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UCLA
DOCKET

Vol. V—No. 4 March 1961

UCLA Law Students' Association

CONTRA

"Compensation Without Fault"

(EDITOR'S NOTE: Mr. Belli's comments on the CONTRA question "Compensation Without Fault" were to have been included alongside those expressed by Professor William Cohen, in the December issue of The Docket. Because of the delay and the "Answer" nature of Mr. Belli's argument we felt it only fair to allow Professor Cohen a "Reply".)

By MELVIN BELLI

There is only one basic issue in any legal system: *justice*. Abandoning the courts under the guise of expediency is unwarranted.

Living daily and at first hand with the personal injury victim, the trial bar, the men who prepare and try these cases, we are unconvinced that the proponents of the "commission plans" actually represent any real public demand for scheduled payments before administrative agencies. These would, of course, be under a "no fault system" requiring surrender, among others, of constitutional rights to trial by jury.

There is no "public clamor" for a radical reform unsupported by even a blueprint. The "speedy justice" proposers seriously underestimate the public feeling that somehow the jury system is a democratic safeguard.

Professor William Cohen, as have others before him, proposes: (1) Liability without fault in automobile accident cases (2) Relegation of automobile accident victims *only* to some unidentified tribunal where the saluation is "Good Morning, 'Mr. Commissioner'" in lieu of "Your Honor". This would be addressed in a quasi-judicial atmosphere where "every man his own lawyer". In any event lawyers would only "clutter up, clog and confuse" the orderly proceedings; (3) As a corollary to Items (1) and (2), my professorial friend proposes abolishing trial by jury and the foundations of a judicial system, the former which most students yet preserve some measure of devotion.

Conceding the vast problems of administration of any such plan, he poses the *issues* as follow: (1) Is a system of automobile compensation without fault more *rational* than a system based on fault? (2) Does fault have any legitimate part in any *governmental system of compensating* accident victims?

Liability without fault under a compensation system is neither rational, economically sound, nor socially desirable. Despite the slogans of alliterative phrase-makers describing our courts as "overcrowded, overburdened and overtaxed" — "clogged, cluttered and congested by the staggering burden of the automobile cases", the files of our brethern in the insurance industry, relating the ratio of cases tried to the total number of claims, indicate that *80 per cent, of the potential cases are disposed of without a lawsuit*. Of the residual 20 per cent, roughly 10 per cent, or

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Rebuttal

By WILLIAM COHEN
UCLA Professor of Law

Mr. Belli has either failed to read my statement or has deliberately attributed to me positions I did not espouse in order to set up straw men which are easier to blow down.

Briefly my December statement took pains to point out that most of the controversy surrounding accident compensation had missed the mark in that the battles had raged about administrative problems rather than the basic issue. Mr. Belli proves my case.

In line with my thesis that problems of administering a system of accident compensation (and I acknowledged that difficult problems exist) were secondary to the all-too-often overlooked central question whether fault is a legitimate cornerstone of automobile accident liability, I took pains *not* to recommend or espouse any particular method of administering such a system. Yet, Mr. Belli attributes to me the suggestion that such a system *must* be administered by a commission and the right of jury trial *must* be abolished. A denial of the paternity of these positions is not necessary for those who read my earlier piece. Nor did I advocate scheduled payments of inadequate compensation as *the* method of compensating accident victims. Finally I did not argue that accident compensation was necessary because of crowded court calendars, high contingent fees or the machinations of lawyers who "clutter up, clog and confuse orderly proceedings."

Simply put, my position was that "fault" is an irrele-

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School of Law Hosts Two Distinguished Visitors

Judge Clark Arrives For Month's Residence

The second of this semester's Regents' Lecturers in Law—United States Circuit Judge Charles E. Clark—officially began his month-long assignment speaking Monday night on the subject of "Making Courts Efficient."

During the coming weeks Judge Clark will conduct seminars and classes as follows:

Thursday, March 9, 2 p.m.: Seminar in Constitutional Litigation.

Monday, March 13, 3 p.m.: Discussion group with First Year Procedure, Section A. Faculty Lounge.

Tuesday, March 14, 3 p.m.: Discussion group with First Year Procedure, Section B. Faculty Lounge.

Tuesday, March 21, 3 p.m.: Discussion group with Remedies Class. Faculty Lounge (Students with names beginning A-M are invited to attend this session.)

Wednesday, March 22, 3 p.m.: Discussion group with Remedies class, Faculty Lounge (Students with names beginning N-Z are invited to attend this session.)

Judge Clark began a long and honors filled career in the law at Yale more than a half century ago. He received his LIB and was admitted to the Connecticut Bar in 1913. After a few years in private practice he returned to alma mater, rising in the academic world to Dean and Sterling Professor of Law. After a ten year period as dean, Judge Clark was appointed, in 1939, to the Federal Bench and the Court of Appeals of the Second Circuit, a position he still occupies.

JUDGE CLARK

During his years as a professor the Regents' Lecturer sharpened his active interest in procedural law and was a moving force in the adoption of the Federal Rules of Civil Procedure. He is also credited with overhaul and complete modernization of the court system of Puerto Rico, a reform that was effected in 1952.

Judge Clark is acknowledged by the profession to be one of the outstanding jurists in the American legal system. Through his opinions, articles and books he has established a position as one of the giants of the law.

Justice Traynor Ends Visit As Regents' Lecturer

In public lecture and private conversation, in casual seminars and school-wide forum presentations Judge Roger P. Traynor, Associate Justice of the California Supreme Court, filled his residency at the UCLA School of Law as the first Regents' Lecturer accredited to this graduate school.

During his stay the Justice was available daily to students and faculty for both scheduled and unscheduled sessions. He received his formal introduction to the UCLA community at an evening public lecture on February 14, delivered to an overflow audience in BAE 147. The intriguing title, "Sky ho, Ho Hum or Gung Ho!" effectively revealed the judge's concern for and involvement with the entire judicial process.

Taking as his main theme the role of the State's Supreme Court in the evolution and growth of our legal system, Justice Traynor described the necessity for a continuing evaluation of our laws in light of contemporary contexts and the requirement that they be kept "up to date" to serve the needs of the people governed.

He noted the dangers of "sky ho" judicial attitudes—where precedents are shattered without adequate justification, but also noted that a slavish obedience to precedent — "ho hum"—can be just as dangerous and defeating in our changing, expanding society.

The proper attitude, which

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Events Set For Law Day

"Ten Years of Progress." This is the theme selected to keynote the 1961 observance of Law Day at UCLA. On April 28, this institution will review the ten years that have passed since the school moved from very temporary quarters opposite Bullock's Westwood store to the Law Building.

Major events of the day include the final rounds of the Roscoe Pound Moot Court competition.

In the evening a dinner dance at the Deauville Country Club in Santa Monica will provide alumni with an opportunity to renew old acquaintances among themselves and the school's faculty. Highlight of the evening will be a ten year review of the school's progress by Dean Richard C. Maxwell.

Invitations and bids for the day's activities will be on their way to alumni and friends shortly, Chairman Nebenzahl promises.

LAW REVIEW EDITOR

Steinman to Clerk For Chief Justice

By MEL ALBAUM

For the third time in the ten years it has been graduating classes the UCLA School of Law has been honored by the selection of one of its students as clerk to a Justice of the United States Supreme Court.

Later this year Henry J. Steinman, Jr. will take up residence in Washington as clerk to Chief Justice Earl Warren and thus join alums Harvey Grossman, Law '54 and William Cohen, '56 who clerked for Associate Justice William O. Douglas. Mr. Cohen is currently a professor of law at UCLA. Mr. Grossman is in private practice locally.

The new appointee is currently serving as Editor-in-Chief of the UCLA Law Review. While an undergraduate, also at UCLA, he lettered in basketball.

Commenting on the appointment, Law School Dean Richard C. Maxwell noted that Steinman's selection "is another milestone in the accomplishments of the graduates of this school."

How does the appointee himself feel about the job awaiting him after graduation? He sees the honor as a "wonderful

(Continued on Page 2)

FIVE YEAR PLAN

UCLA School of Law Proposes Foreign Masters Degree Program

Within five years, the UCLA School of Law plans to offer a comprehensive program of graduate study for foreign students leading to the degree of Master of Comparative Law (M.C.L.) and to introduce a program of international legal studies for our own students.

Approximately 75 applications are received annually from foreign students who wish to undertake graduate legal study at UCLA. To meet this demand, activities have been initiated to equip the faculty to carry out such a program and to establish the necessary liaison with foreign lawyers and law schools.

The necessity and value of a program offering teaching and/or research opportunities is self evident. It serves the dual purpose of providing American training for a most influential segment of the population of other nations, and of providing an important group of American lawyers with an understanding of international and foreign problems essential to their effective participation in the affairs of the state, and the nation, in years to come. The continuing position of the Bar in providing leaders in this and other countries makes it essential that legal education include international considerations.

The initial area of development in international legal studies will be Latin America. This choice was made due to the interest of the faculty in this area, because of our proximity to the Latin American nations and the relative availability of materials and personnel. Future study of other areas of the world is also intended. The first manifestation of this intent will be a course in Islamic Law to be offered in the coming Fall semester.

Several members of the UCLA Law Faculty have some experience in foreign law. Prof. James H. Chadbourn was a member of the Salzburg Seminar faculty in the summer of 1960. Assoc. Prof. Norman Abrams served as Director of the Israeli Codification project of the Harvard Law School - Brandeis University. Prof. Addison Mueller has been invited to participate with President Ahama of Waseda University in Tokyo in conducting a seminar in Anglo-American Contract Law in the Spring of 1962. Prof. Murray L. Schwartz recently participated in a seminar of the Conference of the Inter-American Academy of International and Comparative Law at Havana, Cuba. Prof. James D. Sumner spent a recent sabbatical in Italy lecturing and conducting a study of Italian conflict of laws doctrine. Prof. Benjamin Aaron served as advisor on Japanese labor relations to General Douglas MacArthur during the American occupation of Japan.

The program will utilize this experience, as well as the entire faculty, toward the effective development of varied types of foreign and comparative law programs. Initially it will provide for faculty training in Latin American law, thus making UCLA more attractive to able foreign students, and broadening the education available to American law students.

School This Summer? Choose Courses Now

Courses to be offered during the 1961 Summer Session at the UCLA School of Law have been announced by the administration. Seven classes will be available and students will be permitted a maximum of eight units.

Five of the courses will be taught by UCLA School of Law faculty members. Two courses will be given by visiting professors.

One visiting professor for the summer session will be William O. Huie, LlB, SJD, professor of Law at the University of Texas. Professor Huie is scheduled to teach a three unit course in **OIL AND GAS.**

The other visitor will be Monrad G. Paulsen, AB, JD, professor of Law at Columbia University. Professor Paulsen will teach **CONFLICTS OF LAWS,** also 3 units.

Instruction for the summer session will begin on June 19 and conclude August 11. Fee for the summer courses is $30 per unit and a maximum of $150.

The courses to be offered are as follows:

S 301 OIL AND GAS

The common law concepts, legislative enactments and legal documents relating to the business of producing oil and gas. Professor Huie.

S 308 CONFLICT OF LAWS

A study of the special problems which arise when the significant facts of a case are connected with more than one jurisdiction. Recognition and effect of foreign judgments; choice of law; federal courts and conflict of laws; the United States Constitution and conflict of laws. Professor Paulsen.

S 314 FUTURE INTERESTS

A study of the problems arising out of the creation of successive interests in land and personalty. Included is a consideration of the variety of future interests, of the devices employed to create future interests, and of the problems of construction of language often used in conveyances creating future interests. Two units. Professor Verrall.

S 325 LEGAL AID

Training, under supervision of legal aid attorneys, in interviewing clients and witnesses, analysis of actual legal problems, drafting legal documents, and preparing cases for trial. One Unit. Mr. Franke.

S 321 LEGISLATION

The methods of the legislative process; lobbying; the investigative and enactment process; problems of legislative drafting. Two units. Professor Abrams.

S332 FEDERAL ESTATE AND GIFT TAXATION

Items includable in gross estates of decedents, valuation, deductions and credits; computation; special tax and other problems in planning of estates. Three Units. Professor Rice.

S 339 SECURITY TRANSACTIONS

Secured transactions relating to real estate, chattels, choses in action and third-party undertakings. Two units. Professor Maxwell.

Boston Beware— Chad to Harvard!

UCLA's Connell Professor of Law James H. Chadbourn is scheduled to carry his wit and learning to one of the less-favored backwaters of American legal education during the 1961 School Year. Harvard college, reportedly hard-hit by governmental draft since the change of Administration in January, has secured the services of this school's distinguished Procedure and Evidence authority.

Professor Chadbourn is scheduled to teach first-year Procedure and third-year Evidence courses at the Beantown institution as a visiting Professor.

This year's first year class will be pleased to learn that as of September, 1962, Professor Chadbourn will be back at UCLA, ready to take up his usual third year seminar course.

To make certain that he won't be forgotten by California lawyers and law students during his year's absence a reminder in the form of a two volume work on California pleading and practice has been published recently, in co-authorship with UCLA colleague Professor Arvo Van Alystyne. The work, which will be used by the Continuing Education of the Bar Committee, is an extensive and exhaustive treatment of the subject of procedure in the California courts.

(Editor's Note: Wouldn't you like to be present—as a visitor — at the first day of class in the Procedure course at Harvard this Fall?)

PROF. WARREN

As one of the first steps leading to establishment of Master of Law program at UCLA, Prof. William D. Warren will spend time this summer in Mexico investigating Mexican laws in the area of Commercial Transactions.

Steinman . . .

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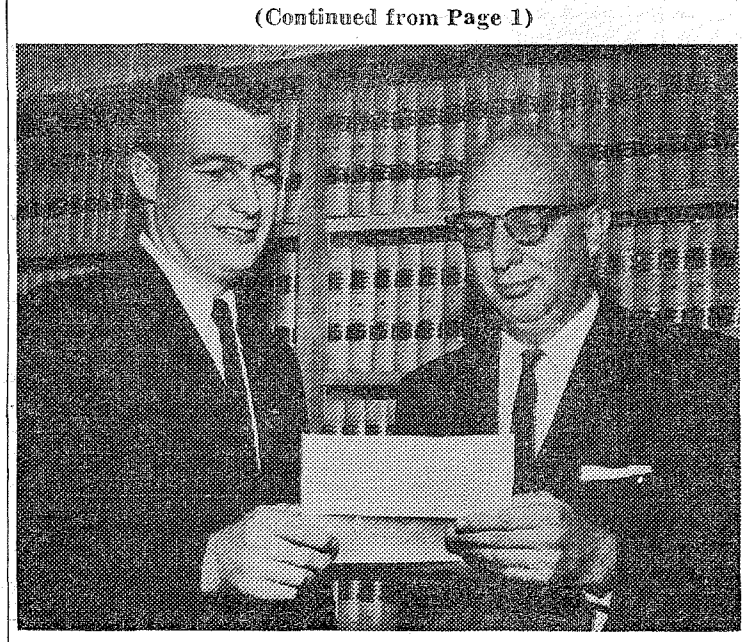

EDITOR STEINMAN AND DEAN MAXWELL

learning opportunity: to see and participate in the judicial process first hand, to meet the finest attorneys in the United States, read their briefs, and to listen to their arguments before the nation's highest bench."

In his undergraduate days, Hank had no thought of even entering law school, let alone acquiring the distinctions he has recorded. At that time he was a Physical Education major, playing varsity basketball, and admittedly not devoting the greatest effort to his studies. He was looking forward to being an athletic coach in the secondary school system.

After graduation he entered the service from the Naval ROTC program and served for 39 months as a jet pilot. With a newly acquired wife on his arm and the GI Bill in his pocket after he left the military, Hank decided to pursue his studies. But he didn't know whether he had the intellectual capabilities He had never studied seriously. So he took courses in Business Administration for a year. When he received straight A's in the courses and did well in the Princeton Exam, he set his sights on Law School.

When he entered UCLA Law School in 1957 it was "with hopes of just passing and with no idea of Law Review." But when the first-year midterm exams revealed a 78 overall average, Hank set his sights higher. At the end of the first year he was second in his class. He is second in his class today.

Hank admits that when he was appointed to Law Review, he thought that it was a fluke he had done so well. But looking back on the experience, Hank feels that Law Review was the most rewarding aspect of his studies:

"Law Review has tremendous effect on your studies, but not on your grades. You spend 20 to 30 per cent less times on your studies than you did the first year, but you are spending more time on law. Everyone is surprised that grades are not affected by this, and the reason is that you are learning to think and analyze legal problems. So you may not know the rules of law as well, but you have a better legal mind. The superior analytical writing ability which you acquire through Law Review more than compensates for any lack of substantive law you may have in any particular course."

"Your grades are not going to change two points by knowing 20 times as much substantive law," Hank said. "Your grades are going to be based on your ability to analyze a fact situation in a lawyer-like fashion.

"Moot court is a valuable program," Hank said, "but there is no question but that a superior training will be obtained through Law Review. It is the only truly respected extracurricular activity the Law School has to offer. If I had not been on Law Review, I would have been in the Moot Court program. But everyone should have as a goal his first year attaining Law Review status."

Commenting on the interrelationship of marriage and law school, Hank said: "A married man has a tremendous advantage over a bachelor in that the family can adjust to his

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Traynor . . .

(Continued from Page 1)

he described as "Gung Ho," implies that all concerned continue the processes of active thought in solving the vexing problems that confront the courts—and by logical extension—the legislature, the law schools, lawyers and the public.

During the two weeks following this first lecture Judge Traynor embarked on a program coordinated by Professor of Law William D. Warren, of maximum exposure to faculty and students. Seminars, special class sessions and a Legal Forum meeting were conducted by the Judge.

In re-establishing his academic credentials (see story page 4) Judge Traynor made it apparent, as Dean Richard C. Maxwell pointed out "although Judge Traynor has been away from teaching for a long time, it is obvious he is still one of the best in the business. All of us have profited greatly by his presence here."

Dean Maxwell summed up the school's concensus when he commented that "it was a delightful experience."

Alumni Group Announces Scholarship Awardees

The Alumni Association of the UCLA School of Law has announced a disposition of funds in the scholarship pool of the Association.

Gordon Pearce, president of the Alumni Association, has announced that June 1960 Graduate Stanley Fimberg received the Association award for attaining the highest scholastic average in his graduating class. Fimberg was Editor-in-Chief of the Law Review as well as scholastic leader of the class.

Recipients of $250 scholarships were second year students Kieth Groneman and Arlington Robbins. President Pearce also announced that loans aggregating $1000 were made to Law School students in recent months.

ALUMNI NOTES — President Pearce has also revealed a policy change concerning payment of dues. Beginning January 1, 1962, dues for the Association will be payable on a calendar basis, rather than on a June-to-June schedule . . . As an inducement for recent graduates to join the Association membership cards will be sent to each member of the graduating class. Dues will not have to be paid until the following January . . . All members of the Association have been urged by the President to plan to attend the annual Law Day festivities on April 28. He notes that the Alumni association is a co-sponsor of the evening dinner-dance, to be held this year at the Deauville Club in Santa Monica. Tickets for the event, at $4.75 per person, will be available shortly from Association representatives.

Second LIB Won By January Grad

By MEL ALBAUM

Among this year's January graduates, now diligently preparing to take the Bar examination this month, is 57-year-old Andrew Haberfield. A refugee, first from the Nazis, then from the communists in Czechoslovakia, Andy sought asylum in the United States and is now about to embark on a new life as attorney with the U.S. Treasury Department, after achieving the distinction of being the oldest graduate of UCLA Law School.

Andy had been a practicing attorney in Czechoslovakia after receiving his doctor-in-law degree there in 1926. But in 1939 he was in England on business with a group of clients when the war broke out. Being Jewish, Haberfield could not return. His wife and son were forced to flee. They lost everything they possessed, went underground, sheltered by various friends and finally by peasants in the forest for the duration of the war.

During this time Andy participated in the Czech government in exile. After the war he was reunited with his family in Prague, where he was appointed head of the Department of Corporations and Business Associations. At that time the government was still basically democratic, but moving toward increasingly closer coalition with the communists.

Andy wrote a number of articles published in legal and economic journals as well as two books, one of which was entitled **The Effect of Nationalization on Corporations.** His writings took a position decidedly opposed to the communist policy gaining ascendence at that time. He was summoned to the **cabinet noir** and warned not to publish anything further without submitting it for censorship. In addition he was relieved of his position and stripped of his political force.

Sensing the impending danger, Andy and his family immigrated to the United States in the summer of 1947. Six months later the communists took over his country.

After working in the shipping and export business in New York until 1951, Andy, then 48 years old, moved to California to become a poultry farmer.

Finally, in 1958, in spite of his age, in spite of the language barrier, in spite of the fact that he would not be granted one unit of credit for his former studies, Andy decided to re-embark on his career in law and enrolled as a full-time student in the UCLA Law School.

"I spent all my time studying and reading," Andy said. And so did the rest of his family. His wife studied bookkeeping and took a job with the Los Angeles Board of Education. His son, 27, received his PhD in organic chemistry at UCLA last year, and his daughter, Eve, is graduating from junior high school this year, an honor student.

The most difficult courses for Andy were Procedure and Evidence, for here the rules are very tchnical and completely different.

Comparing the study of law in America and on the continent, Andy said: "Legal education is much more difficult here. It is more speculative and demands much greater vocabulary, because you have to go deep into the cases to extract your rules. In Civil Law countries you simply study the rules of law as they are.

"American law is also more complex because the economy is more complicated," he added. "Corporation law is an example. The difference between the two systems is not so much in the basic principles of law, but in the growth and complexity of the total system. The complex economy of America has resulted in more complex and diversified rules of law."

For Andy, these aspects had to be relearned, and here he felt his knowledge of the European system may have hindered rather than helped him.

Summing up Andy said, "I found that American boys are very friendly, good friends, and although it was hard, if I had it to do again, it would be worth it for the sake of the knowledge I have gained. I already miss the ivory tower. But now that I have a degree in both great systems of Western Civilization, I would feel guilty if I were not able to use my knowledge in some international field, comparative law or teaching."

18 Earn Mid-Year Degrees

If things seem less crowded this semester than last, credit the 18 students who completed their legal educations during the Fall semester.

According to the school administration this was the number certified for graduation as of January 25, 1961.

In alphabetical order, the the grads were: **William F. Anderson, Richard H. Bein, Brian Crahan, Dennis W. Fredrickson, Earle J. Gibbons, Andrew Haberfield, John Albert Harvey, Marvin S. Haslin, Donald C. McDaniel, Edward M. Mizrahi, James A. Nakano, Gilbert E. Newton, Roger A. Peters, Don B. Rolley, James L. Roper, Bette Lou Schick, William S. Scully, James R. Tweedy.**

Now all they have to do is study for the Bar! Congratulations and good luck.

HABERFIELD

Out of the Ivory Tower

News from Faculty Row

By PHYLLIS HIX

March 9 will find **Dean Maxwell** attending the Law Alumni Scholarship Foundation Dinner; an annual Spring event for planning the Law School Scholarship drive. He will also attend the annual Berkeley-UCLA Joint Faculty Conference on March 17, at which problems common to both schools are to be discussed. Finally, the Dean will journey out of the state to address the Utah State Bar, March 24, on the subject of "Damages".

Assistant Dean Murray Schwartz will speak on the subject of "Legal Ethics" at the district conclave of Phi Alpha Delta Legal Fraternity, March 25, at the Ambassador Hotel in Los Angeles.

The Curriculum Committee of the Association of American Law Schools has announced the chairmanship of **Professor Kenneth H. York** for the coming year. In addition **Mr. York** will spend his summer at the University of Utah where he will teach Security Transactions.

A monograph on the "Legal Status of Employee Benefit Rights Under Private Pension Plans" by **Professor Benjamin Aaron** will be published this month as one of a series under sponsorship by the Pension Research Council of the Wharton School. **Mr. Aaron** also has an article in the Spring issue of the Ohio State Law Journal entitled, "Some Aspects of Union Duty of Fair Representation". His current schedule includes an address before the Federal Bar Association when it meets in Los Angeles in April.

Professor William Cohen will have an article in the Spring issue of the Minnesota Law Review. Under the heading of Federal Jurisdiction the article deals with the procedure of removing cases from state to federal courts.

The students and faculty join in welcoming back **Professor L. Dale Coffman** after an absence due to illness.

Since our last issue two faculty members have increased their families. The **Norman Abrams** welcomed daughter **Julie** on December 5, 1960; and **Mr. and Mrs. Joseph Vodnoy** became the parents of **Mimi** on January 19, 1961.

Forum Series Chairman Explains Spring Policy

(Editor's Note: The Author of the article below, Al Moon, is Chairman for LSA of the Legal Forum Series. Because of the questions that have arisen concerning the Forum Series for the Spring Semester and its relationship to the Senior Lectures on Friday afternoons, The Docket has asked the chairman for a clarification, and it is presented here.)

BY AL MOON

Since there have been questions concerning the Annual Senior Lectures on Friday afternoons, it was deemed advisable to have an explanation in this issue of The Docket. These lectures ,which are part of the Practice Court course, are co-sponsored by the Legal Forum Committee. In cooperation with Dean Maxwell, a policy has been established to emphasize these lectures for the third year class only. This does not mean that other students are not allowed to attend.

In explanation, it might be wise to give some background. These lectures were initiated by Judge Mathes, who is in charge of the Practice Court, at a time several years ago when the course was generally elected by all seniors. Since then, the addition of more electives, including seminars, to the third year has resulted in a decrease in attendance.

It is hoped that, by establishing these lectures over the years as a **traditional** part of the third year curriculum, seniors will attend in numbers indicating recognition of their value.

These lectures are designed for seniors to provide practical information to bridge the gap between law school and law practice.

Their subject matter is such that they can be best appreciated by seniors, and likewise, they are of more value to seniors, who will soon be putting such knowledge to practical use.

Since the same lectures are given each year, it is therefore desirable that students wait until their third year to attend them, at which time they will derive the most benefit from them. (Of course, those students who are accelerating should attend the lectures during their second year, since they are given only in the spring.)

For the seniors, attendance at the Annual Senior Lectures is time well spent. All of the speakers are leaders in the fields about which they speak. Emphasis is on solid, bread-and-butter techniques of law practice. The knowledge imparted at each one or two hour lecture would require days, perhaps even years, to acquire in your own practice of law.

Int'l Law Expert Speaks March 13

Dr. Otto Kahn-Fruend, professor of law at the University of London's School of Economics & Political Science, presents his views on "Frontiers of Law in Industrial Relations" at the UCLA School of Law on Monday, March 13.

The speaker is an internationally known authority on comparative labor law. His visit here is jointly sponsored by Institute of Industrial Relations, the Institute of International and Foreign Studies and the School of Law.

Currently a visiting professor at Ohio State Law School, Dr. Kuhn-Freund also is scheduled to deliver talks at Stanford and Berkeley on a west coast visit this month.

Professor Benjamin Aaron, of the law school faculty, is representing the School in arrangements for the lecture.

Dr. Kahn-Freund was a judge in his native Germany between 1928 and 1933. He holds a Doctor of Jurisprudence degree from the University of Frankfort and a Master of Laws degree from the University of London. In the United States he has been a visiting professor at the Yale and University of Pennsylvania Law Schools, in addition to his current assignment at Ohio State University.

Commenting on Dr. Kahn-Freund's visit here on the thirteenth, Professor Aaron noted that "it is a rare privilege to be able to host so outstanding a figure." Professor Aaron noted that the visiting lecturer is one of the world's foremost authorities in his field of comparative labor law and urged all students to take advantage of the opportunity to hear him speak.

Docket Dicta

Foreign Grad School

Another link is soon to be forged for strengthening our natural ties with Latin America. The plans for a foreign graduate school, announced by the administration last week, envision a beginning concentration on Latin-American Law.

Professor Warren's special project in Mexico next summer will be followed, it is hoped, by similar journeys over the next five years by other professors to culminate in the creation of a graduate school for foreign attorneys.

The administration is to be complimented, not only because of the importance of this program, but because of its foresight and step by step planning toward the achievment of such a worthwhile goal.

Steinman's Appointment

The news that Henry Steinman was appointed law clerk to Chief Justice Warren created great excitement on campus last week. "Hank," popular editor-in-chief of the UCLA Law Review follows in the proud foot-steps of two other notable alumni, Prof. William Cohen and Harvey Grossman, both of whom served in similar capacity to Supreme Court Justice William O. Douglas.

We share the general feeling that this is just the beginning of an illustrious and distinguished legal career for "Hank," and he will continue to bring honor to himself and UCLA Law School.

The President Speaks

To the Student Body:

Between Finals, seminars, and preparation for classes, the Executive Committee has found itself somewhat short of time lately; nevertheless, over the past couple of months, we have seen several interesting developments.

The prospect for increased scholarship funds is very bright, although I am not free at the present to disclose just how this will be done. If present plans materialize, and the only contingency is time, available funds will be increased by $2,500 annually. This, of course, will broaden the scope of scholarship aid immeasurably.

Due to the increased size of the student body, it has become all too apparent that the existing lounge facilities have become inadequate. This is reflected by the Lounge's perpetual littered condition. There have been complaints about student appearance, most of which have emanated from students themselves. Finally, concern has been expressed about the lack of student interest in school affairs. Many of us feel that all these problems stem from a common cause, or are related to a common factor. However, in order that the Executive Committee can function effectively, it must have a broad idea of membership thought on these matters. A general meeting has therefore been called to initiate the thinking processess, and all ideas about morale and related problems will be welcome.

Spring Elections will be upon us soon, so be thinking about prospective L.S.A. and Class officers for next year.

You all have read recently in the **Student Lawyer** about A.L.S.A. Life Insurance — $12,000 worth of convertible term insurance for $50 annual premiums. If any of you are interested in this offer, applications are available in the L.S.A. office.

It loks as though there will be no further assessment for Spring bluebooks; and, unless a more practical method of handling them in the future appears, L.S.A. will abandon this function to the individual students. As pointed out previously, with present income definitely at its ceiling and expenses rising constantly, it was impractical to continue to supply free bluebooks.

Copies of the L.S.A. Constitution and By-laws are now available at the L.S.A. office.

JOHN R. LIEBMAN
President, Law Students Assn.

UCLA DOCKET

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KNOW YOUR JUDICIARY

Hon. Roger J. Traynor
Justice, California Supreme Court

By ROSELYN BRASSELL and MEL SPRINGER

(Some questions and frank answers from last month's Regent's Lecturer in Law)

Q: What do you think of the quality of legal education in California?

A: It is excellent and has been consistently improving. The caliber of recent graduates shows up in the arguments before appellate courts where the younger lawyer often outperforms his elder. In my opinion, the scope of the curriculum is sufficient and, if anything, might be narrowed down. Twenty years ago the pressure on the curriculum was terrific. There is even more now.

Q: To what extent, if any, does a judge's law clerk influence his decision or write his opinions?

A: A great deal, if the clerk and the judge work closely to-gether. The chief contribution of the law clerk is in research and in providing a sounding board to help the judge keep his thinking straight. The clerk's work load in preparing memoranda is extremely heavy. Every case in which a writ is requested must be researched and reported upon, and each of these cases is assigned to one of the six Associate Justices. The clerk, therefore, must handle roughly one-sixth of all the cases that come before the court. His function in research is to focus the judge's attention on the primary issues involved and, of course, to give the judge the benefit of whatever case law and statutory material may be applicable. Almost all opinions, however, are written by the judges themselves, but with a great deal of help from the clerk's memorandum.

Q: Why did you become and remain a judge?

A: I can only wear one pair of shoes at a time, and you can see that I'm not undernourished. It is the intellectual freedom that you have in working out solutions that you think are sound rather than being an advocate for a party. Its a matter of temperament, I guess. I enjoy teaching, too. The change of pace of a visiting professorship allows me to work on a single subject long enough to go into greater depth. On the other hand, each appellate case demands great concentration. Then you must erase it from your mind and go on to the next.

Q: Is there ever a problem of pressure from friends or politicians?

A: No! That's no problem at all. Most people wouldn't dream of suggesting anything to a judge about a pending case. Anytime a question is asked, I just say I can't talk about it because the matter is still pending. I had to give that answer to a few students here who sought information about a certain case not yet decided. But there is no problem. People have too much respect for courts. I believe they really want the courts to be the best they can get.

Q: What do you think about the present method of selecting the members of the judiciary in California?

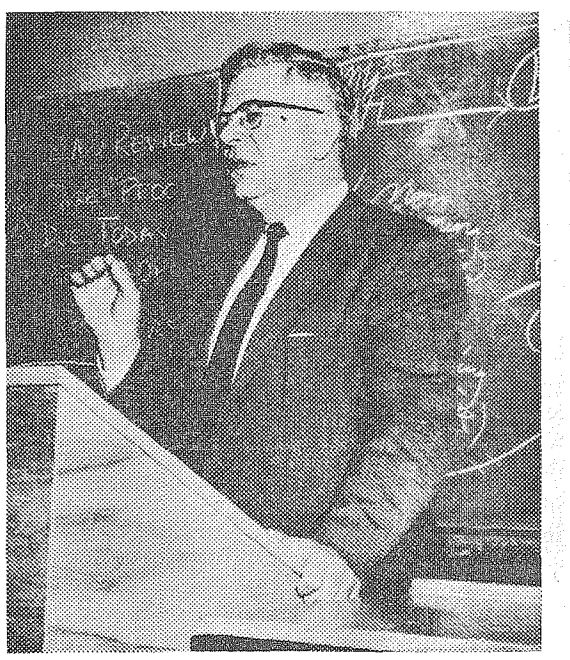
A: I think it is good. The appointment rather than the election of appellate judges is a safeguard against the kind of pressure you asked about before. The Governor has complete freedom in his choice of judges. The practice started under Governor Warren to refer names of prospective appointees to the State Bar for appraisel and opinion. Appointment is the only way to get on the appellate bench, although on the trial court level one can run for election against the incumbent. Still, most judges are appointed by the Governor. There is no legal requirement to submit the names to the State Bar, but the practice is being followed.

Q: Have you ever been in danger, or threatened by anyone?

A: The judiciary is r a r e l y subjected to threats or abuse. Sometimes you get sad cases of mentally unbalanced people who feel there has been an injustice. They come up to the bailiff's office and want to see the judge. This doesn't happen very often, and usually is in cases where res judicata or time of appeal has been controlling. As to threats from convicted criminals or their friends, that only happens in detective stories.

Q: Should the judiciary enter the political arena?

A: I have always felt that a judge should stay completely out of politics. It's hard to think of anything that might not come before a court, and the court should be completely free of commitments on the outside. Judges should express their own political views on issues, but they should not go out and make speeches for candidates nor tie in with political movements.



JUSTICE TRAYNOR
In action at UCLA

Q: What are the relative weights of the policy factors determining judicial decision?

A: There's usually no problem s i n c e the court follows **stare decisis.** The tough case is the one where this is no controlling precedent, or where precendent should be overruled. There are some instances where following the law creates injustice, but it is much better to follow the law. For instance, where the issue is **res judicata,** there must be an end to litigation, and while particular litigants suffer, the community at large benefits. The same philosophy applies to the **statute of limiations.** But since both law and policy are striving for justice, I see no conflict in the overall picture.

Q: What are your views on the McNaghten rule?

A: We haven't found anything better. I don't think **Durham** is the solution. Except for capital punishment cases the rule wouldn't appear to make too much difference, since the question is usually whether to put the defendant behind the four walls of a prison or the four walls of a mental hospital. But the **Wells** and **Gorshen** decisions, allowing psychiatric testimony at the "trial on the merits" on the question of intent rather than at a separate sanity hearing, make it possible for some psychiatrists to testify more honestly. They don't have to fudge as much as some must do under the **McNaghten** rule, regarding intent.

Q: What were your most humorous and most important cases?

A: I don't really believe there are any humorous cases. Almost every decision the court makes is tragedy to somebody. Wit sometimes has its place in the court, but even though a judge many times has a temptation to write a humorous opinion, judicial humor should only rarely be put into the public print.

As to my most important case, the answer is 'all of them'. I would be hard put to tell you when I thought a question of law wasn't important.

GUEST WRITER–Prof. Howard Taubenfeld

'Santa Maria' Incident & The Laws of Piracy

(Editor's Note: Howard J. Taubenfeld, author for The Docket of "Piracy—1961" is professor of law at Golden Gate College in San Francisco. Professor Taubenfeld holds a PhD in international relations as well as an L.I.B. His comments on the Santa Maria incident and its ramifications in international legal circles were specially prepared for The Docket. Our thanks to Professor Taubenfeld for his perceptive and entertaining analysis.)

For a few days in January, it seemed that the name Galvao, skipper through firepower of the Santa Maria, might take its place beside that of Kidd, Bonnet and Blackbeard as the Navy Department sought to intercept the vessel "under the well-defined terms of international law governing piracy and insurrection aboard the ship." By January 25th, the Navy had learned how ill-defined the laws governing piracy actually are and by early February Galvao was a gallant political rebel, in exile in Brazil, and the Santa Maria was back in Portuguese hands.

The word "pirate" may conjure up clear-cut visions of blood-thirsty cut-throats slaughtering the innocent and preying on the defenseless in costumes like that of Captain Hook, but in international law the term piracy, like so many others in common use, has no authoritative definition. Piracy has as its field of operations the vast domain of the high seas and for many centuries, to assure law and order in these sovereign-free reaches, piracy has been considered a crime against the law of nations. Any state seizing pirates can try and punish them—they commit, in Justice Story's word, "an offense against the law of society, a pirate being deemed an enemy of the human race . . . " He is, in that wonderful phrase **hostis humani generis,** though, as Judge John Bassett Moore pointed out in **The Lotus,** in 1927, "the municipal law of many States (also) denominate and punish as 'piracy' numerous acts which do not constitute piracy by the law of nations, and which therefore are not of universal cognisance, so as to be punishable by all nations."

All this throws light on the vagueness of the concept of piracy **jure gentium** and indicates the dificulties inherent in a situation where all states have jurisdiction over a crime for which there is no universally accepted definition. while we can assert confidently that one who loots, plunders, pillages by force of arms, rapes, enslaves, steals and murders on the high seas, for private ends, in the best classic tradition is a pirate, where does this leave Galvao?

While there are a few cases suggesting that the seizure of a single ship by persons having an intention of universal hostility might be piracy **jure gentium,** Galvao claimed to be, in effect, an official of an insurgent government and we have ample proof in history that acts which would be piracy if perpetrated by an individual may well be normal acts of state. In at least one instance, the case of **The Magellan Pirates** in 1851, insurgents from the Chilean garrison at Punta Arenas who seized a British and American vessel, killed the masters and owners, plundered the vessels and put out to sea, were held by the British High Court of Admiralty to be pirates. Now however we have a Portuguese insurrectionist, on a Portuguese ship, not acting for personal gain.

Since the Latin American states have tended to be politically dynamic, they have given special attention to this question. The Pan American Convention on Duties and Rights of States in the Event of Civil Strife provides, for example, that "the declaration of piracy against vesels which have risen in arms, emanating from a government, is not binding upon the other states" though a state "injured" by depradations emanating from an "insurgent" merchant vessel can "capture and subject it to the appropriate penal laws." An "insurgent" vessel arriving at a foreign port is to be turned over to the constituted government, the crew being treated as politial refugees. Clearly the Santa Maria might be fitted into this category by a sympathetic government.

There is another related and very interesting feature of the old rule of piracy. As we can see on the domestic scene, a group can slip over gradually from piracy to respectability. In diplomatic circles, for instance, it is possible for even those starting as **acknowledged** pirates to receive in time recognition as a government.

One thing at least emerges from this brief historical glance and from the Santa Maria episode. It is legally practical to do violence to life and property on the seas in the name of some sovereign and probably in at least a recognized insurgent cause. As our hero Galvao has wisley demonstrated, the line between respectable belligerency and criminal piracy is subtle but significant. Gilbert's Pirate King may have been quite right and honorable in boasting:

"When I sally forth to seek my prey
I help myself in a royal way:

(Continued on Page 8)

Contra: Prof. Cohen

(Continued from Page 1)

vant and capricious issue on which to base eligibilty or inelgibility for compensaton. Mr. Belli, after he poses the question, writes not a word which focuses on that question. He tells us of the inadequate awards in Saskatchewan (although Saskatchewan has retained, *in addition* to these minimal awards, common law liability for negligence). He tells us that law suits are not games. He tells us that courts have developed doctrines of liability without reference to fault, (without telling us why a legislature cannot rationally extend those doctrines to the automobile accident). Finally, he decries "automated justice." But why should a defendant's "fault" be necessary to recovery by Mr. Belli's unfortunate clients? Is Mr. Belli concerned with equally unfortunate automobile accident victims who are denied *all* compensation because their injuries cannot be attributed to another person's "fault"? Mr. Belli does not say.

If fault *is* an irrational issue in automobile accident cases, justice becomes no more automated when it is discarded than justice became when the totally irrational fellow servant doctrine was discarded in cases of employee accidents. If Mr. Belli believes that elimination of the fault issue must *inevitably* lead to inflexible, impersonal and inadequate awards, I disagree. If Mr. Belli believes that the way of justice lies in denying *all* compensation to the victim of an automobile accident who cannot trace his injuries to a defendant "at fault," I disagree. But, if Mr. Belli believes with me that "fault" as a basis for liability cannot be defended (and he does not try to defend it), let us both call for responsible people to work seriously on the problems of administering a system not bottomed on fault before we conclude the difficulties are insuperable. If my lawyerly friend and I have a quarrel, we do not seem to be quarreling about the same things.

STEINMAN . . .

(Continued from page 2)

problems, schedule and time for social activities, where as a bachelor has to adjust much more to social life.

"It is very difficult for wives. It takes a wife who is very understanding of what your interests and goals are. I think my wife has had a tremendous influence on my success in law school with her attitude."

Looking back on the three years with respect to difficulty and time consumed, Hank made these observations:

"The first year I spent 45 hours a week in addition to classes. The second year I spent 60 hours a week, 45 of which were Law Review. Third year was the same, only almost all of it Law Review.

"If you are on Law Review the second year is definitely the hardest. If you are not on Law Review, the second year is hardest in terms of substance, but the first is more difficult in that you can't be sure of whether you are taking the right approach.

"The third year without Law Review would probably be relatively boring. I look forward to this Law School's devoting a third year entirely to seminar study.

"Programs like the Legal-Medical Seminar offered this year are very valuable for the law student," he added.

"UCLA is really beginning to achieve nation-wide status as one of the finest legal institutions in the country," Hank added, "and anything we can do to spread our graduates around is good for the school. So whereas this clerkship is personally prestigeous for me, I am also elated about it for the sake of the Law School."

Justice Traynor— A Pocket Biography

Roger J. Traynor, Associate Justice of the Supreme Court of California, was born in Park City, Utah, in 1900 and lived there with his parents, Felix and Elizabeth Traynor, until his graduation from Park City High School in 1918. He then served in the student Army Training Corps at the University of Utah until the end of that year, and for some months thereafter worked at the Silver King Mill. In August, 1919, he entered the University of California where for four years he held the Willard D. Thompson Scholarship for students from Utah. He was elected to Phi Beta Kappa, Alpha Pi Zeta (political science honor society), and Pi Delta Phi (French honor society). Upon graduation with highest honors in 1923 he received a teaching fellowship for two years in the political science department, and in 1926 an instructorship.

Meanwhile, after receiving an M.A. in 1924, he simultaneously undertook work on a doctoral dissertation in political science and entered law school, where he was elected to the Order of the Coif and served as editor-in-chief of the California LAW REVIEW. He divided his time between teaching political science, editing the LAW REVIEW, and completing his work for a Ph.D. and for a law degree, which were simultaneously conferred upon him at the University of California in 1927. He also holds an LL.D. from the University of California, conferred upon him in 1958 and an LL.D. from the University of Chicago, conferred in 1960 at the dedication of its new law school building.

Following his admission to the California Bar in 1927, he entered private practice in San Francisco with the firm of Brobeck, Phleger, and Harrison. Within a few months he gave up practice to accept the offer of an appointment to the law school faculty at the University of California, where he served as associate professor, then professor, and then as acting dean for one year until 1940, when he was appointed to the Supreme Court of California.

In 1933 he married Madeleine Emilie Lackman, also a graduate of the University of California, where she received her B.A. and was commencement speaker. Recently, after the children of the family were grown, she acquired an LL.B. from the University of California law school. Of the three sons in the family, the youngest, Stephen Pierre, died in 1952. The other two are John Michael, a recent graduate of the University of California at Berkeley and of the Harvard Law School, and Joseph Malachy, a recent graduate of the University of California at Davis.

Since his appointment to the Supreme Court of California on August 13, 1940, many of his opinions have found their way into casebooks in various fields of the law, and have become familiar to a generation of students. He has himself continued to have a lively interest in education and the welfare of students. He served for several years as a director of International House in Berkeley, and currently is a member of the Advisory Board of the School of Business Administration at the University of California. He has been a member since 1940 of the California State Bar Committee on Cooperation with Law Schools. In recent years he has devoted summer vacation periods to teaching law students, a task he regards as affording valuable perspective on his judicial work. He taught a summer course in Conflict of Laws at the University of Chicago in 1957 and 1959, and at the Stanford University Law School in 1960. In the summer of 1956 he lectured at the Seminar in American Studies at Salzburg, attended by lawyers and judges from many countries in Europe.

(Thanks to the Utah Chapter, Order of the Coif, University of Utah College of Law)

Visiting Prof Tax Specialist

Currently maintaining office hours in Room 369 is Visiting Professor William Oliver. Here from the University of Indiana School of Law, where he has been a professor of law since 1954, Mr. Oliver is currently conducting a Federal Income Tax class and a Seminar on Estate Planning.

A native of the mountains of Kentucky, or, as he calls himself, a "hill William," Mr. Oliver holds an A.B. degree from the University of Kentucky and a J.D. from Northwestern University. Before joining the staff at Indiana, Professor Oliver was a trial tax attorney for the Internal Revenue Service, and a teaching associate at Northwestern, in the Spring semester of 1949.

Professor Oliver considers himself to be a true "tax man." In that capacity, he believes that further efforts to reform the income tax field are urgently necessary, from the standpoint of administration. He concedes, however, that he must be pessimistic as to the possibilities of successful reforms, since similar past efforts have only led to further complexities in the field.

After his present semester's service to our U.C.L.A. School of Law, Mr. Oliver plans to return to his position of Professor of Law at Indiana.

Prof Assesses UCC Adoption Possibility

(Editor's Note: The article below was prepared for The Docket by William D. Warren, UCLA professor of law. Professor Warren served as consultant to the Legislative Advisory Committee for the Universal Commerical Code. Prospects for the Code's adoption are considered by the article.)

BY PROFESSOR WILLIAM D. WARREN

There is a good chance that California will soon join the growing number of states that have enacted the Uniform Commercial Code. A final version of the bill to be presented to the Legislature by State Senator Fred Farr was hammered out in a meeting of the Advisory Committee on the Code held February 25 and 26 in Sacramento. The somewhat truncated version of the Code that emerged from this meeting will apparently enjoy the support of the California Bar Association, the California Bankers Association, and other influential groups.

Only seven of the original nine articles of the Code will be introduced in California. Article Six, covering bulk sales, was dropped because it would require a major change in the law of California dealing with bulk sales. California law in this field has developed in a somewhat different direction from that of certain other states whose statutes formed the model for the Code provisions. When it appeared that lawyers and business groups opposed passage of Article Six unless it was heavily amended to make it conform to existing California law, the decision was made to drop the article altogether.

ARTICLE SEVEN OMITTED

Article Seven will also be omitted from the bill. This article covering documents of title would supplant the Uniform Warehouse Receipts Act and Uniform Bills of Lading Act. Omission of this article is attributable to strong opposition from representatives of the state-wide association of warehousemen. The warehousemen base their opposition to Article Seven on the ground that the industry is well satisfied with the Uniform Warehouse Receipts Act. They contend that the interests of uniformity are best served by retaining the present statute which is in force in forty-four states rather than by enacting a measure which is now law in only six states. They state that warehousemen will oppose Article Seven throughout the nation and predict that many states, particularly western states, will follow California's lead in dropping this part of the Code.

Since the summer of 1960 the Code has been under intensive study by the California Bar Association as well as by representatives of banks, retailers' associations, credit associations and other interested groups. This scrutiny resulted in many proposals by these groups for amendments to the Code. Professor Harold Marsh, Jr. of the UCLA School of Law was asked to evaluate the merit of the proposed amendments and to make recommendations to the Advisory Committee. Assisted by the writer of this article, Professor Marsh made a detailed analysis of each amendment proposed in which he summarized the existing California law, the impact of the Code section on existing law, and made recommendations regarding the desirability of the amendments.

CHANGES RECOMMENDED

One of the more significant changes recommended by the Advisory Committee was the deletion of Section 2-302 which allows a court to refuse to enforce a contract or any clause thereof which the court finds to be "unconscionable". The Bar Association and several of the business groups objected to this clause on the ground that it gave too much power to courts to interfere in private agreement making. It was contended that this clause grants to courts the power to rewrite contracts, and that the word "unconscionable" is too indefinite to constitute an effective limitation on this power. A compromise draft was submitted which would have allowed courts to refuse to enforce a clause on the ground of unconscionableness only in cases where consumers had bound themselves to buy goods by executing form contracts. The Advisory Committee rejected this compromise and dropped the whole section from the Code.

ARTICLES THREE & FOUR

Numerous changes were recommended by the Advisory Committee with regard to Articles Three and Four of the Code to make these articles concerning negotiable instruments and bank collections somewhat more consonant with the needs of the highly automated California branch banking system.

Two sections approved by the Advisory Committee change familiar principles of contract law. One makes a written offer by a merchant to buy or sell goods enforceable without consideration during the time stated in the offer not exceeding three months. The rule that a party can revoke an offer not supported by consideration is thus abrogated. A change was also made in the principle that to constitute a valid acceptance the acceptance must conform exactly to the terms of the offer. The Code revision of this rule allows an expression of acceptance to operate as such even though it states terms additional to or different from those offered.

Whether the California version of the Code will get through the Legislature this session is problematical. The bill will be presented at a relatively late date in the session, but some informed observers believe that it can clear all the legislative hurdles in time for a vote before adjournament. Organized opposition to the Code has not been evident except by credit organizations. After the concessions the credit organization representatives were able to gain at the recent meeting of the Advisory Committee, there is good reason to believe that these groups will withdraw their opposition.

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Mediators Select Prof. Jones

Professor of Law Edgar A. Jones, jr. was honored recently by election to membership in the select National Academy of Arbitrators, a professional society concerned with the problems and practices of arbitration, primarily in the area of labor management relations.

Election of Prof. Jones to the Academy came at the last annual meeting of the group, held this year in Santa Monica. He joins a Southern California contingent of arbitrators numbering fewer than 20 persons in this Academy.

Professor Benjamin Aaron, a colleague of Prof. Jones at UCLA, is also a member. Both men are specialists in labor law and the areas of the law concerned with arbitration of disputes.

The Academy membership is drawn from among educators, practicing attorneys and professional arbitration experts.

Contra: Melvin Belli . . .

(Continued from Page 1)

2 per cent of the total, get to trial. *Ninety-eight out of 100 cases* stop short of trial. To paraphrase an old automobile ad: "Ask the man who tries one."

SPUTNIKS, MUTNIKS, & SASKATCHEWAN

At the moment our firm is concerned deeply with its representation of a pitiful woman in her early forties. Once gainfully employed, now she is a double amputee at mid-thigh, an automobile accident victim. She has never heard of the Canadian Saskatchewan Automobile Accident Insurance Act, the only compensation plan operating in North America. Under this Canadian "windfall", for dismemberment or loss of function, with or without amputation the maximum total amount recoverable is $4,000, for amputation of an entire foot, 30 per cent of $4,000 or $1,200. The fact that this woman has undergone three surgeries for revision of a stubborn stump and indescribable pain and suffering would be of medical interest only. She wants to present her case to a judge and jury. We are certain she is in no mood to fill out the Commissioner's forms for the rating expert. Don't talk to her of Commissioners, or to the father of five minor children who, with the suddenness of a guillotine's fall, finds himself widowed and his children motherless. Under the North of the Border Plan, the husband would be entitled to $2,000.00 and **nothing** for the children.

And what of our Chinese father whose son was killed while at play in his own driveway by a runaway car? The Saskatchewan Plan provides $100.00 for children to the age of six and as high as $1,000.00 for a child between the ages of 15-17 inclusive — provided death occurred within 90 days following the accident. (Saskatchewan Automobile Accident Insurance Act Explained: Revised 1960, issued by Saskatchewan Government Insurance Office).

I am now preparing my own "report" on suggested changes in all our personal injury law procedure whereby an injured plaintiff may secure some immediate payments, hospitalization and costs for suit, if he intends to sue.

GOVERNOR'S PROPOSAL

In the only official publication on the subject since the Governor's Inaugural Address, Stanley Weigel, in his report to the Governor on June 29, 1959, stated:

> "This report is preliminary. **It offers no panaceas, no easy palliatives. It is not a recommendation for or against . . . an Automobile Accident Commission.** "In some quarters . . . it has been assumed that Governor Brown has already recommended establishment of an Automobile Commission. **THIS ASSUMPTION IS UNFOUNDED."** (Emphasis added).

In his address to the State Bar on September 23, 1959, the Governor confirms this:

> "In regard to the compensation aspects of the problem, I am not yet prepared to say that results would be better or quicker if automobile accident cases were handled by Commissions instead of by the Courts."

On February 10, 1961, Governor Brown announced a $25,000 grant from the Ford Foundation to the University of California for a detailed study on methods of compensating automobile accident victims.

We have been making just such a study without the benefit of a "Foundation" for nearly thirty years, i.e., research, analyses, development of enlightened trial procedures, techniques, etc., aimed at assuring adequate compensation for the personally injured. (See Modern Trials, "Trial and Tort Trends", Modern Damages, "Ready for the Plaintiff".)

We cannot and have not ignored the Governor's proposals in the vain hope that, like other visionary schemes, they will be forgotten in public apathy. This is not happening. The bar has faced up to its obligation to subject the Governor's proposals to expert analysis and has made judgment regarding them. These studies have been made on both the state and the national level as well.

On August 30, 1960, the voluminous report of the Subcommittee Appointed to Study The Proposed Automobile Accident Commission Plan was made to the Automobile Insurance Law Committee of the American Bar Association. The Committee was nation-wide and representative of all segments of the Bar. It is one of the most thorough analyses presented on the subject matter.

This massive report not only analyzes but also soundly recommends. It is not a defender of the status quo. Its interests are clearly in support of progressive judicial administration. But its final recommendations are clear and emphatic:

> " . . . The committee recommends to the Automobile Insurance Law Committee that they adopt a resolution vigorously opposing the principle of an automobile accident compensation plan, system or commission, and as opposing the enactment of any legislation in any state or in the Federal Congress which is designed to achieve the accomplishment of that end." The resolution was adopted at Washington, D.C., the summer of 1960.

Responsible and authoritative studies in California have also been made by the **Lawyers Committee for Judicial Freedom.** This committee represents no organized plaintiffs' lawyers group. Its membership is representative of both sides of the docket, insurance as well as plaintiffs' counsel from every corner of California. One of the members of the committee is a past president of the State Bar of California; other members compose some of the best defense trial talent at any Bar.

Unlike the Governor's repre-

(Continued on Page 7)

IMPORTANT TOPIC DEBATED

Religion in Education Views Discussed by Forum Panelists

As its final offering in February, the Law School Legal Forum Committee presented an informative panel discussion on "Separation of Church and State in Education."

Moderator of the discussion, held February 24, was Professor J.A.C. Grant, Department of Political Science, UCLA.

Participating panelists were: Rev. C. E. Crowther, Episcopal Chaplain at UCLA and former teacher of Constitutional Law at Oxford University; Professor Harold Horowitz, USC School of Law, a member of the Community Relations Committee and the Los Angeles Jewish Federation Council; Mr. William G. Tucker, member of the law firm of Gibson, Dunn and Crutcher, and a member of the faculty of the Loyola Law School; and Professor Arvo Van Alstyne, UCLA School of Law, Bishop of UCLA Ward, Church of Jesus Christ of Latter-Day Saints.

Prof. Grant set the tone of the discussion by noting that Thomas Jefferson was the first to refer to the First Amendment to the Federal Constitution as "a wall of separation between church and state," and suggested that the label did not solve any of the problems, or controversies arising out of the amendment's provisions.

POINTS OF VIEW

The discussion centered around two points of view: that favoring the separation of church and state in education, and disfavoring aid to religious schools, and that opposed to such separation, and favoring aid. As a result of the discussion the audience was acquainted with formidable justifications for both views.

Speaking AGAINST the separation of church and state in education were Rev. Crowther and Mr. Tucker.

The proponents of state aid solely to public and not to religious schools were Prof. Horowitz and Prof. Van Alstyne.

Rev. Crowther was concerned with a basic absurdity on the State University level as to the problem of church and state relations: that the result of the separation was that what was designed as freedom of religion has become "freedom from religion"; that theology is not considered worthy of education on a university level, while the teaching of body conditioning for example, is. This, he says, has come about as a result of the doctrine of freedom of religion.

OTHER VIEW

Prof. Horowitz pointed out that within the public school system we are faced with two basic problems: First, state aid to religious schools; and second, religious practices during school time, i.e., released time for the children to go to religious instruction meetings. The two problems overlap.

Concurring, Prof. Van Alstyne attacks the two basic arguments given by supporters of the proposition of financial aid to private parochial schools. As to the first, (that parents have a constitutional right to select the kind of education they desire for their children, and that the failure of the state to aid them discriminates against them), the professor points out that the argument is based upon the faulty premise of an assumption of reciprocal duty on the part of the government to directly assist in the parents' exercise of their constitutional right.

CONTRA: Mr. Belli

(Continued From Page 6)

sentative, these trial men do not conceive of the trial of a personal injury case as "a kind of gamble or game" decided by mindless judges and juries sitting on games of chance. (Preliminary Report on Automobile Cases in the Courts by Lawyers Committee for Judicial Freedom, Burton K. Wines, Report Editor.) The Committee concluded in part:

> "The public has been treated to overheated tales of procrastination, chaos in the courts and privation from automobile injuries. Furthermore, the element of delay, clearly not out of control, has been magnified and distorted to the point that the public is under the impression that the courts literally starve out accident victims."

Dean Emeritus Roscoe Pound, speaking on proposed automobile commission plans in San Francisco ('July 1960), counselled us:

> "I submit the proposals before us are a backward step, out of line with our policy, complicating instead of simplifying our system of tribunals, leading to conflicts of jurisdiction, and raising instead of eliminating causes and occasions of delay and expense which cause congestion of the dockets of our trial courts."

We are justifiably disturbed by some contemporary thought that by divorcing the accident victim from his day in court there would be more time for "cases involving constitutional questions of great social significance, civil liberties, labor management, business and property litigation and other areas where justice under law is important to the preservation of our way of life." (The Weigel Report, June, 1959).

In my law school days thirty years ago, I do not recall any serious proposal that the justice of American courts should be reserved for business and property litigation, or that a man's right to human freedom inherent in his ability to work free from pain and disability is any less important than his civil liberties.

LIABILITY WITHOUT FAULT IN DEFINED AREAS

It is true that we are witnessing the extensions of liability without fault in certain defined areas of the law's concerns, not as a response to purported "public demand" or simulated hue and cry regarding clogged calendars, high verdicts, justice denied, contingent fees, accident statistics, or the drive to eliminate trial by jury as an archaic method of achieving justice.

What we are witnessing is the flexibility and genius of the common law to accommodate itself to the social needs

(Continued on Page 8)

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Bar Review Courses Answer Student Need

A law school graduate seeking admission to the State Bar must still complete the equivalent of one additional semester before he is qualified to take the State Bar examination. Surprising as this sounds it is borne out by the facts. Though not a legal requirement, it is rare to find anyone who has passed the Bar without first completing one of the many Bar review or refresher courses given throughout the State.

The two leaders in the field, California Bar Review Course (C.B.R.) and the Bar Preparation Course (B.P.C.) account for close to 75% of all those taking the State examination each year. Conducted along parallel lines, both offer approximately 165 hours of classroom instruction, not much less than the regular school semester.

Review is by lecture supplemented by specially prepared outlines. Practice exams are given throughout the course and returned to the students graded and with comments and suggestions for improvement. Former Bar questions are analyzed and special emphasis is placed on those areas found to recur on the various Bar examinations. Much time is devoted to the development of approach and organization. It is no wonder that this type of preparation is viewed as a necessity by all.

Although never before developed to its present degree of efficiency and effectiveness, the Bar review course is neither new nor confined to California. A bulletin released by the American Law School Association lists 79 individual courses in 35 states (some operating more than one branch). California leads the field with 11 while New York is second with 7. Only 8 are given by the law schools themselves, the rest being privately owned and operated. Bar examinations are given in every state but only Wisconsin eliminates the requirement if one has graduated from an accredited law school.

PIONEERS

Each course, as originally developed, was taught by one man. Such names as Judge Medina in New York and Witkin, Burby, Cool, and Gilbert in California were some of the pioneers.

Due to the constant increase in the scope of the examinations and the rapid growth of the law, it soon became physically and educationally impractical for one instructor to teach the entire range of subject matter.

In the early 1950s B. P. C. was organized as successor to the Burby course and C. B. R. entered the field. Between six and eight specialists teach in each course. Specially prepared outlines, kept up to date each year, have supplanted the former use of Hornbooks.

ENTERING LAWYERS

A unique problem is presented by the out-of-state attorney who wishes to practice in California. There is no reciprocity, so the Bar examination must be taken, but a special, shorter one is given, provided the attorney practiced four out of the last preceding six years and had been admitted to practice in the highest court of his former state. These attorneys have found the need of special review even more necessary than the newly graduated student. Both review courses have provided special programming whereby they are integrated into the first part of the regular course.

FIRST YEAR REVIEW

An interesting new development has been the California First Year Law Review Course, offered to those completing the first year courses and preparing for final examinations. It is organized along lines similar to the Bar review courses and seems to be equally effective. Organized review of the law, approach and writing technique, practice exams, and specially prepared materials and outlines are given. This course concentrates on Contracts, Torts, Real Property, and Criminal Law and is given each year during the Spring Semester.

SCHOOL FUNCTION?

Should the function of review and Bar preparation belong to the school, and just how important is it if one has graduated from or attends a good, accredited law school? The concentration of the top law schools seems to be more and more on providing a sound and extensive legal education, with a constant broadening of the curriculum. Problems of budget, time, and staff prevent a proper concentration on Bar preparation. Courses which were begun at U.S.C., Loyola, and Stanford have long been discontinued. Moreover, the Association of American Law Schools has consistently frowned upon such courses as an entrance into the field of trade school education.

ADVANTAGES

Spokesmen for the review courses discussed above give the following needs and advantages of the special instruction given:

1. A forced method of study and organization.
2. Help on examination technique . . . approach, organization, and writing style.
3. A supplement to Bar courses not taken due to the increasing use of electives in the curriculum.
4. Gives the student, for the first and probably only time, the opportunity to view all subjects in one course, to appreciate and understand their relations to each other, and to develop the common thread that runs through most of the law.

Like it or not, the review and refresher course is here to stay. More than a thousand students attend each year and as law school enrollment increases so will attendance at these special courses. They have become necessary parts of legal education for the Bar.

CONTRA: Mr. Belli

(Continued from Page 7)

of our times. The judicial system which administers the common law, set up initially in the pattern of an agricultural society, is in this century adapting itself to the automobile, air transportation, widespread electric power, modern machinery, and the problems of our industrialized society in an atomic age.

Developments in the field of warranty are of major significance, but importantly judicial progress in this area has been slow, calm, and cantious in the case-to-case manner of the common law. What Cardozo discerned and our scholars have recorded has now become manifest in the national trends in this field.

With astute discrimination and keen perspective, our forward-looking courts are eliminating the requirements of privity in the products liability case, and holding the manufacturer and distributor responsive in damages for breach of warranty without regard to negligence or intentional infliction of injury. But all this is work of decisional precedent. No sharp economic or social dislocations have resulted from this growth pattern.

In the Cutter Laboratory cases **Gottsdamker, et al., v. Cutter Laboratories),** our Supreme Court did not hesitate to extend the cloak of the warranty concept to the innocent victims of live virus infection in a vaccine sold as an immunizing agent and purchased by others for the children. In **Heningsen v. Chrysler Corporation, et al.,** 161 A.2d 69, the New Jersey Supreme Court, in warranty actions, permitted recovery to the wife of the purchaser of a Plymouth automobile for a defective steering mechanism and rejected the "privity" argument.

These are but two of the notables in the line of decisions responsive only to social policy marked by the transcendent importance of protecting the life and health of the consuming public, first in the matter of food for human consumption, and now extending to a variety of products placed in the channels of trade by those who, because of special knowledge or economic position, can withstand the loss more readily than the victim.

CONCLUSION

Distilled to its essences, the Industrial Accident Commissions which are suggested as models for this new proposed scheme operate very little like courts and a great deal like business machines. We are well acquainted with the commission rating scendules, the inflexibility of their awards, the non-existence of any recognition of individual human pain and suffering, the indifference the merging of all men into composite, hypothetical individuals whose injured body or dismembered anatomy can be precisely compensated in specifically ordained and scheduled monetary damages.

"Automated justice" has a nice, clean, efficient ring to it. It is allegedly fast, it is purportedly speedy—BUT IS IT JUSTICE?

Footnote (1): The idea of scheduled awards for detailed specific injuries belongs to the crude beginnings and primitive codes of the law. The Laws of Ethelbert, King of Kent, about 600 A.D., an old monument of English law, beginning with "If there be seizing by the hair, let there be fifty pennies for composition," specifies breaking of different named bones, putting out of an eye, breaking the nose, cutting off named fingers, specified wounds and bruises, breaking of teeth, disfigurement of the face, specified bruises distinguishing those covered and those not covered by the clothes, and providing a composition of a shilling for every breaking of a nail—then a serious disfigurement. Here is a model for the Compensation Act. (See introductory Chapter Modern Damages)

Santa Maria Incident . .

(Continued from Page 5)

I sink a few more ships, it's true,
Than a wel-bred monarch ought to do;
But many a king on a first-class throne,
If he wants to call his crown his own,
Must manage somehow to get through
More dirty work than ever I do."

But his was the hanging offense.

For those interested there are the Harvard Research, **Draft on Piracy** (1932); **A Collection of Piracy Laws of Various Countries** (Morrisson, ed.); Dickenson, "Is the Crime of Piracy Obsolete?" **Harvard L.R.** (1924-5) 334;

FRATERNAL FRANCHISE

PHI ALPHA DELTA

By HOWIE KLEIN

February 6th saw the some 75 active members of P.A.D. march resolutely into the teeth of the new semester. This formidable body will be joined shortly by 66 shiny faced pledges turned active. Leading the activities for P.A.D. this semester will be Phil Magaram —Chief Justice, Bob Proctor— Vice Justice, Arland Myhrvold —Clerk, Harvey Reichard— Treasurer, and Bob Walker— Marshal.

Top on the list of functions will be the District Conclave to be held at the Ambassador Hotel on March 24 and 25.

P.A.D. members from all the major California and Arizona law schools will socialize over cocktails on Friday night and attend workshops Saturday morning to be followed by a luncheon.

Saturday afternoon, leading members of the legal profession will speak on that always frightening subject—job prospects. The Conclave's final hours will be spent by attending a regal dinner where the main speaker will be former Governor Goodwin J. Knight. A truly gala dance winds up the once-a-year event. A large turnout is expected inasmuch as the Fraternity is footing half of the bill.

Social Chairman Larry Karlin has already provided a very successful exchange with Immaculate Heart College. More such exchanges are in the works with various on-campus sororities. Married members have also received Larry's attention as couple compelling theater and card parties along with western type hay rides are scheduled.

The luncheon committee with Tom Heden as chairman and Al Moon in charge of recruiting speakers should provide the member with exceptional noon repasts with speakers that will be a delightful intermezzo in the crescendo that is Law School.

NU BETA EPSILON

By SHELDON BARKAN

Recent elections have altered the chieftainship of NU BETA EPSILON and with the change lethargy and inertness, it is hoped, will become a part of a vocabulary not henceforth to be associated with this fraternal organization.

Three new officers were elected on February 20th thus filling the existing vacancies of Scribe, Vice-Chancellor, and Chancellor. Ed Ulman, Ben Pynes, and this writer are, respectively, those new officers.

The new functionaries and incumbent Exchequer Herb Laskin have all pledged themselves to a policy of reinvigoration and a program of action.

Proposed were three activities upon which immediate action was taken at a short executive meeting following the election.

● First is a calendar of events which will take place each month. Issues will be distributed to the members of the fraternity on the first of the month or as soon thereafter as is plausible.

● Second is seminar-instruction sessions for the second year members. First year members will have a similar program. Third is a new plan of social activities which will include events heretobefore unattempted. Other activities will be forthcoming; timely announcements will appear on our board.

Third year members are invited to attend meetings in order that your suggestions and desires may be felt and action taken accordingly. If you are desirous of partaking in the new organization, your help is needed and is hereby requested. It is time to make NU BETA EPSILON the legal society it should and will be.

On the lighter side are a few announcements to be made. Dave Lander is engaged to a lass by the name of Nancy Dresher. Our congratulations to him and also Larry Weisberg and Jim Kovacs who now have daughters. Incidentally, attempts should again be made to assure a bumper crop of future Nu Bates.

A few questions remain unanswered at the present time and a few are these. Is it really true that Gary Boren will leave the ranks of the unemployed in the near future? Who is that good-looking young lady that Les Kenoff has been seen with lately? Is he really trying to get in good with another member of this fraternity?

PHI DELTA PHI

By BEN DORMAN

Having outlived the recent social moratorium necessitated by that semi-annual inquisition known as exams, we of Phi Delta Phi have retrieved our heads from the burning sands and find ourselves in the midst of another active semester of varied activities. And true to its unique character, Pound Inn has once again shattered precedent in its first of many social events.

With daring inquisitiveness, we invited Dr. Willard F. Libby, recent Nobel Prize winner in Chemistry, to address the brethren at our first luncheon of the semester, staged Thursday, February 16 at the Fox and Hounds Restaurant. And perhaps with even more daring, Dr. Libby eagerly accepted our invitation and graced the gathering with a most informative, if somewhat celestial, talk on the "hope of the future," Atomic Science. To be sure, there was less than complete comprehension of Dr. Libby's remarks, but on balance, the event was a sound and enjoyable start for the luncheon program of Phi Delta Phi.

Unspoiled by such smashing success, we have planned other events that hold untold promise for the future. Not the least of which are two exchanges that have been arranged with the bevy of Hellenic beauty of the Kappa and Theta clans, tentatively scheduled for the oriental confines of the Hollywood Hills Hotel. Such ethnic enterprise as entertaining girls of the Greeks in far eastern flavor is indeed to be commended, if not eagerly attended by all. Details are being arranged by that social entrepreneur par excellance, Bob Radcliffe.

Not to be totally obscured by social retreats, the Phi Delta Phi scholastic program is taking on a new look for the remaining months of this academic year, featuring hour long practice exams in all first year subjects with an emphasis on writing technique and logical development of the various issues that may or may not be spotted in any given exam. The ultimate objective is to soundly prepare our pledge class so that they might avoid the disaster that was recently experienced.

What happened to the low grade limit of 50%?

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Sunday, Apr. 16—10-5, Torts
Sunday, Apr. 23—10-5, Contracts
Sunday, Apr. 30—10-5, Crimes

Sat., May 6—10-5, Real Property
Sunday, May 7—10-5, Torts
Sat., May 13—10-5, Real Property
Sunday, May 14—10-5, Contracts
Sunday, May 21— 9-5, Comprehensive
Sunday, May 28—10-5, Review Analysis

* 1960 U.C.L.A. results -
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