

Curriculum Changes Announced

By Neil L. Chayet

Associate Dean A. James Casner has announced several changes in scheduling and programming which will go into effect in September, 1961. The changes are not the result of the study made by the Faculty Committee on Legal Education. The report of this Committee has been submitted to the Faculty and is presently under consideration. The recommendations of this Committee will probably not be implemented until the academic year 1962-1963.

Mr. Andrews, an attorney with Ropes, Gray, Best, Coolidge and Rugg, Boston, will teach one section of Corporations I next year.



Professor Chadbourn, visiting from U.C.L.A. Law School, will teach a first-year section of Civil Procedure and a section of Evidence. Professor William O. Huie from the University of Texas Law School will teach two sections of Trusts and a course in Oil and Gas. Mr. James K. Logan from the University of

Kansas Law School will be the Thayer Teaching Fellow. Mr. Logan will teach a section of Property I. Dean Norval Morris of the Faculty of Law of the University of Adelaide;
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Number of Applications For First Year Increases

By Clark P. Giles

At the end of February the number of applications for admission to the Law School had greatly exceeded the number received in prior years. "If the trend continues, the increase will be on the order of 20 per cent," Director of Admissions Vice Dean Louis A. Toepfer announced.

This year's increase in applicants is a substantial shift in the usual pattern of applications. Mr. Toepfer attributed the increase to recent favorable publicity of the legal profession and the appointments to high government positions by the Administration of Harvard faculty members.

Applications for admission to colleges tend to be lower this year, but this fact does not affect law school applications, since the law schools' source of supply is limited to students who will have received a bachelor's degree before admission.

No pronounced effect is anticipated on the standards required for admission. The slight further refinement of the standards will cause to lose out only those seeking admission who in prior years would have been on the borderline. Generally the same class of student as usual is applying, and since with all applicants there are risks and unknown factors, "In the long run next year's class will be like last

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Hearsay

Recent news from Washington indicates that the United States is going to establish a Peace Corps. The basic idea behind this proposal, the winning of friends through assisting others as American citizens work by their side, is undoubtedly an excellent one.

But, although the idea itself is a good one, we question the wisdom of some of the aspects that are included in the plan. To us the fact that the Corps will be mainly composed of recent college graduates seems to be inconsistent with the offer of technical assistance which the plan is supposed to provide. It is true that the Corps is for volunteers; it is also true that these graduates will have obtained some technical knowledge from their educations. But it is doubtful whether people of this age-group are skilled enough to provide the assistance that will be necessary. Perhaps if some incentive were offered so that those who are more mature and more skilled would be attracted, the Peace Corps would meet with much greater success.

We would also suggest that some incentive other than a draft deferment be presented to the students whom the program is designed to attract. To serve two years in the Corps and still be subject to the draft would not set well with many.

Perhaps the point that requires the greatest consideration is the training methods that are planned. We feel that, rather than to squander millions of dollars on university training, a better way to assure that a greater number of these recent graduates will satisfactorily meet the conditions they will face is to give them a more intensive training program. If they were trained in camps at which they had to eat similar food and live under similar conditions, the Corps would prove more successful.

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Published weekly on Thursday for ten weeks of each term by THE HARVARD LAW SCHOOL RECORD CORPORATION, 23 Everett St., Cambridge 38, Massachusetts. Subscription price: \$2.00 per term, \$4.00 per year (20 issues) mailed; student subscription \$1.50 per term mailed, \$1.00 per term distributed at the Law School. Individual copies 10c each at the Law School, 20c each mailed. Business and editorial offices, 23 Everett St., Cambridge 38, Massachusetts. Telephone UNIVERSITY 8-7600, extension 418.

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COMMENT

By Fenno

In about another month Adolf Eichmann will go on trial in Israel. The legal profession is reluctant to base any argument on moral or policy grounds alone, but it seems that the time has come to apply such considerations to the mockery of international law that is now taking place in connection with this case.

So as to state the position from which we view the entire incident, we should emphasize the following: There is no doubt that Eichmann is a murderer of six million human beings. For that he should be punished. However, we are opposed to capital punishment. The only thing such punishment can attain is the satisfaction of seeing this man dead.

With those principles in mind we maintain that the method of procedure being applied to the case is disgraceful and little more than an imitation of the methods that Eichmann and his compatriots used. Law is being discarded in favor of an international carnival.

Argentina's national territory was violated. Eichmann was charged with crimes against humanity and against the Jewish people. (These are the only crimes that carry the death penalty in Israel.) The three judges who will judge him are all refugees. The trial will be covered in five languages. The show is to take place in a courtroom to be completed in time for this, its first trial.

Law seems to have taken a back seat to passion. The rage of a people who have suffered so at the hands of this type of ruthless murderer is understandable. One must be sympathetic with their position. But this is no reason to make a sham of law. It would have been better if an international court had been established to hear the case. At this stage, it seems that the only plea that may yet be heard is that he receive at least some semblance of a trial by a fair court and a life rather than a death sentence.

Judges Named for Ames Games

By Charles F. Waite

The Honorable Charles Evans Whittaker, Justice of the Supreme Court of the United States, heads the list of distinguished jurists and lawyers who have accepted invitations from the Board of Student Advisers to judge the spring rounds of the second and third-year Ames contests.

Justice Whittaker will preside over the third-year final contest, to be held on April 10.

He will be joined on the bench by the Honorable Shackelford Miller, Jr., Chief Judge of the U. S. Court of Appeals for the Sixth Circuit, and the Honorable Paul G. Kirk, Justice of the Supreme Judicial Court of Massachusetts.

Third-year courts of the Jaffe and Magruder Clubs will vie for top Ames honors. The case to be argued concerns a tort action involving questions of procedure and conflicts of laws.

In the first Ames quarter-final round, the Honorable Frederick W. Hall, Justice of the Supreme Court of New Jersey, will have as his associate justices Joseph H. B. Edwards, Esq., of Bingham, Dana and Gould, and James Vorenberg, Esq., of Ropes, Gray, Best, Coolidge and Rugg, both Boston law firms.

Harlan and Story Clubs Argue

The contest, to be held March 16, will see second-year members of the Harlan Law and Story Law Clubs arguing an anti-trust action concerning trading stamps and a retail grocer.

An action for damages under the Federal Employer's Liability Act will be the subject for the second quarter-final round between members of the second-year courts of the Casner Law and Scott Clubs.

Presiding for this March 21 contest will be the Honorable Edward T. Gignoux, Judge of the U. S. District Court for the District of Maine.

Judge Gignoux will be joined on the bench by William H. Edwards, Esq., of Edwards and Angell, a Providence law firm, and Frederick S. Pillsbury, Esq., of Brooks, Wallace and Pillsbury, a law firm in Springfield, Massachusetts.

Competing in the third quarter-final round on March 23 will be members of the Harlan-

Marshall and Casner Equity second-year courts. They will argue a case involving a petition to review a Tax Court decision concerning deferred income practices of a dance studio chain.

Judging the argument will be the Honorable Sterry R. Waterman, Judge of the U. S. Court of Appeals for the Second Circuit, the Honorable Kingsley A. Taft, Justice of the Supreme Court of Ohio, and Harry K. Mansfield, Esq., of the Boston law firm of Ropes, Gray, Best, Coolidge and Rugg.

The Honorable Arthur S. Lane, Judge of the U. S. District Court for the District of New Jersey, will preside at the fourth and last Ames quarter-final contest of the spring series.

Associate Justices Named

Judge Lane's associate justices will be the Honorable John M. Murtagh, Chief Justice of the Court of Special Sessions, New York City, and Frederick G. Fisher, Jr., Esq., of Hale and Dorr, a Boston law firm.

The contest, to be held March 28, will be between second-year members of the Cardozo and Kaplan Clubs, who will argue a case involving a writ of habeas corpus brought by a prisoner convicted under a state "second felony offender" law.

All arguments will take place on the respective evenings at 8 p. m. in the James Barr Ames Courtroom of Austin Hall.

Hurry, Hurry — Ten Yearbooks Left

Only 10 subscriptions to the 1961 Harvard Law School Yearbook remain to be sold. Student subscription sales have been slower than average this year, and thus the ordinary December deadline has been extended until the contracted amount is reached. No more subscriptions will be accepted after the contract limit has been met.

The Yearbook is nearing completion, and it is expected the 1961 issue will be distributed either at the end of this month or shortly after the spring recess. Remaining copies may be obtained at Chancery Club, Harkness news stand or the Yearbook office.

Dorm Council Plans Sound Improvements

By Joseph A. Broder

At the March meeting of the Dormitory Council it was decided that the hitherto tightly locked high fidelity phonograph in the Wheeler Room of Holmes Hall will be unshackled so as to allow free use of the equipment and records. It will no longer be necessary to scrounge up a key in order to enjoy this facility. At first this operation will be on a trial basis.

The Council hopes that the students will take full advantage of the equipment and treat it so that others may also enjoy it. As long as the phonograph and records are treated with due care and the records remain in the Wheeler Room, use of both will be unrestricted.

Among other items discussed, it was reported that the Law School Variety Show, which will be held on March 25 at the Agassiz Theater, is shaping up into an evening of fine entertainment. If advance reports are any indication, the show should be a whopping success.

Another matter of interest to an established segment of the Law School is the television set in Holmes Hall. The day of salvation for those who have become bleary-eyed watching its picture flutter is at hand. A committee has been appointed to purchase a new and larger set which should make its appearance in Holmes Hall in the near future.

All softball players should take note of the fact that the Law School softball league will be organized in the next few weeks.

Summer Program Receives Applications

Over 118 attorneys have submitted applications for the Program of Instruction for Lawyers to be given by the Law School July 17 to July 29, Assistant Dean William L. Bruce, Associate Director of the Program, announced.

Forty-four of these applicants graduated from law school prior to 1940. Thirty applicants graduated during the forties, and 43 received their degrees from 1950 to 1959. Slightly less than half of those applying graduated from the Law School.

Only 21 lawyers have applied from the New England area, and only 11 of these are

from Boston. Twenty-eight have applied from the Middle Atlantic states, but only six of these are from New York City. The Midwest area claims 35 applicants with only three from Chicago. Fourteen attorneys will venture from the Pacific area to attend the Program. Thirteen applicants are Southerners, and seven hail from the Southwest.

The early returns indicate that Estate Planning, Business Planning and Financial Planning will be the popular courses. Courses are also offered in Administrative Law, Controlling the Use of Land and Legal Methods in International Disputes.

All members of the bar may apply for registration in the Program. The Law School has received over 531 requests for the catalog of the summer Program.

Admissions

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year's," Mr. Toepfer commented.

The greater number of applications means more disappointments to good students and also more work for the Admissions Committee, Mr. Toepfer added. Professor Richard H. Field is chairman of this year's Admissions Committee. The other members are Professor Derek C. Bok and Mr. Toepfer.

Approximately 800 applicants will be admitted to obtain the target number of 500 for next year's class. Of the 300 students who do not accept, about one-half will go to other law schools. The R. O. T. C. obligation prevents some applicants from accepting, but the draft is no longer much of a factor.

Mrs. Edith D. Oliver, Admissions Secretary, indicated approximately 240 more applications have been received now than at this time last year. At the end of February this year 1,330 applications had been received. This compares with 1,120 applications by the end of February in 1956, the prior top year with total applications of 1,833. In 1959 only 1,080 students had applied by the end of February, and a final total of 1,684 students applied. Last year 1,090 applications were received by the end of February, and 1,735 applications were received in total.

Mrs. Oliver noted that while the distribution of the applicants' colleges appeared normal, there were perhaps a few more applicants than usual from small, little-known colleges, indicating good geographical distribution.

Health Service Fee To Be Increased

Law students will pay a Health Service fee of \$74 next year. Dr. Leo J. Cass, Director of the Law School Health Service, attributed the six dollar increase to covering costs of augmenting the staff of physicians, keeping the General Medical Clinic open longer hours and adding new services and consultations in specialty areas.

The insurance portion of the fee, \$20, will remain the same next year. For Law School students the loss-ratio on the insurance fee is estimated this year at 79-81 per cent. The Health Service will receive a rebate of the amount by which the cost remains under 85 per cent of the total fee. The additional facilities are expected to reduce the loss-ratio by allowing the Health Services to do more of the required treatment at a lower cost. This will allow more service for the student at the same cost.

The Law School will continue to make a separate charge for the Health Service fee, while other Harvard schools will incorporate the fee into tuition. The service for law students at the clinic in Austin Hall will also remain, but other special clinics will move into the new General Medical Center. Austin Hall service will maintain the same hours next year, but the staff will be augmented by two additional doctors.

Atoms Go Underground

The new General Medical Clinic being constructed on Mt. Auburn Street between Holyoke Street and Dunster Street will replace Stillman Infirmary and the Health Service offices located at 15 Holyoke Street. The Health Services will occupy the sub-basement for radioactive testing, the basement for radiological treatment and the first five floors of the new building.

The new infirmary will have a normal capacity of 64 beds but can be expanded to 84 by conversion of private rooms into doubles and in an emergency can be expanded to a capacity of 94 beds. The average number of bed patients in Stillman Infirmary is approximately 20 but reaches peaks of over 40. The new facility will allow the Health Services to give longer and more extensive in-care to students.

After September 1, the General Medical Clinic will be open for regular service between

8 a. m. and 6 p. m. The specialty clinics will be expanded to include new or additional service in psychiatry, dentistry, surgery, orthopedics, dermatology, ophthalmology, otolaryngology, radiology and physical therapy.

Chancery Club Elects Seely President

Chancery Club members elected Hall Seely, 2L, Balboa Island, California, Chancellor of their club at a meeting held last Saturday. Mr. Seely received his B.A. degree from Stanford in 1958.

Bruce A. McAllister, 2L, Providence, Rhode Island, was elected Vice Chancellor. Robert W. Smith, 2L, Westhampton Beach, New York, will serve as Secretary. Oliver S. Sughrue, 2L, Milton, Massachusetts, is the new Alumni Secretary. The new Members-at-Large are William J. Graham, Jr., 1L, McKeesport, Pennsylvania, and Gerard M. McGhee, 2L, Chatham, New Jersey.

John L. Higgins, 2L, Providence, Rhode Island, was elected to serve as Treasurer for the coming year at a meeting held in January.

Bad Back Bout Behind Byse

Professors Paul M. Bator and John P. Dawson were finding extra time on their hands this week as Professor Clark V. Byse resumed teaching chores which illness had forced him to relinquish last month.

Messrs. Bator and Dawson had assumed Mr. Byse's teaching duties in second-year Administrative Law and first-year Contracts when Mr. Byse was temporarily put out of service by what was suspected to be a repercussion of a former back injury.

Mrs. Newman To Tell Of Mass. Mess

The Law School Young Republican Club will present Mrs. Mary E. Newman at a luncheon meeting in the Mallory Smith Room of Harkness Commons tomorrow at 1 p. m. Mrs. Newman, Republican Assemblywoman from Cambridge who is presently leading the fight against the proposed office building to be built across from Littauer Center, will speak on the topic "What is Wrong with the Massachusetts State Government."

Curriculum Changes

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Australia, will teach sections of Criminal Law and Torts.

Professor Austin W. Scott will retire after this year. Professors Harold J. Berman, Mark deWolfe Howe, John T. McNaughton and Louis B. Sohn will be on leave for the 1961-62 academic year. Professors Richard H. Field and Robert E. Keeton will be on leave for the first semester.

The following are the announced changes which will take effect in September, 1961:

First year changes are as follows: Criminal Law will be taught for two hours per week throughout the year. Civil Procedure will be taught for four hours per week until the Christmas vacation and two hours per week from the Christmas vacation until June. Group work will terminate after the practice examination, which will be given in February.

The second year changes are as follows: Legal Process will be taught for three hours per week instead of two as at the present time in order to allow the material to be covered at a slower and more thorough rate. In addition, the courses taught by Messrs. Howe, Berman and Sohn will not be given. Professor Howe teaches Anglo-American Legal History; Professor Berman, Soviet and American Law; and Professor Sohn, United Nations Law.

The third year changes are as follows: Property II will not be a required course, and the course formerly designated Property II will be called Estate Planning. Estate Planning will be given in two sections rather than in three, one to be taught by Professor Casner and the other by Professor Westfall. The text for this course will be the new third edition of *Casner on Estate Planning*, which will be available in June. Further third year changes call for a new course to be given by Professor Leach called Future Interests and Estate Planning. The text for this course will be a new edition of Professor Leach's book on Future Interests which will be available during the summer. Though the emphasis in these courses will be quite different, students will not be permitted to take both courses.

The remaining changes for the third year are as follows: Business Planning will be

extended to two hours throughout the year. The three hour course in Antitrust Law will be available in the spring as well as in the fall. Corporations II will be reduced from two hours throughout the year to three hours in the spring semester. Instead of Creditors' Rights A in the fall and Creditors' Rights B in the spring, a course in Creditors' Rights will be given for two hours a week in the fall semester and a course in Financial Planning will be presented for two hours a week in the spring semester. Family Law will be a fall semester course for three hours a week rather than a two-hour-a-week course throughout the year. Insurance has been increased from two hours a week to three hours a week for one semester. A new course in Economic Regulation (Bok and Turner) will be offered for two hours a week in the spring semester. A course in Oil and Gas (Huie) will be presented for two hours a week in the spring semester. The course in the Law of International Transactions and Relations (Katz and Vagts) will be available in two sections instead of one.

The following new seminars will be available: Administrative Law Seminar: Federal Communications Commission (Jaffe); Administrative Law Seminar: Remedies Against the Government (Bator); Chinese Law and Society (von Mehren); Defamation (Mansfield); The Legal Process (Hart); The Public Authority (Cavers); Problems in Legal History (Dawson).

The following courses will not be given: Anglo-American Legal History; Comparison of Soviet and American Law; Problems of World Order; Real Estate Planning; Taxation and Public Finance Respecting International Trade and Investment; United Nations Law.

The following seminars will not be presented: American Legal History (Howe); Antitrust Litigation (Vagts and Westfall); Commercial Law Seminar (Braucher and Sutherland); Comparative Legal Research (von Mehren); Criminal Law and Procedure (Bator); Evidence Problems (McNaughton); The International Corporation (Chayes); Labor Law: Guided Research (Cox); The Law of Money in International Trade and Investment (Berman); Legal Education (Cavers); Legal Problems of International Trade (Berman); Taxation: Current Issues and Problems (Surrey).

YAFs Hear Castro Will Fall

By J. Alan MacKay

The Harvard-Radcliffe Young Americans for Freedom held its first meeting last Tuesday in the Harkness Meeting Room. The group, which is the local chapter of a national conservative youth organization, chose for the subject of its meeting the present crisis in Cuba. Speakers for the evening were two Cuban students who are presently living in the Boston area.

The first, Jorge Castelero, introduced himself as a former law student at the University of Havana who was expelled last summer for refusing to acknowledge the Castro-appointed administration of the University; the second student asked that his name be withheld, to prevent reprisals against his relatives still living in Cuba. After first observing that he had long been an exile from Cuba, having fled from Batista in 1957, he declared that Harvard was an appropriate place to discuss Castro, who attracted such attention when he visited Harvard in 1959.

Children Learn Communism

Making it clear that both were opposed to Batista, the students agreed that Cuba under Castro was in a more wretched condition than it had been under Batista. "Castro has built fifty schools," said Castelero, "but the children learn nothing but Communism. Everyone eight years old spends many hours a day marching!" In regard to Castro's much-publicized campaign against illiteracy, the second student observed, "When they teach little children to read, the books say 'Fidel is the light. Raul is the house-light.' How would you like that here?"

Similar sentiments were expressed by a member of the audience who also asked that her name be withheld for fear of reprisals. A former professor of the University of Havana, she recounted how the entire faculty was required to swear allegiance to Castro or to leave the University. Almost the entire faculty of the law school left, along with substantial numbers from the other schools. In regard to Castro's accomplishments, she stated, "He has built apartment houses in Havana, and they look nice from the outside; but the inside is not finished. They have no

electricity, no running water, and nobody lives in them. The workers are paid in scrip, little pieces of paper, that they can only use at Government stores; nobody has any money."

Castelero, when questioned about the role of the Catholic Church, recalled that in 1958 the Church expressed opposition to corruption in the Batista regime. Now, he said, it is expressing, with increasing force, its opposition to the abuses of the Castro regime. Asserting that "the Catholicism of the people can never be taken from them," he declared that in a struggle between Castro and the Church, Castro must lose.

As to the future, both students were optimistic. Castelero predicted Castro's fall before the end of 1961 and said that it might come sooner. Conceding that there are disagreements among the numerous groups of anti-Castro Cubans, he stated that there is general agreement on fundamentals. "There will be a restoration of the Constitution of 1940," he said, "which is a very progressive constitution. That will be the basis of social reform. The laws of Cuba are good laws; our problems come from the men who carry them out."

Future Activities Listed

At the conclusion of the program on Cuba, future activities of the Harvard-Radcliffe Y. A. F. were discussed. Announcement was made of the intention, since carried out, to attend the rally in New York City on March 3, sponsored by the national organization. The Harvard delegation joined some 3500 other young conservatives gathered to hear a major address by Senator Barry Goldwater.

Further activities of the local organization will be designed to provide a sounding-board within the Harvard community for conservative opinion. To fulfill that end, a newsletter will be published detailing local and national activities of conservative leaders; the organization will also invite prominent spokesmen of the conservative cause to come to Harvard to speak. The first of these will be Joseph Eley, president of Public Affairs Counsellors, who will address the Y. A. F. on Tuesday evening, March 21, at 8 P. M., at a place to be announced.

Democrats Claim Victory

Key Unlocks Ballot Box

By John A. Rava

Bloc voting, religious, racial and sectional, emerged as the outstanding factor explaining the 1960 election, V. O. Key, Jr., told the Law-Graduate Democratic Club last Wednesday.

In addition to the religious group vote particularly affecting Catholics and Protestants, the other aspects that distinguished the 1960 campaign from the two Eisenhower victories were the "absence of the general" and the "emphasis on partisanship," Key explained. Campaign issues played a relatively minor role.

The Harvard government professor, one of the country's foremost election analysts and author of the leading textbook, *Politics, Parties and Pressure Groups*, spoke before a capacity crowd at Harkness Commons.

Roman Catholics Swing

Predictably, the most impressive swing came among Roman Catholics, Key said. The Democratic percentage of the Catholic vote jumped from 51 in 1956 to 78 in 1960. He warned that this vote was not exclusively due to the presence of a Catholic at the head of the Democratic ticket. Many nominally Democratic Catholics had voted for Eisenhower and were attracted back into the Democratic fold by the dual pulls of party and group identification.

Counterbalancing the Catholic shift were the undercurrents of Protestant voting behavior. Although on the surface the Democratic Protestant totals did not move perceptibly from 1956 to 1960, advancing from 37 to 38 percent, they concealed a severe setback in the normal Democratic Protestant vote.

Hard Core Resisted Ike

In 1956 the Democrats were down to a hard core who had resisted both Eisenhower land-slides, Key claimed. Under ordinary circumstances, many millions more could have been expected to return to their normal voting habits. That they did not so return was due to resistance to a Catholic presidential nominee. Key cited the 1958 Congressional vote totals, when 51 percent of the Protestants supported the Democrats, but cautioned that different factors might be at work in non-

presidential election years.

These generalized group voting statistics do not reveal the great divergence among regional patterns, Key added. While the Eastern areas evidenced a wide movement toward the Democrats not always associated with the Catholic shift, the Far West showed a different situation, among Catholics as well as Protestants.

Minorities Vote Democratic

Among the less numerous minority groups, the Jews and the Negroes, Key noted an even higher proportion of Democratic allegiance. The Jews moved from 75 percent Democratic in 1956 to 81 percent in 1960, while the Negroes also increased their Democratic pluralities, particularly in the South.

Commenting that a sharpening of party lines and party differences was important in the Democrats' victory, Key pointed out that their nominee strove at all times to identify himself with the greater number of Democratic voters, while "Nixon could not get away from the fact that he was a Republican."

Outside of the religious issue, Key claimed that campaign issues were relatively unimportant. Exceptions occurred in such impoverished areas as the hills of West Virginia and Kentucky, where economics overrode religion to increase the Democratic totals.

Bloc Voting by Interest

Asked to speculate how long the religious issue would remain important in American elections, Key answered that "bloc voting can be expected from any group when they see the campaign as involving their interests."

Another questioner asked the Texas-born professor whether the South would vote for Senator Barry Goldwater if he were to run for the Republicans in 1964. Key replied that in the improbable event that Goldwater were nominated, "Southerners would probably meet him with brass bands and then not vote for him."

Key also attacked the "fiction" of the suburban vote. This notion was developed on the basis of inadequate data and on the assumption that all suburbs are uniform. It no longer commands any informed support, he declared.

FEATURES SECTION

The Landis Report: A Discussion

By Professor Louis L. Jaffe

The administrative process has been undergoing a crisis — a mild crisis. This is not new. Crisis has been endemic since the creation of the public utility commissions in the last quarter of the nineteenth century. But the nature of the crisis is novel. In the past it has been the regulated interests who have protested. They have alleged "Star Chamber" methods, the lack of traditional judicial safeguards.

Today it is the proponents of regulation who assail the agencies. They claim that the agencies have become the captives of the interests or at the least that they are inefficient and ineffective. Out of these recurring crises there have come a series of reports, exploratory and critical. All of them have been valuable, and most of them have sooner or later produced results. The latest in the series is the report of Dean Landis to the then President-elect Kennedy. This excellent report is comprehensive and thus to some extent a compendium of analyses and suggestions made to date. Its very comprehensiveness gives rise to the danger that its special emphasis will not be sufficiently noticed or considered.

The emphases are peculiarly related to the nature of the present crisis: namely, to the widespread feeling that the agencies are not effective instruments of the policies committed to their administration. Mr. Landis's most important recommendations are directed *first*: to the recruitment of better person-

Professor Jaffe is Byrne Professor of Administrative Law at the Law School. He received his A.B. from Johns Hopkins in 1925, his LL.B., m.c.l., in 1928 and his S.J.D. in 1932 from Harvard. He is co-editor of Cases and Materials on Administrative Law. At the Law School Professor Jaffe teaches Torts and Administrative Law.



Professor Jaffe

nel, particularly the top men, and *second*: to Presidential oversight.

The Landis Report cannot be properly understood until one first takes account of the memorandum presented by Louis Hector to President Eisenhower when he resigned from the Civil Aeronautics Board in September of 1959. Mr. Hector asserted that the CAB and similar agencies were ineffective instruments for the policy formulation tasks which are assigned to them.

The CAB, for example, has the responsibility for developing and regulating commercial aviation. Its basic responsibility is to decide the character and amount of passenger and freight service from any one point to other points in or out of the United States. Shall there be a service between Boston and Miami? If so, shall the service be on a single-carrier or competitive basis? Should there be "local service" among the small cities and large towns of a block of seven states in the Middle North which would have to be subsidized at least initially and perhaps indefinitely?

Mr. Hector complained (as have

others before him) that this type of issue was not being properly faced or properly decided by the CAB. His reason? Because an agency — an "independent agency" — is basically unfitted for the task. A board of men as opposed to a single administrator is slow, cumbersome, compromising; it decides on what can get by a group of three, five or seven politically chosen commissioners. Either because of law, custom, or inertia it forces all decision-making into the quasi-judicial mold: a hearing before a trial examiner; a record built up by the cumbersome presentation of evidence; argument; exceptions; appeals to the agency; more argument.

This method of procedure is adopted by such a board even when not required because the board, having to deal with quasi-judicial tasks and those of general policy making, has come to rely on quasi-judicial procedure — and quasi-judicial attitudes — for all of its business. Finally, a board because it is "independent," because it is a law unto itself, does not correlate its decisions with other administrative programs (e.g., the airplane with rail, bus, barge, ship) nor with the general executive program. The remedy? Separate the administration of quasi-judicial from the policy tasks. Continue to assign the former to the independent agency. Transfer the latter to single administrators responsible to the President. Thus, to refer again to CAB jurisdiction, the Administrator would decide what routes to fly; the Board would decide what individual was to be licensed to fly the route.

Mr. Landis agrees with the Hector indictment but rejects the remedy. "Admittedly, many of the commissions have neglected their planning or creative functions. This is due in large part to the burden of

the routine business thrust upon them and also to the caliber of appointments which have been made in recent years." Mr. Landis finds the solution in the appointment of better men, though he believes some organization and procedural changes would be needed.

He concurs in the now universal recommendation that the top men delegate to hearing officers, bureau heads, or divisions of the Board itself such decision-making and administration as do not imperatively demand action by the full Board. In many instances the commissions already have the power to delegate,

and where this has not been granted, the law should be changed. As to procedure: the present laws (e.g., the Administrative Procedure Act) do not usually require a trial type of procedure for rule and policy making. Thus the remedy for misplaced judicialization lies within agency control. Landis concludes that with changes such as these, whether by statute or regulation, competent men will be able to do a good policy planning job; this despite the fact that the agency is multi-headed and combines quasi-judicial with policy making tasks.

Mr. Landis is aware that exhor-

tation to appoint "good men" sounds utopian and futile. Do not Presidents always purport to be looking for good men? Are we not always against sin and for the right? Is not the lesson of history that good men are in short supply and that we cannot rely on good intentions to get things well done? Surely we should proceed on the assumption that institutions must be designed to get along with the men whom they are likely to attract. We must not rely on good men to overcome obvious institutional defects.

But I would agree with Landis

Profiles of Leaders

At Gannett House these days one is likely to encounter a smiling, sandy-haired young man who is preparing to assume the leadership of the *Harvard Law Review*.

Amidst a beehive of legal activity, Richard A. Posner, top-ranking member of the class of 1962, took a few minutes from his busy schedule to inform a RECORD reporter that he couldn't even estimate the amount of time *Law Review* members put in to putting out the monthly publication.

Richard was born in New York City January 11, 1937, was graduated from Bronxville High School and received his Bachelor of Arts in English from Yale University in 1959.

Although chosen for the high office in February, he will not officially become president until the day after the school year ends.

Home for the publication executive is 67 Sprain Valley Road, Scarsdale, New York, and during the school year he lives at 1572 Massachusetts Avenue.

Mr. Posner stated that he has no present plans for changing the *Law Review* and that he had no comments on the Law School or upon his elevation to the presidency of the nation's top legal periodical.



Recently chosen president of the Legislative Research Bureau was Paul Neal Crane, a second-year student from California.

Born in Chicago, Illinois, December 5, 1937, Paul moved to California, where he graduated from Fairfax High School, Los Angeles, and the University of California at Los Angeles in 1959 with a Bachelor of Science degree in Business Administration.

Following graduation, Paul married the former Miss Gloria Edelstein of Los Angeles. He also passed his C. P. A. exam but has not yet completed the requirements for apprenticeship.

His Law School activities, in addition to the legislative work, include the California Club and the Ames Competition; in the latter, he is a member of the Maguire Club and this year tied for first place in the best brief contest among second-year students.

The Legislative Research Bureau, founded in 1953, drafts legislation at the request of legislators from the various states. At the present time, Paul explained, members are working on a bill to set down ground rules for legislative investigative committees for one state and on a teacher tenure law for another.



that we have not done enough systematic thinking about the recruitment of top personnel. His suggestions run along two closely related lines: first, changes in the laws to make the jobs more attractive; second, better appointment practices. Commissioners should be persons of skill and experience in business, law, engineering or other professions. Persons of this caliber will usually have established themselves on a permanent basis on financial terms present or prospective considerably beyond government salaries (now \$20,000 to \$23,000, increases beyond \$25,000 not too likely).

Even assuming that such a person is public-spirited and that the job has prestige (which under current conditions is not always the case), there is a limit to the risk and sacrifice he will wish to take. If he thinks of the job as a career, he faces a short tenure (five to seven years) and the lack of a tradi-

tion of reappointment. If he has in mind no more than a meritorious or advantageous interlude, the financial problem arises not only from the possible salary cut, but the costs of liquidating investments, moving his family and special entertaining.

Landis believes, as do I, that the central problem is the short and uncertain tenure. He does not believe that a salary increase of \$2,500 to \$5,000 would make much difference. But he would like to see a "moderate entertainment allowance so that he could entertain rather than be required to suffer entertainment." (The latter today creates suspicion of improper influence.) He recommends, also, "an adequate retirement allowance." Even more important, I would suppose, for those contemplating a limited tour of duty is making less rigorous the requirement of liquidating investments.

As to tenure Landis advocates an

increase to ten years. Life tenure would probably not be politically feasible and would not, perhaps, be advisable for one exercising power "in these areas of dynamic activity." But these changes will only make matters worse if appointments are based not on competence but on politics. And I would emphasize that expectation of reappointment (assuming the incumbent has demonstrated competence) is a basic condition of attracting an adequate number of good career men.

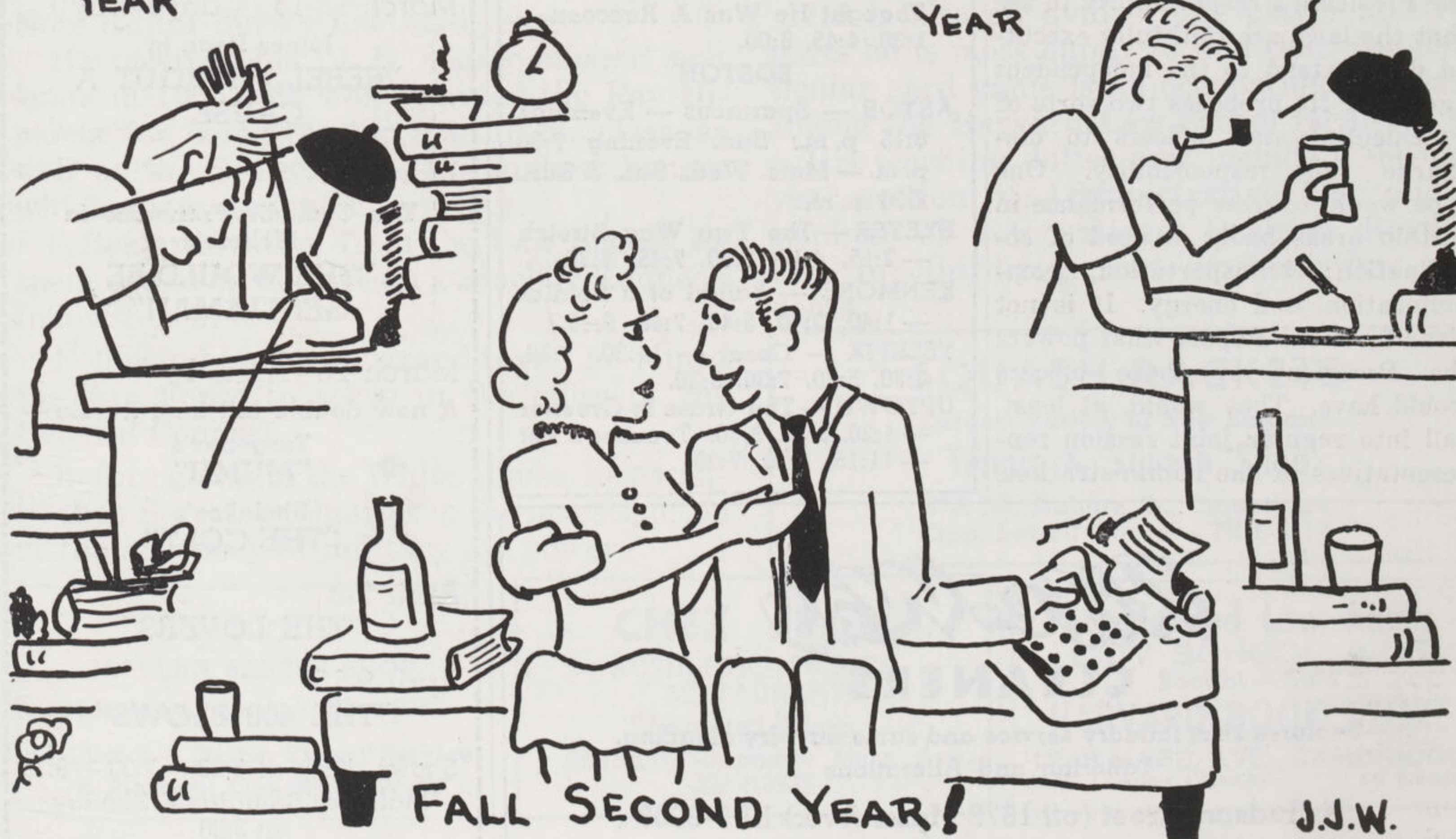
It may be that in whatever terms of "independence" these jobs are conceived, the President should be entitled to refuse reappointment even to a competent man if he disapproves of his policy views. Without trying to settle that hard question, I believe there still remains an important area for the operation of the general rule that a competent man should be reappointed as of course.

Commentaries

WRITING A BRIEF

FALL FIRST
YEAR

SPRING FIRST
YEAR



The question of the reappointment of a man with whose views the President disagrees leads us to the other significant aspect of the Landis Report. In the famous case of *Humphrey's Executor*, 295 U. S. 602 (1935), it was held that Congress might limit to cases of malfeasance the President's power to remove a Federal Trade Commissioner. The agency thus "independent" could resist Presidential supervision of its policy.

To what extent this "independence" must be respected is uncertain. No one denies that the President may properly consider the attitudes of a new appointee; argument arises on reappointment. It has become customary for the budget and legislative proposals of the agencies to clear through the office of the Director of the Budget, a key Presidential staff officer. Mr. Hector, as we have seen, would separate policy and judicial functions, investing the former in officers subject to the President. Mr. Landis proposes no such radical solution. He believes, perhaps, that it is both analytically and politically infeasible.

He does believe, however, that despite *Humphrey's Executor* the President's responsibility to see that the laws are faithfully executed does extend to the independent agencies. He proposes two sorts of Presidential staff officers to discharge this responsibility. One type would oversee performance in certain areas badly in need of coordination: transportation, communication, and energy. It is not clear from the Report what powers the President or these officers would have. They would, at least, call into regular joint session representatives of the administrations

(departmental and agency) for discussion and guidance.

The officers would be in an excellent position to advise the President on the exercise of his important present powers of appointment, reappointment, review of budgets and legislation. The other proposed officer would head an "Office for the Oversight of Regulatory Agencies to assist the President in discharging his responsibility of assuring the efficient execution of those laws that these agencies administer." He would be not "a mere Inspector-General but also a source of imaginative and creative activity." There is no indication whether he would have powers in addition to the presidential ones above described.

It is to be feared that this suggestion will arouse in the mind of the Congress the horrid spectre

of the old continental and Russian procurators-general. President Kennedy has already said that he will not for the moment act upon it and that he is not sure of its merit. It is questionable whether so wide-ranging a job could be systematically exercised. Nevertheless, this recommendation has the virtue of calling the President to an active role in the areas of agency responsibility, which is potentially useful. It suggests that existing formal powers and the leverage of the Presidency can be used in a more coherent, purposeful manner to improve the effectiveness of each administration and to correlate its work with the other administrations.

Weekend Entertainment

BRATTLE — Diary of A Country Priest — 5:30, 7:30, 9:30. (Starts Sun.) East Of Eden.

UNIVERSITY — Swiss Family Robinson — (Thru Thurs. 3/15); 2:30, 5:45, 8:50. The Hound That Thought He Was A Raccoon — 1:30, 4:45, 8:00.

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KENMORE — Ballad of a Soldier — 1:40, 3:40, 5:40, 7:40, 9:30.

TELEPIX — Cesar — 11:30, 1:30, 3:30, 5:30, 7:30, 9:30.

UPTOWN — The Grass Is Greener — 1:20, 5:30, 9:40. Teacher's Pet — 11:15, 3:20, 7:30.

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Gallery

By Charles F. Waite

Phillip E. Areeda, one of the most recent additions to the Harvard Law School faculty, is definitely not one to follow blindly a recent law school trend.

While others of his faculty constituents made the jump into the world of politics by doing what is currently described as going "from Harvard to the White House," Areeda chose instead to move "from the White House to Harvard."

Areeda, who was assistant special counsel to President Eisenhower, came to Harvard on what he has termed "de-inauguration day" to take up teaching chores in the fields of Administrative Law and International Business Regulation.

His appointment as Assistant Professor of Law, effective at the beginning of the spring term, was made a year ago.

Areeda was born January 28, 1930, in Detroit, where he lived until he came to Harvard College to become a member of the class of 1951.

He was graduated *summa cum laude* from Harvard and came across the street to enter the Law School the next fall, where he continued to give top academic performances.

During his career at the Law School, he became an editor of the *Law Review*; he was Note Editor during his third year.

He received his LL.B. degree *summa cum laude* in 1954. He was awarded the Fay Diploma for being the top man in his class, as well as the Sears Prize, the highest honors which a law student can receive.

After graduation from the Law School, he spent a year in Europe on a Sinclair Kennedy fellowship in law.

Following his legal "grand tour," he joined the Air Force to serve in the office of the General Counsel.

Before going to the White House, he assisted then Secretary Quarles in the investigation of the adequacy of military air power.



He went into White House service in 1956 while still in the Air Force. After rejoining civilian ranks, he stayed on at the White House as special assistant until 1958.

In that year he was appointed by President Eisenhower to be the chief executive's assistant special counsel.

Areeda, who is single, numbers indulging in politics as highest among his "hobbies." However, he also finds time to engage in squash and tennis.

He is also an avid bridge player and reports he is most happy to find that this particular card game is an occupational disease among the Harvard Law School faculty.

His teaching duties now include a second-year section of Administrative Law and a seminar on International Business Regulation for third-year and graduate law students.

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Recent Books

By Alexander Heard

POLITICAL CAMPAIGNING — PROBLEMS IN CREATING AN INFORMED ELECTORATE, by Stanley Kelley, Jr. The Brookings Institution. Washington, 1960.

Foreign observers are often mystified by the chaos of American political campaigning. So are Americans themselves, especially when they seek to reconcile it with the concepts of rational political discussion generally deemed fundamental to free, popular elections.

In recent years the task has become more difficult. Techniques of persuasion are increasingly employed in political campaigns by persons whose open profession is to capitalize on nonrational elements in the human make-up. Political campaigning has always involved appeals to bias and emotion, practices that have produced various legal measures intended to encourage rational campaign talk.

The mounting volume of campaign communications and the increased professionalization of specialists in persuasion have, however, provoked of late new doubts about the desirability and even the validity of our campaign habits. These doubts have led in turn to reconsideration of the legal and other means by which political campaigns are regulated and campaign practices are shaped.

The Brookings Institution of Washington, D. C., is an independent organization engaged in research and education in the social sciences. One of its principal purposes is to aid through research and publications in the development of sound public policies. The present volume, by Professor Stanley Kelley, Jr., of Princeton University, is another in a long line of studies running back more than thirty years that contributes importantly to the evaluation of our political institutions and to propos-

als for their constructive revision.

Mr. Kelley, author of an earlier work on *Professional Public Relations and Political Power* (1956), is concerned with one thing: What can be done to influence the character of campaign communications so that they contribute to a better informed electorate and to more nearly rational voting behavior?

At the outset he points to various social functions that may be performed by campaigns in their present state. For example, some observers contend that campaigns constitute a psychic substitute for physical violence and encourage a sense of popular participation in government, both phenomena contributing to the willingness of citizens to accept peacefully the outcome of elections. But thereafter Mr. Kelley hews strictly to his interest in improving campaigning in the performance of its primary function, creating an informed electorate.

He readily accepts certain conditions that characterize the environment within which change must occur: the state of communications technology, the values and prejudices held by individuals and the constitutional protection of freedom of speech, to illustrate three. These can hardly be reformed at will.

Mr. Kelley then addresses himself to what *can* be done to move toward several explicitly stated objectives: that voters be exposed to the arguments of both sides, that

the discussion facilitate identification of distortions and false statements, that the statements of the views and intentions of candidates be clear, that candidates define their disagreements, that candidates give evidence to support their positions and that sources of campaign information be clearly identified.

He proposes actions that can be taken by three groups: legislators, the press and citizens' organizations.

He advocates permanent revision of Section 315 of the Federal Communications Act. He would do this to enable broadcasters to give radio and television time on an equal basis to major party candidates without having to do the same for minor party candidates. The requirement that broadcasters do the latter prevents them from making time available at low or no cost to the important candidates. (In any presidential election year there are

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The guest reviewer is the Dean of the Graduate School of the University of North Carolina.

upwards of a dozen minor party candidates who can demand equal time, and they have been deterred from doing so only by the cost.) Mr. Kelley wrote before Section 315 was modified to permit the Kennedy-Nixon debates of 1960. Assuredly he would applaud the development.

Any public subsidy of campaign communications, like the voters' pamphlets of California and Oregon or joint radio and television encounters, would help. Similarly, extension of the franking privilege to candidates would encourage more nearly equal access to the electorate.

Legislation to penalize false campaign statements and last minute attacks and to withdraw the "conditional privilege" from false statements about candidates would improve the quality of campaign information. Its quality would also be improved, Mr. Kelley urges, if anti-smear legislation were enforceable by injunctions, by civil suits to void elections and by citizens initiated election inquests. He would grant candidates a "right of reply," require campaign organizations to get their candidate's approval for campaign literature and require the sponsors of campaign communications to disclose more adequately than at present their interests and identity.

The press is urged to extend its efforts to present the statements of candidates and other partisans in the context of their own past records and statements and of those of their opponents. Editors should not be reluctant to decline to print

charges when opportunity for an adequate reply is precluded. Mr. Kelley feels the press could contribute in several significant ways to better informed voters: by insisting that candidates hold regular press conferences, by reporting more fully the activities and backing of non-party campaign organizations and by helping voters to compare systematically the records, positions and promises of candidates.

Citizen organizations can press for the recommended legislation and its enforcement. They can help to build public demand for forms of campaigning that help to develop an informed electorate. They can, moreover, on their own initiative sponsor debates, forums, press conferences and the like.

The book displays several admirable qualities that commend it to the general reader and to public officials, as well as to lawyers and political scientists. Its mood is pragmatic and reasonable. Mr. Kelley understands the complexity of the subject with which he is working and entertains no illusions as to the ease with which changes can be induced.

He seeks the levers of social action where he can find them. He prescribes no formula for salvation, but rather points to a series of useful actions that may be taken piecemeal. Much of what he suggests

has technical aspects that may be open to discussion among the specialists. But everywhere he is attentive to precedent in law and in practice, and he is persuasive.

The book articulates a concept of rational voting and delineates with care the function of political campaigns in helping to make voting rational, that is, in informing the electorate. This is a useful and timely service in a period when alterations in the style of campaigning are per force directing attention to proposals to thwart or encourage change.

Mr. Kelley wants to be read and to be understood. He has given the book a simple organization and has written it clearly. A plan of systematic restatement and summary is followed throughout, making the book easy to read and easy to study.

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THIRD YEAR STUDENTS

Interviews, Friday, March 10 — Mellon National Bank and Trust Company, Pittsburgh, Pennsylvania. This bank has an opening in its Trust Department.

David A. Watts, Esq., Bell, Boyd, Marshall and Lloyd, 135 South LaSalle Street, Chicago, Illinois. This firm has a general practice. Interested students should write to Mr. Watts if they would like to see him during Spring Recess.

Morris Rosenberg, Esq., Tydings and Rosenberg, 301 Davison Chemical Building, Charles and Fayette Streets, Baltimore, Maryland. This firm has a general civil practice with corporate and insurance work.

William H. Adkins, II, Esq., Henry, Henry and Adkins, Easton, Maryland. This firm has a general practice.

Richard S. McCabe, Esq., Wilson and McCabe, Maynard, Massachusetts. (TWinoaks 7-8600.) This is a two-man general practice firm.

E. Barrett Prettyman Fellowships in Trial Advocacy, Georgetown University Law Center, Washington, D. C. Applications must be in by March 15, 1961.

Milton G. Sincoff, Esq., Kreindler and Kreindler, 51 Chambers Street, New York City. This is a small firm whose practice is devoted to trial counsel in personal injury and wrongful death

litigation. Students in the top 70% of their class may arrange for an interview during Spring Recess.

SECOND YEAR STUDENTS SUMMER CLERKSHIPS

David A. Watts, Esq., Bell, Boyd, Marshall and Lloyd, 135 South LaSalle Street, Chicago, Illinois. This firm has a general practice. Interested students should write to Mr. Watts if they would like to see him during Spring Recess. A number of Federal Agencies have indicated that they expect to have summer clerkships available. These include:

Arthur D. Holzman, Esq., Assis-

tant General Counsel, Department of the Air Force. (Two openings.)

George M. Coburn, Esq., Office of the General Counsel, Department of the Navy. (Ten openings.)

Mr. Richard E. Orton, Personnel Office, Bureau of the Budget. (Non-legal work.)

John A. Johnson, Esq., General Counsel, National Aeronautics and Space Administration. (One or two openings.)

Mr. Harry Pollack, Director of Personnel, Securities and Exchange Commission. (Five to ten openings.)



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