

BOOK SHELF HIS OWN, SAYS ELIOT IN SUIT

**Right to Use "Harvard Classics"
in Five-Foot Library Granted
by University, He Asserts.**

INVOKES THE PRIVACY LAW

**But Defendant Magazine Contends
That Publicity of the Plan Made
It Public Property.**

Charles W. Elliot, President Emeritus of Harvard, had the express and unanimous consent and approval of the Harvard corporation when he embarked on his enterprise of selecting a "five-foot shelf" of books which should comprise a liberal education. Official consent was given to the use of "The Harvard Classics" as a title. The project was made a Harvard enterprise by the express grant of the use of the Harvard University Library and the services of the Harvard professors of English. These are statements made by Dr. Elliot in his application for a permanent injunction against the advertisement of certain collections of literature as "five-foot shelves" and "Dr. Elliot's five-foot shelf" in an affidavit submitted to Justice Dowling yesterday.

The New York statute insuring "personal privacy," officially known as Chapter 132 of the Laws of 1903, is invoked in Dr. Elliot's petition for the first time in its full force. The statute was enacted following the famous decision of Alton B. Parker, as Chief Judge of the Court of Appeals, that no right of privacy existed which could enable a person to restrain the use of his or her portrait or name for advertising purposes. The statute not only makes the unauthorized use of name or portrait for advertising purposes or for trade without consent a misdemeanor, but grants civil and equity remedies and allows juries to fix exemplary damages.

In his petition, in which he is joined by his publisher, Robert J. Collier, Dr. Elliot sets forth that he has not yet fully selected the works to comprise his "five-foot shelf," and that he has never made any announcement to that effect. Consequently he alleges that any so-called "five-foot shelf" with his advertised endorsement must be bogus.

Fifty copies of Justice Seabury's temporary injunction of Friday were served yesterday on employes of the Circle Magazine, E. Milton Jones, and the University Library Extension. These injunctions restrain the employes from answering any inquiries, written or oral, concerning the alleged "Five-foot Shelf" which has been advertised in connection with The Circle Magazine, and from publishing any further advertisements or making any sales of the books. Justice Dowling reserved decision on the motion to make this injunction permanent.

Detectives reported to Robert J. Collier's representative yesterday that fifteen girls were occupied in the one task of opening mail inquiries concerning the compilation advertised by the Circle Magazine and The University Library Extension. Yesterday was to have been the day on which the work of filling the first orders was to have been begun. Thousands of orders had come in for the work, which ranged from \$4.25 to \$14.75, including a year's subscription to the Circle Magazine. The "Harvard Classics" sell from \$100 up to \$345.

Charles E. Kelley of counsel for Robert J. Collier, said last night that both Dr. Elliot and Mr. Collier are against a compromise of the case.

"If we cannot stop this unwarranted use of Dr. Elliot's name by invoking the civil jurisdiction," said Mr. Kelley, "we will appeal to the criminal section of the statute."