



Harvard Law School Record



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Scottsman Win Ames Decision In Semi-Final

The Scott Club led the way into the final round of the Ames Competition for the Class of 1956 when it defeated the Gardner Club in a semi-final argument in the Ames Courtroom of Austin Hall last Friday.

The Scott Club will be paired in the final next spring against the winner of last night's other semi-final round argument between the Hardee-Sacks and Morgan Clubs.

The Hon. J. Edward Lumbard, LL.B. '25, former United States Attorney for the Southern District of New York and a present judge of the Court of Appeals for the Second Circuit, presided at last Friday's argument. He shared the bench with two Boston attorneys, Raymond W. Ellis, LL.B. '38 and John R. Hally, LL.B. '49.

The winning team, acting as counsel for the defendant-appellee, represented the



Judges Hally, Lumbard and Ellis

builder of a large housing development who refused to sell to Negroes. The case was based, in part, on litigation arising out of a similar refusal to sell houses to Negroes at Levittown, Pa.

Richard F. Newell, 3L of Berkeley, Mich., and Hal F. Reynolds, 3L of Brecksville, O., appeared as oralists for the Scott Club. Robert S. Jones, 3L of Buffalo, N.Y., and H. Simmons Tate, Jr., 3L of Clemson, S.C., spoke for the Gardner Club.

Jan. Law Review Features 3 Articles

The January issue of the *Harvard Law Review* will feature three articles on a wide variety of topics. Professor Benjamin Kaplan, in *Performer's Right and Copyright: The Capital Records Case* discusses the problems of protection of musical performers' property and reproduction of performances rights against record pirates.

George Brenz, a Washington attorney, analyzes the proposed revisions of the GATT (a tariff reduction agreement) and the charter of the International Trade Organization which are before the Senate. The Hoover Commission's proposals for administrative and governmental reforms are the subject of an article by Anthony Arpaia, an ICC Commissioner.

Among the Notes will be a discussion of federal district court jurisdiction over foreign corporations. The question of whether tenants may be excluded from federally-aided housing projects because of membership in organizations on the Attorney General's subversive organizations list will also be analyzed. Other Notes are on admiralty law, where the priority of maritime liens on ships is discussed, and on limitations of amendments to corporate charters where such amendments affect preferred shareholders' rights.



Torbert MacDonald speaking at the Forum last Friday night. Moderator John T. McNaughton and Prof. Robert Braucher are seated at the right.

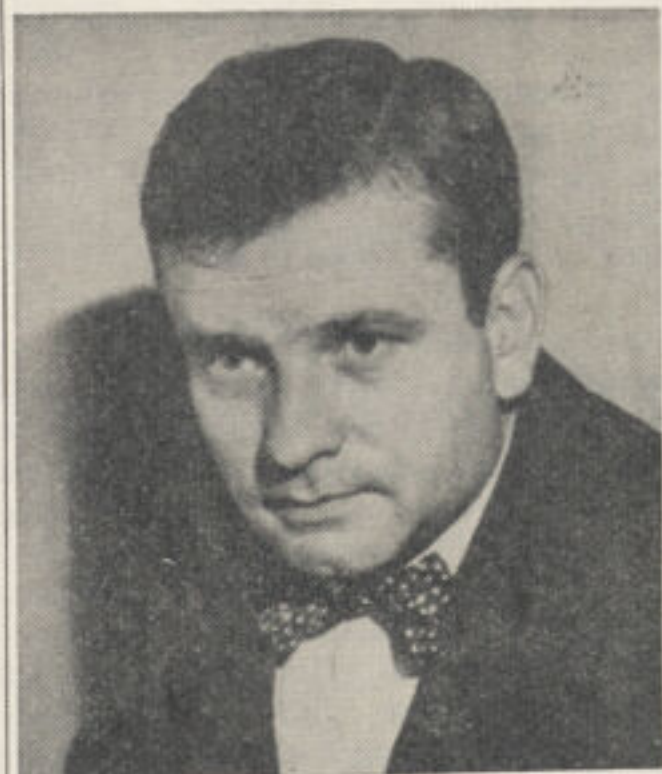
Buckley, Wechsler to Argue In Forum Session Tomorrow

Two provocative journalists, who made headlines of their own during the controversy which swirled around Sen. McCarthy a year ago, will clash in a debate before the Harvard Law School Forum in the New Lecture Hall tomorrow night. William F. Buckley, Jr., author of *McCarthy and His Enemies* and a former staff member of the Wisconsin Senator's Permanent Investigations Sub-Committee, will argue the issue of political conformity with James A. Wechsler, editor of the *New York Post*.

They will take opposite sides of the issue: "Non-Conformist: Liberal or Conservative?" at the Forum's second meeting within a week. Rep. Torbert MacDonald, LL.B. '43 ('47), Democrat of Malden, Mass., and Professor Robert Braucher debated the "Issues and Prospects for '56" at a Forum session last Friday.

Tomorrow night's Forum meeting will match two gifted speakers. Mr. Buckley, a 1950 graduate of Yale and former chairman of the *Yale Daily News*, was a top debater at New Haven. As a student he led Yale to victory in international competition against Oxford. Mr. Wechsler is the editor of New York's only Democratic newspaper.

At last Friday's meeting, the speakers approached the 1956 campaign from different directions. Professor Braucher, who was described by Assistant Professor John



James A. Wechsler

T. McNaughton, the moderator, as "a reasonably bitter suburban-type Republican" from Belmont, spoke in terms of the prospective candidates, Representative MacDonald in terms of issues.

Mr. Braucher concluded, through "inexorable logic," that the Election Day rivals next year will be Governor Averell Harriman of New York and his predecessor. (See FORUM on page five)

Au Revoir

This is the final issue of Volume 21 of the *Harvard Law School Record*. The next issue of the *Record* will appear February 2, 1956.

Duties of Administrative Aides Reshuffled by Dean Griswold

In the wake of Harrison S. Dimmitt's resignation as Secretary of the Law School, Dean Erwin N. Griswold has announced a far-reaching administrative reorganization to take effect on Mr. Dimmitt's departure January 1.

Stassen Envisions Eisenhower-Dulles Atomic Peace Era

Citing twelve achievements of the Eisenhower foreign policy, Harold E. Stassen, Special Assistant to the President for Disarmament, insisted last week that "partisan attempts to claim that our foreign policy is bluster and bluff... that it needed the kind of highly intelligent handling which the opposition aspirant could provide, fall very flat."

Mr. Stassen delivered his counter-attack on the foreign policy criticisms of Adlai Stevenson and Gov. Averell Harriman at a meeting of the Harvard Young Republicans in the New Lecture Hall.

Among the favorable developments in the field of foreign policy Mr. Stassen listed the approval of the International Atomic Energy Agency by the UN, the overthrow of the government of Iran and Guatemala, the ending of the Korean War, the approval of Western European Union, the settlement of the Trieste dispute, the restoration of Austrian sovereignty, and the ending of the Indo-Chinese war.

He also pointed to the stabilization of the present Iranian government under the Shah and the Summit Conference at Geneva, which he thought made clear to the Russian government that "the objective of the United States was and would continue to be a just and lasting peace."

Praises Economic Aid

Finally, Mr. Stassen cited the economic assistance given to more than 40 countries as instrumental in "advancing their economic well-being to a record high point."

Mr. Stassen called the President's proposal for exchange of military information and aerial inspection "dramatic and sound," and added to the accomplishments of the Geneva Conference the initiation of increased contacts between East and West.

Referring to the recent statements of Prime Minister Bulganin and Secretary of the Russian Communist Party Khrushchev, made during their current visit to India and Burma Mr. Stassen found them "not encouraging," but said he did not find them discouraging.

This view was taken because, according to Mr. Stassen, the administration had anticipated the difficulties of attitude and approach reflected by the speeches and interviews.

"If the government of the Soviet Union is sincere in its expressed desire for a lasting peace, then it should be possible to (See STASSEN on page five)

Mr. Dimmitt, LL.B. '25, handed in his resignation last week, bringing to a close 21 years on the Law School staff. When he stepped down, he was also editor of the *Harvard Law School Bulletin* and Dean Griswold's chief administrative aide.

To fill the gap created by Mr. Dimmitt's departure, Dean Griswold has promoted Assistant Dean Louis Toepfer, LL.B. '43 ('47), to the office of Secretary, added William L. Bruce, LL.B. '51, to his staff with the rank of Assistant Dean, and reshuffled the assignments of his other administrative assistants.

Key man in the new set-up is Mr. Toepfer. "According to Dean Griswold, 'he will take over general supervision of Law School 'operations'." Mr. Toepfer will run the Secretary's office while continuing in his present position as Director of Admissions and of Financial Aid to Students.



Russell H. Peck

Assistant Dean Russell H. Peck, LL.B. '50, Director of Placement, will continue in that post, meanwhile assuming an additional duty as editor of the *H.L.S. Bulletin*. Mr. Bruce, when he joins the Law School staff in January, will assist Mr. Peck and Assistant Dean Wesley L. Bevins, Jr., LL.B. '48, director of the Law School's alumni and fund-raising activities.

As Secretary, Mr. Toepfer will coordinate the work of Deans Peck, Bevins, and Bruce. He also will directly supervise the efforts of three personal assistants—Miss Margaret E. Quinn, Assistant Secretary, Mrs. Edith P. Newton, Registrar, and Mrs. Edith D. Oliver, Admissions Secretary.

Dean Peck will be assisted by Miss Julie Grenier, Publications Secretary, and Miss Eleanor Appel in the Placement Office. Miss Denyse Wolff will continue as executive secretary to Mr. Bevins.

Meanwhile, Law School faculty, students, and alumni have expressed regret over the news of Mr. Dimmitt's resignation. "He will be missed," one faculty member said. "Mr. Dimmitt has done such a good job for so long that he's something of an institution around here."

Library Hours

The library will begin its Recess Schedule Thursday, Dec. 22, and will resume regular hours Wednesday, Jan. 5.

The schedule between these dates is as follows:

Dec. 22—9 a.m. to 5 p.m.

Dec. 23—9 a.m. to 1 p.m.

Dec. 24 through Dec. 26—Closed

Dec. 27 through Dec. 30—9 a.m. to 5 p.m.

Jan. 1 through 2—Closed

Jan. 3 through 4—9 a.m. to 5 p.m.

Christmas Tree Brightens Shaw Hall; Party Is Planned for Law Children

Santa Claus will be on hand this Saturday afternoon to answer the wishes (25-cent wishes, that is) of Harvard's "Law Children."

The Law Wives association will give its annual Law Children's Christmas Party in the main meeting room of Harkness Commons from 2-4 p.m. Mothers, fathers and friends are cordially invited to attend with their offspring. Those attending are requested to bring a 25c wrapped gift for each of their progeny.

Refreshments are the order of the day. Law Wives and friends may sign up with Mrs. Ben Wolman. (BE5-1454M). Details may be obtained from Hrs. Howard MacAyeal (HO 9-9137), who is chairman of the affair.

The little lit-up evergreen in the corridor of Shaw Hall's first floor has been receiving curious stares this past week from delivery men, residents of dormitories, maids, and the always-tardy mailman.

The residents see nothing unusual about it. Some of them merely decided that there was something lacking in their "home-away-from-home," and bought a Christmas tree which they trimmed with lights, bulbs, tinsel and a big star at the top.

The maids who work in the Graduate Center cannot remember any other Christmas tree set up in the dormitories, so the gentlemen of Shaw Hall have established a precedent. However, the cynical might discount it as merely a subtle means of calendar watching: a constant reminder that vacation is only one week away.

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Lest We Forget

The Veterans Administration announced last week that the enrollment this fall of veterans of the Korean conflict, in colleges and universities throughout the land, had reached an all-time high. Here at the Law School some 453 students have applied for benefits under the public laws which make up what is generally referred to as the "Korean G. I. Bill."

While we at the Law School welcome with open arms the veterans of this most recent of American conflicts, we would like to reflect upon the passing from the Law School scene of another equally virtuous and, at one time, certainly more numerous, group of students. For as school draws rapidly to the turn before the home stretch, five students, the last of the thousands of veterans of World War II, who passed through the Law School, prepare to step down from the educational rolls of the Veterans Administration.

In a world situation which seemingly vacillates between a hot-cold war and a cold-cold war, one may wonder if that great struggle which began at Pearl Harbor over 14 years ago, was indeed futile. It may have been futile in that those elements which aimed at the destruction of our way of life are still upon us, if not in even greater strength.

And yet we cannot help but feel that the struggle was not futile; that the men who fought and died, did so, not because they would so have willed it, but rather when the time to act in the defense of our ideals presented itself, alternatives other than armed conflict would not have preserved that for which so many had died before.

When we so often speak of the great name the Harvard Law School enjoys through the efforts of its present and former scholars, let us not forget that as the Harvard Law School this day stands for the highest of the American legal institutions of learning, it does so in part by virtue of the personal sacrifice and loss of life of the many sons of the Law School who in support of God and country fought on the field of battle that an institution such as ours might continue to exist.

The Bibliography

A long step toward understanding of what is called the internal Communist problem has been achieved by the publication of a Bibliography and Digest on Communism in the United States.

In a special supplement, the RECORD explains just what these books are, what sort of materials they contain, and how they have been criticized. Jay Dushoff's article tells why the reports, which were sponsored by the Fund for the Republic, have aroused a storm of controversy, and provides an evaluation of them as source material for researchers.

Gallery

HARRISON STEELE DIMMITT
Secretary, Harvard Law School



In the old days of the Law School, Mr. Ames used to spend a few odd moments and an occasional evening working over the records of the students. By the time Harrison Steele Dimmitt came to the Law School as Assistant Secretary in January 1935, there were all manner of innovations: clerks, stenographers, typewriters, etc. Administrative duties had become arduous with the addition of the preparation of the catalog, supervision of registration, examinations, scholarship funds and placement.

With no more than a year to learn the proper handling of student problems from the timid inquiry to the impetuous failure, Mr. Dimmitt, in September, 1936, became Secretary of the Law School. He inherited the mass of factual material and operating procedure that had been accumulated while great legal minds were being produced. The awful truths of registration and examination, of grades and placement began to exercise a restraining influence on the arabesques produced elsewhere in the Law School.

The Way Up

Mr. Dimmitt was born in Denver, Colorado in 1898 and received his B.A. from Princeton in 1920. After graduation, his legal ambition was checked for a time by a lack of funds. In 1920 he sold bonds in post-war Denver, and in 1921 he tutored those less quick in scholastic subjects.

Mr. Dimmitt's years at the Law School were of the standard depressing variety. They were years of persistent, hard detail work, with only a bit of social life supplied by Lincoln's Inn. In his own words: "Almost everyone worked all the time." He recalled with a chuckle that some of his classmates had carefully drawn the curtains to shut out the distractions of spring. This he could not do.

In 1925, Mr. Dimmitt left the Law School with an LL.B. and took a job with Simpson, Thacher and Bartlett in New York. After spending two years in practice with the firm, Mr. Dimmitt joined Murray, Aldrich and Roberts, and, about the same time, gave up his bachelor status.

His practice from 1927 to 1929 was mainly in real estate transactions. He spent the greatest part of his time working on the details of the transfer of land for the Williamsburg, Virginia, colonial restoration and later for Rockefeller Center.

In 1942, with the ranks thinning out at the Law School, Mr. Dimmitt felt the urge to join the boys in defense of his country. While the Army took him as a captain in 1942, his desire to join the boys was frustrated. He became an instructor of WAC's at Fort Des Moines, Iowa. Later, he attended the Military Government School at Charlottesville, Virginia and later served in France, Germany and England for two years. After assisting in the reconstitution of the German Government and in the planning of the first local election in the Western Zone, he returned to the United States and to the Harvard Law School. He left the Army with the rank of Lieutenant Colonel.

Zany Stories

Through the years, Mr. Dimmitt's position has exposed him to stories of humor and pathos. For instance, there is one curious individual who continues to write long letters explaining why he flunked a course many years ago and demanding that his long destroyed paper be reread. More recently, a judge phoned him to check on the record of a student who had presented an argument with the greatest mastery of legal intricacies and presentation that the judge had ever heard. Mr. Dimmitt had to report that the student had a D average.

For the past few years, Mr. Dimmitt has been "at home" in Langdell Hall, and with the hiring of Assistant Deans, his duties are chiefly those of a liaison between the school and the alumni. He was very active in the dormitory fund raising drive and participated in the organizing of alumni placement groups throughout the country. In addition, he edited the *Harvard Law School Bulletin*.

Unfortunately, courteous epistles informing students of "a lack of legal aptitude" still come from his office. Mr. Dimmitt's official voice is still shot through with the awful truth.

Mr. Dimmitt's resignation from his position as Secretary of the Law School will take effect at that time, on January 1. Mr. Dimmitt will join his children and grandchildren in California. He has purchased a book shop in Palm Springs.

As he leaves Cambridge, Harrison Steele Dimmitt carries with him the respect and esteem of the Harvard Law School community. His twenty years of service have earned him the appreciation of all of us for a job well done.

—Hyatt and Langston

Current Case

JURY COMPOSITION CHALLENGED

In a decision handed down last week, the Supreme Court reversed the conviction of a Negro for the rape of a white woman. The case involved the constitutionality of a Georgia rule of practice requiring a defendant to challenge the composition of the grand jury before indictment. *Reece v. Georgia*, 16 U.S.S.Ct. Bull. 143 (Dec. 5, 1955).

The defendant Reece was arrested on October 20, 1953, and imprisoned until his indictment three days later. The next day the trial court appointed two local attorneys to defend him. On October 30 before his arraignment, Reece moved to quash the indictment on the ground that Negroes had been systematically excluded from service on the grand jury. Overruling the motion, the court tried, convicted and sentenced Reece to death.

The Georgia Supreme Court upheld the denial of the motion to quash but reversed on another ground. Before his second trial Reece filed a special plea in abatement, alleging systematic exclusion of Negroes from the jury commission, the grand jury which indicted him, and the petit jury that had been selected. He also stated that before his indictment he had no knowledge of the composition of the grand jury. The state's demurrer to the plea was sustained and Reece again was in jeopardy of his life.

Opportunity Denied Defendant

The Supreme Court found that no reasonable opportunity had been afforded the defendant to challenge the composition of the grand jury before indictment. Expressing the Court's opinion, Mr. Justice Clark wrote:

"... He was indicted by a grand jury that was impaneled and sworn eight days before his arrest. It adjourned the day before his arrest and was reconvened two days later by an order which did not list him as one against whom a case would be presented. Reece is a semi-illiterate Negro of low mentality. We need not decide whether, with the assistance of counsel, he would have had an opportunity to raise his objection during the two days he was in jail before indictment. But it is utterly unrealistic to say that he had such opportunity when counsel was not provided for him until the day after he was indicted. In *Powell v. Alabama*, 287 U.S. 45, this Court held that the assignment of counsel in a state prosecution at such time and under such circumstances as to preclude the giving of effective aid in the preparation and trial of a capital case is a denial of due process of law. The effective assistance of counsel in such a case is a constitutional requirement of due process which no member of the Union may disregard. Georgia should have considered Reece's motion to quash on its merits."

Jury Selection Protected Right

Before answering the state's contest of the merits of Reece's claim of systematic exclusion, the Court stated the following principles:

"... [V]alid grand jury selection is a constitutionally protected right. The indictment of a defendant by a grand jury from which members of his race have been systematically excluded is a denial of his right to equal protection of the laws. ... Where no opportunity to challenge the

Recently Published

G.A.W. AND STATE LAWS

William Papier, Director, Division of Research and Statistics, Bureau of Unemployment Compensation, Ohio, "Guaranteed Annual Wage Proposals: their Implications for Unemployment Compensation" 8 Industrial and Labor Relations Review 265 (1955).

Guaranteed annual wage plans will have great impact upon legislation. Employers will be induced to support liberalized state unemployment compensation laws. Provisions for private guaranty plans, such as eligibility, benefit rates, duration and disqualification, would influence the content of state laws. In effect legislative process would shift from the legislature to the bargaining table. A general overhauling of present state compensation plans would be desirable.

JURISDICTION IN INTERPLEADER

Frederick L. Zimmerman, New York Bar, Mitchell Wendell, Research Consultant, and Sheldon Heller, Research Director, New York Joint Legislative Committee on Interstate Cooperation, "Effective Interpleader via Interstate Compacts," 55 Columbia L.R. 56 (1955).

Present state and federal interpleader statutes give no effective protection where one of the claimants resides outside of the United States. A proper solution should: (1) bind all the claimants and prevent future vexation of the stakeholder; (2) protect the claimants against disadvantageous forum shopping by the stakeholder; (3) encourage interpleader in the forum whose law is principally involved. The interstate compact device could meet these requirements by enabling a court to acquire *in personam* jurisdiction over claimants residing in another state or country who are party to the compact. New York recently adopted a compact provision, but as yet no other jurisdiction has become a signatory to the compact.

grand jury selection has been afforded a defendant, his right may be asserted by a plea in abatement or a motion to quash before arraignment."

Evidence Points To Exclusion

The Court then took note of the facts relating to the alleged systematic exclusion and said:

"This evidence without more is sufficient to make a strong showing of systematic exclusion. The sizable Negro population [10%] in the county, the fact that all-white juries had been serving for as long as witnesses [each of whom had lived in the county for at least 30 years] could remember, and the selection on the jury list [numbering 534] of a relatively few [six] Negroes who would probably be disqualified for actual jury service all point to a discrimination 'ingenious or ingenious.' ... This evidence placed the burden on the state to refute it, ... and mere assertions of public officials that there has not been discrimination will not suffice."

This case emphasizes two constitutionally protected rights possessed by every person accused of a serious crime:

1. The right to indictment by a *validly selected* grand jury.
2. The right to have *effective* assistance of legal counsel.

Above all it shows that due process constitutes more than simply going through the motions; it constitutes actual protection of the rights of the accused.

—Friedman

Puzzle

The seven persons present when a certain trial began were the judge, plaintiff, defendant, plaintiff's attorney, defendant's attorney, a newspaper reporter, and a policeman. Assuming the truth of the ten statements given below, what were the names of each of the seven persons?

1. The judge had never seen Carson, Edwards, or Grey until a week before the day of the trial.
2. Anderson, Edwards, and the defendant's attorney had never seen one another before the day of the trial.
3. Anderson, the policeman, and the newspaper reporter were married.
4. The newspaper reporter and the plaintiff's attorney had been in fifth grade together at the same little school.
5. Baker wore glasses.
6. Edwards was the youngest person in the room by over nine years.
7. The defendant's attorney disliked Carson.
8. The defendant had never been married.
9. Foley had never heard of *Erie R.R. v. Tompkins*.
10. Davis and Anderson were illiterate women.

ANSWER TO PUZZLE

Grey was defendant's attorney.
Foley was the newspaper reporter, and
Baker was the policeman.
Carson was plaintiff's attorney, Davis was the judge, Edwards was the plaintiff, and Anderson was the defendant.

Letters to the Editor

TO THE EDITOR OF THE RECORD:

In the RECORD of December 8th, 1955, there was a report on a talk which I gave before the Young Republican Club of the Harvard Law School. The report contains a sentence which does not accurately reflect what I said, and which can be misunderstood. I appreciate that this reflects the difficulties inherent in any attempt to give a concise account of an extended and varied discussion, but it should be clarified.

I refer to the sentence in the last paragraph of the report reading: "This freedom was lost, he claimed, when Asian policy 'became a political football' in the latter part of the Truman administration." In my talk, I expressed the early part of the Eisenhower administration. I also expressed the view that the primary responsibility for this lay with a particular element within the Republican party which, during the earlier part of the Eisenhower administration, had shown itself almost as hostile to the foreign policy of that administration as it had been to the foreign policy of the Truman administration. It is against this background that I expressed the opinion that the regaining of freedom of maneuver in our foreign policy in Asia had been an outstanding accomplishment of the Eisenhower administration.

Milton Katz, LL.B. '31

Spotlight on the Communist Problem

Sutherland Committee Has Prepared Bibliography, Digest on Reds in US

By JAY S. DUSHOFF

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A triad of useful tools for students and scholars interested in the phenomena of American Communism has been made available this year by the Fund for the Republic. *The Digest of the Public Record of Communism in the United States*, *The Bibliography of the Communist Problem in the United States*, and microfilm records of twenty three important trials involving Communists were the products of a committee headed by Professor Arthur E. Sutherland, Bussey Professor of Law.

The entire project was started when Elmo Roper, a member of the Board of Directors of the Fund for the Republic, requested Professor Sutherland to pick a small committee to make a three month preliminary study of the Communist Party in the United States and the various public records related to the Party. The objective was to make "test borings": to discover what records existed, their usefulness, and the best way to study them.

Prof. Sutherland's committee, originally formed in June 1953, was composed of Clinton Rossiter, Associate Professor of Government at Cornell, the Rev. Joseph M. Snee, S.J., Professor of Law at Georgetown University, and Charles Fairman, who at the time was Nagel Professor of Constitutional Law and Political Science at Washington University, St. Louis. Prof. Fairman, who was appointed Professor of Law at Harvard this year, left the committee in the fall of 1953 because of the pressure of other duties.

The Sutherland Committee reported to the Board of Directors of the Fund for the Republic in October of 1953 with short and long range recommendations. Short range, they advised that a *Digest* of the official record and a *Bibliography* be prepared, and also a microfilm library of important materials in the official record not generally available.

The *Digest* was planned as a compilation and digest of public proceedings and statutes concerning the Party, and the microfilm library was to include transcripts of trials which could be found only in relatively inaccessible places.

In the course of their preliminary study, the Committee had compiled a partial list of the writings on Communism in the United States, and had learned that no extant volume brought together in one place any considerable portion of the plethora of printed material regarding the Party. Thus, they felt that the *Bibliography* would be a valuable companion volume to the *Digest*.

History of CP Recommended

Long range, the Sutherland Committee recommended that the Fund for the Republic underwrite a comprehensive history of American Communism. In their report they stated: "Although communism is perhaps the most important single fact affecting our lives in the second half of the Twentieth Century, the amount of serious scholarship that has been devoted to American communism is pitifully small. Much of the serious writing in this area has consisted of critiques of counter-measures that have been taken against communism. Too little attention has been devoted by detached scholars to the phenomenon that has called this activity into being." (Report of the Committee on the "Communist Record", October 1953, p. 14-15.)

The Fund for the Republic was impressed by the need for research on American Communism. They also realized the relation of reference books to such research, and the green light was given to Professor Sutherland to carry out his short term plans.

From that point on, the work of the committee was mainly supervisory. The actual work on the *Digest* and *Bibliography* was done by a staff of young research workers headed by Charles E. Corker, LL.B. '43 ('46), formerly professor of Law at Stanford.

Those working on the main part of the *Bibliography* were Mr. and Mrs. Russell L. Brenneman, Jr., LL.B. '53, Miss Phoebe Gescheider, Mrs. Rosemary Karplus, and George D. Blackwood, an Assistant Professor of Political Economy at Boston University. Kenneth G. Olson and Gregory

J. Maisel, respectively a teaching fellow and a doctoral candidate in Government at Harvard University, helped with parts of the appendices.

Mr. Corker's three principal assistants in compiling the *Digest* were Herbert C.



Arthur E. Sutherland

Feinstein, LL.B. '51, Wellington F. Scott, LL.B. '52, and Miss Edith V. Arnold. The Legislative Research Bureau of Harvard Law School is credited with "valuable aid" to the project, and the Law School itself provided office space.

Digest of the Communist Public Record

The *Digest*, a 753 page volume, is a compilation of abstracts of laws, hearings, reports, ordinances, statutes and decisions pertaining to Communism in the United States.

One begins to realize the scope of the communist problem and the official attention given to it after one peruses the *Digest*. There are federal court cases beginning with prosecutions under the Espionage Act of 1917, down to present day trials under the Smith Act. There have been perjury and contempt proceedings, as well as litigation involving denaturalization, deportation and the Federal Government's loyalty program.

There are state court cases related to sedition, "red flag" statutes, criminal anarchy, state loyalty oaths, and legislative or administrative steps planned to exclude Communists from the elective process.

There are Congressional hearings as far back as 1919 concerning Bolshevik propaganda in Washington, and State legislative hearings dating from the New York Lusk Committee's 4450 page report on "Revolutionary Radicalism" in 1920.

Also listed are 68 pages of hearings and reports by the House Committee on Un-

The motivating and guiding spirit of the project can best be expressed by a statement made by Dwight D. Eisenhower in 1948, which is used as a frontispiece to the *Digest* and the *Bibliography*: "The truth about communism is, today, an indispensable requirement if the true values of our democratic system are to be properly assessed. Ignorance of communism, fascism, or any other police-state philosophy is far more dangerous than ignorance of the most virulent disease."

American Activities, between 1930 and 1953. Some of the committee documents are valuable sources of material on Communism, the bibliographers found.

All these are abstracted in the *Digest*; the full documents which are digested would fill thousands of pages. When confronted with such a panoply of laws, regulations and prosecutions aimed at the American Communist, one can begin to understand the statement of the Sutherland Committee that is quoted above: "... communism is perhaps the most important single fact affecting our lives in the second half of the Twentieth Century."

The *Digest* is divided into three parts:

- Federal Statutes, Regulations and Decisions
- State Statutes and Decisions
- Public Documents

The sections are prefaced and interspersed with editorial summaries, comments and background. This is one of the features that makes the *Digest* more than a source book. One can get a fascinating survey of the entire problem by reading these notes, without delving into the abstracts and excerpts themselves.

Part II, State Statutes and Decisions, has 17 subdivisions dealing with many of the topics covered on the federal level; but many topics in this part are concerned with peculiarly state matters such as teacher's oaths, labor unions, exclusion from the Bar, and the various local registration statutes.

City Ordinances In Supplement

A 43 page supplement to this section presents a sampling of municipal ordinances, which were obtained by writing to the city attorneys of 196 various municipalities selected on the basis of size. Most of the ordinances are set out in full (in contrast to the federal statutes, many of which are only briefly digested) "because they are not generally accessible even in the largest law libraries." *Digest*, p. 455. The various ordinances require registration of Communists within the particular municipality, exclude Communists from the city altogether (Jacksonville, Florida), regulate the types of flags to be displayed (Minneapolis), and exclude "subversive organizations" from the use of the Civic Auditorium (Seattle).

The Public Documents section is comprised of citations to as many documents issued by federal, state and local executive and legislative bodies as was possible to compile. The obstacle to complete coverage was that some official publications are titled so as to give little indication as to their contents.

Each reference is followed by a brief abstract, which is intended only to inform the reader about the contents of the publication and does not attempt to evaluate the document.

The Sutherland Committee found that many of the judicial proceedings involving the Party are similar because the issue in question is usually whether the Party advocates the violent overthrow of the government. Proof of this fact has been routinized: the prosecution makes a fragmentary presentation of communist books, pamphlets, speeches and documents to show what their philosophy is.

Thus, the trials often present only one aspect of the Communist program. The Editors suggest to the reader that a more effective way of understanding the vast literature than reading the disconnected excerpts in the transcripts is to go to the originals.

Communist Trials Are Invaluable

However, these inherent shortcomings in the Communist trials are not serious enough to detract from their worth. "The record (of court proceedings) is . . . an invaluable supplement to the Communist documents themselves, because from it can be determined how the books and documents are used and the nature of the organization that uses them. Cross examination in adversary proceedings, and in particular the cross examination of Communist defendants, is a remarkably penetrating device by which to gain insight into the nature of communist objectives and communist activity." (Report of the Committee on the "Communist Record," 1953, pp. 47-8.)

The reports of legislative investigating bodies cited in the *Digest* differ from the judicial proceedings mainly because there is a broader range of inquiry and there is no opportunity for the incisive cross-examination utilized in the courtroom.

Before a group such as the Senate Subcommittee on Internal Security, for example, issues are rarely defined precisely. Also, the fact-finding method of these legislative groups is uncontrolled by judicial rules of evidence, and irrelevancies and digressions often are abundant.

The legislative hearing does not permit the same probing of witnesses as the court proceeding. The witnesses are usually categorized as friendly or hostile (in relation to the investigators) and are examined by one "side" only. The absence of cross-examination makes it more difficult to determine credibility.

But the proceedings abstracted in the *Digest* have one large advantage over unofficial sources: the testimony is under oath, and the witness can be compelled to testify subject to the safeguards of the Fifth Amendment.

Also, those people who have written about their experiences with Communism (Communists as William Z. Foster and ex-Communists as Whittaker Chambers) have been frequent witnesses before courts and Congressional investigating bodies. The testimony in these proceedings complements their writings, for it provides a check on the accuracy of their published works, and vice versa. This is especially important in regard to the ex-Communists (Whittaker Chambers, Elizabeth Bentley, Louis F. Budenz, et al.), whose credibility and motives are viewed with skepticism in some quarters.

Bibliography on the Communist Problem

The *Bibliography on the Communist Problem in the United States* is a thinner volume than the *Digest*, but its 474 pages are equally valuable, for this collection of references to published works on American Communism is unique. Its value can be appreciated when one tries to explore a particular segment of the Party's activities. In the absence of this specialized *Bibliography*, it would be necessary to wade

through various indexes and general bibliographies.

The *Bibliography* has an Author Index, with each entry followed by a short descriptive summary. After this section is a Subject Index, which lists the same materials under a topical outline with nine main headings ranging from *Communist Deviations and Rival Groups* (Lovestoneites and Trotskyites are the two main splinter groups) to *Objectives and Techniques of the Communist Party*.

The compilation is mainly concerned with writings since 1919, which was the year of "the birth . . . of the first American parties adopting the Communist label." (*Bibliography*, p. ix.) The bibliographers faced "puzzling problems of inclusion and exclusion." (*Bibliography*, p. x.) The United States is by no means the only non-Communist country which has problems concerning internal Communism, and thus the introduction to the *Bibliography* admits that its focus on the United States doesn't give the entire picture of the complex Communist problem. The Communist movement abroad is treated only in an appendix of the *Bibliography*, and only a few articles by American writers on theoretical Marxism are included.

The 4000 entries do not comprehend all of the published material, even within the *Bibliography's* announced scope. The Sutherland Committee has exercised its judgment and has trimmed down the vast amount of literature to manageable proportions.

Some Sources Are Not Utilized

Those works not included are not "lost" to the user of the *Bibliography*; once he receives a start in a special area from entries in the *Bibliography*, he will often come across related items that the *Bibliography* did not list.

Some of the problems in listing occurred in regard to peripheral works. For example, one starts with Communists and their activities. This is followed by Governmental action to curb their activities. Next come those who object to the form of the government counter-measures. Then this group is attacked by those who term the former group as "anti-anti-Communists". Those labelled as "anti-anti-Communists" turn on their labellers. And so it goes. The problem is where to draw the line on inclusion.

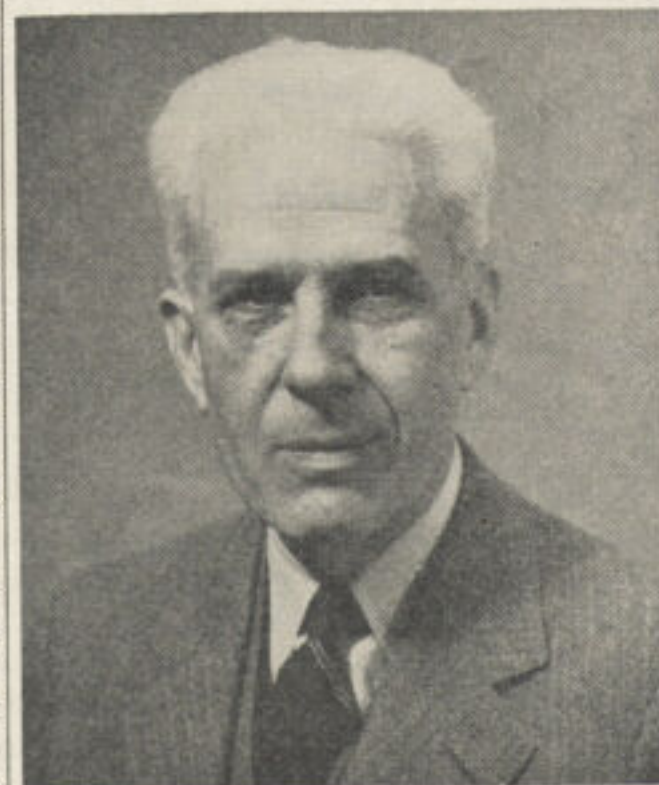
Selection of magazine articles is not as complete as the listings of books and pamphlets. The Editors, in their choice of articles, attempted to list articles from periodicals representing a wide range of view. However, practically no articles from news magazines were included. This decision can be understood when one realizes how many articles in each issue of *Time* pertain to Communism in some way.

Nor did the Committee explore primary sources such as the *Daily Worker*. Cataloguing of its articles probably would have taken the staff more time than the rest of the project combined. However, an appendix does list over 100 newspapers and periodicals published by the Communist party and its various front groups. The Appendix also attempts, insofar as is possible, to give the most recent information about dates of publication, publisher and availability of each newspaper listed.

The *Bibliography* places a great deal of emphasis on writings of Communists and the material issued by the Party itself. Thus, Eugene Dennis (General Secretary of the CPUSA during the 1940's) has 49 entries, William Z. Foster (General Chairman of the CPUSA during the late 1940's) has 185, Earl Browder (Communist Party leader expelled from the party in 1945) has 190, and the *Party Organizer* ("... a sort of trade journal for Communists organizers . . . published from 1927 to 1938 by the Central Committee of the Communist Party. . .") has 398.

The introduction to the *Bibliography* explains this emphasis: the compilers were surprised at the full expositions of Party objectives, activities and strategies in these publications, especially in the earlier years of the Party. In respect to their reliance on these primary sources of information,

(Continued on page four)



Charles Fairman

Communist Record

(Continued on page three)

the Committee quotes from Job, 9:20: "If I justify myself, mine own mouth shall condemn me; If I say I am perfect, it shall also prove me perverse."

As an example of the entries in the *Bibliography*, we have chosen the following. "Comments have been written . . . reflecting as closely as possible the point of view of the writer, not the bibliographers." (*Bibliography*, p. xi.)

DIES, MARTIN. The Trojan Horse in America. New York. Dodd, Mead. 1940. 366 p. Index. The chairman of the House Special Committee on Un-American Activities deals largely with the Communists whose Trojan Horse tactic is the "united front." General treatment of theory and tactics with detailed chapters on youth, Negroes and labor.

FOSTER, WILLIAM Z. Russia in 1924. Chicago. Trade Union Educational League. 1924. 31 p. Commendation of the manner in which the U.S.S.R. is solving its postwar problems, with emphasis on the improved state of industrial workers.

ZUR MUHLEN, HERMINA. Fairy Tales for Workers Children. Chicago. Daily Worker Publishing Company. "A book of working class stories that will delight your children and instill in their minds the spirit of revolt." (Quoted from the "Workers Monthly," Sept. 1926, inside front cover.)

Study Needed On CP Turnover

In an editorial comment on the topical outline, it is stated that the subject of Affiliation and Disaffiliation is an extremely important aspect of the Communist problem, and that, unfortunately, there has been little systematic exploration of the subject. Even Communist Party writers mention that membership turnover is large, and the editors pose two questions which need serious study: Who becomes a Communist and why? Who leaves the Communist Party, and what can be done to stimulate the process?

Outside of the appendix on Communist and left-wing periodicals mentioned above, there are four other appendices to the main body of the *Bibliography*. Appendix I is a short bibliography of material on native American radicalism and the antecedents of organized Communism; Appendix II is a special bibliography dealing with Communist ideology, and Communist activities outside of the United States. Appendix III is the listing of periodicals and newspapers mentioned earlier. Appendix IV is designed for the "serious but busy reader." It is a short reading list for those who want information on American Communism but don't have time for a full scale study. Among the nineteen listings are Foster's *History of the Communist Party of the United States, Out of Bondage*, by Elizabeth Bentley, and O'Neal and Werner's *American Communism*.

Microfilm Library

The fifth appendix outlines the third large section of the Sutherland Committee's project, the microfilm records of Communist trials. As mentioned above, this part of the project was undertaken when the Committee discovered that the records and transcripts of various key cases were unavailable in the practical sense: many could be found only in the official files of the tribunal before which the proceedings had taken place.

Thus, the records and briefs of twenty-three trials were microfilmed, each trial requiring from one to thirteen reels. The criteria that were employed to select the trials to be microfilmed were the significance of the record of the trial, its unavailability, and its possible loss or destruction if not preserved on microfilm.

Some of the cases chosen are *Abrams v. United States*, 250 U.S. 616 (1919), which concerned five Russian nationals convicted under the 1918 amendment of the Espionage Act of 1917; *People v. Mintz*, 106 Cal. App. 725, 290 Pac. 93 (1930), involving a violation of a state "red flag" statute by a

summer camp supervisor who directed a daily ceremony at which the children saluted the flag of the Soviet Union; *Bridges v. Wixon*, 326 U.S. 135 (1945), the record on appeal of the deportation proceedings begun in 1941 against Harry R. Bridges, the Australian-born West Coast labor leader; *Brownell v. Communist Party*, 23 U.S. Law Week 2296 (D.C. Cir., Dec. 23, 1954), a massive record (filmed on thirteen reels) of the entire proceedings before the Subversive Activities Control Board which resulted in the decision that the Communist Party was a Communist-organization under the Subversive Activities Control (McCarran) Act of 1950.

The microfilm set covers a total of over 70,000 pages of records and briefs. Because of the size of the set, the Fund for the Republic has placed it only in selected libraries throughout the United States: The Library of Congress, New York Public Library, Harvard University Law Library, University of Chicago Library, Cornell University Library, University of California Library at Berkeley, University of Washington Library at Seattle, Florida State University Library at Tallahassee, and the University of Texas Library at Austin.

Evaluation of the Project

There have been various reviews and critiques of the Sutherland Committee's work in the past few months. John A. Sessions published a short review in the October 31 issue of the *New Leader*, which was devoted primarily to listing those authors whom he thinks should have been included in the *Bibliography*. A letter in the November 21 issue of the same periodical from one of the researchers on the *Bibliography* answers some of Sessions' criticism. A more complete and scholarly appraisal of the *Digest*, *Bibliography* and microfilm collection has been done by Thomas I. Emerson, Professor of Law at Yale University, in 65 Yale L.J. 133 (1955).

Prof. Emerson terms the books "an immensely valuable research tool for lawyers, political scientists, publicists, statesmen, debaters and the general public." (Supra, p. 133.) He also commends the *Digest* for bringing together "in a form that makes the material most usable, a staggering amount of basic data which would be difficult or in some cases impossible for any single mortal to obtain. The collection of municipal ordinances is not available anywhere." (Supra, p. 135.)

Prof. Emerson finds fault with the *Bibliography* because it lacks a particularized index, and because the 27 classifications in the topical outline are not enough to be readily usable.

Unfortunately, outside of Prof. Emerson's article, most of the attention has been focussed solely on the *Bibliography*, and responsible sources such as the *New York Times* have neglected to mention the *Digest* and the microfilm library. (See N.Y. Times, Oct. 30, 1955, p. 16, col. 1.)

But even the Emerson review doesn't emphasize the fact that the *Bibliography* and the *Digest* are basically intended as reference books and source books. Very little evaluation has been made of their effectiveness as research tools.

This writer feels that the working effectiveness of the two volumes is lessened somewhat by poor indexing, practically no cross-referencing between the volumes, and a failure to keep them up to date with supplements.

Entries Should Be Kept Current

The closing date for the inclusion of material in the *Bibliography* is the end of 1952. The Editors attribute the discrepancy between this date and the publication date of 1955 to the lag in indexing and difficulties in obtaining recent materials in process of acquisition or being bound. Prof. Emerson is critical of the lag, and states that the Editors should have been able to overcome these problems in some way.

However, the Fund for the Republic has

been considering plans for bringing the *Bibliography* up to date, although no definite decision has been reached at this time as to the method. Some of the possibilities: a complete new edition each year; a separate supplement which would be incorporated into a new volume at the end of a period of years; a change to a loose leaf system rather than bound volumes to facilitate future additions.

In the Introduction to the Subject Index of the *Bibliography*, the Editors suggest that after one locates a title under the appropriate topic, one should consult the title in the Author Index for the brief descriptive summary.

We believe that the descriptive summaries are in the wrong place. Users of the *Bibliography* (for example, someone doing a thesis on the Communists and the Farmer) will be most concerned with the Subject Index. This seems the most effective route to obtain material in the area under study, and reference to the Author Index is less important.

Thus, we recommend that the descriptive summary be placed under each title as listed in the Subject Index. If this were done, it would not be necessary to shift back and forth from one index to the other.

Index Is Not All-Inclusive

The *Digest* has a 42 page index, but unfortunately, it is not a complete one. For example, John Carter Vincent is mentioned in abstracts on page 498 and page 641. However, the index lists only the abstract at page 498. Also, the abstract at page 641 is of a Congressional inquiry that centered around the activities of Mr. and Mrs. Max Granich in China, where they published an anti-Japanese and pro-Communist periodical before the Second World War. The index heading of "China" does not refer to this abstract.

Part III of the *Digest*, which contains the hearings and reports of the State and Federal legislative bodies, is the most adequately cross-referenced section of the project. However, the *Bibliography* lacks internal cross-referencing in places, especially between the main body of the book and its appendices.

Thus, William Z. Foster's *The Great Steel Strike and Its Lessons* is in the Author Index as well as in Appendix I, while Bertram Wolfe's *Three Who Made a Revolution* is not in the Author Index. Or, one interested in the writings of David J. Dallin would find only a nine page article listed in the Author Index, with no note to direct him to the three major volumes of Dallin's that are listed in Appendix I.

However, all of our criticisms are really in the class of cavils; all of these minor mistakes and omissions are of the inevitable variety common to pioneer works of such magnitude. These kinks can and probably will be remedied in the future.

Unfair Criticism Aimed at Project

Exception must be taken to the criticism of John A. Sessions (supra), James T. Farrell and Philip Taft (N.Y. Times, Oct. 29, 1955, p. 1, col. 2.) They are disturbed because particular authors were omitted, or that certain authors were over or under represented. We feel that most of the criticism was not constructive. It turned out that some of the irritation was because their own works had not been given more listings. It is interesting to note that no one has attempted to criticize the work for omitting a particular topic. Minor omissions have been picked at, and even then, some of the names mentioned in Sessions' article in the *New Leader* (supra) as being omitted partially or wholly were not so omitted in fact.

It is not our position that the authors cited as omitted or under-represented are properly omitted or under-represented. The criticism may be perfectly valid. However, the criticism was not offered in the sense of "I've noticed a book that should have been listed. Perhaps you should consider including it when you revise or issue a supplement." Rather, these critics have moved in a straight line from the omissions they disagreed with to a condemnation of the entire project. We feel such a condemnation is unwarranted, and that any charges that the *Bibliography* is slanted in favor of Communism can best be

met with Chief Justice White's famous quote: "To state the proposition is to refute it."

The *Bibliography* is not a complete listing, nor does it purport to be. We might add, nor does it need to be. In other words, if a scholar is interested in material dealing with Communism and the Arts, he would refer to that section of the Subject Index. Twenty books are listed, with many more pamphlets and articles. If he wants to dig deeper, he could, by reading the chapter from Egbert and Person's book that is listed, find references to many new articles in this specialized area. Thus, writings of Philip Rhav, one of the authors whom Sessions mentions as improperly omitted, would be found listed in Egbert's chapter.

Viewed as a totality, the work product of the Sutherland Committee is a significant and pioneering contribution to scholars, students, legislators, and laymen who may want information on a particular phase of American Communism. The Fund for the Republic is to be commended for underwriting the project, and Professor Sutherland and his committee and Mr. Corker and his staff certainly merit praise for the useful reference books that they have produced. Much of the adverse criticism can be viewed in proper perspective after one spends some time leafing through the *Digest* and *Bibliography* and reading some of the trial records on the microfilm. Only then does one realize the immense task of collecting, assorting and abstracting that has been accomplished.

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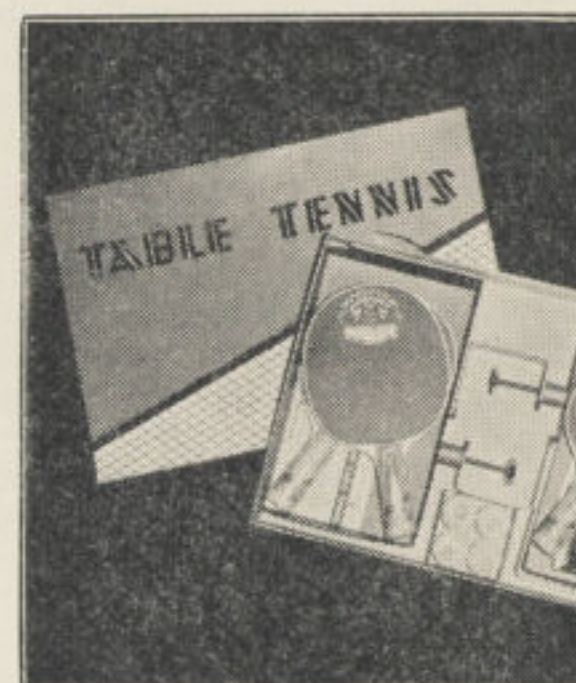
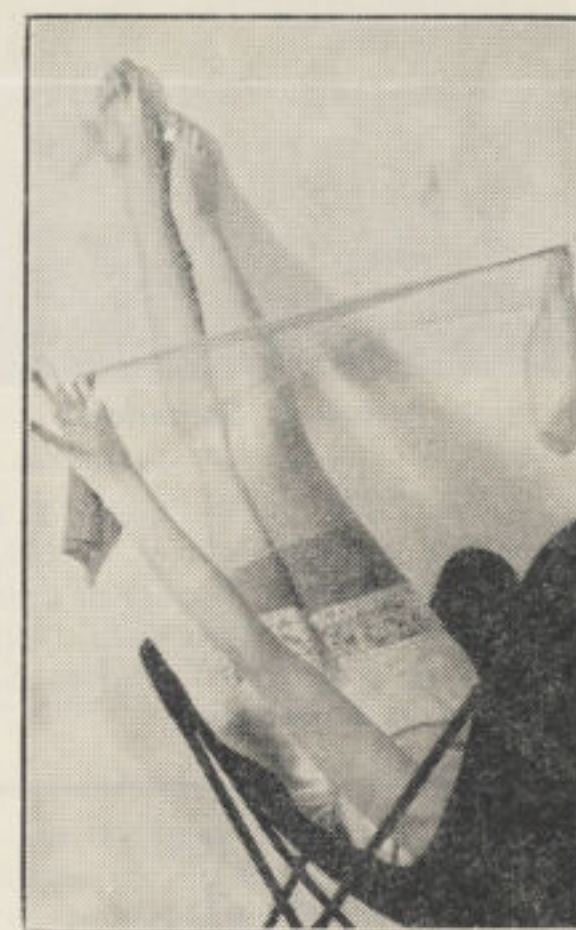


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The COOP

STASSEN

(Continued from page one)

overcome every objection they have raised to the Eisenhower policy."

"If they are not sincere," he added, "then no sound agreement can be reached, . . . and it is better not to have had agreement with a false sense of security."

Mr. Stassen thought that proposals to send U. S. troops to police the troubled Arab-Israeli border were "unsound and dangerous."

He questioned whether the proposal on the Arab-Israeli dispute had been talked over with the key men of the Democratic Party, or with American Jewish leaders.

Several times in his speech he referred to the importance and advantages of a bipartisan approach to foreign affairs. In this connection he called Senator Walter George, (D. Ga.), and chairman of the Senate Foreign Relations Committee, "a wise man, a great patriot, and a sound statesman". He also had kind words for Congressman James Richards, Chairman of the House Foreign Affairs Committee.

Mr. Stassen expressed his opinion that future historians will acclaim the brilliant achievements of Secretary of State Dulles, and insisted that if the course of action developed by the Eisenhower administration is followed, "the period which we have entered may well be known as the Eisenhower-Dulles era of atomic peace."

Law School Fund Shows New Gain in Donations

As of Dec. 2 the Harvard Law School Fund is \$20,000 and 600 contributors ahead of last year's drive. The fund is under the direction of Assistant Dean Wesley E. Bevins, Jr.

Last year's drive, the fifth in the Fund's Annual Giving Program and ending June 30, reported total contributions of \$355,289.02. This total was compiled from the gifts of over 6000 alumni.

The Fund was established in 1948. Originally directed toward a program of capital gifts, its success in the first two years during which its proceeds were used to pay the Law School's part of the cost of the dormitory project, prompted its continuance on an annual basis.

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Contra Pacem Regis

Professor A. James Casner has always lectured to capacity crowds, but this year he's so good that students from other sections are fighting to get in. Two of them, for example, made a beeline for the last available seat at a meeting of Property I in Langdell South Middle last Friday.

One of the first-year men got his books to the chair first, but the second brushed them aside and took the seat. How did the parties settle their dispute? By a method as old as the feudal tenures described in Professor Casner's lecture: trial by combat.

After a brisk exchange of words, the rival champions stepped into the hall to decide the matter *vi et armis*. Cooler heads broke them up before very many blows had landed. It is not expected that either party will litigate.

Elliott Praises South's Tradition of Leadership

Dr. William Y. Elliott, Harvard's Professor of History and Political Science, reviewed and paid high praise to the South's "tradition of public leadership" in a speech before the Law School Southern Club Monday evening.

The Harvard scholar, an associate of Professor W. Barton Leach in the development of the Defense Studies Program, told the Club that Southerners have played a vital role in the leadership of the nation since the earliest days of the Republic.

Strauss Assumes Lead In Bull & Bear Contest

Alan H. Strauss, 3L of Utica, N.Y., is leading the Bull and Bear Club's annual investment contest, according to an announcement by Club President Charles L. Convis, 3L of Lansford, N.D.

In second place when Mr. Convis evaluated the contestants' mid-December portfolios was Edwin S. Baldwin, 2L of St. Louis, Mo.

George Hansen, manager of the Industrial Investments Division of the Keystone Custodian Funds, addressed the club's last meeting of the year in Harkness Commons last Friday.

Political Activity Rises, Bulletin Boards Reveal

Political Clubs continue to spring up in the fertile Cambridge atmosphere. A notice chalked on the blackboard in Langdell North announced the following: "All Reactionaries—Organization Meeting of the Harvard Reactionary Society, 7:30 tonight, Lowell N-51. Purpose: To Combat all forms of Liberalism, Progressive Republicanism and Moderate Conservatism."

The same classroom had another notice at the other end of the board: "Young Dems Unite—Tonight—Holmes Hall Phone Booth." This is ample refutation of any theory that legal study stifles creativity.

NEWS IN BRIEF

The Harvard Masonic Lodge will hold its regular meeting tonight at 6:00 in the library of the Harvard Faculty.

Library Exhibition: The Year Books, decisions of the English courts, circa 1270-1535, will be on display in the Treasure Room of the library from Dec. 5 through Jan. 2.

The Civil Liberties Union of Massachusetts will hold a rally tonight in Faneuil Hall at 8:00 in observance of Civil Rights Week and Bill of Rights Day. The main speaker will be the Rev. William J. Keeney, S. J., Dean of Boston College School of Law.

The Law School Record is holding its annual Christmas get-together in the Gray Room, Holmes Hall on Friday at 8 p.m.

FORUM

(Continued from page one)



William F. Buckley, Jr.

sor in the Executive Mansion at Albany, Thomas E. Dewey.

These choices were based on the premises that a) both parties want above all to win, b) neither can win with an unknown, c) the first two choices on the Republican side President Dwight D. Eisenhower and Chief Justice Earl Warren, will not choose to run, d) although he could, Ike will not handpick the GOP choice, and e) internal tensions in the Democratic Party.

The professor's major concern was America's need to retain the "experience and good sense" of President Eisenhower in a policy-making position while relieving him of the administrative and political chores that are now incumbent upon the Presidency. This he proposes to do through a major reorganization and re-evaluation of the Vice-presidency.

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Elk Head To Be Catalogued As Latest Harvard Curiosa

BY HARTLEY CHAZEN

Above the stairway landing leading to the typing room in Langdell South hangs an old elk head. Its fur is moth-eaten, but a proud and bright flame shines in its ancient eyes. This old elk head is the oldest occupant of Langdell Hall.

Despite the fact that the head casts a dark shadow over the stairwell it appears to be somewhat of a mystery. Philip A. Putnam, Assistant Librarian of the Law School confided, "that elk head is the only thing in the school that we don't have in our catalogue. As a matter of fact, no one seems to have noticed that it was there. It's just like the wallpaper—no one ever sees it."

Langdell Hall was built in 1907-1908. According to Miss May McCarthy, who came to the school in 1910: "It was here, as I remember, when I came". Miss McCarthy was secretary to Deans Thayer and Pound. She has been retired for several years, but she continues on as Dean Roscoe Pound's personal secretary.

No reference is made to the elk head in the highly detailed and comprehensive *Centennial History of the Harvard Law School*, written by Prof. Zechariah Chafee, Jr. Prof. Chafee claims never to have noticed the elk head even though he taught in the typing room when it was a seminar room. "I must have passed the head for years", Prof. Chafee mused, "and I never noticed it."

It was Dean Pound who finally shed some light on the situation. "I remember seeing that elk head", he reflected, "back in 1889 when I came to Harvard as a student. It was hanging in Dean Langdell's office in Austin Hall. Now, I know that Dean Langdell would never buy something like that with Law School funds. I don't know who shot it, but it was hanging in his office when I first came here". Speculation as to how it may have gotten into Langdell Hall revealed the fact that the U. S. Navy had occupied Austin Hall in 1917, in the World War I equivalent of the V-2 program. It is quite possible that the Navy felt rather uncomfortable in the presence of the bust of this land-locked animal and requested that it depart to drier climes.

Librarian Putnam shook his head at these revelations and said, "I can't understand how this error of not cataloguing the elk could have been made; we have everything else". He indicated a shelf of four card files containing about 3500 pieces of art and curiosa that belong to



the school. Mr. Putnam opened his file and took out a card describing a *poikal* or vase that sat on the desk of Chief Justice Salmon P. Chase of the United States Supreme Court that the Law School had acquired. There were other cards that catalogued Great Seals, cartoons (including a collection of French pictures), busts, statues, and diplomas and warrants. "The seated statue of Joseph Story", Mr. Putnam pointed out, "was done by his son, Willis W. Story. Willis was a lawyer, but gave it up for his art". The statue stands in the entryway to the Main Entrance of Langdell Hall. "About the elk", Mr. Putnam went on, "We certainly are going to make out a card on it. I will have to put down its origins as unknown, but of course, I will include Mr. Pound's information. I am afraid that there will always be a cloud of mystery surrounding that elk head."

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CCNY Dominates Bugle, Three Alumni Contribute

The *Harvard Law Review* is a national publication, but the authors of the first three articles in Volume 69 share a common local background—all are graduates of the College of the City of New York.

But lest cries of undue influence be raised, it should be pointed out that there are, at the moment, no CCNY men serving as editors of the *Review*.

The article that will be cited as 69 *Harv. L. Rev.* 1 is *The Original Understanding and the Segregation Decision* by Alexander M. Bickel, CCNY '47, LL.B. Harvard '49. Mr. Bickel, a former editor of the *Review*, has been a law clerk to Judge Calvert Magruder of the First Circuit and Mr. Justice Frankfurter of the Supreme Court.

He is now a research fellow at the Law School, studying the private papers of Mr. Justice Brandeis. His article deals with the legislative history, in the 39th Congress in 1868, of the laws and plans which resulted in the adoption of the Fourteenth Amendment.

A technical area of the law reviewed in the article, *State Procedural Law in Federal Nondiversity Litigation*, 69 *Harv. L. Rev.* 66. This piece was written by Alfred Hill, CCNY '37, LL.B. Brooklyn Law School, '41, who is now professor of law at Southern Methodist University. Professor Hill, in his first contribution to the *Review*, divided up treatment of non-diversity cases by asking whether state-created or federally-created rights were primarily involved. The article examines the effect of *Erie R.R. v. Tompkins* in both



Felix Frankfurter

these areas.

The lead article in the December issue is by a veteran *Review* contributor, Mr. Justice Felix Frankfurter. A graduate of CCNY in 1902 and of Harvard Law School in 1906, Justice Frankfurter was a member of the Law School faculty when President Roosevelt appointed him to the Supreme Court in 1939.

Mr. Justice Frankfurter wrote on *John Marshall and the Judicial Function*. He read his article as the opening address at the Marshall Bicentennial Conference on "Government Under Law" on September 22.

In addition to an appraisal of Mr. Justice Marshall, the article goes on to give Mr. Frankfurter's own view of the judicial function. The author questions the need for "broad" judicial power, saying that courts may already have too much power. He pleads for adherence to "the spirit of law," in the sense of barring arbitrary action, but cautions judges against over-extension of the area of judicial decision.

Buddhist Discusses Cambodian Issues

The Venerable Vira Dharmawara, a spiritual leader of the Buddhist faith now in America as a guest of the State Department, was guest speaker at the Coffee Hour Tuesday afternoon. Attired in the robes of his religious order, Mr. Dharmawara discussed the problems confronting his nation in its difficult first years of independence.

He placed special emphasis upon the need for education in the development of newly-emergent states of Asia. Like many Buddhist monks, who are free to hold non-political public offices, Mr. Dharmawara is an advisor to the Cambodian government.

Rackets Restrung

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Sportsmen

Basketball players are wanted for competition in the Langdell Hoopsters League. All law students are eligible to participate, and may sign up in Hemenway Gym either as individuals or in teams. The Dormitory Council urges prospective athletes to sign up before Saturday, or notify League Director Marshall Harris at UN 4-4376.

Democrats Hear McCormack Speak

John W. McCormack (D., Mass.), present House majority leader, will speak on "Campaign Issues of 1956" Monday at 1:30 p.m. in the Harkness Meeting Room. The talk will be sponsored by the Harvard Law School Democratic Club.

Ralph G. Pagter, 2L of Washington, D. C., president of the Democratic Club, announced that this will be the first in a series of meetings at which prominent speakers will discuss the coming campaign. Tentative plans call for addresses by several senators, and a talk by Chester Bowles, former Governor of Connecticut and Ambassador to India.

Congressman McCormack has represented Massachusetts' Twelfth District since 1920. He has served as either majority floor leader or minority whip since 1940, and is currently a member of the House Committee on Government Operations.

Alumni Notes

LL.B. '43—W. V. Ludlam, Jr. has been appointed the Chairman of the Taxation Committee of the Mississippi State Bar Association.

LL.B. '48—Tom Reavley was recently appointed Secretary of State of Texas.

LL.B. '51—Edwin W. Tucker, having returned from a four year tour of active duty with the United States Air Force, has entered the private practice of law with offices at 50 Court Street, Brooklyn, N.Y.

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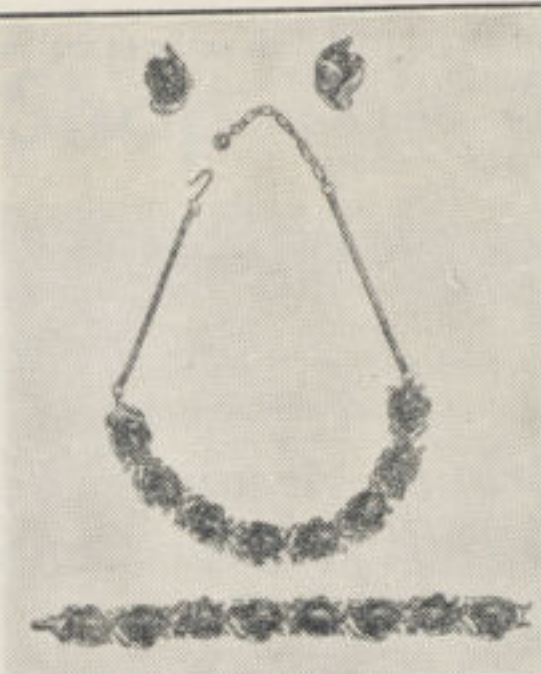
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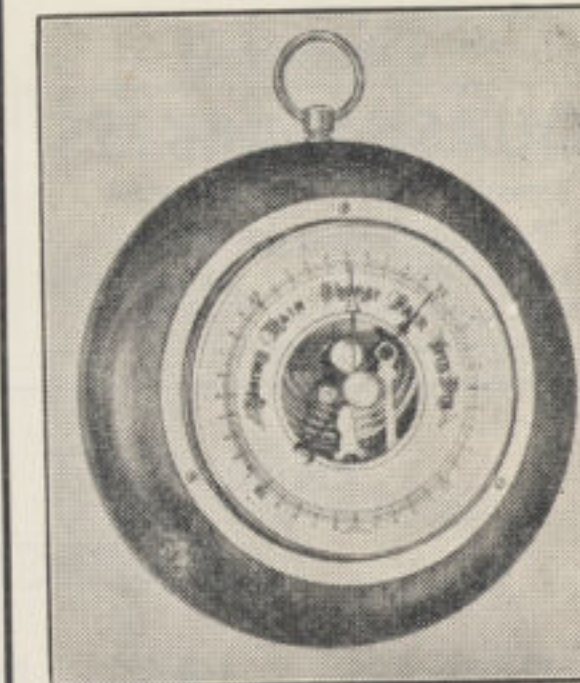
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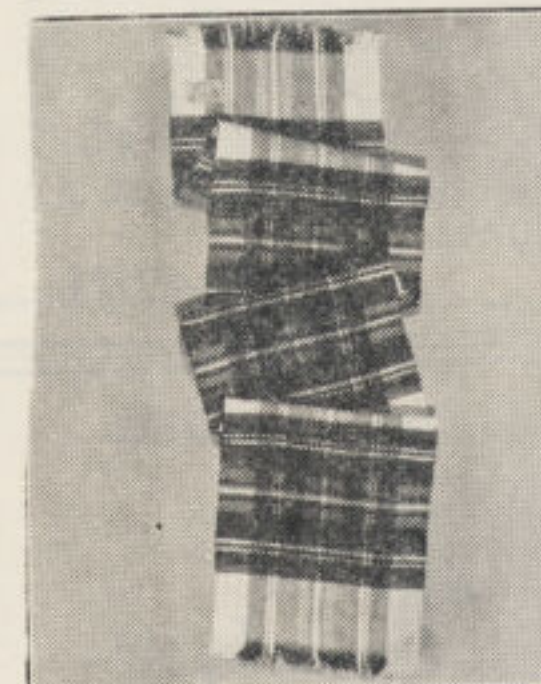
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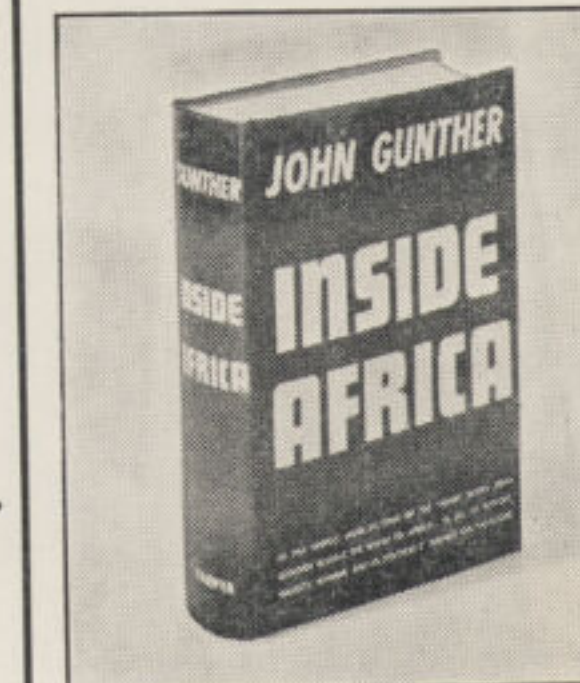
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