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NO. 4

## Lodge Overwhelms Kennedy



George Lodge

### Peabody Tops Volpe in Poll

George C. Lodge, Republican candidate for U. S. Senator, overwhelmed Democrat Edward M. Kennedy 11 to 1 in a faculty preference poll conducted by the RECORD. Democratic candidate for Governor, Endicott Peabody, bettered Republican John A. Volpe by a little more than 2 to 1.

In the Senate race, of 43 respondents only three or 7 per cent indicated that they would cast their votes for Edward M. Kennedy, youngest brother of the President. H. Stuart Hughes, Independent candidate and vigorous advocate of disarmament, received seven votes, or more than twice the number Kennedy received. Lodge, who like Kennedy is the member of a family long involved in Massachusetts politics, received the support of 33 faculty voters or 77 per cent of those who replied.

On the gubernatorial level the respondents gave strong support to the candidacy of

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### *Faculty 'Outraged'*

By Donald W. Kramer

Discontent, ranging from disappointment to "outrage", with the nomination of Edward M. Kennedy as Democratic Senatorial candidate has apparently put a damper on political activity among professors at the Law School this fall.

On a faculty where most of the activists are Democratic, an unusual situation prevails as most professors seem to be "sitting out" the statewide campaigns this year.

Democrats who supported Attorney Gen-

*(Continued on page 8)*

#### RESULTS OF POLL

##### For U. S. Senator:

|                              |    |     |
|------------------------------|----|-----|
| George Cabot Lodge (R) ..... | 33 | 77% |
| H. Stuart Hughes (I) .....   | 7  | 16% |
| Edward M. Kennedy (D) .....  | 3  | 7%  |

##### For Governor:

|                            |    |     |
|----------------------------|----|-----|
| Endicott Peabody (D) ..... | 29 | 69% |
| John A. Volpe (R) .....    | 13 | 31% |

##### For Attorney General:

|                            |    |     |
|----------------------------|----|-----|
| Edward W. Brooke (R) ..... | 41 | 98% |
| Francis E. Kelly (D) ..... | 1  | 2%  |

# Placement Panic

The RECORD reported last week that the Placement Director has termed the present placement situation "absurd." (See RECORD, vol. 35, no. 3) The RECORD expresses agreement with this characterization and feels that the time has come to mitigate what may best be described as a widespread "placement panic." The administration has stated that the placement process is playing a disproportionate role in student affairs. We feel that the students, the law firms, and the Law School administration have all contributed to the present atmosphere.

One member of the administration has termed the situation analogous to fraternity rushing, and the analogy is an excellent one. Students in both the third and second-year have adopted an unhealthy cut-throat approach toward job-finding. This attitude manifests itself most clearly in the cutting of classes or parts of them so as not to be late for interviews, the frequent question "How many interviews have you had?," and, most graphically, in the many arguments and accusations lodged against the Placement Office when a mistake is made or when a person is denied an interview which he thinks he should have received. Even students who face two or three years of military service have succumbed to placement panic, a situation which was not so prevalent before this year.

The prime reason for the pressure is the combined interviewing of third-year and second-year students. The Placement Office allowed this procedure as "the result of constant pressure on the part of both firms and students." We are critical of the law firms for demanding this situation, of the students for wanting it, and of the administration for granting this request. The sheer number of people concentrating in the Placement Office and the necessity of holding interviews at hotels some distance from the campus contribute to the uneasiness and anxiety that surround this year's placement process.

We therefore ask students to relax. The placement handbook entitled "Finding Your Job" states that about half the class finds jobs by graduation, half of the remainder finds them by the following September, and the rest by Christmas; and for all of this year's pushing and shoving, the situation probably will not change significantly.

We ask the firms not to request and the administration not to permit second and third-year interviews to be held at the same time.

More anxiety is present this year than ever before; let us not bequeath this legacy to the classes that follow.

## Harvard Law Record

|                   |                  |
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## TONGUE 'N CHEEK

By Fenno

Who said two can *live* as cheaply as one? Page 8 of the Law School's pamphlet *Financial Aid* lists "Basic School Year Budgets." Students are to evaluate their needs in light of these estimates.

The figures are provocative. Did you know that it costs an unmarried student less to have 2 children (\$750 extra) than to have a wife (\$950 extra)? A wife is a pretty expensive asset. Room for a single student is \$400; for a married student, \$900. Men, your wife takes up too much space! Food costs, however, rise only \$250, from \$650 to \$900. There must be many hungry wives: Hoggy Hubby gets \$18 of grub per week, but Wee Wife gets only \$7, less than 40% of his 2 vegetables and 1 salad. Thank goodness for metrecal! Finally, a bride adds only \$160 to a single student's \$376 of "other expenses" for recreation, laundry, and clothing. Although hubby's recreation expenses may now be lower, the Mrs. should not expect a new dress *every* year.

As months pass, the budget grows. Thus, one child costs another \$300. Room expense stays the same, but the food bill soars a whopping \$100. Now, if you can feed Junior for \$3 a week (17% of his fat father's intake), don't advertise it! In fact, "other expenses" rise \$174 or \$74 more than food. Baby will have plenty of rattles, clean diapers, and bonnets, even if he starves.

For 2 children, the budget increases another \$350: Junior II costs more than Junior I. This rise includes \$150 extra for room — the closet is getting crowded. However, the new baby also gets only \$3 of chow per week, as well as \$74 less "other expenses" than Junior I.

The law student has one consolation. Regardless of wife or children, tuition does *not* rise. Live and learn!

# *Bystander Killed in Jewel Robbery*

By Richard A. Hannaway

Late this summer, while the Law School was still deserted, six angry young men gathered in the basement of Langdell Hall to arrange the final plans for a jewelry store robbery and a murder. The store selected was the Delamirie Jewelry Store, and the victim was Alfred Hines, an innocent bystander.

But don't rush to call the police. It is out of their jurisdiction. The crime took place two years ago in the city of Gray, county of Pound, in the Commonwealth of Ames. The desperate gang who planned it was the Teaching Fellows.

The crime is the subject-matter of this year's Model Trial, to be held on Thursday, November 8, in the Ames Court Room beginning at 4:45. Mrs. Hines is suing Samuel Knight, an alleged accomplice in the robbery, for the death of her husband. She has selected as her lawyer, Jerome P. Facher, who is the senior partner of the firm of Facher and Dorr in the Commonwealth of Ames. Mr. Facher is better known in the Commonwealth of Massachusetts as a teacher of trial practice at the Law School and a member of the Boston firm of Hale and Dorr.

Mr. Knight, the defendant, has obtained as his attorney Mr. Robert E. Keeton, who, in the Commonwealth of Ames is the senior partner in the firm of Keeton and Keeton. Here in Massachusetts he is better known to first-year students as a teacher of Torts.

The judge of the Model Trial will be the Honorable Francis J. Quirico, Judge of the Superior Court of Massachusetts for Suffolk County.

The planning of this trial began last year, and the Teaching Fellows, under the direction of Stanley M. Johanson, are still working on the details.

The primary aim is to give first-year students a realistic view and an appreciation of how the law works in a court. To attain realism, each witness is being carefully rehearsed in both his story and the "type" he is to portray. A jury is being formed of volunteers from the Cambridge area, and every effort is made to insure that the jury will be representative of regular juries.



Counsel Keeton and Facher

The trial itself is unrehearsed, as a result of which anything might happen, and sometimes does. As an example of just how realistic the trial can become, the jury in last year's Model Trial stayed out deliberating their verdict until 2:30 in the morning.

In order to enhance their appreciation of the trial when they see it, first-year students are participating in the preparation of the trial through three weeks of pre-trial work.

The trial itself will be a long one. There will be an hour's recess for dinner. After the recess, the trial will continue until it is over, which is expected to be around 10:30.

## **Roscoe Pound will be 92**

Dean Emeritus Roscoe Pound, who has celebrated more birthdays than most people, will be honored Saturday on his 92nd birthday.

Supreme Court Justice Tom C. Clark will be the principal speaker at a luncheon at the Simpson House, Newton. More than 200 of Dean Pound's friends, including professors, lawyers, judges, and deans are expected to attend.

The host will be Samuel B. Horovitz, LL.B. '22. The affair is sponsored jointly by the Roscoe Pound NAACA Foundation and the alumni of the Fletcher School of Law and Diplomacy at Tufts University.

# Cole Backs Collective Bargaining

By Stuart D. Davis

"Collective bargaining is the vital moving force in our system of industrial relations, and it is strictly a function of management and labor," said David L. Cole in his Monday evening lecture entitled "The Grievance Function" given in the Ames Courtroom.

In this talk, the third and final one in the series of Meyer Kastnbaum Lectures, the speaker reemphasized a point made in his two earlier addresses — that in the field of labor relations "there is no substitute for the part which must be played by the parties themselves."

## Role of Government

He continued: "Government's activities should be designed mainly to assist the parties or to encourage them in making constructive use of this [collective bargaining] process. This consists of timely and effective mediation service, ascertaining and reporting on relevant facts, and making clear in a variety of ways what the current economic conditions are and what are the matters of peculiar concern to the nation or the economy. It is hoped that in the course of doing so the public will become informed and exert influence on the parties to conduct themselves in a reasonable and responsible manner."

Cole, a national leader in the mediation of disputes and adviser to Presidents Eisenhower and Kennedy, is a New Jersey lawyer and a Harvard Law School graduate of 1924. Notwithstanding his legal background, he said to his listeners Monday evening, "... the law must not be expected to serve as the instrument for solving major labor disputes."

## Policy Declared

The national policy of encouraging collective bargaining, declared in the Wagner Act in 1935, "reflects the conviction that it is best to repose confidence and responsibility in the parties themselves to compose their labor disputes," Cole said. "To substitute for the type of collective bargaining contemplated by this declared policy, court procedures or compulsory arbitration as the means of determining the terms and conditions of employment would involve a complete reversal of our theory of labor relations."

The word tying Cole's Kastnbaum Lectures together was "disposition."

Assuming that "the ultimate control of labor disputes still rests with the parties," Cole said Monday, "if they have the disposition to employ collective bargaining as the means of working out their recurring problems, progress will be made." The trouble, according to Cole, is that often "such a mutual disposition has apparently been lacking."

"The great emphasis," said Cole, "must be on the relaxation of tensions in the relationship. The attitudes with which the principals address themselves to their problems is far more important than the forms they employ."

A primary objective in the field of industrial relations should be "... the drive for more constructive and stable relationships. . . ." Cole said in his opening lecture, "The Quest For Industrial Peace," delivered at the Business School Oct. 15.

## Absolute Peace Unattainable

Admitting that absolute industrial peace is "unattainable in this stage of our society," Cole pointed out that a higher degree of peacefulness is possible, especially when the disposition to make programs work exists.

In his second talk, "Government's part in Labor Disputes," delivered in Littauer Auditorium on Oct. 17, Cole said, "Government's part is a major one, but it is best played in advance of any specific crisis. The aim must be to help the parties avoid each crisis. Government must carefully distinguish between *a* national interest and *the* national interest."

In that talk, too, Cole emphasized that the disposition and desire of the parties on both sides of a labor dispute to make their solution work and to cooperate rather than constantly brawl for temporary advantage is essential to good labor relations.

## Law School Directory Available

Copies of the Law School Telephone Directory are available at the Distribution Center. The Directory, put out by Phillips Brooks House, has 123 advertisers this year — a record number.

# Higg Hits Obstructionists in South

## Talks to Democrats . . .

By Frederick Kaplan

William Higgs, the crusading lawyer of James Meredith, criticized the obstruction of justice in Mississippi by all governmental branches — judicial, legislative, and executive — in a talk before the Law-Graduate Democratic Club on October 17.

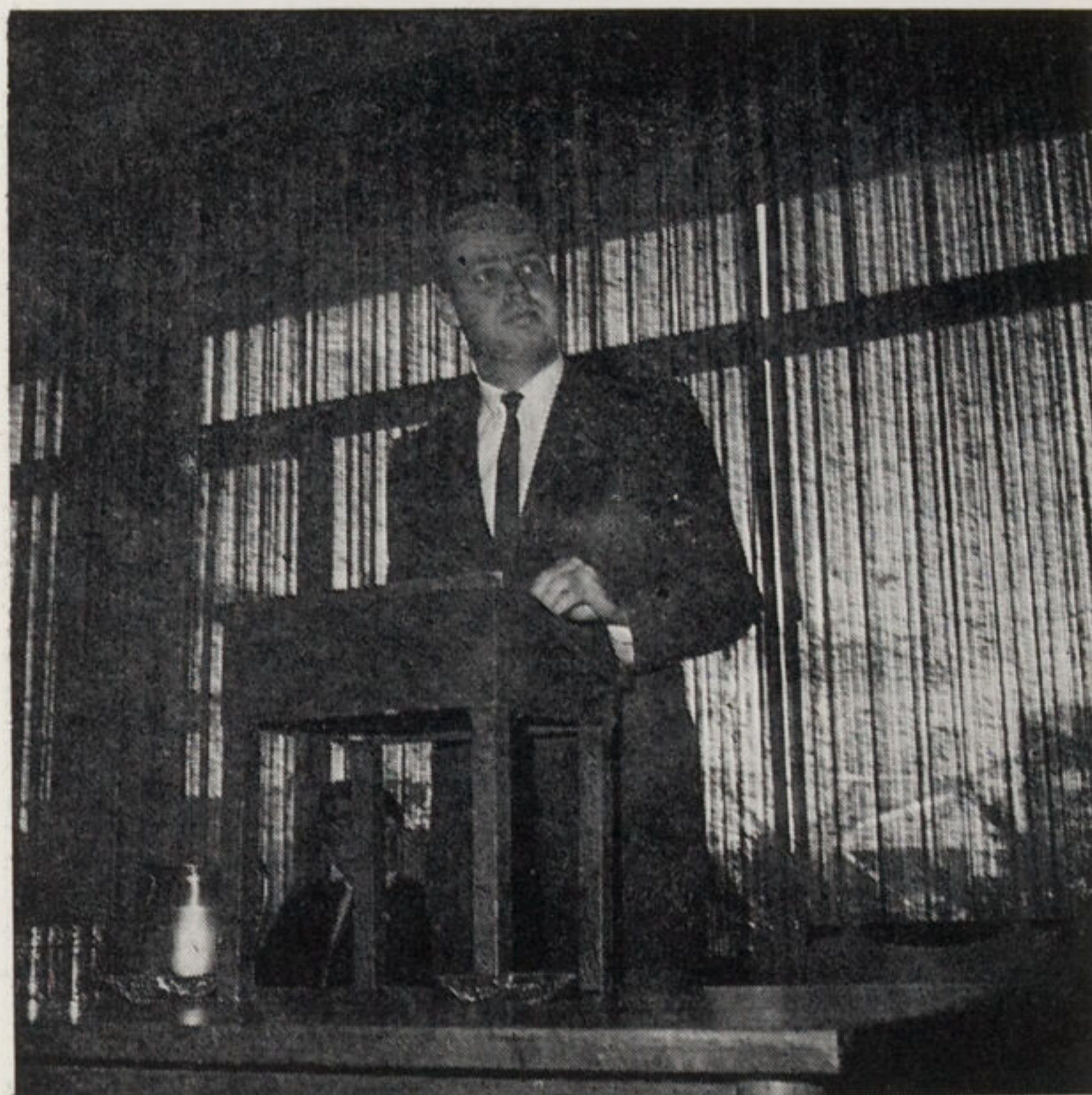
He characterized justice in Mississippi as White Citizens Council justice, citing the delaying techniques and maneuvering encountered at the four levels of the state judiciary. Higgs went on to blast the Federal District Court for "its extension of the political system of segregation."

He continued his attack on Mississippi state government, discussing the eleventh hour effort of the Legislature to keep Meredith out by passing a moral turpitude act, which denied admission to Ole Miss to anyone charged with the "crime" of moral turpitude. This act was declared unconstitutional the next day by the Court of Appeals.

Mr. Higgs emphasized that the proceedings before the Court of Appeals were the first instance of judicial fairness in the prolonged litigation. (The suit was filed in April, 1961.) He went on to discuss the vested interest of Negro school teachers in Mississippi segregation, noting that in most of the systems, Negro teachers have had less than nine years of schooling themselves, and they are afraid that when segregation goes, they will go with it.

Answering questions from the floor, Mr. Higgs said that he felt that the Justice Department could have prevented the mob scene in Oxford on Sept. 30 if immediately after Governor Barnett's inflammatory statement — made earlier in the month — it had requested that Mississippi officials be cited for contempt. Commenting on what action the Court of Appeals would take against Barnett, he stated that it was very possible that a bench warrant would be issued because of the Court's anger at Barnett's refusal to purge himself of contempt.

Mr. Higgs is a graduate of Ole Miss and the Harvard Law School. Last week he interviewed more than 25 applicants for two positions with him this coming summer.



## . . . Fights for Integration

By Charles M. Hamann

William L. Higgs, free-lance lawyer in Jackson, Mississippi, rides a different charger than most white Mississippians — the cause of Negro equality. His is a bare-backed militancy, unadorned by the spangles of evangelism, clothed only in honest conviction.

The lives of those who dare to buck the Mississippi system of strict segregation are not always comfortable. "Sure, we've all had threats — some of us have been the objects of physical violence," Higgs admits, almost nonchalantly. "One man was punched in the nose. Charlie Butts, editor of the *Free Press*, was dragged out of his car and beaten up not too long ago."

The *Free Press*, oracle of the Mississippi integration movement, is a weekly paper, published in Jackson. Bill Higgs is legal counsel, stockholder, incorporator, and the writer of a few articles.

The *Free Press* has much to complain about, for in Mississippi even the right to register and vote is a privilege only irregularly conferred upon a Negro. In those parts of the state where the Negro population is numerically predominant, "they don't even dare go down and register." If any of

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# Two Law Students Aid in Mississippi

*(Continued from page 5)*

them are hardy enough to try, they face a gauntlet of obstructions, placed in their path by the State Constitution.

In order to register, a Negro must pass a literacy test, a constitutional interpretation test, and a good moral character test; he must also be able to recite the duties of a citizen under a constitutional form of government. And a Negro's good moral character is always *prima facie* suspect, Higgs said. In order to protect against fraud, the state requires two-week publication of the names of those persons who seek to register in a local newspaper. The effect of this last requirement, ostensibly designed to afford citizens the opportunity to protest the character of the applicant, is to delay completion of registration and to open the Negro to intimidation.

"You wait about 30 days and then go back and find out whether you have passed the tests, whether your moral character has been challenged," Higgs says. While these tests theoretically apply to all voters, they apply actually only to Negroes. Even if a Negro passes all these tests, he still must pay a poll tax in order to vote.

Higgs and his associates have worked hard on legislation designed to knock out these state voting laws. During the past summer Bob Johnson, 2L, and Pete Gilbert, 3L, helped in this task. Higgs has high praise for their efforts in the cause of integration: "Without my knowledge, they almost single-handedly integrated the Jackson Municipal Airport."

The strategy was ingeniously simple: the chief ingredient, that old Southern staple, charm. Johnson and Gilbert tricked waitresses at the restaurant into outlining the methods by which segregation was preserved in the two dining rooms. A Negro could receive service at the lunch counter, but none could sit down and eat. Table service was by reservation only — a ruse, as the waitresses obligingly explained, "just to keep the Niggers out."

The next morning, four whites, including Johnson and Gilbert, and one Negro presented affidavits to the Federal District Court, alleging violation of the Fourteenth Amendment and detailing the manner in

which it was violated. A court order, requiring the integration of restaurant facilities at Jackson Municipal Airport, issued shortly. "They (Johnson, Gilbert and their colleagues) moved so quickly that rather than defy the court order the mayor of Jackson just closed the restaurant down except for the counter."

Johnson and Gilbert were the entire teaching staff at Mt. Beulah Christian Center, a hotbed of integrationist activity in Jackson. The local White Citizens Councils had representatives there, too—photographers, taking pictures of those who went inside. The Mt. Beulah Center did not last the summer. Before the summer's end a grand jury investigation, instigated by state officials, examined charges that the Center was a Communist front. Panicked by the possibility of scandal, headquarters of the Disciples of Christ, sponsors of the Center, fired the entire staff. Mt. Beulah returned to the teaching of less controversial Christian principles.

The integrationists of Mississippi don't discourage easily. Currently they are conducting an ambitious maneuver to unseat U. S. Representative Jamie Whitten, an uncompromising segregationist. The candidate supported by them is the Rev. Merrill Lindsey, a Negro minister, who ran a poor third in the primary. Whitten's district, an amalgamation of two districts as the result of reapportionment, covers the Delta country, hot, flat, cotton-growing land, where race feeling runs high.

Lindsey is not on the ballot this fall. (This might be a tactical error, Higgs admits.) The means by which Whitten's opponents hope to unseat him is through the use of a petition and subsequent efforts to seek the invalidation of his election in Congress. Since the population of Whitten's district is 60 per cent Negro, one may fairly surmise that he would have lost the primary election had registration been an uncomplicated matter and pressures on the potential Negro voter reversed.

Ten thousand Negroes have signed the petition urging the seating of the Rev. Lindsey, or, in the alternative, urging the holding of a new election and registration of

*(Continued on page 7)*

## Higgs v. Eastland

(Continued from page 6)

Negro petition signers by Congressional mandate. A third alternative, based on the second clause of the Fourteenth Amendment, is a reduction of the state's representation from five to three.

Higgs explained the strategy: "The most effective method of contesting an election is to get a representative to stand up in the House and ask the representative to stand aside while his election is investigated." In this case Higgs and his colleagues plan to have the whole Mississippi delegation asked to stand aside. He ventured that either Representative James Roosevelt or Representative Emanuel Celler would be willing to perform this service.

The Rev. Lindsey was not the only Negro who ran for office in the Mississippi primary — another contender was the Rev. Robert L. T. Smith, who sought the Democratic nomination in the Fourth Congressional district which encompasses Jackson. Rev. Smith's vote was twice the percentage of Rev. Lindsey's, but as only 46 per cent of the district's population is Negro, the integrationists decided that the petition strategy would be more effective in the support of Lindsey's election. Both Negroes received a smattering of support from the white community: "White people voted for them in most every precinct — not very many but a few."

Higgs himself plans to run against Senator James O. Eastland in 1966 — "as soon as I am old enough to qualify." To an ordinary man this course might seem naive, but to a man like Higgs, named one of the 100 outstanding young men of his generation by *Life Magazine*, opposition to a segregationist or segregation is not a matter of practical politics, but a matter of duty and of right.

### Schachter to Address I.L.C.

Mr. Oscar Schachter, Legal Advisor to the United Nations, will address the International Law Club tomorrow evening in the Roscoe Pound Room. He will speak on "Legality and Impartiality in a Divided World."

## Cliffies Be-leaved



Life Magazine sent a photographer-reporter team to Harvard last week to follow 15 long-haired, attractive Cliffies throughout their daily routines. Friday afternoon, the photographer wanted a shot of girls in a natural pose on a Harvard lawn. He came to the yard in front of Langdell to film juniors Henrietta Dinton, left, and Marion Leonard.

Why did he choose the Law School lawn when Cliffies themselves so seldom do? "Leaves," said the reporter. "You have leaves here. Everybody else has raked them up."

## Democrats Seek Dollars

The Law-Graduate School Democratic Club solicited dollars this week for liberal Democrats and integration groups.

The Democratic candidates, whom the club deems "especially worthy" of support, are: Edmund G. Brown, Governor of California, seeking re-election; Endicott Peabody, gubernatorial candidate in Massachusetts; Sidney R. Yates, Senatorial candidate in Illinois; George McGovern, South Dakotan nominee for Senator; John A. Carroll, incumbent Senator from Colorado; David S. King, running for the Senate in Utah; and Daniel K. Inouye, Hawaiian Senatorial candidate.

Before the speech of the Rev. Martin Luther King in Sanders Theatre on Wednesday, the club planned to collect money in support of the NAACP, CORE, and the Student Non-Violent Co-ordinating Committee. The Democratic Club continued to work for the election of Peabody.

## Faculty Opposes Kennedy

(Continued from page 1)

eral Edward McCormack in the primary have rebelled against supporting Kennedy. And despite the overwhelming vote for George Cabot Lodge in the RECORD's faculty poll, there appears to be no great enthusiasm for his candidacy.

Several Democrats have contributed effort to the Endicott Peabody campaign for Governor, but most of the real activity seems to be on an almost non-partisan basis at the local level.

These are the impressions gained from conversations with nearly one-third of the Law School professors this week.

Perhaps the most striking drop in activity came when McCormack was defeated in the primary. Among those supporting the Attorney General were Mark DeWolfe Howe, John P. Dawson, Albert M. Sacks, Roger D. Fisher, Louis L. Jaffe, James Vorenberg, and Frank E. A. Sander. None has said he will vote for Kennedy.

Prof. Howe was one of the most active in the primary against the President's brother. Asked what he is doing now, Prof. Howe replied: "I just sit here and sob." He said he is taking no active part in the campaign and has not decided for whom he will vote. On a television program shown in Boston Tuesday, he sharply attacked Kennedy's candidacy.

Prof. Dawson, faculty adviser of the Democratic Club, and twice a Democratic Congressional candidate while he was teaching in Michigan, has publicly stated he will vote for Lodge.

Prof. Fisher, another strong McCormack worker, is "doing nothing" in the election and would not declare how he will vote.

"People are so upset about this Kennedy thing," one professor reported, "that they

feel stymied." Another said he had colleagues who are so outraged that they have stopped talking about the election altogether.

The objections to Kennedy appear to be the same as those voiced generally, with perhaps more attention being paid to a "threat" to the established separation of powers between the executive and the legislative branches of government.

One professor said he opposed Kennedy because he is "totally unqualified. He's never worked a day in his life."

Another argued that Kennedy would be unable to oppose his brother's programs or would find himself in an ambiguous position if he spoke out against them.

There is also the feeling that the brother of a sitting President should not be in Congress. The faculty, which was originally opposed to the appointment of Robert Kennedy as Attorney General, generally feels such family ties in high office should be avoided.

"If he were personally well qualified," said one professor, "it would still be undesirable to have him in Congress while his brother is President. But since he isn't qualified, it's an outrage."

### Griswold Supports Lodge

The opposition to Kennedy has not been transferred into much enthusiastic support for Lodge. Dean Erwin N. Griswold and Professor Milton Katz have put their names on a letter for Lodge circulated throughout the academic community. Prof. Katz, who classifies himself as an "Independent Republican," said he is an adviser on certain issues and on relations with the academic community as a whole.

Robert Braucher, who supported Rep. Laurence Curtis at the Republican Convention, is on the Republican town committee in Belmont and is supporting the straight ticket.

THE HARVARD BAND presents

THE

## DARTMOUTH CONCERT

Musorgsky

Copland

Rimski-Korsakov

Leroy Anderson

Football Medleys

Harvard Songs

8:15 Friday,

October 26

Sanders Theatre

Tickets at Coop,

Briggs & Briggs, and

at the door.

Professor W. Barton Leach, who says he is remaining out of the campaign, brought Lodge to have lunch with the faculty in the basement of the ILS building. From all reports, the reaction was extremely favorable. Lodge "assumed a stature beyond being somebody who was not Kennedy," said one former McCormack supporter. "He would probably make a record more comparable to Clifford Case or Jacob Javits than Goldwater or Dirksen."

Several other professors said, however, they were still slightly worried that he might not vote so liberally as he talked to the faculty.

H. Stuart Hughes, independent candidate, was invited to meet the faculty by Prof. Howe. Although his reception was cordial, there was no swing of sentiment to his views. One man suggested that people are so concerned with beating Kennedy that "they don't want to throw their vote away on Hughes."

#### **Kennedy Here Tomorrow**

Kennedy will be at Harvard tomorrow to meet with a large group of the faculty at the Faculty Club. Law Prof. Charles M. Haar is one of those who has arranged the appearance.

Haar, who is advising Kennedy on metropolitan problems, said many people fail to give the candidate enough credit for his "qualities of forcefulness and leadership."

In the gubernatorial race, Endicott Peabody, who is well known personally among Harvard professors, has gathered most of the support. Those who have helped him include Professors Sacks, Freund, Vorenberg, Howe, Richard H. Field, and David R. Herwitz.

On the local level — where professors are writing letters, holding koffee klatches, and making phone calls — the support is going to Mrs. Cornelia Wheeler, Republican candidate for Senate; Mary Newman and Levin Campbell, Republicans, for state Legislature; and William P. Homans, Democratic candidate for the Legislature. All of the candidates have been active in causes of the Cambridge Civic Association, an academically dominated "good government organization."

Among those active in these efforts are Professors Braucher, Vorenberg, Howe, Haar, Sacks, Sander, Freund, A. James Casner, Detlev F. Vagts, and Secretary Russell H. Peck.

## **Smith Addresses I.L.C. On 'Bodies and the Law'**

**By Thomas E. Woodhouse**

Professor T. B. Smith gave three justifications for his October 16th speech to the International Law Club on the topic of "Law and the Human Body." No matter what nation might be considered, all have bodies; problems treating the human body transcend frontiers; and international institutions are deeply concerned with throttling the population explosion and with safeguarding women.

Explaining that he has lately spent most of his time teaching contracts and the "meeting of minds," Professor Smith suggested that in many cases the study of bodies is more interesting.

Professor Smith, Visiting Professor at Harvard Law School while on leave from the University of Edinburgh, observed that the lawyer's approach to the body is similar to the theologian's. While law recognizes legal personality only after birth, it extends protection to the fetus in criminal law and recognizes the fetus' "expectancy of rights" as well as recognizing the rights of a decedent. Professor Smith applied the comparison of the attitudes of law and theology to the pre-natal state of the human being, his term of life, and acceptable uses of cadavers. Law and theology finally part company over the question of permissible termination of pregnancy. The Roman Catholic Church considers that the death of both mother and child, a material evil, would be preferable to the deliberate killing of the fetus, a moral evil. Law, on the other hand, in many jurisdictions permits pregnancies to be terminated when medical opinion holds that it is necessary to save the life or the mind of the mother.

The law recognizes a special relation between a person and his body, Professor Smith continued. A person does not own his body as he might own a horse or statue. He enjoys rights with regard to it but also must yield to duties and restraints. Although the hazarding of the body to save persons or property or in athletic contests is recognized by law, it is not allowable for a person to consent to injury and mutilation or death except for a recognized legal purpose.

# Ames Semi-Finalists Argue Zoning, Hiring Discrimination

By Michael J. Henry

Four third-year Ames club courts have nearly completed the writing of their briefs for the semifinal round of the Ames Competition. The clubs in Round I are Story Equity, appellant, and Choate, appellee; and in Round II, Marshall Law, appellant, and Holmes, appellee. The final argument in Round I will be Tuesday, November 20, and in Round II, one week later.

The oralists for Story Equity are Katrina Renouf and Fred Scribner, and for Choate, Duane Batista and Joseph Zedrosser. Marshall Law's oralists are David Anderson and Theodore Martineau, opposed by Pierre duPont and David Supino for Holmes.

The case to be argued in Round I is based on *The Colorado Anti-Discrimination Commission v. Continental Airlines, Inc.*, 368 P. 2d 970 (1962). It includes two main issues: (1) Does a state statute prohibiting discrimination based on race in the hiring practices of an interstate air carrier constitute an undue burden on interstate commerce? (2) Has the discrimination area been pre-empted by the Federal Government, e.g. the Railway Labor Act, the Civil Aeronautics Act, and Executive Orders pertaining to government contractors?

The clubs in Round II will argue a case which involves the following issues: (1) Whether a city ordinance establishing minimum housing standards which vary according to the housing conditions in different areas of the city (sometimes called a "zoned housing code") violates the equal protection clause of the U. S. Constitution. (2) Whether a housing code inspection without a search warrant constitutes an unlawful search and seizure under the U. S. Constitution or the Constitution of Rhode Island.

All members of a club in a semi-final or final round participate in brief preparation. In addition to the oralists in Story Equity are David Brown, Vincent Damiano, Alan Danson, William Hardy, John Mullen, and Richard Newman; in Choate, Edwin Amidon, Alexander Bancroft, Peter Berkley, John Franklin, William Latimer, and Harvey Troop.

Rounding out the Marshall Law court are William Cumberland, Alan Davidson, William Graham, Mary Rhamstine, Jack Spain, and John Philbrick; and in Holmes, Anthony Carey, James Kelley, Richard Lassen, James Nichols, Harold Pratt, and John Wallace.

## Financial Aid Pamphlet

The hows and whys of the Harvard Law School Financial Aid program are being collected and explained in pamphlet form for the first time.

In a recently produced eleven-page pamphlet which gives an overall view of the financial aid program throughout the three years of law school, a variety of subjects are covered.

The general philosophy of the program, the pamphlet says, is "that every qualified student should have the opportunity to use (the Harvard Law School's) facilities, regardless of his financial situation." To this end, the pamphlet goes on, "students can be sure that, if they can come to Harvard and complete the first year, funds will be available to help them through the second and third years."

The pamphlet lists "rough approximations" of what basic school year budgets are assumed to be for students in different situations. The budgets list:

|                   | Single Students | Married | 1 Child | 2 Children |
|-------------------|-----------------|---------|---------|------------|
| Tuition           | 1250            | 1250    | 1250    | 1250       |
| Medical Insurance |                 |         |         |            |
| Fee               | 74              | 114     | 140     | 140        |
| Books             | 100             | 100     | 100     | 100        |
| Room              | 400             | 900     | 900     | 1050       |
| Board             | 650             | 900     | 1000    | 1100       |
| Other Expenses    | 376             | 536     | 710     | 810        |
|                   | 2850            | 3800    | 4100    | 4450       |

Other points of interest in the pamphlet include: (1) a strong suggestion that cars are not the *ne plus ultra* to law students ("Moreover, a car can be an awful nuisance."), and that the school "regards the value of a car as a financial asset available to the student to help meet the costs of his education"; (2) emergency loans are available to all students; (3) students may waive \$20 of their yearly medical insurance fee for that part covering "payments for costs of illnesses and injuries treated outside the University Health Services."

## FEATURES SECTION

# *Like Harvard, Like Yale*

By Daniel J. Kucera

"Students are fungible," Yale's William K. Townsend Professor of Law wrinkled his mustache and chuckled. "They're pretty much alike, anywhere."

Grant Gilmore confessed that his method of teaching at Yale was "exactly the same" as Harvard's, except that "the acoustics are worse here." Moreover, he gets the same reaction. "First-year students are always more tense, but third-year men are quite blasé." Reflecting on his oversubscribed Commercial Transactions class, he continued, "and with a captive audience of 300 of them, they're more blasé than ever. Their chances of not being called on are pretty good."

"I went to law school because I was bored," the Visiting Professor explained his inspiration for law. After earning both his B.A. in 1931 and his Ph.D. in Romance Languages in 1936 from Yale, he taught French in its College until 1940. Then he entered the Yale Law School and received an LL.B. in 1942. Milbank, Tweed, Hope & Hadley kept him busy until 1944, when military service borrowed him. Finally, Mr. Gilmore returned to the Eli in 1946 to teach at their law school.

The Professor is a short, quiet man with a soft but penetrating voice. His conversation, however, sparks with crisp humor. "I have few hobbies," he admitted with some guilt. "I play a little squash and tennis; but, I mostly read . . . I am not very colorful." His first-year Contracts class and third-year Commercial Transactions class would dispute his last point, however.

Mr. Gilmore has co-authored a treatise, *The Law of Admiralty*, with Professor Charles L. Black, Jr., of Yale. Currently, he is preparing a book dealing with secured transactions and personal property under Article 9 of the Uniform Commercial Code. Over the years, he has written numerous law review articles.

Although the Professor considers Boston, his birthplace 52 years ago, a "pleasant city," he is somewhat lonely. His wife, a psychiatrist in New Haven, has been too busy to leave her practice and to join him here.



Neither of his children is interested in the legal profession. His son, David, is attending Clark University, while his daughter, Nancy, is living at home.

A member of the American Law Institute, Mr. Gilmore is well known for his work on the Uniform Commercial Code. He was an Associate Reporter for Article 9, and he also assisted Professor Karl Llewellyn, Chief Reporter of the Code, and Professor Soia Mentschikoff, Associate Chief Reporter. He is "pleased" with the reception given to the Code by the States.

The Visiting Professor declined to relate any humorous incidents in his teaching experience. "It is better for students to tell funny stories about the faculty than for the faculty to tell funny stories about the students." But, he hesitated. "No . . . I'll tell you one." His face brightened. During his visit to the Columbia Law School, one of his students there exclaimed to a sympathetic Yale friend around examination time, "How can I study for Professor Gilmore's test? All I have is a notebook full of *questions!*"

"Thus you see," Mr. Gilmore smiled, "the difference between the methods of teaching of Harvard professors and Yale professors is indistinguishable!"

## Recent Book

**PRODUCTS LIABILITY.** Louis R. Frumer & Melvin I. Friedman. Matthew Bender & Co., Inc., 1961. 2 volumes. 2075 pages. \$45.

by **Ralph Nader**

*Mr. Nader, LL.B. '58, is a former President of the RECORD.*

Judicial standards for the integrity of the manufactured product have been stiffening markedly in recent years. Products liability is expanding through the litigation of some 10,000 cases annually. With the huge quantity of intricate goods being propelled onto the market and the heavy use of synthetics (as in food, cosmetics, drugs, and wearing apparel), more consumers are being harmed — some by sudden violence, others by gradual process — because known methods of avoiding or minimizing danger are not being utilized.

Illustrative is the feasibility of engineering safer designs into our automobiles — a course of action known for years through work done at Cornell, California, Harvard, and by the Air Force and the manufac-

turers themselves — and one that could reduce very substantially the yearly toll of nearly 40,000 dead and 4 million injured.

With protest finding its way into the courts, judicial decisions can have often a salutary effect on the manufacturer with a minimum of coercion and regulation. This can be true even when the claimant loses. But there are also several limitations to be recognized: the widening acceptance of products liability insurance as a routine business cost by producers, the reluctance of courts to permit liability in areas where the health of the industry is deemed threatened, and the refinement of avoidance by way of warnings and disclaimers. Moreover, there is the inherent difficulty of proving the plaintiff's case because of the paucity of competent and willing experts, the involved medical and scientific nature of the evidence, and the frequent destruction of the culpable product at the time the alleged tort was committed.

There undoubtedly is a keener awareness by the consumer of the legal obligations of care and fitness which manufacturers and sellers owe to him. Several contributing factors are: publications by such groups as Consumers Union and Consumers' Research (combined circulation of one million), the publicity given to Congressional investigations, the indirect impact of FTC actions against misleading or false advertisements, brand consciousness focusing customer ire on the product and its producer rather than on the local retailer or repairman, and the public attention given to recoveries in the more sensational cases such as the polio vaccine decisions.

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## Book Review

(Continued from Page 12)

This developing litigious urge may get our consumer to his attorney's office and no further. For many counselors discourage suits in this field, partly because of unfamiliarity, but also because new legal ground would have to be broken in many instances and considerable expense and effort exerted to prepare a sound case. The risky or novel case is often viewed as a nuisance to be rid of rather than a challenge to be confronted. Two developments are counteracting: first, the association of plaintiffs' attorneys, NACCA, with its Products Liability Exchange that puts members having similar cases in touch with one another and builds up a brief bank on which members can draw; second, specialization of firms in products liability work. A striking example in the last decade has been the contribution to air crash law by a handful of imaginative and skillful lawyers.

But in a country having such a decentralized legal profession and where the solo practitioner is far from facing the fate of the great auk, the availability of materials and treatises on products law can play a major role in familiarizing the attorney with the potentialities of his client's case. *Products Liability* by Frumer and Friedman is the first work to cover the entire field of manufacturers' and sellers' liability for harm done by a product. The deep attraction of this carefully researched, lucidly delivered, and thoroughly documented study is such that it would be of considerable value to the economist and political scientist as well as to counsel. In its wholly professional orientation, there is much to be learned, for instance, about the mutual impact of judicial and legislative decision, and the contribution of scientific data and testing groups to the common law's evolution.

Chapters are devoted to the manufacturer's liability in negligence, warranty and deceit, and retailer and middleman responsibility. Of

particular interest is the article on "Laboratory Investigation of Metallurgical Failures" written by the well known metallurgist, John Carroll. Other specialists have contributed sections on scientific-legal aspects of design, exploding bottle cases, and the medical-legal background of food-poisoning cases.

There are detailed considerations also by subject — food and beverages, drugs, inflammable substances — to name a few. Other chapters deal adequately with conflict of laws, statutes of limitations, derivative actions, death actions, indemnity, pleading, discovery techniques, demonstrative evidence, and insurance. Helpful appendages include a questionnaire for products liability cases, a detailed table of cases by

product covering 350 pages, and a useful index.

In these days when treatises of varying ambitions are being produced and promoted with fierce intensity, these volumes stand prominently in a field of law considered as a model of the growth of the common law process. By its use throughout the states, *Products Liability* should itself constitute a contribution to this process.

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Lecture Room, 2 Divinity Avenue

## Bull and Bear Notes

Mr. William Guarente of Paine Weber, Jackson & Curtis will speak to the Bull and Bear Club on "Aspects of Technical Trading" tomorrow at 1:45 in Harkness Meeting Room.

Mr. Bradbury Thurlow, Vice-President of Winslow, Cohu & Stetson spoke at the club's last meeting on "Special Situations in the Current Market."

Officers for this year are: Mike Liles, Jr., President; David Berman, Vice-President in charge of "Ticker-Tape"; Mike Growney, Vice-President in charge of the investment contest; George White, Secretary; John Helms, Treasurer; and Philip Sassower, Member-at-Large of the Board.

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Patronage Refund Too

# Faculty Poll Results

(Continued from page 1)

Democrat Endicott C. Peabody, a result in line with the normal Democratic leanings of the Faculty. Peabody, an advocate of Constitutional reform, had 29 votes or 69 per cent of the total. His Republican opponent, Gov. John A. Volpe, received 13 votes.

Edward W. Brooke, Republican candidate for Attorney General, who hopes to turn the tide against corruption in Massachusetts politics, received almost unanimous endorsement from those who answered the RECORD poll. Forty-one (98 per cent) indicated that they would vote for Brooke. Francis E. Kelly, the Democratic nominee, had a lone supporter. Mr. Kelly is in favor of a state-conducted sweepstakes.

The RECORD sent ballots to 60 faculty members, lecturers and teaching fellows.

## Republicans Slate Talks With Weinberger, Brooke

Casper Weinberger, Chairman of the California Republican State Committee, will discuss the Nixon-Brown election tussle at a Young Republican meeting at 1:20 p.m. tomorrow, in the Wheeler Room of Holmes Hall.

Edward Brooke, GOP candidate for Massachusetts Attorney General, will visit the Law School Monday, Oct. 29. The time of his talk has not yet been set.

The Young Republicans have scheduled an Election Night Party, from 8 to 12 p.m., Nov. 6. The club promises television and beer — free to members, at a nominal charge to non-members — at Harkness that evening.

The Republicans have invited local Republican candidates to attend. All are hoping for many happy returns.

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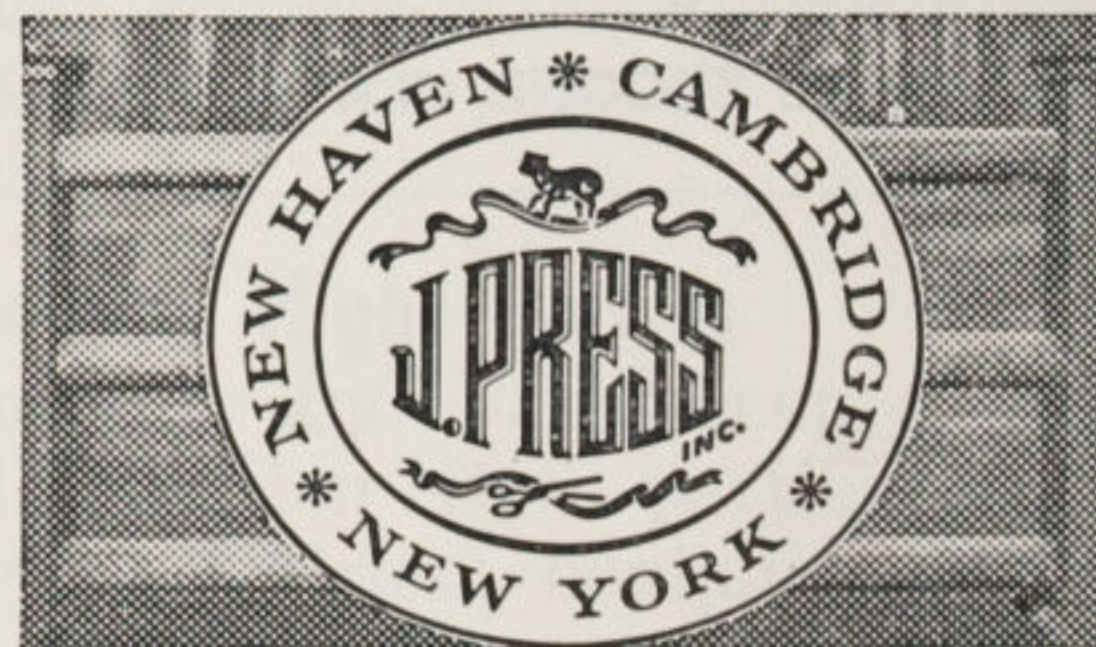
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## Placement Opportunities

Further information is available at the Placement Office, 23 Everett Street. Not all opportunities are listed here. Interviews are listed in the following order: city, name of firm, interviewer, (deadline for contacting Placement Office), date of interview.

### THIRD YEAR INTERVIEWS

**Boston:** Richard S. Bowers. Richard S. Bowers, Esq. (1 p.m. today, Oct. 25) Thursday, Nov. 1.

**Chicago:** Overton, Marks, Simons & Moore. George W. Overton, Esq. (1 p.m. today, Oct. 25) Thursday, Nov. 1.

**Indianapolis:** Baker & Daniels. Byron P. Hollett, Esq. (1 p.m. today, Oct. 25.) Thursday and Friday, Nov. 1 and 2.

**Kansas City:** Caldwell, Blackwell, Sanders & Matheny. Daniel C. Weary, Esq. (1 p.m. tomorrow, Oct. 26.) Friday and Saturday, Nov. 3 and 4.

**New York:** Metropolitan Life Insurance Co. George K. Fenn, Jr., Esq. (1 p.m. today, Oct. 25.) Thursday, Nov. 1.

**New York:** Mudge, Stern, Baldwin & Todd. Matthew G. Herold, Jr., Esq. (1 p.m. tomorrow, Oct. 26.) Friday and Saturday, Nov. 2 and 3.

**San Francisco:** Brobeck, Phleger & Harrison. Atherton Phleger, Esq. (1 p.m. tomorrow, Oct. 26.) Friday, Nov. 2.

**Washington:** Department of State. Abram Chayes, Esq., (1 p.m. today, Oct. 25.) Friday, Nov. 2.

### SECOND AND THIRD YEAR INTERVIEWS

**Chicago:** Wilson & McIlvaine. G. E. Hale, Esq. (1 p.m. today, Oct. 25.) Thursday and Friday, Nov. 1 and 2.

**Denver:** Dawson, Nagel, Sherman & Howard. Thomas B. Faxon, Esq. (1 p.m. tomorrow, Oct. 26.) Friday, Nov. 2.

**Denver:** Holland & Hart. Jay W. Tracey, Jr., Esq. (1 p.m. tomorrow, Oct. 26.) Friday, Nov. 2.

**Portland, Oreg.:** Hart, Rockwood, Davies, Biggs & Strayer. David L. Davies, Esq. (1 p.m. tomorrow, Oct. 26.) Friday, Saturday and Monday, Nov. 2, 3, and 5.

**St. Louis:** Thompson, Mitchell, Douglas & Neill. Richard P.

Conerly, Esq. (1 p.m. tomorrow, Oct. 26.) Friday, Nov. 2.

**Washington & Atlanta:** Sutherland, Asbill & Brennan. Mac Asbill, Jr., Esq. and Michael J. Egan, Jr., Esq. (1 p.m. today, Oct. 25.) Thursday and Friday, Nov. 1 and 2.

**Washington:** Wilmer, Cutler & Pickering. Samuel A. Stern, Esq. (1 p.m. tomorrow, Oct. 26.) Friday, Nov. 2.

### SECOND YEAR INTERVIEWS

**New York:** Cadwalader, Wickersham & Taft. J. Franklin Van Deren, Esq. (1 p.m. today, Oct. 25.) Thursday, Nov. 1.

### THIRD YEAR OPPORTUNITIES

**Aurora, Ill.:** Reid, Ochsenschlager, Murphy & Hupp. Contact firm.

**Pasadena, Texas:** Leo Freedman. Contact Leo Freedman, Esq.

**Hamburg, Germany:** Patent Law. Contact International Law Club, Room 205, ILS.

### SECOND YEAR OPPORTUNITIES

**Cleveland:** Johnson, Weston, Blackmore, Cory & Hurd. Contact S. Burns Weston, Esq.

**Germany:** Contact International Law Club, Room 205, ILS.

### ALL CLASSES

**Houston:** Baker, Botts, Shephard & Coates. William C. Harvin, Esq. will hold a group meeting for all interested in Texas at 8 p.m. Monday, Oct. 29 in the Wheeler Room, Holmes Hall.

### ACADEMIC OPPORTUNITIES

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