



Harvard Law Record

America's Oldest Law School Newspaper

VOL. 41 NO. 2

CAMBRIDGE, MASS., OCTOBER 7, 1965

FIFTEEN CENTS

Juvenile Court Abuses Uncovered

By John Spitzer

Under the shadow of a possible "constitutional explosion" in the legal treatment of juvenile delinquents, three members of the *Harvard Law Review* made a cross-country field trip to find out what the juvenile court process is all about.

"We wanted to get the *Review* out of the library," explained Peter D. Leask, 3L, director of the project. "The plan was to interview police, probation officers, judges, and social workers in an attempt to find out how juvenile offenders are arrested and brought to court."

"The juvenile courts are a shock to someone trained to deal with the court system in civil and criminal matters," stated David R. Barrett, 3L, who travelled in a Volkswagen with William J.T. Brown, 3L, and John M. Cramer 3L. The study was sponsored and

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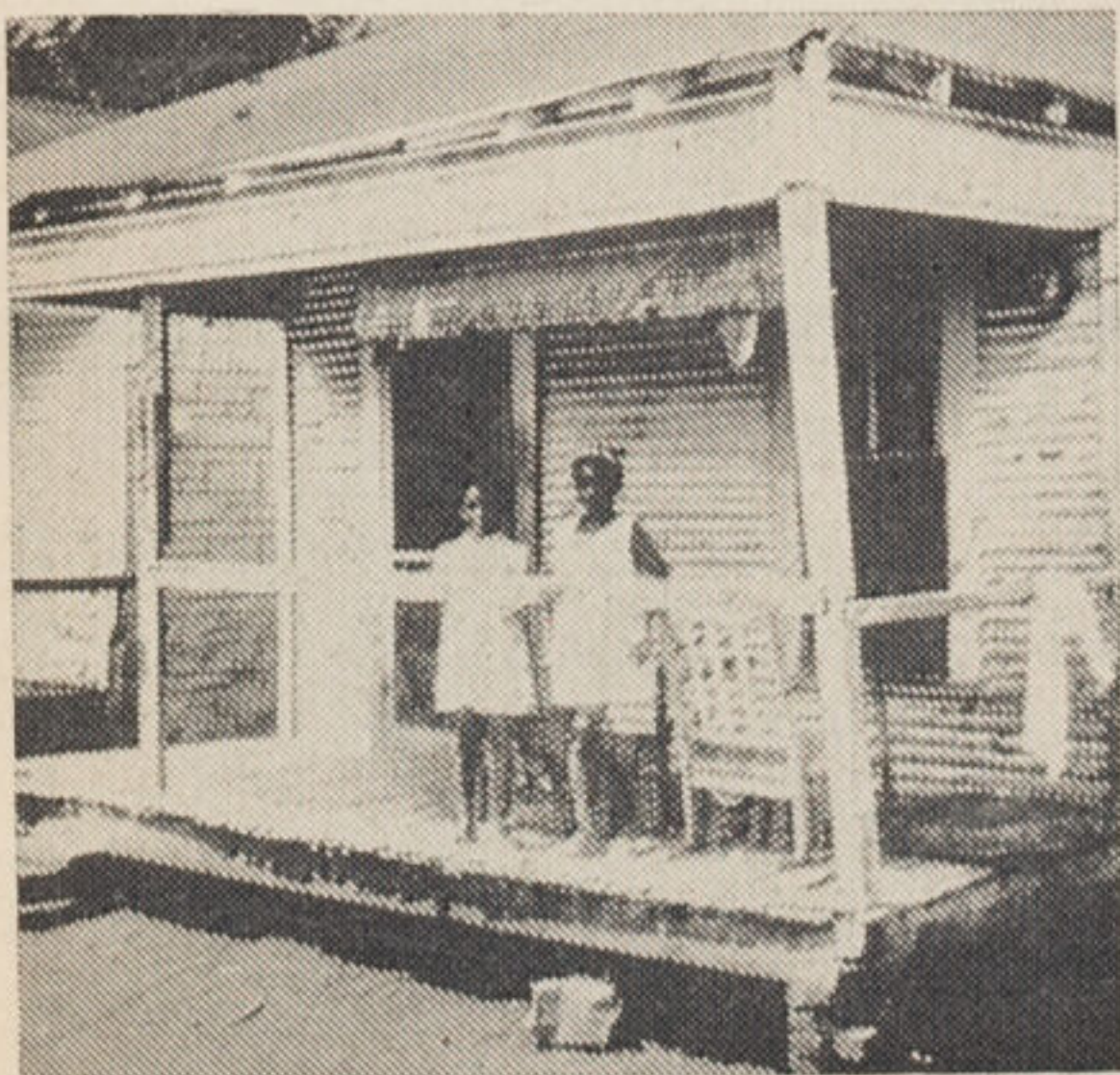
Dean At Hague Conference

By Gregory R. Smith

At the request of the State Department, Dean Erwin N. Griswold is now serving as an "expert" for the United States at the Special Commission on Questions of Divorce which is meeting at The Hague in Holland. He will not return to the Law School until October 15.

The Special Commission operates under the authority of the Hague Conference on Private International Law.

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Greenwood, Miss. '65

HLS Rights Workers Report

By Frank R. Parker

Dodging shotgun blasts aimed from cars without license plates, exposing "Jim Crow" in a major union, and lobbying against the Administration's appointments to the federal judiciary are but a few of the many and wide-ranging civil rights activities engaged in by Harvard Law School students this summer.

After exams last June, more than two dozen students left for positions in the South, in the government, against the government, and in the Northern civil rights movement. As in the past two years, the majority of the students participating in the summer effort were sponsored

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Law Review Project

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paid for by the Walter E. Meyer Institute of Law.

Arriving in Chicago July 23 on the first leg of the trip, the trio narrowly missed a chance to make first-hand observations of the arrest of juvenile offenders. While they were talking to a judge, two boys stole a typewriter and a briefcase from the Volkswagen. Unfortunately the boys escaped the pursuit of a bystander, so that the team will be unable to include this incident in their study of pre-trial procedure.

A System Under Pressure

They next travelled west through Milwaukee, Salt Lake City, and San Francisco—arriving in Los Angeles at the height of the Watts riots in the middle of August. This enabled them to see the juvenile system under “tremendous pressure.” They attended more than 75 hearings in a period of a few days. On the way back, they held numerous interviews in Phoenix, Denver, Kansas City, Toledo, Cleveland, Washington, Philadelphia, and Boston.

The pattern of their studies so far indicates a conflict between the “social worker attitude” and the “lawyer attitude” toward the pre-trial proceedings against juvenile offenders.

The social worker attitude is characterized by what Roscoe Pound called “individualized justice.” A boy ought to be brought before the court not for the purpose of punishing him for any particular offense, but rather with the idea of helping him grow out of juvenile delinquency “status.” It is a paternal procedure.

System Was Abused

“Fifty years ago all the police and judges were saying, ‘Look how great we’re treating the little tykes,’” stated Leask. “But there is some evidence that the system was abused.”

The lawyer attitude recognizes that abuses may occur under typical juvenile court procedures and stresses that the constitutional rights of juvenile offenders must be protected as with any adult offender. If a person is to be deprived of his liberty by the

state, then he is entitled to full due process of law, including the right to jury trial, the right to counsel, etc.

“Constitutional abuses against juveniles are often handled in a casual manner,” asserted Barrett. He stated that one judge told him that “juvenile defendants all have a right to counsel, but of course we don’t tell them.”

Denied Constitutional Rights

Many states officially treat the juvenile trial process as a civil proceeding which some judges use as an excuse for abridging constitutional liberties. They argue that this is to the advantage of the offender because it does not leave the “stigma” of a criminal record.

“But the consequences are often the same for a juvenile offender as for a criminal,” added Barrett. “Sometimes they are sent to the same penal institutions.”

There are also a number of offenses which apply to juveniles but not to adults. Chicago police make arrests for curfew violations, a number of states permit police to make arrests for “habitual truancy,” and Massachusetts has a controversial “stubborn child proceeding” under which children are sent to prison for being stubborn.

Juvenile cases are frequently disposed of before a tribunal at a police station. A police officer acts as “judge” and sometimes will impose a severe warning or compel the offender to make restitution for property damage.

A Lack of Real Power

“These unofficial police courts have apparent power but no real power,” argued Barrett. “But the kid doesn’t have much choice. The police can make trouble if he disobeys their order.”

If the matter gets as far as trial, there

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In Memoriam

Miss Julia M. Casey, secretary in the financial aids office, died last Saturday after a long illness. There was a solemn requiem mass Tuesday in St. Mary of the Nativity Church. Burial was in Holyhood Cemetery, Brookline.

Ambitious 3L's Launch Political Careers

Young Dem Presidency Sought

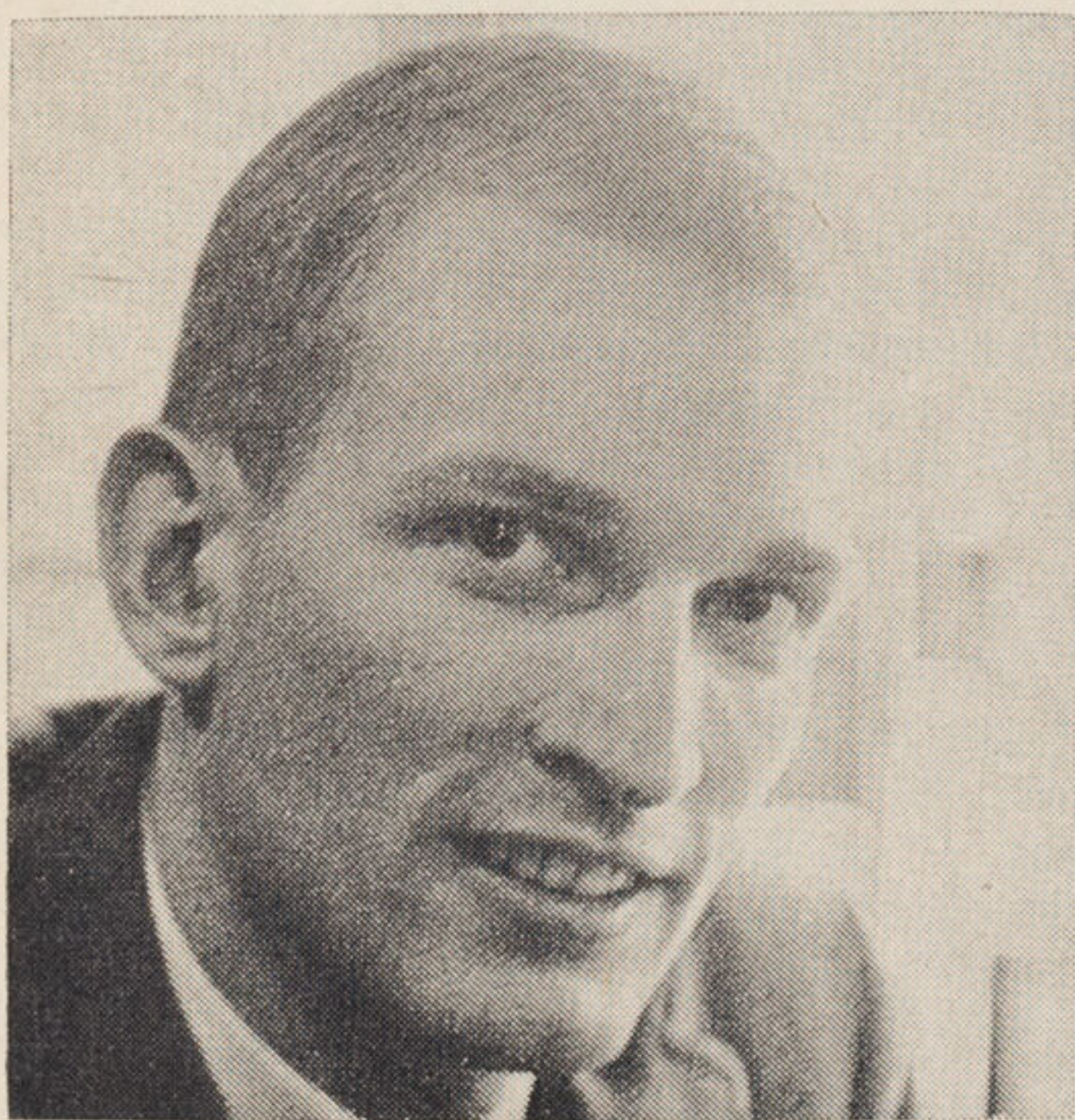
Can a young student "buck" an entrenched organization and gain leadership of a national political organization while writing his third-year paper?

This is the question posed by Dale Higer, 3L, who is seeking this fall to answer it in the affirmative. Higer, already president of the Harvard Law-Grad Democrats, is seeking the national presidency of the Young Democratic Clubs of America at its annual convention in New York City October 11-16. He is the youngest person ever to seek the top office of this organization of 800,000 members.

In 1962 at the age of 20, Higer caused stirs in the Young Democratic establishment when he was named National Committeeman from Idaho and became the youngest Committeeman in the history of the YDCA.

In a speech before the YDCA Northeast Conference in Harrisburg August 21, Higer outlined his reasons for seeking the office: "I am seeking the presidency because I believe there is something wrong with the Young Democratic Clubs of America. There is something wrong when we send a delegate to an international meeting who refused to live in a room next to another human being at a YDCA meeting simply because he was a 'man of color.' "

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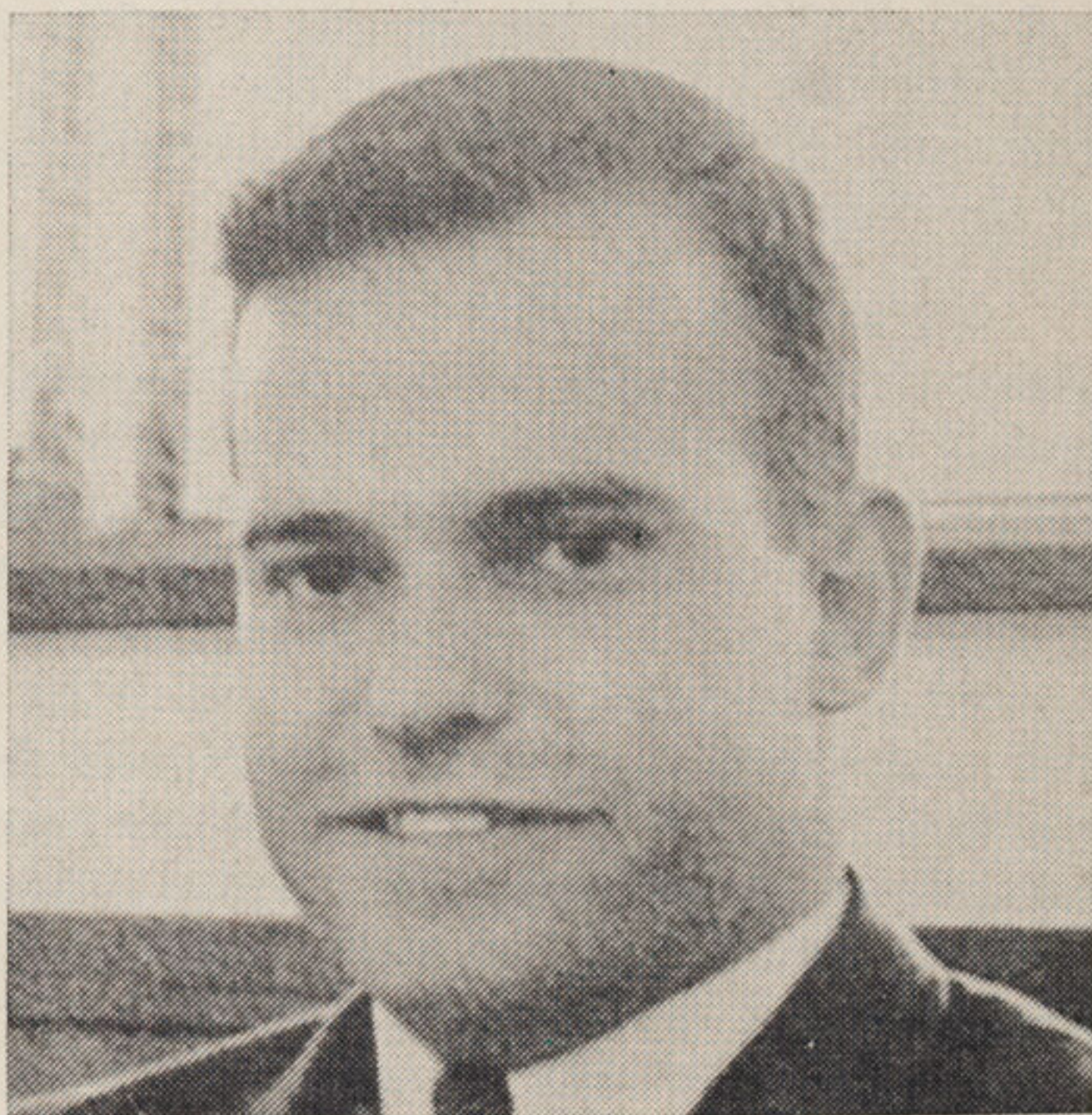


Dale Higer, 3L

Ripon Director Eyes Congress

Will two Harvard Law School graduates be competing for the Congressional seat in Maine's Second District next year?

Incumbent freshman Democrat William D. Hathaway, LL.B., '53, who won in the 1964 Johnson landslide with over 60% of the vote, may be challenged by Republican Theodore S. Curtis Jr., 3L, according to the Maine press this past summer.



Theodore S. Curtis Jr., 3L

"While the immediate reaction is to poo-poo Curtis solely because of his age," wrote political columnist Donald C. Hansen in the *Portland Sunday Telegram* in August, "closer scrutiny reveals that he might fill the bill in the Second District . . . "

"Curtis, despite his youth, has had plenty of hard-nosed, practical campaign experience while working for the GOP State Committee," continued Hansen. "A moderate Republican and a member of the Ripon Society in Cambridge, Curtis would at least illustrate that the GOP can attract the young, the articulate and the energetic in the nine counties of the Second District . . . "

Lorin L. Arnold, another Maine columnist, writing in the *Bangor Daily News*, referred to some Maine GOP leaders as "strongly wooing a high type youngster who for the past few years has been intensely interested

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Hague Conference

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Although the Hague Conference is over fifty years old, the United States has only recently become a member. The Conference holds full sessions every four years. The 1964 session, at which the United States was represented, authorized the formation of the Special Commission on Questions of Divorce and directed it to draft, if possible, an international convention on divorce.

The Special Commission, upon completion of its labors, will report its conclusions and draft convention to the Hague Conference. The members of the Conference may then recommend to their respective governments that the convention be approved.

Not An Easy Task

Dean Griswold pointed out that "reaching a widely acceptable convention would not be an easy task," as the policies of the member nations toward divorce are quite diverse. For example, while divorce is rather easily achieved in the Scandinavian countries, it is not permitted at all in Italy or Spain. And while monogamy is the rule for Western nations, polygamy is legal in Moslem countries. Indeed the gulf between the marriage and divorce laws of the Western nations and the equivalent laws of the Moslem countries is so vast that the Special Commission will probably attempt to create a draft convention applicable only to the Western nations.

Domicile and Nationality

The Dean pointed out that there are numerous other difficulties in this general field. There is the problem of diverse legal systems. The civil law countries base much of marriage and divorce law on nationality. The common law countries, on the other hand, rest much of this law on domicile. Thus, under present conditions, a French couple domiciled in England might get a divorce in France that would not be recognized as valid in England.

Another difficulty is the varying requirements among nations of the same legal heritage concerning marriage and divorce. In some nations, for example, cousins cannot marry one another, while in other countries they can. The problems and differences to be resolved by the Special Commission are obviously quite formidable.

Even if the Special Commission does achieve a draft convention acceptable to the delegates, it will have to be approved by the political forums in each of the member nations. In many instances, explained the Dean, particularly that of the United States, this would not be an easy matter. The American difficulty is due to the fact that questions of marriage and divorce are typically handled by the individual states. While the Constitution empowers Congress to accept an international convention recognizing foreign divorce, it is unlikely that the Congress would take such action.

The problem, however, is not necessarily insurmountable, according to Dean Griswold. The convention might be approved by the National Conference of Commissioners on Uniform State Laws. Such approval would insure the approval of the convention by many of the states.

The Dean emphasized that the Special Commission's work was "highly exploratory" due to the variety of the difficulties involved. He noted that his role in the Hague was only "to be present, learn, and report to the State Department upon returning."

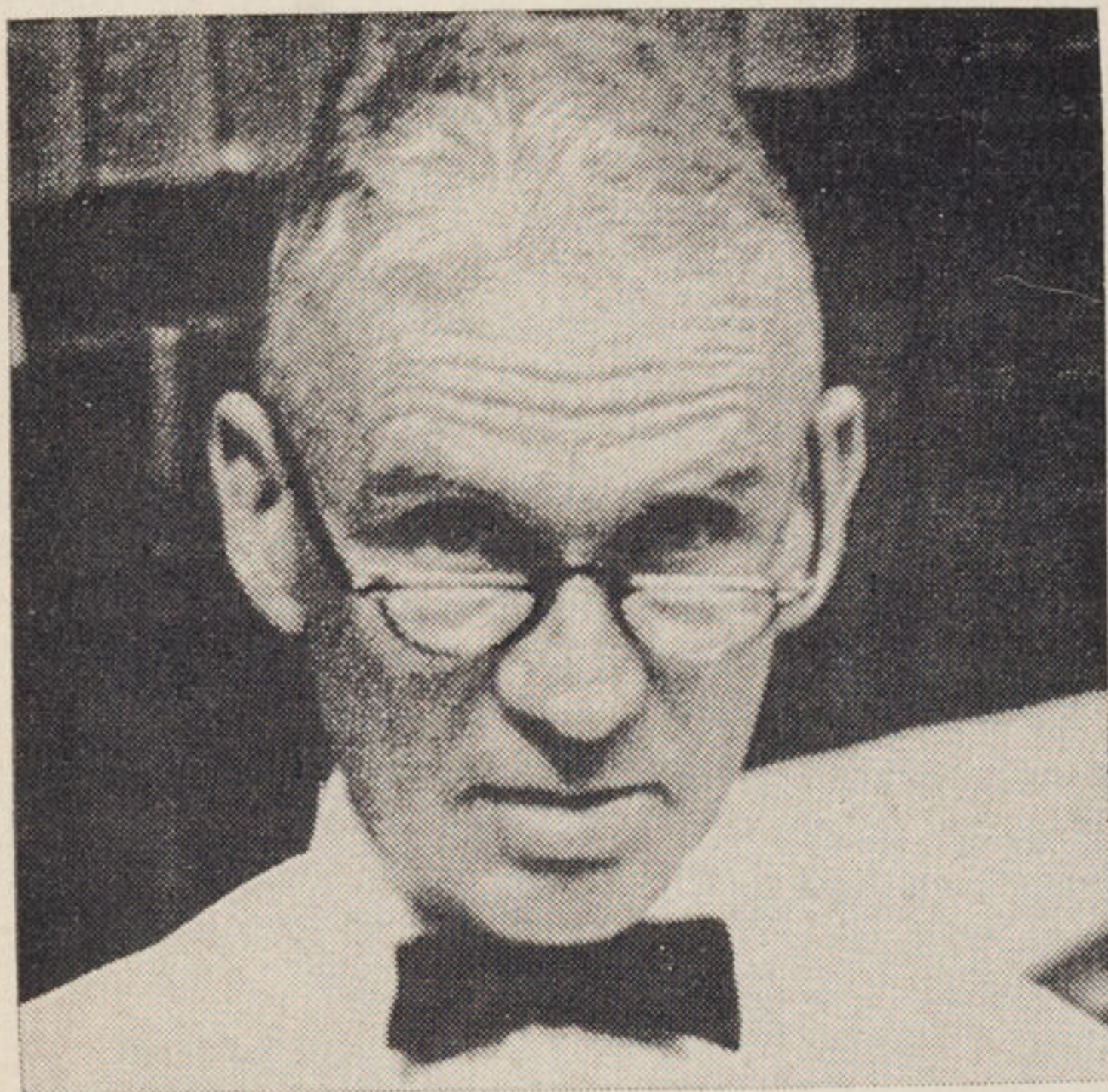
SLRB Adds Twenty-four

The Harvard Student Legislative Research Bureau elected twenty-four second year men to membership last week. The new members are:

Paul E. Arneson, Rosholt, S.D., Concordia; A. James Barnes, Jr., Fenton, Mich., Mich. State U.; Thomas F. Bastow, Alpena, Mich., U. of Mich.; Gerald W. Boston, Cleveland, Ohio, Ohio Wesleyan; Zane Cohn, Rock Island, Ill., U. of Ill.; Bruce M. Cross, Kirkland, Wash., Dartmouth; Joe D'Avignon, Dallas, Tex., Loyola U. (New Orleans); Richard W. Emory, Jr., Baltimore, Md., Yale; Scott M. Feldman, Roslyn Heights, N.Y., Amherst; John M. Hyson, Havertown, Pa., Boston College and U. of N.C.; Leon I. Jacobson, Belmont, Mass., Harvard; Stanley L. Kay, Flushing, N.Y., U. of Pa.; James R. Lowe, Lowes, Ky., Vanderbilt; Jeffrey A. Lowin, New York, N.Y., Harvard; Stephen D. Marcus, Chicago, Ill., Harvard; John J. McMahon, Wellesley, Mass., St. Michael's; Richard D. Pardo, Arlington, Mass., U. of Wash.; Douglas L. Parker, Phoenix, Ariz., Stanford; Sylvester M. Pratt, Jr., Cape Elizabeth, Me., Bowdoin; Irwin R. Shechtman, Chicago, Ill., U. of Ill.; Michael S. Sorgen, Fairfield, Conn., Brown; Eric H. Steele, Chicago, Ill., Yale; Robert K. Walsh, Sherman Oaks, Calif., Providence; and Lyman H. Welch, Pontiac, Ill., Knox.

Howe Blasts Katzenbach on Rights Speed

By Murray S. Levin



Prof. Mark DeW. Howe

Girls Seek In at the Inn

Tuesday was Ladies' Day at the Lincoln's Inn Society. A singing, stomping, drinking group of legal lasses marched and then staged a sit-in demonstration at the Inn.

The gals were demanding equal rights for females — the right to belong to the currently all-male society.

"This is where I take my stand," said William E. Peacock, 3L, President of Lincoln's Inn. "I wasn't elected president of the Inn to preside over the dismemberment of the last haven of male superiority on the East coast."

Peacock and Membership Committee Chairman Craig Peterson stood at the door of the Inn and, in a scene reminiscent of recent civil liberties confrontations, barred the way of the "attractive nuisances."

In answer to a picketer's sign — "A woman's place is in the INN" — one society member suggested: "Why don't you try the Harkness Cafeteria!" There also was talk of exchanging Lincoln's Inn memberships for special Wyeth Hall privileges.

Ruffled feminine feathers were smoothed out over a hearty dinner at the Inn, courtesy of the membership. The membership, it should be pointed out, remains exclusively male.

The Department of Justice was criticized this week by Professor Mark DeWolfe Howe for being "too slow" in the area of civil rights in the South. Prof. Howe spent two weeks in Jackson, Mississippi this past summer under the auspices of the Lawyers' Constitutional Defense Committee (LCDC) where he "helped out as best I could with the regular run of civil liberties cases."

"The federal government could do a lot more," he said. "It could initiate suits concerning voting rights, schools, and public parks." He blamed Attorney General Katzenbach for exercising "too much caution in the use of federal power," adding that "the spirit Katzenbach has shown on any number of questions — the poll tax, the use of federal troops, the use of federal governmental power — leaves much to be desired."

Prof. Howe singled out Katzenbach's "totally scandalous reaction" to the recent acquittal of an Alabama deputy sheriff accused of murdering Jonathan Daniels, a student at the Episcopal Theological School, as one more instance of the Attorney General's weak posture on the federal government's role in civil rights.

The legal profession in the South is also an object of Prof. Howe's disapproval. "The legal profession is not fulfilling its obligations," he said. "The law has been turned against the Constitution and used over and over again to frustrate the rights of individuals."

One of the cases Prof. Howe worked on in Jackson, an alleged libel of a local high school principal by civil rights workers, is presently pending in the Mississippi Supreme Court, and could end up before the United States Supreme Court.

Prof. Howe stated that his work in the South does not indicate that he believes that we have solved our problems here in the North. He is quick to remind one of the "outrageous injustices still practiced in the North. We have barely begun to fulfill the promises of the 13th, 14th, and 15th Amendments as far as the American Negro is concerned. Law can't cure the situation alone, but it is an essential."

Rights Report

(Continued from page 1)

by the Law Students Civil Rights Research Council (LSCRRC) and selected by members of the Law School's Civil Rights Committee. These summer law clerks were mostly sent South to work with Southern civil rights attorneys actively engaged in litigation.

Among this group were Anita L. Glasco, 2L, and Michael R. Lefkow, 2L. In Macon, Georgia, working with attorney T. M. Jackson, Miss Glasco assisted with extensive litigation arising out of arrests in a tiny Georgia town. According to Miss Glasco, the goals of the local NAACP were simple: ending employment discrimination and halting a boycott against Negroes by a gas station. But as a result of

picketing, everyone affiliated with the local civil rights group was arrested by police and convicted by the local judge.

The town's due process, reports Miss Glasco, is informal. "The judge never went past the 4th grade in school. Yet each week he hands down judgments based upon what his 'common sense' tells him the law should be."

Lefkow's experience in Birmingham, Alabama, was less quaint. After a summer investigating the practices of one of the most important local unions, he concluded that "the union often agrees with management to keep Negroes from advancing." His efforts resulted in his filing a complaint with the national Equal Employment Opportunity Commission, which promised to act on it.

Both Lefkow and Theodore B.

Hockstadt, 2L, who went to Cambridge, Maryland, for the summer, criticized the "freedom of choice" approach adopted by the Department of Health, Education, and Welfare to implement school desegregation. Hockstadt, who felt that he had experienced to some extent what it's like to be a Negro, recalls discussions with rural Negro children "who again this school year will be waking up at 6 in the morning (or earlier) to catch the bus which goes to the Negro high school in town because their parents cannot forget the harassment (including shootings) which greeted Negro children in past years when they exercised 'freedom of choice' and chose to go to the closer school . . ."

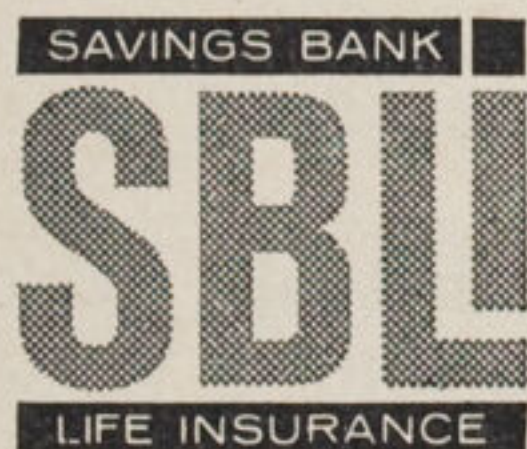
Paul M. Branzburg, 3L, who spent the summer of 1964 working for LSCRRC in Monroe, Louisiana, did voter registration work in Mississippi for the NAACP. After encouraging Negroes at a revival meeting in a small town to register to vote with a newly arrived federal registrar, he had to leave town by outracing angry segregationists at a speed "in excess of 110 miles per hour."

A number of Law School students went into civil rights positions in government for the

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Prof. Cox Tells of High Court Advocacy

By Daniel M. Joseph

The Law School has a new visiting professor. His name is Archibald Cox, until recently the Solicitor General of the United States (1961-1965). Although the Law School, poker-faced, has classified him as 'visiting,' he describes taking a position at Harvard as "coming home."

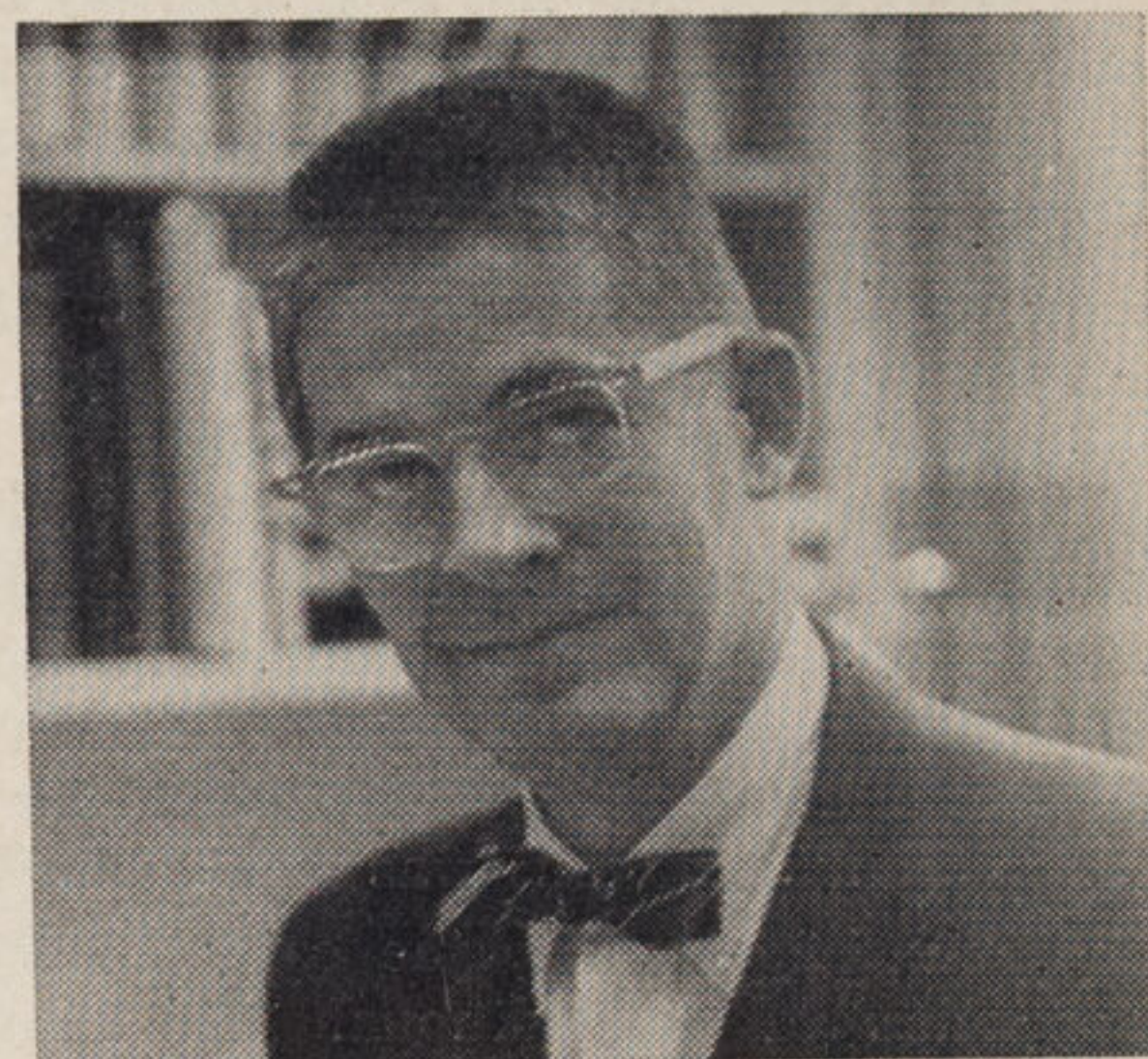
Prof. Cox's description of himself derives largely from his faculty membership from 1945 until 1961, and in significant part from his mysterious presence here even during his tenure as Solicitor General. (This can be sworn to, for instance, by anyone who has heard Professor Shapiro's dozens of references to Professor Cox's thinking about labor law.) He now teaches a course in current constitutional issues and a section in criminal law.

Prof. Cox describes his Solicitor Generalship by emphasizing its similarity to other advocacy. Being so close to the Supreme Court makes the Court's work and its problems appear more vivid, but not different in kind. The worst of the problems, in his opinion, are the inadequacy of argument, the "sheer difficulty" of agreement on a majority opinion, and the "tension between reaching an obviously just and wise decision and following any course of logical development." Prof. Cox believes that the Court's critics do not give enough weight to the difficulty of its job.

The strategy of argument before the Supreme Court consists in wanting to win most of the cases; in others, it is to "lose it right" so as not to create damaging precedent. Prof. Cox maintains that this is done by finding and using the most persuasive arguments. He did not count on certain arguments to win over certain Justices, because he is "not smart enough" to keep track of their individual thinking.

Once in a while, of course, there is a particular Justice to take account of; his strategy in arguing *Baker v. Carr* was to direct forcefully his arguments against Justice Frankfurter's well-known objections to impress the other Justices that the government's arguments were equal to those of its strongest opponent on the Court.

Sometimes a deciding factor in a case has nothing to do with conventional legal issues. When Prof. Cox had just become Solicitor General, he had to argue the case of *Power Reactor Development Corp. v. International Union of Electrical Workers*, 367 U.S. 396



Prof. Archibald Cox

(1961).

The case involved a successful application to the Atomic Energy Commission to build a fast breeder nuclear reactor about thirty miles from Detroit. The legal issues, which solidly favored the government, turned on whether the A.E.C. had incorrectly failed to make fact and law findings before allowing construction to start. The Court of Appeals held against the A.E.C. Its majority opinion, Prof. Cox says, showed that the court saw the reactor as a nuclear bomb. "You could practically hear it ticking in the opinion," he says. Listen for yourself: 280 F. 2d 645 (D.C. Cir 1960).

Prof. Cox felt that by showing the Supreme Court that *he* could understand the reactor, he could convince the Court that it was controllable and safe. He prepared by talking to physicists at Argonne National Laboratories, and by studying the subject. All but ten minutes of his oral argument was spent on explaining, with a scale model, the reactor's operation. The government won its reversal, Black and Douglas, JJ., dissenting.

As for the Court's present business, Prof. Cox believes that there are no "stars of the first magnitude" foreseeable in its case load. *Brown v. Board of Education* and *Baker v. Carr* are the most recent of such cases. His opinion would be different if he had any doubt over the constitutionality of the basic provisions of the Voting Rights Law of 1965. He is especially interested, however, in this term's cases concerning police protection for people exercising their federal rights.

A License to Kill

Although it may not be extensively discussed in Law School classes, the acquittal last week of part-time deputy sheriff Thomas C. Coleman for the killing of Cambridge seminarian Jonathan Daniels poses serious problems for traditional thinking about American jurisprudence.

The final verdict, first of all, contradicts the theory of the procedural formalists, who hold that a man is not guilty of a crime unless he is convicted by a jury. This case was another instance of a Southern white jury voting to exculpate in a racial matter when virtually everyone, from the state attorney general on down, knew the defendant was guilty. Anyone who has been in Lowndes County, or in Southern Black Belt counties like it, knows that in the minds of the jurors Coleman's act was not only justifiable homicide, though the victim was without fault, but was in fact laudable homicide.

More importantly, the case presents a serious challenge to the proponents of a traditional 19th century federalism. The federal system, as traditionally viewed, puts the responsibility for bringing a Lowndes County man to justice upon a jury selected from only a few thousand in-bred, inter-related persons united in complete consensus on the race question. Under this system, Lowndes County jurors have been given the power to abort justice and disregard a prosecution witness who sat beside the killers when they committed the crime. On the other hand, they are vested with the capacity to send a Negro accused of rape to the electric chair on the flimsiest of evidence.

Were the Coleman acquittal only an isolated miscarriage of justice in an obscure Alabama backwater, the case would not justify extensive change. But this shocking incident is only a scene in a well-known tragic drama that is enacted from month to month in many courtrooms. We need only brief reminders of the acquittal of Claude Screws of Georgia at his second trial, the failure in Mississippi to convict Byron de la Beckwith of the Medgar Evers murder, and the mistrial in the Liuzzo murder case.

The facts of this case make clearer than ever the necessity for national initiative. Although Congress has already legislated extensively in the area of civil rights, there is still an urgent need for strong and explicit legislation punishing both private and state-supported violence aimed at terrorizing those hoping to secure federal rights. Anti-Klan legislation is also needed, though it should be aimed not at the organization as such, risking unconstitutionality, but should be in the form of firearms control.

Finally, the Department of Justice, in whose jurisdiction the prosecution of federal civil rights crime lies, should intensify its efforts in the area of preventive criminology. The Department can be commended in its present efforts to gain community acceptance for civil rights and in its constant surveillance of the Klan groups. But given that racially-biased juries are reluctant to convict in civil rights trials, federal protection must come much earlier in these cases. Thus, the Department can no longer shrug off its responsibility to provide direct federal protection to civil rights workers. Now that sufficient manpower is available, every group demonstrating for federal rights, for example, testing a restaurant obligated to serve Negroes, should be accompanied by federal officers. These officers, it should be announced in advance, would be under instructions to make on-the-spot arrests for probable violations of federal civil rights statutes.

Until federal power and determination are sufficient to enforce federal civil rights, the national government must bear much of the blame that sometime sheriffs have again been given, in the words of Alabama Attorney General Richmond Flowers, a "license to kill."

TONGUE 'N CHEEK

By Fenno

I was passing through Dane Third late one evening last week when I happened upon a University policeman with his ear glued to one of the doors. Thinking that his ear had become accidentally fastened to the door and that he needed some assistance, I hastened forward.

"What's wrong, officer?"

"Shush, Fenno, not so loud! I am on the trail of a dangerous criminal."

"At three a.m.? In Dane Hall? What sort of criminal is abroad at this hour?"

"Women, Fenno! Organized vice! Crime! Perversion! The parietals are being broken right this minute. But don't you worry, Fenno. Your police force is always on the job. No one can break the law with me around."

"Last week somebody stole my typewriter."

"Well, you can't prevent every crime, Fenno. Boys will be boys, you know. But the parietals! That's serious! How can you fellows study if there are women in the halls at all hours making noise and disturbing you?"

"I don't hear any disturbance."

"That's just the point, Fenno. That's why the whole thing is so invidious. They deliberately keep quiet to avoid detection. You don't even realize you are being disturbed. The only way to catch them is to listen carefully at the door for a feminine-type noise."

"But how can I hear anything, Fenno, with those guys at the end of the hall yelling so loud about Vietnam or something? It looks as though I'll have to be satisfied with the one I got downstairs."

"You caught somebody?"

"Sure did. They were playing Monopoly. I walked in just as he had three motels on Boardwalk and was moving in for the kill. What fun! Well, so long, Fenno."

"Say, officer?"

"Yeah, Fenno?"

"Do you suppose I could have exclusive rights to your story?"

Letters to the Editor

Michelman Disputes Record On Summer School Quote

To the Editor:

I am dismayed by the RECORD's somewhat ambiguous implication that I found it appropriate to remark on deficient motivation on the part of some students in our summer program for Southern Negroes. I cannot remember having said anything to justify such an implication.

The meaning of the statement with which your reporter seems to associate me through agreement with Professor Fried (i.e., that some of the students "lagged in motivation") is not entirely clear. That statement, if anyone made it, might mean that an appreciable number of students were not highly motivated; or that an appreciable number of them were not as highly motivated as they ought to have been; or that some of them were not as highly motivated as others of them. The first of these possible meanings is untrue; the second is presumptuous, and also untrue; the third is inane.

Since I would have questioned the judgment, the modesty, and the sense of relevancy of any participant in the summer program who expressed the thought (which I cannot remember expressing) that some of the students "lagged in motivation", it gives me pleasure to record that Professor Fried (with whom I reportedly "agreed", though no statement of his was ever related to me) is at least as puzzled and as rueful as I am about the report in question, since he denies ever having made the quoted statement with which I am erroneously reported to have been in agreement.

Yours very truly,
Frank I. Michelman

(Editor's note: The passage in last week's RECORD with which Prof. Michelman takes issue is as follows:

"Professor Charles Fried . . . stated that there was 'a great range in ability' among the students in his class, but that some 'lagged in motivation.'"

"Professor Frank I. Michelman . . . agreed with Prof. Fried, although both emphasized that quality of performance was generally quite good."

Reporter John Spitzer, 1L, maintains that this passage is accurate.)

Poem By Ambassador On F. F. Submitted

To the Editor:

Your readers may enjoy the following verses by Francis T. P. Plimpton '25 [former] Deputy Representative of the United States to the United Nations, concerning Professor Frankfurter.

They are part of a good-natured ribbing in rhyme of the members of the faculty as constituted in 1924. The opus was entitled "In Personam: A Lyrical Libel" and was first read at the Christmas Dinner of the Lincoln's Inn Society in that year. It was privately printed in 1925. Mr.

Plimpton kindly gave me a copy in 1934 when I was working for him. I forward them without his knowledge or consent but I'm sure he won't mind. In truth, they are a tribute to their subject. It is not without interest to compare the reputation of Professor Frankfurter in 1925 with that of Mr. Justice Frankfurter forty years later.

*"You learn no law in Public U —
That is its fascination —*

*But Felix give a point of view,
And pleasant conversation.*

*Now Holmes and Brandeis are his
stars —*

*I'm sure his secret pash is
To raise some great white handle
bars,*

Like Holmes's fine mustaches.

His other god we can't omit,

That wise and learned bozo

*Who with MacPherson made a
hit —*

Of course I mean Cardozo.

But back to Felix — I suppose

That "back" is quite excessive,

*Since every first year student
knows*

F.F. is all progressive.

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Harvard Law Record

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Staff: Theodore S. Curtis Jr., Mack Armstrong, Robert L. Clarke,
Michael J. Ryan, John Spitzer, Gregory R. Smith, Fenno.

Published on Thursdays ten times each semester by THE HARVARD LAW SCHOOL RECORD CORPORATION, 23 Everett Street, Cambridge, Massachusetts 02138. Subscription price: \$2.00 per semester, \$4.00 per year mailed; student subscription, \$2.00 per year distributed at the Law School. Individual copies 15c each at the Law School, 25c each mailed. Business and editorial offices, 23 Everett Street, Cambridge, Massachusetts 02138. Telephone UNIVERSITY 8-7600, extension 418.

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Rights Report

(Continued from page 6)

summer and experienced various degrees of acceptance. Ford T. Johnson, Jr., 2L, in conducting a survey of public accommodations in Mississippi for the Federal Community Relations Service, was shot at on two different occasions and nearly run off a bridge by antagonistic local citizens.

Checking up on politicians trying to keep the poor out of poverty programs and on school officials resisting integration in Southern Operation Headstart projects was the job of Keith S. Watson, 2L, in the Office of Economic Opportunity.

At the level of state government, James M. Klebba, 2L, worked for the Missouri Commission on Human Rights investigating the discriminatory practices of real estate companies and techniques to bring them under existing prohibitions.

The civil rights group which worked hardest this summer but which had the least success was the Washington Human Rights Project, which included Joseph P. Meissner, 3L, Brian Sweeney, 2L, and graduate Steven R. Nelson, LL.B. '65.

The Project, which conducted the main civil rights lobby in Washington, attempted to goad the Administration, which has been responsible for the passage of extensive civil rights legislation, into going further still. But it did not win Administration support of its program, and its main efforts to oppose the appointment of Mississippian J. P. Coleman to the Fifth Circuit Court of Appeals, to bring Mississippi sharecroppers under federal minimum wage laws, and to unseat the Mississippi Congressional delegation were all frustrated.

Assisting with neighborhood legal services for the poor in New York was the summer job of Beatrice K. Bleicher, 3L, who worked with the Mobilization For Youth project. Mrs. Bleicher did extensive work on the topic of consumer frauds.

Although some of the law stu-

dents, particularly those who worked for powerful government agencies, were able to successfully complete their summer assignments, many of the students, particularly those who worked in the South, reported a final feeling of anxiety and frustration.

For example, Miss Glasco concluded about her summer work: "I feel helpless because a law student can do so little to alter the system of discrimination in this nation and I am angry because complacent, self-satisfied Americans allow this system to continue. I wish only that all law students could go South for a similar summer learning experience."

Letters

(Continued from page 9)

*For labor he just stands four
square,
And feels no slight compunctions
That judges will with such a flair
Distribute strike injunctions.*

*And Felix doesn't think it's right
That you should throw confetti
When gloating o'er the sorry plight
Of Sacco and Vanzetti.*

*He spoke and voted for that friend
Of every farmer's wallet,
Who to our courts would put an
end —
Affrighting Bob La Follette.*

*(I know I stole that rhyme from
Life —
Which isn't fair — but yet
The rhymes for Follette aren't so
rife —
It should be La Follette.)*

*And all the crying social needs,
He says, first met response in
That bailiwick of liberal creeds,
LaFollette's own Wisconsin.*

*Now Felix has one indoor sport:
To ask with zeal religious
Exactly how and why a court
Decides a point litigious.*

*Whatever are your varied cults,
You'll all admit this question
Is settled when the judge consults
His worshipful digestion."*

Sincerely yours,
Edward F. Murphy, LL.B. '32

Recent Books

F.F. and the Fine Art of Conversation

Felix Frankfurter: A Tribute.

Edited by Wallace Mendelsohn.
New York: Reynal & Co., 1964.
Pp. 242.

Felix Frankfurter: The Judge.

Edited by Wallace Mendelsohn.
New York: Reynal & Co., 1964.
Pp. 284.

By Michael Lowenberg

Shortly after the death of Felix Frankfurter last February, Professors Scott, Freund, and Mansfield addressed a large gathering in the Ames Courtroom. For most of the law students present, Felix Frankfurter was known as an important figure in the New Deal, a former Harvard Law School professor, a controversial figure from the days of Sacco and Vanzetti, and a famous judge whose rather lengthy opinions were generously distributed throughout the casebooks. Many of those students learned perhaps for the first time of another side of his career—the teacher, the friend, and—most striking of all—the conversationalist.

These two books are collections of short essays by a few of the amazingly large number of people who knew and were profoundly influenced by Felix Frankfurter. *A Tribute* is largely devoted to personal recollections and discussions of Frankfurter's judicial philosophy. *The Judge* contains longer essays discussing the judicial contributions of Mr. Justice Frankfurter. Together they present a fascinating picture of one of the most interesting and influential figures in the Law School's history.

Felix Frankfurter came to the United States in 1894, at the age of twelve; two years later he was busily campaigning for William Jennings Bryan. Even before his formal education was completed he had become something of a legendary figure to his Law School

classmates.

In 1909, Professor Jeremiah Smith would read excerpts from an old Frankfurter bluebook to his classes. Nathaniel Phillips, who had been a year behind Frankfurter at City College of New York, remembers that Frankfurter walked "with a slight leap, as though he were too impatient to get there to trust himself to mere walking;" and by 1912, six years after Frankfurter left Harvard, we are told that his name was "familiar to aspiring Harvard Law Students."

After serving under Henry L. Stimson in the United States Attorney's office for the Southern District of New York, Frankfurter went to Washington, where he continued to serve in various posts of increasing importance until he joined the Law School faculty in 1914.

During his years in Washington, Frankfurter demonstrated what was to be one of his outstanding characteristics—the ability to gather around him the most promising and intelligent young men of the day and draw them into conversations they were never to forget.

Frankfurter was interested in everyone and everything, we are told. His range of interests evidently amazed even his closest associates, and a pre-war Frankfurter dinner party is described as

an event at which "wit and intelligence reigned."

The men and ideas moved by Frankfurter's intellectual and social energy are perhaps as significant in our political and legal history as the contributions made by Frankfurter the decision-writer. The Sacco-Vanzetti case became a great controversy only after Frankfurter entered the fray.

As a judge, Frankfurter is notoriously difficult to label. Herbert B. Ehrmann, an old friend who, at Frankfurter's urging, became one of the counsel for Sacco and Vanzetti, tells of a revealing incident when Prof. Frankfurter addressed an open air forum in Boston's South End:

"After he had discussed the public interest in many current industrial matters, he was asked the inevitable question:

"Prof. Frankfurter, since you believe these things, why aren't you a socialist?"

"Felix replied instantaneously:

"'Because I cannot compress life into a formula.'"

This aversion to the simple answer, the legal maxim, the glib recitation of "immutable principles," was reflected in Frankfurter's criticisms of the Supreme Court in the thirties, and his later decisions while on the Supreme Court.

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Juvenile Court Study

(Continued from page 2)

may be further constitutional problems. The rules of evidence are sometimes relaxed and counsel is rarely present.

"There is very likely going to be a 'constitutional explosion' in this area very soon," asserted Leask. "The juvenile court system has been in a backwater while a lot of things have happened to other courts. The *Gideon* decision has had tremendous repercussions."

Barrett was careful to add, however, that he and other members of the team (Leask did not travel with them) rarely found that juvenile offenders were being flagrantly mistreated either by police or judges in the sense that the state was "out to get them." Many of these officials were reportedly keenly interested in the whole problem of juvenile delinquency, but were uncertain of just what they should do or could do.

Findings of the study will be written up in the January issue of the *Review*. "It will not necessarily be a strictly legal treatment," stated Barrett, "as there is some question as to whether the courts are the appropriate

agency for dealing with a problem so entangled with psychological, social, and economic aspects. But the trend is away from the social worker attitude to the legal attitude."

The name of the Harvard Law School "opened a lot of doors" and almost everyone except the manager of their Milwaukee hotel had heard of the *Harvard Law Review*. After filling out "Harvard Law Review" in the blank labelled "organization," they were asked by the manager, "What's that?"

"It's a scholarly legal publication," they replied.

"Oh. I thought it was some kind of show," he answered blandly.

Justice Department Recruits

On Thursday, Oct. 7th at 7:30, two attorneys from the Civil Rights Division of the Justice Department will meet in the Wheeler Room of Holmes Hall with all third-year students interested in the Department's Program for Honor Graduates. Steven J. Pollak and Charles R. Nesson, LL.B. '63, will answer students' questions and describe the Program.

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Editors Set for Expanded Writing Program

By Michael Lowenberg

Fourteen participants in last year's Second Year Writing Program and four third year members of the *Harvard Law Review* have been selected to serve as third year editors for this year's greatly expanded program. Next semester, they will edit legal memoranda and a more lengthy comment prepared by the second year students who will be selected to participate.

Although the Writing Program was begun only two years ago as an experiment designed to fill what was felt by many to be a "gap in the Law School curriculum," it will be increasing its membership for the second year in a row. Last year thirty second year students were chosen at random from approximately 100 applicants, and this year the program's coordinators hope to select between 50 and 60 students.

Participants are first given three topics of current legal interest and are asked to write short analytical memoranda. The balance of the six to seven week program is occupied with the researching, writing, and editing of a major comment on a subject chosen by the student.

In addition to the extensive editing by the third year students, the papers are read and commented on by another second year member of the program and by a member of the Law School faculty.

Completed comments are published in the *Harvard Legal Commentaries*, the Program's own publication. Copies of last year's edition are presently available free of charge at the receptionist's desk in Langdell Hall.

Applications for the Program will not be distributed until later in the semester, according to Professor David R. Herwitz, one of the faculty advisers. Other members of the faculty advisory committee are Professors Frank E.A. Sander and David I. Shapiro.

The third year students who will serve as editors are as follows:

George B. Breznay; Robert T. Connery; David L. Gersh; William M. Gillette; Samuel

A. Haubold; Milton B. Hyman; Bruce S. Kaplan; Jack G. Knebel; Orlin L. Livdahl, Jr.; Michael Lowenberg; Maynard Rabino-witz; Peter F. Rousselot; Henry G. Stewart; Guy M. Struve; Peter J. Wallison; Robert A. Warden; March C. Waring; Mark P. Widoff.

Defenders Select Twenty

The Harvard Voluntary Defenders completed selection of its second-year members. The Defenders, who represent indigent persons accused of crime in the District Courts of Massachusetts, selected 20 new members from a list of 76 applicants. Selections were made on the basis of each applicant's answer to a written problem and on a personal interview.

The Voluntary Defenders also announced that it has openings for new members in its Research Section, an auxiliary part of the organization which concentrates its efforts solely on post-conviction research.

The Research Section, which was formally established last year, presently has openings for up to 10 second-and third-year students. Robert Glass, Vice-President for Research and Appeals, will be available to speak to interested students at the Defenders' Gannett House office until October 15.

The new second-year members of the Voluntary Defenders are:

John M. Bernard, Bala-Cynwyd, Pa., Swarthmore; David M. Brodsky, Providence, R.I., Brown; Whitney Durand, Lookout Mt., Tenn., U. of N.C.; Robert A. Engle, Albuquerque, N.M., Colo. U.; Andrew S. Garb, Los Angeles, Calif., U.C.L.A.; Molly Geraghty, Chicago, Ill., Radcliffe; Robert M. Goldberg, New York, N.Y., Amherst; Ezra N. Goodman, El Paso, Tex., Yeshiva U.; James T. Hendrick, Champaign, Ill., U. of Ill.; David A. Johnson, Portchester, N.Y., Yale; Eric Kaufman, New York, N.Y., Hunter College; Elton B. Klibanoff, Providence, R.I., Brown; William C. F. Kurz, New Orleans, La., Harvard; Jack T. Litman, New York, N.Y., Cornell; David S. Mortensen, Greenville, Pa., College of Wooster; Robert M. Payson, Beverly Hills, Calif., U.C.L.A.; Robert H. Rosenfield, Roslyn, N.Y., U. of Wisc.; Andrew Schaffer, Scarsdale, N.Y., Harvard; Edward W. Stern, Seattle, Wash., Dartmouth; and Charles B. Updike, Scarsdale, N.Y., Amherst.

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Dale Higer

(Continued from page 3)

He also cited lagging membership, inept leadership and general inaction as reasons for a change. He pointed out the strength of students in other countries and other organizations "while we as Young Democrats are content to sit on our rumps at our cocktail parties with our titles and wallow in our apathy while the youth of our nation passes us by."

On his return to the Law School after travelling almost 25,000 miles during the summer Higer said, "Coming from a state as small as Idaho has been my main problem. Idaho has five delegates; a state like California has eighty. Financial backing on a large scale just doesn't come out of Idaho."

"One of my opponents is spending \$20,000," he continued. "I can barely afford one-fifth of that. But things are looking up. My friends at the Law School have been helping my financial situation, and a large group has volunteered to go to New York with me to work at the convention. I have an uphill fight, but with more help I think I can make it."

Then he left for Detroit to speak to the Michigan delegation.

Artists and Clowns

A new Law School organization is presently being formed to compete for the interests of the student body with such established Harvard institutions as intramural touch football, *Law Review*, the ad hoc Committee to Abolish the UCC, and the RECORD.

A troupe of actors and clowns, branching off from a similar organization, the Dormitory Council, will devote its energies to producing the Law School Show. The Show has become one of the outstanding legal events of the Spring semester, along with final exams.

The new club is being formed through the efforts of James S. Friedlander, 3L, Allan Goldhammer, 3L, and Mark Gasarch, 3L. Artists, musicians, actors, etc. are needed. An organization meeting will be held on Wed., Oct. 13, at 1:00 p.m. by the Harkness piano.

Byse Probes 'Due Process' for Students

By Frank L. Simonie

To what sort of procedural due process is the college student entitled if he is subjected to disciplinary action by the institution at which he is enrolled?

This was the question put to participants in a panel discussion on "Due Process and the College Student" at the annual meeting of the American Council on Education held October 7 in Washington, D.C.

Included in the panel of five were two members of the Harvard Law School community, Professor Clark Byse and Dennis Shaul, 3L. Prof. Byse addressed himself primarily to the legal and policy issues involved, while Shaul approached the problem from the point of view of the student's needs and desires.

Prof. Byse began his remarks with a summary of the three major cases concerning the law's procedural requirements in student dismissal proceedings: *Hill v. McCauley*, 3 Pa. C.C. Rep. 77; *Anthony v. Syracuse University*, 224 App. Div. 487, 231 N.Y.S. 435; and *Dixon v. Alabama State Board of Education*, 294 F. 2d 150, cert. den. 368 U.S. 930. *Hill v. McCauley*, an 1887 case, was an early attempt to provide for liberal procedural requirements in student dismissals, but it was shouted down by a host of later cases.

Chief among these was the

Anthony case. There the court likened the college enrollment to a contract of employment. If the student broke the terms of the contract he could be dismissed with only those procedural safeguards provided in the contract (in this case none).

The turning point, said Prof. Byse, was *Dixon* in 1961. Judge Rives of the Fifth Circuit Court of Appeals declared that a state institution could not summarily dismiss a student for disciplinary reasons without at least the rudiments of an adversary hearing. The student had an interest of "extremely great value" in remaining in the college of his choice. The state could not deprive him of it without some procedural due process.

From this history and his "own deeply held preferences," Prof. Byse ventured some conclusions as to what courts might be expected to do in the future. Courts, he felt, will become more sensitive to demands for procedural regularity and they will insist that state institutions give the student notice of the charges against him and a chance to defend himself. Regulations purporting to give the university power to issue summary dismissals will be held unconstitutional or *ultra vires*.

In addition, Prof. Byse stated that the distinction between public and private schools in this area will eventually be eliminated, and

students in these schools will be given the same procedural rights as those in state universities.

Shaul emphasized that, while he was in favor of adopting many of the safeguards of normal judicial due process, procedural rights in themselves are not enough. There should be a recognized method of airing student grievances and an established system of disciplinary procedure to which the student could look to ascertain his rights. Above all, he said, there should be, whenever practical, some sort of "disinterested judge."

The crux of the problem, according to Shaul is that students need to feel that the means of voicing protests are effective. If this is not true a situation like the Berkeley riots could very well develop.

Events of Note

The Hon. John T. Connor, Sec. of Commerce, will speak on Friday, Oct. 8th at 8:30 in the Ames Courtroom. Faculty panelists will be Dr. Carl Kaysen, Associate Dean of the Faculty of Public Administration and Dr. Dan T. Smith, Professor of Finance at the Business School.

Rep. Donald Fraser (D-Minn.), will address an open meeting of the Law-Grad. Democrats on Friday, Oct. 8th at 4 p.m. in Langdell North.

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Theodore S. Curtis Jr.

(Continued from page 3)

in politics," and noted that the Harvard student was a former campaign coordinator for the Maine GOP and editor of its yearbook. Arnold reported that "Curtis, while ambitious and eager, does not consider himself ready or in a convenient position yet to run."

The RECORD contacted the 25 year old student this week and asked about the current situation in Maine.

"While the reaction to the suggestion that I run has been encouraging," answered Curtis, "I would prefer to finish my studies. If the GOP can find an energetic Republican with forward-thinking ideas I would like to work part-time for him."

Curtis hastened to add that he has someone in mind; "I'm very hopeful that Fred Whittaker, President of the Bangor Theological Seminary, former Mayor of Bangor and a very progressive state senator will enter the race and I'm doing everything I can to promote his candidacy." Both Whittaker and Curtis are graduates of Bowdoin College.

Was Curtis surprised at the press coverage he received?

"Well, yes — one reporter phoned me this summer at the Waldo County Registry of Deeds where I was searching a title to ask if I were going to run for Congress. That was a bit surprising."

"But," he continued, "what I guess you mean is whether it is unusual for a young person to be encouraged in Maine. My state isn't like Massachusetts or New York where a fellow must spend decades in an apprenticeship or else have a personal fortune; with some initiative and drive you can aim for the top in Maine."

"Of course," Curtis admitted with a wry smile, "one of the columnists who wrote about me did mention that political news was pretty slow during the summer."

Is it possible for a progressive Republican to win in Maine?

"Except when interrupted by the Johnson landslide last year, the trend in Maine has been toward electing moderate Republicans," answered Curtis. "This positive result is personified by Maine's three leading Republicans, Governor John Reed who is Chairman of the National Governors Conference and Senator Margaret Chase Smith and Rep. Stan Tupper who are among the most progressive members of Congress."

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