with the Soviet Union in the near future. United States foreign policy has been to avoid an all-out flare-up of hostilities and to direct the East-West struggle into cultural and economical channels. There is evidence that the Communist bloc is now directing its own energies to this type of tussle, he stated. Communist technical assistance programs in the Near East are an example. This is the type of struggle, said Professor Katz, in which the United States is well qualified to participate and emerge the victor. He warned, however, against lessening our military strength.

Geneva, he said, apparently did not further the satisfactory relation of Germany to the rest of Europe. Such a re-

(See KATZ on page three)

Law School Secretary Dimmitt Resigns Assistant Dean Toepfer to Be Successor

Harrison Steele Dimmitt, LL.B. '25, Secretary of the Law School for twenty years, has submitted his resignation and will leave Harvard at the end of the year. Dean Erwin N. Griswold announced Mr. Dimmitt's resignation last Friday and said he would be succeeded on January 1 by Louis A. Toepfer, LL.B. '43 ('47), Assistant Dean and Director of Admissions.



Harrison S. Dimmitt



Louis A. Toepfer

Mr. Dimmitt also is editor of the *Harvard Law School Bulletin*, the alumni magazine published six times a year. He will be replaced on the magazine by Russell Peck, LL.B. '50, Assistant Dean in charge of the Placement Office.

Dean Griswold also announced that William L. Bruce, LL.B. '51, will join the Law School staff in January as an Assistant Dean. Now an associate with the firm of Edwards & Angell in Providence, R. I., Mr. Bruce will assist Dean Peck and Assistant Dean Wesley E. Bevins, Jr., director of the Law School's alumni and fund-raising activities.

When he leaves Cambridge, Mr. Dimmitt, a 57-year old graduate of Princeton, will join his children and grandchildren in California. His departure will end 21 years on the staff of the Harvard Law School.

Mr. Dimmitt joined the Law School administration in 1935 as Assistant Secretary, following several years of private practice in New York City. He was promoted to Secretary a year later by Dean Roscoe Pound.

During the war, Mr. Dimmitt served in the Pacific as military government officer on the staff of Sixth Army Commanding General Jacob Devers. Later he briefly served with the staff of the Allied Kommandatura in Berlin.

Mr. Toepfer is 36 years old. A lieutenant with the United States Pacific fleet during World War II, he was named Director of Placement even before he received his law degree in 1947.

In October of that year Mr. Toepfer became Assistant Dean of the Faculty and Director of Admissions. As such, he handled the admissions problems created by the Korean War. Mr. Toepfer is a graduate of Beloit College, and now resides in Natick, Mass., on an estate called "Black-acre."

Forum To Present Inter-Party Debate

The debate of Democratic leaders over the wisdom of a "moderate" or "aggressive" course for their party in 1956 will continue at a meeting of the Harvard Law School Forum in the New Lecture Hall tomorrow night at 8 P.M.

Rep. Torbert MacDonald, LL.B. '43 ('47) of Malden, the first Democrat ever to represent Massachusetts' Eighth Congressional District, will offer his views on the matter when he debates with Professor Robert Braucher on the "Issues and Prospects for '56."

Mr. MacDonald will outline the campaign ahead from the Democratic point of view. Professor Braucher, a Republican leader in suburban Belmont, will do the same for the GOP. Assistant Professor John T. MacNaughton, a former Marshall Plan aide in Europe, will serve as moderator.

The Democratic Congressman, a one-time Harvard football captain and College roommate of Sen. John Kennedy, is one of his party's most popular vote-getters. When he carried the Eighth District in 1954, he performed a feat never accomplished by a Democrat before. Sen. Kennedy lost the district by 14,000 votes in his 1952 Senatorial race with Henry Cabot Lodge.

The Forum also announced further plans for its meeting of December 16. James Wechsler, editor of the *New York Post*, will debate William F. Buckley, Jr. (See FORUM on page four)

Eight Clubs with 3-1 Record Are Ames Quarter-Finalists

The 1957 Ames Competition winner will be selected from among the eight clubs who won places in the Spring Quarter-Finals in the Qualifying Round which ended Monday evening.

Since no club had a 4-0 record in its arguments, the eight qualifying clubs were selected, on the basis of point scores, from nine clubs that finished with 3-1 scores.

Semi-formal dance Set for Saturday

A semi-formal dance sponsored by the Harvard Law School Dormitory Council and the Graduate Dormitory Association will take place in Harkness Commons on Saturday evening, December 10. Dancing will begin at 8:30 and end at midnight, and the parietal deadline will be extended until 1:00 a.m.

A distinctive feature of the evening will be the presence of two orchestras playing for the students and their guests. Bob Norris and his orchestra will hold forth in the main meeting room of the Commons while the Bob Adams Trio will provide music for dancing upstairs. Entertainment will be furnished by Manny Williams and a singing group.

Corsages for women guests are prohibited and the type of dress for the dance is optional.

The high scorer was the Casner Law Club, which attained a 144 average in its four matches. Members of the club are George S. Abrams of Newton, Mark Crane of Glencoe, Ill., Samuel Goeckjian of Shaker Heights, Ohio, David Goldberg of New York City, Joseph E. Imbriaco of Union, N.J., Thomas R. Moore of Duluth, Minn., John J. O'Grady of Port Washington, N.Y., and Gerald Rosenzweig of Minneapolis, all second-year men.

The other clubs that qualified were bunched with averages between 140 and 142. Field-Haar Equity and Kaplan clubs tied at 141.750 scores. Griswold came in fourth with 141.625, followed by Toepfer's 141.125. The Gardner club's average was 140.750, while Blackstone M qualified with a 140.375 score. The last club to qualify was Casner Equity, which averaged 140.125.

Although the Story Law Club had a 3-1 record also, its point score of 136.750 made it number nine on the list. The December 5 argument was the last of eight arguments, which were held over a three-week period. Each club sent two-man teams to participate in four arguments. The eight qualifying clubs will argue in the quarter-final rounds, to be held in March and April 1956.

In all, 31 clubs participated in the Qualifying Round. Besides the top nine, 14 split evenly, seven had single wins, and one of the Clubs finished with an 0-4 record.

I-M Hockey League Planned by council

The Dormitory Council has announced that the winter athletic program will include an intra-mural hockey league, drawing its players from the Law and other graduate schools.

The league was suggested by Frederick Paulsen, 2L of Belmont, and was approved by Vice Dean Livingston Hall, who has arranged to have Watson Rink reserved for the time necessary for the League schedule.

Martin Ozer, 2L of Edgemere, N. Y., Athletic Director of the Dormitory Council. (See HOCKEY on page four)

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 10¢ each at the Law School, 20¢ each mailed. Business and Editorial Offices, 23 Everett St., Cambridge 38, Massachusetts. Telephone, Kirkland 7-7600, extension 447. Entered as second-class matter November 19, 1946 at the post office in Boston, Massachusetts, under the Act of March 3, 1879.

OFFICERS

FRANK A. OLSON President
HENRY J. STERN Editorial Manager
MITCHELL BLANKSTEIN Business Manager

MANAGING BOARD

WILLIAM HUTCHINSON News Editor
RALPH NADER Department Editor
JAY S. DUSHOFF Features Editor
FREDERICK H. CONDON Copy Editor
STUART A. JACKSON Treasurer
ELLIOTT MANNING Advertising Manager
WILLIAM A. DAY, JR. Personnel Director

ASSOCIATE BOARD

Harry R. Schumacher Asst. News Editor
Hartley J. Chazen Asst. Features Editor
Norbert Weissberg Articles Editor
Bruce L. Balch Puzzles
William E. Friedman Current Case Editor
Warren H. Pyle Asst. Copy Editor
Matthew C. Kessler Asst. Treasurer
Martin Mushkin Photography

STAFF

Albert D. Barclay, Jr., Marvin E. Barkin, Erwin Chervovsky, Stephen C. Coy, Richard Grossman, Daniel M. Hall, Valerie Handler, Martin Kramer, James B. Moran, Norman E. Scull, Herbert L. Spira, Berton B. Subrin, Arnold M. Weiss.

Arthur F. Abelman, Jack Billig, Thomas Clark, John E. Corcoran, Jr., Don D. Etter, David Halperin, John Merow, Robert Oliver, Joseph A. Page, Herbert Prochnow, Michael L. Weissman, Rod Washburn.

The Risks of Peace

In his recent speech here, India's V. K. Krishna Menon admonished us to take the "risks of peace" rather than the risks of war. Mutual fears and lack of confidence among peoples pose a grave danger in the atomic age. That a system of competing alliances, sometimes called the "balance of power" or "containment", can provide permanent peace is a fallacy, for such a system promotes rather than lessens an armament race with its attendant fears and tensions. We agree with the speaker that the concrete aim of all nations must be sincere negotiation if war is to be avoided.

Although Ambassador Menon did not spell out fully what "risks of peace" should be taken in concrete cases, we wish to suggest a few possibilities.

First. If the West expects the Soviet Union to take the risks of a united Germany under a West German majority, the West will have to be content with a NATO without German participation.

Second. If Russia expects the United States to take the risks involved in withdrawing its troops from Continental Europe, Russia will have to face the prospect of free elections in Eastern Europe.

Third. If the West is to agree to a reunited China, then China will have to take the risks of a reunited Korea and an amnesty for the Nationalist Chinese.

Fourth. All nations must prepare to undergo the risks of United Nations control and supervision of armaments.

We are not advocating "concessions" to Communism. When and how the international settlements will be worked out, or what the terms will actually be, we leave to diplomacy. If the East and West were willing to take the risks of withdrawing their troops from Austria, we think they should be able to undertake greater risks in the near future. These risks, however unpleasant they may appear to some people, can scarcely be more dangerous than the present risks of atomic warfare.

Negotiation does not entail surrender of principles. The temporary means by which principles are promoted must not be confused with the principles themselves. Alliances which are indispensable and therefore justified at one stage become outmoded as circumstances change. Our aim of a peaceful and reasonably democratic world order never changes, but the means of obtaining our goal must always be flexible. Otherwise, sincere negotiation becomes impossible.

We do not endorse every statement Ambassador Krishna Menon has made or ever will make. But we do commend him for his insight into sincere negotiation as the way to build up that mutual confidence which is needed for peace.

Gallery

NORVAL R. MORRIS
Ezra Ripley Thayer Teaching Fellow



Criminal behavior in its legal and social aspects forms the substance of Professor Norval R. Morris's ambitious academic endeavors. Mr. Morris, who is Ezra Ripley Thayer Teaching Fellow for 1955-56 at the Harvard Law School, is Lecturer in Law and Associate Professor of Criminology at Melbourne University, Australia. He also practices law and participates in the University's Legal Aid Department.

Melbourne's Department of Criminology was formed as an adjunct to the Law School which takes an inter-disciplinary approach toward criminal law involving the faculties of Law, Psychology, Social Studies and Medicine. These faculties have cooperated on several projects, two of which, the Adoption Law and Child Welfare, have had a relatively strong influence on legislation.

Utilize Social Sciences

Mr. Morris believes that there should be a greater application of the findings of the social sciences to the entire body of law, including criminal law. As an example of a balanced and thorough approach, he points to the work being done on the Model Penal Code by the American Law Institute where lawyers have brought in the services of competent psychologists, psychiatrists and sociologists to work with them in thoroughly thinking through the legal and social implications of recommended legislation. Another progressive move, he feels, is the Briggs Act in Massachusetts which allows a judge to call on a panel of experts to testify in the more serious criminal cases and thus partially avoids the abuses which have grown up around partisan expert testimony.

Although the utilization of the findings of social science to problems of law appears promising, Mr. Morris is aware of several qualifications. These are the elementary development of these sciences, the problem of squaring empirical findings with the ethos of the society and the danger of over-simplifying the issues with objectives whose catchwords sound very appealing but whose implications present serious difficulties.

Two Approaches

For example, he cites the two approaches of punishment and reformation in the treatment of convicted criminals. While not denying the darker aspects of criminal punishment, Professor Morris believes that it does have an integrating and unifying function in a society which rightly or wrongly demands punishment. Punishment is not solely a problem of society vs. criminal behavior. On the other hand, reformation which has desirable elements can, nevertheless, result in many injustices by giving people the tremendous power of defining the cure.

Another program coming under the label of reformation is the commitment of juvenile delinquents to institutions. The very process of separating the young offenders from their families in this manner may inhibit seriously their growth and normal development. These problems, he maintains, are not subject to easy "solutions" apparently in effect today under the cloak of reformation.

Studies Prisons

After receiving his LL.M. degree in 1947 from Melbourne University, Professor Morris studied at London University under Dr. Karl Mannheim and received his Ph.D. there in criminology in 1949. The next year, he was a Lecturer in Law at the London School of Economics. During his stay in England, Mr. Morris spent a year going through convict prisons to acquire firsthand knowledge of this aspect of criminal enforcement instead of "sitting back in a chair speculating on morality." Prisons are social entities in themselves with different levels of respect and authority based on the degree to which a convict is prison-wise and the magnitude of the crime for which he is imprisoned. In order to elicit the trust and confidence of the inmates so that he could proceed with his investigations, Professor Morris had to remain tight-lipped and rigidly secretive while in the prison.

The product of this unique field work was Professor Morris's book, *The Habitual Criminal* published in London in 1951 by Longmans, Green. In addition to this work, he has contributed num-

erous articles on criminal law and criminological problems to English and Australian law reviews.

This past summer he was one of the Australian delegates at the United Nations Congress in Geneva on the Prevention of Crime and Treatment of Offenders. In answer to the question of what value there is for nations to meet to discuss a problem predominantly local or national, Professor Morris remarks that nations can benefit from seeing how the social objectives and underlying ideas of various reforms or programs work.

Practical Impact

However, the techniques of promoting different courses of action have to be worked out on the indigenous scene. For instance, the experience of other countries in establishing institutions for children from broken families is, with qualifications of course, a very valuable "laboratory test" for countries considering the establishment of such institutions.

Australian Law Schools employ the case method of instruction and stress heavily the lecture approach rather than the tutorial system prominent in England. There are no bar exams; the passing of the Law School exams after a 4½ year course is equivalent to admittance to the bar. Graduation from High School (roughly equivalent to our college sophomore) is a sufficient qualification for entering law school.

Subject to Aversion

Most lawyers in Australia as well as in the United States do not desire to enter the field of criminal law. There are many reasons for this aversion, among them being a relatively low financial reward, the "dirty hand concept," and fear of retaliation. Professor Morris adds that most lawyers feel that criminal law is technically easier and less challenging than other branches of law. The importance of criminal law is not sufficiently recognized, he maintains, although it effects people very deeply due to the seriousness of a criminal act and the idea of retribution absent in civil wrongs.

Current Case

Can Congress subject civilians to trial by court-martial for crimes committed by them while in service? "No," answered the Supreme Court last month in a 6-3 decision which freed Robert W. Toth, who had been taken into custody by the Air Force to face court-martial for a murder committed while he was in that branch of the service in Korea. *U.S. ex rel. Toth v. Quarles*, 24 U.S. Law Week 4005 (U.S. Nov. 7, 1955). Two other airmen who were accused of participating in the crime with Toth had been tried, convicted, and sentenced by court-martial. Toth had received an honorable discharge five months earlier and returned to his home in Pittsburgh where he went to work in a steel mill. Then the Air Force arrested him and flew him to Korea to face court-martial. His sister applied for a writ of *habeas corpus*, and the District Court for the District of Columbia ordered the Air Force to return Toth to this country. By a 2-1 decision the Court of Appeals for the District of Columbia reversed the District Court, sustaining the constitutionality of Section 3(A) of the 1950 Uniform Code of Military Justice, which provides that civilians may be tried by court-martial for acts committed while in service that are punishable by imprisonment for five years or more and that do not come under the jurisdiction of any federal state, or territorial court. As a result of the Supreme Court ruling, Toth cannot now be tried for the crime of which he is accused since the killing occurred in Korea where no American civilian court has jurisdiction.

The Government's position was that the provision in question was a valid exercise of Congressional power under Article I of the Constitution "to make rules for the Government and regulation of the land and naval forces," as supplemented by the necessary and proper clause. The majority of the Court rejected this contention on the ground that the purpose of the system of courts-martial is to maintain discipline in the armed forces, as an incident to the primary fighting function, and that such discipline will not be furthered by subjecting to trial by court-martial civilians who no longer have any connection with the military.

Limits Court-Martial Jurisdiction

Mr. Justice Hugo L. Black, writing for the majority, emphasized the necessity for guarding against expansion of court-martial jurisdiction beyond the armed forces. He pointed out that the safeguards available to a defendant in a Federal civilian court are not available in a military court trial. Justice Black declared:

"... Given its natural meaning, the power granted Congress 'to make rules' to regulate 'the land and naval forces' would seem to restrict court-martial jurisdiction to persons who are actually members of the armed forces. There is a compelling reason for construing the clause this way: Any expansion of court-martial jurisdiction like that in the 1950 act necessarily encroaches on the jurisdiction of Federal courts set up under Article III of the Constitution, where persons on trial are surrounded with more constitutional safeguards than in military tribunals."

"We find nothing in the history or constitutional

Also the criminal law and the problems it deals with reflect the state of society.

This year at Harvard, Professor Morris is teaching a section in Criminal Law and in the second semester will also conduct a Seminar in Criminal Responsibility. As an Australian, he finds no difficulty in adjusting to the substantive and procedural concepts of criminal law in the United States since the same common law heritage lends a high degree of similarity between the criminal law of both countries. This similarity is true to an even greater degree in tort law. He does find, however, that prison sentences are generally longer in the United States than in Australia.

Professor Morris believes that an academician's influences on public affairs is primarily exerted indirectly through his students. This may be true in most cases but his career thus far belies this belief. Criminal law has been called an island of technicality in a sea of discretion. Professor Morris is doing a good deal toward making that statement an anachronism.

—Nader

Letters to the Editor

TO THE EDITOR OF THE RECORD

Your editorial of November 25th provokes this reflection: Until some authentic pronouncement is made of the illegality of secret microphones in jury rooms, jurymen will tend to become unnerved to the point of self-consciousness, and the jury's function of tempering the product of professional legal minds with the ethos of contemporary society will be impaired.

Do you regard that function as either illusory or inconsequential? If not, what, if any, safeguards do you have in mind to preserve it in the face of secret microphones? Such precautions as consent of counsel, supervision by the trial justice, partial secrecy of recordings, etc. do not.

WINTHROP S. DAKIN, LL.B. '36

treatment of military tribunals which entitles them to rank along with Article III courts as adjudicators of the guilt or innocence of people charged with offenses for which they can be deprived of their life, liberty, or property."

Mr. Justice Black said there was no reason why an ex-servicemen need escape punishment altogether for crimes committed while in service. It is "wholly within the constitutional power of Congress," he said, "to provide for Federal district court trials of discharged soldiers accused of offenses committed while in the armed services."

Dissent Denies Immunity

Mr. Justice Stanley F. Reed entered a vigorous dissent, concurred in by Justices Harold H. Burton and Sherman Minton, in which he defended Section 3(A) of the 1950 Uniform Code of Military Justice mainly on the ground that a serviceman who commits a military crime should not be made immune to military trial and punishment by discharge from the armed forces. He states:

"... Nothing, we think in the words of Article I or in the history of that Congressional power justifies limiting trial and punishment by members of the armed services, to the period of service. ... The circumstance that he (Toth) was discharged from the service prior to the detection of the alleged crime and prior to being charged with its commission should make no constitutional difference."

As to the majority statement that a "compelling reason" for their decision was the safeguards of a jury and an independent judge which are to be found in a Federal court and not in a military court, Justice Reed's reply is that "the argument for the adoption of civil trials for the military might appeal to Congress, if presented there. But ... the assumed superiority of the civil courts in the trial of service crimes should have no force in the construction of the constitutional power of Congress to enact Article 3(A) of the Code. A conviction that an accused has better opportunities to escape conviction in a civil court should not influence a conclusion as to constitutional power."

He also feels that "subsequent punishment by military procedures will help discipline during service."

Discharge Qualified

Justice Minton's separate dissenting opinion expressed his inability to think of Toth as a full-fledged civilian.

"He was not a full-fledged civilian under his discharge. He was still a soldier to answer in court-martial for the crime he had committed while a soldier. He had a conditional discharge only. The United States clearly reserved the right to charge and try him by court-martial for a crime committed while in the status of a soldier."

This decision leaves a serious gap in our system of justice, which it is incumbent upon Congress to bridge with haste. The number of beneficiaries of this ruling is mounting; among the first were the "turncoat" prisoners who had gone over to the Red side in Korea. As for Toth, it means that he may not be tried for a capital crime of which he is accused and for which two others have been punished.

—Friedman

Icy Street and Skidding Bus Traceable to Burning Building



A fire at the Harvard Union last week started a chain of events sounding more like a Torts examination question than a real-life situation.

A repairman from Harvard University's Buildings and Grounds Department had been welding drainpipe metal on the roof of the Union, and accidentally ignited the roof when his blowtorch overheated.

Three engine companies, two ladder companies and one rescue company from the Cambridge Fire Department took two and a half hours to put out the fire. The blaze was a smoldering one, and the firemen had to tear away walls, rip through ceilings, and shoot high pressure water throughout the burning structure. The fire also activated the sprinkler system within the building.

Some of the water poured into the building flowed out onto Massachusetts Avenue, and Cambridge's frigid temperature quickly turned it into ice.

A Harvard Square-bound M.T.A. bus, travelling at only five miles an hour, hit a patch of ice. As the bus-driver recalls, "I just touched the brake, and boy, did she go!" The bus skidded thirty feet, plowed into three Pontiacs and a Ford, and crashed through the plate glass window of a restaurant.

Inside the restaurant, the owner's wife was sitting at the cashier's desk with her back to the window. The flying glass did not injure her, but she was hurt slightly by the buckling wall behind her.

None of the passengers of the cars or the other people in the restaurant were injured very seriously.

Throw in a pregnant woman and change the facts slightly so that the bus driver was exceeding the speed limit, and the situation would present an ideal question to throw at first year students who are studying "result within the risk". That is, if Prof. Seavey hasn't already used it.

KATZ COMMENTS

(Continued from page one)

lation must rest on a definitive peace between France and Germany—the type of accord that exists between Great Britain and France or the United States and Great Britain. The growth of such a feeling raises problems of German unification and the security of Europe. While some progress is being made in military security, the problem of German unity remains unsolved.

Professor Katz stated that one of the great accomplishments of the Eisenhower administration was the regaining of freedom of maneuver in our foreign policy in Asia. This freedom was lost, he claimed, when Asian policy "became a political football" in the latter part of the Truman administration. We sacrificed flexibility in Asian policies and each move we made became dictated by internal political considerations, according to Mr. Katz.

Classified Ad

Furnished Bachelor Apt.
Brattle Street location — 3 Rooms — Air Conditioning — TV — Call UN 4-6660 Days.

FREE GIFT WRAPPING L. P. RECORD SALE

Minute Man Radio Co., Inc.

28 BOYLSTON STREET
HARVARD SQUARE

EL 4-2183

TR 6-1573

Another Record Special

★ 2000 AD--IBM Supplants ABA ★

"The Amazing Coke Machine", by J. Raymond Dyer, LL.B. '28, was published in the November 3 issue of the RECORD. We recently received a letter from George Harnagel, Jr., LL.B. '27, in which he said "Some people, I imagine, will find Mr. Dyer's recent article . . . as merely amusing. I read it straight and find in it vindication of the conservative approach which I adopted several years ago. . . ." Mr. Harnagel referred us to his article published in 26 Los Angeles Bar Bulletin 85 (1950), where he spoke of a revolutionary electrono-mnemonic analyzer and printer which would be in use in the year 2000. We found Mr. Harnagel's article enjoyable and decided to pass it on to our readers. Printed below are excerpts from Mr. Harnagel's copyrighted article, "Date Line A.D. 2000, Or What Will Happen to the Practice of Law in the Next Fifty Years?"

THE LAW STUDENT

It is hard to believe that as recently as fifty years ago the maximum, not the minimum, standard for admission to the bar was a bachelor of arts degree followed by three years of law school. We are so accustomed to the four year law school course, plus the usual two years rotating internship, that we are inclined to forget the low standards that prevailed at mid-century.

To the traditional law school curriculum there have since then been added many other subjects including lower and higher accountancy, forensic chemistry, public speaking and spelling.

While the period of preparation has become progressively longer some relief has been secured by the law student through improved techniques in educational hypnosis and subconscious sleep-learning. With the former many students are able to memorize prodigiously while the latter, utilizing wire recordings of case book and treatise, together with pillow microphones, is indispensable for day-to-day preparation. Some unfortunate youths, although extremely gifted in many ways, flunk out of law school just because they cannot regularly attain a state of negligible sensorimotor activity, or in other words, because they aren't sound sleepers.

Most oldtimers are sure that bar examinations had become just about as difficult as possible in the late forties and early fifties, and perhaps they had, but from the academic standpoint only. The introduction in 1960 or thereabouts, of the conditioned examination, and its subsequent development and widespread use, has subjected the law student of this generation to pain and punishment of which his grandfather never dreamed.

The philosophy of the conditioned examination is simplicity itself. It postulates that examinations should not be given *in vacuo*, that is to say in sound-proofed lecture halls where the student is insulated from every distraction. Rather, he should be examined under conditions comparable to those he will encounter in actual practice.

A typical conditioned examination proceeds something as follows. The student is placed in an office and given a job to do and a secretary. We will call her Miss Pothook, and though the name is fictitious it doesn't fit her badly. The job, let us say, is to analyze a proposed 99-year lease, weighing just under a pound, and to dictate an opinion on it which will be comprehensible not only to the examinee but to his client, whose specialty is obstetrics. Three hours are allotted to the job, which might be ample in an ivory tower assuming our hero is well versed in future interests, eminent domain, insurance, mathematics, rights of adjoining landowners, the economics of land use, the new system of municipal land-revenue-in-lieu-income taxes, the old *ad valorem* property tax system, the land sales tax and a few other subjects.

Midway through the first whereas paragraph the phone rings. Would he like a new streamlined all-purpose life insurance policy with double indemnity for accidental exposure to flying neutrons? He would not.

He has almost reached the description of the demised premises when the window washer barges in. Our student is only human and the imperturbable manner in which this artisan steps from window ledge to window ledge, snapping and un-snapping his safety belt with careless aplomb, captures first his eye and then his attention. Result: back up a few paragraphs and start over again.

More Interruptions

Enter Miss Pothook. "Did you buzz for me?" No, he didn't. "Well I musta left it up," and out she goes.

Next, the genial linen service man comes in with some clean towels. His wife has just had twins, but his whole family is hardly an interruption at all compared with the man from the telephone company who follows him. He is testing the line for something or other and is in and out five times in ten minutes. Unfortunately, the 'phone still works despite his ministrations, and it rings once more.

The lady at the other end of the line is having trouble with her cook and (we forgot to tell you) is one of several "clients" with which our examinee has been equipped for purposes of the conditioned examination. He appeases her in fifteen minutes or so, notes that half an hour is already gone and jumps from the description to the rent clause.

After two pages of appraisals, re-appraisals, percentages and arbitrators the rent clause is getting pretty complicated, but he's just about got it figured out when Miss Pothook bobs in again. This time she announces that her typewriter is still skipping letters and will he please hurry up and get her a new one. Dobbins & Dobbins down the hall, she says, have junked all their old-fashioned electric machines for electronic lap-size linotypes . . .

This crisis postponed temporarily, our hero returns to the (See IBM SUPPLANTS ABA on page four)

Rackets Restrung

One Day Service
TENNIS & SQUASH SHOP
67a Mt. Auburn St. Cambridge
Opp. Lowell House — TR 6-5417

CONTOURA

THE IDEAL GIFT

for LAWYERS, for EDUCATORS and for all those who work by thinking.

Use it for copies of charts, graphs, legal articles, old letters — anything written, printed or drawn.

QUICK — EASY — GUARANTEED

8" x 10" research model
\$46.00

8½" x 14" legal size
\$68.50

Constat — rapid dry processor
\$69.50

Sold exclusively at

Crimson Camera Exchange
1300 MASS. AVE. CAMBRIDGE
EL 4-4236

J. PRESS CASH SALE

Featuring:

Own Make West of England Woollen Suits. Plain and deep tone striped flannels and clear faced mixture herringbones. Medium to deep Grays and Browns.
Were \$80 — **NOW \$71.50**

Own Make Flannel Finish Merino Worsted Suits. Midnight Gray, Slate Gray, Charred Brown and Deep Indigo Blue plains.
Were \$95 — **NOW \$82.50**

Own Make Milled Finish Worsted Suits. Conservative herringbones of Medium Gray, Oxford Gray, Midnight Gray and Black-Brown.
Were \$95.00 — **NOW \$82.50**

Harris Homespun PRESS-SCOT Overcoats. Single breasted, fly front, frame pockets, tailored in Scotland. With tartan lambs wool linings.
Were \$110 — **NOW \$94.50**

Real Shetland PRESS-SCOT Topcoats. Single breasted, fly front with inset sleeves. Tailored in Scotland.
Were \$80 — **NOW \$71.50**



82 MT. AUBURN STREET, CAMBRIDGE
Corner Dunster Street, Cambridge

The COOP OPTICAL DEPARTMENT



New Location
Third Floor
Take Elevator

Offers you accurate and prompt service on all prescriptions. Broken lenses and frames replaced.

Harvard Cooperative Society
1400 Mass. Ave., Cambridge TR 6-3000

Gov. McKeldin Speaks to SBA

Theodore McKeldin, Republican governor of Maryland, will speak to the members of the Student Bar Association at 4:10 p.m. in Langdell North Middle, Wednesday, Dec. 14. Gov. McKeldin is one of a series of speakers on the subject "The Lawyer and Politics," appearing here under the auspices of the SBA.

Gov. McKeldin is a member of the Maryland bar, and is presently serving his second term as governor, a somewhat unusual situation for a Republican in the state of Maryland.

When the furor arose in some of the border states over the decision of the Supreme Court in the segregation case, Gov. McKeldin announced that Maryland would cooperate in all ways with the order of the court regarding school desegregation, and asked the Attorney General to take steps to achieve this result.

AMES GAMES

(Continued from page one)

Roger A. Moore of Sherborn, Mass. and Michael C. Van Beuren of Newport, R.I. of the Morgan Law Club.

Of counsel on the Hardee-Sacks brief are Thomas E. Addy, Jr. of Highland Park, N.J., Thomas H. Bach of Vineland, N.J., Stanhope S. Browne of Cincinnati, Ohio, Edward M. Condit, Jr. of Weston, Mass., Alan Handler of Newark, N.J., and William A. King of Upper Montclair, N.J.

On the brief for the Morgan Law Club are John F. Bohman of York, Me. Craig Everson of Milwaukee, Wis., Howard M. Fry of Wyomissing, Penna., Charles Kannel of New York City and William E. Wiggins of Wilmington, Del.

—Grossman

STEVENSON

(Continued from page one)

ular favorite of the Republicans. He received the votes of 45.3 per cent of his own party followed by Mr. Dewey with 22.4 per cent. The Chief Justice also was the choice of 16.6 per cent of the Independents.

The results of the poll cheered Young Democratic President Ralph Pagter, 2L of Washington, D. C. "I realize the Law School students are a select group," the Democratic leader said, "but I think that our poll reflects the nation-wide enthusiasm for Mr. Stevenson's candidacy."

The poll also asked the voters to choose between pairs of candidates. Here Mr. Stevenson defeated the Chief Justice and the Vice-President. The Chief Justice won individual contests with Gov. Harriman and Sen. Estes Kefauver of Tennessee while the two Democrats finished ahead of Mr. Nixon.

Law Athletes Play At Hemenway Gym

Three intramural basketball leagues, sponsored jointly by the Law School Committee of Phillips Brooks House and the Dormitory Council, began play last week in Hemenway Gymnasium. Approximately 125 law and graduate students, comprising twenty teams, entered the leagues.

Martin Ozer, 2L of Edgemere, N. Y., chairman of the athletic committees of both PBH and the Dorm Council, announced that Marshall Harris, 3L of Miami Beach, Fla., has been appointed to direct the overall basketball program for the season.

Teams are placed in leagues in a rough effort to match prior basketball experience and talent. Each team is scheduled for one game a week.

Play will continue until late March.

PBH Will Sponsor Vacation Car Pool

For the first time, carless riders and riderless cars will be joined at a central meeting place, as the Law School Committee of Phillips Brooks House initiates a car pool for the coming Christmas holiday. The new car pool service will be free.

All car owners at the Law School who plan to make a trip to any part of the country and who have room for riders are urged to call the Law School Committee offices (KI-7-7600 Ext. 381-3) and leave their names, points of destination, number of spaces available, and other pertinent data. All those seeking rides are asked to drop into the Law School Committee office on the second floor at 23 Everett St. on weekdays between 1:30 and 4:00.

HOCKEY

(Continued from page one)

il announced that the project would be under the general auspices of his organization, which would advocate appropriations for needed equipment, which include goalie equipment, extra sticks and pucks, and a minimum of safety equipment. Basic gear would be bought by each individual player, as in the basketball league.

Ozer said that the league will be organized along the same lines as the intramural basketball league now in existence.

FORUM

(Continued from page one)

publisher of the *National Review* and author of *God and Man at Yale*. Their topic: "Non-Conformist: Liberal or Conservative?"

Tickets for both tomorrow's meeting and the session on December 16 will be available at the door for 70 cents.

with Shepard's Citator, put on the market some years ago a mechanical Shepardizer. . .

This same company, it is reported, will shortly bring out an attachment which will enable the machines on the market not only to find pertinent authorities but to organize them automatically into a simple brief. It is rumored that this is just the beginning and that what IBM is really working on is a machine into which legal problems are fed at one end and opinions come out at the other. Mathematicians, they remind us, have had similar devices for over fifty years. It has been estimated that one of these machines will be able to do the work of 150 judges and that they will require only three or four mechanically minded jurists to service them.

Not long after midcentury one of the ordinary practitioner's greatest problems arose from the multiplicity of branch courts. The course of this development in Los Angeles has been traced in another chapter. The problems of venue, jurisdiction and procedure were troublesome enough, but that of the lawyer's personal logistics was much worse. How to cover a half dozen branches, say, on a busy law and motion morning was a problem which required careful routing and split-second timing. Happily that day is now gone. The multiple-televisor interexchange system permits the lawyer in most cities to take care of all law and motion arguments, and many probate and appellate matters as well, without leaving his office, or his easy chair for that matter. (The rule requiring counsel to stand when addressing the court has generally been relaxed as far as televised appearances are concerned.) The Supreme Court of the United States has not yet countenanced televised arguments, but most of the younger judges favor the system and it is bound to come sooner or later. . .

IBM Supplants ABA

(Continued from page three)

attack as the phone rings yet again. It's his wife this time. Little Willie has locked himself in the bathroom and swallowed the key. What shall she do? And so it goes for the full three hours.

This routine lends itself to many refinements and variations and the Committee on Bar Examinations has a system of bonuses with which it rewards its staff for new ideas.

THE LAWYER

The greatest change in the lawyer's life has come in the improvement and mechanization of the tools of his trade. . .

As we all know, law books are now largely a thing of the past. Ultramicrofilming has been the answer to both the problems of space and of expense. Corpus Juris Tertium, instead of taking up thirty feet of shelf room and weighing one hundred fifty pounds or more comes in a set of three thin reels, each five inches in diameter and weighing just under one pound in all. . .

An ultramicrofilm wall or table viewer is found in every lawyer's office, and there are batteries of them in every law library. Inasmuch as the viewers produce a type image substantially larger than the type used in the old-fashioned book, eyestrain long ago ceased to be an occupational ailment of the lawyer and law student.

International Business Machines Corporation, in conjunction

26 YEARS — "AT YOUR SERVICE"
ELBERY MOTOR CO., Inc.
FRANK ELBERY

Sales



Service

Complete Service Done By Expert Mechanics
Including Body, Paint and Fender Work

Ask To See Our New Paint Booth and Baking Oven
The Most Modern In Met. Boston

See and Drive the Most Brilliant Car on the Road
THE EXCITING NEW '56 FORD

GUARANTEED USED CARS

JUST 2 MINUTES VIA MEMORIAL DRIVE

360 RIVER STREET, CAMBRIDGE

KI 7-3820 - 21

SQUASH RACKETS

Largest Variety in New England

Tennis & Squash Shop
67A Mt. AUBURN ST. CAMBRIDGE
Opp. Lowell House — TR 6-5417

CRONIN'S

30 DUNSTER ST.

Famous for Steaks
Chops & Sea Food

Porter House Steak for Two
\$4.45

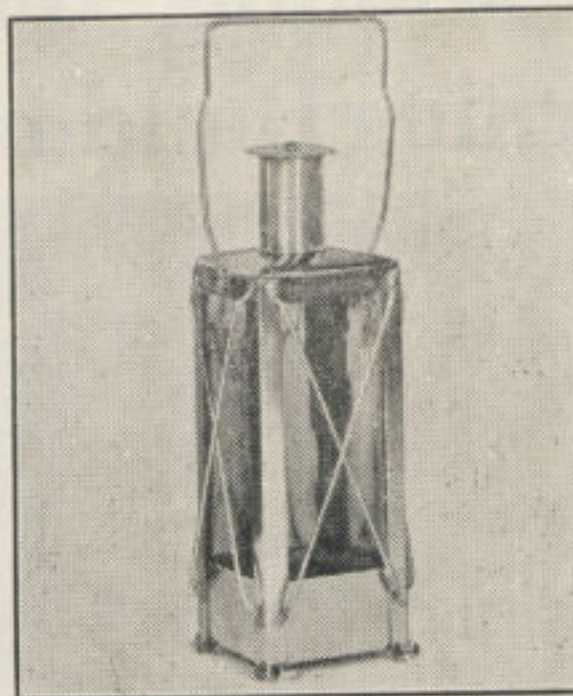
— DAILY SPECIALS —

Soup or Juice
Chicken Salad Sandwich
Pot. Chips — Chefs Salad 65c
Grilled Sirloin Flank Steak
Baked Pot. — Tossed Salad 95c
Rolls & Butter — Beverage
Dessert

WE NOW HAVE DARK BEER

Tel. EL 4-1366

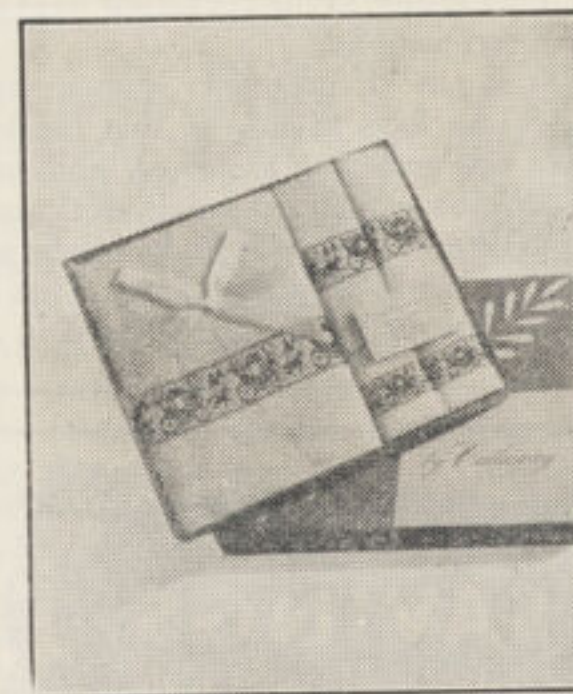
Jim Cronin, Mgr.



Decanter . . . combines the music box idea with something distinctly different. Brass case and handle. Colonial lantern style. \$9.95.



Stationery . . . by Crane, the makers of clear and beautiful writing papers. Choice of many styles, boxes and sizes. \$1.00 to \$10.00.



Towel Set . . . by Calloway. A four piece towel set in attractive colors and gift boxed. Smart coachman design. \$3.98.



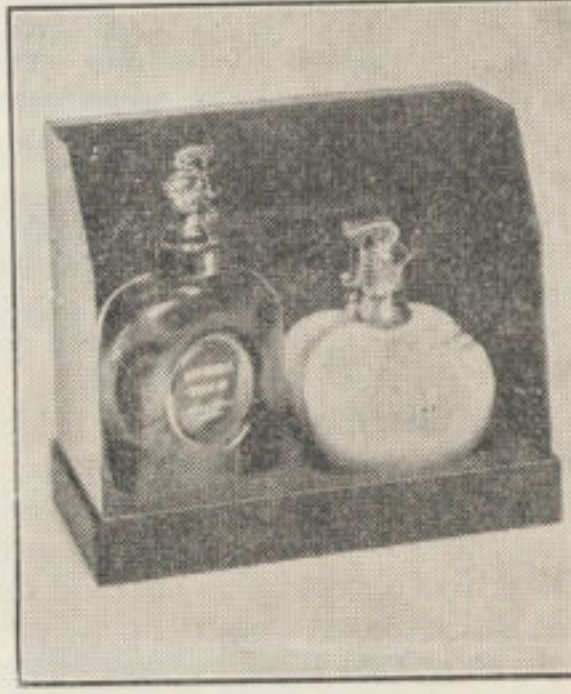
Cologne Stick . . . Here is that famous, delightful fragrance named Blue Grass in a solid cologne stick, made by Elizabeth Arden. \$1.25 plus tax.



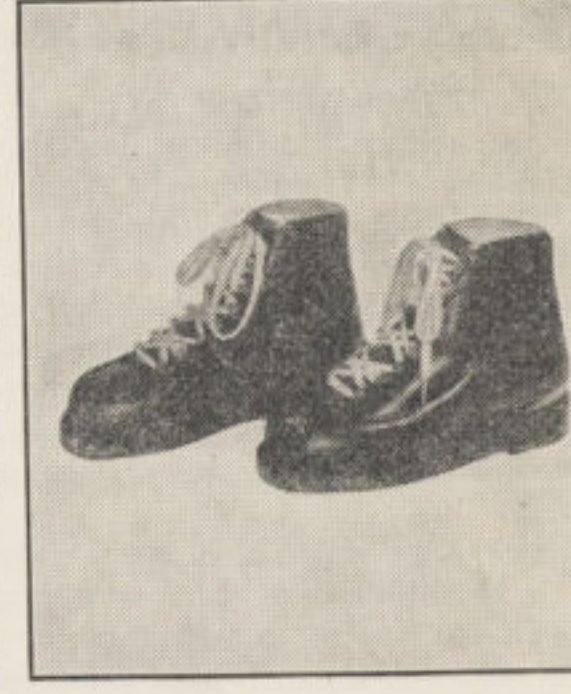
HARVARD SQUARE



Sweater . . . by Brentwood, a cashmere blend pullover. Soft, long fiber yarns give it both beauty and durability. \$10.95.



After Shave . . . this lotion combined with cologne in a Kings Men set. Superb quality, beautifully packaged. \$5.50 plus tax.



Skiing . . . equipment for the expert or beginner. Skis, boots, bindings, poles, clothing and accessories. Excellent selections.

SHOP THE COOP

★

GIFTS

for men

for women

for boys and girls
for the home