



Harvard Law Record

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FIFTEEN CENTS

Chicago Judge, '43, Criticized On Resisting-Arrest Acquittal

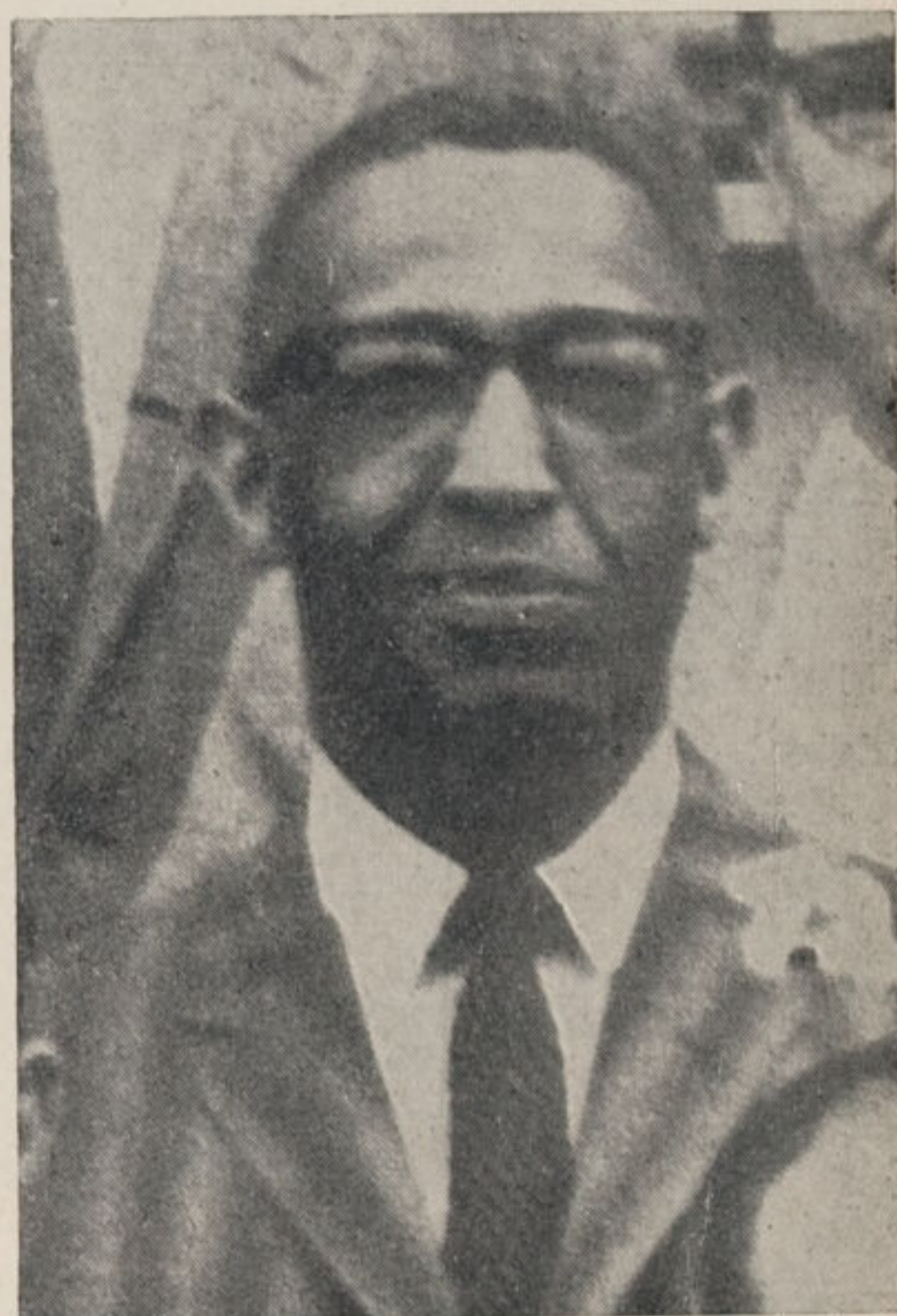
By Michael Lowenberg

A decision by Judge George N. Leighton, LL.B. '43 ('46) of the Circuit Court of Cook County, acquitting two men charged with assaulting a police officer, has touched off considerable comment in the press and police circles. The Mar. 5 ruling in *Illinois v. Rodriguez and Suarez* has been characterized by a Chicago police group as "another step toward the total moral decay of our society."

The Court's findings of fact differ from the versions reported in the press. According to the Court, police officers Raymond Howard and Thomas DeSutter, apparently relying on a tip from an informer, attempted to arrest Jesse Rodriguez and Simon Suarez, whom they found walking along the street. At that time the officers did not see the defendants do anything to justify an arrest and testified that they had no grounds for arrest in mind when they came upon the two men. As they approached the defendants, the policemen noticed that Rodriguez was carrying a broken beer bottle. Drawing their guns, the officers ran forward, yelling "Policia, Policia," and "Drop that bottle." Rodriguez then turned and said: "Come and get it, you ----- cops." DeSutter struck Rodriguez.

The officer was seriously slashed by the broken bottle, and he required 28 stitches. In the scuffle, Howard's gun accidentally fired, wounding DeSutter, who was hospitalized for over three weeks. Suarez and Rodriguez were arrested and charged with "aggravated battery" and "resisting or obstructing a peace officer." The Court's finding that "At no time did either of the defendants attack

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George N. Leighton

Securities Industry Leaders Stress Self-Improvement

By Robert M. Goff

Three leading members of the nation's financial community took part in a Mar. 19 panel discussion of "Whither SEC Reform?" sponsored by the Bull and Bear Club of the Harvard Law School.

The panel was composed of Edwin D. Etherington, President of the American Stock Exchange; Robert Haack, President of the National Association of Securities Dealers; and Byron D. Woodside, Commissioner and Acting Chairman of the Securities Exchange Commission.

Introducing the program, Professor Louis

(Continued on page 4)

Prof. Cohen to Stay On

Dean Erwin N. Griswold has announced the appointment or promotion of four new Harvard Law School professors. The appointment of Visiting Professor Jerome A. Cohen and the promotions of Assistant Professors William D. Andrews, Charles Fried and Henry J. Steiner, are effective July 1.

The appointments bring to 46 the number of professors on the Law School faculty, an increase of eight during the past decade. Student enrollment at the Law School has increased from 1,511 to 1,648 in the corresponding period.

Jerome Alan Cohen will be the first specialist on Chinese Law to serve on the Faculty of the Law School. He speaks and reads Chinese and has devoted considerable study to the law of Communist China. He spent 1963-1964 in Hong Kong where he interviewed refugees and travelers from mainland China. On leave from the University of California at Berkeley where he has taught since 1959, Prof. Cohen is a 1951 graduate of Yale and the Yale Law School (1955) where he was Editor-in-Chief of the *Yale Law Journal*. He served as law clerk to Chief Justice Warren and to the late Justice Frankfurter. Prof. Cohen has taught United Nations Law, Administrative Law, Criminal Law, Legislative Process and Equity.

William D. Andrews was a lecturer at the Law School for two years before he became Assistant Professor in 1963. He is a 1952 graduate of Amherst College and holds an LL.B. *summa cum laude* (1955) from Harvard Law School. He spent several years with the Boston firm of Ropes & Gray.

Charles Fried, who has been Assistant Professor since 1961, was law clerk to Justice Harlan in 1960-61. Prof. Fried has an A.B. from Princeton (1956), a B.A. and M.A. from Oxford, and an LL.B. (1960) from Columbia University.

Henry J. Steiner graduated from Harvard College in 1951 and received his LL.B. *magna cum laude* from the Law School in 1955. At the Law School, he was Developments Editor of the *Harvard Law Review*. As Assistant Professor, he teaches Conflict of Laws and International Transactions and Relations.

Voting Bill Gets Student Aid

Three Harvard Law students are in Washington, D. C., this week to work on voting rights legislation with a group of liberal Republican congressmen. Roger P. Craig, Jay L. Kreigel and Robert E. Patricelli, all 3L, were sent by the Ripon Society in response to a request by the Republicans for Progress, a Washington-based group of Republican moderates. In Washington they will work out of the office of Representative John V. Lindsay of New York.

Another group is working on the legislation here in Cambridge. They are Paul A. Brest, 3L; Jerome M. Congress, 3L; J. Eugene Marans, 3L; James L. Robertson, 3L; Gary Schwartz, 2L; and Thomas R. B. Wardell, 2L.

According to Marans, a director of the Ripon Society, the group will "analyze and attempt to improve the Administration bill and if necessary to provide a better alternative bill."

"We're going down there," said Roger Craig, also a Ripon member, "to see if we can get a better and in some ways tougher bill."

Holmes Lectures Cancelled

Internal political maneuvering in the West African republic of Nigeria has indirectly caused the cancellation of the Law School's annual Holmes Lectures.

L.C.B. Gower, who was to have delivered the lectures this week, is Dean of the Law School at the University of Lagos. He has continued to support the former Vice Chancellor of the University, who was not reappointed after the recent expiration of his three-year term, and is afraid, according to Dean Erwin N. Griswold, that the lectures he had prepared would be "misunderstood," in light of his politically delicate position.

"I hope and understand that this is only a postponement," the Dean said, "and that he will be able to give the lectures in the near future — perhaps next fall."

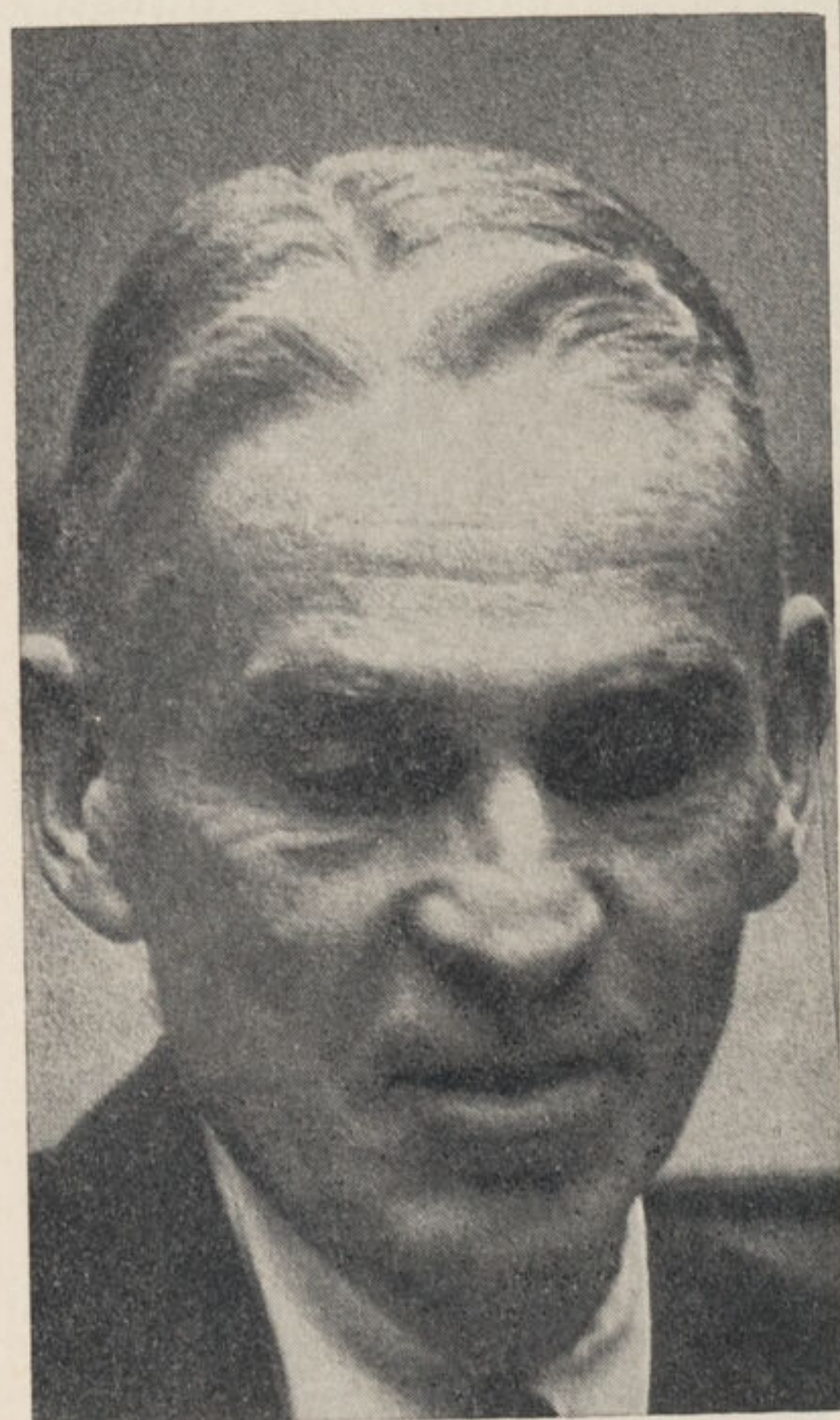
Dean Griswold is leaving next Tuesday, Mar. 30 for Nigeria, where he will be acting as adviser in the planning of advanced legal education. He will return Apr. 12.

Three Views on Use of Troops in Alabama

What should President Johnson have done when violence enveloped the civil rights movement in Selma, Alabama?

Harvard Law students packed the Ames Court Room last Wednesday evening to hear professors Albert M. Sacks, Mark DeWolfe Howe, and Charles Alan Wright answer the question in a discussion of "Selma and Federal Power."

Prof. Sacks argued that U.S.C. 10, Sec. 333 gave the President power to send troops into Selma. Had it been the panelist's decision



Professor Howe

on Monday, Mar. 8, he would have exercised that power. As of Wednesday however, he came to think that President Johnson's decision not to send troops was reasonable, and probably right. He maintained, however, that the President delayed a proper expression of outrage as the events unfolded.

Prof. Howe was in basic agreement with the first speaker. More than once he expressed concern over our reliance on the courts

to guarantee Negroes their civil rights. Other branches of the government must take supplementary and decisive action. The judicial process is not geared for quick action, he argued.

Prof. Wright agreed with his colleagues as to ultimate goals—equal rights for all men—but disagreed as to the means of their achievement. He said the President had the power to send troops to Selma only in the sense that no one could stop him if he chose to do so. To send troops under Sec. 333, the President would have to find that the laws of the United States were not longer being enforced or that citizens were being denied their constitutional rights. Past presidents have used troops only after a court order had been defied. Prof. Wright noted that there is no absolute constitutional right to march and that it is up to the state to decide in what way its highways can be used.

The panelists agreed that Judge Frank M. Johnson Jr. was right in enjoining the march until a final settlement could be reached at the later hearing.

Turning to the issue of the proposed voting bill's constitutionality, there was no dissent from the proposition that under Sec. 2 of the 15th Amendment, Congress has the power to impose its own standards of voting eligibility if state standards are being abused, and that it may set up a system of federal registrars. Prof. Wright saw some difficulty in this, but admitted that "the power of Congress given by the 15th Amendment to enforce the right of citizens to vote is a very broad one." If the proposed bill is drastic, he said, the situation has become such that "you may have to burn down the house to roast the pig."

Prof. Howe called for stronger and more direct action to take the initiative in dealing with racial unrest. But Prof. Wright pointed



Professor Sacks

out that given an expansion of federal power along the lines suggested and under Prof. Sacks' interpretation of Sec. 333, a future Chief Executive could employ troops *against* civil rights demonstrators.

Discussion of remedies for discord in the South will increasingly include the use of troops, Prof. Sacks said. Large numbers will

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Democrats Elect

The Harvard Law-Graduate School Democratic Club has elected the following to its executive board: Dale G. Higer, 2L, President; Robert I. Ronka, 1L, Vice President; Edward A. Germain, 2L, Recording Secretary; David M. Brodsky, 1L, Corresponding Secretary; and O'Neal Smalls, 1L, Craig S. Bamberger, 2L, Robert Liber, 1G, Members at Large.

Appointed to the board were Robert J. Kafin, 2L, and Peter F. Rousselot, 2L.

SEC Reform

(Continued from page 1)

Loss outlined recent developments in security reform. Following the Re scandal in 1961, thorough studies of the market were made by both the SEC and the American Exchange. The studies provided the background to the Congress for the 1964 amendments to the Securities Exchange Act of 1934. The amendments have had a dual effect: to improve procedure for corporations already required to register with the SEC, and to require registration by many non-listed companies who were previously not subject to the registration and reporting requirements of the Act.

Speaking first, Commissioner Woodside commented on the jobs facing the SEC. It is currently reviewing the forms for companies coming to the SEC for the first time. Although the numerical impact of the new amendments cannot be precisely ascertained in advance, Mr. Woodside expressed hope that the transition would not be difficult. He indicated that a major problem would be to introduce the new companies to the SEC's proxy regulations. Although the 1964 amendments brought foreign securities within the 1934 Act, the Commission, acting under its rule-making power, has exempted them until new provisions dealing with these securities can be drawn.

Mr. Etherington discussed the role the industry itself should take in the regulation

of the securities industry and the protection of investor interests. He noted that the industry had undertaken a program of self-regulation early in this century long before the New Deal legislation establishing the SEC. He viewed the Commission as a partner in the protection of the public interest.

Recognizing the problems that had existed during the Re scandal, Mr. Etherington felt nevertheless that public confidence has been restored. The reforms and restructuring that had taken place in the industry were helpful in surviving the salad-oil scandal of 1963 that brought down Ira Haupt & Co., a prominent brokerage house.

The Amex president maintained that an area in need of reform is that of communications between the industry and the SEC. He cited instances in which the industry would not learn of revised SEC rules except by reading of them in the newspapers. In order to continue the flexible and viable partnership that exists, a closer liaison may become necessary.

Mr. Haack outlined the objectives of the NASD. He stated that the over-the-counter market suffers from a lack of public knowledge. Consequently it has undertaken a program designed to improve and disseminate information to the investing public. It also hopes to improve the techniques, operations and mechanics of the over-the-counter market. During the past year steps have been taken to make the published stock

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Byron D. Woodside



Robert Haack



Edwin D. Etherington

HSA Charter Contract 'Unconscionable'

By Theodore S. Curtis, Jr.

A third-year student, Gilbert T. Graham, has charged an administrator of the Harvard Student Agencies with being "judge, jury, and adversary" in a controversy arising from an unused \$228.00 European charter plane ticket.

Graham said he signed for an HSA charter flight, but before it left decided to cancel because he could not afford a European summer. His money was not returned. "This is a staggering individual loss," he said, "in the face of the profits of HSA which must run into the thousands of dollars. It is not clear that even their unconscionable contract covers my case."

HSA officials reply that the contract was plain and that Graham does not have a case. HSA counsel Harold Rosenwald, LL.B. '30, commented that "in rare occasions of extreme hardship, we will go out of our way to accommodate our passengers" and noted that a settlement offer made to Graham of \$50 still exists. But, he added, that is the "kind of settlement of a complaint that we provide in the interest of our good will and without recognizing any legal obligations whatsoever and without intending a precedent of any kind."

Graham is considering a suit to recover his plane fare. He thinks he has a 30 percent chance of winning.

The operations of HSA, which has a near-monopoly of solicitations on University property, have been the object of student criticism in recent months. A recent examination of the HSA European charter flights led Dean Robert B. Watson to state that the University is "entirely satisfied with the HSA operation."

HSA is organized under Massachusetts law, and has a Board of Directors which includes three Deans and several students. Its activities range from the Charter Flights to the "Food Man" refreshment agency which has been stopped at the Law School because salesmen were not making enough profit to take the route.

Described by its student president as non-profit making, HSA provides employment

for four hundred — mostly students — who are paid between \$1.55 and \$1.75 per hour. The latest available figures show that four student employees, probably managers of agencies, made over \$2000 apiece in 1962-'63. The latest annual report, covering the years 1962-1963, states that student earnings aggregated \$120,000, and sales topped \$1,180,000. Concerned with their public image, and unable to decide how much detailed information to include, HSA officers have declined to publish a more recent financial report.

Charles Everill, student manager of last year's Charter Flights, stated that last year HSA paid over 200 people refunds and that Graham was the only applicant who did not meet the requirements for a refund. "In the past," Everill said, "people have always been able to get replacements if someone cancelled, but Graham's flight was in May, earlier than usual."

The contract contains a provision prohibiting refunds unless there is a replacement and the plane is full. Although some seats were sold on his flight after Graham had requested a refund, the plane made the trip with several empty seats.

Managers of HSA admit that the unusually early flight was "experimental," and that they could not have predicted that it would be successful. But they argue that they have to be strict on the "no refund" provision. If they had allowed Graham to cancel when the plane was not full the other passengers on that plane would have to absorb his fare. Attorney Rosenwald backed up the HSA spokesmen. "The question is, who is going to take the loss?" he said.

Adding to his argument on the validity of the contract, Graham contends that HSA "is the type of organization fostered for students" and that the terrific personal loss he sustained should be absorbed by the entire Charter Flights operation and not be limited to the one flight on which he happened to sign.

Charter flights are available for students, their families and alumni. Prudence would seem to require careful reading of the contracts.

A Place for Criminals and Stubborn Children

By Paul M. Branzburg

It is a long way from abstract Law School discussions of crime deterrence, correction, and prevention to the chilling realities of the Massachusetts Correctional Institution in Framingham.

This state reformatory for women was built in 1875 and designed to house a maximum of 250 inmates. At present it holds approximately 220 women, aged 17 to 80, who are imprisoned for convictions ranging from manslaughter to being a "stubborn child." About 26 percent of the prisoners are under 21.

Superintendent Betty C. Smith discusses her prison openly and bluntly. "Between 52 percent and 56 percent of the inmates here have been sentenced for drunkenness. The rate of recidivism in this group is 62 percent. The American Medical Association has said that drunkenness is a disease, but it is still a crime in this old Commonwealth."

Others in the prison have been found guilty of prostitution, lewd and lascivious co-habitation, idle and disorderly conduct, manslaughter, assault and battery, larceny and embezzlement. Ten to 15 percent of the inmates are drug addicts.

Some of the girls between 17 and 21 years of age have been sentenced under M.G.L.A. c.272 sec. 53 which provides that "Stubborn children . . . may be punished by imprisonment in a jail or house of correction for not more than six months, or a fine of not more than two hundred dollars, or by both such fine and imprisonment."

Apparently these girls' parents arrange for the state to prosecute their children for

being stubborn. The Commonwealth charges, under M.G.L.A. c. 277 sec. 79, "that A.B., a minor, during the three months next before the making of this complaint, was a stubborn child, and stubbornly refused to submit to the lawful and reasonable commands of C.D., whose commands said A.B. was bound to obey."

"I hate to see stubborn child offenders come through the door," says Mrs. Smith. "They are a lot of trouble."

Along with the prostitutes, alcoholics, and murderers with whom the stubborn child will associate in prison, she must also contend with homosexual inmates. Superintendent Smith reports that this is a continuing problem in prison administration.

There are presently five to seven "couples" at the Institution, and there are others who do not have permanent sexual partners. Mrs. Smith discourages homosexual conversation, overt kissing, and male haircuts. Such behavior sometimes warrants segregation from the rest of the prisoners, or a maximum-security room.

In the December 1964 issue of *Harmony News*, the prison newspaper, Mrs. Smith reported that the living quarters are "intolerable. Rooms are too small, not attractive, and there are not enough showers and bathrooms . . . There are not enough rooms for Group Therapy, and this is very much in need for all. A girl can come here in October and she cannot get a sniff of fresh air until June." However, the inmates will soon be transferred to six new buildings

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European Strength for Equal Partnership

By Robert L. Clarke

Are United States-European relationships as important today as they were 10 or 20 years ago? "Very definitely yes, although the interests of the parties are constantly changing," Professor Milton Katz told a luncheon meeting of the Law and Graduate Republican Club on Mar. 16.

"Europe remains today our principal source of strength. Their fundamental purposes are even more in harmony with ours," he said.

Prof. Katz explained that in the period following World War II, United States efforts concentrated on restoring Europe's economic and political viability. "We wanted peace in Europe. This meant a relationship in which both sides took it for granted that they would not fight each other no matter how much they may disagree on certain policies." But unsettled Soviet intentions are one residual problem in assessing Europe's future development.

German reunification is a second issue on which Prof. Katz warned of potential difficulties. While he does not expect it to be accomplished within the next 20 or 30 years, he urged that the U.S. give its continuous support to such efforts. "If it becomes clear

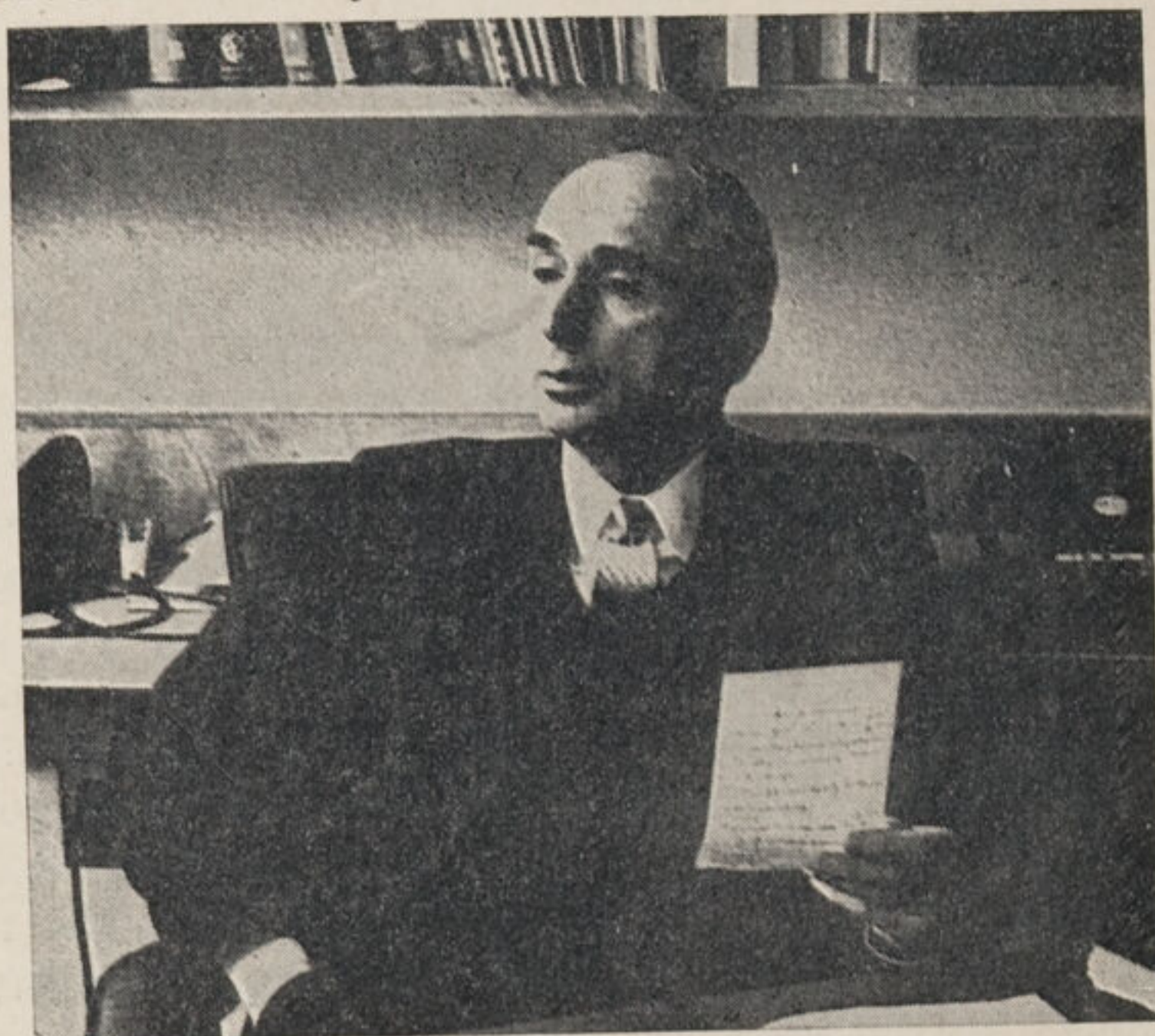
Selma Representation Rejected

The propriety of allocating \$160 to send two students to Montgomery, Alabama to participate in the Selma-Montgomery march was considered by the Dorm Council at its afternoon meeting on Mar. 22. Those who opposed sending participants argued that it is improper for the Dorm Council to use its funds in support of political or social viewpoints.

Those in favor urged that the Harvard Law School ought to be represented in the march on Montgomery. A motion to send two "representatives" was defeated, 12 to 9. An alternative motion to send two "observers" was rejected by a 14 to 6 vote. The action prompted Representative Anita L. Glasco, 1L, to circulate a petition for reversal, which was scheduled to be heard by the Council Wednesday.

to the Germans that unity means dropping out of NATO and severing ties to the West, this could be very dangerous to the U.S." he warned.

The third and probably greatest unresolved difficulty is the degree of Europe's co-



Professor Katz

operation with the United States in Western leadership. Noting that "twenty years after World War II we still carry the main load of defending Europe," he called for a more militarily independent Europe. Because De Gaulle's intentions in Europe and in the Mediterranean remain in doubt, Prof. Katz maintained that his present course will be harmful to the United States and to France in the long run. But he suggested that France's rebellious nature is at least partly due to the self-righteousness of the U.S. in its treatment of Britain and France during the Suez Crisis — treatment which resulted in the humiliation of those European powers.

Prof. Katz, who was Chief of the Marshall Plan in 1950 and 1951, now supports greater European contributions to underdeveloped countries. "Some way must be found to get across the notion that equality of partnership means acceptance of greater responsibility," he said. As one of the "fundamental conditions" in conducting foreign policy, Prof. Katz expressed hope that the countries of Europe will contribute to defense and foreign aid as well as free their capital markets for U.S. investment.

A 'Shocking' Case

Judge Leighton's comment that "the rules of evidence of the press room are far more lenient than those that I must observe and apply in the court room" is the most important point to be made and understood about the Rodriguez-Suarez case. His decision could only be based upon the facts presented to the court by the prosecution under existing rules of evidence. The UPI story, carelessly and inaccurately written, has afforded editorial writers across the country the material to conclude that Judge Leighton's opinion is, as the Chicago Tribune put it, an "Invitation to Anarchy." It appears that the prosecution presented one case in court and another in the press room; but the failure of the press to check the facts shown to the judge and the inexcusable omissions in their stories give no basis on which to form an intelligent opinion of the matter.

The decision does not speak to the future in the form of an "invitation." It speaks to the past as an application of Illinois law to an incident which took place months ago. Another Chicago newspaper remarked that it would not have been more shocking for the Judge to have reached from his bench and knocked down a police witness with his gavel. It is true that in this country we find it shocking for a trial court judge actually to uphold the law in a criminal case as potentially inflammatory as this. We do not expect that criminal defendants who have injured a police officer, particularly when they are indigent Puerto Ricans, will be acquitted, if at all, until the appellate level. The racial element, the nature of the crime, and the fact that the state statutes and decisions were scrupulously applied to the case in the court of first instance, all contribute to make this case "shocking" indeed.

No objections have been heard to the fact that the defendants, held until trial, served a substantial "prison term" for a crime of which they were acquitted. No one asked whether the black-and-blue marks on the faces of the defendants in pictures appearing in some of the news media were incurred before or after arrest. And no one has yet mentioned the irony that while the accused are free and presumably have left Chicago, the judge in the case has now become the defendant.

It may be proper for a prosecutor to seek a change in the law by appealing to the public through the press, since there is no right of appeal by the government from acquittal. There is no ground, however, for challenging the integrity of the judge; it is the law which should be "on trial" in this case. There may arise cases in which criticism of a judge's disregard for the law would be appropriate. But this is not such a case. Three months were spent researching the Illinois decisions on the use of excessive force by police officials, and the extent to which citizens may resist arrest.

This is not to say that the case is entirely clear on the law. Judge Leighton's decision is a close one, and worthy of debate. An Illinois statute forbids resistance to an officer engaged in an "authorized act." The Committee comments seem to intend that any arrest, whether lawful or not, is "authorized" within the meaning of the legislation. But Judge Leighton, while recognizing that this case involved an unlawful arrest, a fact not sufficient in itself to take it out of the statute, nevertheless ruled that the officers' act was not "authorized" because of the use of excessive force. His interpretation of the criminal statute is the proper object of criticism, and may in due time be found to be mistaken by a higher court in another case. That his decision "invites anarchy" is an irresponsible charge.

TONGUE 'N CHEEK

By Fenno

I was carefully removing the snow from the "WELCOME TO SPRING" sign in the Hastings Courtyard when a member of my law club came past and reminded me of the I. de S. and Wife Club luncheon.

"I'm not so sure this idea of holding meetings at the Langdell Receptionist's Desk is such a good idea," I grumbled as we trod over the frozen crocuses.

"Listen, Fenno, if our club president thinks we should all eat at a round table during the competition, who are we to complain? After all, being in the Ames Quarterfinals is quite an important thing," he said with appeal.

We arrived in Langdell and took our places in the noon formation. As the Brief Captain conducted his inspection my friend whispered, "I don't mind the forced marches to the library nearly as much as wearing these blue uniforms."

I brushed off my uniform citation medals and stood at ease for the mid-day pep talk.

"There have been some complaints about the food at the training table," the Captain said sharply. "After much consultation and research it has been determined that a low carbohydrate-high fats diet is better for the brain tissue than is the high-alcohol-low protein one suggested by the oralists."

"Further, the Ad Hoc Bed-Check Committee discovered one member asleep by midnight last night. We'll have no more of that. Those who shirk will be greatly frowned upon," he said, frowning greatly.

"I have been asked to announce that the Inside Information on the Judges Committee will meet this afternoon to consider some new hearsay," the Captain said.

"I always get a real thrill from this," I said to my neighbor as we listened to the Questions-Presented Squad sing the team fight song.

Letters to the Editor

Directory Entry Compounds the Problem

[The following letter was accompanied by a UPI account of Judge George N. Leighton's recent decision acquitting two men accused of aggravated assault and resisting arrest in Chicago.]

To the Editor:

I was preparing to find out who to demand a retraction from on this news release until I looked in the Harvard Law School Alumni Directory.

How can we alumni explain this one?

John M. Arnold, LL.B. '62
Atlanta, Ga.

Judge Leighton Speaks To Critics of Decision

To the Editor:

... The furor which has developed, concerning my ruling in [the Rodriguez-Suarez] case, arises from the fact that the Assistant Prosecutors in my court room made in the press room of the Criminal Court of Cook County the argument which I had overruled on my understanding of the facts and the applicable rules of law. I am sure you know that the rules of evidence of the press room are far more lenient than those that I must observe and apply in the court room.

In the news stories that followed, the general public has been misinformed in these respects:

1. There was no evidence introduced that the two defendants attacked the two police officers.

2. There was no evidence admissible before me to prove that the two defendants were menacing any member of the public with a broken beer bottle.

3. There can be no conclusion, in my judgment, that carrying a broken beer bottle, without evidence of its use unlawfully against another, is a crime in Illinois.

4. There can be no conclusion that under Illinois law a police

officer has the right to use a lethal weapon to effect an unlawful arrest . . .

George N. Leighton,
LL.B. '43 ('46)
Judge, Circuit Court of
Cook County, Criminal
Division

Show's Director Praised for Success

To the Editor:

As a member of the cast of the Law School Show who had something to do with the musical numbers, I want to thank you for your pleasant remarks about that phase of the production. And too about the rapport between the cast and the audience. This was felt and appreciated by all on stage. However, I must register my disapproval and disbelief of the manner in which your reviewer failed to come to grips with what the Law School Show was really about.

People put this show together. Lots of people. Some gave up many hours of precious time so that this year the Law School

could have a show that it could be proud of. We thought and we still think that we did put across a show which we and the Law School could be proud of. And most of the credit for this goes to someone who obviously did not rate even a mention in your review, Greg Good, 2L. Mr. Good, as the director, would have been responsible should the show have been a failure. From the response we have been getting, the show was anything but a failure and the least your reviewer could have done was mention his name. And of course there were others that could have been singled out, but then you were possessed of a program and the names were there before you.

Realizing that it is not good form to strike back at one's critic but realizing also that critics, especially amateurs, are not always infallible, I suggest that your lesson for next year should be: Pay more attention to the requirements of a decent review; your likes and dislikes will take care of themselves.

Stephen Rosenberg, 1L

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March 28-29: Antonioni's

"LA NOTTE"

5:15, 7:30, 9:45; mat. Sun. at 3:00

March 30-31: Antonioni's

"ECLIPSE"

5:15, 7:30, 9:45

TR 6-4226

Exeter Street Theatre

KE 6-7067

Jacques - Yves Cousteau
"WORLD WITHOUT SUN"

also

"Churchill — A Nation's
Homage"

2:15, 4:05, 5:50, 7:40, 9:30

Events of Note at the Law School

The Public Affairs Committee of the Harvard Law-Graduate Democratic Club will meet with Professor Albert M. Sacks to discuss reapportionment today at 4 p.m. in the Wheeler Room of Holmes Hall.

* * * *

The St. Thomas More Society of the Harvard Law School will present the English author and economist Barbara Ward, speaking on "World Poverty and the Christian" tonight at 8 p.m. in the Ames Court Room.

* * * *

N.B.C. News commentator David Brinkley will speak before the Harvard Law Forum on Friday, Mar. 26 at 8:30 p.m. in the Lowell Lecture Hall. His topic will be "The Decline and Fall of the 50 States." Professor David Westfall will moderate a panel discussion by Edward C. Banfield, Harvard Professor of Government, and Ray Jenkins, Managing Editor, *The Alabama Journal* and Nieman Fellow at Harvard University.

* * * *

The Hon. Robert C. Weaver, Administrator of the Housing and Home Finance Agency, will deliver the Godkin Lectures under the auspices of the Graduate School of Public Administration. He will speak about "Future Urban Development" at 8 p.m. in Sanders Theater on Mar. 29 ("New Communities"), Mar. 30 ("Urban Renewal"), and Mar. 31 ("Dilemmas In Racial Policy").

Allen W. Dulles, former Director of the Central Intelligence Agency, will engage in a series of discussions with MBA students entitled "Reflections on a Life of Public Service," on Mar. 31 and Apr. 1 and 2, at 4 p.m. in Carey Cage.

* * * *

Library hours during the spring recess will be as follows:

Sat., Apr. 3 — 8:30 to 5

Sun., Apr. 4 — Closed

Mon., Apr. 5 — 9 to 5

Tues., Apr. 6 — 9 to 5

Wed., Apr. 7 — 9 to 5

Thurs., Apr. 8 — 9 to 5

Fri., Apr. 9 — 9 to 5

Weekend — Closed

The ILS Reading Room will also be open over the weekend of Apr. 10-11, and evenings Monday through Friday.

* * * *

Free tours of Walpole Prison will be available to members of the Student Bar Association during the week of Apr. 12.

* * * *

"The Practice of Criminal Law in a Wall Street Law Firm" will be discussed by Milton R. Wessel, a Wall Street lawyer, Professor Livingston Hall and Professor James Vorenberg, on Apr. 20 at 7 p.m. in Harkness Commons.

* * * *

Class Reunions scheduled in the coming months are as follows: Class of '25, Apr. 2-3; Class of '35, Apr. 30 to May 1; Class of '40, May 7-8; Class of '20, May 14-15; and Class of '15, June 15-16.

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Recent Book

The Interaction of Law and Language

Legal System and Lawyers' Reasonings. By Julius Stone. Stanford: Stanford University Press, 1964. Pp. 337. \$10.

By Thomas E. Woodhouse

This is the first of three jurisprudential studies by the author. The other two, entitled *Human Law and Human Justice* and *Social Dimensions of Law and Justice*, are to be published this year. Stone, as they say, needs no introduction. He is currently Challis Professor of Jurisprudence and International Law at the University of Sydney. Formerly he was on the faculty of Harvard Law School. He acquired universal scholarly esteem upon the publication in 1946 of *The Province and Function of Law*, which was awarded the Swiney Prize of the Royal Society of Arts and Royal College of Physicians in 1964 as an outstanding work of general jurisprudence. The present trilogy parallels the structure of that work, though the redevelopment of the material here is such that it qualifies as a new study rather than a later edition.

Stone structures his approach to the studies of the standard jurists, honing his terms in preparation for the encounter. The two dimensions of law—the linguistic and the argumentative—are critical. Law can operate, can exist, only through language. But in spite of the indefiniteness of language, in spite of the diverse and frequently divergent multiplicity of elements invoked by a legal system, law is somehow controlled by rules of logic, or more generally, rules of reasoning. It is these two aspects of a legal system and their interrelatedness, the author states, that his study is concerned to clarify.

The very fact that words have more than one meaning, what Stone calls the plurisignation of words, limits the attempt of the

jurisprudent to discover the meaning of law. Words are symbols signifying a reference in the intensional world—an idea in the speaker's mind. Both the symbol and the idea generally refer in turn to a referent in the extensional world—a thing outside the speaker's mind. Neither the reference nor the referent of a given word will always be the same; indeed, neither will ever be exactly the same twice. (Cf. the works of Alfred Korzybski and his popularizer S. I. Hayakawa.) Thus not only will it always be impossible to say definitely what a particular law, which must be formulated in words, means, but it will also be impossible to fix a proposition concerning what law in general will be valid for the community at large.

It is both an assumption and a conclusion of jurisprudence that law is an intellectual device which serves as an instrument for the achievement of certain social ends. In whatever form legal propositions are framed, they have a rational content. The propositions can be approached with logic, and insofar as there is a legal system, it is a logical system, with logical relations among its component parts. There is room for the operation of analytical jurisprudence. Even so, the study of law cannot be exclusively logical, because legal reasoning, with good reason, is broader than logic. The logical models constructed by many jurists serve the useful function of exploring the logical ramifications of legal terms within the universe of the models themselves, but it is a mistake to claim for such models that they describe the actual processes of a concrete legal order. There is the danger that analytical jurisprudence, when it does not engage in model-constructing, must limit itself to cataloguing the legal propositions studied. The author attempts to

establish that the analyst can serve a more incisive function than that.

Professor Stone discusses the two dimensions of law in an initial chapter entitled "A Legal System and Its Orderings," then explores the logical structures of the theories of Austin, Kelsen and Hohfeld with these in mind. The book does not purport to be an exegesis of those theories; rather, a considerable familiarity with all three is assumed. Stone is concerned not with the details of each but with logical frame and scope. The material in his 1946 book on categories of illusory reference in the common law is further developed in this book, and project-notes, delineations of areas of inquiry on that subject as suggestions for jurisprudential research, are included in an appendix.

Prof. Stone warns that "the present work and its projected sequels do not aspire to be read by one who runs," but the meticulous plodder will find the effort stimulating, if sometimes perplexing.

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Judge Leighton

(Continued from page 1)

or assault the two officers," contrasts with the United Press International release which reported that the officers found the defendants in an alley waving the beer bottle, and that "Suarez lashed out at DeSutter, slashing him in the face."

Judge Leighton concluded that when accosted, the defendants were not committing any crime, and that the officers had attempted to make an unlawful arrest by the use of excessive force. Although Rodriguez reacted by taunting the two officers and "lifting up his right hand in which was the broken beer bottle" his behavior was "caused by the conduct of the aggressor, Officer DeSutter," Judge Leighton found.

Section 31-1, Chapter 38, of the Illinois Revised Statutes, makes it a crime to resist or obstruct "any authorized act" by a peace officer, and the Committee Comments to the section indicate that the use

of excessive force is not an authorized act. The Comments also state that "a private person is not authorized to resist an arrest with force even though he knows the arrest is unlawful." Judge Leighton held, however, that under Illinois law, "a citizen being unlawfully arrested by the use of excessive force has the right to resist and repel such arrest by a peace officer."

In a telephone interview with the RECORD, Judge Leighton said that he had begun an intensive research of the legal questions raised by the case months before the date of his decision. The press is not to be blamed for the resulting furor, he said, because it is not trained to make careful distinctions of law. Rather, the erroneous news reporting was caused by the post-trial statements of the prosecuting attorneys (See letter to the Editor, p. 9). He emphasized that under state law the police had no cause for arrest and that despite the statements in the newspapers, Illinois law does not preclude resisting an unlawful arrest where excessive force is used.

Since the decision, Judge Leighton has been the subject of angry editorials. The head of the Chicago Patrolmen's Association said that Leighton should be transferred from the Criminal Division because "he is prejudiced against policemen."

Judge Leighton is a native of Massachusetts and attended school in New Bedford. He received his B.A. from Howard University in 1940, graduating *magna cum laude*, and then attended Harvard Law School. As a partner in McCoy, Ming & Leighton, he was noted in Chicago as a criminal lawyer. Last November, he was elected to a six-year term as Judge of the Cook County Circuit Court.

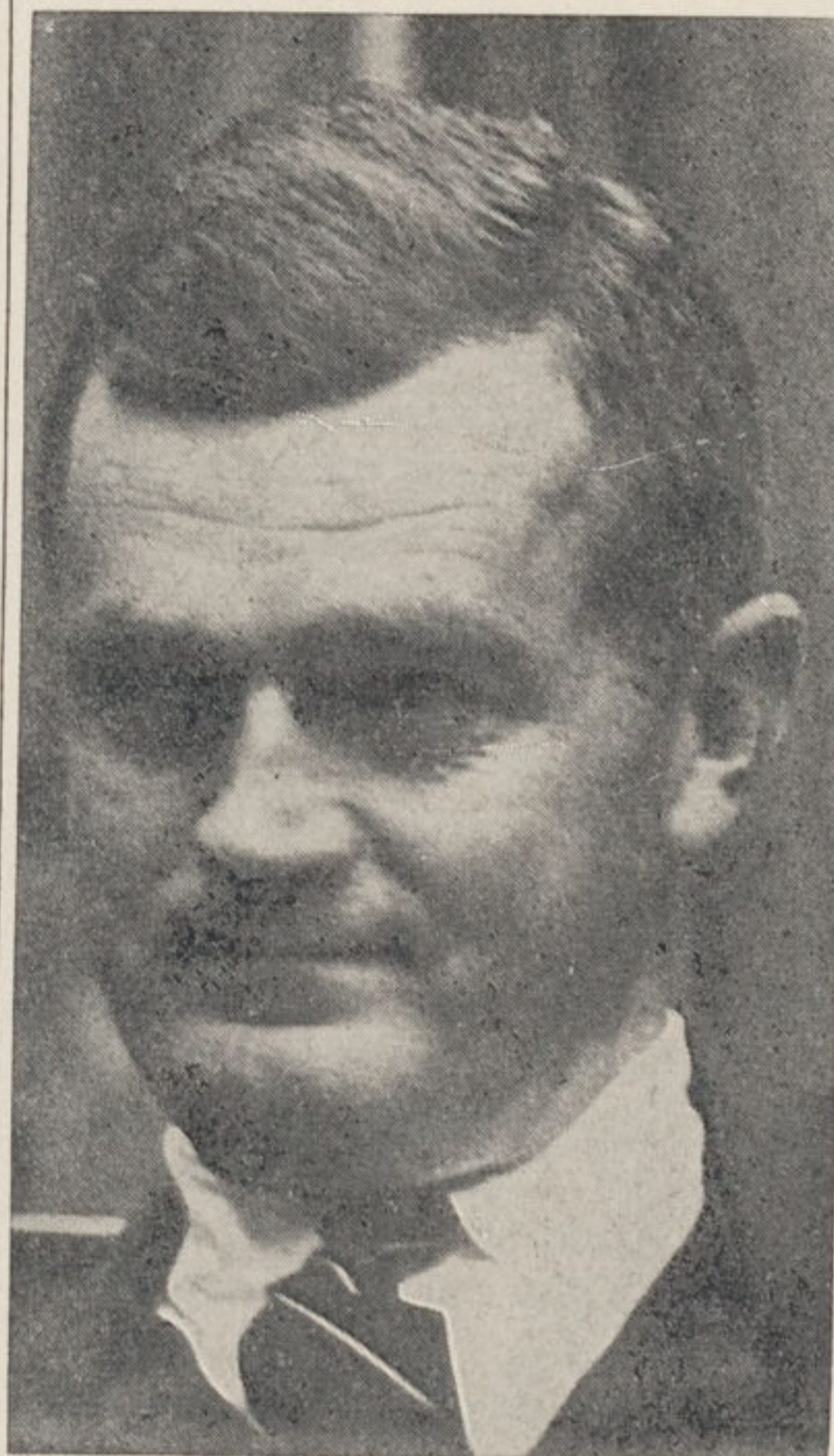
Judge Leighton spoke last November as a member of the Criminal Law panel of the first annual Career Conference, sponsored by the Dormitory Council.

Alabama

(Continued from page 3)

not be involved, he predicted, but there should be enough to symbolize federal commitment and presence.

In a letter appearing in the *New York Times* of Mar. 21, Prof.



Professor Wright

Howe warned of the far-reaching implications of the second section of the 14th Amendment. The section reduces the Congressional representation of states which deny suffrage to resident American citizens over 21.

Prof. Howe pointed out that even the use of a literacy test enforced in a non-discriminatory way should subject a state to a partial loss of representation and that many Northern states would be affected by enforcement of the section. It would therefore be "appropriate and politic," he said, for Northern states to put their own "principles and practices in constitutional order" before advocating enforcement of the 14th Amendment against Southern states which deny Negroes the vote.

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Federal Building Picketed

At least 20 Harvard Law students last week took up the demand for federal intervention in Alabama by joining the 48-hour civil rights vigil at Boston's Federal Building.

The picket line, composed of students from Boston colleges and organized by the Boston Friends of the Student Non-violent Coordinating Committee, at times completely circled the block-large building.

Early in the week, two law students sat in with 200 others in the office of U.S. Attorney William P. Garrity. The group vowed not to leave until federal troops were sent to Alabama, but were ejected by federal marshals after occupying the office for 40 hours.

Conrad K. Harper, 3L, who flew to Selma for the weekend of Mar. 13, described the atmosphere as one of continuous confrontation between the demonstrators and city and state authorities.

Harper found only a hostile reaction from the local white community. "One afternoon a local clergyman paid us a visit to offer to pay for our transportation home," he said. With a group of Negro and white clergymen, Harper was turned away from Sunday services in a "white" church. "We were told agitators were not welcome."

The Harvard Law School Gaelic Society, triumphantly marching down Dorchester Street in South Boston. Rumor has it that skeptical onlookers were correct: Several of Harvard's hardy sons of Erin were actually (God forbid) representatives of other ethnic groups. But local pubkeepers report that the legal leprechauns celebrated the day with such fervor that there was no doubt they were the genuine articles. In the front row of the unruly crowd are (left to right) Thomas R. Brennan, 3L; Michael F. Donlan, 2L; Bruce F. McNeill, 2L; T. Jefferson O'Sullivan, 2L; Robert M. Thomas, 2L; J. Drayton Hastie, 1L; and Richard H. Helmholtz, 3L.

HLS Sons of Erin Parade: A Rash of Green Carnations

Irish eyes were smiling on the Harvard contingent in the St. Patrick's Day Parade. A doughty group of a hundred Harvard Law students, Irish and otherwise, marched through South Boston, drawing waves of ovations from the crowd, and cheers from Irish lassies wearing "Kiss me, I'm Irish" signs.

The contingent first had to convince the doubting policemen that the group was ethnically bona fide. Skepticism evaporated with a quick round of "The Wearing of the Green."

"I don't know whether the policeman was convinced or amused, but he let us march," commented Michael F. Donlan, 2L, organizer of the Harvard crew.

Fortunately for the thirstier members of the group, sidetrips to local pubs were the order of the day.

"The purpose of the march was to pay tribute to the spirit of the Irish," Donlan said. "We were probably the first group from Harvard to march in the St. Patrick's Day Parade. Certainly we were the first ones ever to finish. We wanted to see how well a Harvard delegation would be received."



State Reformatory

(Continued from page 6)

called by Mrs. Smith, "Cottages."

When a girl or woman enters the Institution, she first undergoes a two-week orientation period. "We try to point out some of the advantages of being in prison," says Mrs. Smith. "This is not easy to do. We try to make the girl understand that she can either 'do time' and leave the same way she entered, or she can learn and improve herself."

Among the staff of 132 are social workers who become the girls' counselors and confidantes. At the end of the two-week period, they formulate a program for each girl. Mrs. Smith is quick to admit that "there are times when the needs of the Institution must prevail in developing the programs. It may not be the best thing to put a particular girl to work in the kitchen, but we have to eat."

Each woman is assigned to a "living wing" and a work department. She must work all day, but evenings are free for recreation. There are card rooms, T.V. lounges, a gym, and a bowling alley for evening use.

Neither prisoners nor staff members wear uniforms, and girls are encouraged to add feminine touches to their rooms. Many have made frilly curtains out of surplus blanket-binding.

There are about 35 births each year at the Institution, most of them illegitimate. Many of the babies are put in foster homes until the mothers are released, but if it is deemed to be in the mother's best interest, the infants may be cared for in prison.

Approximately 50 girls each week are allowed to do domestic work in nearby Framingham homes. Their employers pick them up and return them to the prison. They are paid 75 cents an hour. Despite this program, and the fact that one-half of the prison population lives in minimum-security cottages, the Institution has had only five to eight escapes each year.

1L Wins ROTC Trophy

Alexander Patterson, 1L, has been named the outstanding Army ROTC graduate in the nation.

The selection of Patterson, a graduate of the University of Georgia, was made by the Department of the Army from 17,000 ROTC graduates representing 270 schools. At a Pentagon ceremony several weeks ago Patterson received the first annual Hughes Perpetual Trophy from Arthur W. Allen, Deputy Secretary of the Army.

The ceremony was attended by representatives of the award's donee, the Hughes Aircraft Corporation, army officials, and Patterson's father and sister.

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The Equalizer: Under the Hemenway Boards

By Frank W. Lloyd

Although it has never been accused of recruiting, the Law School does get its share of college athletes. Nowhere is it more apparent than during the yearly intramural basketball championship tournament.

The tournament is the culmination of winter afternoons of pick-up games and nights of more serious play within the four leagues. In the chaotic afternoon sessions, Harvard freshmen, graduate students and an occasional faculty member are thrown with law students into the only two recognizably distinct groups in pick-up basketball, the skins and the shirts.

The top floor of Hemenway Gymnasium is one of the Law School's great equalizers. One student watching a scrimmage was surprised to be told that the dark-haired guard with that deadly outside shot was Professor Derek C. Bok, who played for Stanford in his undergraduate years and was a top-scorer in the Law School league a few years ago.

The uniforms are motley but colorful, ranging from fraternity T-shirts and bermudas to varsity football sweatshirts, on students who may or may not have played varsity football.

At night the atmosphere is more professional. Referees and scorekeepers arbitrate the disputes left to a semi-workable honor system in the afternoons. Full-court play and the occasional presence of

female spectators put more of a premium on endurance.

This year the aptly-named Celtics edged the Baron Parks, 56-51, in a hard-fought battle for the crown. The difference was the 21-point first half of Forrest "Twig" Broman, 3L, a former Brown University starter whose uncanny eye made him the game's Most Valuable Player. Other high scorers for the Celtics were Stuart Ludlum, 3L, who played for Yale, and Gerald Jensen, 3L, a 6'8" high-

jumper from Brigham Young.

The Baron Park scoring was more evenly distributed, with captain Bruce Jeffer, 1L, a UCLA football and track athlete, Marquis Landrum, 1L, another Yale starter, and two ex-Harvard players from other graduate schools hitting double figures. The younger Baron Parks, who cut the Celtic lead from eight points at halftime to four at the end of the game, will all return next season for another shot at the title.

Civil Liberties Research

A Wide Range of Constitutional Issues

Civil Liberties Research Service projects covering a broad range of constitutional questions are nearly complete as the spring recess approaches.

Reflecting the accelerated national concern for civil rights, memoranda dealing with 14th Amendment guarantees have received considerable attention. One project focuses on the regulations promulgated under the Civil Rights Act of 1964, and deals with the scope and effect of the complaint procedures established to bring about the policy of Title VI of the Act.

Two projects have been completed involving legislative enactments which, although apparently within the realm of permissible state "police power," have been allegedly used to deny equal protection.

Finally, an examination is being made of the legal status of the recent California acceptance of Proposition 14.

Two projects in criminal procedure deal with the adequacies of parole-board procedures and the use of *nolo contendere* pleas in the federal courts.

In the realm of individual liberties, questions concerning the authority and activity of the United States Post Office and

State Department have been raised in memoranda prepared for use in cases currently before the Supreme Court.

A statute authorizing health inspectors to enter private dwellings in the absence of either warrant or preliminary complaint is being examined in connection with a suit to challenge a prior Supreme Court holding.

Other issues under consideration are the use of private clubs to avoid anti-discrimination laws and the extent and purpose of criminal anarchy, sedition, and related statutes.

Wives Elect Officers

The Harvard Law Wives have elected officers for 1965-1966. They are Mrs. Jack Watson, President; Mrs. Carlyle Hall, First Vice-president; Mrs. Andrew Singer, Second Vice-president; Mrs. Perry Kantner, Hospitality chairman; Mrs. David Gersh, Recording Secretary; Mrs. William Denious, Publication Secretary; Mrs. Lyman Welch, Treasurer; Mrs. Fred Kiel, Public Relations Chairman; Mrs. Richard Rolapp, Social Chairman; and Mrs. James Ryan, Special Events Chairman.

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SEC Reform

(Continued from page 4)

quotations more meaningful by eliminating the padding of quotations. But further study and possible revision are contemplated.

Stressing that overall development had been satisfactory, Mr. Haack pointed to two areas in which his group hoped to bring about changes. First, the adaptability of automation to the over-the-counter market is being studied. Although the exchanges have made extensive use of automated techniques, the variety of smaller over-the-counter firms poses some problems. Second, the problem of low capitalization of member-firms is being studied to provide better investor protection.

In a question-and-answer period following the formal talks, Mr. Haack rejected a suggestion that over-the-counter dealers should be required to disclose their costs. When the dealer is acting as a *bona fide* principal, it would frustrate the object of fairness to require such disclosure in the securities industry alone.

Prof. Loss challenged Mr. Haack with an anonymous letter criticizing the NASD for failing to represent the "little fellow." Mr.

Haack conceded that most of the members of the Board of Directors of the NASD were from large firms, but pointed out that many small-time dealers have refused to sit on the Board because of personal financial needs. Since time spent as a Director is nonremunerative, the small dealer who depends on commissions for his livelihood simply cannot afford it. Mr. Haack said that the Board members can and do adequately protect the interests of the smaller firms.

Mr. Etherington was addressed by a man in the audience who identified himself as a small-town broker-dealer, and not a member of any exchange. The questioner objected to the rules of the exchange which prevent him from sharing the commission when he places an order for a customer with a member-firm.

Mr. Etherington replied that there must be an economic inducement to become a member of the exchange to guarantee that exchange standards will be enforced and the public better protected. Price-cutting would result from the allowance of rebates.

He noted that the American Exchange had responded to the gentleman's problem by instituting a flexible admission policy. An associate membership in the exchange is available for "only a few thousand dollars."

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