What Is Law?

by JAMES FRANCIS CARDINAL MCINTYRE,
Archbishop of Los Angeles

In these comments, I shall endeavor to give a definition of law. I shall then proceed to explain that law must be based on reason, and then go further to say that reason must have its foundation in order, and order is the creation of God. Therefore, all law and authority comes from God. I shall commence with a brief definition of law.

Before that, I might say that St. Thomas, in his Summa Theologica, connects immediately his treatise on law with the treatise on human happiness. Happiness, according to the teaching of St. Thomas, consists in the knowledge of the truth, wherein rest for every mind. Because law makes for happiness, it is itself in a literal sense beatific. Law is not a stifling of life, but rather it leads to the fullness of life. And law will have the same sanctity as will the means which it prescribes.

It must be borne in mind, of course, that all positive human law — man made law — enacted law — is not necessarily good or true law. Positive law being the attempt of man to conform regulation to the fundamentals of reason and the order of the universe, at times makes mistakes. Human nature is fallible, and hence man made law may in certain circumstances become a hindrance rather than a help to the happiness that should be its end. Surely, our statutes are not the happiness that should be its end. Surely, our statutes are not
distributed around Thanksgiving.

The brochure will contain pictures of each member of the Class of 1963 and will present a brief summary of the foremost graduate's academic honors and activities, work experience, and employment preference after graduation.

We feel that the earlier distribution plus the interest shown to the first brochure guarantees the success of this year's booklet and thereby assures that the program will be continued by Student Bars of the future.
Blackstone's Commentaries

"It's later than you think," is not just a random shot in the dark. It not only calls attention to the fact that time in its inexorable march, halts not to claim the hour borrowed scarcely a half year ago. But it'll be returned shortly and whether com-

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The fine hand of BOB CLINNIN '53 was discernible in the carrying out of this fact of the program, now established as a tradition, with the accent on fellowship and understanding. The touch of indispensable JOHN MALONE '52 who was doing double duty—he's been on the staff of the State Bar for ten years—was recognized in the mechanical excellence of the party. A master of details, he was the personification of poise and cooperation. Loyal to the State Bar and considerate of himself et. ux... JIM COLLINS '34, after surviving the rigors of the Convention, took off on a European Tour, sponsored by the State Bar. It provided refreshing relaxation from that tired feeling associated with the environs of Spring Street... With Copenhagen as an operating base, he got a look-see at the capitals of Western Europe from Shannon to the Tiber.... With Jim's know-how and his facility for having doors open inward with ease and agility, there's very little he missed—just enough perhaps to plan a quickie return..... While father is storing his treasure house of wisdom, son JOHN '61, after looking over the various buildings in the Civic Center,—on the inside of course,—threw his lot in with the County Counsel. ... At the latest report, both C.C. and J.C. were still in business and doing nobly... No a few of the rural practitioners, like LOUIS LA ROSE '48 and MARGARET KELLER '49 made a determined effort to come to town and added much to the professional aura that was the constant associate of clan Loyola.

JOHN THOMAS HOURIGAN '49 of Delano was announced as coming but had to cancel out. ... Of course, when one has 33 per cent of the practice of the company, he must be ready to respond to a client 24-hour basis. ... Even with a Mercedes-Benz, it's still a hat-and-rabbit deal to be in two places at the same time. If it were double Jack would have been present and accounted for. MIKE CLEMENS '51 was thoroughly acclimated to the grand manner of the Hilton,—you know he practices law just down the street,—true to his native taste and Navy training, he kept edging poolside. ... Annapolis certainly left its mark on Mike. A Frontiersman, politically and by habituation. FRANK BARRY '41 of Nogales, Arizona, is making a contribution to the present administration as top legal aide to the Secretary of the Interior... Frank, who was a candidate for the Supreme Court of Arizona only a few years back... dropped in a couple of weeks ago, in search of competent aid for the Department.... JIM SATT '53 and JOHN McCUE '48 with their respective wives, recalled their days in Law School... Jim was active in organizing the Alumni Association in its present set-up and did a herculean job. ... Both agreed that time is moving on an accelerated scale contrasted with the years following the War when bandoleers gave way to briefcases. ... Frank, incidentally, recently moved his offices to the United California Bank in Beverly Hills. ... He and three associates are carrying on the fine tradition of the late lamented JERRY GIESLER. ... They are located in the finest surroundings,—'plush' doesn't begin to describe it,—facing Wilshire at its opulent best, it breathes luxury and splendor... the entrance is on Camden, where an escape hatch is provided.... Another instrument in the conservation of Time.

President's Message

On behalf of the Board of Governors of the student bar, I wish to congratulate the new students for being able to gain admittance to and the old students for being able to remain within Loyola Law School.

The officers of the Board for the 1962-1963 school year are: Joe Barron, fourth year night representative, President; Bill Keeve Director of the Moor Court and a third year student, Vice-President; J a c k Killeen, fourth year night representative, Treasurer; and Tom Girardi, Digest Circulation Mgr. and a second year day student, Secretary. The Executive Committee of the Loyola Bar Assn., includes all the above officers in addition to Mrs. Clemence M. Smith, Chairman of the Faculty Committee on Student Activities, and N o r m a n Narwitz, ALSA representative from Loyola and a third year day class representative.

The remaining Board members are Carl Lowthory, third year day representative and Co-Chairman of the Placement Brochure; Hal Mintz, President of Phi Alpha Delta and a third year day class representative; Vince Stefano, second year day class representative and Co-Chairman of the Placement Brochure; Tom Stockard, second year day class representative and Co-Chairman of the Committee on Public Relations and Professional Activities; Al Sparre, third year night representative. The ex-officio members of the Board are Mike Conlon, President of Phi Delta Phi; Carolyn FrIan, Editor-in-Chief of the Loyola Digest; and Mike Gleason, President of St. Thomas More Law Society.

The Board is the elected governing body of the Loyola Bar Assn. The payment of dues qualifies one for a status of "good standing" which confers the right to receive all student publications, issued by card number, to participate in Loyola Bar Assn. activities, inclusion in the Placement Brochure (Seniors), plus free admission by card to all student bar sponsored activities.

The student bar is not the law school counterpart of the undergraduate student council, for while it is vested with those limited legislative powers over extracurricular life usually incident to a student council, the duty of the student bar is to train its members in the responsibilities they will face as members of the legal profession. In order to justify its existence, a student bar must direct itself to three major spheres of influence, educational, professional and service. The educational aspects are provided by speakers programs which include the use of audio-visual aids. The Honor System which was submitted to the faculty on June 23, 1962 typifies the professional sphere. While the Placement Brochure falls into the service category.

The Loyola Bar Assn. is a member in good standing in the American Law Students Assn. which is sponsored by the American Bar Assn. as a part of the Law Student program. All members in good standing of the Bar Assn. are also individual members in the ALSA. Future articles will outline the scope of ALSA and its relationship to the Loyola Bar Assn. program.

In conclusion, some food for thought: "A learned man is an idler who kills time by studying" (George Bernard Shaw in Maxims for Revolutionists.) In this from of reference, we would be well advised to kill some time.
WHAT IS LAW?

(cont. from page 1)

The Place of Reason

Accepting this, we must then ask what is the place of reason in law. Does that which directs a man’s activities, that which induces him to act or refrain from acting, pertain to reason? We must here make a distinction between human acts and the acts of man. A human act is something distinguished from those activities of a man such as his heart beats, or his respiration, or the actions which are purely animal. A man’s unconscious actions may not bring with them responsibility, and hence are acts of man and not human acts. If an act, if a life, is to be dignified by the term human, then in that life or in that act reason must evidently pertain. Reason is the first principle of human action, and its operation begets responsibility, and hence is a human act. Now, what is reason? Reason is simply our human faculty of seeing the “what” and the “why” and the “wherefore” of things. It is the power of seeing the meaning of this, that, and the other thing, of discerning proportion, of discerning order, of a relationship between things, of appreciation of their finality or their destiny.

Reason is it that enables us to make and respect distinctions, to distinguish between men and monkeys, between male and female, between married and unmarried, between superior and subject, between truth and falsehood, between right and wrong. In the light of such distinctions, reason draws conclusions both speculative and practical. Insofar as it deals with practical conclusions, it is called ethics, practical reason. In the speculative field it is called metaphysics. So regarded reason is simply our human faculty of judging the proportion, the suitability, the means to an end, and of ensuring that the means, judged to be apt, will be taken in view of the end proposed.

It follows clearly that the necessary directive and the ruling principle of human life is reason. If then law be defined as the directive, or the ruling principle of human life or activity, law evidently pertains to reason. Law must be first and above all reasonable, as befits the faculty that conceives it and begets it. Are we not led then to say that law is primarily a conception in the mind of whoever is the lawmaker, of some order, of some orderliness, that should be observed or brought about in human life.

In the making of law, therefore, the legislator must always be directed by reason. Reason in its turn will be directed by the order which it finds already impressed on persons and things. For instance, every law must respect the relationship that exists between soul and God, and between a husband and wife, between parents and children, as also the order which constitutes natural rights, which no legislator may ever override. Any ordination of any authority whatsoever, which would do violence to such order and relationship, is considered as illegitimate. Right reason is always in accordance with divine law.

Blackstone’s Definition

It might be opportune to relate to you the definition of a famous authority. Blackstone, on the question of the natural law, since our reasoning thus far brings us to the authority of that law. The definition of Blackstone is as follows:

“The law of nature, being coeval with mankind and dictated by God Himself, is, of course, superior in obligation to any other (law). It is binding over all the globe in all countries, and at all times; no human laws are of any validity, if contrary to this (the natural law); and such of them (human laws) as are valid derive all their force, and all their authority, mediatly or immediately, from this original (natural law)).”

It is apparent, therefore, that the order of nature is a not a fluctuating quantity but a permanent and perduring element in fluctuate with the whims of man and nature. It does not undergo any fashion, and because the law of reason is not written law does not make it any the less real law and permanent law.

Perhaps I should comment further on the use of the word law in this sense. Speaking accurately, law and the so-called natural law are not law as prescribed to be obeyed. They are construed as law and called law because they constitute the order that was originally established by the Creator. That order, which was placed in the nature of man by God, and which constitutes his reason, and that something which has been placed in man by which he recognizes right from wrong, by which he accepts a norm that is discernable and that is common to all men, and is not a changing law.

For instance, in the order of nature, when scientists discover that certain effects flow from established combinations, it is then described as a law of nature, whereas it is merely the recognition of an order established by God. We speak of the law of gravity, not because it was a written law, but because it was a law discovered by man, or rather an order discovered by man, and to which order man has attributed the term of law.

Natural Law

It is interesting to note that in the Constitution of the United States, we read that these truths are self-evident. What does this make them other than the natural law, order, reason and sanction. It is a recognition of the natural law in the very opening part of our Constitution. Certain truths are self evident, they need not be written, they constitute the order established by God, which we term law, and which is the rule of reason which has the force of law by virtue of its universal acceptance, and this universal acceptance is based on the law which has revealed the authority that has revealed the law, which is God.

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The Place of Reason

(continued from previous page)

November, 1962

LOYOLA DIGEST

Page Three

Editor's Desk

From the Editor's Desk

As was promised in the last edition of the DIGEST (June, 1962), James Frances Cardinal McIntyre, Archbishop of Los Angeles, has responded to the perplexing question of “What is Law?” Although the question is short, the answer, of necessity, is profound and requires more than our usual amount of attention—but the effort is well worth it. . . . From the profound, we move to a description of the trials (not a pun) and tribulations of beginning practice in a small law firm. The author, Joseph E. Morris, is a 1959 graduate of Loyola and, since his admission to the Bar in 1960, has been a member of the Sherman Oaks firm of Yates & Morris. We were more than amused at Mr. Morris’ insight into the problems attendant on the young attorney and recognize the probability of much that he says. . . . If Mr. Morris’ article did not offer enough laughs, have you read page 8? Knowing that the election is on, 6th day, we felt the necessity of offering a searching expose of a timely political problem. If we have succeeded in swaying your vote, it is unintentional and can only be attributed to our inadvertence, mistake, neglect and surprise.... Dean Dibble has offered a concise answer to a current matter of discussion. . . .

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(Continued from Page 1)

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For instance, in the order of nature, when scientists discover that certain effects flow from established combinations, it is then described as a law of nature, whereas it is merely the recognition of an order established by God. We speak of the law of gravity, not because it was a written law, but because it was a law discovered by man, or rather an order discovered by man, and to which order man has attributed the term of law.

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The point of this discussion at this time is that the philosophy of our time, the trend of thinking, is entirely away from the thought of an order of nature, coeval with mankind and discovered by man, and is not a changing law. Hence, law and authority comes from God, the Creator of nature.
Court Disallows Employers Claim

Can a negligent third party, when sued by an injured employee who has already received worker's compensation benefits, assert the negligence of the plaintiff's employer as a defense? The majority of the jurisdictions that have passed upon the question hold that the defendant cannot claim this defense. This was the California position until the recent case of Witt v. Jackson, 57 A.C., 57, 386 P. 2d 641.

In this case the city of Los Angeles intervened in an action by a policeman against a negligent third party. The California Supreme Court held that the city, which was guilty of concurrent negligence, could not be relieved from its responsibility for the plaintiff's injury by the negligence of the city. The court upheld the plaintiff's claim for workmen's compensation benefits paid to the injured employee-policeman. Furthermore, the amount of damages due to the negligent third party to the employee was reduced by the amount of money paid to said employee by the city in compliance with the workman's compensation laws.

Prior to the Witt case, a third party tortfeasor was not allowed to assert as a defense the employer's concurrent negligence when the employer's insurance carrier asserted a lien against the employee's judgment. Pacific Indemnity Co. v. California Electric Works Ltd., 29 C.A.2d 260, 270-271, 84 P.2d 641; Finginan v. Royalty Realty Co., 35 C.2d 409, 434, 435, 218 P.2d 17.

The Supreme Court reasoned that the rule of the Pacific Indemnity Co., supra, should be changed because if developed at a time when California did not allow contribution among tortfeasors. However, CCP 875-880 abrogated this rule of non-contribution so that today, in the absence of a Workman's Compensation Statute a negligent third party would be allowed contribution against a concurrently negligent employer.

While refusing to allow the employer to benefit by his own wrong, the Court also closed the door to the possibility of the injured employee obtaining a double recovery. i.e., compensation benefits and judgment from a third party.

—ANDREW STEIN
ALS Convention at San Francisco

The national convention of the American Law Students Assn. was held in San Francisco during the week of August 9-11, 1962. The ALSA is sponsored by the American Bar Assn. as part of its law students program. ALSA includes 131 law schools representing some 40,000 students. In the past year ALSA has been cooperating with organizations of a similar nature in Canada and Mexico.

Headquarters for the convention was the Whitcomb Hotel on San Francisco's famed Market Street. The Student Bar at the University of San Francisco, Law School, was host and published a daily four page paper. Social activities were many and varied, and for the most part were both free and very enjoyable.

NINTH CIRCUIT

The Loyola Bar Assn. is a member of the 9th Circuit, which includes the ABA approved law schools in California, Arizona and Nevada. As a circuit the 9th enjoyed 100% attendance and under the capable direction of Richard Beaem(MSC) ALSA 9th Circuit Vice-President, demonstrated a spirit of responsibility and concert of effort that was exciting to observe. There were many hard fought issues in the 9th circuit caucus sessions but they added rather than detracted from the spirit of the group.

Two national offices were captured by the 9th Circuit, Richard Block, (USC) was elected Executive Vice-President on the first ballot as was Nancy Babel (University of Arizona) elected Secretary. Mike Dorne, Boston College, is the new President; Roger Zylstra, American University, Second Vice-President; and Bert Weinrich, Catholic Univ. Treasurer. It might be well at this time to take note of the composition of the government of ALSA.

The ALSA operates through its Executive Committee, Board of Bar Governors, House of Delegates and National Committees. The Executive Committee is composed of the President, Executive Vice-President, Secretary and Treasurer. The Board of Governors is the upper house of the bicameral legislature of the ASSN and includes all the members of the Executive Committee, the 12 Circuit Vice-Presidents plus five ex-officio members. The ex-officio members are the Chairman of the ABA Junior Bar Conference; two members appointed by the President of ABA; the ABA Director of Activities and the Executive Director of the American Bar Assn. The House of Delegates is the second house of the ASSN and consists of the delegates sent by each member assn. to the annual meeting.

To provide continuity of the organization's work and to insure coordination with the organized bar, the ABA has established the position of Director of the Law Student Program. He is an experienced attorney, Mr. Earl Hagen, who is now devoting his full time to the problems of law students. The bulk of the operational expense of the ALSA is paid for by the ABA.

The importance of a national convention of the ALSA lies in the advantage given to each participant by a free exchange of information on a national basis, support and from a national organization, and the opportunity to see and hear leaders in law discuss topics in their specialty.

Justice Clark

The after-dinner discussion by Associate Justice Tom Clark of the United States Supreme Court, a separate part of the ALSA Convention, held in the dining room at the University of San Francisco, where he entertained questions from the students on every subject, warranted the standing ovation he received. A short talk by Associate Justice Brennan on over-specialization resulting in refusals by many attorneys to take criminal cases which constitute a weakness of the modern practice of law, was presented before a session of the ALSA house of delegates.

An exhaustive description of the convention and its high points soon appear in the Student Lawyer, a national magazine distributed to ALSA members. Future articles in the Digest will illustrate the correlation between the ALSA and the Loyola Bar Assn. in providing for each student a close connection with reality and the practice of law.

Fraternity Row

by EDWARD SIEGEL

One side of school activities which is not known to many new students is the activities of the legal fraternities. In the next few weeks all those non-affiliated students will be given the great "rush" that has become traditional with colleges across the country. In order to gain a better insight into the function of the local brotherhoods, the following resume is presented:

PHI DELTA PHI-For ninety-three years Phi Delta Phi's have found need in the legal profession for the advancement of high scholarship and culture, and the opposition to corrupt practices, and right adherence to a code of professional ethics; and in the process, an amazingly large percentage of them have attained unusual prominence in American affairs. Among the leaders are:


Aggeler Inn at Loyola University, School of Law was founded in 1937 and boasts several faculty members among its members. They include: Acting Dean and Professor of Law J. Rex Dibble, Professor of Law Judge Otto M. Kaus, Professor of Law Quentin D. Ogren, and Assistant Professor of Law Richard Schauer. Aggeler Inn is well represented in student government and activities by Mike Gleason, President of St. Thomas More Law Society; Bill Keese, Vice President of Loyola Bar Assos.; and Tom Girardi, second year representative on the Board of Bar Governors.

Among those brothers whose names appear on the Dean's List for scholastic achievement are: Mike Gleason, Mike LeSeage, Tom Girardi and Randy Wenkler.

The first event of the semester was a Cocktail Party on Sunday, September 30, attended by students, alumni, teachers and community leaders. This year, as in the past, the series of lunch and dinner speakers will be continued. The outstanding leaders of the legal profession speak on subjects of which they are experts. The program has been well-attended in the past and to keep current on who is next on the agenda the bulletin board in the lobby will supply current data. To round out the year's program, other parties and athletic events are scheduled.

* * *

PHI ALPHA DELTA-The purposes of the fraternity are three-fold: (1) to assist law students during law school; (2) to help graduates in placement; and (3) to provide a life-long professional fraternity for the practicing attorney.

Of our most distinguished Americans have come from the ranks of P.A.D., including Woodrow Wilson, William Howard Taft, Warren G. Harding and Harry S. Truman, past Presidents of the United States. Seven P.A.D.'s have served on the United States Supreme Court, and Tom C. Clark, William O. Douglas, and Charles E. Whittaker are currently on the Court.

At Loyola, the membership proudly includes faculty members Walter H. Cook, Myron Fink, Owen G. Fiore, James C. Maupin, Lloyd J. Tevis (advisor), William G. Tucker, Rev. Richard A. Vachon, and A. Marbury Yerkes.

Eight of the eleven elected representatives of the Board of Bar Governors are members: Joe Barron is President of the Board. Jack Killeen is Treasurer, and Norm Narwitz, Hal Mintz, Tom Stockard, and Alvin Spire are class representatives. Ed Siegel is P.A.D. representative.

Last year, every award given by the law school was awarded to a P.A.D. The Moot Court team this year, and last, is composed entirely of P.A.D.'s. The highest scholastic average in the law school belongs to active member Bill Ryliaa, while members on the Dean's Honor List also include Jack Killeen, Frank D. King, Sanford Levenberg, Peter Menjou, Bernard A. Murray, Nelson Paine and Tom Stockard.

On October 28, a Cocktail Party was held at the home of Professor A. Marbury Yerkes, and a reception for Judge Murrah, the Supreme Justice, was held October 24. Future events include a Judges Night for all P.A.D. judges in the Los Angeles area in early December and a Christmas party. There will be activities with the alumni, and guest speakers at the law school.
**SHORT NOTES ON A LONG PROBLEM**

**PROBLEM: THE STATE OF A HAS A BICAMERAL LEGISLATURE. ITS SENATE CONSISTS OF ONE SENATOR ELECTED FROM EACH COUNTY. ITS HOUSE OF REPRESENTATIVES CONSISTS OF MEMBERS ELECTED FROM THE SEVERAL COUNTIES ON THE BASIS OF POPULATION. DOES THE METHOD OF SELECTION OF THE STATE SENATORS VIOLATE THE CONSTITUTION OF THE UNITED STATES?**

In the much discussed (and sometimes criticized) case of *Baker v. Carr*, 369 U.S. 186, 82 S.Ct. 691, 7 L. Ed. 2d 663 (1962), the Supreme Court of the United States held that the Federal courts had jurisdiction to decide the claim of a citizen of Tennessee that the Tennessee apportionment of members of its General Assembly violated the Equal Protection Clause of the Fourteenth Amendment. The plaintiff argued that the failure of Tennessee, since 1901, to re-apportion the membership of the State Senate and the State House of Representatives was a discrimination in violation of the Equal Protection Clause, against voters in the counties which had gained in the number of qualified voters since 1901.

The Supreme Court specifically did not decide whether there was in fact a violation of the Equal Protection Clause. The Court simply held that the lower Federal court had jurisdiction, that there was a justiciable issue, that sufficient facts were alleged to require a hearing on the merits of the case, and that the lower court should therefore not have dismissed the case. The Supreme Court did not set forth any rules or principles to assist the lower court in its attempt to determine whether there was a justiciable discrimination, and if so, the appropriate remedy.

It seems to me that the majority opinion in the Baker case is correct. Giving less weight to the vote of one citizen than to the vote of another in the circumstances alleged in the Baker case is a violation of the Equal Protection Clause. The very purpose of having the upper branch selected on a territorial rather than a popular basis, was a familiar one in 1837 and it is familiar today. The very purpose of having two houses was that each would be a check upon the other, and prevent the passage of hasty and ill-conceived legislation. A different method of selection was essential to the bicameral plan. No more natural or logical basis could be suggested than that the viable and long established political subdivisions be accorded representation, as they had been in election of electors under the Constitution of 1776.

The bicameral concept is not one that has become obsolete with the passage of the years. It has been repeatedly recognized by Congress and the President, subsequent to the adoption of the Fourteenth Amendment in approving the states constitutions seeking admission to the Union.

It is my opinion that a majority of the Supreme Court would hold that selection of state senators on a county basis is not, in and of itself, the "invidious discrimination" required for a violation of the Equal Protection Clause.

J. Rex Dibble
Professor of Law

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**Stamp Out Private Practice**

(Cont. From Page 4)

lest the judge look down and ask "now, which one is the incompetent?"

And surely one of those early appearances will be in a criminal case. Since this involves the personal liberties of the client it marks a time when John will be well prepared. Many hours will be expended on research and preparation, and on the day of the trial John will be prepared to defend his client to the limit and to uphold his constitutional guarantees. And again as he stands before the bench he will find the judge understanding and interested in the defendant's constitutional rights. However there are limits for every judge and he may well feel that a defendant's constitutional guarantee against self-incrimination does not cover failure to appear for trial. John will find that a courtroom is a lonely place without the reassurance of a client at his side.

Of course the day will come when there will be many of John's wills and contracts spread throughout the community and he will be sufficiently well acquainted with the court house perhaps even to personally operate the automatic elevators. He will then undoubtedly be in the position to give free advice to new admittees. However, after reading this and knowing of his climb to success I wonder if you would take his advice or heed his cautions against private practice. I doubt I would, but then I have two many years invested in that field.

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**Common Market Topic**

*For Phi Delta Delta's*

Phi Delta Delta women's legal fraternity hold their annual Founders Day brunch for alumna and student members in the French Room of the Ambassador Hotel on October 21. The Consul-General of Belgium spoke on the European Common Market.

Those attending from Loyola's Alpha Theta Chapter were: JoAnn Mares Dunne, Carolyn Friel, Roberta McGuire, Eve Cohen, Georgia Waldo, and Lorellee Tristler.
MR. JUSTICE HOLMES
AND THE SUPREME COURT.


A new classic of the law, reminiscent of Cardozo’s The Nature of the Judicial Process, which argues that law is not law which is only law. In the author’s words (p. 93): “...we cannot learn law by learning law. If it is to be anything more than just a technique it is to be much more than itself: a part of history, a part of economics and sociology, a part of ethics and a philosophy of life. It is not strong enough in itself to be a philosophy in itself. It must stand rooted in that great tradition of human civilitas from which have grown the institutions of the Western liberal world. Cut it away from that tradition, no matter for how good a reason, and it will lose what sustains its life.”


An attempt to establish guide lines in six forms of activity where law and morality overlap: Contraception, Artificial Insemination, Homosexuality, Suicide, Sterilization and Euthanasia. Catholic, Protestant, secular-liberal and utilitarian positions are reviewed and criticized.


“Says Brown J.: ‘The question is: even if it be true the importance that we’ve been strugglin’ over it ever since ye see us las’ an’ only come to a decision (Fuller, C.J., Brewer, J., an’ Peckham J. dissentin’ fr’m me an’ each other) because iv th’ hot weather comin’ on. Wash’n’ton is dreariful place in summer (Fuller C.J. dissentin’). The whole fabric iv our government is threatened, th’ lives iv our people an’ th’ progress iv civilization put to th’ bad. Men are excited. But why? We ar’r not. (Harlan, J., “I am.” Fuller C.J. dissentin’, but not fr’th’ same reason)” (p. 163).

-world peace through law-

At the Asian and Australia

sian Conference, one of the Con

ency on World Peace Through Law, held in Tokyo in September, 1961, a consen

sensus was adopted in which the following was the initial paragraph:

We remind mankind that un

der the rule of law the individ

ual may live in freedom, in
ginity, and in peace. In the ab

cence of the rule of law the in

dividual becomes the subject of

arbitrary power over all politi

cal, economic and social life. He

lives under tyranny and appre

hension in fear and bondage.

John C. Satterfield, imme

diate past president of the Amer

ican Bar Association, was pre

sent at this conference. Find a

moment to read his discussion

of the President’s Page of the

Bar Journal for June, 1962. 48

A.B.A. Journal 499.

As Mr. Satterfield states in

that article, the American Bar

Association has organized cer

tain committees to aid in the

promotion of this effort, most
directly through the Committee

on World Peace Through Law

under the chairmanship of

Charles S. Rhyne, himself a

past president of the A.B.A.

This committee has so far

provided the stimulus for the

above mentioned Tokyo confer

cence as well as others in Lagos, Nigeria, in Rome and in San Jose, Costa

Rica.

In October, 1957, the Ameri

can Bar Association appointed

a special committee on Intern

ational Law Planning headed

by Governor Thomas E. Dewey.

This group gave itself to a

study of proposals requesting

A.B.A. leadership and support

for discussions of means where

by the international judicial

process could be developed to

aid progress and assure con

tinuing peace. A second group

was then appointed to carry

out the recommendations of

the Dewey Committee. The pro

posals of this committee were

formulated following evalu

ation of responses in more than

10,000 inquiries sent to lawyers

in this country and abroad.

These proposals received the

support of the Ford Foundation

and the International Co-opera

tion Administration in the form

of funds to carry out the sug

gested program. This committee,

remained be described as the

under the direction of Mr.

Rhyne, initiated the first of

these continental meetings, that

at San Jose.

NOT IDEALISTS

In his article, Mr. Satterfield

quotes from his own speech at

San Jose, and this too is well

worth your attention. Among

other matters he stresses the

following: “World Peace

Through Law is not a slogan

of visionaries and idealists; it

is the cherished objective of

the realist” and further on, “What

is more realistic and practical

than the desire for survival.”

The American Law Student

Association, of which we are all

members, enjoys a close liaison

with the American Bar Asso

ciation and has voted approval

of the general principles of

World Peace Through Law.

Within its own organization

ALSA has erected a committe

to implement these principles.

With the thought that we

would all find an enthusiasm

for this work, the Loyola Bar

Association has decided that its

members should be given the

chance to learn more of the

workings of the ALSA and ABA

committees as well as the re

sults already achieved in na

tional and international confer

ences.

These groups of lawyers are

not involved in a short range

program capable of quick and

easy success, nor will we be.

However, as law students and

eventually as lawyers we should

be informed of and active in

these efforts, for surely no

other work of our profession is

more worthy of our lifelong at

tention. Loyola Law School

members of ALSA will shortly

be receiving further direct evi

dence of the continuing study

of its subject on the student

level and will find the ideas

there presented worth close

study. We intend also to discu

ss further developments in these

pages.

Finally, it is urged that each

student member of ALSA take

advantage of one valuable inci

dent of his membership in this

national organization, an annual

subscription to the American

Bar Association Journal, at the

special rate of $1.50 per year.

Recent issues containing arti

cles with particular emphasis on

World Peace Through Law are

those of October, 1961, and

June, July and August, 1962.
RESOLUTION:
THAT DRAW POKER SHOULD BE BANNED—OR SHOULD IT?

by THOMAS L. McDONALD

The National Pastime is a contest in which a group of young men costume themselves in shirts with numbers on the back, pants that are reminiscent of knickers, animal skin coverings on one hand, and, chieftain, gather on a grassy, white striped plot of ground, stand in prescribed positions, and say funny things to each other and to the spectators.

The crowd assembled to see the performance enjoys it; the players enjoy themselves, or act as if they do because of the remuneration given them by their organizations. Some of the players have additional reason to enjoy themselves because they receive additional remuneration from other organizations, for appearing, knicker clad, in mass media, and assuring the world that what they do is in fact common, incomparable.

Poker, of whatever variety, is a contest played with small, decorated rectangles called cards.

The purpose of the game is not necessarily but usually, the winning of money. The participants number from two to eight and seat themselves around a table in no particular order. The assemblage of rectangles has been variously described as "... playing things of the devil," or, as was purportedly done by the soldier in Korea in response to a query from a chaplain, "My Bible.

In any event, the purpose of the contest is achieved by convincing the other players that the values of the rectangles held by one is superior to the value of those held by one's fellows. Often the value of a player's holdings does in fact exceed that of the others, and, when such is the case, the holder receives a jointly contributed reward. On other occasions the value may be inferior, but if the holder is able to convince the other contestants that such is not the case, he is again entitled to the reward; what this amounts to is winning without actually cheating. Some assert that these attempts to convince, particularly the latter, are beneficial experiences for situations to be met in later life.

In California a few men have provided meeting places for the playing of poker; these are called card palaces. The men who provide the facilities do not themselves play, they simply provide facilities for contests between other individuals; for arena purposes the latter day gladiators pay a sort of rent. It is because of the consistency of these rent payments and their total amounts, that some other men say the game is attractive to the shoulder-holster set. The attractiveness to criminals, they contend, leads to corruption, and apparently otherwise incorruptible city governments, and has a tendency to lead the young astray. Therefore, their argument continues, abolishment of the attraction is desirable. This recommendation is based on the removal of temptation theory. Applying this theory to the problem, once the attraction is removed, the undesirables will forswear their beat Magnus into plowshares, city governments will no longer be corrupt, the young will no longer be led astray, and the sun will never stop shining. Other people contend that when an area of legal activity is being infiltrated by a criminal element, the infiltration rather than the activity should be stopped.

When the time for the annual series of contests between the victors in their respective baseball leagues rolls around, (it somehow never simply arrives like other annual events, it always "rolls around") a great many people wager on the outcome. The total amounts wagered involve no small sum, and not all of the wagering is done by amateurs. The annual march of the greenbacks involves enormous sums, and is illegal in most of the states. Criminals have been known to show more than passing interest in this phenomenon, and this has occasionally led to their participation on a grand scale.

The remarkable fact however, is not the amount of money involved, the character of some of the participants, nor the violation of the law, it is simply that abolishment of the attraction has never been suggested as a remedy.

But the topic at hand is commercial gambling in Gardena. It is not a fit subject for drollery even had it been better presented.

It has been of no recent date that scientific observers of social phenomenon have classified the urge to gamble in its compulsive form as a severe sickness to the addict, and a tragedy to his innocently injured family; at its best, financially dangerous when not indulged in in the friendly atmosphere of the home.

"Gamblers Anonymous" like "Alcoholics Anonymous" is a modern fact.

After several evenings following the habits of Cardena gambling through the foyers of Jerry built poker palaces into the unreal world of compulsive gambling; of watching pensioners, widows, day laborers and others difficult to classify but easy to pity, hypnotically wager their pittances against the cold certainty of eventual loss, this writer is emotionally convinced that Dr. Phineas Soffit's quote in a recent psychiatric journal is the truth:

"The habitual gambler attempts to resolve inner conflicts by the turn of a card... and in the knowledge that he will ultimately lose enough to assure his guilt. To offer gambling to such a man is like offering heroin to an addict, it is a temporary relief, but an inevitable destruction.

I suggest that Mr. MacDonald go to Gardena as I did, that he talk to the many like Mrs. Edgar A. P. Downey who told me "I can't help it... even when I don't eat right, I know that these places are here to take my money... most of my friends here are like me."

Or, to "Shoe Shine" Kazantzakas who boasts openly of setting fire to the Cortazone Club when it wouldn't follow his policy—and of his connections in the Gardena government.

We do not advocate abolishing playing cards being used for friendly games at home, but neither do we suggest opening opium dens. The Poker Clubs in Gardena are not friendly; they are in fact swamps to which are drawn not the incorruptibles but the weak and unaware. To quote the famous sociologist Harry Richman from Das Narenschnitt: (May 1953) "Open gambling near a large metropolitan area inevitably draws to it personal tragedy and governmental corruption.

LOYOLA DIGEST
LOYOLA LAW SCHOOL
1137 South Grand Ave.
Los Angeles 15, Calif.

by ALEXANDER J. BRYANT

We are appreciative of Mr. MacDonald's effort to explain baseball and were mildly amused. Fortunately, space did not allow our opponent to continue, or he might have described elevators as rooms with ropes on them, lightbulbs as bottles with candles in them, and rape a felonious galantry.

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