Law Day Panel At Del Rey

On Tuesday night, May 1st, on the Del Rey Campus, the Law School will present a panel discussion: "John Doe, Citizen, Personal Liberty and the Law."

Marking the Law School's first celebration of Law Day USA, the panel composed of Justice John J. Ford, District Court of Appeals; Judge J. Howard Ziemann, Los Angeles County Superior Court; Judge Otto M. Kaus, Los Angeles County Superior Court, will carry out the theme of Law Day 1962, "The Law: Wellspring of Liberty," by discussing the benefit of students, faculty, alumni and friends of Loyola University, individual liberties under the American legal system. Included will be recent decisions of the Supreme Court of the United States and decisions of the California Supreme Court. Acting Dean, J. Rex Dibble will be the moderator.

Acting Associate Professor of Law A. Marburg Yerkes, Law Day chairman, announced that the panel will commence at 7:30 p.m., in St. Robert's Auditorium, to be followed by a reception in the President's Lounge of Malone Hall.

This program marks Loyola's response to the recent proclamation of Law Day by President John F. Kennedy. Its objective is to join with the American Bar Association in observing respect for the law, enabling the nation to grow in moral strength and world leadership, and to provide an occasion for the American people to recognize and respect the rule of law administered by independent courts, emphasizing the rule of law rather than force.

From The Editor's Desk

Attention has been called to the futility of expecting the laws to keep abreast of social progress. It is insisted that by its very nature, the law must be 50 years behind the times. The Digest's previous invitation to legislator, lawyer and law student to contribute toward major break-throughs in the law has been characterized as "a comic joust with windmills." The challenging query has been, "Do you really think you can stir the ocean with your little finger?"

Perhaps. Let us see.

This issue of the Digest has been visited by two distinguished guest writers, McIntyre Fairies, President Judge of the Los Angeles Superior Court, has enthusiastically responded to our invitation. His article on THINGS YOU DO NOT LEARN IN LAW SCHOOL is sure capital. Since the last issue of the Digest, Attorney A. L. Wirin, counsel for the American Civil Liberties Union, has had to make appearances before the United States Supreme Court and the California District Court of Appeals. He has literally made time to respond to County Counsel Harold W. Kennedy's article on LOYALTY—A CONDITION OF PUBLIC EMPLOYMENT (March issue of the Digest), be in his own words, (Continued on Page 6)
AN UNBROKEN and undaunted line of judges, none of which emerged from a monastic life to take the bench, have held that obscene literature can be prohibited from sale. Legislation in this area does not persuade to the freedoms of speech and press, except for the occasional "Carrie Nation" of some law enforcement agency who undertakes his mission, before a court pronounced the matter obscene, each court from trial to final appeal has decided that the obscene work before it, could and should, be prohibited from sale.

Many persons advocating the cause of the seller of books will agree that obscene matter should be restrained but, they ask, "How do we know what obscenity is, and are we not advocating a censorship here, which might be carried over to more wholesome areas?" Censorship, according to Justice Hand, is an prior restraint on speech and press. Such suppression is unconstitutional under the First Amendment. The first obscenity law was passed by Congress, enforced, challenged, and held valid in 1832.

It must be made clear here that most statutes do not involve the suppression of a book before published, but rather an exclusion of an already published book awaiting sale to the general public. The United States Supreme Court in an opinion written by Justice Frankfurter in Roth v. United States 354 U.S. 476 (1957), said that "... afters a work is published, its lot in the world is like that of anything else, it must conform to the law, and if it does not, it must be subject to penalty."

In the Roth case it was also stated that, "... All ideas having even the slightest social importance have the full protection of the Constitutional guarantees of free speech and press even though they are controversial or even hateful to the prevailing climate of opinion." However the Court held that obscenity was not within this protected class. Why? What is obscenity? The First Amendment was not intended to protect every expression, every idea, even though they are controversial or even hateful to the prevailing climate of opinion.

The test which the Supreme Court has outlined for both federal and state use to detect obscenity is that the jury must determine whether the average person applying contemporary community standards finds, that, the dominant theme of the material in question, taken as a whole, appeals to prurient interest. The Court indicated that this test is a fair one and clearly marks the boundaries of obscenity so that a law calling for the prohibition of obscenity will not fail for vagueness, as judges and juries can fairly administer the law except for marginal cases. At this point the opposition is saying "Ah, Hah. Most cases are marginal cases!" To this argument the Court has held that it is quite easy for a jury to determine when the average person thinks something is "dirty for dirt's sake." Bah! Humbug! say these modern Greek Philosophers and students of the law, who, instead of infusing our nation's institutions of higher learning are content to reap their fortune in local cigar stores, selling these books. They say that because twelve laymen jurors or a judge cannot see art or literary merit, that is no reason that we should not apply art or literary merit. To that the Ninth Circuit Court in San Francisco in the case of Besig v. United States, 208 F. 2d 142 (1953) held

"... It is no legitimate argument that because there are social groups composed of moral delinquents in this or in

THE TROPICS — HOT TO COLD
By Warren Wolfe

February 22—Sure you say, that is George Washington's birthday, and don't forget that a new nation was born—conceived and dedicated to freedom.

February 23, 1962. Twelve persons did forget. One Bradley Smith was without freedom's penumbra. (People v. Smith, L. A. Municipal Court No. 151388.) It was freedom of expression.

But you said the First Amendment guarantees... Well, not today. Did you say what it was? Just a book, the name doesn't matter.

Like a newly upon a cracked record, Henry Miller's Tropic of Cancer is merely representative. A book was banned at the Concord Library when Louisa May Alcott said, "If (she) cannot think of something better to tell our pure-minded lads and lassies, he had best stop writing for them." The book: Huckleberry Finn.

Where Is The Censorship?

Today most states have some form of muzzling statute; e.g., Dreiser's An American Tragedy was Massachusetts banned in 1930. (Commonwealth v. Friedle, 271 Mass. 318.)

A prominent non-legal force is the National Organization for Decent Literature (NODL). The NODL was organized in 1938 to control the publication and sale of lewd magazine and book literature. Because of its organization in many Roman Catholic diocese the NODL has effected considerable suppression through the device of moral suasion. The NODL's decency code has black-listed such works as: Joyce's Ulysses; Michener's Tales of the South Pacific; and Hemingway's Farewell to Arms.

The Rule of Nine

Obscenity is not protected speech.

Why? Seven of us said so.

But where is the clear and present danger of anti-social conduct? It's unnecessary.

Why? Well, we just said so.

And so once again the Supreme Court bandies. The effect: Twelve laymen determine what we read and write. But our enlightened juries can always ascertain when a book "predominantly appeals to the prurient interests."

Does Obscenity Have A Nature?

Lascivious, indecent, licentious, and vulgar. Yes, a plethora of synonyms scarcely al's vertical analysis. They say nudity is obscene. Are bare feet? Of course not, you say. Well then denude the legs, then the arms and don't forget the face. Now we are at the beach. You say the water is fine.

May I remove my shirt? It depends on one's sex.

Male I am—so what if the year is 1890? Improper.

What about 1960?—now it's okay.

I understand the Supreme Court's hearing a civil rights case today—why don't we sit-in?

What's wrong with my attire? Indecent.

In the Mid-East certain Mohammedan women, who readily expose their naked bodies, persistently refuse to unveil their faces. And not too long ago Chinese women, who were not shocked by genital exposure, would be unbearably offended if required to expose their naked feet.

Now I ask you: Where between the waist and the face does nudity offend modesty? Judge Hand has sagely measured obscenity as: "The present critical point in the compromise between candor and shame at which the community may have arrived. . . ." (U. S. v. Kennesley, 1913, 209 Fed. at 121.) We are compelled to conclude that the perceiving mind bestows

(Continued on Page 6)
WOMEN IN LAW

By Carolyn M. Friar

Justice Mildred L. Lillie

Less than 50 years ago, women were denied the right to vote and the right to engage in many businesses and professions. Although there is still the occasional woman’s place-is-in-the-home attitude, the more modern thinkers have realized that women are capable of contributing to the betterment of society as the men. No better example of a woman’s contribution to the legal profession in California is found than the Judicial Position for a woman in the State, distinguished herself as an outstanding jurist. One of the recent highlights of her judicial career was in 1960 when she was appointed by the Judicial Council of California as an Associate Justice Pro Tem of the California Supreme Court, and last year, she was made a member of this council.

Justice Mildred Lillie started college at the University of California, went with the intent of majoring in art, but decided to change to political science, and later entered Boalt Hall to study law.

Career

In 1938, she was admitted to the California Bar and went to work at the late Attorney’s office in Alameda. Following this experience, she joined a private firm in Fresno until her appointment as Assistant U.S. Attorney for Southern California in 1942. Justice Lillie claims that her experience in that office has been invaluable to her on the bench. In 1947, while working for Charles H. Carr, a Los Angeles attorney, she was appointed Judge of the Municipal Court of the City of Los Angeles by Gov. Earl Warren. Also in 1947, Justice Lillie was married to the late Los Angeles attorney, who urged her to accept the judicial position.

Her next appointment to the bench came in 1949 when Gov. Warren appointed her to the Superior Court of Los Angeles County. There she served in all departments until 1958 when Gov. Knight elevated her to her present position on the District Court of Appeal.

Hobbies

Besides all of her legal, charitable and social affiliations (of which there are more than 20), Justice Lillie still finds time to pursue her hobby of painting and sometimes exhibits her work at the Bar Convention. Cooking, writing, and painting are her favorite pastimes.

In speaking with Justice Lillie, one realizes that not only has she been a credit to the legal profession as a judge, but she has combined this with an abundance of feminine charm and beauty.

In Oklahoma it is illegal to catch a whale in any of the inland waters of the state.

Letters to the Editor

Many thanks for sending me a copy of the Loyola Digest. I have read it with interest. ROGER J. TRAYNOR, Associate Justice, Supreme Court of California.

I was very much interested in reading the Digest. It contained several splendid articles. MARSHALL F. McCOMB, Associate Justice, Supreme Court of California.

I read with great interest the current issue of the Loyola Digest. The articles are timely and forceful. I hope that our efforts will have the desired result. LOUIS H. BURKE, President, California District Court of Appeal.

I find it exceedingly interesting . . . your Loyola Bar Association are to be congratulated. A. ALLEN KING, Dean, University of Tulsa School of Law.

I have read with interest the LOYOLA DIGEST and think it is a fine law school news sheet. JOHN RITCHIE, Dean, Northwestern University School of Law.

I have appreciated receiving the copy of your excellently edited “Loyola Digest”. I think it is very well done and has a very definite place. LEON H. WALLACE, Dean, Indiana University School of Law.

A cursory study of your newspaper has left us with a very favorable impression. The adept coverage given to the School news is evidence of a fine, perceptive staff. It was gratifying to see a law school newspaper function without advertising; an advantage with which we are not blessed. JOEL L. DANIELS, Editor OPINION, University of Buffalo Law School.

I was very impressed with the Digest . . . I congratulate you on having a fine newspaper. JOHN KITTS, Dean, University of North Dakota School of Law.

I have examined it with a great deal of interest and consider it to be an outstanding vehicle for conveying to students, alumni and others the story of Loyola of Los Angeles. WM. F. ZACHARIAS, Dean, Chicago-Kent College of Law.

I have no suggestions, except to extend my cordial congratulations and Godspeed. MARTIN TOLLEFSON, Dean, Drake University School of Law.

. . . . we agree that this publication would be a valuable addition to the permanent collection in our Law Library. We should like to have you place us on your mailing list, and bill us in duplicate for whatever charge is necessary. If back issues are available, please send us those also and add the charge to the billing. We should like to have as complete a file as possible. MRS. MARIAN G. GALLAGHER, Librarian, University of Washington Law Library.

. . . . I commend you on your coverage of current topics. . . . GEORGE H. YOUNG, Dean, University of Wisconsin Law School.

I regard the Loyola Digest as one of the most readable law school publications in the United States. How (or whether) the Editors can find time in which to prepare for their examinations, is a matter for speculation. But the Digest is first rate. D. E. SNODGRASS, Dean, Hastings Law School.

. . . . What examinations?
Crime Conference . . .

(Continued from Page 1)
drains off millions of dollars of our national wealth, infects legitimate businessmen, labor unions, sports, and most importantly, corrupts public officials." And by no means of least importance among the observations of the Attorney General was the fact that the ruinous effect of crime is not confined to physical harm and financial loss, but operates to weaken the moral fiber of Americans. This is readily evidenced in that, "disregard for the law is tolerated too much at every level of our society . . . giving rise to cynicism and the cheap, false philosophy that everything is a racket."

Even the most cursory examination of the problems with which leaders in the war against crime are confronted, cannot fail to reveal the urgent need for and cooperation between the federal government and state and local agencies. The President, Attorney General, Governor Brown, and members of the legal profession everywhere are in agreement here. Crime is boundless. It thrives on moral decay and is nurtured by public cynicism. If it is to be crushed it must be done by moral vitality and public cohesion. This is a task requiring co-operation and unity of purpose-participated in by everyone, on all levels and prosecuted by faith and courage.

Mr. Kennedy pointed with pride to the commendable record of national criminal legislation that has been passed this year. Five of eight bills submitted to Congress were enacted, marking a record for anti-crime legislation, unparalleled since 1934. These new laws are some of the much-needed weapons, and in the hands of an aware, united citizenry will prove fatal to crime in America. Specifically the new bills prohibit: "Interstate transmission of bets or wagers by wire or telephone; interstate transportation of gambling equipment, broadly defined by Congress to include numbers racket tickets and sports betting slips; and interstate travel to promote or engage in illegal business enterprise."

The federal government was desperately needed in these areas, and it rose to the need with efficiency and dispatch.

Attorney General, Stanley Mosk, announced the initiation of a new crime prevention agency, and declared that the unusual interest and enthusiasm shown by delegates to the conference afforded ample evidence that such a venture would meet with success. The idea will be presented at the next session of the Legislature, and the Attorney General has high hopes that it will be actuated. The new bureau would serve to provide information and educational materials on crime prevention; local crime prevention councils would be established; and, through its depository and clearing house of such information, the key to the solution here is education. An informed populace is not an easy prey for the futile infiltration of criminal activity.

The menace of crime is a menace to the American public. Small wonder then that the proposal is advanced that it should be dealt with by the public, and that its remedies lie within the province of the public domain. Crime, like pestilence and disease, is of concern to us all, and the problem of its extermination is one that is peculiarly assignable to central control. This, with the help of state and local cooperation is the course of action best suited to the task. With the tools provided them by Congress, the F.B.I. according to Attorney General Kennedy, "has been enabled to meet the problem head-on, and the underworld is well aware of what is happening. Reports indicate that the major racketeers and hoodlums are uneasy. They are worried as the several months go on, the head of the Royal Canadian Mounted Police said that Canada must cope with an influx of American racketeers shifting their operations to Canada because of our efforts."

Mr. Kennedy alluded with great satisfaction to the record of California, in cooperating with the task of law enforcement and taking remarkable steps of its own. In particular he referred to the passage of new narcotics laws that are designed to curb the present shadow economy which makes combined efforts of federal, state, and Mexican authorities. California's enviable record in the drive to cure the juvenile problem is a further accomplishment of a Governor and Attorney General that are aware of the situation and sensitive to its eradication. So-called "halfway houses" were set up several months ago to care for those who go there prior to their release and receive special counseling and aid in obtaining jobs. Probation officers report that many of the graduates have become involved in further criminal activity.

Governor Brown, Mike Wallen of the Examiner, and Tony Murray of the DIGEST discuss the proceedings at the Crime Conference.

April 1962

LOYOLA DIGEST

By Myron Fink

'Good Stuff' In The Library

"Write about the 'good stuff'" your ebullient Editor said to me one day. He pointed to the library's collection of miscellanies shelved behind the Loan Desk. I promised him I would and here it is.

The "good stuff" is a group of books, current, choice or popular, which does not have a ready place in the established law school curriculum. As a group of misfits, they form an attractive browsing collection. Often shedded by law students, it is the law that is more than rules and cases; it is also philosophy, drama, literature, history, ethics and social science. Here one is in the hands of the great judges Holmes, Cardozo and Hand; the historians Holdsworth and Maitland; the theorists Pound and Llewellyn; the gadflies Maugham, who once said: "I have no illusions that the battle is available and need only be brought forth and applied."

There is no one answer or easy answer. Questions like... (Continued on Page 5)
WHAT YOU DO NOT LEARN IN LAW SCHOOL

By McIntyre Faries

Presiding Judge of the Superior Court of Los Angeles County

May I start with the following beliefs:
1. Every one of us wants to do some good in this world;
2. Every one attending Law School hopes to achieve a measure of prestige; and
3. All hope to live better than the average and more of this world’s goods than the average.

These thoughts may not be expressed in the proper order and all will not agree as to their relative importance, but I assume that all of you are thinking about these things daily. Probably there are many persons who can talk on such subjects with more authority than I, but I do have some thoughts which may help.

From the standpoint of financial success, education is capital; personality is capital; social graces are capital; connections are capital.

The school athlete who marries the banker’s daughter, whether he realizes it or not, has used his athletic ability and standing with his fellow students (and perhaps the newspaper reporters) as capital.

Just what value should you put on the various attributes that you have as capital, I do not know, but each of you has capital to invest. If you haven’t any of the items of capital I mentioned above, you may have some other items, such as knowledge of human nature, ability, to read character, judgment, affability, willingness to work, etc.

The fellow, who needs help to get started, but you want to bring him along, is the approach fellow, who has to start out the hard way for himself, or has to make connections with someone who can hire the average fellow in or just out of Law School. It usually is a little late after you have taken and know that you have passed the Bar Exam to go to the District Attorney’s Office, Public Defender’s Office, the County Counsel’s Office, the Los Angeles City Attorney’s Office, the Attorney General’s Office, etc. There often are openings in these larger municipal and state offices that expand with the increase of population. There certainly is no harm in studying the situation, i.e., accumulate this knowledge, which is what I call capital, before you make a decision.

Don’t forget that the greatest capital in the law business is the possession of friendships.

I hope I don’t irritate the personnel managers of these various offices by making this suggestion, but you should find out about how people get on their lists, etc. Some even have clerical jobs, which are valuable, not only because they bring in some money, but because they are stepping stones to better jobs after one is admitted.

Be in mind that the Good Lord did not put a tongue in your head to waggle, but to assist you in the process of receiving food and expressing thoughts from your mind.

There are also jobs to be had as investigators, adjusters, etc., for insurance carriers. There is little likelihood of your being of real value to companies specialized in the defense of insurance cases until you are admitted to the Bar. However, you can be of service and add to your understanding of such matters. Experience with an insurance carrier or a good claim adjustment service might have a value in this.

Do you read the daily legal papers? On my desk at the moment are copies of the Los Angeles Daily Journal and the Metropolitan News. My observation is that most lawyers and some law office clerks glance at the front page of the first section and perhaps that of the second section and think they have read the legal paper. Perhaps this is sufficient for them, but it is not sufficient for you if you are interested in the problem of obtaining a start in the law business.

The CALENDARS of the various courts should be read, not only to see who is doing business, but for a much more important reason. If you are going to have any value to the average law firm, you must have a real understanding of what goes on in the Courthouse and how things are handled. The average young man, who gets out of Law School, knows very little about how business is really done at the Courthouse.

Not only should you study law, but study the law business.

Have you ever been to Department 1, the Master Calendar of the Civil Courts at Los Angeles and watched the procedure there in the morning? Have you ever been to Department 2 (Pre-trial), Department 100 (Criminal Master Calendar in Los Angeles), or Department 4 and 9 (Probate Master Calendar), or a number of other departments? Suppose you walked into a law office and said you wanted to get a job as a law student in the afternoons, etc., and the lawyer said, “Alright, you are hired. Take these papers, serve them on the trial, file the papers,” etc. Would you know where to go to file a civil suit? Would you know how to go to get a writ

(Continued from Page 4)

In the Library . . .

(Continued from Page 4)

these are not on bar or law school examinations. Concern with them does not pay off in grades and credentials. I can hear you mutter: “Yes, I can well afford to do without Branch, but can I afford not to read my assigned cases?” Studies come first, of course. If you are on the ropes, Heilfieid’s “Fundamental Legal Concepts” is not for you. But what future career are you after? For others who ignore this vital part of legal education?

Let me close in a less serious vein by reminding everyone that our collection offers many pleasant hours of good reading. We promise to waive all questions relating to significance, motive or interest. Our theory is that good writing is contagious and creates its own demands. Pay us a visit soon.

Pros

other countries, that their language shall be received as legal tender along with the speech of the great masses who trade ideas and information in the monest money of decency.”

The basic case concerned the prohibition of the Henry Miller works the “Tropic of Cancer” and the “People of Captivity” from being distributed in this country from foreign sources. The court held that the only competent evidence and all the evidence to be viewed in such a case is the written matter itself, taken as a whole. Webster’s International Dictionary was used when aid to determine that obscenity is, in both England and America, something indecent, smutty, lewd, or salacious. These adjectives were all applied to these books, which were written in the composite style of a novel autobiography, and the author is a character in them, living in degradation. Practically all that the world regards as sinful the court observed, is detailed in the vivid, lurid language of smut. And throughout these two books Mr. Miller does not relate the slightest expression that such an atmosphere should be abandoned. The Court said that, “... the disgraceful scenes conducting the reader through sexual orgies . . . are so heavily larded throughout the books that those portions which are deemed to be of literary merit do not lift the reader’s mind out of their sticky slime.” It was claimed that the book truthfully describes a base status of society in the language of its own inequities. And that, since we live in an age of realism, obscene language depicting obscenity in action ceases to be obscenity. Obscenity through the style of realists, surrealists, or plain shock writers makes no difference in the Court’s approach. “... the law is not tempered to the hardened minority of society.”

One of the principal arguments expounded by the defense in the obscenity cases is that it is the exclusive responsibility of the parent to regulate the minor’s reading material. But, how can the parent effectively discharge this responsibility when the impressionable youngster can obtain erotic books at the same stand where he buys a Coke and comic book? Parents do have the duty to insulate their children from the dangers of obscenity; but, in our modern society, “choke full of art sellers,” that duty is not exclusive to the parent. The responsibility is a shared one. The state not only has a right but a compelling duty to challenge the dissemination of obscene literature.

Conceptions” is not for you. But what future career are you after? For others who ignore this vital part of legal education?

Let me close in a less serious vein by reminding everyone that our collection offers many pleasant hours of good reading. We promise to waive all questions relating to significance, motive or interest. Our theory is that good writing is contagious and creates its own demands. Pay us a visit soon.

Ford Chapter, Phi Alpha Delta, is currently sponsoring tours through the County Courthouse. Brother Bob Ridley (center) demonstrates the function of the index books to Loren Miller (left), Morgan Wright and Carolyn Friel.
From The Editor's Desk

(Continued from Page 1)

"... It is my responsibility." It is hoped that presentation of both sides of this current controversy will afford the reader sufficient criteria to make his own evaluation.

On Feb. 21, 1962, a Superior Court in Chicago permitted the sale of the controversial novel, "The Tropic of Cancer." The court found that the novel is not obscene. In an 18-page opinion Judge Samuel Epstein wrote, "Literature which has some social merit, even if controversial, should be left to individual tastes rather than governmental edict." Two days later, Feb. 23, a Los Angeles tribunal held that the novel was obscene under California law and sentenced the publisher. Other cases involving the novel are in process of litigation throughout the country. Responding to the urgency of this problem, students Frank King and Warren Wolfe have addressed themselves to respective sides of the controversy. Whatever side of the argument the reader subscribes to, he will find that both writers wield a "powerful little finger."

The President of the United States has proclaimed May 1 as Law Day. Before the emphasis on ideal, Thurman Arnold, a central figure in the legal movement, has pointed out that this ideal "... is of tremendous importance. For without a continuing pursuit of the shining but never completely attainable ideal of the RULE OF LAW above men we would not have a civilized government. If that ideal be an illusion, to dispel it would require the forswearing of far more lives in war than greater illusion, the illusion that personal power can be benevolently exercised."

The next issue of the Digest will feature Attorney Melvin M. Belli as guest writer. The London Evening News has predicted that "... the mangle of Giesler will fall on the silver-haired dandy with a skeleton in the cupboard." The Evening News further observes that "... out of court he is merely unconventional; in court he is outrageous. Whenever he appears in court he comes equipped with graphs, photographs, a skeleton named Ender and charts on which he sets out to calculate the money his client should receive per hour for pain, medical expenses and lost wages. He has averaged a million dollars a year. in settlements for his clients over the past quarter of a century. His theatrical tactics have made him personally. His article will survey the trend of the law in that amorphous area called Warranty and Products Liability. Mr. Belli warns, CAVEAT VENDOR!

Recently a Federal Court fined, and imprisoned high officials in the electronic industry for their participation in a price-fixing scheme. Presently a Senate subcommittee is investigating the existence of the practice in major companies. The next student Pro column will undertake the proposition that there should be a DIFFERENT STANDARD OF MORALITY IN THE MARKET PLACE.

Students from sister law schools have contacted the Digest; some of the works submitted warrant serious consideration. A selection will be forthcoming.

The Miami Refugee Center is receiving over 2000 self-exiled Cubans per week. The Judiciary in that country has been replaced by military terrorists, Student Ernest A. Vargas will show the effect these things have in life. Then greater illusion, the illusion that personal power can be benevolently exercised."

Cons

(Continued from Page 2)

the emotional response. Hence, no image is inherently obscene—can there then be a truly objective test for obscenity?

Now this is MY POINT: That literature, as its contents, should be absolutely protected by the Federal Constitution.

The Trial

When may a state in the exercise of its police power encroach on a natural freedom? Justice Black, speaking for the court in Bridges v. California, 1941, (314 U. S. at 263), stated: "What finally emerges from the clear and present danger cases is a working principle that the substantive evil must be extremely serious to warrant the courts' tolerating them."

The alleged evils: Immoral thoughts and conduct! Can we establish a causal relationship between literature and immoral thoughts, how do we define such thoughts? Are thoughts of sexual intercourse immoral? Not in wedlock. Out of wedlock.

In 1928 inquiry was made to female college graduates as to the stimuli which aroused their sexual thoughts. Drama, dancing, books, and men were the "evils." (1938, 52 Harvard L. R. at 75). If one picture is worth a thousand words, then what is this so-called "obscene" literature taboo, so also is man?

Were the female college graduates all depraved because they admitted to these "immoral thoughts"? Do most persons have such thoughts? If so, either the thoughts are normal or most of the population is depraved. In the latter case perhaps society is better off allowing these thoughts to be drained off by books, rather than taking the chance of people expending them on people.

The censors are quick to link lewd thoughts with anti-social conduct; i.e., any demeanor which is illegal or contrary with prevailing moral standards—whatever that is? Now each one of us at one time or another has experienced sexual desire, to injure another, frequently one we love—how much succumb? The proof of the matter is that relatively little information exists as to the effect of literature on human behavior. Logically they thought, casually unbalanced as to practice perversion, are impelled to do so not by the books they read, but by their sickness. Even if they can be stimulated to act where otherwise they would not, literary contributions are de minimis amidst the welter of other stimuli that society provides. Cure the sickness and the market for "obscenity" is non-existent.

The sickness of a few cannot be cured by a carte-blanche censorship that bridges the freedom of speech for the many.

The Verdict

Having stripped the bird, it becomes evident that if moral decadence exists in our society, it's not because of any literature. The law of obscenity has thus become a restraint upon ideas. To say that "obscene" words are unnecessary to express ideas is to beg the question. For inherent in free expression is the selection of vocabulary; deprived of such right the freedom may produce only a McGuffy's Reader.

In the words of Justice Jackson (Board v. Barnes, 1943, 319 U.S. at 642): "... freedom to differ is not limited to things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the existing order."

LOYOLA DIGEST

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Opinions expressed in the Loyola Digest are those of the writers and do not necessarily reflect the views of the Loyola Digest, the University, the Law School or the Student Bar Association.
Civil Liberties

IN CLEAR AND PRESENT DANGER

By A. L. Wirin

Many Americans are of the view, and I among them, that one of the major casualties of the cold war suffered by our nation is the loss of our rights. To me, our civil liberties appear to be "in clear and present danger"—and this, particularly from the enforcing imposition of "loyalty oaths."

I share the opinion of President (then Senator) Kennedy: "An epidemic of loyalty oaths has spread across the nation until no town or village seems secure until its servants have purged themselves of all suspicion of non-conformity by swearing to their political cleanliness." (Public statement to American Civil Liberties Union, November 1960.)

I agree, too, with Rev. Michael P. Walsh, President of Boston College, who opposed a loyalty oath on students because "the real security of our country lies in the maintenance of freedom in spirit as well as in fact," and that such oaths violated "the presumption of non-guilt." (Statement before U. S. Subcommittee on Education, U. S. Senate, 86th Congress.)

Of course, every government official and employee owes loyalty to the United States; so does every citizen. But only voluntary loyalty is true loyalty; genuine loyalty cannot be coerced.

But then, if such loyalty can be secured through compulsory law, it cannot be achieved through enforced "loyalty oaths," because they are not true loyalty oaths at all; they are test oaths traditionally rejected by men who love freedom, because they undertake to make compulsory inquiry into political opinion and association.

Accordingly, the evil which they reap is enforced orthodoxy and conformity—the hallmarks of a totalitarian state—alien to a free society.

This position is best and most eloquently stated by Justice Hugo L. Black, concurred in, in Speiser vs. Randall, 357 U. S. 558, 562 (which held unconstitutional California's requirement of a "loyalty oath" as a condition of securing tax-exemption):

"Loyalty oaths as well as other contemporary 'security measures,' tend to stifle all forms of unorthodox or unpopular thinking or expression—the kind of thought and expression which has played so vital and beneficial a role in the history of the nation. The result is a stultifying conformity which in the end may well turn out to be more destruction to our freedom than foreign agents could ever hope to be ... I am certain that loyalty to the United States can never be secured by the enforcement of "loyalty oaths;" loyalty must arise spontaneously from the hearts of people who love their country and respect their government."

Moreover, as suggested by Father Walsh, "loyalty oaths" subvert the presumption of innocence. They assume that the parties are guilty, they call upon the parties to establish their innocence, and they declare that such innocence can be shown only in one way by an inquisition, in the form of an expurgatory oath, into the consciences of the party. So said the United States in 1960, in Cummings vs. Missouri, 4 Wall 277, 288, and In Ex Parte Garland, 4 Wall 333, holding that a Catholic priest and a lawyer, respectively, were protected by the Constitution of the United States from being required to submit to the then imposed "loyalty oaths."

As a matter of personal conscience, I have refused to submit to a "loyalty oath" as a condition of becoming a Notary Public (see Wirin vs.Slides, 191 Cal. App. 2nd 710 certiorari denied, 368 U. S. 952), and I have thus forfeited the protection of the First Amendment.

I have had seven years of undergraduate and law school, plus some outside experience in many cases, in which to create a picture of "loyalty ability." His academic record, extracurricular activities, and work experience are all his, and his alone. If he has created something that can't be sold, no one else is at fault. All that can be done is to fall back and add some more facets to the product, by getting a little more experience for instance.

As the student who protests that he has the ability, all I can suggest is that he is not so good at one of the basic skills of the attorney.

"It is a misdemeanor to shoot at any kind of game bird or mammal except a whale, automobile or airplane," Penal Code 6260, California State Vehicle Code, Chapter XVIII, Paragraph 187.

"Justice McComb is congratulated after the St. Thomas Moore breakfast. At the head table are (left to right) Doug Martin, Father Donovan, Justice White, Justice McComb and Father Cassale.

On March 18, 1962, the St. Thomas More Law Society of Loyola Law School had the privilege of bestowing its annual award on the Honorable Marshall F. McComb, associate justice of the California Supreme Court. This award was given to Justice McComb for exemplifying both in his private and public life the ideals of St. Thomas More.

In accepting the award, Justice McComb not only reminded those in attendance of the special responsibilities which the lawyer has in the business world, but he also illustrated what an excellent model lawyers have in St. Thomas More. As a result of his inspiration, the society is planning to establish a school for lawyers to St. Thomas More, patron of lawyers. This prayer will act as a reminder to whom you are talking, and his own predictions.

"I can't sympathize (although, I hasten to add, I do empathize) with the luckless job hunters."

I've been asked to give some valuable inside information on job hunting—something for the Third Year Class which will be an "Open Sesame" to an unlimited future with high pay, short hours and interesting problems. This I can't do, but I have some ideas on the subject of jobs.

I share the opinion of Justice McComb that "nothing is gained by keeping the conversation going after the initial banalities have been exchanged. Obviously this will vary depending upon the person to whom you are talking, and his own predilections."

Remember that the interviewer is trying to estimate your potential as a lawyer within his organization. Most lawyers would very much like to hire everyone who applies for a job, but they have to be convinced that they can afford the luxury of a new item of overhead. Usually, you will be most successful if you can convince other people of it—maybe you're not so good at one of the basic skills of the attorney.

Try to know something about the firm to whom you are applying. If you can say, "I have done this before," it will help. The best way to do this is to become relatively knowledgeable in a matter of current interest within the field of the person to whom you will be talking.

A recent decision, statute or regulatory pronouncement is ideal. Try to know something about it, and let your interviewer exchange his ideas on the subject with you as an equal. He may pre-empt the conversation, but a "good listener" is usually best remembered as a very intelligent young man.

The best thing to remember is that there is a tremendous demand in Los Angeles for good lawyers. If you can achieve someone you fit into that category, you will, given enough knocking on doors, find a good position.
Blackstone's Commentaries

Tapping the usually reliable sources to discover just where we are in the March of Time, the pageant of youth or even in the “Dance of the Hours,” we can say with a high degree of probability that spring is present and accounted for. To the wended melody of burgeoning blossoms and ribbon-snipping ceremonies opening new stretches of freeway to freedom fighters, cards, and compactos, there is unmistakable evidence of the suppressed yawn that indicates a determined resolve not to yield to the mañana spirit of the old pueblo that currently is the third largest city in the nation. Down in the neighborhood of "The Plaza" recently it was a natural that the golf ball would be inserted, return a sea of indifference and evaporate into a blessed sky of forgetfulness.

A very brave young Cuban fighter was beaten to death in the living rooms of millions of American homes—and thousands cheered while the act was being done.

A man, trained and conditioned to make other men into oblivion with his fists, had done his work well. Those present at Madison Square Garden applauded his performance and Paret was carried out on a stretcher, taken to a hospital where he died without regaining consciousness.

If, by applying this rule of thumb, the people of California can say that prizefighting is a moral "sport," then I suppose it is only a question of time until we join the aficionados of the bull ring in awarding the victor the ears of the vanquished.

By Barry H. Kenealy

What You Do Not Learn...

(Continued from Page 5)

of attachment issued? Why not get a map of the first floor and of the second floor of the Los Angeles Courthouse, or better yet, go up there and put a map in your head. What do you know about branch courts and their districts? What do you know about the rules of the courthouse?"—L. G.

If you learn these things, you have capital that many, many young lawyers do not have. The start on these is the newspaper. The next step is to go and see for yourself locations and procedure. The third step is to make friends with clerks, bailiffs, commissioners, and judges. Such persons are not ogres; they are very human and if you do not approach them at the wrong time (and it is part of your capital to know what is the right time), they can be most helpful and will be helpful to you. After all, it is always flattering to be asked a question by someone who is desirous of learning.

So, I could go on at great length, but what I am trying to tell you is that you have capital now and that you can increase this capital and realize thereon without much financial outlay. You need such capital and the three normal goals indicated in my first paragraph are just around the corner.

I hope what I have said is helpful and not too "preachy." Best wishes.