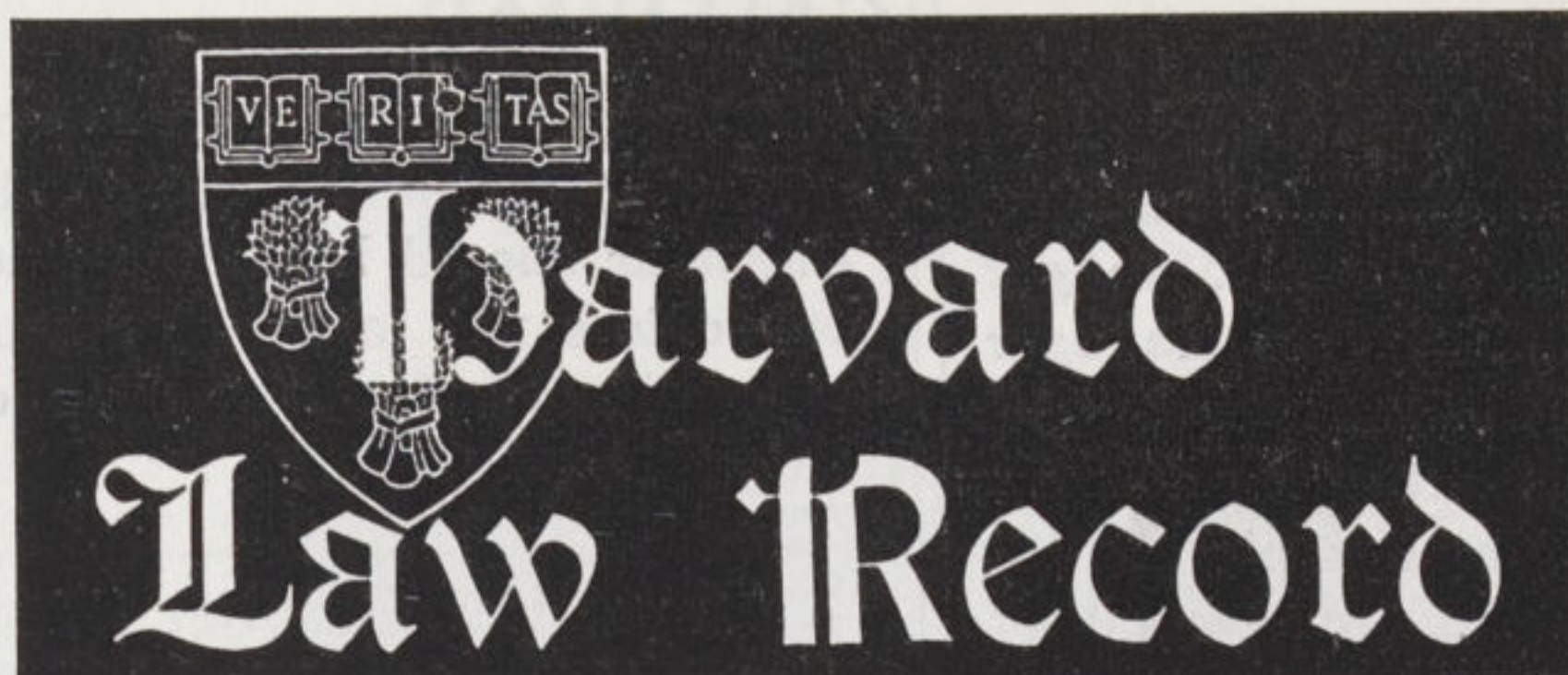




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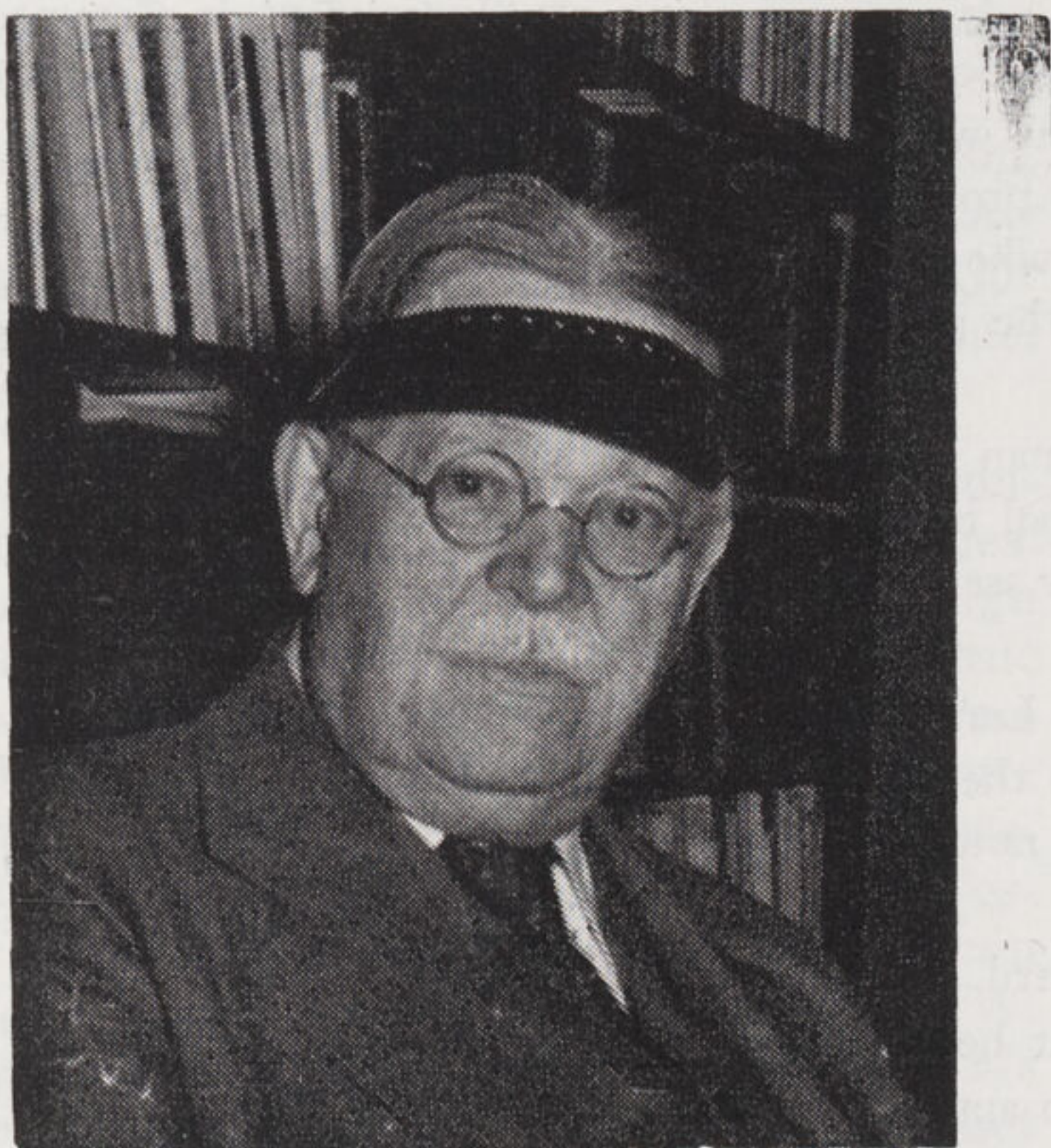
Dean Roscoe Pound

On Dean Roscoe Pound's Ninetieth Birthday

By Prof. Arthur E. Sutherland

*"... semper augustus cupidae
legum iuventuti."*

A request from the RECORD for a few pages on Roscoe Pound is difficult to refuse, and requires only choice among many things to



write, all true and grateful to remember. As the days march toward October 27th, 1960, the journals and the broadcasts are telling us of this man who, today studying and writing in our midst, has been a thoughtful scholar and teacher and public servant since the America of President Benjamin Harrison;

(Continued on Page 8)

Tribute to Dean Pound From a 1922 Student

By Samuel B. Horovitz

I first met Dean Roscoe Pound as a student entering the Law School in 1919 from Harvard College. My memory of the Law School and its professors is still vivid, despite the passing of forty-one years.

The Law School was staffed by the world's great in the field of law. Roscoe Pound himself was the Dean, and he was flanked by Professors Williston, Beale, Wambaugh, Scott, and two Warrens (Joe and "Bull"), as well as by Frankfurter, Chafee and others.

Every one of them, in the opinion of most of my classmates, was a legal giant. They made us work, and work hard. Looking back, the college was a "cinch" by comparison.

But we had a tremendous affection for all of them — and we felt it was reciprocated. Many of us remember when "Bull" Warren quipped: "If you want to know what the law *used* to be, ask Prof. Wambaugh. If you want to know what it *ought* to be, see Dean Pound. If you want to know what it *really* is, step right up to my desk!"

After four decades Dean Pound has lived to see many branches of the law follow his writings and lectures — what the law "ought" to be in 1919 is now in many instances the law of 1960.

Looking backward, we now marvel how one man, as Dean, accomplished so much as an administrator.

(Continued on Page 10)

Harvard Law Record

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Hearsay

On this, the occasion of Dean Roscoe Pound's 90th birthday, we wish to add our best wishes to those from his many friends both here at the Law School and throughout the legal profession. We have not known him long, but for him there is in the hearts of today's students a certain warm feeling which goes beyond anything that can really be expressed.

Dean Pound ended his formal teaching at the Law School at the end of the year that marked his 75th birthday, but his writing and teaching continue without pause. And for this the law profession and people everywhere are, of course, truly grateful. We who have come to study since that day, however, have experienced the presence of Dean Pound in many endearing ways.

Each student soon learns to recognize him as the man who can be seen, even in the coldest weather, walking to the School before eight each morning and to the square at noon. Wind or snow seems to bother him little as he proceeds without a coat.

We know that the circular desk in the center of Langdell Hall was once the location of all administrative activity in the School, as Dean Pound carried out by himself the activities that now occupy so many.

A great number of us, indeed, have today heard him speak through his appearances at law club luncheons. That he still finds time to talk to so many groups and to individuals who approach him in his office, while never slowing down in his publication of scholarly legal works is itself a tribute to the man and teacher that he has always been.

As we read his books for class, as we see the paintings all around us that he acquired one by one for the walls of our classrooms — yes, in these and many other quiet ways we know that we owe much of what is the Harvard Law School to Dean Pound.

CALENDAR

Notices for publication in the Calendar should be in the RECORD offices not later than noon the Friday before the date of publication.

Thursday, October 27

The PATENT LAW CLUB will present a lecture by Donald Brown, vice-president and chief patent counsel of Polaroid, on "What is a Patent?" in the Mallory Smith Room of Harkness Commons at 6:30 p.m. Mr. Brown will deliver another lecture at the Boston Patent Law Association luncheon which members of the club may attend by meeting at Dane 303 at 11:10 a.m.

DEAN ROSCOE POUND will deliver a lecture to the students and faculty of the Law School in the James Barr Ames Courtroom, Austin Hall at 4:10 p.m.

Friday, October 28

The BULL AND BEAR CLUB will present Paul F. Glenn speaking on "Investment in Commodity Futures" in the Wheeler Room of Holmes Hall at 1:40 p.m.

Sunday, October 30

The HARVARD-RADCLIFFE HILLEL SOCIETY will present Professor Louis Hartz, professor of government, speaking on "Recent Trends in American Thought" in Phillips Brooks House at 4 p.m.

Wednesday, November 2

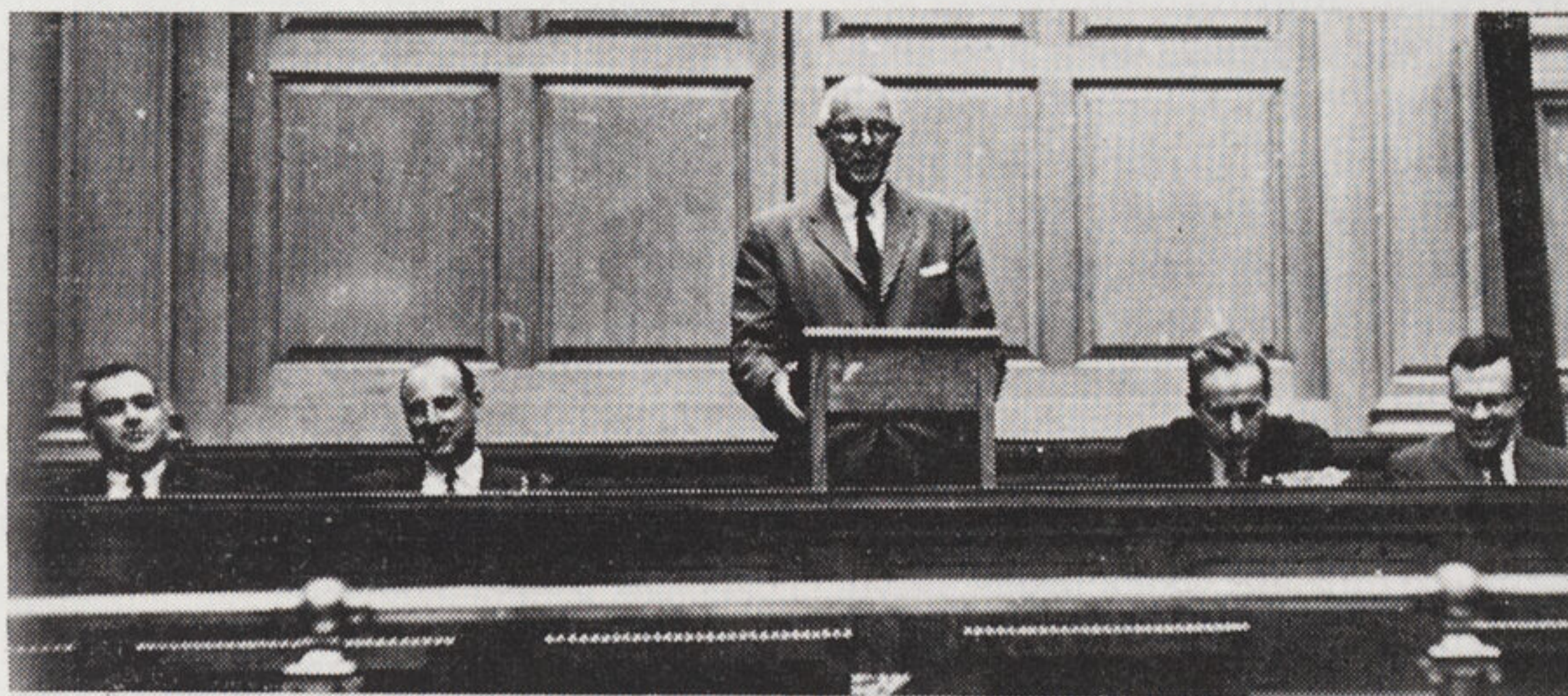
The LAW AND GRADUATE SCHOOL REPUBLICAN CLUB will present Representative Laurence Curtis of Massachusetts, a member of the House Foreign Affairs Committee, in the Mallory Smith Room of Harkness Commons at 1 p.m.

The SAINT THOMAS MORE SOCIETY will present John Cort, secretary of the American Newspaper Guild and frequent contributor to Catholic periodicals, speaking on "Church and State and the Election" at a luncheon meeting in the Chancery Club at 1 p.m.

FUTURE EVENTS

Law students are invited to a
(Continued on Page 15)

Professors Strike the Political Colors



The panel of debaters as it would have looked over a television set if the F.C.C. had permitted equal time for all orators. These debaters did not require that coverage, however, since a studio audience was permitted.

An overflow crowd jammed the James Barr Ames Courtroom last Thursday to hear a panel of Law School professors discuss the issues of the 1960 presidential election.

Sponsored by the Student Bar Association, the discussion enabled students of the Law School to hear the viewpoints of both major political parties as expressed by the panel members and also to question them.

Members of the panel divided their responsibility between foreign and domestic issues. Presenting the Democratic views on foreign affairs was Professor Abram Chayes, while his counterpart for the Republicans was Professor Robert Braucher. On the domestic issues, Professor Robert Keeton was spokesman for the Democratic party, while Professor David Westfall spoke for the Republican side. Acting as moderator was Professor W. Barton Leach, who was chosen because of his "dignity and serenity". These remarks set the tone for the evening's program.

Opening Talk

The format of the program permitted each speaker to present a seven-minute opening talk. The subject of foreign affairs was discussed first. Professor Chayes, in his opening remarks, said that the real difference between Sen. Kennedy and Vice-President Nixon

was not in their announced approach to particular points, but in their reaction toward a world in flux. He maintained that the Republicans would try to freeze things as they are and that Vice-President Nixon does not have an adequate sense of urgency as to our relative power position today. On the other hand the Democrats would welcome change and recognize its direction.

Professor Braucher set forth Nixon's cause by stating that the Vice-President was already a well-qualified executive, that Kennedy has made several mistakes in the television debates which cast a reflection on his ability to stand up under pressure, and that Kennedy should not have made his remarks on an American president expressing regrets over the U-2 incident. He also stated that a party with such men as Sen. Eastland as head of the Judiciary Committee, Rep. Francis Walters as chairman of the House Immigration Committee and Joseph Ward as its candidate for Governor of Massachusetts could hardly be regarded as the party to meet the challenge of a changing world. In conclusion "Bouncing Bob", as he was introduced by the moderator, declared, "I'll pick our bums over their bums."

The subject of internal affairs came up next, with Professor Westfall leading off for

the Republicans. He chided Kennedy about differences between economic views expressed by his advisors over the last twenty years and their approach to this election.

Westfall Maintains

Professor Westfall maintained that the Democratic party was going back to programs of the New Deal days when in fact the challenges presented to us in 1960 are of a different nature. He also pointed out that it was the Republican Party which was willing to send troops into the South to enforce integration.

Professor Keeton, speaking for the Democrats, said that one should judge the candidates by themselves, their party, their platform and the group of associates with which they surround themselves. He cited the fact that the Republican platform does not represent the spirit of its party as well as the Democratic platform does. Because of this he indicated that Kennedy would be more likely to bring about the objectives of both platforms. He noted the "difficulty" in discussing exactly what Nixon stood for.

Following these remarks, the panel was thrown open to questions from the floor, most of which were directed to Prof. Braucher. One of the sharpest exchanges came on the opening question. Professor Keeton was asked about the alleged repudiation of the Democratic platform in the South. Referring specifically to civil rights, he asserted that there would be a better chance for advancement under the Democratic executive leadership.

Professor Braucher retorted that there would be little chance for advancement, as a majority of the sixteen key Senate committees are chaired by Southern conservatives when the Democrats are in power. He said that this was shown clearly by Kennedy's lack of leadership in the post-convention session of Congress.

Quemoy and Matsu

Over the issue of Quemoy and Matsu, Professor Braucher said that it was initiated by Kennedy. Professor Chayes, on the other hand, saw this as an example of where Nixon had taken an extreme position in regard to American foreign policy for political advantage.

On a question as to whether the Democratic party could accomplish its domestic policy without inflation or taxation, Professor Kee-

ton maintained that desirable social reform must be paid for. Professor Westfall answered that the people pay the price but that the Democrats don't give us what they say they will.

A question also came up concerning Sen. Kennedy's speech a few years ago on Algeria. Professor Braucher maintained that Kennedy in essence said that we should dump the French and that this was irresponsible. Professor Chayes said that Kennedy showed great perception in this speech and that it is in line with the position taken subsequently by Gen. Charles De Gaulle.

Prof. Chayes also declared in responding to the problem of Democratic criticism of our foreign policy during Khrushchev's visit, that "the democratic process should not cease" just because of this visit. — **Graham**

Instruction Program For Lawyers

The Law School will offer its second Program of Instruction for Lawyers during the summer of 1961. The first of these programs was held in 1959 and was considered highly successful by those participating.

In 1959, some 310 lawyers took part in the program; a response of only 200 had been anticipated by the Law School. Since then, there has been considerable interest expressed in another such program. The American Bar Association Committee on Continuing Legal Education is encouraging the programs, and the Law School has worked closely with the Committee in planning this summer's session.

There were 12 courses offered during the 1959 session. The most popular classes were those in Estate Planning (Professor Casner), Taxation (Professor Brown) and Jurisprudence (Professor Fuller).

Many of the 1959 courses will be offered again in 1961, but an important addition has been made. This summer there will be classes in the areas of some of the larger issues confronting lawyers. These include lectures on the role of the judge (Professors Dawson and Freund), a seminar on professional responsibility (Professor Braucher), and lectures and open meetings dealing with problems in the field of criminal justice. (For a complete listing of courses offered, see page 16.)

— **Griscom**

Inter-American Association

Role of Organization of American States

Dr. García Amador (LL.B., University of Cuba; LL.M., Harvard Law School; LL.D., Columbia University), former member of the Cuban delegation to the O. A. S. and the U. N. and at present a member of the International Law Commission of the United Nations, was the featured speaker at the first meeting of the year of the Inter-American Law Students Association held last week. The subject of Dr. García's speech was "Problems and Prospects of the Organization of American States."

In order to better understand the present situation of the O. A. S., Dr. García began his talk by describing the structure and purposes of the O. A. S. The O. A. S. is a regional organization within the United Nations. Its existence, however, predates the U. N. by almost 50 years, since its predecessor was the Pan-American Union, which was founded in the late 19th Century. The O. A. S. itself was organized in 1948 at the meeting of the foreign ministers of the American republics held in Bogotá, Colombia.

The O. A. S. is not a specialized organization but is rather very broad in its jurisdiction, much like the United Nations. It has two main purposes: one, to maintain the peace and security of the American states, mainly through political, social and economic cooperation; and two, to protect the basic human rights of the people in America.

Two Aspects

The two fundamental aspects of the O. A. S. then, continued Dr. García, are collective security and human rights. The first of these derives from the Rio Treaty of Reciprocal Assistance and from the Charter of Bogotá. Under these, the member states can apply sanctions against other member states which intervene in their internal affairs or threaten the security of the American states.

It was under these provisions that the recent sanctions against Cuba and the Dominican Republic were imposed at the Costa Rica Conference. These sanctions or coercive actions do not have to be approved by the United Nations as long as they don't involve armed force.

The aspect of "human rights" derives from Article 5 and 13 of the Charter of the O. A. S., which legally obliges each member state to respect the basic human rights of the people. This principle of "legal obligation", however, has encountered great difficulties because of the principle of non-intervention which has long been held by the Latin-American republics.

This latter principle is still very strong and has prevailed over the principle of human rights, thus blocking any action on the part of the O. A. S. to enforce these human rights as against a member state which is violating them. The reason for the prevalence of this principle, explained Dr. García, is the yet existing fear of U. S. intervention, particularly on the part of such an influential nation as Mexico.

Non-Intervention

This principle of non-intervention has unfortunately encouraged the existence of dictatorships, which were helped by the fact that many influential people felt this was the best way to fight the Communist threat in Latin America. That this last view is completely erroneous, pointed out Dr. García, is clearly evident from the Cuban experience, and fortunately this view does *not* prevail any longer.

Dr. García concluded his speech by strongly emphasizing the point that the main problem facing the O. A. S. and America today is not political, but rather social and economic. The only effective way to meet the Communist threat is to go to the roots of the problem and eradicate the causes. Thus, the problem lies in increasing the standard of living and culture in Latin-America, and this can only be done by reforming and improving the social and economic structures of Latin-America through such means as agrarian reform, better distribution of wealth through a reform in the tax systems, etc.

All of this involves greatly increased economic activities in the Hemisphere, as the only way of maintaining stable democracies, safeguarding human rights and facing the threat of communism is to raise the standard

of living of this rapidly increasing population. The basic issues, then, are underdevelopment and the need to change the "capitalist" structure in the Latin-American nations to a structure similar to the one which exists in the U. S. today.

Dr. García was introduced by Frank Brown, the president of I. A. L. S. A., who reminded the audience of the many cultural and social activities which I. A. L. S. A. has had and plans to have and invited all students who are interested in this vital area of the world to join I. A. L. S. A. —Thome

Forum Hears Sub For Ailing Salty

The Law School Forum presented Mr. Charles W. Colson, Administrative Assistant to Senator Leverett Saltonstall, at an extra program open to the public free of charge, held last week in Lowell Lecture Hall. The Senator's chief administrator showed his capability at the give-and-take of the speaker's rostrum in an appearance in which he substituted for the ailing Senator.

Mr. Colson addressed himself to the subject of the "Cold War in the '60's" and assured his audience that his observations could be taken to be those of the man in whose place he spoke. He touched upon the issues of America's prestige, aid to underdeveloped countries, disarmament and American military and economic strength, concentrating his remarks upon the latter.

He recalled the way this country was startled by the appearance of the Russian sputnik in 1958. The United States was surprised by the military and scientific capabilities demonstrated and by the evidence of a "highly disciplined education system."

Mr. Colson pointed out, "It is important in a political year, when we get a polarization of thought and the idea that we are at the bottom or the top, to remember that we are still the strongest country."

Before opening the floor to the question period which followed, the speaker stated that this country must continue to provide aid to underdeveloped countries and do that through coordinated organizations. "It must continue to try to eliminate the means of war, since only through disarmament can we eliminate the triggers of war."

"We may argue," he said, "over the means

of achieving our goals, but these are the goals we must set. And we must keep up our determination and face the future with confidence."

The Forum announced that this meeting would not be included in the eight presentations guaranteed to season ticket holders.

Bull & Bear to Hear About Commodity Futures

Mr. Paul F. Glenn, a Harvard Law graduate and a member of the nationwide brokerage firm of Dean Witter & Co., will be the speaker at the third meeting of the Bull and Bear Club tomorrow in the Wheeler Room of Holmes Hall at 1:40 p. m. Mr. Glenn will discuss investment in commodities as an alternative to speculative trading in stocks.

Mr. Glenn is a specialist in the purchase and sale of anticipated harvests of agricultural products, of near-future production of secondary agricultural commodities (such as vegetable oils), and of future egg supplies. He will explain some of the less technical details of dealing in commodity futures, and he will suggest some opportunities for investment or speculation in these goods. He appears with a warning: "Some of your most sacrosanct concepts about security investments are about to come under attack when I compare securities with commodity futures as outlets for investment funds."

Mr. Glenn was graduated from the Law School in 1955 after receiving his A.B. from Princeton in 1952. In 1952, he and several other students formed the Bull and Bear Club. During the 1953-54 academic year, he was the club's president. After graduating from the law school and passing the bar examinations, both in New York and in Pennsylvania, he was admitted to practice in New York. Since 1956 he has been with the Commodity Department of Dean Witter & Co., where he has been concerned with investments in stocks, bonds, put and call options and commodity futures.

Erratum

A short item in the RECORD last week reported a decline in business in the Harkness Commons Dining Hall. The information was inaccurately reported, and a full story will be presented as soon as the significant data can be made available.

Williston Semi-finals Now in Swing

Thirty-four third year students are now competing in the semi-final round of the Williston Competition. Nine teams, winners of the qualifying round, will turn in documents and memoranda tomorrow in answer to three problems set in Massachusetts, New York and federal law respectively.

One problem involves a long-term employment arrangement for a top executive of a Massachusetts corporation.

The New York problem concerns the adoption of a by-law restricting the transferability of shares of a close corporation, since its management fears attempts by an outsider to gain control.

The patentee and American manufacturer of the Coloroid camera seeks, in the third problem, to license foreign manufacturers while protecting the domestic market and preserving a *modus vivendi* with the Anti-trust Division of the Justice Department.

The drafting competition is judged by practicing attorneys in the jurisdictions or specialized fields involved in each problem. The problems are presented as memoranda from a senior partner to his associate, and the judges apply the same standards to these contributions that they apply to work done in their own firms. No direct contact between judges and participants has been possible, but when their schedules have permitted, judges have returned written opinions with their decisions. Many past participants have felt that such critiques provided valuable help toward the improvement of their drafting skills.

Prize Given

The three winning teams in this round will compete in the final round early in the spring. To encourage interest in legal drafting, the Boston Safe Deposit & Trust Company customarily awards a total of \$500 to the members of the three teams in the final round. Boston Safe Deposit also sponsors drafting competitions in other Boston area law schools and provides a dinner for the winners of these awards. The names of the winning Williston team are inscribed on a plaque in the library, as are those of the winners of the Ames Competition.

The next qualifying round will be held in the early part of the spring term. All second

year students will be eligible, except members of *Law Review*, Board of Student Advisers and quarter finalists in the Ames Competition. As in the past, participants are encouraged to form their own four-man teams, but the Board will form teams for men who register individually. The Board has stated its hopes for a continuation of the traditionally high degree of interest in, and enthusiasm for, the Williston Competition, the only non-legislative drafting activity at the Law School.

— Greenman

Liberties Researchers Elect diSuvero President

The newly formed Student Civil Liberties Research Service held elections last Thursday. Hank M. diSuvero, 3L, San Francisco, California was elected chairman.

Others elected as members of the Steering Committee were: Wallace Tashima, 3L, Los Angeles, California, Vice Chairman; Neil Horton, 3L, Wilmette, Ill., Michael Leschnitzer, 3L, New York, N. Y., Garret A. Hobart IV, 3L, New York, N. Y., William Goldberg, 2L, Highland Park, Ill. and William E. Hellerstein, 2L, New York, N. Y., Project Coordinators.

From the many projects received by the Organizing Committee, the Steering Committee has thus far accepted ten. Among the projects selected and their sources are:

— From the Southern Christian Leadership Conference, a request for an investigation into the constitutional and legislative validity of criminal trespass legislation as applied to sit-in demonstrators.

— From the N. A. A. C. P., a question about the application of the 14th amendment to discriminatory denial of courtesy privileges to a Negro doctor by a North Carolina hospital.

— From the American Civil Liberties Union, a request for suggested revisions of inadequate procedural safeguards in New York commitment procedures for the criminally insane.

Although each member is expected to work on at least one project during the school year, the Steering Committee believes that most projects should be assigned on a voluntary basis. To facilitate this process, the Service's offices at 23 Everett Street will be open from 5:30 to 7:30 today and tomorrow to allow members to indicate their preference.

Pound's Ninetieth Birthday By Professor Sutherland

(Continued from Page 1)

since pioneer times in the northwestern United States; since the Harvard of young President Eliot and its Law School of Christopher Langdell; since the times of Professor John Chipman Gray and his fellows, who may seem, to the student of this day, legendary figures in a heroic past.

Many things will be said, and rightly, of Roscoe Pound's early days in Nebraska; of the rigorous education he had in a family conspicuous for intellectual self-discipline and classical learning; of his introduction to natural science at his state's university; of his strenuous days at Harvard Law School where great teachers filled him with enthusiasm not only for the study of his own country's legal system but for the jurisprudence of Europe and of the pre-medieval and ancient Roman Empire. A proper account of his life would tell much of his years at the trial Bar in the northwest, of county seats and railroad lawsuits and rural juries. It would tell of his going on the Nebraska bench, eleven years out of the Law School, as Commissioner of Appeals of that Supreme Court; of his turning in 1903 from a judicial career to teaching; and of his path from the Law School of the University of Nebraska to Northwestern, to Chicago, and to Harvard. It would call the roll of notable lectureships he has filled in the common law and civil law worlds; of the many services he has gladly contributed to his own country and to other nations who sought his help. It would describe the series of great books that have come, literally from his pen. It would review with pride the advances of Harvard Law School under his Deanship, a book in itself. It would tell of his years as University Professor and would note that, characteristically, he chose from that Chair to lecture on Lucretius' "De Rerum Naturae" in addition to his teaching in law. A rightly told account of all this would fill many books.

Mainly as Teacher

Here, in a student paper, read too by many now older who remember with gratitude that they were once students when Pound was Dean, it is perhaps better to write mainly of Roscoe Pound the teacher. This, after all,

was the task he chose for himself when he resigned from the Nebraska bench fifty-seven years ago. This has been the essence of his series of lucid and incisive books. When he wrote in "Interpretations of Legal History,"

"The law must be stable and yet it can not stand still"

he stated in one trenchant phrase the perennial antithesis between two essential objectives of organized society, that man will never reconcile but must always keep on trying to reconcile. Summarizing one formulation of the theory of unconstitutionality, he wrote in "Introduction to the Philosophy of Law,"

"... constitutional questions were always only in terms questions of constitutional interpretation. They were questions of the meaning of the document, as such, only in form. In substance they were questions of a general constitutional law which transcended the text; of whether the enactment before the court conformed to principles of natural law 'running back of all constitutions' inherent in the very idea of a government of limited powers set up by a free people."

Here in a few scholarly words he told thoughtful people that constitutionalism can never be merely a comparison of parallel columns of print; that it is much more than a sort of juridical proof-reading. Such enlightening phrases, hastily read in past student days, still live in the minds of many students who can no longer cite their source; and with this their author, one feels, would be content. The thing taught has transcended the means.

Constant Interest

A striking memory of our School during the consulship of Pound is the continuing freshness of his interest in students and in their learning. Ours has always been a teaching school, and one of Dean Pound's own cherished stories concerns a day during a Christmas vacation when Professor John Chipman Gray, coming on young Pound in Austin Hall reading a Roman law book which Gray thought unsuitable, substituted another which Professor Gray himself brought from the stacks. This tradition Dean Pound carried along in his own day and has passed on to his successors. In the simpler School of a third

of a century and more ago, most of the machinery of administration fell to the Dean's personal lot, and the wonder is that amid the many diversions inevitable in the busy-nesses of management, he should have continued in his thoughtful and poised scholarship.

One student remembers how in 1924, then a brash youth, he knocked at the Dean's oak door in what was then the North End of Langdell Hall, to go in and ask the difference between a "right" and a "power". The student never stopped to consider that possibly the Dean had things on his mind even more important than explaining a rather primary element of legal theory to an ill-informed youth; but the Dean said, "Sit down, young man," and under the worried eye of Miss May McCarthy, then as now Dean Pound's secretary, the student sat in the Dean's chair while the Dean walked up and down, accenting his points by punching the backs of the books in his crowded shelves, and explaining what gradually became clear to his young hearer—that everything which the law brings about is not necessarily that which the moralist would term upright in all its aspects; that in order to bring about what is just to Jones, hardship may have to be inflicted on Smith, who may not deserve it. In the course of 15 minutes the student gradually and tardily came to the consciousness that he was getting the undivided attention of a very thoughtful and very learned and very busy man, and he rose and started to go. But the teacher told him to sit down a while longer, for there were still useful points to be made. Gladly teaching, Roscoe Pound continued until finally, when the young men left, he had in his mind some lessons which have remained through many strenuous years. Of these lessons, so taught on that long ago day, probably the legal doctrine was the least important.

Never Ceased

Since his active University Professorship ended, Dean Pound has never ceased to be a teacher. Universities here and abroad make demands on his time for lecturing, but, one might guess, his pleasantest days are spent in the large familiar office in Langdell Hall, surrounded by the books that are old friends, seated at the walnut desk that came to the Law School long before he did, at which this autumn he daily works on the program of writing he has laid out for himself in the

years 1960-61. Whoever goes that way will know when the Dean is in, for his door always then stands open. Any student today puzzled about powers and rights or anything else, would get the same welcome, the same enlightenment, that one of Dean Pound's present colleagues remembers so well. And Roscoe Pound's generosity is not limited to the young; any of his fellow-teachers, anxious for the help of his incredibly wide learning and encyclopaedic memory, finds a pleasant seat in the leather easy chair beside the walnut desk, and the enlightenment which the visitor has come to seek, often accompanied by the present of a reprint from some learned journal, written by the Dean this year or last year or a generation ago.

Something more than thirteen hundred years ago, a Roman Emperor, reigning in Constantinople, dedicated a great book, intended as a *Summa* of the law of his time, for all who would study it. After rolling off the list of the Emperor's magniloquent titles the dedicatory page, as its climax, devoted the book of Institute to that youth filled with desire for the laws. After all these centuries it is hard to say how well Justinian's resounding titles befitted him; but none of us today doubt that *augustus* is an adjective well suited to Roscoe Pound, and that his long and rich life has been devoted

“. . . cupidae legum iuventuti.”

Professor Sutherland is Bussey Professor of Law at the Law School. A graduate of Wesleyan University (A.B. 1922) and Harvard Law School (LL.B. 1925, c.l.), he teaches Commercial Law and Constitutional Law. He has collaborated on casebooks in those two fields.

Professors Urged To Return Questionnaires

Those professors who have not returned their questionnaires to the RECORD office are requested to complete them and send them to the News Editor, Harvard Law Record, 23 Everett Street. The campus mail may be used. The results will be published in the next issue of the paper, and prompt replies are therefore encouraged. The editors wish to thank those who have responded already. More than half the letters have been returned.

Tribute to Dean Pound

By Samuel Horovitz

(Continued from Page 1)

As an Administrator

At his desk and later at the famous round desk, given him by the Corporation, Dean Pound worked long hours and accomplished wonders. The school's reputation became world-wide. The nation's top students vied for admission. Langdell Hall was built with money raised by Dean Pound, largely with the assistance of the Harvard Law School Association, not from a few rich men, but from thousands of alumni and friends of the school.

Truly, his 20 years as Dean gave greater impetus to the reputation and growth of the school than any other two decades in its history. The Harvard Law School became synonymous with Dean Pound in England, Italy, Sweden, France, India and wherever the Dean lectured or had his books disseminated.

It was apparent to the students of this period that the professors surrounding Dean Pound worked in harmony and worked hard. During his administration as Dean, most of the wonderful portraits of the legal luminaries in the law (on a world-wide basis) were purchased by him; they still hang in prominent places in Langdell Hall. There the students had the use of the wonderful reading rooms and the world's largest collection of legal books. In my opinion, the tens of thousands of his former students would vote him one of the great administrators of the Law School.

As a Professor

My class remembers him largely as a teacher of Equity, although from time to time he taught nearly every course in the curriculum. Equity became important to me immediately after graduation as a lawyer for the Boston Legal Aid Society. I regret the fact that this subject is now falling by the wayside.

We remember the Dean's green eye-shade, and his inability to see students in the back rows. But somehow he managed to make all of us work hard — and we learned equity law and learned it well.

We marvelled at his remarkable memory, his extraordinary grasp of the entire field of law. He taught us how to think and to think

logically. Many were the debates among us as students as to who was the top teacher — with Pound, Williston and Beale getting top votes.

What many of us remember even as well, was his "open door" policy. His office door was always open to us. If any law problem ever bothered us, he was always ready to discuss it with us. He made us feel welcome, and to feel that we were not intruders on the time of the busiest man in the law school.

As an Editor

The years following graduation were the ones that revealed his great heart, as distinguished from his extraordinary and unique mind.

From 1953 to 1956 Dean Pound took over my work as Editor-in-Chief of the NACCA Law Journal — the only journal in the world devoted exclusively to improving the administration of justice for the 9,000,000 persons injured every year by accidents in our 50 states. He would come to the office at 6 Beacon Street, Boston, at 7:20 a. m. each morning (so the elevator operators told me — I would arrive at 9:00 a. m.) and stay until we drove him home at 5:30 p. m. He read every written decision coming down in the advance sheets in every field of personal injury — workmen's compensation, tort, railroad, admiralty and aviation law. He selected the leading cases, analyzed them and commented on them.

Eagerly Awaited

His "Comments" were eagerly awaited by the lawyers of the country, as well as by the judges. The 7,000 lawyers who were members of the NACCA Bar Association (now known as the National Association of Claimants' Counsel of America), and the hundreds of judges writing decisions, looked forward to his semi-annual 400 to 500 page books, to see what he thought of the cases.

Again and again the Supreme Court of the United States quoted and cited his "Comments," as did the highest State courts.

Thousands of lawyers in their briefs quoted his writings in the NACCA Law Journal and still continue to quote from the 5 books he wrote as Editor-in-Chief.

Dean Pound began his *special* and increased interest in personal injury cases at the age of 82, worked as Editor-in-Chief until 85, and still continues his interest in the subject by writing articles and delivering speech-

es on the subject. He amazes lawyers and judges, as well as others, by the number of articles, books, speeches and trips he continues to make annually.

Only last year, at the age of 89, he spoke to law schools, bar associations and others in Georgia, New York, Illinois, California, Michigan and elsewhere.

On Jurisprudence

That same year he completed, and the West Publishing Company printed, his 5 volume masterpiece on Jurisprudence. For its excellence the American Philosophical Society of Philadelphia awarded him its prize for 1959. I predict that these 5 volumes for many years to come will be regarded as the leading work in the field of jurisprudence.

It was my good fortune to travel with him and also to lecture to the many branches of the NACCA Bar Association from 1953 through 1956 (when he was 82 to 85 years of age). In a three week period he would deliver 2 and 3 *different* speeches in the course of a single day. At the end of *one* speech a day I felt tired — although nearly a generation younger than the Dean — but he remained seemingly fresh.

And former students of his would come up and tell me personal experiences they had had with him years before — how he had loaned them his own money, or helped them get into the law school, or aided them in many ways to stay there — how he had helped many other persons in getting jobs or by writing introductions to books or helping financially and otherwise, without thought of repayment and often without repayment — how he had aided many in times of sickness or other need. It was only by prodding the Dean that he would verify these interesting details relating to the heart more than to the mind.

From many years of contact with his former students and fellow professors, and from my own experiences, I can testify to this fact: that his greatness of mind had its counterpart in his greatness of heart.

Stature in Legal World

A few years ago, the Dean and his late wife, Lucy, decided that their large house at 304 School Street, Watertown, was too much for them to maintain. They moved to the Commander Hotel in Cambridge. The Watertown home became the Roscoe Pound-NACCA Foundation. It is there that the NACCA Law

Journal is written. It is there that his remarkable library of over 8500 books, and over 7000 pamphlets, magazines, and paper-covered books are located.

It is there that his 90th birthday party was held, last Saturday. Letters poured in from all over the world. Messages came from 5 members of the Supreme Court of the United States: Justices Felix Frankfurter, Tom C. Clark, Hugo L. Black, William O. Douglas and William J. Brennan, Jr. The Chief Justice of Massachusetts, Raymond S. Wilkins, Chief Justice Kenison of New Hampshire, Chief Justice Robert B. Williamson of Maine, Chief Justice Fred C. Struckmeyer, Jr. of Arizona and a host of others sent interesting messages. From Italy, Australia, Spain, as well as from Alaska and nearly every state of the Union came congratulatory notes and telegrams.

At the birthday party were many of his close friends. Justice Talbot Smith of the Supreme Court of Michigan came by plane and spoke feelingly about Dean Pound as a "life-long defender of the law." Justice Talbot Smith himself is recognized as one of the great, learned and liberal jurists of this country. From the Harvard Law School came two of its outstanding teachers: Prof. Arthur E. Sutherland and Prof. Paul A. Freund. Reverend Father Robert Drinan, Dean of Boston College Law School, added his words of praise. Superior Court Judge Felix Forte, long a close friend of Dean Pound's, noted that "from the steel of his convictions and the flint of his learning, he has set the sparks igniting our legal learning."

And two lines from a poem sent by Reginald Heber Smith of Hale and Dorr, long a leader in Harvard Law School affairs, express the sentiments of the alumni of the law school:

"His learning and wisdom are deep and sound
No greater scholar will ever be found."

Mr. Horovitz is senior member of the firm of Horovitz, Petkun, Rothschild, Locke & Kistin in Boston. A graduate of Harvard College (A.B. 1920[19]) and Harvard Law School (LL.B. 1922), he is an expert in the field of Workmen's Compensation and has written a text in that field. He is co-founder of the N. A. C. C. A. Bar Association and Executive Editor of its Law Journal.

Dean Describes African Visit

Upon completing a recent visit to Western Africa, Dean Erwin N. Griswold is of the opinion that the light of free, democratic government is gradually dispelling the darkness of tribal rule in certain areas of the Dark Continent.

During the past summer, the Dean traveled to Tunisia, Liberia, Ghana and Nigeria. In Tunisia, he visited his son who is associated with the American Friends Service Committee in its efforts to aid fleeing Algerian refugees. While there, the Dean was within several miles of the Algerian border and witnessed the continuous exchange of firing between the French and the Algerians, who are using Tunisia as a base of operations. The Dean explained that this bombardment continues by mutual agreement of the two hostile groups as the preferred alternative to allowing intervention by the United Nations.

In Liberia, Dean Griswold visited several Harvard Law School graduates, and in Ghana he conferred with President Nkrumah.

High Point

The high point of the trip was the Dean's visit to Nigeria, where he participated in a seminar dealing with the various legal problems of federalism which are expected to arise under the new Nigerian Constitution. The seminar was financed by the Ford Foundation.

Accompanying Dean Griswold to this seminar were United States District Judge Charles Wyzanski, Jr., Professor Phillip Jessup from Columbia and retired Supreme Court Justice Stanley Reed. There were representatives from England, Canada and Australia, in addition to some 30 delegates from Nigeria at this conference.

The Nigerian Constitution, which became effective October 1, 1960, embodies a federal system similar to that in use in both Canada and Australia. Under this Constitution, Nigeria is divided into three regions, which roughly approximate the American concept of states, and a federal district. A fourth region consisting of the Cameroons in southeastern Nigeria may be added to this federal system in the future.

Dean Griswold explained that the participants in the seminar discussed various papers prepared by Nigerian officials dealing with such problems of federalism as interstate commerce and taxation. He pointed out that the British raised vigorous objections to the Nigerians' adoption of a federal judicial system akin to that of the United States, mainly because of the political implications contained in the decisions handed down by the courts of such a system.

The Dean believes that this seminar had the beneficial effects of developing within the Nigerian officials a tendency to think in constitutional terms and also of indicating to the Nigerians that their problems of federalism are not unique but are shared by several leading countries of the world. It is hoped, the Dean said, that this recognition of the community of problems and interests which exists among the federal countries will boost the morale of the Nigerians as they embark upon their political independence.

The representatives of Canada, Australia and the United States attended this seminar with the purpose of indicating to the Nigerians that their federal problems are considered important by other nations and that they can expect aid in resolving them if needed. Dean Griswold believes the seminar did, in part, accomplish this purpose of bringing Nigeria within a kind of "brotherhood of the federal countries."

Principal Question

As is the case with all newly-independent nations, the principal question is whether the governmental system recently adopted by Nigeria will work. Dean Griswold believes that it will. He explained that the northern part of Nigeria is primarily Moslem, while the southern area is not; that the North is dependent upon the South for an outlet to the sea; and that many of the old feudalistic tribal customs and organizations still exist in the North but not in the South. The federal system achieves an excellent accommodation of these distinctly different areas within a single political entity.

However, the Dean indicated that, in many back-country areas of Nigeria, the tribal unit

still wields a powerful influence over the people and that in these areas a dictatorial "Huey Long" type of leader could establish a political base which could seriously threaten the stability of the new federal government.

Dean Griswold does believe that Nigeria is in an excellent state of preparedness so far as the adoption of a federal system is concerned. He cites the recent strides forward by the Nigerians in the fields of education and medicine, as well as the absence of any serious racial problem such as has plagued many new African nations, to support his conclusion. He also emphasizes the policy which England followed for some 15 years

prior to Nigeria's assumption of independence of gradually replacing the English colonial officials with native Nigerians. As a result, the Nigerians already have a substantial amount of experience in self-government.

Sizable obstacles yet remain in the path of the independent Nigerian government's goal of stability, one of the foremost being the 90 per cent illiteracy rate; however, on the basis of his recent on-the-spot observations, Dean Griswold believes that there are sufficient countervailing forces within the country which will ultimately result in the success of the new Nigerian federal system.

—Meyer

Recent Books

By Stanley Kelley, Jr.

POLITICS U.S.A., edited by James M. Cannon. Doubleday & Company, Inc., Garden City, N. Y., 1960.

This is a book of essays about the arts of practical politics. Mr. Cannon, who brought them together, argues in an Introduction that "there is a vast accumulated body of political wisdom in this country which has never been set down." He is right. To make some of this wisdom available to the general public, he solicited and got contributions from 23 distinguished practicing politicians. He has been mainly interested in techniques—how politicians go about doing things—and, for the most part, that is what his contributors have written about. Some, however, (notably Adlai Stevenson) also tell us their conceptions of the politician's responsibilities to the public and give us insights into what it means, in personal terms, to live the politician's life.

There is an important lesson to be learned about modern politics

The guest reviewer for this week, Stanley Kelley, Jr., is the author of Professional Public Relations and Political Power and the recently published Political Campaigning, Problems in Creating an Informed Electorate. He is presently on the faculty of Princeton University.

simply from Mr. Cannon's choice of contributors. There are some who will be recognized by almost everyone as "politicians"—Vice-President Richard M. Nixon, Senator John F. Kennedy, and Adlai E. Stevenson, to name but a few. There are several who will be familiar names to a somewhat more restricted group of readers—for example, James Michael Curley, Jacob M. Arvey, and Leonard Hall. And there are a number who will be unknown except to those who follow politics closely. These are the politicians who raise campaign funds, make advance arrange-

ments for candidates on tour, organize women's divisions, take polls, write speeches, and supervise publicity and advertising activities. The description that members of

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this last group give of their activities will impress the reader — or ought to impress him — with how far modern politics has gone toward specialization.

The essays included in this book are most rewarding where their authors tell in specific terms *what* they do. Public relations man Murray Chotiner's only slightly revised version of an unreported speech he gave to Republican state chairmen in 1955 is a matter-of-fact account of the strategies and tactics he employs. Chotiner is a professional campaign manager. Issues and candidates are important to him in the same way that products are important to the advertiser. Voters are important to him in the same way that consumers are to the advertising psychologist. Given this perspective, his advice to campaigners comes out like this:

1) Start campaigning at least one year before the election; you will need that time to "deflate" the opposition.

2) Restrict your issues to two; "... you cannot campaign on a multitude of issues."

3) Attack your opponent's record, but do not answer any attacks until you are convinced that they are having a real effect. Remember that "... it is always a smear, naturally, when it (an at-

tack) is directed at our own candidate."

4) Debate your opponent only on your own grounds, that is, on issues where you are strong.

5) Never put out your candidate's complete voting record, roll call by roll call. Instead, say "voted for reduction of taxes" or "voted for military preparedness."

The campaign tactics Mr. Chotiner describes are often ingenious. On one occasion, for instance, he tells how "we bought 10,000 extra copies of a magazine (which carried a favorable story on one of Mr. Chotiner's clients). What did we do with it? We put it in barbershops, beauty parlors, and doctor's offices — any place where a person has to wait. Instead of picking up some other magazine, they might pick up the magazine with our candidate on the front page."

Politics in Chicago, Illinois, is different in many ways from that in Chotiner's California, but its spirit — if we take Jacob Arvey's article in this book as evidence — is very similar. Arvey prefers the word "organization" to the word

"machine", but he is not overly sensitive at being designated a "machine politician." He argues that elections are won in the wards and that the secret of a strong ward organization is service.

What does service mean to Mr. Arvey? In the Depression days it meant giving food or coal to those who needed them or finding jobs for the unemployed. Now it may mean calling on new arrivals in a ward — on the day they arrive — with a lunch and offers to help with the children while their parents are getting settled. Arvey himself gives the best possible

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statement of the aim of such service:

"The big majority that voted for Bundesen were not enthusiastic about Bundesen. They liked him all right; but they were voting for the prestige of the organization. And we, through our precinct captains, had made them conscious of why they should support the organization. To me, that's ward politics."

The basic aim of the machine's service activities is, in short, to insure it winning majorities with as little regard as possible to such shifting features of the political environment as candidates and issues.

Less Satisfactory

When the authors of this book go beyond descriptions of what they do to explanations of *why* they do it, their efforts are less satisfactory. They do give explanations of a sort. Chotiner obviously leaves his literature in places where people have to wait because he has observed that people read obsessively on such occasions. Arvey performs services for his constituents because he has found that gratitude for the service can be turned into gratitude for the party. Leonard Hall never pre-empts television time from a prize fight because he has learned that this makes viewers resentful.

But this is an explanation of a rather low order. It ignores the consequences for campaigning of the two-party system, of systems of election, of the kinds of audiences candidates attract, and of many other factors. It no more explains the behavior of politicians than an account of courtroom tactics

would explain the behavior of lawyers.

Most of the authors are at their worst when they try to *justify* what they do. One could only conclude from reading these essays that able politicians are not often distinguished moralists. They jump with the greatest of ease from descriptions of their tactics to the conclusion that they are making "good citizens and good civic leaders out of a great many people." In their justifications they assume too much, they are platitudinous, and they offer assurances that "everything comes out all right" without a shred of proof.

We are told for instance that television has led to "balloting based more on reason than on emotion" and that "the television camera is merciless and uncanny in the way it can pierce through sham and insincerity." If there is any evidence that such statements are true beyond reasonable doubt, this reviewer has never seen it, and certainly it is not offered in any of these essays.

Inevitably, a reader of this book will wonder how candid its authors really are. Except in one or two instances, I think the following rule will hold: The authors are frank in what they say; when they have felt unable to be frank, they have simply remained silent. Some

evidence that this rule is a good one comes from the book itself. Those who have most to fear from adverse public reactions — the candidates and public officials — have little that is specific to say about anything that is important. Those who have little to fear from the public — the political technicians — talk in detail about what they do.

Would I recommend this book to someone who wants to learn about how the game of politics is played in mid-century America? Certainly.

Calendar

(Continued from Page 2)

series of **LUNCHEON DISCUSSIONS** on Law and Protestant Thought, to be held once a month at Canterbury House, Christ Church, under the direction of Professor Adams of the Divinity School and Professor Berman of the Law School. The first meeting will be on Thursday, November 3, from 1:10 to 2:30. The subject will be "Law in the New Testament." Sandwiches, coffee and desert will be available for 60 cents.

Weekend

Entertainment

BRATTLE — Some Like It Hot — (Thru Sat.): 5:30, 7:30, 9:30 — (Starts Sun.) Dreams — Mats. Sat. & Sun. 3:30.

UNIVERSITY — It Started In Naples — 1:55, 5:55, 9:30. Five Branded Women — 3:40, 7:40. (Starts Sun.) All The Young Men.

BOSTON

ASTOR — Spartacus — Evenings 8:15 p.m.; Sun. Evening 7:30 p.m. — Mats. Weds., Sat., & Sun. 2:00 p.m.

EXETER — I'm All Right, Jack — 2:05, 3:50, 5:40, 7:30, 9:20.

KENMORE — Song Without End — 1:00, 3:10, 5:20, 7:30, 9:30.

UPTOWN — All The Young Men — 11:05 a.m., 2:40 p.m., 6:15, 9:50. — Angel Wore Red — 12:50 a.m., 4:30 p.m., 9:00.

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FINANCIAL PLANNING	PETER F. COOGAN, Lecturer on Law
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