

Professors Release Auto Insurance Scheme

Small Claims Recovery Speeded, Fault Ignored

By H. Peter Young

There may be some relief in sight for pocket-weary motorists who are feeling the pinch of higher accident insurance premiums, traffic victims who must wait months before receiving payments and courts whose calendars are jammed with personal injury claims.

These are the expected blessings of a new automobile insurance scheme released this week by Harvard Law School Professor Robert E. Keeton and University of Illinois Law School Professor Jeffrey O'Connell after a three-year study of personal claims arising from highway accidents.

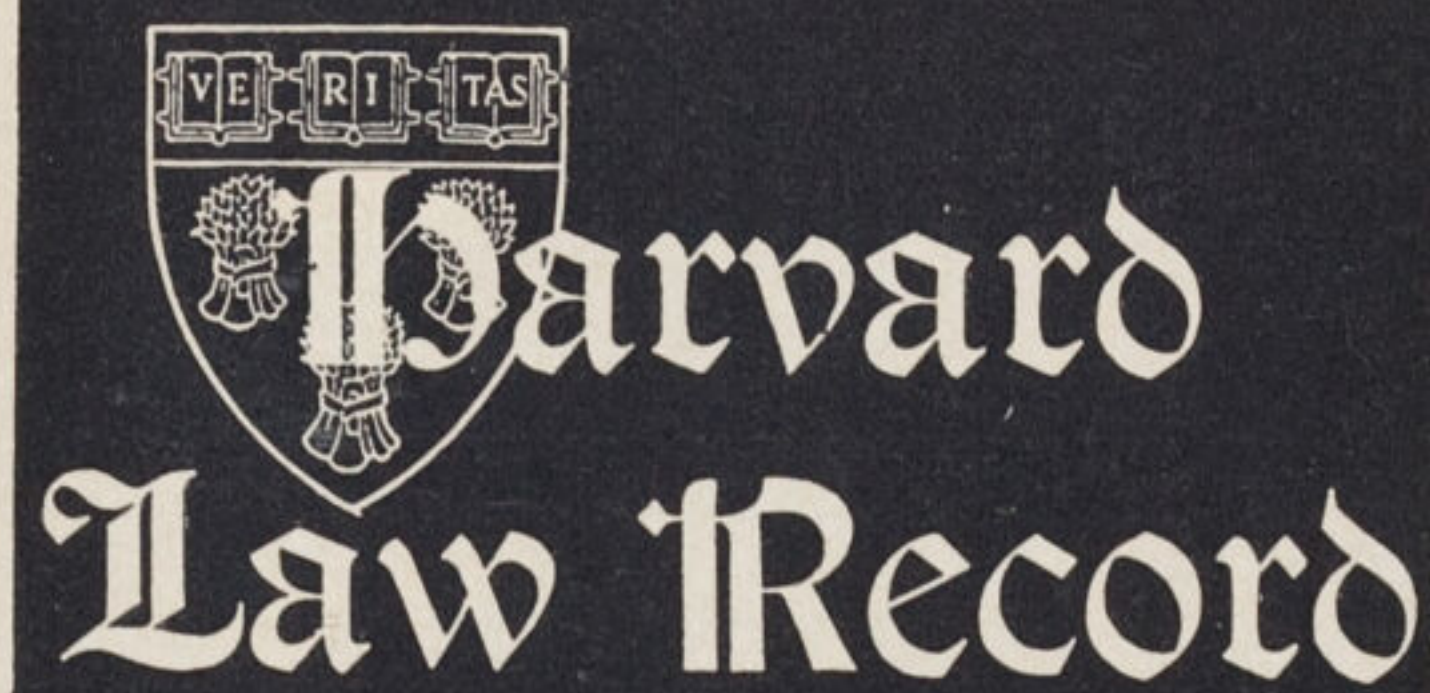
Calling for a drastic departure from existing state liability insurance laws, the plan would establish "basic protection insurance," which would reimburse all accident victims for their economic loss regardless of fault.

The scheme also provides for a new law which would do away with court claims based on negligence unless the damages sought are higher than \$5,000 for pain and suffering or \$10,000 for medical expense, wage loss and similar items.

Since 90 per cent of recoveries fall below these limits, Keeton said, nearly all claims would be handled outside the courts under the new basic protection plan.

The new form of insurance, he explained,

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Bishop Sheen Derides Atheism of 'Intellectual'

By C. Richard D'Amato

His Excellency Fulton J. Sheen, Auxiliary Bishop of New York, argued at a Harvard Law Forum last Friday that the dominant mood of atheism today is an unreasoned, unintellectual, and painful "willing away" of God's presence from the human condition.

Speaking on the topic "God and the Intellectual," Bishop Sheen declared, "We are living in an age where God and the intellectual do not go so much together, where those who use rational and intellectual proofs for the existence of God have but little appeal.

"Atheism is the mood of the present time; it is in the air." Then the national director of the Society for the Propagation of the Faith asked, "Is it intellectual? No. Does it come from reason? Do men prove there is no God or one should be atheistic? No. Then why the appeal?"

"All the thought of God in our age has shifted from the intellect to the will." Man has two faculties, he declared, reason and will. The former takes as its object truth, while the latter simply confines itself to choice. "Modern man wills that there will be no God. This is the so-called intellectual approach. It isn't intellectual at all."

Bishop Sheen became a widely popular

(Continued on following page)



Messrs. O'Connell and Keeton

Bishop Asks Shift in Man's Attitude to God

(Continued from preceding page)

personality through his weekly television program early in the 1950's, "Life is Worth Living." He has written 58 books, his most serious works being *God and Intelligence* and *Philosophy of Religion*.

The dynamic cleric received a bachelor's degree from Catholic University of America, the Ph. D. from the Univ. of Louvain in Belgium, and a Doctor of Sacred Theology (the Church's terminal degree) in Rome. A year later, while teaching at St. Edmund's College in England, he was given the Cardinal Mercier award, which is awarded by that university for the best philosophical treatise of the decade.

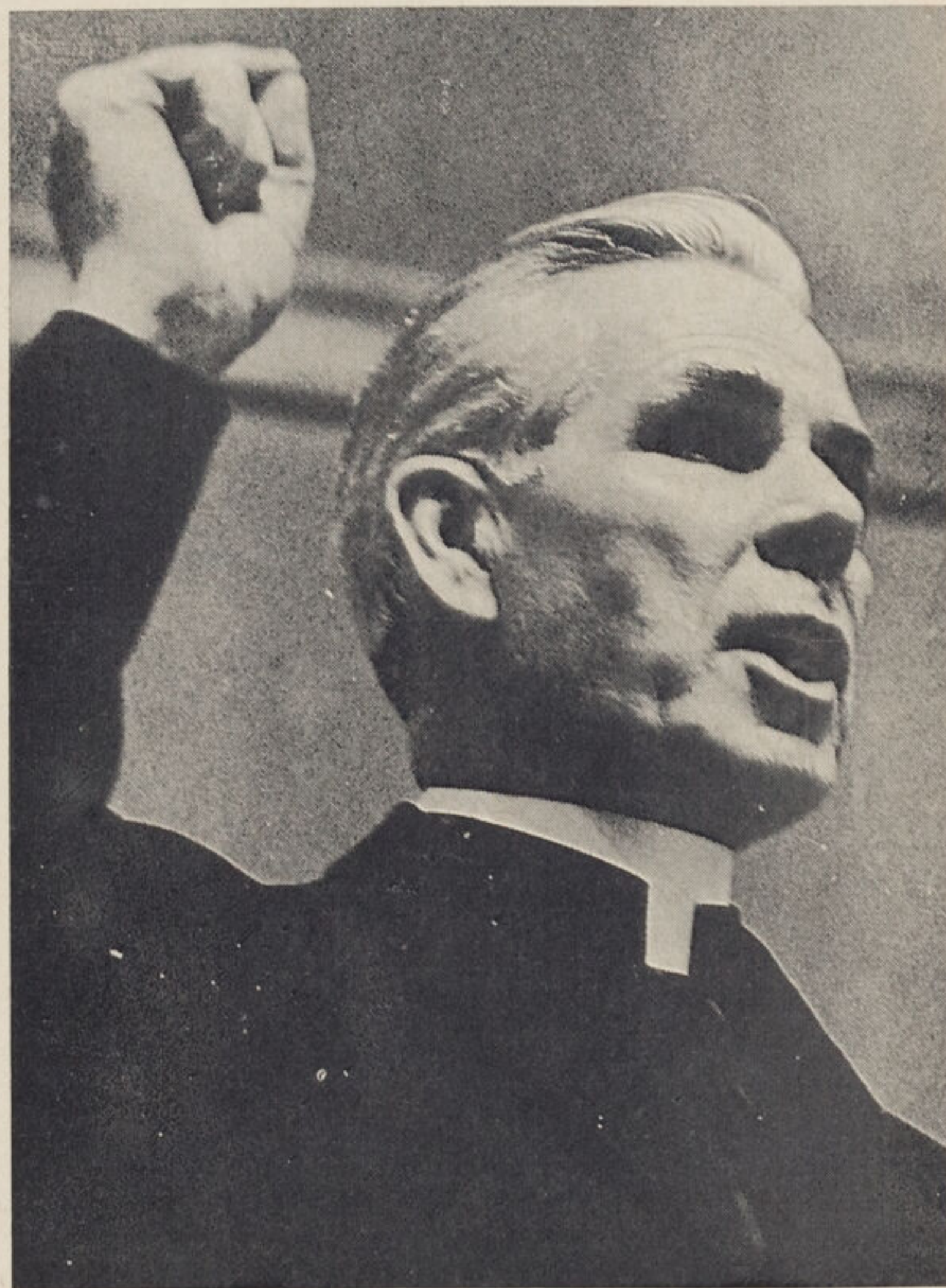
The crux of his Forum lecture was devoted to the question of will and to the "existential atheists" who have "willed away" God. Their roots, he said, "began with Nietzsche, who said 'I will from this moment that there will be no God,'" and who died in an orgy of insanity, pounding at the piano, "shouting and shrieking against the person of Christ."

Sheen used Sartre and Camus as examples of this atheism, as writers who live "in the absence of God. To live in the presence of God there is a sense of love. Today modern minds are feeling the absence of God. There is such a thing as White Grace, which is the Soul, and there is such a thing as Black Grace, which feels its absence."

Those who have "most strongly willed out God", as for example Sartre in *Huit Clos*, feel the pain of his absence most acutely, the Bishop continued. "Sartre could write about Hell better than anyone else, because he's there," and "those who have written most trenchantly have all admitted a lack of inner peace — all of them." Simone de Beauvoir, who denied God at the age of 14, "in the last volume of her work, looks back and says, 'I've been gypped.' "

Bishop Sheen concluded his prepared remarks by warning of the inevitability of a final dramatic watershed in man's attitude toward God if his present course remains unaltered. He recalled the story of some boys who went into the woods and made a game of cursing and denying God only to find they were lost and had to drop to their knees to ask His guidance out of the woods.

"When the mushroom cloud of denial finally spreads and spreads to envelop and degrade the human condition, even the most influential of our atheists will exclaim, 'Lord



Bishop Fulton J. Sheen

save us, we perish,' and the Lord will descend from heaven, like a gatekeeper, his keys rattling, and will declare, 'Gentlemen, it's closing time,' " the Bishop intoned.

The floor then opened for questions.

Question: "Would you give us an intellectual reason that proves to us that He does exist?"

Answer: "There are certain negations we make which prove an affirmation. If I say 'I don't exist,' I prove that I do since I could not say it if I did not exist. This is qualitatively different from the proposition 'A unicorn exists,' since a unicorn is a figment of imagination, but questions of God are concerned with Being.

"If I am to find the source of my being it

(Continued on page 4)

Plan Only Repays Out-of-Pocket Losses

(Continued from page 1)

is patterned after medical payments coverage. It would cover out-of-pocket losses only — with no payments for pain and suffering or losses already reimbursed from other sources, such as sick-leave pay or Blue Cross benefits.

And, to discourage those who might stay off work unnecessarily and fraudulently claim disability, payments for wage loss would be about 90 per cent of take-home pay, rather than 100 per cent.

The insurance company, Keeton said, would be required to pay benefits month by month, as losses occur rather than waiting until the victim and the company can agree on a lump-sum settlement.

Once in effect, he predicted, the plan will cut sharply the overhead of the present system, which, according to nationwide figures, delivers less than 50 cents of the premium dollar to the pockets of victims.

A reduction of insurance costs would be effected by savings on court costs and the elimination in small claims cases of lump sum awards and damages for pain and suffering, he said. A side effect would be the removal of the claimant's chief opportunities for fraud. The scheme's sponsors expect no great wave of reform will follow their three-year effort.

The fifty states, Prof. Keeton said, still cling to a system which provides "too little compensation and that only after long delays."

Whether state legislatures will be willing to correct the shortcomings of the present system — unfair distribution of the insurance costs motorists bear and the benefits injured persons receive, wasteful procedures which unnecessarily increase insurance costs, unrealistic standards for deciding who is to be compensated and by how much which tend to promote corruption and dishonesty — will in large part depend on the reception the legal profession gives the scheme, Keeton said.

Leading the opposition, he said, will be attorneys who specialize in plaintiffs' personal injury claims. And not far behind them will

be attorneys who specialize in defending against those claims.

But the insurance industry, he said, "is not monolithically opposed to good form" in insurance coverage. Its main objection to the new plan, he noted, has been the departure from orthodoxy."

But, because public dissatisfaction with the existing present system has been growing, some insurance executives "have been doing some rethinking."

Already a bill to adopt the basic protection plan has been introduced in Michigan, but Keeton thinks "the greatest prospects for an early success are in Massachusetts and New York," the states where the outcry against



Prof. Robert Keeton

spiraling insurance costs has been loudest.

Keeton and O'Connell have set forth a proposed statute in *Basic Protection for the Traffic Victim — A Blueprint for Reforming Automobile Insurance*, published by Little, Brown and Company.

Their study was conducted at Harvard Law School with financial assistance from the Walter E. Meyer Research Institute of Law, Inc.

Course Change Approved

Second-year students will be given the opportunity to enroll in courses in criminal law as the result of a recently announced course change which will go into effect next semester.

In addition to the one semester electives currently available, 2L's will be allowed to elect either a course in Criminal Procedure given by Professor Lloyd L. Weinreb, or Prof. Alan B. Dershowitz's course in Psychiatry and the Law.

Students who elect one of the second-year criminal law courses instead of one of the one semester elective "perspective courses" now offered, will be required to register for one of the latter in their third year.

According to Prof. Derek C. Bok the change was instituted in recognition of "a strong desire manifested by some students to have some form of criminal law available to them in the second-year. "He added that the new electives are intended to be only a "provisional measure," and that it is hoped that this will lead to a more permanent solution in the future.

In a survey of the student body last semester, 82% of the students responding answered "yes" when asked if they thought a second-year criminal law course was needed.

Bishop Sheen

(Continued from page 2)

must be in a life which is not mingled with the shadow of death." We sense around us life mingled with death, love mingled with hate, truth mingled with the shadow of falsehood, he declared.

"We must go to the source of this light, mingled with shadow, which is pure. An affirmation of love implies that the love we have is simply a spark that came from the pure love of God."

Question: "You say that Camus and Sartre have a void and therefore they must be filled with God to be at peace. Why is that argument any more valid than the argument that man created God to fill a psychological need?"

Answer: "Imperfect man could not create it, think God up. If man were imperfect, he could not create a perfect being, even in his imagination, it would be impossible, because you cannot get more out of less."

Question: "Isn't it simply man's need for security that he searches for God?"

Answer: "You have it the wrong way around. The first question we encounter in the Bible is 'Man, where art thou?', and the second is 'Cain, where is thy brother?' We are not God-seekers or God-creators; the direction is the other way. We are in flight, and so it is God that has to pursue."



Approaching the long and hazardous stretch betwixt Holmes and Harkness last week students momentarily forgot the icy water seeping into their shoes, and took notice of the latest highway sign posted by the Commonwealth of Ames Bureau of Historic Sites and Scenic Wonders.

By strange coincidence, a University maintenance crew drained off the five inch deep lake shortly after.

Gluecks to Publish Delinquency Profiles

Tracing Crime Predictions to 3-Year-Olds

By Lowell R. Wedemyer

It may soon be possible to assess accurately the potential for delinquency of two-or-three-year-old children just as the potential for delinquency of five or six-year-old children can be assessed today, Dr. Eleanor T. Glueck told the Harvard Law Wives Wednesday.

"The biggest problem in juvenile delinquency is the breakdown of the family as the character-builder and morale-builder of society," she said, discussing the thrust of her theories. "This isn't new. What is new is that this has been proved by scientific methods."

The new delinquency-prediction device is modeled on the earlier prediction device for five-or-six-year-olds. Both devices were developed from the results of a study by Professor Sheldon Glueck and his wife, Dr. Glueck of a group of 500 delinquent and 500 non-delinquent children from economically-deprived homes in Boston.

After extensive medical and psychological tests, 400 character traits and social factors were indexed for each child. Correlations of the character traits and social factors with the delinquency or non-delinquency of the children indicated which traits and factors were related to delinquency.

Application of the prediction devices involves observation of the child and his home life by skilled social workers. The observations are formed into weighted clusters of factors which numerically express the potential for delinquency of the child. The weight given each factor in the cluster is determined by the proportion of delinquents in the original study who were found to possess the given factor.

In the experimental verification of the first device it was applied to more than 300 children between the ages of five and seven years. After testing, the children were placed in three categories: 33 children were listed as possessing high potential for delinquency; 25 children were listed as possessing lower potential; and 243 children were listed as

possessing low potential. Data collected during the following 10 years indicated that 85% of the first group, 36% of the second, and 2.9% of the third became delinquent.

Dr. Glueck asserted the work presently being done on the poverty program is "barking up the wrong tree" where juvenile delinquency is concerned, because a major element in the solution of the delinquency problem, the strengthening of family life, is being neglected.



Dr. Eleanor T. Glueck

A study in New York City, she reported, has indicated that the delinquency rate in housing projects is higher than that in the housing replaced by the projects and there are now proposals for putting social workers and psychiatrists into the housing projects. "I don't mean to suggest that good housing isn't needed," she noted. "It is, but it won't solve the delinquency problem."

Dr. Glueck said that experimental verification of the delinquency-prediction devices is continuing. Several large cities are considering applications of the prediction device for five or six-year-old children, and one Southern city has requested information on its possible use for the identification of potential delinquents in its school system.

Developments on the International Front

Two Profs to Direct Summer Law Seminar

Professors Richard R. Baxter and Abram Chayes will jointly direct a Law School seminar on International Law for Legal Officers, primarily from developing countries, this coming summer.

The seminar, a cooperative effort of the Law School, the U. S. Department of State and the Carnegie Endowment for International Peace, will be held from Aug. 22 to Sept. 17.

Two other full-time members of the seminar faculty, whose names will be announced shortly, will be distinguished international lawyers from outside this country representing other legal systems. Also outstanding guest lecturers will be invited.

In Practical Setting

The participants in the Carnegie-Harvard Seminar will be junior and middle level officers dealing with foreign affairs in emerging nations. The seminar's purpose is to allow participants to examine major questions of international law, procedure and organization that they may encounter in their work.

In addition to offering courses of lectures on selected topics of international law, the seminar will deal comprehensively with a number of legal problems and the way they arise in the practical setting of daily foreign-policy making.

The seminar has been planned in cooperation with the Department of State in response to United Nations General Assembly Resolution 1816 (XVII) on "Technical assistance to promote the teaching, study, dissemination and wider appreciation of international law." That resolution urged member states "to undertake broad programmes of training, including seminars . . . in the field of international law."

Beale Outlines Australian Self-Interest

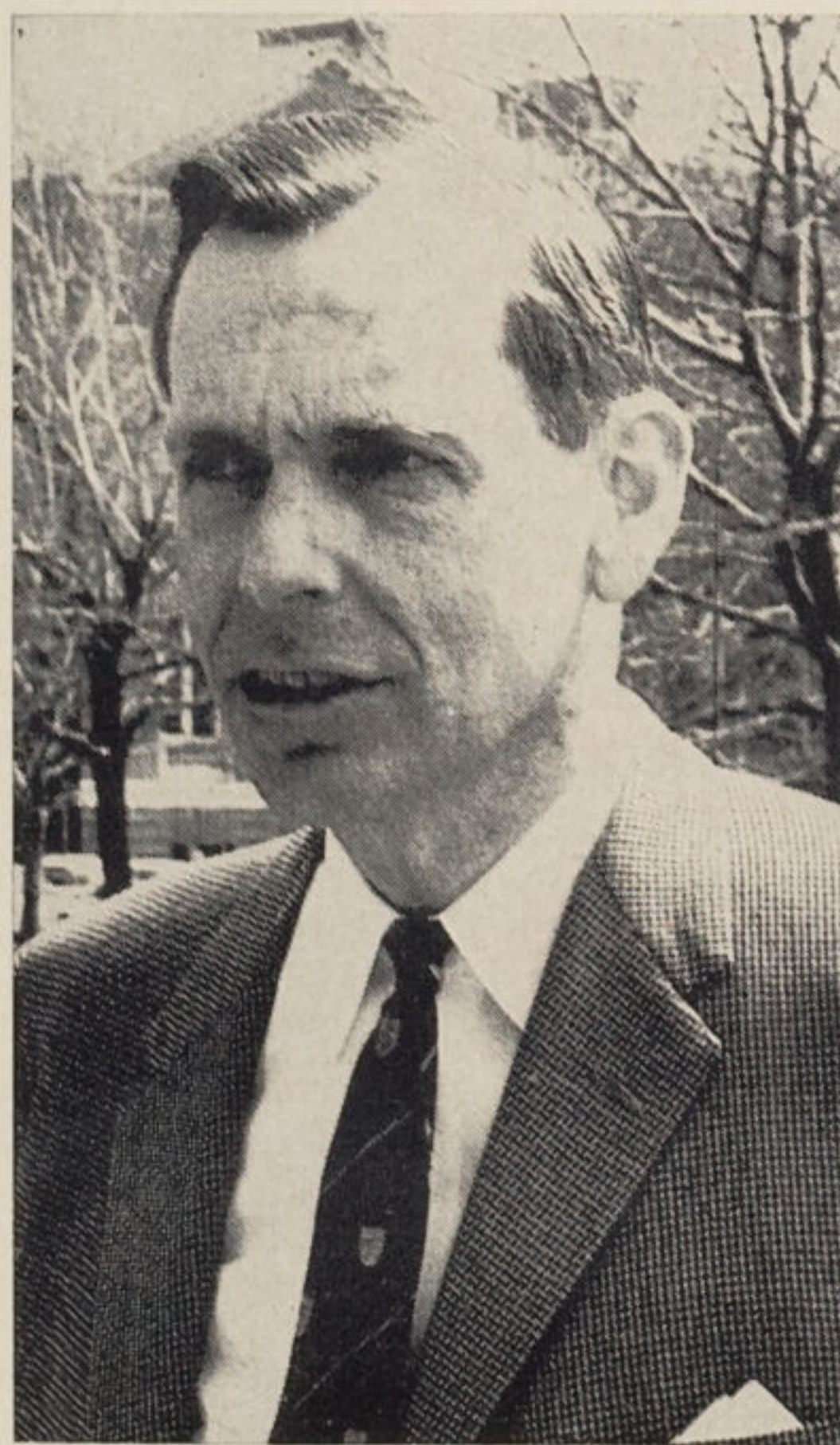
By John Losse

Sir Howard Beale, former Australian Ambassador to the United States, stressed in his talk to the International Law Club Monday that Australia's foreign policy, like everybody else's, derives from her national interest as she sees it in the context of history, culture, and geography.

Discussing the topic "South East Asia: the View from Down Under," Sir Howard spoke of Australia's role in what she sees as a "struggle for the world, a chameleon which changes color but never disappears, and which would already have caused World War III but for the bomb."

"To an Australian," he said, "The Far East is the Near North, an area teeming with a billion people, multiplying at a frightening rate, with great natural wealth and yet grinding poverty, dominated by the Chinese colossus."

Quoting the Malaysian Minister of Development, the speaker said



Prof. Richard R. Baxter

that "these countries also believe in democracy but freedom and human dignity are of academic interest, and the winner will be on the side which can fill their stomachs first."

Thus, he said, "we have great power and strength, but we can't stand pat, the helping hand must be stretched out. Our real strength is what we're upholding — Western Civilization — the greatest that man has produced in his struggle up out of darkness — Christianity, Beethoven, and Bach, Archimedes, Einstein and the Common Law, which has given us our liberties."

The former ambassador then noted that he "had no patience" with the modern glorification of the common man. "We must build up the uncommon man, and make life easy for him, for as you say, all men are equal, but some are more equal than others."

The present crisis, Sir Howard explained, is just the latest swing of the pendulum in the historical struggle between East and West, which includes Alexander's conquests and the turning back of the Moors by Charles Martel. In this scheme, China is the bob on the pendulum's latest swing against the West. Leaving schematics at this point, he concluded: "Anyway, we've got something on our hands."

In answer to Dean Griswold's question: "What about the White Australia policy?" Sir Howard replied that although the name was "lousy", it was an historic policy, going back more than 100 years, when large numbers of Chinese migrated to Australia to share in the gold rush there, and, since there were only a half-million Europeans there at the time, the policy helped avoid "economic problems". Now, however, there is no longer discrimination in Aus-

(Continued on page 10)

Election Rules Announced

The Class of 1966 will go to the polls on Thursday, March 17, to elect a Class Marshal, a Class Secretary, and three Class Committeemen.

All candidates for a degree from the Law School in 1966, and any special student leaving in 1966 may vote and may be a candidate for class office, provided that such student has not voted or been a candidate in any previous election.

Any member of the class may be a candidate. To qualify, nominating petitions containing the signatures of at least twenty members of the class and that of the nominee must be submitted. Petitions are now available from the Langdell receptionist and must be returned there by 5 p.m. on Friday, March 4. Class members may sign more than one petition.

On or before the deadline for submitting petitions, the prospective candidates must also submit two election posters. A description of election rules and procedures and the prescribed contents for the posters may be obtained at the Langdell receptionist's desk, and copies are posted around the Law School.

Balloting will take place in Business Planning classes. Students who are not enrolled in that course may vote at the Langdell receptionist's desk between 9 a.m. and 5 p.m. on election day.

As the ceremonial head of the class, the Class Marshal serves as master of ceremonies at class functions and as chairman of the Class Committee. The Class Secretary maintains liaison with the Alumni Office and is responsible for initiating reunions at five year intervals. He (or she) also usually prepares an annual newsletter concerning the activities of class members.

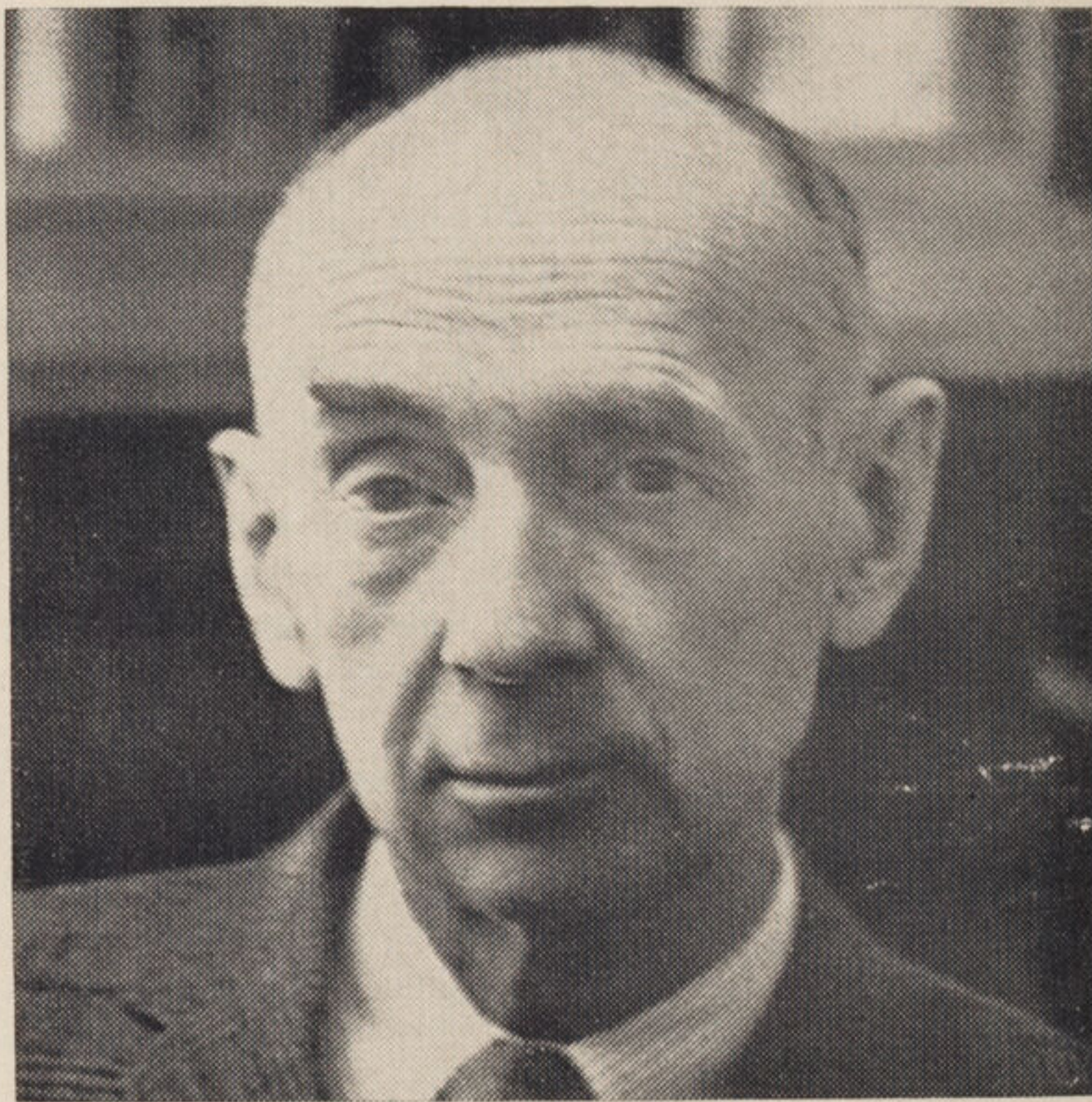
The committeemen serve as the regional representatives of the class. Four additional committeemen will be appointed by the officers and committeemen selected at the March 17 election. Officers and committeemen serve for five year terms, with succession governed by the class charter.

As a group, the Class Committee assists and makes recommendations to the Harvard Law School Fund Office and Fund Chairmen, in addition to planning class reunions and other class activities.

Law-Ph.D. Program Set

A time-saving program under which graduate students will be able to work for a Ph.D. in government while enrolled at the Law School will be inaugurated this fall.

The new program is designed for law stu-



Prof. Sutherland

dents interested in careers in public administration, diplomacy, teaching and other areas where both degrees are useful, said Professor Arthur E. Sutherland, who is in charge of the program at the Law School.

Under the program, law students will apply to the Government Department at the end of their first year, and, if accepted, will cross-register at the Graduate School of Arts and Sciences.

Electives in the last two years of law study will be used for preparation for the general examination in government.

After graduation from the Law School, they will apply for formal admission to the GSAS, receiving credit for the government courses already taken. Most students will have to spend another year preparing for the generals, Prof. Sutherland said.

He estimated that the new plan will permit students to earn both the law and government degrees in five or six years. The Ph.D. program usually takes two years of preparation for generals and a total of five or six years before the degree is awarded.

The Harvard J. D: 19??

The RECORD noted with satisfaction this week that the *Columbia Law School News* has given front page coverage to the swelling controversy over the pathetic anachronism known as the LL.B. Citing and expanding upon the points made in the RECORD editorial of November 12, 1965, the *News* article constitutes a telling indictment of the LL.B.

Professor Walter Gellhorn, Betts Professor of Law at Columbia Law School and this year's Holmes lecturer at the Harvard Law School, told the *News*: "I think the LL.B. is an anachronism. It goes back to the time when students entered law school without prior college work."

A member in 1963 of the Special Committee on Graduate Instruction of the Association of American Law Schools, Prof. Gellhorn said that he "recently saw a list of university degrees awarded last year. It was broken down into the categories of bachelors, masters and doctors. I don't think it's right for law degrees to be lumped in with the undergraduate degrees this way. The situation has changed, and it's time we recognized it. I think we're the victims of our own tradition." Prof. Gellhorn holds the LL.B. from Columbia Law School.

Dean Warren of Columbia beautifully expressed the 'do nothing' position: "I like the LL.B. It's been around for a hundred years and I don't see any reason to change. If there's a problem, it's one of others' lack of understanding of the degree, and I don't think we should change our way of doing things just because they get confused."

Discriminations against holders of the LL.B. are not terribly difficult to find. One example is that of the Minnesota College Board regulations for the hiring of teachers. The regulations treat an LL.B. as the equivalent of a masters with respect to rank and salary, whereas the J.D. is regarded as the same as a Ph.D. Ironically, neither of Minnesota's two law schools grants the J.D. William Mitchell College of Law is, however, officially considering the possibility of discarding the LL.B.

It is time for the Harvard Law School to get out of its conservative rut and switch to the J.D.

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TONGUE 'N CHEEK

By Fenno

All else having come to nought, I finally found myself being subjected to a pre-induction check-out at my friendly neighborhood Selective Service Office.

"You're looking well, my boy," chirped the examining sergeant as I entered the room, stripped to my crimson colored shorts with small H's sewn all around.

"Equity will not act unless I enter with clean hands," I responded, clicking my heels together and bowing.

"Perhaps we'd better talk about your private life," he said.

"The law is a jealous mistress," replied I, my voice quivering with passion.

He quickly changed the subject: "How do you feel about our nation's role in foreign affairs," he snapped, obviously hanoied.

"It should not be a brooding omnipresence in the sky but the articulate voice of some sovereign or quasi-sovereign that can be identified," I recited, citing him to the official and unofficial reporters and the Selective Service Regs.

"Brooding omnipresence," he said, looking skyward and plagiarizing wildly, "that's a good one. Makes me feel right at Holmes."

"Out of the old fields must spring the new corn," I intoned.

"Now we're getting down to business," he mumbled, polishing his brass buttons. "Tell me what you think about Johnson."

"Good man," I murmured softly, idly stroking the well-worn copy of the 1939 Tax Code I always carry with me. "The law is the last result of human wisdom acting upon human experience for the benefit of the public," that's what he said.

"Sure doesn't sound like ol' Lyndon to me," he sang out.

"Samuel Johnson," I smirked as I slunk out.

"Where are you going?" he cried.

"Back to my Fen Cave near the Fenway," I fended.

"1-Y," he said, offended.

Letters to the Editor

To the Editor:

In your column in the issue of February 3, 1966, you published a letter from Richard Bate, Morris Plains, N. J.

I don't know what had gone before, but I gathered Mr. Bate is under the impression that splitting infinitives is "wrong." I know of no such "rule" of English, do you?

My reason for not splitting them is not that it is "wrong" — but that about half of the people *think* it is. Therefore, they stop to say, "oh, oh, he split an infinitive;" and, in doing this, they lose all context of what is being said.

This is about as absurd as the so-called "rule" that it is "wrong" to end a sentence with a preposition. When Winston Churchill was admonished against this, he said (after denying that it was wrong): "That is a proposition up with

Weinstein Honored

Lewis H. Weinstein, a lecturer on law here, has been elected President of the Council of Jewish Federations and Welfare Funds at the Council's General Assembly in Montreal.

As president, he will help coordinate the nearly 300 Jewish federations, welfare funds and community groups which are part of the Council.

An instructor since 1961, Mr. Weinstein is currently teaching the second semester course in Trial Practice. He is a partner in the Boston firm of Foley, Hoag and Eliot.

which I will not put!" This proposition about split infinitives is equally absurd.

I enjoy your publication.

Sincerely,

Albert S. Nelson, '28 (Ex).

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Australia

(Continued from page 6)

tralia, but only "partial immigration restrictions based on our legitimate desire to foster a homogeneity of population."

In answer to a question about Vietnam, the former ambassador said "Let's go down to the arena where the race is on. If we accept defeat, Thailand will go, India will go, and you go on down the chain. India and the other free countries aren't supporting us yet because they don't want to provoke China, and, probably, because they are suspicious of the West's motives, and possible colonialism, although nothing could be less imperialistic and more altruistic than our involvement in Vietnam."

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Record Membership Drive On

Yes, the RECORD's semi-annual membership drive has begun.

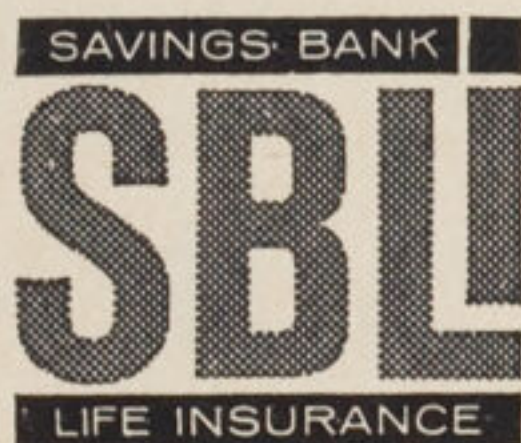
A special important meeting for all students interested in the mysteries of journalism will be held in the RECORD's lush suite of offices on the top floor of 22 Everett Street.

It is well known that newspaper writing experience is essential for lawyers, and RECORD members can attest that active participation has a marked effect on grades.

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Recent Book

An Arbitrator's Lot Is Not a Happy One

The Labor Arbitration Process. By R. W. Fleming. Urbana: University of Illinois Press, 1965. pp. 223. \$5.00.

By John Spitzer

According to R. W. Fleming, president of the National Academy of Arbitrators, the typical arbitration of a union member's "grievance" will proceed something like this:

After a month's delay to obtain one of the highly sought after arbitrators, the company and union officials with \$25-an-hour lawyers will arrive in the neutral territory of a hotel room and greet the \$125-a-day arbitrator. As there is only "notice" pleading and no discovery process, the parties may only know at this time that there has been a grievance and that the grievance has been denied by the company.

The arbitrator may know even less. His time is too expensive for extensive preparation, and briefs are only filed after the hearing to aid him in writing his opinion.

The dispute may end in a few minutes if it is determined that the contract between the company and the union does not protect the worker in this situation.

Endless Irrelevancy

Or, it may go on for hours because of the "liberal" rules of evidence in an arbitration proceeding. In addition to the "wear and tear" on the opposing counsel who have to sit through endless recitations of irrelevant testimony, the record soon becomes clogged and unreadable.

The ambiguities of burden of pleading, burden of going forward, and burden of proof may cast the hearing further adrift. Such "legalisms" are avoided as technical procedural rules which only exist to ensnare the unwary. The company or the union may be hesitant

to offer evidence on issues central to the controversy for fear that this may suddenly cast the burden of proof on them.

While an arbitrator will not ignore Justice Cardozo's stern warning that a judge is not "a knight-errant, roaming at will in the pursuit of his own ideal of beauty and goodness," the arbitrator, Mr. Fleming notes, will frequently be a college professor and be unwilling to accept the passive role of an umpire. The arbitrator is a relatively new phenomenon in the legal world and he has no defined identity. His position may vary from one hearing to another.

After it's all over, the parties have a week to file briefs for the arbitrator who will render a written opinion several weeks later.

Prof. Fleming asserts that many of these ills are inevitable as more and more demands are put on the arbitration process. Like workmen's compensation, arbitration was once thought to be a panacea for all labor disputes. This ideal has simply not worked out in practice and he calls upon companies and unions to take a realistic attitude.

At the same time he urges a number of reforms:

1) Cut down on costs by holding hearings at the plant, eliminating written transcripts, and having the arbitrator deliver an

oral opinion after all the evidence.

2) Streamline procedure by requiring more detailed pleadings, an "honor" discovery system, pre-hearing briefs, stricter rules of evidence and a better notion of who has to prove what.

3) Experiment with a preliminary hearing similar to a pre-trial conference. Too many grievances turn out to be frivolous and most could be processed by non-lawyers arguing before an apprentice arbitrator. The full-dress arbitration proceeding would serve more as an appellate review.

The goal of "industrial due process" is clouded by a number of subsidiary problems. Sometimes the union will refuse to arbitrate the grievance of an employee which he believes has merit and on
(Continued on following page)

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Labor Arbitration

(Continued from preceding page) which his whole job and even career may hinge. What is his recourse? Who pays the cost if the company is forced to arbitrate?

Constitutional rights have received only scanty attention in the arbitration process. Prof. Fleming believes that this limitation of Constitutional rights must continue to be present to some extent when a past theft record is admitted into evidence, or when there is no right to cross-examine an accusing witness, as when a delivery man is accused of making improper advances to a customer. Such infringements are permissible because "employment with any given employer is not a right."

But the author draws the line at illegal searches and seizures, wiretapping, and compulsory lie detector tests. While evidence from such sources is sometimes admitted in arbitration proceedings, he urges that such evidence be ex-

cluded to support the dignity of the employees.

While considerable progress has been made in the labor field since the era of wildcat strikes and Pinkerton detectives firing on strikers, Fleming says that there remains a lingering doubt that arbitration is always the right solution for the psychological pressures of company-union relations. Sometimes a strike is a much-needed catharsis:

"A strike is more than a test of strength over a particular issue. It is also a release from the humdrum existence of everyday industrial life, a proving ground for union leaders, a moment of excitement, glory, and perhaps of disillusionment in a battle against an opponent who usually holds the upper hand, a sharing of hardship which may weld the union together, and a high-level poker game in which plays and counterplays are expected."

Events of Note

Dr. Alfred Bexelius, the Ombudsman of Sweden, will give a talk on "The Swedish Ombudsman" on Thurs., Feb. 17, at 4 p.m. in the Harkness Meeting Room. All faculty and students are welcome.

* * * *

"Woman — Dare We Not Discriminate" will be the subject of a Law School Forum on Fri., Feb. 18 at 8:30 p.m. in the Ames Courtroom. The panelists will be Dr. Mary Bunting, president of Radcliffe, Betty Friedan, author of "The Feminine Mystique," and author and attorney Pauli Murray, who has written a book entitled "Jane Crow and the Law."

* * * *

The Harvard Journal on Legislation, published by the Legislative Research Bureau, will go on sale at Harkness tomorrow, between noon and 2 p.m. The Journal will also be sold Monday and Wednesday at the same hours.

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Astronomer Proves Earth is 'Dead Planet'

By John Spitzer

How do you find life on Earth if you are a Martian? Look for the shadows of cows in California, lumbering operations in Ontario or the "Beverly Hillbillies", instructed Assistant Professor Carl Sagan before the Harvard Dames last Thursday night.

The surrealistic inquiry was an indirect rebuttal to the commentators who hastily concluded last summer, when the Mariner photographs were returned, that Mars was a "dead planet."

Life on earth is "much harder to find than you'd realize," asserted the Harvard astronomy professor. He illustrated by showing a slide of the eastern seacoast at the same distance from Earth as the Mariner photos were from Mars. The sprawling urban centers of New York and Boston simply didn't appear.

Only with intensive analysis of photos taken closer to the Earth could life be deduced by definite and conclusive reasoning. And life appeared in the most unlikely ways.

Like examining the shadows of cows. This slide was an extreme close-up but all you could see were many oblong shapes with shadows moving off to the left. From a single photograph they might easily seem to be inorganic formations.

"But take a look at the shadows," explained the Harvard professor and member of the NASA team. "If you look closely, you see that there is a bulky top part of the shadow connected to the main object by little spindly things. This meant that the main object was top-heavy. It is extremely unlikely for so many top heavy natural formations to remain standing for so long. So we had the right to conclude there must be a mode of regeneration."

He went on to point out that the objects were pointed the same way which meant they had to be California cows. California is the only state with a steady wind to blow across the fields. "So the cows stand this way to avoid each other's smell."

Another suspicious place of earthly activity was deep in the forests of Ontario where a faint grid pattern of white lines interrupted the green expanse — again inexplicable from the Martian point of view.

Again the professor did some "after the fact" checking up on the situation. He found that a Canadian lumber company had cut mile-wide criss-crossing swaths through the forest as a conservation measure; then a heavy snow on the swaths made them easily distinguishable from the dark green surrounding forest.

Other means of detecting life would be to watch for instantaneous "pips" of light from atomic bomb explosions, the wakes of ships in oceans, the shadows of jet exhausts against



Professor of Astronomy Sagan

white clouds and brand new highways running through a dark forest.

But the easiest way of all would be to tune in to the "Beverly Hillbillies" since high frequency television signals are not deflected by the ionosphere like other radio signals and would probably reach Mars.

Dr. Sagan added that these "interplanetary emissaries" to Mars might have the unhappy side effect of discouraging Martian outlays for a cultural exchange program with Earth.

Concluding on a serious note, the professor pointed out that the United States is now faced with a financial choice of exploring Mars or fighting the war in Vietnam: "This is one of the unfortunate consequences of the war. If it were not for the war, there would be an excellent chance for a joint expedition to Mars with Russia."

Wright to Teach Law at College

Benjamin Fletcher Wright has been appointed Visiting Professor of Government at Harvard University for the academic year 1966-67.

Prof. Wright will replace Professor Robert G. McCloskey, who will be on sabbatical leave, and give the course in American Constitutional Development. He will also lead a graduate seminar on the Supreme Court and will tutor undergraduates studying government.

Presently the director of the American Studies program at the University of Texas, Prof. Wright has also served as the president of Smith College from 1949 to 1959.

Prior to his stay at Smith, he had been on the faculty of Harvard University for twenty-three years. At that time he was chairman of a committee to help every student learn to better appreciate the range of human experience

and achievement "as a necessary part of the broad education for citizenship in a modern free society," by fundamentally changing the elective system of undergraduate instruction at Harvard. Prof. Wright was also a member of the committee which prepared a report on "General Education in a Free Society," which led to this greater freedom in choosing electives.

Prof. Wright was born in Texas and received his baccalaureate degree from the University of Texas. He was awarded the Ph.D. from Harvard University in 1925 and holds honorary degrees, from Amherst College, Mt. Holyoke, American International College and the University of Pittsburgh.

During his stay here, Prof. Wright will live at Leverett House, where he has been an honorary associate for many years. Prior to 1949, he also served as the acting master of Leverett House.

Rep. Frelinghuysen To Speak Monday

Cong. Peter H. B. Frelinghuysen, seven-term Republican Congressman from New Jersey will address the Law School Republican Club Monday at 4 p.m. in the Wheeler Room, Holmes Hall.

Rep. Frelinghuysen is a member of the "Wednesday Group"—liberal and moderate Republicans who meet on that day of the week to discuss issues and tactics.

He is the ranking minority member of the House Foreign Affairs Committee and was the unsuccessful candidate for minority whip on minority leader's Gerald Ford's ticket last year.

The club will hold a coffee hour Sunday afternoon at Wellesley with the Wellesley College Republican Club. A sherry party with the Simmons College Republican Club is set for Mar. 6.

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Students Help Challenge D.C. School Board

By Mandy Hawes

An intensive short-term research project was completed recently by six members of the Law School Civil Rights Committee to aid a group of Washington, D. C., Negro parents who are challenging the constitutionality of the District's judicially appointed school board.

The suit, brought against the District school board and the federal district court judges who appointed it, seeks a declaration that the process of appointment violates the doctrine of the separation of powers.

The results of the group's research went into a brief filed last Thursday by Washington attorney William L. Higgs, LL.B. '58.

Higgs, a native Mississippian and noted civil rights lawyer, directed the project while conducting a three-day research marathon of his own.

Wright to Rule

Because the district court judges are themselves defendants in the action, Chief Judge David L. Bazelon appointed Appellate Court Judge J. Skelly Wright to hear the case. Pursuant to a ruling on defendant's motion to dismiss, Judge Wright requested briefs be filed on the question of whether or not there was a litigable issue.

The ground on which the suit was brought is that the federal district court for the District of Columbia, although created by Congress and thus originally a legislative court, nonetheless performs many of the functions of a constitutional court and hence may be properly compared to the highest court of a state, able to exercise the same powers and subject to the same restrictions which the states impose upon their respective judicial branches.

The committee researchers report their investigation showed that there is considerable precedent for the argument that the judiciary may not encroach on the executive power of appointment and removal of officials, except in-

sofar as the appointments may relate strictly to court functionaries, and even in this limited area several states forbid the courts to interfere.

While certain jurisdictions have allowed judicial appointments of, for example, a parks or drainage district commissioner, no cases were discovered in which a "politically-sensitive" appointment was left to the judiciary.

Classification Problem

Another series of problems relate to the classification of the District as a city or a state and the application of the separation of powers doctrine at the municipal level.

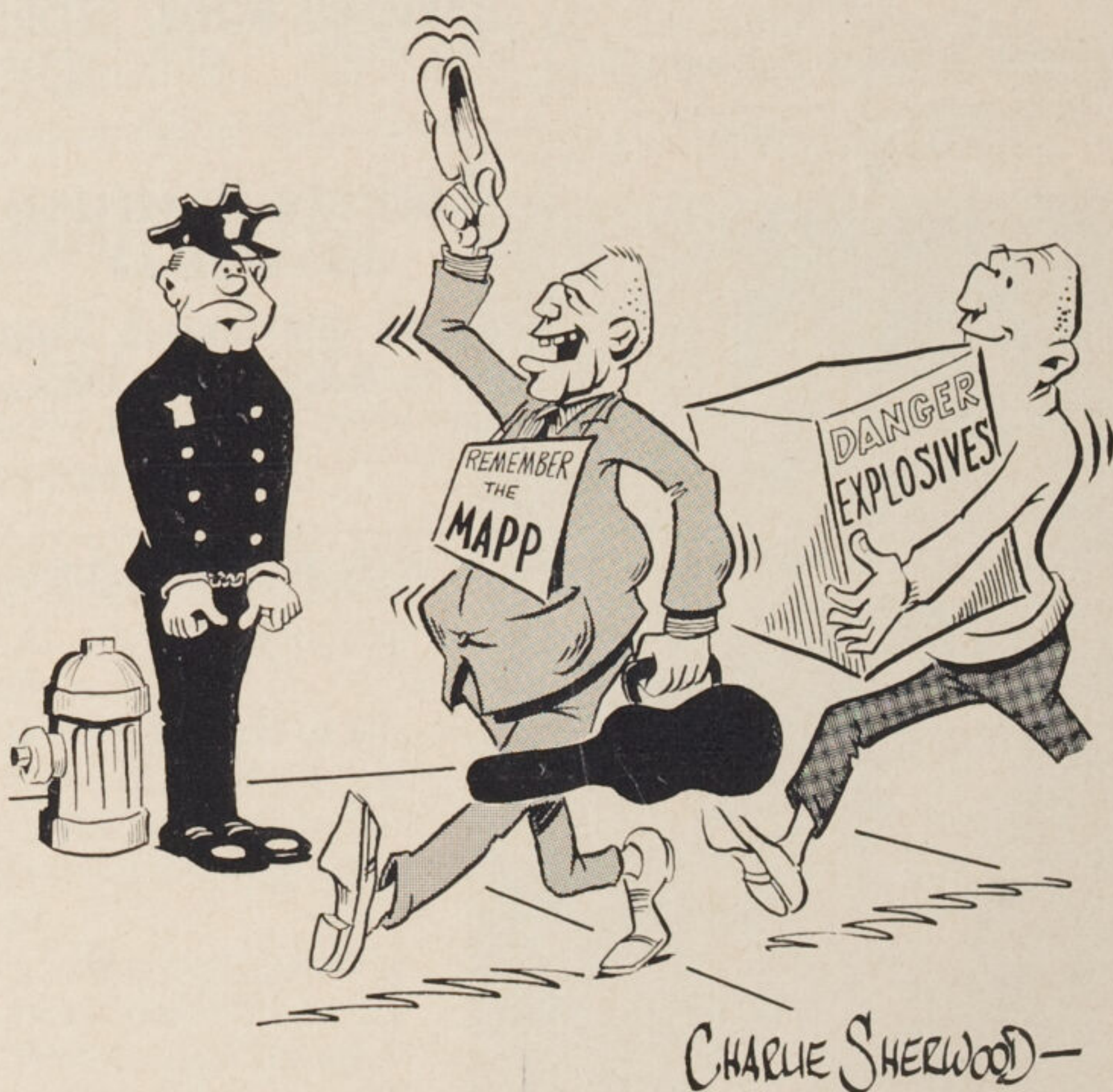
At Harvard, Higgs expressed optimism about the outcome of the preliminary round of the suit. He noted parenthetically that the White House has already asked him to withdraw the action. The possible significance of a victory for Higgs' clients is broad. If Judge Wright finds that there is a cause of action and further that

the District of Columbia Board of Education is in fact unconstitutional, the way will be virtually clear for a city-wide election of a new board.

Such an election, Higgs feels sure, would bring in a board more nearly representative of the 60% non-white population of the District than would a comparable election under the Administration's proposed Home Rule plan. He asserts that under the Administration plan, which involves voting by district, the possibility of a gerrymander in favor of the white minority is left open.

A draft brief was filed by Higgs and an associate on Feb. 5, while the local researchers continued last-minute work for two more days.

Participating students were Frederic Ballard, 3L, Michael J. Bush, 1L, Amanda Hawes, 1L, Douglas J. Kramer, 1L, Philip J. Mause, 1L, Joseph P. Meissner, 3L, Richard T. Seymour, 1L, and Philip S. Shaw, 2L.



"Nice weather we're having, eh Mulligan?"

Rights Groups Plan New Student Publication

Along with *The Free Student*, *Viet Report*, and *Spider*, a new student publication is about to hit the market.

Sponsored jointly by the Law School Civil Rights Committee and the Civil Liberties Research Service, the student-edited journal has been tentatively titled the *Rights and Liberties Law Review*.

The *Law Review*, to be published sometime in April, will contain timely articles on civil rights and civil liberties, as well as case notes.

In justifying the appearance of another student publication, Joseph P. Meissner, 3L, President of the Committee, said that the *Law Review* "was intended both to provide a creative outlet for law student writing on civil rights, and to keep practicing lawyers abreast of the latest developments."

"We hope to publish articles of law review quality," commented Gary T. Schwartz, 3L,

Vice-President of the civil liberties group, "that will be analytical, intelligent, and informative." The articles in the first issue are generally to be edited from third-year and seminar papers.

The editors trust the new journal will fill a void in the field. "At present there are no specialized legal publications in the civil rights area which do more than report the recent cases," Meissner pointed out.

"Our law review will have an advantage over the established ones," he continued, "because most of our writers will have had direct experience in civil rights litigation."

The editorial board, which also consists of Spencer H. Boyer, Grad., and Frank R. Parker, 3L, is optimistic that the *Law Review* will be well received by practicing civil rights lawyers who often lack the time to analyze the implications of a new case.

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