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Flowers Predicts Revival of Political Career: Counts on 'Grass Roots' Surge of Moderates

By H. Peter Young

The observers are saying this is Alabama Attorney General Richmond M. Flowers' first and last term as a leading political figure in the Old South because of his spirited but un-availing prosecution of the alleged murderers of civil rights workers Liuzzo and Daniels.

"Political suicide," they said at Hayneville. But the Attorney General is brushing aside the gloomy forecasts.

"The civil rights story in the Deep South is a hopeful one," Flowers declared before

(Continued on page 6)

Modern Standards Sought For Mental Commitment

By Neil L. Chayet

The commitment of the mentally ill is a subject which continues to perplex both the legal and medical professions. Who should be committed and by what means are questions which are approached with fear and misunderstanding by the layman, caution by the physician, and confusion by the legislator, judge and attorney who must provide and administer the standards.

(Continued on following page)

Mr. Chayet is Assistant Professor of Legal Medicine at the Boston University Law-Medicine Institute and a member of the staff of the Special Commission on Mental Health. He is a former President of the RECORD.



Alabama Attorney General Flowers

Mental Health

(Continued from preceding page)

Leaders in law, medicine and government gathered on October 21 and 22 at the Boston State Hospital to discuss the commitment laws of Massachusetts and recommendations for changing these laws to bring them into accord with modern medical treatment of the mentally ill and to correct some of the abuses which have prevailed under the present statutes.

The occasion was an executive hearing held by the Special Commission on Mental Health, chaired by Senator Leslie Cutler and Representative Robert Cawley of the Massachusetts Legislature. Under consideration was a report entitled "A Study of the Commitment and Hospitalization Laws of the Commonwealth," prepared by the staff of the Special Commission under the direction of Professor William J. Curran, Director of the Boston University Law-Medicine Institute and lecturer in legal medicine at Harvard Law School, and A. Louis McGarry, M.D., Staff Director.

The Four Questions

Four questions quickly crystallized and provoked comments by the witnesses, who included Lt. Gov. Eliot Richardson and Mr. Walter McLaughlin, President of the Massachusetts Bar Association. (1) What is a proper definition of mental illness for the purpose of commitment? (2) What are proper mechanisms and standards for commitment of criminals in need of observation or hospitalization in both pre-trial and post-trial situations? (3) How may the civil commitment laws be modernized to protect the rights of the individual and at the same time facilitate proper medical treatment? (4) What changes are needed to secure the civil rights of the committed patient?

As to who should be committed, much uneasiness was expressed in regard to the present Massachusetts definition of the mentally ill which appears universal in its inclusiveness. It reads "mentally ill person . . . shall mean a person subject to a disease, psychosis, psychoneurosis or character disorder which renders him so deficient in judgment or emotional control that he is in danger of

causing physical harm to himself or others, or the wanton destruction of valuable property, or is likely to conduct himself in a manner which clearly violates the *established laws, conventions or morals of the community.*"

Danger to Others

A more restrictive definition under consideration is the requirement of danger to self or others. Unresolved questions are what kind of danger — physical, moral, emotional, etc. and what qualitative variations of danger should be applied when the danger is to one's self rather than to others. At least one psychiatrist spoke favorably of the present definition, as it allows psychiatry to treat all who may lead better lives through professional help, even if this involves involuntary hospital commitment. The members of the legal profession who testified before the Commission were not quite as well-disposed toward the present definition.

A second area under consideration was that of criminal commitment. At present in Massachusetts, most commitments of those who have become involved in the criminal process take place prior to trial, after a finding that a person accused of crime is incompetent to stand trial. The difficulty is that such individuals may be held on criminal status and under maximum security for far longer than they could have been sentenced under the criminal process. For example at Bridgewater, the institution housing the criminally insane, individuals who have been arrested for vagrancy have served for as long as 60 years before death finally ends their pre-trial commitment.

Criminal Charges Continued

In addition, the criminal charges are in almost all cases kept alive so that after remaining in the hospital for many years, individuals may be tried for the initial offense which brought them to the attention of the police and the committing authorities.

The report recommends that misdemeanants whose mental condition requires them to be committed have their charges dropped and their commitment changed to a civil

(Continued on page 4)

Leach Hits Morrissey Affair as Near-Disaster

By John Spitzer

It was a sorry day for American democracy when Francis X. Morrissey was put up for a district judge appointment, according to Professor W. Barton Leach in his remarks to a Republican Club audience in Harkness meeting room on the afternoon of October 27.

Stabbing with wit and satire into a number of the behind-the-scenes aspects of the attempted appointment, he characterized the whole affair as a "prostitution of the appointive process."

"Although President Johnson would have been responsible for Morrissey had he been appointed, I have no reason to believe that the President either knew Morrissey or knew Morrissey's background," he continued. "And the appointment very nearly got pushed through the Senate by Ted Kennedy's 'Senatorial privilege.' If this thing had gone through, the erosion of the checks and balances system of our government would have been complete.

"But hurricane warnings were up when the *Boston Globe* published the facts about Morrissey and the American Bar Association commented that 'Morrissey was more poorly qualified than any man ever put up for appointment before.' Everett Dirksen stopped the appointment in the end by letting open the door to Morrissey's life only a crack at a time."

The outspoken professor went on to characterize some of the disastrous consequences that result when an incompetent judge is appointed to a district court.

First, a judge with inadequate training will be swamped by the frequent cases involving complicated issues of fact and law. He pointed out that many of the anti-trust cases before a district court involve thousands of pages of testimony from many witnesses at all levels in the corporate hierarchy. A judge who can't untangle this testimony will be lost and a mockery of justice will be the inevitable result.

Second, there will be sophisticated maneuverings by competing advocates trying to make the best of incompetence. If a lawyer has a good case, he will go to any length to

avoid being heard by a judge unable to appreciate the merits of the case and who at best will be able to render only an irrational decision. If the lawyer has a poor case, he



Prof. W. Barton Leach

will go to any length to have it heard by an incompetent judge on the bald assumption that "anything can happen."

Third, after the incompetent judge has been "stung" a number of times by reversals from a higher court, he will flounder around in an attempt to protect himself. He can't do much to save himself in civil cases, but when a criminal case comes before him, he can always protect himself by simply ruling for the accused on disputed issues — he will not be reversed because the prosecution ordinarily has no right to appeal.

He took a pot-shot at Senator Kennedy's emotional statement (after Morrissey had been turned down) that "It was a shame that a poor boy like Frank Morrissey had to work for his living and had to go to a night law school at Suffolk instead of a national day law school."

"Morrissey didn't have to go to this law school," said the professor. "Northeastern had another night law school with a number of distinguished professors" — including, of course, Prof. Leach himself.

Morning and Noon

By Dean Acheson

A very personal story of the formation of a distinguished diplomat.

Morning and Noon is Dean Acheson's warm, modest and charming account of his youth and early career.

After a period of private practice and with the coming of Roosevelt Administration, Dean Acheson became Undersecretary of the Treasury when the department was at the heart of the struggle to redeem the national spirit, distraught by world depression. A stormy incident in the chaos of the early New Deal led to Mr. Acheson's resignation, as Mr. Roosevelt sought by trial and error to fight through the dark days.

After another period of private practice, always involved in great affairs, Mr. Acheson rejoined the administration as Assistant Secretary of State. It is here that the present story ends. It is not carried on through the author's most famous years, for, he points out, "As involvement and responsibility grew, as the criticism for the outcome of events began to focus upon oneself, detachment and objectivity became suspect. The element of self-justification could not be excluded."

\$6.00



Mental Health

(Continued from page 2)

status after a period of 35 days. Once on civil status, they may be shifted to a more appropriate hospital, released on trial visit and returned gradually to the community, or discharged outright—all at the discretion of medical personnel. As to persons accused of felonies, the report recommended that such individuals be shifted to civil status after a period of time equal to the minimum sentence they could have received had they been tried and convicted in the usual manner.

Voluntary Commitment

In the area of civil commitment, changes were proposed which would establish a completely voluntary commitment so that the mental hospital would more closely approximate the general hospital whenever possible and a strong recommendation was made and supported that counsel be appointed to represent individuals about to be indefinitely committed against their will. In addition, lengthy observational commitments presently on the books would be replaced with shorter periods at which time the hospital would have to act affirmatively by court application if it wished to retain the patient.

Most significant was the recommendation that a legal mental health aide be provided to give proper notice of hearing to the person about to be indefinitely committed and to safeguard other basic rights of committed persons. Such individual would also assist the committing judge to better understand the individual before him.

Automobiles Emphasized

The issue of operation of motor vehicles received the most emphasis at the hearing. Attention was focused on the policies and regulations of the Department of Mental Health and the Registry of Motor Vehicles which result in the automatic suspension of licenses of any persons received by "commitment" at a Massachusetts mental hospital. In practice, however, the registry is notified of only a small fraction who are committed, and with the great increase in voluntary admissions and decrease in involuntary commitments, such a system is arbitrary and ineffective in operation.

Quiet Texan Speaks Out for 'Fundamentals'

By Keith S. Watson

Texans and Harvard Law professors can often be described with the same adjectives: loud, brash, egocentric, and flashy. But Professor Morgan Shipman, a native Texan and newly-appointed member of the Law School faculty, does not fit into any of these categories.

Except for a propensity to indulge in an occasional large cigar, Prof. Shipman's reticent, unassuming, almost humble manner



Prof. Morgan Shipman

belies his "Panhandle" origins and his current occupation.

Prof. Shipman comes to Cambridge after several years with the Securities and Exchange Commission. Prior to that he was an associate with Covington & Burling, having joined the firm in 1958 after graduating first in his class from University of Texas Law School.

The 31-year-old professor is now teaching a securities regulation seminar and two sections of corporations. Prof. Shipman's reticence has already brought about one small change in the latter course.

The administration, in its infinite wisdom, scheduled one of the corporations sessions in spacious Langdell North Middle. There, the room's acoustics rendered the professor's L.B.J.-like syllables nearly inaudible.

Although the room resembled the Panhandle plains, cries of "Louder!" from the

front row induced Prof. Shipman to move the class to more intimate Langdell South. Since the change, the students and their mentor seem to have solved their communication difficulties.

Another atypical aspect of Prof. Shipman's teaching is his view of the role of the law professor. Instead of trying to mystify his students, he tries to define clearly the "fundamentals" of the area of law under consideration. In addition, he says, the professor should stimulate thought about the problem of applying these fundamentals to a given case.

But Prof. Shipman concedes that his theories tend to be "idealistic". He is also quick to insist that while his personality and subject matter are not suited to exclusive use of the Socratic method, a good law school should also have faculty members "who don't give the students the time of day."

Prof. Shipman has been in Cambridge less than two months and he feels that any generalizations about Harvard would be "presumptuous" on his part. So far, he finds the student body "very bright" and is especially impressed that a given class has such a large percentage of intellectually outstanding individuals. He is also willing to say that he thinks Harvard to be "without a doubt the best" law school in the nation.

Discussing his previous legal experiences, the professor considers his move from private practice to the S.E.C. very valuable because his work with the Commission allowed him to understand the problems of protecting the "public interest".

But he said that he could not compare his attitude about securities regulation during his private practice with his present views because his work with Covington & Burling dealt only with tax matters. In fact, Prof. Shipman confided, "I didn't consider those issues much because I never even took a securities course in law school."

Prof. Shipman joined the S.E.C. in 1963 after a friend had introduced him to Commission chairman, William Cary. During his first fifteen months there, he was one of a small staff drafting amendments to the Secu-

(Continued on page 14)

Richmond Flowers

(Continued from page 1)

an overflow crowd in the Ames Court Room last week. The Attorney General is aware that his political career hinges on the outcome of that optimistic prediction.

The mugging he had received just three days before at a Montgomery football game was painful testimony to that effect. "I've still got a lump in my mouth," he told newsmen at a pre-speech press conference.

Greeted by a standing ovation, Flowers neatly sidestepped questions about his future



Attorney General Flowers

political intentions. "I haven't made up my mind yet," he said. "In fact," he responded with a jibe at Governor Wallace's plans to run Mrs. Wallace for governor, "I haven't even made up my mind what my wife is going to run for."

Early this week, on his return to Alabama, he indicated he might head a third party which will challenge the Wallace Democrats for national party backing in the 1967 gubernatorial race. Flowers stopped just one step short of making that announcement here.

The former Alabama state senator pictured himself as part of the emerging moderate leadership on which rests the salvation

of the South. He described these moderates as "tough-minded men who can make the unpalatable and unpopular decisions necessary if the South is to emerge from the political and economic shadows."

"I was born in a segregationist society and I enjoyed the benefits of a white who grew up in a segregationist society," Flowers said at the press conference. "But there was nothing illegal about it until 1954 and the *Brown v. Board of Education* decision. Now I live by the law and I enforce the law."

Congress has passed laws "Southerners do not favor. We have found certain Presidential actions distasteful" and the Supreme Court has handed down decisions "completely opposed to our concepts of the law," he said.

"Nevertheless, this is the law, and disrespect for the law brings defiance; defiance breeds violence; and violence brings dictatorship."

"To belabor the Supreme Court for all our ills is completely absurd. Neither this nor any other court has ever been perfect. . . . We have reached a sad position when many people think our judges are criminals."

Noting that judges must remain silent however stormy and unjust the criticism, Flowers urged the state bar associations to come to their defense when the law is flouted. "The members of the bar," he said, "must bear the burden of exercising responsible leadership. For when we turn our backs on those who would take the law into their own hands . . . this government by the people, of the people and for the people has begun to perish."

The Alabama Attorney General called Nobel Peace Prize winner Martin Luther King "a deterrent to my position. He and the Ku Klux Klan represent two extremes and they feed on each other, deterring peaceful change. King inflames the Klan and they punish his people." But a moment later, in responding to a question from the audience, Flowers credited King's "defiance and demonstrations" with the passage of the 1965 Voting Rights Act.

If Flowers does choose to head a third party, he will be counting on support from those areas outside the black belt where "great strides in race relations have been taken."

Haar Analyzes Highway Beautification Law

By Brian Sweeney

"As I rode the George Washington Memorial Parkway from the hospital back to the White House yesterday, I saw nature at its purest. The dogwoods had turned red. The maple leaves were scarlet and gold." This is how President Johnson explained to Professor Charles M. Haar and ninety-nine other supporters of the administration's Highway Beautification Bill, why they had been invited the night before to attend a ceremony on October 22, signing the Bill into law.

Prof. Haar is Chairman of the President's Task Force for the Preservation of Natural Beauty. He received one of the pens used to sign the Bill, and reports that it works well.

Under the new Law, states must agree by January 1, 1968, to control billboards and junkyards along interstate and primary highways or lose ten per-cent of their federal highway grants. Billboards are to be banned within 660 feet of highways except in commercial zones. Junkyards must be screened or moved back 1000 feet from rights-of-way except in industrial zones.

The deadline for compliance will be July 1, 1970. Owners will be compensated for moves, with seventy-five per-cent of the cost being paid by the federal government and the rest by the states. The Act also authorizes federal grants of 240 million to states in the next two years for highway beautification purposes.

Asked about the Act's inadequacies, Prof. Haar pointed out that extremely large billboards may be erected just beyond the 660 foot area. Also, no billboards need be taken down for almost five years, and the states themselves are given discretion to determine the industrially-zoned areas in which billboards will still be allowed.

During the hearings for consideration of the Bill, it was originally suggested that non-complying states be deprived of all their federal highway grants. The figure of ten per cent was arrived at after testimony by the billboard industry, advertising companies and roadside businesses.

According to Prof. Haar, although the Bill

presented a basic issue of federal-state control, this objection was raised by business interests rather than by the states themselves.

President Johnson stated, "beauty belongs to all the people . . ." and "This Bill does not represent all we want, or all we need, all that national interest requires, but it is the first step. There will be other steps. For though we must crawl before we walk, we will walk."

When asked what year the walking stage would begin, Prof. Haar responded that "the Act is important because it represents a federal commitment in the area of national beauty."

According to the *Boston Globe* on October 24, "the Highway Beautification Law could well be one of President Johnson's greatest achievements."

Semi-finalist's Battle Set

During the next two weeks four Ames clubs will be competing for a chance to argue before a Supreme Court Justice several months hence.

Next Tuesday night, November 16, Story Law will face Morgan-Brown in the first semi-final argument. The second argument is between Kaplan and Griswold Equity and will be held on the following Tuesday night, November 23. The winners will meet in the final round of Ames which is traditionally argued before a member of the Supreme Court and two Circuit Court judges.

On the bench in the November 16 argument will be the chief judge of the Massachusetts District Court, Charles E. Wyzanski, Jr. Judge Wyzanski recently gained national attention by criticizing the nomination of Francis X. Morrissey to fill a vacancy on his court. The case concerns alleged violations of the "due process" by policemen who arrest and question a drunken driver.

The issue of the November 23 case involves the jurisdiction of the Massachusetts court to hear a wrongful death action against an international airline whose plane crashed in the Bay State.

Bachelor of Laws v. Juris Doctor

In August 1963, the Section of Legal Education and Admission to the Bar of the American Bar Association recommended to "all approved law schools favorable consideration of the conferring of the degree of Juris Doctor (J.D.) by such schools on those students who successfully complete the program leading to the first professional degree in law."

Many law schools around the country have responded favorably to this recommendation. According to Professor Robert McKay of the N.Y.U. School of Law, there will be at least fifty A.B.A. approved schools awarding the J.D. degree to all, or nearly all, of their graduates by 1966. Other law schools have not yet taken this step, according to Assistant Dean James L. Malone of the U.C.L.A. School of Law, because they are waiting for the large eastern schools to make the first move.

It is time for the Harvard Law School to seriously consider awarding the J.D. instead of the LL.B. The change would place graduates of the Law School on the same level as graduates of medical and dental schools who receive professional doctorates. The informed do not confuse such doctorates with research doctorates such as the S.J.D. or Ph.D. To the general public, however, a bachelor's degree connotes a first degree.

The difference between the two degrees involves more than mere status considerations. In certain government agencies, the holder of a J.D. will have a positive advantage over an LL.B. in competition for salary increases and promotion. In the Air Force and in certain state education systems, an LL.B. is considered the equivalent of a M.A. while a J.D. is ranked with a Ph.D. (Cf. *The Student Lawyer*, Vol. 10, No. 5, June 1965, pp. 5-6, 27.) The LL.B. is regarded as less than a master's degree in Research Report 1961, R-12 of the National Educational Association.

The LL.B. may have been appropriate at the turn of the century when college study was not always necessary for admission to law school. In 1965, however, when the study of law must be preceded by a college education, the LL.B. is little more than an unfortunate anachronism.

Harvard Law Record

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TONGUE 'N CHEEK

By Fenno

One of the marvelous things about law school is its ability to inspire the student and uplift his soul. Behind the classroom door, the great issues of war and peace, love and hate, death and taxes, are fought out by the nation's intellectual élite. Never have so many student body presidents come together in one place to consider questions of great moment.

I am often reminded of that famous statement of the great English jurist, Lord St. Leonards, "Now, if there be one rule of law more sacred than another, it is this, that no limitation shall be construed to be an executory or shifting use, which can by possibility take effect by way of remainder."

There is profundity in a nutshell. There is a code to live by. There is a saying for every lawyer to frame and hang on his office wall, for it truly reflects the aspirations of our profession.

There have been those, of course, who have criticized legal education as being too materialistic. This is nonsense. We are here to settle human problems, not simply to assist the great financial interests. As one professor said recently, "Wall Street is no place for a Harvard lawyer. The sort of work done there is for hacks. Here at Harvard we teach our students that the more challenging problems are to be found in the tort, criminal, and domestic relations fields."

This is why, every spring, hundreds of Harvard Law graduates, the light of idealism shining in their eyes, embark on a career of sacrifice. Shunning the siren call of giant corporations, law factories, and government agencies, they go forth to battle for the rights of the common folk.

It makes a fellow proud to be a lawyer.

HARVARD LAW RECORD

Letters to the Editor

Cook 2L, Praises Balanced RECORD Feature Story

To the Editor:

I have just read Paul M. Branzburg's article about his "nine hours prowling the streets of Roxbury in police patrol cars." Congratulations on a job well done!

All too often stories of this sort degenerate into either blind tirades against "police brutality" or into undifferentiated defenses of all police departments everywhere. Mr. Branzburg wisely refrained from editorializing, and thereby achieved a tone of objectivity and impartiality.

The reader slowly gets a view of policemen which is extremely accurate: human, sometimes overworked, sometimes underpaid, frustrated (often justifiably) by all sorts of safeguards for the accused, and occasionally prejudiced against certain groups of society because he meets nothing but the worst elements of those groups. By the time I reached the end of the article I could understand even the bigoted sergeant.

I hope we can expect more of this sort of reporting in the RECORD.

Gerald S. Cook, 2L

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Weinreb Queries Quality of RECORD Roxbury Story

To the Editor:

As the member of the faculty who wrote the letter for Mr. Paul Branzburg requesting that he be permitted to ride in a patrol car of the Boston Police Department, I deeply regret the publication of his article in last week's RECORD. Mr. Branzburg is a member of the seminar on Crime and Society which I teach and knew that the Police Department has permitted members of the seminar to accompany officers in the performance of their duties only because it believed, as I do, that this would be a valuable educational experience. His decision, announced neither to myself nor to the Police Department, to transform an opportunity to observe and learn into an occasion for gathering material for a story was unfortunate and unwise.

Apart from Mr. Branzburg's bad judgment in publishing his story, there is a more important question for readers of the RECORD of the quality of his reporting. The article

is a piece of sensational reportage which cannot, and indeed but for the inescapable implications of the article does not, pretend to be anything more than a highly impressionistic report by an inexperienced reporter of a ride in a police car, in which items were included because of their supposed sensational impact. (How else can one explain, for example, the inclusion of the "offer" to "set . . . [him] up with a woman"?) I was not in the police car with Mr. Branzburg when the events which he reports occurred. It is apparent to me, however, not least on the basis of my own experiences with another police department, that he is unable or unwilling to distinguish casual conversation and badinage (perhaps induced in part

(Continued on page 10)

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Letters to the Editor

(Continued from preceding page)

by the presence of an impressionable law student?) from remarks intended to be and worthy of being treated as significant. Equally, his lack of experience and manifest unwillingness to keep silent until he has solid ground for claiming anyone's ear disentitles his article to serious consideration as a description of police conduct.

Mr. Branzburg's story, which cannot be regarded as informative in any meaningful sense, had no place in the Law RECORD, which presumably is intended as a serious publication worthy of the Harvard Law School. One can only hope that neither the members of the Boston Police Department nor readers of the RECORD will estimate the value for law students of contacts with the police on the basis of Mr. Branzburg's report or the RECORD's decision to print it.

Yours,

Lloyd L. Weinreb

Following is Mr. Branzburg's reply:

(1) Prof. Weinreb implies that I made the trip in order to write a story for the RECORD. He is mistaken. I rode in a patrol car because I thought it would be a "valuable educational experience." I was correct. After the night in Roxbury, I decided that it would also make an interesting feature article in the RECORD.

(2) Professor Weinreb charges that my article had no place in the RECORD, which he describes as a "serious publication." The RECORD, as every reader knows, is only a school newspaper. As such, we publish news stories and feature stories of interest to students and graduates of the Harvard Law School. An article about the Boston Police Department is, in our judgment, of interest to our reading audience. A RECORD story does not purport to be a definitive and exhaustive analysis of

the material with which it deals. RECORD readers have always known this without having to be told.

(3) More serious is Prof. Weinreb's charges of "sensational reportage" and that certain "items were included because of their supposed sensational impact."

The story I wrote was simply a detailed account of what I observed on a Saturday evening with Roxbury policemen. My primary standard in writing the article was to record the entire experience even if the narrative would sometimes be harsh. I did not include "items . . . because of their supposed sensational impact" but only because they happened. To have deleted incidents because of their possible sensationalism would have been neither accurate nor balanced reporting.

(4) Prof. Weinreb twice refers

(Continued on page 16)

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Recent Book

Finding Justice Through 'Practical Reason'

On Justice In Society: By Morris Ginsberg. Baltimore: Penguin Books, 1965. 242 pages. \$1.25.

By Frank R. Parker

Few of us want to be accused of committing unjust acts, and most of us want to be thought of as promoting justice. Thus we find the notion of justice being used as the rallying flag of such contradictory elements as the revolutionary and the conservative, the integrationist and the segregationist, the proponents and opponents of police interrogation of criminal defendants.

That this notion seems to be used so naively by the advocates of almost every cause at once makes it one of the most intriguing philosophical concepts and one requiring the most deep and clear-headed analysis.

Duality of Justice

Traditionally, justice is thought to be composed of two elements—a formal one and a substantive one. The former demands that ethical principles, whatever they are, be impartially, correctly, and regularly applied. That is, treat like cases alike. The substantive element is made up of those ethical rules which must be impartially applied.

The problem is, as Chaim Perelman has stated, that people differ radically on what are those like cases which must be treated alike as determined by the substantive rules.¹ Thus the egalitarian demands "to each the same thing," the aristocrat requires "to each according to his merit," the racist argues "to each according to his race," etc. The adherent of each separate ideology holds that deviations from his substantive rule are arbitrary and hence unjust.

¹Perelman, *The Idea of Justice and the Problem of Argument* (Routledge and Kegan Paul, 1963).

The eminent British sociologist Morris Ginsberg hopes to find a way out of this tangle of ethical disagreements through the application of the moral philosophy of the British writer Henry Sidgwick. And to qualify Sidgwick's views for application to current problems, Prof. Ginsberg feels he must first establish Sidgwick's philosophy as superior to that of any other modern writer on the subject.

Scattergun Style

To dispose of nearly every other modern philosopher in about 56 pages is no mean feat, and in this Ginsberg is not entirely successful. His scattergun technique, in which he characterizes and deals with the views of major thinkers in only a few sentences, is apt to drive off the ordinary reader who lacks a graduate degree in moral philosophy.

Through it all, Prof. Ginsberg believes that moral problems and ethical disagreements may be resolved through intelligent application of Sidgwick's notion of "Practical Reason." As he frames it, what is needed is a scientific inquiry into "the relevant facts and tendencies" of an issue "combined with philosophical analysis of the extent and nature of any disagreements there may be on matters of moral principles."

Reason and Experience

In other words, reason and critical evaluation of experience will tell us the like cases which ought to be treated alike, and deviations from this will be unreasonable, hence arbitrary, and hence unjust.

Once Prof. Ginsberg lays his ethical foundation, the book becomes much more readable and illuminating. The author discusses what he takes to be the "principal rights and duties essential for full membership of a democratic com-

munity" and devotes a chapter to each.

American readers will be surprised that many of this septuagenarian sociologist's recommendations for promoting social justice represent advanced social and political viewpoints. Thus, Prof. Ginsberg urges that every member of a democratic society has "a right" to a minimum standard of physical and mental well-being, that abortionists should not be criminally punished, and that inheritance of property should be all but abolished in the interest of equalizing property ownership.

Law and Morality

Prof. Ginsberg would agree with Professor Lon L. Fuller in holding that there is, and ought to be, a link between legal rules and moral principles which makes a rule of law (*Rechtstaat*) possible. But his approach is more appealing than Prof. Fuller's, I think, because he does not make coincidence with morality a criterion of legal validity. "Unjust laws are nevertheless laws . . ." Further, the author notices that there are cases where laws which reflect an advanced moral position can operate to shape the moral views of the community, such as the desegregation statutes at work in the South.

But the normal function of moral principles, he affirms, will be to point the way to changes in positive law—both as to new laws needed to promote well-being and as to old laws which now do more evil than good and should be repealed.

Although Sidgwick's *Practical Reason* does not seem to be an indispensable part of the book, Prof. Ginsberg's dispassionate practicality and reasonableness make the work a worthwhile model of enlightened analysis of current social and legal problems.



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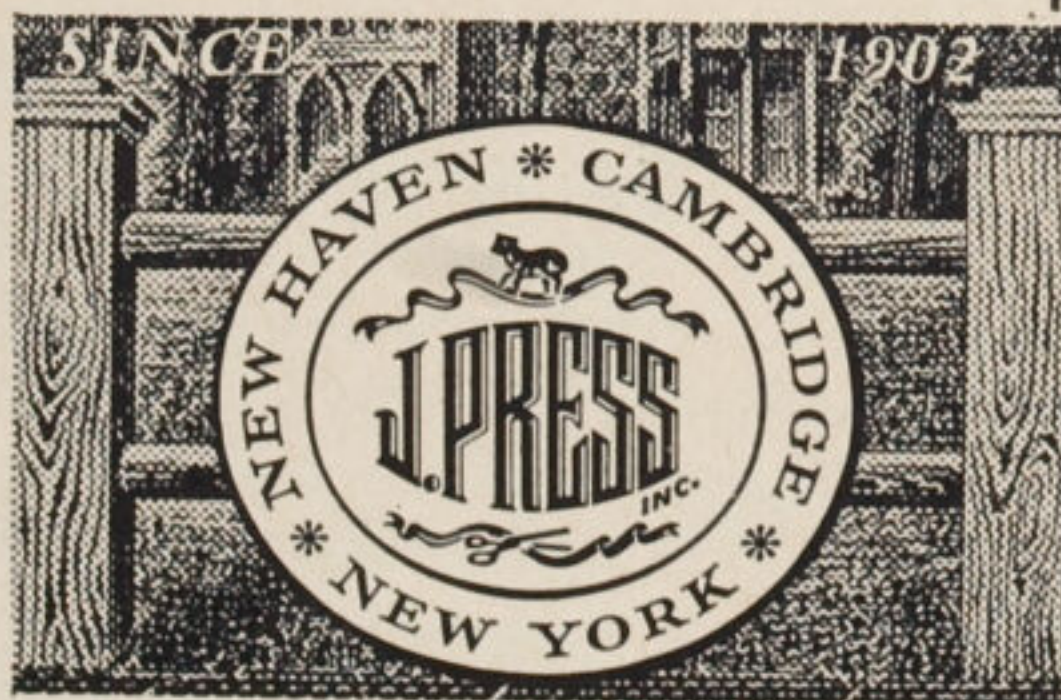
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HLS Recruiting for 3 Teaching Fellow Slots

The First Year Committee is now engaged in recruiting Teaching Fellows for the three vacancies in the Group Work Program. Applications are being received from men and women interested in appointments as Teaching Fellows for one or two years beginning September 1, 1966.

These Teaching Fellowships offer recent graduates and present third-year men a chance to try teaching small sections of first-year students in the Group Work Program in the fall semester, together with a series of attractive options for the second semester.

These options include work for the LL.M. (on a two-year basis), as well as work in the field of Trial Practice under Professors Field and Keeton, on a one- or two-year basis, or research under a member of the Faculty.

The base starting pay is \$5,500 a year for men just out of law school, rising to \$7,000 a year for men with three or more years of practice behind them.

Experience shows that these positions offer not merely teacher training, with a chance to see whether each Teaching Fellow likes teaching, but also give the Faculty here and the Deans of other law schools a good chance to learn his qualifications for faculty positions upon completion of the Group Work Program.

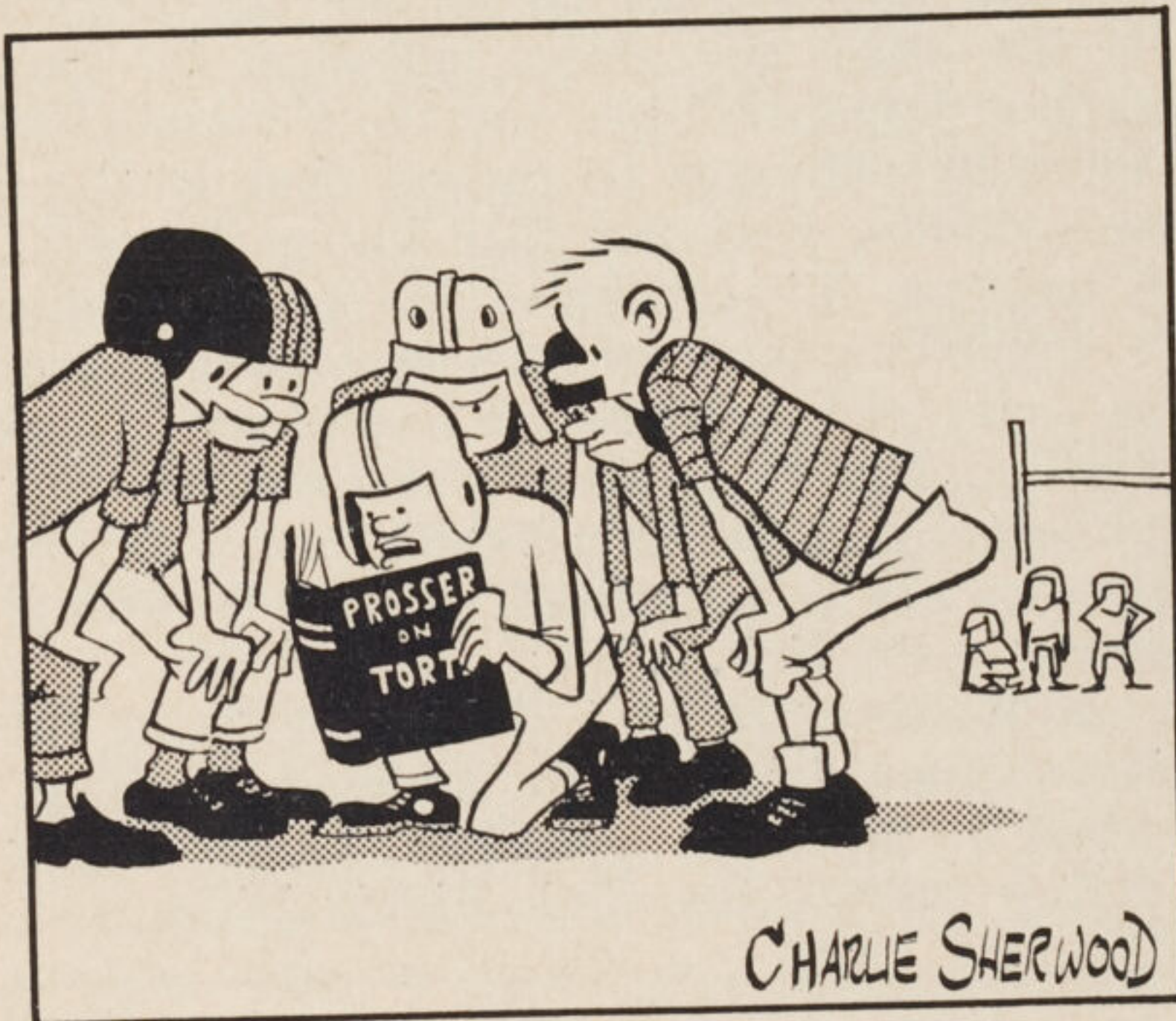
Recent graduates and present third-year students interested in the possibility of one of these Teaching Fellowships should see or write to Prof. Richard H. Field. There is an interesting article on "First Year Group Work" from the standpoint of the Teaching Fellows in 15 Harvard Law School Bulletin, December, 1963, pages 3-5.

Cleats Clashed As Touch Teams Crashed

By Thomas J. Kelly

The Harvard Law School Touch Football season of 1965 will long be remembered as the year of the Great Cleat Clash.

It all started when the A-league's fiery Beaver Hunters, top contenders for the championship, showed up against the Birds of Paradise with one of their key players, former Notre Dame gridder Ed Collins, 3L,



"Nothin' in here about roughin' the passer!"

sporting a used but still rugged pair of cleated shoes. The Birds, captained by Winston "Wildman" Webster, 1L, nonetheless fought it out, going down to defeat 38-0, from which judgment they promptly appealed to Gene "Sparky" Strassburger, 2L, League Commissioner for a decision on the cleat issue.

The Commissioner heard both sides of this stormy issue. While Webster maintained that the cleats made Collins too elusive to be caught by a reasonably prudent player, Collins ingeniously raised the defense that he had invested money in the shoes; if prohibited from wearing them, his reliance interest would be damaged.

Commissioner Strassburger's decision brought chagrin to both parties. Although he decreed that future Law School League games would be played without the aid of cleated shoes, he stonily refused to make this rule retroactive and therefore handed down the decision that the Beaver Hunter's victory

was affirmed without right to appeal.

In commenting on his decision, the Commissioner forthrightly stated: "It is utterly inconceivable that one pair of cleated shoes should account for a thirty-eight point margin of victory. Who do the Birds think they're kidding anyway? Hah!" Captain Webster was unavailable for comment.

Aside from this unfortunate controversy, the league has provided a fall of healthy competition and frustration-outlet for many students. Although the final returns are as yet unavailable, the leaders in all four divisions seem to be emerging as the days grow brisker and shorter.

In the A-league the Beaver Hunters, captained by John Donovan, 3L, seem to be fighting for the lead with the potent Scrods, led by Pat Connor, 2L. In the B-league, despite the presence of the terrifying Cong, Earl Leikin, 2L, and his boys from Armado's Pizza are the favorites right now.

In the C-league the intrepid, if not infallible, Trojans, captained by Steve Imhoff, 2L, are showing that they have what it takes to go all the way, while in the D-league the leading contender is the devious, inscrutable Chinese Bandits team with Philip Mause, 1L, at the helm.

Commissioner Strassburger stated that due to the increased level of competition this year, some type of inter-league playoffs may be held, but that final plans are still pending due to numerous difficulties that beset the Commissioner at every turn.

In spite of his many worries, however, he still maintains that the season has "been one of expansion and improvement in the league and a great experience for all involved."

ILC Adds Three to Executive Board

The International Law Club recently elected the following members to the Executive Board: Edgar Kerry, 1L; Robert T. Galvin, 1L; David Bennett, Grad.

The following students have assumed committee chairmanships: Leslie Michael, 3L; William Robertson, 3L; William P. Robinson, Jr., 2L; Olivia Plantinga, 2L; Peter Trooboff, 2L; David Mortensen, 2L.

Prof. Shipman

(Continued from page 5)

rities and Exchange Act dealing with greater protection for holders of "over-the-counter" issues. The proposals were adopted with few changes as a part of the important securities regulations legislation passed by Congress in 1964.

During his final year with the Commission, the professor worked on a report concerning investment companies. The report has not yet been released and he cannot reveal its contents before publication.

It was during this time that Prof. Shipman was offered and decided to accept the position of Assistant Professor of Law.

At the moment, the professor is not working on any extracurricular projects. Preparation for classes takes a great deal of time and he must keep abreast of new developments in corporation and securities legislation.

Prof. Shipman, his wife — also a native Texan — and their two daughters live near the Law School in Cambridge.

Republican Mayor Speaks

"Without urban renewal the cities would be dead," stated Theodore Roosevelt McKeldin, Republican Mayor of Baltimore, speaking before the Harvard Law and Graduate School Republican Club last Tuesday.

"Baltimore City does not have the financial resources to mount an effective attack on its problems without help from a partner, the United States Government, which is, after all, *our* government using *our* tax money. If the cities and states are alert to their proper responsibilities and the Federal Government continues to respect that local responsibility, I do not fear the partnership. I welcome it," concluded Mayor McKeldin.

Describing how he wins as a Republican in a city with a five to one Democratic registration, McKeldin stated, "I repudiate any philosophy of quietism in our time... if our dreams are to be realized we must be willing to dig in the dirt..."

McKeldin said that Goldwater "sold the Republican birthright for a mess of pottage" when he appeased the Southern racists by voting against the Civil Rights Bill.

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Mrs. Peabody Tells Wives of First Ladyship

By Lowell R. Wedemyer

Being the wife of a political leader is difficult but rewarding, according to Mrs. Endicott Peabody, wife of the former governor of Massachusetts. At a November 3rd meeting of the Harvard Law Wives, Mrs. Peabody told of her experiences as her husband went from a student at Harvard Law School to the leadership of the Bay State.

Mrs. Peabody was born in Bermuda and grew up surrounded by politicians. Her father, a Member of the Bermuda Parliament, worked for universal suffrage on the island. In the early years in politics with her husband, she had to learn how to meet people effectively and to learn how to pronounce and remember their names. She noted that it was very rewarding to meet her husband's constituents and said that she studied singing to aid herself in public speaking. She was called on to speak frequently during her husband's political campaigns and as First Lady of Massachusetts.

Mrs. Peabody spoke of the difficulty of maintaining a normal family life under the pressure of political campaigning. She said that many of the ordinary family problems did not get discussed, but that they somehow worked themselves out anyway. When she and her husband needed inspiration they would take sleeping bags and spend the night at Walden Pond.

One particularly difficult task, she said, was helping her children to understand that they should not harbor ill will towards those who attacked their father in political campaigns, or who defeated him at the polls. She also spoke of enlightening her children about the things one shouldn't say in public about candidates for political office. The Peabodys have two sons, 10 and 16 years old, and a 17-year-old daughter.

One of the greater satisfactions

in her role as a political leader's wife was that she was able to see her husband doing the work for which he had been preparing for so many years.

Mrs. Peabody told of applying the feminine touch to various activities at the State House. For example, she worked on a scheme to improve the library at the State House. The library contains a collection of materials on the American Civil War which were

deteriorating rapidly and (among other things) humidity and temperature control were needed to preserve them. Improvement of the library is now underway, she noted with satisfaction.

The former First Lady of Massachusetts is presently active in civic affairs. She is chairman of the Mental Health Drive, head of the Mother's March for Boston, and chairman of National Library Week.

Ripon Society Rips 'Politics of Vengeance'

John Lindsay is "the first leader his party has given our generation," stated the Ripon Society in a post-election analysis of the major races. In its first report of the academic year the Society praised Lindsay and Arlen Specter, newly elected District Attorney of Philadelphia, for the stunning Republican breakthrough in the urban centers of New York and Philadelphia.

Ripon, a Republican research and policy group with many members from Harvard Law School, criticized President Johnson, Vice President Humphrey and New York Senator Robert F. Kennedy for their endorsement of "the discredited and uninspired record of urban machine politics."

"It is clear," continued the Society, "that party loyalty, national prestige, and familiar personalities are forces which can be overcome by the promise of bold and creative government. In 1965 it was the Republican who embodied this promise in New York and Philadelphia."

"The conservative spoilers and ideological separatists who have worked so hard and so openly outside of the Republican Party to defeat Republican nominees must be disciplined and isolated as a political force," warned the report,

which also called for an "end to the politics of vengeance that threatens continued Republican recovery."

Referring to the Conservative candidate for Mayor of New York, the Ripon Society commented that "Mr Buckley has gained attention because he is unusual, but then one can always be unusual if he is willing to be irresponsible."

The Society viewed the biggest Republican setback of 1965, the New Jersey elections, as "a replay in miniature of what happened all over America in 1964." The challenge to academic freedom in the Genovese case was reminiscent of "another era when emotional anti-communism got out of hand."

Other major races are analyzed in the ten page report which was researched, written and distributed within 48 hours after the polls closed.

The Ripon Society has offices in Harvard Square and membership from most states. The report on the 1965 elections will be distributed to subscribers of the Society.

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Letters

(Continued from page 10)

to my "inexperience" as a reporter. I well know that I am not an experienced police reporter, and that is precisely the reason I refrained from drawing any conclusions. I liked and respected the police officers I met, and by letting them speak for themselves, the article presented them as ordinary men working under trying conditions.

(5) Prof. Weinreb has characterized my story as an attempted "description of police conduct" by virtue of certain "inescapable implications." It was clearly nothing of the sort. It was only an account of what a third-year law student observed in his nine hours of contact with a small number of Roxbury policemen. It would have been impossible for me to generalize about "police conduct" and so I never made the attempt.

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William P. Schwarz, Business Manager

Events of Note

Prof. Derek C. Bok will conduct a seminar on "Truth In Advertising" for the Harvard Law School Wives on November 17 at 8 p.m. in Harkness Commons.

* * *

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* * *

Senator Ernest Gruening (D-Alas.), a leading "dove" and outspoken liberal, will speak at the Law School on Thursday, Dec. 9, at 7:30 p.m. Place to be announced.

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