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Pound Honored on Birthday

Justice Clark Speaks

By Richard A. Hannaway

It seemed as though the whole nation was sending Dean Emeritus Roscoe Pound congratulations on his ninety-second birthday last Saturday.

The walls of the Simpson House, Newton, where a luncheon in his honor was held, were covered with letters of praise and congratulations from lawyers all over the world.

Samuel B. Horovitz, the host of the party, had them all gathered into a substantial binder, which was presented to the Dean.

Seated at the head table were representatives from the state and federal courts of Massachusetts along with representatives of the major law schools in the state and their alumni. About 150 attended the luncheon.

Professor Arthur E. Sutherland represented the Harvard Law School, and Assistant Dean William L. Bruce brought greetings from the 23,000 living alumni. Professor Sheldon Glueck, who holds the Roscoe Pound

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A Citation from Dr. Tsao — See Story page 6

Reservists Called

By Bruce Abel

At 2 o'clock last Sunday morning the eastern United States gained an hour, but four Harvard Law School Air Force Reservists may have lost a year.

Called in dramatic fashion at 2 o'clock Sunday morning were Duane R. Batista, Chicago, Ill.; Edwin H. Amidon, Jr., Dewitt, N. Y.; Gene E. Penn, Dunbar, W. Va.; and David O. Brownwood, Berkeley, Calif. They were sum-

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Election Night Parties

The Democratic and Republican Clubs will both hold Election Night parties, with free beer and television, beginning at 8 P. M. Tuesday in Harkness.

The Well-Balanced Law Student

The RECORD is concerned with the student body's blasé attitude toward working for campus organizations. Somehow, it just does not seem to be either expedient or fashionable to work for an organization.

When asked to work, the first-year student replies that he can't—he has absorbed the doctrine that he must spend all his time studying and fears that any time spent in extracurricular activities will be detrimental to his grades. The second-year student, if he didn't make one of the honoraries or didn't rank in the top one-hundred, usually resolves not to study so hard as he did the prior year. But, unfortunately, this increase in time available for pursuits other than studying doesn't seem to accrue to the benefit of the organizations. And as far as third-year men are concerned—well, it's an a fortiori case.

We feel that extracurricular activities are very important and that every student should participate therein. For we believe that the goal of this School should be to train men to be well-balanced lawyer-citizens, not to develop legal minds alone.

The practicing lawyer does not deal with law in isolation from the "outside" world. He is a member of a community which calls upon him to share in bearing its responsibilities. He will be asked to serve, for example, on the city's aviation development committee or to be a director of the Boy Scouts, and his time and effort will be required to ensure the success of these and similar programs.

The Law School is likewise a community, with numerous organizations which all need the assistance of the student body. And the student who does not participate is depriving himself of an excellent opportunity to train himself for his future civic responsibilities.

In our opinion, it is quite possible for students of all three years to find time to study hard, to "party," and still have time to take part in extracurricular activities. To achieve this goal, one does not need a magic formula; all that is required is that one arrange his daily time chart in a more efficient manner. Each of us fritters away at least an hour a day, time which could be fruitfully utilized in engaging in organization activities. The sacrifice would be little, and the gain would be great.

Harvard Law Record

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TONGUE 'N CHEEK

By Fenno

Today I have my first job interview at the Placement Office. Listen

Fenno: G-g-g-good m-m-morning. I'm Fenno.

Firm: My name is H. League Ivy III. Remember, anything you say may be used against you; also, you have a right to counsel if . . .

Fenno: But, this is only a job interview

Firm: Now, let's start with your asking me a question. I'm sure that you must have . . .

Fenno: How much emphasis do you put on grades?

Firm: Very little—none. We feel that a balanced man—with a good college record and outside activities, but average law school grades—will make a good lawyer What are your grades?

Fenno: Do you specialize your men?

Firm: No. You'll spend 10 years researching in the library on property; 10 years likewise on contracts; 10 years likewise on torts; etc. What are your grades?

Fenno: Your firm . . . Take, Fee & See . . . is it big?

Firm: Yes. We have 3 partners; 3 associates; and 1000 clerks, coolies, and slaves. What are your grades?

Fenno: What are your hours?

Firm: You're expected to work only from 9 to 5 . . . A.M., that is. You won't work evenings—unless an emergency comes up—which is usually every day. What are your grades?

Fenno: Why do you keep asking me about my grades?

Firm: While grades aren't primary, they help . . .

Fenno: But, you said—

Firm: ‡*!&*‡! Grades are everything, you clod! We don't hire below a 90 average.

Fenno: I thought so! I'm the senior partner's son. Your fired!

Firm: Well, time is up. Nice to talk with you. Drop in and see us during the Holidays.

Reservists Called

(Continued from page 1)

moned, along with some 14,000 other Air Force reservists across the country, as part of the nation's general mobilization in the Caribbean crisis.

The four, all married and all with at least one child, have taken the call-up philosophically. All strongly support the President's action, feeling that perhaps it played an important role in the later letters between Premier Khrushchev and President Kennedy.

"We took a calculated risk," one admitted, referring to the fact that the four were all volunteers in the reserve program. Each of the four had previously spent at least three years on active duty. The opportunity to continue flying and the chance to help finance themselves through law school were the main reasons they volunteered.

One admitted that, although the four are training 12 hours a day on a seven-day-a-week basis, "It still does not seem real. But I suppose after a month or so of flying it'll seem real enough."

All four of the reservists are stationed at Hanscom Field in Bedford, Mass. Three of them are with the 731st Troop Carrier Squadron of the 94th Troop Carrier Wing. Amidon, the fourth, is with the 94th Troop Carrier Wing, but is in the personnel section.

"We have no idea how long we'll be in," one said, "but we're hoping it'll be as short as, say, a month. If so, we'll try to pick up our work at the law school again this year." The orders call for a period of duty up to 12 months. Batista must give up arguing in the Ames semifinal round this fall with the Choate club, and Brownwood will have to stop his work with the Board of Student Advisers.

This is the first time Law students have been called out of class since the Korean War. Several students were called to duty during the Berlin crisis last year, but none was called while school was in session.

Variety Show Postponed

The Law School Variety Show has been postponed until after Christmas because of a shortage of willing talent. The Dorm Council still hopes to find enough students able to participate in a January or February production.

Cavers Urges Summit Talks

Professor David Cavers, Fessenden Professor of Law, was one of a small group of area professors who drafted a statement appealing for a summit meeting between President Kennedy and Premier Khrushchev on the Cuban crisis. The statement appeared as an advertisement in the *New York Times* last Thursday.

Sunday night Professor Cavers explained to the *Record* that the purposes of the statement — which was signed by more than 500 professors — were (1) to urge bringing together the two leaders and (2) to bring them together within the framework of the United Nations. Mr. Cavers said, "As it looks at this point (Sunday night) the aims of our statement may come about. Not only does it appear that there will be further discussions on the Cuban problem instead of war but also the role played by the United Nations in the crisis has been a significant one — that of peacemaker and not prosecutor."

Fisher Writes to Times

Professor Roger Fisher, in a letter appearing in the *New York Times* last Sunday, stressed the necessity of "... keeping the size of international issues under control and upon making it as easy as possible for other countries to accept a solution."

The letter, also signed by Morton H. Halperin, of the Center for International Affairs and by Donald G. Brennan, President of the Hudson Institute, concluded: "... Our flexibility in negotiation should not be handicapped by the insistence of extremists that other countries lose face. Much of the public has learned not to look at world affairs as a game in which one country's gain must be matched by another country's loss."

In Honor of Mount Holyoke

The RECORD will not publish next Thursday, Nov. 8, in honor of the 125th anniversary of the founding of Mt. Holyoke Female Seminary, the first college founded exclusively for women.

Who Becomes A Lawyer?

By Donald W. Kramer

Students who show an early interest in the study of law "have more affluent families and a higher frequency of parents with professional status," than students in general. They are also "more urban and are disproportionately Catholic or Jewish."

Future lawyers value highly "the making of money, the chance to help others . . . , freedom from supervision and the opportunity to work with people." They tend to call themselves "liberals" in politics and describe themselves as not "religious."

These are some of the findings in a preliminary report of the National Opinion Research Center on results of interviews with college students graduating in June, 1961. They were made public by Vice Dean Louis A. Toepfer in an article in the October issue of the American Bar Association Journal.

The study stems from a 1961 NORC survey of career plans among nearly 34,000 seniors in 135 colleges and universities. Believing that the material could be useful to law schools and bar associations, the Law School Admission Test Council and the American Bar Foundation, of whose joint Advisory Committee Dean Toepfer is chairman, supported further studies of about 4000 students who showed an interest in law at any time during their college careers.

Final Report Expected

Follow-up questionnaires were distributed last May, and a final report is expected early next year.

The preliminary survey showed, Dean Toepfer said, a marked difference between the social and personal backgrounds of the college seniors who planned to be lawyers and those of their classmates who had no legal interests. He added that those who gave up early law aspirations tended to have the same background as those who had never been interested.

"This indicates that to a large extent their switch to other fields may not be due to shortcomings in law or law schools, and that this loss of prospects would not be stopped by redoubled efforts at recruiting," he wrote.

Those who switch into law, he added, tend to show the same traits as those previously interested.

In addition to the differences in social background, the personality data obtained from self-ratings showed that future law students tended to be high on "drive, extroversion, sophistication, intellectual idealism and a quality called 'emotionality'."

The survey showed that the prospective lawyers tended to "value originality and creativity less than non-lawyers do," but that they did not seem too concerned about escaping high pressure work.

Less Subsidized

The report also pointed out that law students were "much less successful in obtaining financial aid" than other graduate students, Dean Toepfer said. Further statistics, he said, will provide "a basis for examining the effect of heavy financial support for the study in other fields on the plans of students who are or once were contemplating law as a career."

In analyzing the switches of student interest, Dean Toepfer reported that law gains from engineering, business, medicine, and the physical sciences. It loses other students to business, humanities, social sciences, and education. But overall, he said, "law gains more than it loses in numbers and in quality."

He also noted "that law compares favorably with other career fields in attracting academically superior students."

Barnes Reappointed

Mr. William S. Barnes, Assistant Dean and Director of the World Tax Series, has been reappointed to the special Committee to Cooperate with Cuban Lawyers in Exile. Dean Barnes has served with the committee since its organization in 1961 by the American Bar Association for the purpose of aiding Cuban lawyers in exile to find employment in this country.

King Traces Negro Advance

By Stewart D. Davis

"The Future of Integration" was the topic of the sermon delivered by the short, well-dressed minister whose cultured voice, tinted with a Southern accent, rang out in Sanders Theatre last Wednesday evening.

"We've come a long, long way, and we have a long, long way to go," Baptist preacher Martin Luther King, the Negro symbol of non-violent direct action in America today, told a Law School Forum audience.

For over two centuries, from the time the first slaves were brought against their will to America in 1619 through the Dred Scott decision in 1857, Negroes were treated as de-personalized cogs in America's economic system, with no rights which the white man was bound to respect, said King.

"The Negro has come a long, long way since 1619," King stated. Through long years of struggle and self-sacrifice he has gained a new sense of dignity and self-respect.

As examples of the slow gains in civil rights, King pointed to many areas: lynchings have practically ceased today; the poll tax is eliminated in all but four states, and voter registration has doubled since 1948; Negroes earn 12 times what they did 10 years ago; and the walls of legal segregation, established in the "separate but equal" doctrine of *Plessy v. Ferguson*, are gradually crumbling.

"The system of segregation is now on its deathbed," said King. "The question is how costly the South will make the funeral."

But, King stated, "There's still a long, long way to go." In the legal area the doctrines of interposition and nullification are still strong in the South. And methods of physical violence, such as church-burning, are "as bad as lynchings," said King.

In other fields: external pressures keep many Negroes from voting; economically the Negro is still "the last hired and the first fired," and the working Negro earns far less than the white worker.

"Segregation," said King, "still has great last-minute power, though on its death-bed." He added: "If Democracy is to live, segregation must die. It is a cancer in the body politic. We don't have long to do it." He challenged, "We can't afford to slow up be-



cause of our love for America and the democratic way of life."

One of the chief forces to be mobilized to meet this "challenge of the hour," said King, is the Federal government, which must use all its Constitutional authority to enforce the law of the land.

At the same time he added, two myths must be destroyed. One says, "It will take *time* to solve the problem." King answered this by saying, "Time is neutral. Progress never rolls in on the wheels of inevitability, but comes as the result of the efforts and work of dedicated individuals. The time is always *right* to do right."

The other is the myth of "educational determinism," which says progress can come only by changing men's hearts. King said that behavior can be regulated in that the law can restrain the heartless.

Other forces to be mobilized, said King, are the leadership qualities of three groups—the white moderates in the South, the religious leaders, and the Negroes themselves.

He said increased Negro voting, the result of stepped-up registration drives, may be the most significant single development in the South.

King explained his theme of non-violent direct action by saying it disarms its opponent by working on his conscience and reaches moral ends by moral means. Its key, said King, is a strong and powerful love which, like the Greek *agape*, is based on understanding and redemptive good will.

Justice Clark Speaks

(Continued from page 1)

chair, gave the opening toast: "to Dean Pound, the dean of deans."

One party was missing from the head table at the start. He was coming from the Logan Airport with a police escort. He had just arrived from Atlanta, Ga., to be present to honor Dean Pound on his birthday; and before the party was over, he would have to leave to catch a 3:30 plane back to Washington, D. C., where he works. That party was the principal speaker, Tom C. Clark, Associate Justice of the Supreme Court, who brought with him the best wishes of the entire Supreme Court.

Justice Clark praised Dean Pound as "probably the top legal educator and philosopher this age has produced." He spoke of the three phases of the Dean's great contribution to jurisprudence: First, his many years spent as a teacher, during which, Justice Clark said, "no man has reached more minds." Second, his major contribution through his writings to the understanding of law, not only common law but Roman, European, and Far Eastern Law. Third, his legal philosophy which has had such a great influence on the development of American law.

He spoke specifically of the Dean's monumental speech to the American Bar Association in 1906 on "The Causes of Popular Dissatisfaction with the Administration of Justice." Justice Clark further praised him for his efforts in founding the American Judicature Society, which is dedicated to the modernization of court procedure.

Dean Pound responded by saying he was overwhelmed by the praise given him. He said his appreciation of the honors given him was unbounded, and he only hoped that he might be able to measure up to the things said about him.

Then the Dean was presented with a large portrait of himself by Patricia Tate, a Boston artist. It will be hung in the headquarters of the Roscoe Pound NACAA foundation, which co-sponsored the party with the Fletcher School of Law and Diplomacy of Tufts.

He was also presented with a citation from the West Virginia Trial Lawyers Association making him an honorary member in consideration of his work with that organization.

Faculty Honors Pound In Casual Office Party

By Daniel J. Kucera

"Well, this is quite overwhelming!" exclaimed Dean Roscoe Pound, as a small group of friends circled his desk to wish him a happy ninety-second birthday. Casually strolling into his Langdell office Saturday, they greeted the venerable jurist with smiles, vigorous handshakes, and popping flashbulbs.

In a simple, homey ceremony, the Dean was presented a copy of *Essays in Jurisprudence in Honor of Roscoe Pound*. Prepared by the American Society for Legal History especially for his birthday, the book contains 25 essays by jurists from 16 countries. Among the authors whose names are almost legendary are Hans Kelsen, Giorgio Del Vecchio, Wolfgang Friedmann, Theodore Plucknett, José Puig Brutau, Karl Olivecrona, and Minocher Sethna. Dean Erwin N. Griswold wrote the introduction.

"Many of the authors are your former students," Professor Ralph A. Newman, President of the Society, said in presenting the book. "All, by their participation, acknowledge their debt to your philosophic thought. In a way, however, the whole world of legal philosophers consists of your students."

The famous green eyeshade accenting his thick silver hair and framing his sparkling



At the office party: (L. to R.) L. Hall, R. H. Field, L. L. Jaffe, S. Glueck, R. A. Newman, Dr. Tsao, A. J. Casner, H. M. Hart, Jr., Mrs. Newman, A. W. Scott, and J. P. Dawson honor Dean Pound.

eyes, the Dean leaned back from his desk. When he retired, "a good many years ago," he replied, one of his former students produced a book of essays in his honor. Now, upon receiving a similar book, "I suppose I ought to be retiring a second time!" Then he added, "I was just wondering if the course of events brought about my surviving for some years to come, whether that's going to mean a continuation of this good fortune that has been following me so far."

"The one thing in the 92 years that I have now achieved that I look back on with satisfaction," Dean Pound continued, "is the wonderful group of students who listened to me during the 50 odd years that I have been teaching. I cannot tell you how much I appreciate this gathering. I earnestly hope that I shall be able, in such time that is left to me, to stand up to the measure of what you seem to expect of me."

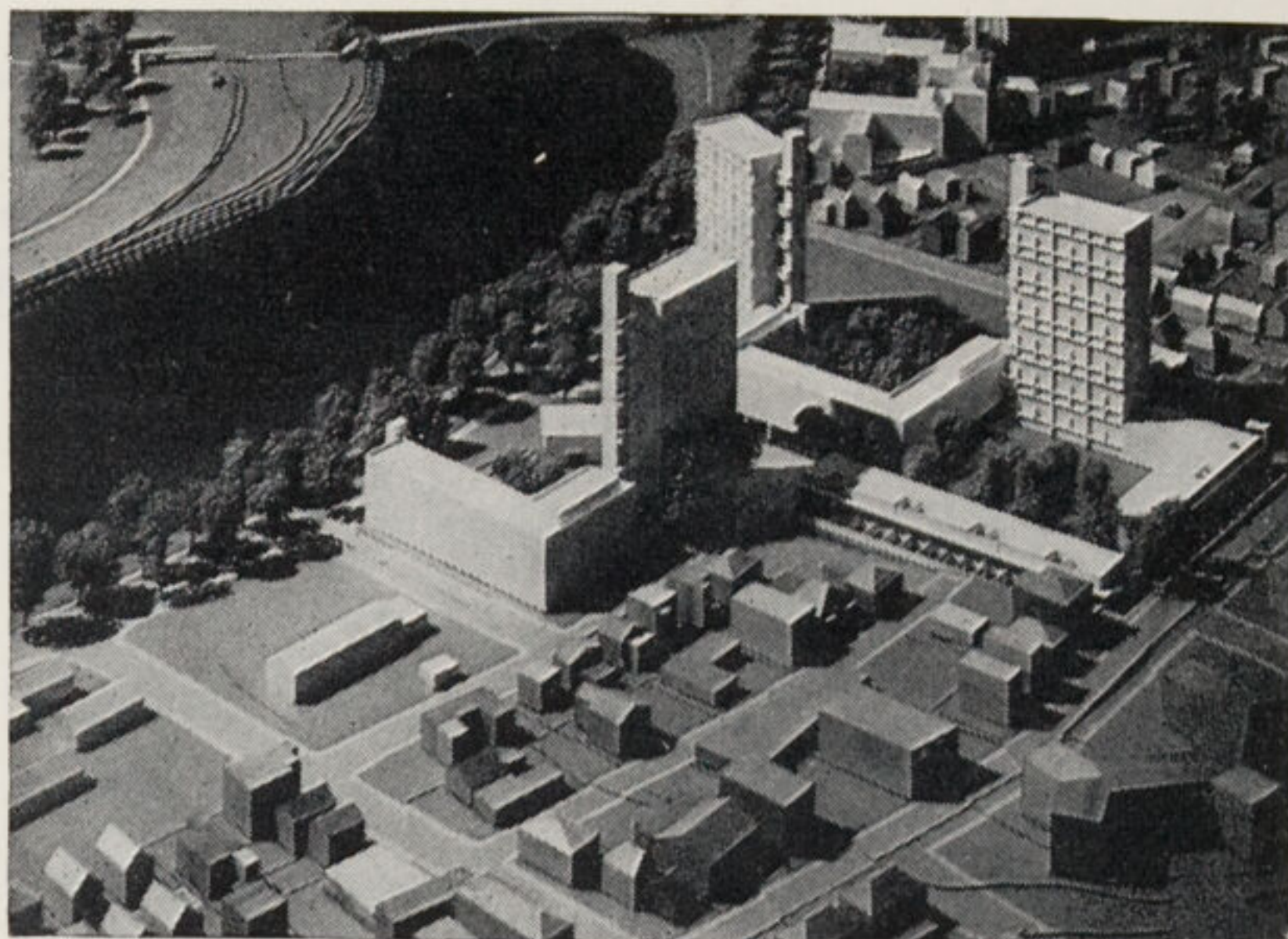
Earlier in the ceremony, Dr. Wen-Yen Tsao, Cultural Counselor of the Embassy of the Republic of China, read to Dean Pound a message from Chiang Kai-shek. "Please accept my heartfelt solicitations," President Chiang wrote. "In your long and distinguished career, you have made important contributions to law and humanity. I recall with gratification your association with the Chinese government and particularly your invaluable advice on how to improve our judicial system. On this happy occasion, I wish to reiterate our profound appreciation and send you our sincere birthday greetings."

"It was my good fortune to be able to work for a few years for President Chiang, a man who hasn't received justice in this country," replied Dean Pound. According to the Dean, Chiang Kai-shek received unfair press coverage from the beginning, and "never had the credit in this country for what he achieved in China."

After a brief picture-taking session, Dean Pound peeked over the mountains of books and papers on his desk and invited his friends to stop in and visit him often. "I appreciate your coming to see me. I can see, however, that you have things to do besides coming to see me —"

"You always look busier than we do!" interrupted Professor A. James Casner. "That's the trouble . . ."

Then someone added, "You make us feel lazy!"



Harvard Moves Ahead On Married Student Housing

By Neil L. Chayet

Harvard University is moving "full steam ahead" on its plans to build an apartment development for married students and their families on Memorial Drive below Dunster House.

Vice President L. Gard Wiggins announced this week that working drawings for the expanded complex will be completed late this year. Bids will be let about January 1, and actual construction should be underway by early February. The development was delayed for a short time while various problems, such as street closings, were resolved with the City of Cambridge.

Several changes have been made since the original announcement of plans to build the development. (See RECORD, Vol. 34, March 29, 1962). The overall size of the complex has been increased, with 500 apartments now being projected instead of the 400 originally planned. There will be 87 efficiency apartments, 198 one-bedroom apartments, 198 two-bedroom apartments, and 25 three-bedroom apartments.

The development will be built on Harvard-owned land between Hingham and Flagg Streets.

Offstreet parking will be provided for 70 percent of the residents. What is now Sterling Street will be converted into a pedestrian mall leading to the River front and public benches along Memorial Drive.

A nursery and pre-school facilities, a library, meeting rooms, study cubicles, and a self-service laundry will be provided for residents.

Weinberger Says Crisis May Help Nixon Campaign

By Edwin S. Kahn

The Cuban crisis may help Richard Nixon in his bid for the California governorship, Caspar Weinberger, California Republican Chairman, said here Friday.

Weinberger speculated that the crisis could help Nixon in two ways; first, Nixon's "impeccable" stand in calling for stronger action throughout the campaign, and second, the "shrinking" of the importance of the state election might cause many more Democrats than Republicans to stay at home on Election Day.

Speaking to a crowd of 50 at a meeting of the Republican Club, the California attorney hastened to say that his comments on the effect of the crisis were only a guess.

Noting that Nixon had defeated Kennedy in California by 35,000 votes in the 1960 Presidential contest, Weinberger explained that GOP strategy today is much the same as it was then.

About 85 per cent of the registered Republicans voted in that election for Nixon, while 725,000 Democrats crossed party lines to vote for him. The Republicans are working for the same sort of result this time, Weinberger said.

Communism has become an important issue because bipartisan audiences have reacted "tremendously" when Nixon answered questions on the topic, he explained.

On other local California political issues, the Republican State Chairman blasted the Democrats for gerrymandering election districts in their reapportionment plan and for creating a bad business climate by maintaining the highest state tax rate in the country.

Edward W. Brooke, Republican candidate for Massachusetts Attorney General, was forced to cancel an appearance here Monday.

Hart to Give Holmes Lectures

Professor Henry M. Hart, Jr. will give the Oliver Wendell Holmes Lectures on Monday, Tuesday, and Wednesday evenings, February 18, 19, and 20, 1963. The lectures will be given in the James Barr Ames Courtroom, and all law students are invited to attend.

Dorm Council Votes Representation for Wyeth

By Michael J. Henry

The Dormitory Council has voted to provide for representation of women law students living in Wyeth Hall. The resolution to extend representation to Wyeth and make any necessary revisions of the Constitution was adopted at Monday's meeting.

The consensus of the Council was that although some of its business is concerned exclusively with the men's dormitories, it does handle a sufficient number of matters of common interest to make such an arrangement desirable.

The Council also voted unanimously to establish a permanent liaison with the Graduate Student Association. The aim is to permit collaboration on joint programs and to make more and better programs possible by drawing on the combined law and graduate student bodies. Council President W. Phillip Rockefeller appointed Michael McTighe to establish the initial liaison.

Buildings and Grounds Committee Chairman Stuart Hall reported that efforts are continuing on the project to provide a postal facility for the dormitory area. Recent negotiations with the Cambridge postmaster have dampened hopes of actually getting a mailbox in Harkness, since the local postal chief already feels oppressed by the number of mailboxes in the city. The committee's alternative battle strategy is to persuade a nearby business to install a postal substation for its own and the law dorms' benefit.

Hall also reported that improvements in room cleaning could be anticipated in the dorms as soon as adequate new cleaning apparatus is purchased.

The Dormitory Council's mixer this Sunday night in Harkness Commons will feature two bands, reported Social Committee Chairman Joseph Brachfeld. He also noted that two small, informal Sunday afternoon coffee hours have already been successfully sponsored with two dorms at Wellesley and that another such affair is planned for November 11 with Bush Hall of Jackson College.

Council President Rockefeller reported that exploratory talks have been held with appropriate administration officials in regard to the re-examination of the parietal rules.

FEATURES SECTION

Practice, Politics, and Piano

By Bruce Abel

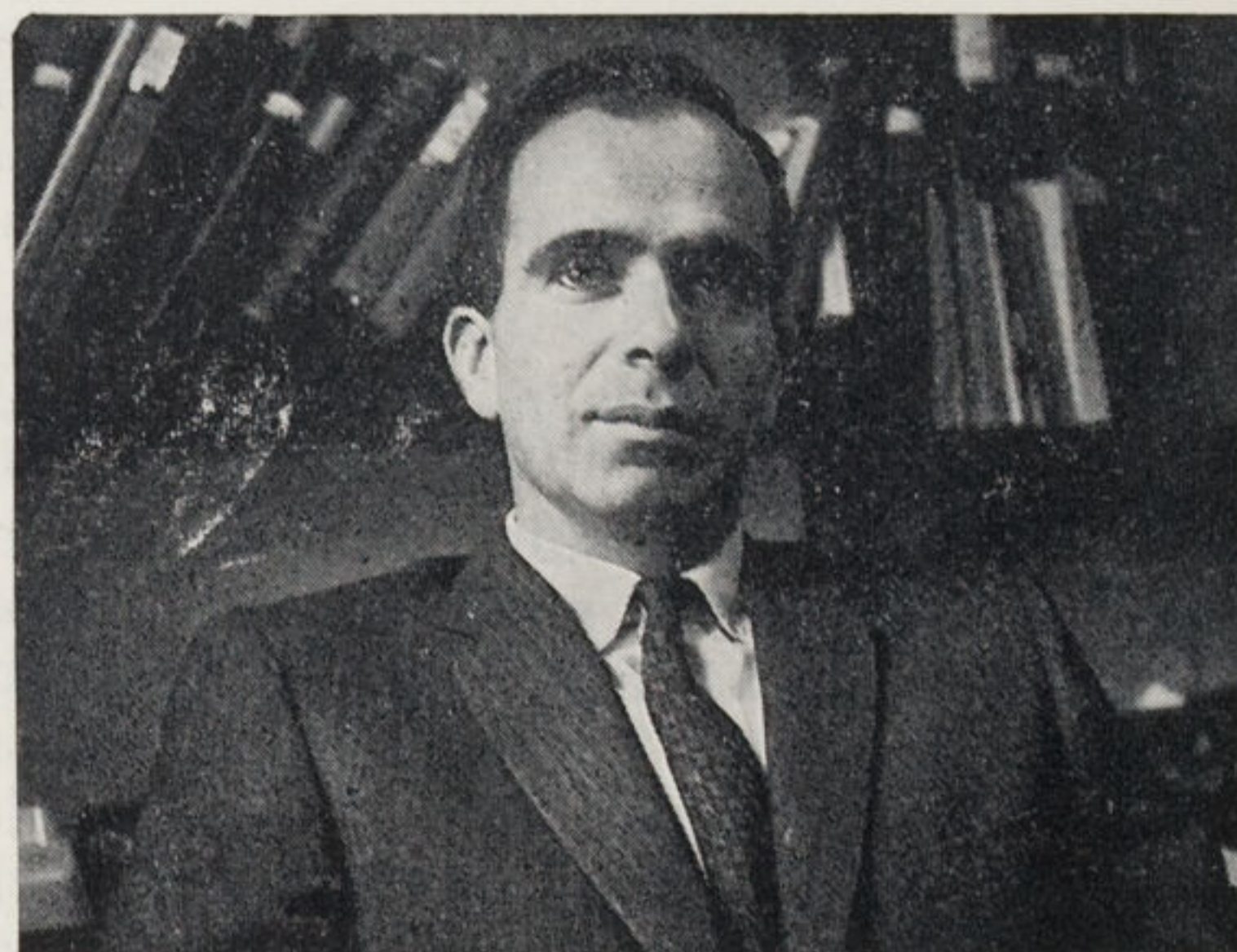
Professor James Vorenberg, recently wooed away from practice in corporation law as a partner in the Boston firm of Ropes and Gray, sat in his office last week and compared the virtues of a Boston law practice with those of teaching.

"Boston is a marvelous place for practicing," Mr. Vorenberg began. "A lawyer here can play a responsible role on interesting and important problems at an earlier point in his career than he might think upon leaving law school. Few people are born wise," he continued, "and for most of us it's a good idea to find work in a firm which has a number of top-rate men willing to work closely with a new man."

"In a good firm you will find men with widely varying areas of strength," Professor Vorenberg added. "One man may be an expert negotiator, another may be first-rate at oral argument, a third may be deeply perceptive. With these types of men helping him, a young lawyer can develop his skills way beyond what he otherwise would probably do if he started in practice for himself. Of course, this kind of experience is not limited to a large firm."

Regarding his new vocation, Mr. Vorenberg admits that he is "very impressed" with the caliber of students in his classes (Corporations and Criminal Law) and that he finds the challenge to the teacher at least equal to that put upon the student. "A law school class seems to be much more of a co-operative process than I had realized while a student here," he noted.

Mr. Vorenberg, a graduate of both Harvard College (1948) and the Harvard Law School (1951), where he was President of the Law Review, is a native of Cambridge and has been active in local politics. Last year he concluded a term as President of the Cambridge Civic Association. "I think I'm somewhat less cynical about Massachusetts politics than most people are," Mr. Vorenberg said. "Most people hope to have 'good government,' but feel they can't really do anything about getting it. The basic need, in this regard, I feel,



is to make sure that the people are given the facts enabling them to feel they *can* do something."

Mr. Vorenberg met his wife, "Dixie," (who, as far as he knows, has never been farther south than the Pentagon), while he was working in the Air Force General Counsel's office. He worked in that office as a civilian for six months and then spent two years' active duty in the same office. During this tour, Mr. (then Lieutenant) Vorenberg served as the legal representative of the Secretary of the Air Force for the base negotiations in Spain. Following the tour of duty, Mr. Vorenberg was law clerk to Justice Frankfurter for two years; in 1954 he joined Ropes, Gray, Best, Coolidge and Rugg (presently Ropes and Gray). He was named a partner in 1960.

The Vorenbergs have three children: Jill, 8; Amy, 5; and Eliza, 2.

The Professor's other interests besides the law and local politics include sailing and playing the piano. Regarding the latter, Mr. Vorenberg noted that his progress had been twice halted by the law. He took lessons in the summer of 1949, but then found that working on the Law Review the next year did not allow much time to continue piano practice. "Then I tried again last year," he said. "But again I had my progress interrupted — this time by my appointment to the faculty at the Law School. My family and the neighbors are clearly the beneficiaries of the interruptions," he concluded.

It's Wiser to Avoid the Issue

By Donald G. McNeil, LL.B. '38

Mr. McNeil's article originally appeared in the September, 1962, issue of The Brief Case, a magazine published by the Bar Association of San Francisco. It was brought to our attention by Professor W. Barton Leach, Story Professor of Law. — Ed.

Theaker v. Richardson (Feb. 16, 1962) 1 W.L.R. 151, a recent English case, deals with the delicate question of whether the sender of a letter to a married woman must anticipate it will be intercepted and read by her husband. Doris Theaker, the wife of a coal heaver, was a member of the Mablethorpe and Sutton Urban District Council. So was Frank Richardson, a jeweler. Both were members of the Conservative party. Despite the bond of post and party, Mrs. Theaker and Mr. Richardson were enemies.

Their reciprocal disaffection might, however, have wholly escaped public notice had not Mrs. Theaker seen fit to heap verbal abuse on her colleague's wife in a public place. Richardson found the ladies quarrelling on the street. Mrs. Theaker, with a skill sharpened in scores of spirited campaigns, had completely humiliated and unnerved Mrs. Richardson.

Mr. Richardson drove his wife home and then returned to his shop. His resentment against Mrs. Theaker mounted. He started to write her a letter but was so angry that he could not write legibly and was forced to use the typewriter. As summarized by the court (page 152):

"The letter began 'Mrs. Theaker, For the way you treated Mrs. Richardson today I am going to show you up in every way I possibly can. I have quite a record on your dishonest activities and I will as from today start to put people wise to you.' The letter then accused the plaintiff of shoplifting, of keeping a brothel, of dishonesty on the council on which she was said not to be fit to serve, of being a prostitute and, in fact, 'a very dirty whore' and the letter ended: 'Mrs. Theaker, you are nothing but a lying low-down brothel-keeping whore and

thief, and by the time I have finished you will be sorry indeed that you ever began to meddle in local affairs, or to take upon yourself to make the remarks you have to Mrs. Richardson.'"

Richardson placed the letter in an ordinary manila business envelope, gummed down the flap and double-sealed it with a strip of Sellotape. He typed Mrs. Theaker's name and address on the face of the envelope but did not affix a stamp, having determined to deliver the letter personally. On reaching the home of Mrs. Theaker, however, he saw a car parked in front and assumed she had company. He therefore put the letter through the mail slot and walked away.

Actually, there was no one in the Theaker house when the letter was delivered. Mrs. Theaker's husband, the aforementioned coal heaver, entered a few minutes later. He saw the letter on the mat, opened it, read it and showed it to his married daughter.

Mrs. Theaker testified that, as a result of the letter, her health was affected, she became less popular socially and in the election the following year her majority was reduced by 400 votes. The claimed injury to her health was that her ability to sleep was impaired. While to the reader the damage may seem insubstantial, the jury awarded her 500 pounds.

On appeal, the questions were:

- (a) Was the jury perverse?
- (b) Were the damages excessive?

The question of the jury's perversity, I am glad to say, was determined by objective rather than subjective standards, i.e., whether the determination was so unreasonable that no twelve reasonable men and women properly applying their minds to the correct questions could have given such answers.

The basic question, of course, was whether the interception and perusal of the letter by Mr. Theaker, the coal heaver, was the natural and probable consequence of the defendant's act. If not, the essential element of publication would have been absent. I found the

(Continued on page 11)

Avoid the Issue

(Continued from page 10)

analysis of Ormerod, L.J., the most persuasive. He said (page 155):

"Surely it cannot be assumed that it is a general practice for one spouse to open the letters of the other, and there was no evidence that the defendant knew that it might happen in this case."

Ormerod's opinion appears to be consistent with the case of *Huth v. Huth* (1915), 2 K.B. 32, in which the claimed publication was to the addressee's butler, who opened the letter out of mere inquisitiveness. There the claim failed because this was held to be a breach of the butler's duty, not to be anticipated by the defendant.

The majority of the court, however, affirmed the judgment. Said Harman, L.J. (page 157):

"It was suggested for the plaintiff that the court should take judicial notice of the fact that husbands do read wives' letters. This I reject, but it does seem to me that the master of the house, when confronted with an unstamped document on the doormat looking like a circular, is not unlikely to pick it up and read it."

Judge Pearson held that in determining the foreseeability of the fact that the letter might be opened by the husband, the jury was entitled to take into account the coal heaver's station in life and the fact that he was not accustomed to dealing with documents. The other factors upon which the jury was entitled to rely were that the address on the letter was typewritten, the letter was unstamped and the envelope was brown rather than white.

The lesson to be derived from this case is that one cannot send a scurrilous letter to a female in England with impunity even though it is properly addressed, delivered to her home and double-sealed. You may, however, vastly improve your chances of escaping liability if you (1) pick on a lady married to a gentleman rather than a coal heaver — ideally, she should have a butler, even though an inquisitive one; (2) write the letter by hand; (3) use an envelope of high rag content white paper, preferably bearing your family crest; (4) mark the letter "personal

and confidential"; (5) put a stamp on it; (6) even though the envelope be stamped, deliver it in person, for the use of the mails for scurrilous missives might be itself an offense. On the whole, it might be better to telephone her.*

* A. Littman, Esq., a distinguished member of our bar who was born in England, suggests that scurrilous remarks made on the telephone might be a criminal offense. Perhaps you should whisper in her ear. Better yet, forget the whole thing.

Schachter Tells I.L.C. Law Is Important to UN

Lawyers frequently scoff at the idea of international law, Mr. Oscar Schachter told the International Law Club at its third meeting last Friday.

The Director of the Legal Division of the United Nations said that political scientists say that international law is a fig leaf to cover international disorder. Among the most persuasive of those who characterize international law as political are Dean Acheson and Professor Julius Stone.

Mr. Schachter demonstrated in the body of his talk that there is meaning to the concept of legality in the Security Council and the General Assembly. The problem of international violence is met by the rule in the Charter against the use of force, and the phenomenon of emerging nationalism with its attendant problems is met with the principle of the right of self-determination. Nations which deviate from these rules do not deny them; they rather try to use these rules to support their position.

Mr. Schachter also pointed to the "corporate body" conception of the UN, a conception which was important to the late Dag Hammarskjöld. The body of the UN is directed by an executive, which is controlled and supervised by law, both written and customary.

And finally, observed Mr. Schachter, there is an intimate relation between legality and impartiality in the international civil service.

Former Finance Minister to Speak

The International Law Club will hold a luncheon meeting in Harkness Commons Meeting Room on Tuesday, November 13, 1962. Sir Ernest Vasey, former Finance Minister for Tanganyika, will address the meeting.

University Stops Democrats From Collecting for NAACP

The University administration prevented the Law-Graduate Democratic Club from soliciting contributions for several Negro civil rights groups at the Martin Luther King lecture at the Law School Forum last Wednesday.

Dean of Students Robert B. Watson said this week that a University policy prohibits solicitation by any organization on University property. The only exceptions are for organizations charging admission to their own programs and using the money for internal operations. He said that it was against the policy spelled out in a letter from the Treasury Department to use admission proceeds to support any activity outside the organization.

The Democrats were also prevented from distributing literature seeking contributions to the groups — the NAACP, CORE, and the Student Non-Violent Coordinating Committee. Dean Watson said it was against University policy for an organization to distribute literature at any other group's meeting.

He said he was unaware that students were stationed outside the King speech to hand out announcements of a Cuba rally to be held later that night in Lowell Lecture Hall. He said police should have stopped the action.

In other fund raising activities during the week, the Democrats raised approximately \$80 for seven Democratic candidates across the nation.

The Club also continued to provide workers for Endicott Peabody's campaign during the week and plans to work all day on Election Day.

The Jury Will Be "Bugged"

A flagrant violation of one of the most sacred rights in our judicial system will be deliberately perpetrated in Austin Hall next week. The deliberations of the jury will be recorded following the Model Trial in the Ames Courtroom next Thursday.

This violation of jury secrecy is prompted only by the highest academic motives. As the trial is set up, almost the entire case turns on the credibility of one witness, Miss Marsha Mather, the "girl friend" of the defendant. The recording will show how the jury judged her credibility and will be useful in understanding how juries reach their conclusions.

Jury deliberations are normally taped in the Model Trial to enable students to see what issues were most influential with the jury as compared with what issues they felt should have been most influential.

The case is a civil suit by the widow of a bystander killed during a jewelry robbery to get damages from an alleged accomplice in the crime.

The case will include two important questions of law:

Whether one of the bases of the action is barred by the statute of limitations.

Whether proof of coercion will act as a bar to a civil action based on tort.

Chayes at Sherry Party

Abram Chayes, former Harvard Law professor and now Legal Adviser to the State Department, is scheduled to be the guest at a Sherry Hour of the Law-Graduate Democratic Club at 5:30 tomorrow afternoon in the Pound Room of Langdell Hall.



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Law School Fund: "Biggest Year Yet"

By Daniel J. Kucera

"The biggest year ever!" That's what they are all saying about the Twelfth Year of Annual Giving to the Law School Fund. From July 1, 1961, to June 30, 1962, alumni and friends contributed a record-breaking \$605,438. "This is a magnificent response," concluded National Chairman Carlyle E. Maw, LL.B. '28. "We are most grateful to the many contributors."

In addition, 8,382 donors participated — the largest number in Fund history and 433 more than last year. And, enthusiastic generosity came from 47.2% of all Law School graduates: another all-time high. "We are glad," said Dean Erwin N. Griswold in his annual report, "that we have broken through the barrier which for three years existed at the 45% point. I hope that the percentage of alumni donors will now continue to increase. It remains my hope that the time will come when at least 70% of our graduates will participate."

These impressive figures reflect the great growth of the Fund, which is under the direction of Assistant Dean Wesley E. Bevins, Jr. During the twelve years of annual giving — December, 1950, to June, 1962 — contributions have totalled over \$4.5 million. Since the first year, the number of graduates participating per year has grown 480%, the total number of people contributing per year has soared

460%, and the total monies given per year has increased a whopping 950%.

Exceeding all expectations, the \$605,000 received represents an increase of about \$60,000 over the previous year. The average alumni gift was \$67. The class of 1912 contributed the largest amount — \$50,500 toward its 50th Anniversary Fund goal of nearly \$70,000 — and had the highest average gift: \$743. From a class not influenced by anniversary considerations, the largest total was \$28,315, given by the class of 1920. The class of 1903 had the highest graduate participation: 82.4%. Greater New York City, which has the greatest concentration of Law School alumni, had the most participants, 1931, and produced the largest total contribution, \$167,000. All 13 graduates in Alaska contributed, making it the only area with 100% alumni participation.

The Law School Fund is a backbone of the financial aid program and of improvements in the physical plant. For example, of the total money received in the Twelfth Year, \$215,000 was restricted for scholarship endowment and loan purposes, and \$121,500 for current use for financial assistance to students. The \$270,000 in unrestricted gifts further increased loan funds, paid for recent improvements in Ames Hall and Hastings Hall, and paid for part of the new lighting in the Langdell Reading Room. Similarly, most restricted gifts in earlier

years were made for student assistance; and unrestricted funds helped pay for the new dormitories, the new Ames Courtroom, the refurbishing and boring of tunnels in the Austin - Langdell - Harkness subterranean network, and other benefits not enjoyed by prior generations of students.

The Alumni Scholarship Committee also had a record year. Its 217 members, an increase of 5, gave a total of \$240,000 — an increase of \$32,000 and a sum equal to over one-third of the entire amount received by the Fund for the year.

Located within the Fund, the Scholarship Committee is an exclusive club comprised of alumni who specifically designate their "dues" for scholarship or loan purposes. (You can find their names on pages 115 to 121 of the Law School Catalogue). Life members are those who have endowed a full tuition scholarship; the current members are those who made an annual gift of \$1250 (current full tuition), \$1000 or \$800 (formerly full tuition), or \$500 (the most common grant-in-aid sum).

The growth of the Scholarship Committee is impressive. In 1950-51, the first year of the Fund, only 36 men paid the \$600 dues, the cost of tuition. (Continued on page 14)

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Letters to the Editor

To the Editor:

I was sent your publication which contained an article on the Ole Miss Rebels [RECORD, Oct. 4, 1962]. It is a total misrepresentation of the situation. We do not want to associate with negroes down here. I would advise that you read "Race and Reason." An association of white people with the negro raises the negro's situation very little but is disastrous to the Anglo Saxons.

Behind it all is the fact that we are fighting for States Rights.

If negroes have a school, college, or fraternity, a white man has no right to break in on them, regardless of what morons like the Kennedys feel in that the negroes should break in on us.

The picture that is drawn of General Walker being a rioter is a damnable lie. The Negro came there to start a riot, and did start it, and had the full support of 25,000 army men. He is now guarded night and day.

Incidentally, when some students wanted to leave the classroom where Meredith was, the United States marshals drove them back in by force.

If this is your opinion of States Rights, you are a moron just like the Kennedys. But I don't believe you feel that way.

Let me reiterate that Robinson [sic] is an unmitigated liar.

Tom L. Gibson
Member, Mississippi
House of Representatives

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Fund Drive

(Continued from page 13)

tion at the time. Twelve years later, the "club" boasts 217 members, with many giving \$1,000 or \$1,250. The importance of their support is apparent: for last year, their contributions exceeded one-third the total amount awarded by the Law School for scholarships and loans.

Although the Twelfth Year of Annual Giving was a success, no one is relaxing. The Fund Organization will kick off its "New Year" Saturday when it holds its Thirteenth Annual Meeting. The entire organization, including area chairmen, class agents, and members of special national committees have been invited. Many are coming great distances with the aid of airplanes and guaranteed good weather. After the General Meeting, the alumni will chat at a luncheon in Harkness and then cheer at the Harvard-Pennsylvania football game. Later, they will tour the Langdell Reading Room and will view the recent dormitory renovations. The day will end with a buffet supper in the Root Room. Then begins the campaign for another "biggest year ever."

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Law Wives Plan Beer Party

The Harvard Law Wives Club will sponsor a Bavarian Beer Party especially for married law students on Saturday night in Harkness Commons. This will be the first time that married couples have met as a group. All married students are invited and encouraged to attend.

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Medico-Legal Conference Set

The second annual Medico-Legal Conference on Murder and Suicide will be held tomorrow and Saturday at the Statler Hilton Hotel in Boston.

Lecturers from all over the country will participate. The Conference will get underway at 9:00 a. m. tomorrow morning with an introduction by the Director of the Law-Medicine Research Institute, William J. Curran, LL.M., S.M. Hyg. The Chief Medical Examiner of Virginia, Geoffrey T. Mann, M.D., LL.B., will follow with a discussion of "The Crime Scene — Murder, Suicide or Natural Death — The Danger of First Impressions."

Highlighting the afternoon will be the presentation of "A Case Study of Fifty-One Murders and Murderers in New England."

Talks on Saturday morning will cover the topic of preparation for trial in homicide cases, from the point of view of both the prosecution and the defense. "The Insane Kill-

er" and "The Psychodynamics of Murder" will be other subjects discussed on Saturday. Also, the "Suicide Team Approach" as currently employed in Los Angeles, will be explained.

The Honorable Felix Forte, Associate Justice, Superior Court of Massachusetts, will give the closing address entitled "Science and Evidence in Homicide Cases."

Student tickets at a reduced rate of \$5.00 will be on sale at the door.

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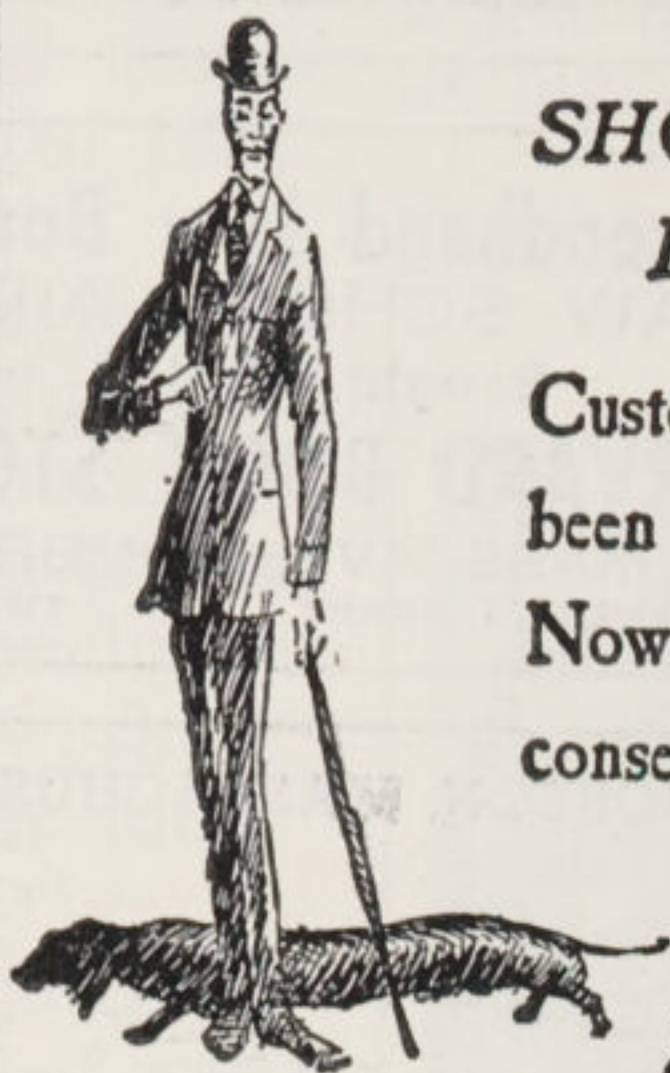
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Placement Opportunities

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

Cleveland: Hahn, Loeser, Freedheim, Dean & Wellman. Philip J. Wolf, Esq. (1 p.m. today, Nov. 1.) Thursday, Nov. 8.

Los Angeles: Loeb and Loeb. Howard I. Friedman, Esq. (1 p.m. today, Nov. 1.) Thursday, Nov. 8.

New York: IBM. H. Bartow Farr, Jr., Esq. (1 p.m. today, Nov. 1.) Thursday, Nov. 8.

New York: Sage, Gray, Todd & Sims. Ralph K. Smith, Jr., Esq. 2 p.m. today, Nov. 1.) Thursday and Friday, Nov. 8 and 9.

New York: RCA. Eugene E. Beyer, Jr., Esq. (1 p.m. today) Thursday, Nov. 8.

Pittsburgh: Mellon Nat'l Bank & Trust Co. Kenneth Hewitt, Esq., and Charles Fletcher, Esq. (1 p.m. tomorrow) Friday, Nov. 9.

Richmond, Va.: Hunton, Williams, Gay, Powell & Gibson. George D. Gibson, Esq., and T. Justin Moore, Jr., Esq. (1 p.m. tomorrow, Nov. 2.) Friday, Nov. 9.

Washington: Dept. of the Navy. Albert H. Stein, Esq., and B. Lee Bird, Esq. (1 p.m. tomorrow, Nov. 2.) Friday, Nov. 9.

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Washington: Covington & Burling. Henry P. Sailer, Esq. (1 p.m. today, Nov. 1.) Thursday and Friday, Nov. 8 and 9.

Washington: Ivins, Phillips & Barker. John C. Reid, Esq. (1 p.m. today, Nov. 1.) Thursday, Nov. 8.

SECOND AND THIRD YEAR INTERVIEWS

Indianapolis: Barnes, Hickam, Pantzer & Boyd. R. S. Ashby, Esq. (1 p.m. tomorrow, Nov. 2.) Friday, Nov. 9.

New York: Proskauer, Rose, Goetz & Mendelsohn. James J. Fuld, Esq. (1 p.m. today, Nov. 1.) Thursday, Nov. 8.

New York: Alexander & Green. Donald Vail, Esq. (1 p.m. today, Nov. 1.) Friday, Nov. 9.

New York: Emmet, Marvin & Martin. Joseph B. Breen, Esq., and James J. Higginson, Esq. (1 p.m. tomorrow, Nov. 2.) Friday, Nov. 9.

Philadelphia: Duane, Morris & Heckscher. A. John May, Jr., Esq. (1 p.m. tomorrow, Nov. 2.) Friday, Nov. 9.

SECOND YEAR INTERVIEWS

Minneapolis: Cargill, Inc. John F. McGrory, Esq. (1 p.m. tomorrow, Nov. 2.) Friday, Nov. 9.

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