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Explain SEC Investigation

Milton Cohen, who currently heads the Securities and Exchange Commission's investigation of alleged irregularities in the American Stock Exchange (Amex), will speak under the sponsorship of the Bull and Bear Club in the James Barr Ames Courtroom of Austin Hall tomorrow at 8:30 p.m. on "First Impressions of the Investigation." Cohen will deal with some of the information uncovered since the middle of last December, when some of the "Little Board's" clothes were first washed in the public light.

At that time the resignation-by-request of Amex's president Edward T. McCormick was accompanied by the departure of his chief adviser, Exchange General Counsel Michael E. Mooney. During his reign, McCormick had raised the varicolored-blazered Curb Exchange to the successful American Stock Exchange, in the process increasing Amex's listings and trading volume. But when his dealings with Gerard A. and Gerard F. Re, who had been accused by the SEC of market rigging and price fixing, came to light, the members of the Ex-

(Continued on Page 8)



Milton Cohen

HOLMES LECTURES

Judge Henry J. Friendly will deliver the third and last 1962 Oliver Wendell Holmes Lecture tonight at 8 p.m. in the James Barr Ames Courtroom of Austin Hall. A review of Judge Friendly's first two talks will be found in this issue of the RECORD at page 3; excerpts from those talks are printed on page 10.

Hearsay

Representation in Congress is far too important to be treated exclusively as a political plum, yet this is just what is happening as a result of the redistricting made necessary by population shifts.

One example of such treatment is the proposed enlargement of Congress from 435 seats to 438 seats. Because Massachusetts cannot or will not agree on how to redraw its districts so as to eliminate two of them, the Speaker of the House of Representatives, who just happens to be from Massachusetts, has lent his support to the enlargement plan. The bill would also save one seat in Missouri and Pennsylvania, which did redistrict but are unhappy about the whole thing.

While there is nothing sacred about the number of seats in the House, it sets a very bad precedent to increase the size of the Congress every ten years merely to bail out states which cannot or will not settle their own squabbles.

Even in states which have redistricted to absorb or eliminate seats, this redistricting has often been attended by a disgusting partisan bacchanale to insure that the party in power will win the largest possible number of seats. Proper standards for districting have usually been ignored. The inevitable result is poor representation.

It is about time to take some of the politics out of redistricting. Neither party gains in the long run, for the excesses of one party tend to be balanced by those of the other. Methods of eliminating this evil should be explored. Perhaps nonpartisan or bipartisan commissions should be established.

At any rate, the current situation should not be allowed to continue much longer, for it seriously detracts from public confidence in representative government.

COMMENT

By Fenno

When he announced his arbitration decision in the labor dispute between the Metropolitan Opera and its orchestra, Labor Secretary Arthur Goldberg threw in a "bonus": a suggestion that the federal government subsidize the arts. His suggestion is dubious at best.

The principal objection to government subsidies for the arts is to the restrictions on artistic freedom which would inevitably arise. A new federal bureaucracy would come into being and, in obedience to Parkinson's Law, grow. This bureaucracy would sooner or later seek to exert its influence on the artistic endeavors being subsidized.

The taxpayers—the source of the subsidy—presumably would also exert influence, at least indirectly through their potential voting power. Anyone who doubts this need only note this dispatch from Germany in the February 17, 1962, issue of *Opera News*: "An *Intendant*—the artistic head of a theatrical organization—is, in a municipal or state-subsidized theater, comparatively free of box-office pressure. But not entirely so; the taxpayers must, on the whole, be satisfied with the fare he provides." This raises a disturbing thought: if, for example, more taxpayers (and voters) liked representational art than liked abstract art, would political wisdom dictate that federal subsidies go only or mainly to representational artists?

A further disturbing aspect of the Secretary's suggestion is the extent to which subsidies to the arts would interfere with the normal economic processes. If the Metropolitan Opera had been subsidized by the government at the time of the recent wage dispute, would the unreasonable wage demands of the union have been acceded to for political reasons?

It is best to leave the support of the arts to those who care enough to support them.

Harvard Law Record

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Better Defined Standards Urged

By Charles F. Waite

A prime source of justified dissatisfaction with federal administrative action has been the failure to develop standards sufficiently definite that decisions will be fairly predictable and the reasons for them will be understood, the Law School's 1962 Oliver Wendell Holmes Lecturer told his attentive audiences Tuesday and Wednesday evenings.



Judge Friendly

Judge Henry J. Friendly of the United States Court of Appeals for the Second Circuit will complete his three-part talk tonight at 8 p. m. in the James Barr Ames Courtroom of Austin Hall. His topic is "Federal Administrative Agencies: The Need for Better Definition of Standards."

Responsibility for the failure to develop definite standards, Judge Friendly said, has been multiple — failure by Congress at the time of initial enactment, by agencies to sharpen "the vague contours of the original statute," by the legislature to supply more definite standards "as growing experience has permitted or even demanded" and by the executive branch to spur the legislature into activity.

"All these failures, save the first, are interdependent," he explained. "Failure by the agency to make clear what it is doing impedes both executive challenge and legislative response."

Specific areas where Judge Friendly detailed needed reform included actions taken

pursuant to the Interstate Commerce Act and the National Labor Relations Act and actions taken by the Federal Communications Commission and the Civil Aeronautics Board.

Where the initial standard given to an administrative agency by Congress is general, Judge Friendly urged that it is imperative that steps be taken to define and clarify it — "to canalize the broad stream into a number of narrower ones."

The 1962 Holmes Lecturer said that he did not suggest that the process can be so carried out that all cases could be determined by computers. But, he added, "I do suggest it ought to be carried to the point of affording a fair degree of predictability of decision in the great majority of cases and of intelligibility in all."

Judge Friendly said that he saw no reason why administrative agencies could not be able to "do something of the sort" which courts have been able to do in the area of crystallizing general standards — "even though [the agencies] can hardly take as many years to get the job done."

The principal reasons he gave for the need for better standards were:

— The basic human claim that the law should provide like treatment under like circumstances, "so long as the economic circumstances remain basically the same."

— The social value in encouraging the security of transactions. ("Recognition of that need ought not preclude the overruling of a policy when changed conditions or further reflection demand.")

— The bringing of the process of administrative adjudication into consistency with the democratic process.

— The necessity for the maintenance of independence of agencies themselves.

Definition of standards is required, Judge Friendly added, if the agency members are to be the masters of the staff rather than "the slaves of anonymous Neros, each fiddling his own tune."

(Specific areas of administrative law dealt with by Judge Friendly may be found in excerpts from his two talks at page 10. — Ed.)

Howe OK's Federal Aid To Church-Supported Schools

Federal aid may be constitutionally given to church-supported private schools if it is used for non-religious instruction, Professor Mark DeWolfe Howe told a Law School audience last week.

Speaking at a luncheon meeting of the Civil Liberties Research Service in Harkness Commons on Tuesday, February 6, Professor Howe scored as unjustified the President's view that any help to parochial schools is unconstitutional.

However, he similarly characterized what he termed "the Catholic view that they have a constitutional right to public funds for education."

Financial aid may strengthen a religious school, he said, but the support would not be tantamount to establishing a national religion. "There are so many ways in which we already aid religious institutions," he pointed out.

Professor Howe concluded by issuing a warning that "any educational institution ought to think twice before becoming dependent on federal aid."

Harvard Visiting Committee To View Law School

A Visiting Committee appointed by Harvard University's Board of Overseers will visit the Law School on Saturday, February 24. Members of the Committee will have an opportunity to visit classes in the morning. After a luncheon at Harkness Commons with Faculty members as guests, the Committee will meet with the Faculty to discuss various problems. In the evening there will be a dinner for Faculty members at the Club of Odd Volumes.

FPC's 'New Look' Told

Ralph Spritzer, general counsel of the Federal Power Commission, spoke to members of the Student Bar Association Monday afternoon in Harkness Commons on the topic "A New Look at the Federal Power Commission."

Harvard Law Wives Announce Spring Schedule

The schedule of events to be sponsored by the Harvard Law Wives during the spring semester was announced this week by Mrs. M. Vance Munro, the organization's public relations director.

The schedule is as follows:

February 28 — Talk by Dr. Ulric Neisser, Brandeis University.

March 7 — Bridge night.

March 14 — Professor A. James Casner will conduct a seminar on "Wives' Property Rights."

March 21 — Dean William Barnes will speak on Latin America.

March 28 — Annual Law Wives' Fashion Show.

April 11 — Professor Lon L. Fuller will talk on Poland.

April 18 — Mrs. Wilma A. Kirby-Miller will discuss "The Educated Woman."

Special Scholarship Applications Due by February 20

Tuesday, February 20, marks the deadline for the filing of applications by first and second-year students for scholarships marked with an asterisk on pages 123-30 of the Law School catalogue. Application blanks for these scholarships are currently available at the Financial Aids Office in Langdell Hall. Regular financial aid application blanks will be available in March.

Uncle PBH Wants You!

Phillips Brooks House has put out a call for volunteers for work in hospitals, settlement houses, prisons, the PBH ticket agency and for its blood and clothing drives. In addition, students are needed for general writing, tutoring, teaching and coaching.

Potential volunteers are asked to call the PBH office at UNiversity 8-7600, extension 526.

Freund To Address Hillel

Professor Paul A. Freund will address a meeting of the Harvard-Radcliffe Hillel Society's "Round Table of World Affairs" on Sunday, February 25, at 4 p.m. in Phillips Brooks House. His topic will be "Civil Rights: The Public and Private Sectors."

He's a Jolly Good (Teaching) Fellow

By Daniel J. Kucera

One of the most distinguished operations of the Harvard Law School is the Group Work Program. Most students know it by its consequences — weekly discussions, legal writing, the Model Trial and the midterm agony of the "Practice" Exam. Behind the program, however, is the unique Teaching Fellow faculty and organization.



Professor Hall

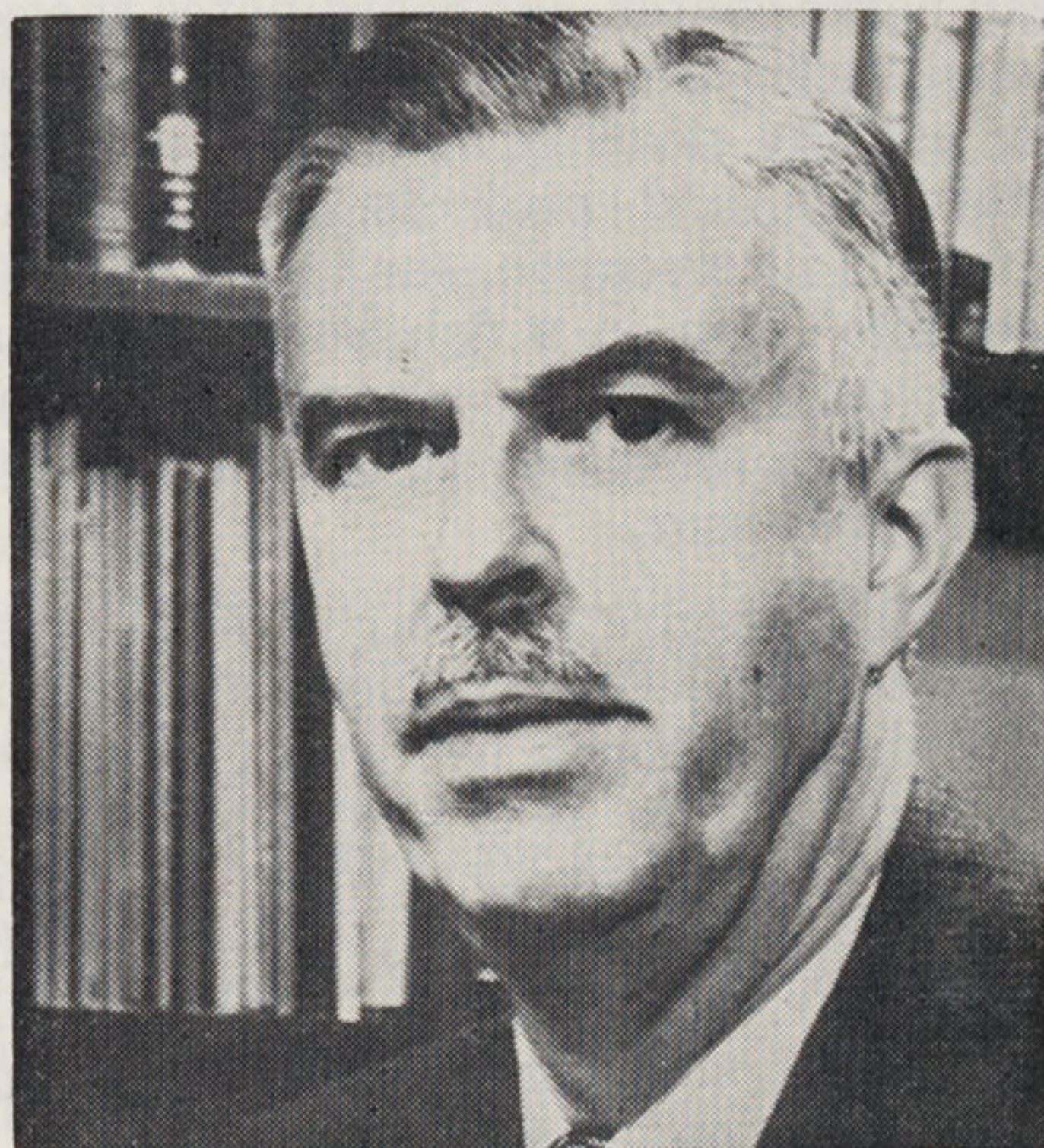
The program began in 1949-50 under the direction of Professor David F. Cavers to counteract the "largeness" and trauma of the first year classes. According to Professor Cavers, the general purposes of the program are "to increase the student's understanding of the legal processes which he is studying, to increase the student's understanding of his job as a law student and to remove some psychological impediments to effective study." However, it is not a course with credit and sanctions because it was designed to teach how to study law and to reduce academic pressures.

Contrary to folklore, the program does not function for "group therapy" or sessions of "free" association. Rather, it tries to give the student the kind of work and experience which is impossible in large classes. The emphasis on practical lawyer's skills, however, is designed only to give the student an appreciation of them as tools of legal analysis.

The backbone of the Group Work Program consists of the six Teaching Fellows. Usually

they are recent LL.B. graduates with various legal experiences gleaned from practice or military service. In selecting Fellows, however, priority is given to immediate graduates of the Harvard Law School. This is because of their personal familiarity with the alleged "pain and suffering" of "the first 100 days." This year, though, three of the Fellows saw Langdell Hall for the first time.

In the past, Teaching Fellow applications have been solicited in law schools across the nation. But this year, on reputation alone, applications exceeded openings by about 300% and came from as far away as Germany. There never has been a female Fellow — Fellowette or Fellowtrix — although student reaction would probably not be too adverse.



Professor Cavers

The present Group Work Program is under the direction of Professor Livingston Hall. The Teaching Fellows are Samuel J. M. Donnelly, Julius G. Getman, N. William Hines, Stanley M. Johanson, Alfred H. Knight and Paul M. Newhauser.

As Director, Professor Hall serves more as a coordinator-manager and as liaison between the First Year Committee and the Teaching Fellows than as a teacher surrounded by faculty assistants. He advises, but the operation of the program is the responsibility of the Fellows.

The organization could easily serve as a model government agency. Planning of the weekly projects begins several weeks in advance or, as in the case of the Model Trial, the preceding spring. Each Fellow is assigned preliminary responsibility for a project. Later the project is fed into the assembly line — discussed informally, developed by a subcommittee, reviewed by Professor Hall, discussed formally, drafted and redrafted. The Fellows meet informally every day and formally twice a week to discuss the progress and success of the current project. They continuously review their work and must prepare reports on each project and summaries of the year's program with recommendations to their successors.

"The Clearing House"

At the heart of organization this year is Mrs. Martha Jacoby, Teaching Fellows' Secretary. Positioned at the gates of the subterranean nerve center, she coordinates the complex daily activities. Her fellow Fellows refer to her as "the clearing house" for meetings, appointments and projects. Located at a busy tunnel intersection, she told the RECORD, "I feel like I am in a fish bowl." So many students pass by that some of the Fellows allege she knows more students at Harvard than any professor.

Most students are familiar with the weekly Group Work projects. Besides producing and administering them in five groups per week, each Fellow serves as a specialist in one of the first year subjects. This year, course assignments are Agency, Mr. Knight; Criminal Law, Mr. Hines; Civil Procedure, Mr. Getman; Contracts, Mr. Newhauser; Property, Mr. Johanson; Torts, Mr. Donnelly. As "specialists" they audit first year classes and conduct a few of the sessions.

Available as Counselors

For the Teaching Fellows, at least, life does not end with the Practice Exam, although they suffer reading students' writing. In the second semester, Fellows are available as counselors, and students are urged to take advantage of their assistance. In addition, each Fellow spends the remainder of the academic year in one of three options — as faculty assistant, as candidate for the LL.M. degree over a two-year period during which he occupies the dual status of Fellow and graduate student, or he may terminate his

work. This year three men, Mr. Getman, Mr. Johanson and Mr. Newhauser, have selected the LL.M. option. The other three are faculty assistants, Mr. Hines for Professor Robert E. Keeton, Mr. Knight for Professor Charles M. Haar and Mr. Donnelly for Professor John P. Dawson.

Realistic Compensation

One advantage of the Teaching Fellow program is the realistic compensation. The full stipend for an immediate LL.B. graduate is \$5500; for one year after graduation it is \$6000. It may even be higher according to the legal experience of the Fellow. In addition, those selecting the LL.M. option pay only half tuition and receive tax-free fellowships.

The future is bright for a Teaching Fellow, as the program is known among law schools as a good source of candidates for full time teaching. Favorable placement is usually possible. The program does give a good introduction to teaching, but all Fellows do not necessarily enter into teaching as a career upon completion of their fellowships. If they enter law practice, their time at Harvard is nevertheless considered a valuable asset.

Review and Improvement

Professor Hall believes that the Group Work Program is successful, but he emphasizes constant efforts for review and improvement. He told the RECORD this week that an indication of student acceptance of the program is the continuous stream of students into the Group Work office to seek advice and help from the Teaching Fellows. He also added that alumni highly endorse the program.

Dorm Council Mixer Friday

Nearby women's colleges are expected to be well represented at the Dormitory Council mixer, scheduled for Friday, February 23, Council officials said today. The Council has arranged for several buses to bring the girls from their respective campuses to Harkness Commons.

Dick Klein's band will play from 8 p. m. to midnight, and free refreshments will be provided. Girls will be admitted free, men by Dormitory Association cards or upon purchase of tickets which will be available at the door.

'INDIA, WORLD LAW AND THE U.N.'

Ambassador Nehru at Forum

By David Berman

The Harvard Law School Forum announced this week the first program of the second semester. On Friday, February 23, the Forum will present Indian Ambassador B. K. Nehru, speaking on "India, World Law and the U. N."

Ambassador Nehru has risen to hold one of his country's most important diplomatic posts and is considered by many to be highly

PRINCE OF PEACE?

"The government of India regret[s] the use of force as much as anybody else, but their repugnance to the use of force was overcome because of the complete intransigence of Portugal to negotiate, its complete failure to realize the immorality of its stand and the failure of its friends and allies for fourteen solid years to make any effort to persuade it to realize the error of its ways." — *B. K. Nehru, Indian Ambassador to the United States, in an address January 24, 1962, before the Harvard and Radcliffe Clubs of Washington.*

qualified to talk on the interrelationship of customary world law and practical politics.

Panelists for this program will be Professors Richard Baxter and Roger Fisher, both of the Harvard Law School. Professor Baxter is known both as a teacher of international law and as one of the Law School's experts in that field. Professor Fisher's qualifications, in addition to a lively interest in recent developments in the international field, include work as counsel for the government of Pakistan in the Indus waters dispute.

Moderator Is Expert

The moderator of the program will be Professor L. I. Rudolph, Harvard University expert on India.

The program will be held at 8:30 p. m. in Lowell Lecture Hall.

Other Forum programs currently planned for the spring semester include talks by the

Reverend Billy Graham and Teamster boss Jimmy Hoffa and a program featuring candidates for United States Senator from Massachusetts.

International Law Club Develops Exchange Program

The Harvard International Law Club has developed a law student exchange program between the United States and various countries in Western Europe. Under the plan, students in Europe secure summer jobs with law firms for Harvard students, while the Harvard organization secures six-month traineeships in the United States for foreign students.

Positions for American students have already been assured in Paris, Geneva, Monte Carlo and London for the summer of 1962, ILC officials told the RECORD this week. Applications for these European traineeships, with the exception of the London position, will be accepted from second and third year students.

Applicants must be able to speak French well and be able to read that language. They must have "an interest in international law"; an ILC spokesman said that in addition it is desirable that the applicant have taken or be planning to take a course in that subject.

The trainee will pay his own transportation expenses to Europe. The European law firm will pay him a wage sufficient to cover his normal living expenses. Length of employment will range from two to three months.

Application forms are available at the ILC office in Room 205 of the International Legal Studies Building. Applications are due by February 20. Further information may be obtained from the club or from the Law School Placement Office at 23 Everett Street.

Due to the fact that next Thursday is the anniversary of the birthday of George Washington, a holiday, no RECORD will be published next week. The next issue of the RECORD will appear on Thursday, March 1.

YAF Members To Attend Massive Conservative Rally

Law School members of Harvard-Radcliffe Young Americans for Freedom are currently making plans to attend a massive conservative rally to be held at Madison Square Garden on March 7, sponsored by the national YAF organization.

More than half of the 18,000 tickets available for the rally have been sold already, national YAF officials have reported. The event will feature appearances by many well-known conservative leaders, including former President Herbert Hoover and Senators Thomas Dodd, Barry Goldwater and John Tower.

Local YAF officials expect that more than fifty members from the Harvard-Radcliffe chapter will make the trip to New York to attend the rally. YAF members from the Law School who are interested in attending are urged to contact Harry W. Turner, 1L, Blairsville, Pennsylvania, concerning planned transportation to and seating at the event.

Investigation

(Continued from Page 1)

change began their own investigation of McCormick's slipshod administration before the SEC could launch its own full investigation. The committee discovered that nothing illegal had occurred, but there was serious question as to the propriety of some of McCormick's deals, a few of which involved Alexander Guterman.

McCormick's departure and the Amex committee's investigation did not prevent the release of a report on the seven-month investigation that the SEC had been conducting. The SEC found that "the Exchange has appeared reluctant to suspend or de-list issues whose future prospects have proved dim." The Board of Governors, the SEC found, has been tightly controlled by four members for ten years. Because these men were stock specialists (whose job it is to trade in certain stocks to keep their prices from leaping or sliding abnormally), the SEC found that there was "a concentration of power in the hands of a small self-perpetuating group dominated by specialists" which resulted in "manifold and prolonged abuses by specialists

HAPPY BIRTHDAY, A. JAMES



Professor A. James Casner smiles broadly as he thanks his first year Property class for its thoughtfulness before he cuts two cakes at an impromptu birthday celebration Tuesday of last week. He returned the favor by calling off class on his birthday Wednesday. (However, he held two hours of class Tuesday.) He expressed his hope that "you will all be around to enjoy my birthday next year, too."

When he asked how many candles had been placed on the lecture platform, he was assured there were more than he could see, since he had forgotten to "consult the supplement."

During the "partition proceedings" to divide the cake, the professor asked for the names of those who did not take any cake as it was passed around. No one seemed to notice that Mr. Casner himself did not eat any.

— Photo and Text by Donald W. Kramer

and floor traders."

With these and other abuses already before it, the SEC undertook a full-scale investigation of the Exchange and placed Cohen in charge. Cohen, a *summa cum laude* graduate of Harvard College, received his LL.B. in 1935 from the Law School. He was an editor of the *Law Review*. After graduation he served for several years with the SEC before becoming the head of the Commission's Utilities Section in 1946. In 1948 he entered the private practice of law in Chicago. He is presently a partner in the Chicago law firm of Dallstream, Schiff, Stern and Hardin.

The meeting will be open to the public, with Bull and Bear members admitted free of charge. Nonmembers will be charged a fifty cent admission fee.

Candidates Named in Class Contest

By Clark P. Giles

Twenty 1962 Class members have been nominated to run for office in the Class Election to be held Tuesday, February 20.

Candidates for the office of Marshal are Gordon R. Appleman, Fort Worth, Texas, David M. Brahms, Newton, Massachusetts, Harold E. Fitzgibbons, Jr., Duxbury, Massachusetts, Stephen J. Friedman, Brooklyn, New York, John C. King, Charleston, West Virginia, and Joseph R. Milton, Spring Lake, New Jersey.

Albert J. Beveridge III, Hingham, Massachusetts, Maynard Goldman, Newton Center, Massachusetts, Kenneth Laurence, Portland, Maine, and Barbara A. Lee, Windsor, Connecticut, will be vying for the office of Secretary.

Nominated for the office of Committeeman are Harvey M. Applebaum, Bessemer, Alabama, Theodore J. Collins, Waitsburg, Washington, C. Dean Dusseault, Needham Heights, Massachusetts, Gregory M. Harvey, Morristown, New Jersey, Lawrence E. Kahn, Albany, New York, Janet R. Maleson, Elkins Park, Pennsylvania, Sheldon A. Taft, Columbus, Ohio, James R. Wade, Denver, Colorado, Fred M. Wertheimer, Brooklyn, New York, and Michael Whiteman, Great Neck, New York.

Voting Hours

Ballots for next Tuesday's election may be cast during Estate Planning classes of Professors A. James Casner and David Westfall, Professor W. Barton Leach's class of Future Interests or the periods 11 a. m. to 2 p. m. in Harkness Commons, 2 p. m. to 4 p. m. in Langdell Library and 4 p. m. to 6 p. m. in the Graduate Student Lounge.

The Ad Hoc Committee will provide 1962 Class members with a ballot and two envelopes. Voters will be asked to place their marked ballots in the smaller envelopes and seal them. Each unmarked envelope should then be placed in the larger envelope. The outer envelope should then be sealed, signed and surrendered to an Ad Hoc Committee member.

This procedure allows the Ad Hoc Committee to tally the names on the outer envelope against class lists to prevent double balloting. The outer envelopes will then be opened and

the unmarked smaller envelopes removed. Only after the outer envelopes have been destroyed will the smaller unmarked envelopes be opened and the ballots counted.

The election of the Marshal and Secretary will be determined by a simple plurality. The three candidates for the positions of Committeemen receiving the largest number of votes will be elected. All votes for Committeemen will receive equal weight. Tie votes in any contest will be resolved by lot.

Class Charter

The proposed 1962 Class Charter to be adopted in Tuesday's election provides that the elected Marshal, Secretary and Committeemen shall select, with due regard for geographical representation, four additional Committeemen.

The Marshal and Secretary elected by the Class will serve five year terms; the Committeemen will serve ten year terms. In 1967 the Committeemen will appoint for five year terms a Marshal and a Secretary. Beginning in 1972 the Committeemen will appoint, with due regard for geographical representation and present ability and interest, class members for the offices of Marshal, Secretary and seven Committeemen for ten year terms. Incumbents may be reappointed.

Treasure Room Exhibit Features Brothers

Stephen J. Field and his brother, David Dudley Field, are the subjects of an exhibit currently being featured in the Langdell Library's Treasure Room.

RECORD DEADLINES

Organizations and individuals who plan to submit articles to the RECORD are reminded that the deadline for stories is 4 p. m. Sunday preceding Thursday publication and that for pictures the deadline is 4 p. m. Friday preceding Thursday publication.

All material may be left in the RECORD mailbox on the first floor at 23 Everett Street.

EXCERPTS FROM THE HOLMES LECTURES

Following are excerpts from the Oliver Wendell Holmes Lectures given by Judge Henry J. Friendly on Tuesday and Wednesday evenings which deal with four specific areas of administrative law. — Ed.

The Interstate Commerce Act

"It is scarcely likely that, without the Commission's pronouncement, Congress would have taken the occasion to legislate; here it did legislate and the legislation has stood, apparently without complaint, although perhaps without much effect for over fifty years. . . . While enactment of criteria developed by the agency has the advantages of added certainty and of avoidance of constant reargument, it may prove premature; the legislature must be ready to act if further experience proves the enactment to have been unwise."

The National Labor Relations Act

"Perhaps the Labor Board's field lends itself to crystallization more readily than those of the transportation and communication agencies. Probably also, the pressures on the NLRB are generally less strong than those with respect to the award of supposedly valuable franchises, although as I have suggested, failure to define standards is a cause of pressures as well as a result."

The Federal Communications Commission

"So far as I can learn, the Federal Communications Commission has laid down only two definite non-technological limitations as to the award of licenses; both are embodied in the Multiple Ownership Rules. One has the effect of limiting the number of stations under

common control to a maximum of seven AM broadcast stations, seven FM stations, and seven television stations only five of which may be VHF. The other, the so-called duopoly rule, forbids common control of more than one station of the same class serving the same area."

The Civil Aeronautics Board

"The crowning irony was when the multiple-competitive routes awarded to Capital in 1955, almost solely in order to strengthen it against larger lines, were allowed in 1961 to pass into the hands of United, thereby making United the country's largest air carrier. Yet if any official *pecavimus* has come from the Board, I have not heard it; the Board or, perhaps more accurately, its staff, seems congenitally incapable of admitting it has ever erred."

West and South Call Three Professors

Three Law School professors have headed west and south to give lectures and attend meetings of local Law School Alumni Associations.

Professor Robert E. Keeton earlier this week gave three lectures on "Legal Cause in the Law of Torts" at the Ohio State Law Forum. One lecture was presented on each of the evenings of February 12, 13 and 14. Professor Keeton was also slated to attend a meeting of the Alumni Association in Columbus.

Professor Richard H. Field traveled somewhat farther west to address luncheon meetings of the Alumni Associations in Milwaukee today and Minneapolis tomorrow.

Louisiana called Professor David F. Cavers. He spoke at Louisiana State University in Baton Rouge on February 12 concerning the behavioral sciences.

'Cross-Registration' Forms

Any Law School student who is taking courses in other departments of Harvard University or M.I.T. by "cross-registration" must file a plethora of required forms with the Registrar's Office by Saturday.

Good Time Had by All At Wives' Cocktail Party

By Mrs. M. Vance Munro

On Saturday from 5 to 7 p. m. the Harvard Law Wives held their 1962 Faculty-Student cocktail party in Harkness Commons. The event, given each year by the Law Wives, affords students an opportunity to meet and talk with Faculty members and their wives. Among the many Faculty members present were Dean and Mrs. Erwin Griswold and Dean Emeritus Roscoe Pound.

The plentiful and impressive *hors d'oeuvres* were provided by the Law Wives themselves. Piano music, supplied by Charles Goldfarb, 1L, Cambridge, Massachusetts, added to the festivity of the occasion. The turnout was the biggest in the history of this event.

Democrats Hear Texan

Congressman Henry B. Gonzalez (D-Texas) spoke to a combined meeting of the Harvard Law School Democrats and the Young Democratic Club of Harvard and Radcliffe Tuesday evening at the Quincy House dining hall on the undergraduate campus. His topic was "The Liberal Element in Southern Politics."

FEATURES SECTION

Report on Courts: Another Mass. Mess

By Wilfred E. Gardner Jr.

Some rather far-reaching changes in the organization of the Massachusetts Judiciary have been recommended in the Report of the Special Commission on the Judicial System, dated January 31, 1962.

This unpaid Commission was created by an act of the General Court (the legislature of Massachusetts) on May 31, 1961. The duties and responsibilities of the Commission were set forth as:

... established for the purpose of making an investigation of the judicial system of the Commonwealth, particularly with reference to the establishment of appropriate salary schedules therein. Said commission shall also consider the duties of the justices of the district courts, and increasing the more efficient use of the district courts, and the desirability of increasing the number of full time justices in said courts or of changing the number of district courts.

The Commission was composed of eleven members, including lawyers, educators and state legislators. Dean Erwin N. Griswold of the Harvard Law School served as chairman, and Dean Elwood H. Hetrick of the Boston University Law School held the position of secretary.

Research Bureau Aids

The Report in its present mimeographed form comprises some 24 pages of a written commission report and dissents therefrom, followed by 40 pages of legislative drafts proposed to bring the Commission's recommendations into being. These drafts were in the original prepared by the Harvard Student Legislative Research Bureau on the basis of a draft of the Commission's Report and are principally the work of Paul Crane, 3L, Los Angeles, California, and Joel

Rabinowitz, 2L, New Rochelle, New York.

The concern of the General Court was primarily with the matter of judicial salaries in Massachusetts, which presently would seem to lag behind those in other states of comparable size and importance. The broader authorization was included in recognition that "consideration of salaries might necessarily involve some consideration of the duties of the judges and the efficient use of the courts." Accordingly, though directing its attention to the salaries of the judges, the Commission also came to offer a set of recommendations for the more efficient operation of the courts of the Commonwealth as an integrated judicial system. And it would seem, should they be enacted, that these peripheral recommendations of the Commission may easily prove to be the most monumental of its accomplishments.

Supreme Judicial Court

Beginning this section of its recommendations with a laudatory paragraph on the Supreme Judicial Court, describing it as "ranking consistently as one of the top courts in the country," the Commission suggests an increase in the annual compensation of its Justices of \$8,000. At \$30,000 for Associate Justices and \$31,000 for the Chief Justice, this would place the salaries of the Commonwealth's highest court more in line with those of such states as Illinois, Pennsylvania, Michigan and California.

With regard to the operations of the Supreme Judicial Court, it is noted that it presently exercises rather extensive original jurisdiction, dating from the days when Justices rode circuit on horseback and presided at major local trials. The Commission recommends that this anachronism be largely done away with, as it has been in other comparable states, with the bulk of

the present original jurisdiction being transferred to the intermediate level Superior Courts.

It may be surprising in the year 1962 to learn that the Justices of the Supreme Judicial Court are not each provided with a secretary, but it is present fact. It is recommended that the secretarial assistance to the court be increased so that each Justice does have a secretary, with two being allocated to the Chief Justice.

Superior Court

It is recommended by the Commission that the salaries of the Justices of the Superior Court be increased from the \$19,000 set in 1955 to \$25,000 per year, again with the thought of bringing the Massachusetts schedule of compensation into line with comparable states.

The current secretarial assistance provided for 38 Superior Court Justices is shocking in its inadequacy. Two secretaries are available for all 38 Justices, and it is reported that "many of the Superior Court Judges now write their opinions in longhand, and they have little opportunity to have their correspondence typed." A recommendation that the secretarial help for the Superior Court be "substantially increased" seems hardly put into strong enough language.

Land Court

The Massachusetts Land Court is a tribunal having statewide jurisdiction over many aspects of land law in the Commonwealth. Because its jurisdiction is in many respects comparable, if not concurrent, with the jurisdiction of the Superior Court, the Report advises that it be incorporated into the Superior Court as a division of that court. Along with this, the Commission would give authority to the Chief Justice of the Superior Court to assign Superior Court Justices to sit on the Land Court in cases of convenience or necessity.

Probate Courts

It is suggested that new flexibility is needed in the administration of justice by the Probate Courts, which are presently organized on a county basis and with varying salaries. The Commission would have the Judges of the Probate Courts continue to sit primarily to the courts in the counties to which they have been assigned, but with the innovation of establishing a Chief Justice of the Probate Court who would oversee the overall probate business of the Commonwealth and who would be authorized to assign Probate Judges to sit in any county in the Commonwealth where their services might be needed.

An increase in compensation of Probate Judges and provision for increased secretarial assistance and travel expenses would accompany such a change. Further, the position of Special Probate Judge would be eliminated when the present incumbent leaves office — the position being seen as surplusage and judges in Massachusetts being appointed by the Governor to serve for life.

District Courts

The District Courts have the greatest number of cases, and are the closest to the people, of all the courts in the Commonwealth. During the year ending June 30, 1961, more than 80,000 civil writs were entered in the District Courts, more than 76,000 small claims were filed, more than 273,000 criminal cases were begun, and just short of 1,000,000 parking tickets were handled.

The present system of District Courts is oriented toward conditions of an earlier era — basically local, with many District Court Judges sitting only on a part-time basis. In recent years there has been a movement toward a full-time system. The Commission recommends that "the gains already made should be consolidated and systematized."

It is clear to the members of the Special Commission that there are now more places where District Courts sit than are needed, and that there are

judges now on a full-time basis for whom there is not full-time judicial work available on the present basis. This results in considerable inefficiency, not only in matters of judicial time, but also in unnecessary expense in such matters as the salaries of clerks and other court officers, and in rent, heat, light, janitor service, and so on.

It is therefore recommended that the District Courts be somewhat consolidated and their Judges made available to serve the entire Commonwealth as required. Accordingly, there should be created the post of Chief Justice of the District Court, endowed with powers of overall supervision of the business of the District Courts and empowered to assign District Court Judges to sit in any District of the Commonwealth requiring their services. And the Commission specifically recommends consolidation of certain District Courts, two or three merging as one.

Voice in Dissent

One member of the Commission dissented in forceful terms to this proposed consolidation of the District Courts. The Hon. Belden G. Bly, Jr., said that the majority recommendation would sacrifice justice and would risk added court congestion in an attempt to save a problematical sum in dollars.

They [the present District Courts] are presided over by men with an intimate knowledge not only of the law, but of the people who come before them and problems of the districts they serve. Should they be closed, and their duties taken over by the courts in larger cities, that intimate knowledge of these people and these problems would be lost and the cause of justice would suffer.

... And, in many cases, the buildings that would be closed by such a consolidation would stand idle, because there has been no alternate use suggested for them. No money would be saved; court costs would not be appreciably diminished, and the welfare of the people —

and the cause of justice — would be the loser.

Three other members of the Commission dissented in whole or in part from the proposed consolidation of the District Courts.

Office of Courts

Perhaps the greatest innovation of all would be the creation of a new and powerful Administrative Office of Massachusetts Courts "with adequate power to handle and supervise all administrative matters with respect to all courts in the Commonwealth other than the Supreme Judicial Court." The Chief Justice of the Supreme Judicial Court would head the new office, but he would be authorized (and, one would suppose, expected) to appoint a full-time professional administrator to handle the operating details.

The Report notes the Administrative Office of the United States Courts, with offices in the Supreme Court Building in Washington, as the leading example of the use of such an office. New Jersey and Puerto Rico are among other jurisdictions utilizing the device.

In any case, the Administrative Office of Massachusetts Courts would oversee housekeeping of the courts and would supervise the operations of court personnel except judges.

Housekeeping Functions

It should have power to prescribe forms for administrative purposes, power to collect statistics, and to arrange, organize and publish these statistics. It should also have power to establish job classifications, evaluation of work, and salary schedules, and to supervise generally all of the administrative personnel including clerks, registers, probation officers, court officers, and others, who are attached to any of the courts of the Commonwealth, other than the Supreme Judicial Court.

Paying the Costs

One of the first jobs of the new Administrative Office of Massachusetts Courts would be to devise a system by which the Commonwealth

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Gallery

By Donald W. Kramer

More than 40 years ago, Harlan Fiske Stone, then Dean of the Columbia Law School, asked a young lawyer from Rochester, New York, whether he would like to take over a Torts class for an ailing faculty member. The lawyer, who was commuting to New York weekly on a labor case, thought it would be a good idea to try it for a while.

Several months later, Stone asked the lawyer whether he would like a full time teaching position. After some deliberation, the lawyer decided to accept. He began a 40-year teaching career that has included service as Reporter for the Restatement of Property, authorship of a six volume treatise on real property and recognition as one of the nation's authorities on American property law.

The lawyer, Richard R. Powell, who retired from Columbia in 1959, is at the Law School this year teaching a second year course in Trusts. An easy talking man whose appearance reminds one of C. P. Snow, he looks back on his 72 years with a great deal of satisfaction. He has never regretted his decision to go into teaching, and now despite his retirement he continues as an "itinerant professor," teaching currently at Boston College as well as Harvard.

Professor Powell was born and raised in Rochester and attended the University of Rochester when it was a small school of about 500. During his sophomore year he began earning his own way by tutoring Latin, math and German at a nearby boys' prep school.

Ever since his high school debating days he had wanted to be a lawyer, so after his graduation from Rochester in 1911 he went off to Columbia Law School. Taking a few extra courses in comparative law, he earned an A.M. degree in 1912 and his LL.B. in 1914. Then he moved back to Rochester and entered a firm where he did "the same sort of thing youngsters get in any middle sized town — general practice." Later he began to specialize in labor law and was sent occasionally to New York. On some of these trips he took the opportunity to renew his friendship with Dean Stone.

After seven years of practice, however, Mr. Powell had his doubts about that as a permanent job. "To the extent you become success-



— RECORD Photo

ful," he says, "you become a business adviser for your clients. You don't practice, research or hunt up law. You hire slaves to do that for you. You just become an adviser. If I had wanted to go into business, I would have gone directly and earned a lot more money."

He wanted to do something constructive and still have enough time to do a job thoroughly. To be successful in practice, he felt, he had to go from one case to another too quickly. He decided that teaching would be a much "pleasanter utilization" of his skills.

When Dean Stone offered a position on the Columbia faculty in 1921, he decided to accept. Within a few years he was being groomed to succeed Nathan Abbott, a prominent property scholar about to retire. In 1927 he was appointed Reporter for the American Law Institute's Restatement of Property.

For 14 years he worked on the Restatement, associating with some of the top legal minds in the field of property. In 1947 he began a 12-year project: a six volume treatise on real property. "That was a lot of fun," he says. "I learned a lot. There were many areas I had never taught and had to fill in."

At the same time, in addition to teaching and developing a consulting practice, he compiled several case books on Agency, Trusts

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The Automated Lawyer

By Wilfred E. Gardner Jr.

Both optimists and pessimists often claim that automation is simply the latest stage in the evolution of technological means for removing the burdens of work. The assertion is misleading. There is a very good possibility that automation is so different in degree as to be a profound difference in kind, and that it will pose unique problems for society, challenging our basic values and the ways we express and enforce them.

With these words Donald Michael, formerly of the Brookings Institution, introduces his 46-page booklet, *Cybernation: The Silent Conquest*, published a few weeks ago by the Center for the Study of Democratic Institutions.

The word "cybernation" refers to both automation and computers and is derived from M.I.T. Professor Norbert Wiener's term "cybernetics," used to denominate the processes of communication and control in man and machines.

Unemployment Seen

It is predicted that increasing use of automation and computers will eliminate entire job categories. First to go will be adult "blue collar" workers, who are already reeling under the impact of automated production operations and quality control systems. Mr. Michael says that automated elevators in New York City alone have to date displaced 40,000 manual operators.

But it is not only the lower classes of industrial labor which will be affected by continued growth of the process—all occupational groups will be affected, including the professionals.

Clearly much of the work of doctors and lawyers can be done by machines. The United States Code Automated is more than just a bad pun.

In the field of law successful codification, so that searches and evaluations can be auto-

matic, as well as changes in legal procedures, will probably make the lawyer's work substantially different from what it is today, at least in terms of how he allocates his time.

Indeed, just this week the American Bar Foundation announced that it was instituting an ambitious project for perfecting the tools of legal research—including the use of electronic data processing. A spokesman for the Foundation, William B. Eldridge, said that the project will be directed toward research into the improvement of existing methods of arranging and indexing the law as well as experiments in new techniques. A participant in the project will be William H. B. Thomas, manager of project "Lawsearch," an experiment in mechanical indexing of case law.

Shortage of Professionals

The prediction is that computers will be used to perform tasks of this nature because the shortage of professionals will become acute to such a degree that high-speed data processing and interpretation will be necessary if competent professional service is to be rendered at all. But once the computers become operational and their use and efficiency grows, the need for professional people is seen as declining, "and those who are needed will have to be of very high calibre indeed."

Mr. Michael, in short, predicts that only "good professionals" will be needed to render fully adequate professional services once cybernation really hits its stride. But he does leave some lingering hope in saying, "No doubt for some time to come good use can be made by good professionals of battalions of mediocre professionals." However, this will only last during the transition period until the machines displace mere mediocre professionals altogether.

The prediction, then, is for a strong and inevitable unemploying

impact upon society in general. Automation will displace farm workers, bank tellers and middle management personnel. The service industries, presently an area of expanding employment, will tend to become self-service by becoming cybernated and to some degree will be eliminated.

The impact on the "blue collar" worker may halt the social progress of Negroes and immigrants as the areas in which they have hitherto found their steadiest employment are taken over by the machines.

Juvenile delinquency will likely soar upwards percentagewise because there will be no new job opportunities for the "untrained adolescent." And too much leisure time for adults may be expected to lead at least to "boredom and frustration" for them as well.

There is promise in cybernation as well as severe change, and much of the concern is with the period of transition over the next two decades as society attempts to adjust to having the bulk of its potential work-force, in present terms, doing little or no work because the machines will do it for them.

During this period of transition there will be four leisure classes, so we are told: (1) the unemployed, (2) the low-salaried employees working short hours, (3) the adequately paid to high-salaried group working short hours, and (4) those with no more leisure than they now have—which may be very little in the case of many professionals.

The classes on the bottom will tend to become very large and the classes on top will be quite small. The social and political problems of effective utilization by these people of their leisure may be a problem of such magnitude that some effort should be made to check the advance of cybernation. But Mr. Michael says that a moratorium on cybernation means in

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Gallery

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and Estates, Future Interests and Wills. In 1955 he received the decoration of the Legion of Honor from France.

The biggest change in teaching during his career, he says, has been "the growing awareness that the law operates in a living society." Rather than use the pure case method, he says, more and more teachers are trying to relate the subject material to the society it seeks to regulate. This is a more challenging but a more useful approach, he says.

Since his retirement from Columbia, Professor Powell has taught at Michigan, Cornell and New York University. During his career, including summer sessions and sabbatical leaves, he has taught at fourteen or fifteen law schools. He will not attempt any ranking

but says the most important asset of any law school is its student body.

Professor Powell says he is slowing down a little these days. He has no plans for another major writing project, but he still writes articles and maintains his consulting business. A lawyer called from Texas last week for advice. After taking a few notes and asking a few questions, he said, "O.K., Allison (he seems to call everyone by the last name alone), send along the documents and we'll see what we can do."

The documents had to be sent to his New York office. That is where he does his consulting work on weekends. He was commuting almost every week this fall.

This summer he plans to teach at Colorado. Next year he expects to be at the University of California at Berkeley. He seems to enjoy the life of an "itinerant professor."

Court Report

(Continued from Page 12)

would pay all the expenses of the administration of justice in Massachusetts.

The total cost for the administration of the courts for the past fiscal year was \$3,300,000, about five-sixths of which was derived from local real estate taxes. The position of the Commission is that this places the support of the judiciary upon one narrow category of

taxpayer, whereas the judiciary serves all the people of the Commonwealth. Therefore all of the people should share in the costs through having them paid by the government of the Commonwealth.

Another injustice of the present scheme of financing the courts is that Boston pays approximately one-third of all Massachusetts court costs, while its population is between one-seventh and one-eighth of the total population of the state.

For these reasons, it is recommended that the state government

take as its responsibility the payment of the expenses of all the courts and that the new Administrative Office of Massachusetts Courts set up a system for achieving this.

By way of conclusion, it may be observed that despite its narrow objective of providing recommendations on judicial salary schedules, the Report of the Commission in effect presents proposals for thorough-going streamlining of the courts of the Commonwealth, both financially and administratively.

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SECOND YEAR OPPORTUNITIES

Boston (or Washington): Atlantic Research Corporation. Contact Placement Office by 2 p. m. Friday, February 16.

New York: Office of the District Attorney of the County of New York. Contact Placement Office.

Rochester: Business and Technical Department, Eastman Kodak Company. Contact Placement Office.

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Beverly Hills: Rosenthal, Cook & Green. Contact Louis W. Cook, Esq.

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Lawyer

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effect a stay on most forms of technical and scientific advance.

Whether or not various proposals

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for coping with the impact of cybernation will prove successful is speculative. Retraining, shortening hours, increasing pay and vastly expanding the government's public works programs are suggestions. Essential will be an expansion of the scope, nature and size of the educational system of the society, for only if the people in the society can in some measure understand the changes which cybernation will bring can the transition smoothly be achieved.

The control of cybernation should basically rest with society as a whole, which means the government or what Mr. Michael refers to as an "alter-government" with representation from labor, business and industry. The control of cyberna-

tion will involve a degree of national planning and control far beyond anything that the United States has yet known. And the life of the ordinary American will increasingly require more forethought to develop new standards of living and working in a society benefiting from the advantages of cybernation and surviving its potential dangers.

[Sample copies of *Cybernation* are available free on request from the Center for the Study of Democratic Institutions, Box 4068, Santa Barbara, California.]

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