

Analysis of Johnson Attempted at Forum

By John Spitzer

President Johnson has alienated himself from the nation by trying to mold his policies to the whims of public opinion polls (the mythical "consensus"), asserted Chicago Prof. Hans J. Morganthau, author of *Politics*



Prof. Morganthau and Mr. Novak

Among Nations, at the Forum in Lowell Lecture Hall Friday evening.

The eminent political scientist argued that the President of the United States should
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Placement Communique

The recently appointed Faculty Committee on Placement (consisting of Professor Louis Loss, Chairman, and Professors Richard Field and David Westfall) has asked the RECORD to publish the following statement:

"One of this committee's important functions is to receive complaints, criticisms or suggestions from students with respect to any aspect of the placement activities of the Law School. This includes, but is by no means limited to, the matter of discrimination. Any student who thinks he or she has evidence of discriminatory treatment or practices, or who has anything to say with respect to the school's placement function, is not merely invited but urged to get in touch with any of the members of the committee, either personally or in writing.

"The committee also invites communications from prospective employers with reference to the School's placement procedures."

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Conference Studies Law and the Poor

By J. David Gernant

A distinguished group of obnoxious poverty people met together last weekend in the Ames Courtroom.

The occasion was a three-day Conference on Law and Poverty, sponsored by Harvard's Neighborhood Law Office Program under the guidance of Director John Ferren, a faculty committee, and a student planning committee headed by Mr. Daniel Lowenstein, 3L. It was attended by perhaps 450 lawyers from across the country.

The burgeoning development of "poverty law," especially now under the aegis of the Office of Economic Opportunity (OEO), was the moving force behind the calling of the conference. It brought together persons with strongly divergent views on the problems of poverty law, frequently obnoxious persons who expressed obnoxious views obnoxiously.

The keynoter of the conference was a graduate of the Harvard Law School

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Prof. Freund's 'Avuncular Qualities'

By Tom Johnson

"God save the United States and this Honorable Court." The voice was that of a third year Boston College law student; it lacked the aplomb of Perry Lippitt, the long-time Marshal of the Supreme Court who traditionally opens its sessions. The site was the McLoughlin Memorial Courtroom on the second floor of B. C.'s law school; it lacked the dignity of the white marble chamber in Washington.

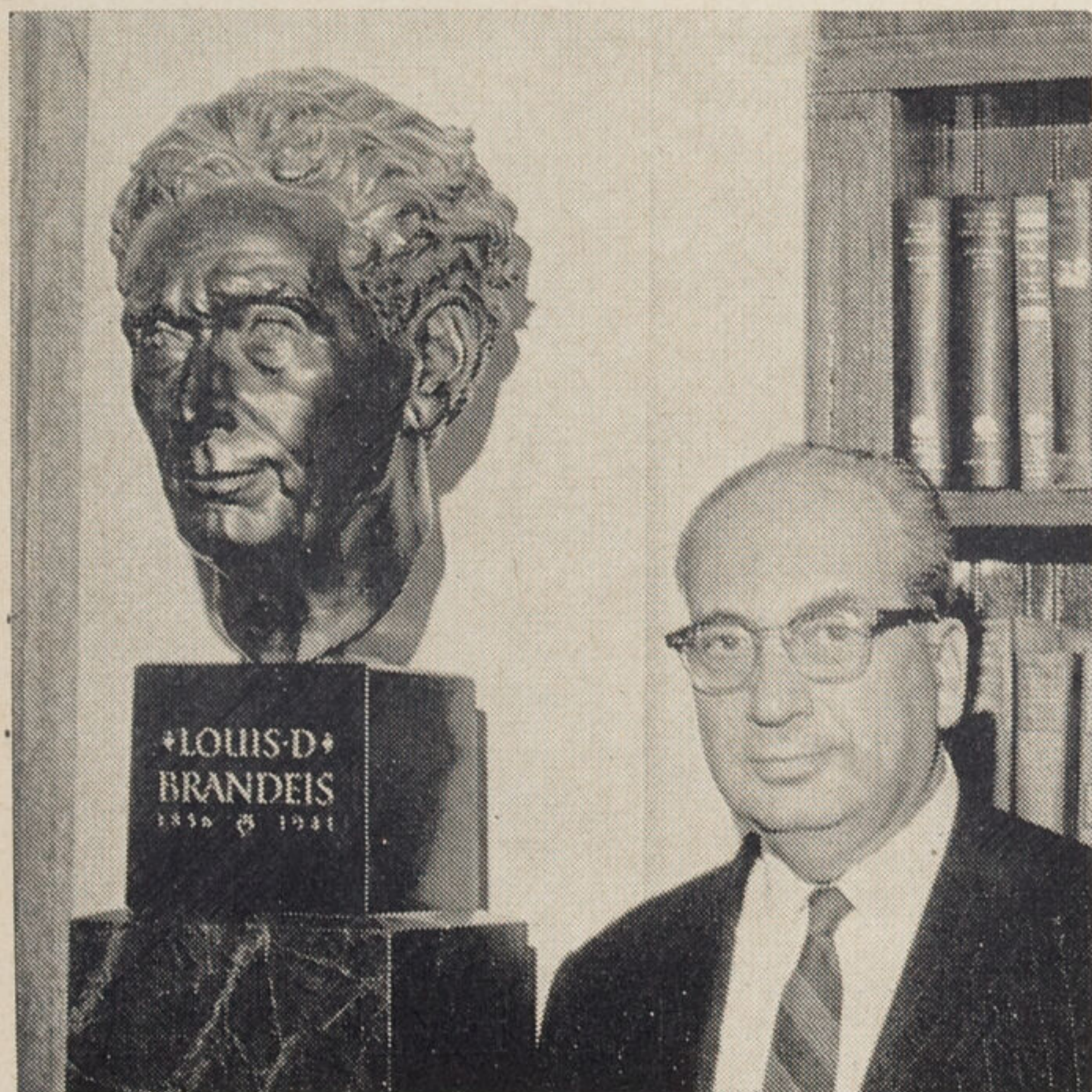
The "stop and frisk" statute being constitutionally challenged was passed in the mythical Commonwealth of Grimes; it lacked the high drama and realism of a genuine statute and dispute. But for Paul Abraham Freund, Harvard's first Carl Loeb University Professor and one of three members of the moot court final bench, it must have been a piquant experience — an example of what might have been or foretaste of what may someday be.

Thought of by some students as the tenth member of the court, Prof. Freund's name now arises with every vacancy, and his nom-

ination has been publicly urged by Judge Charles Wyzanski and was apparently intended by President John Kennedy. His reputation as a foremost expert on the Supreme Court seems assured, and his pronouncements on significant decisions as they come down, though not quite *ex cathedra*, have a judicial aura about them. One can almost hear the wind on Olympus.

Prof. Freund's personal contact with the Court spans three decades. He spent a year there as clerk to Justice Brandeis, his first judicial mentor. He maintained a close friendship with Justice Frankfurter for whom he had served as a research assistant while concluding work on his Harvard doctorate. He has chosen the clerks, on those occasions when they have come from Harvard, for Justice Brennan, a classmate who was president of Legal Aid when he headed the **Law Review**. He worked closely with Justice Reed, who was the Solicitor General during one of the two periods when he was the top assistant in that office.

Although he now has a flat rule not to



"His conception of the lawyer's calling . . . was nothing less than the translation of the American dream into American life. It was not a task to be won by storming utopia; it was not exclusively, or even mainly, the task of those in public office. It was the vocation of the lawyer who had the vision to see the threads of principle in the small patterns of human controversy, and the resourcefulness to design from these a fabric that the spinners of the American dream would wish to have created."

Freund on Brandeis

Help Students Pit Right against Right

argue before the Court ("Teaching and its peripheral activities are a full time job," he explains), Prof. Freund is an experienced Supreme Court advocate, having spent ten years as a government lawyer, eight of them in the Solicitor General's office.

Justice Frankfurter was fond of recounting how Freund once gave what may be the shortest argument in Supreme Court history. His opposing counsel had made a lengthy presentation concerning a complicated question of law which had been vigorously challenged at every turn by the court. Prof. Freund called the court's attention to a minor citation error in his own brief and, as the court prepared for the scholarly argument for which he had become noted, he sensed that they had had enough and so declared, "And for the reasons contained in the brief, the government asks the decision below be affirmed."

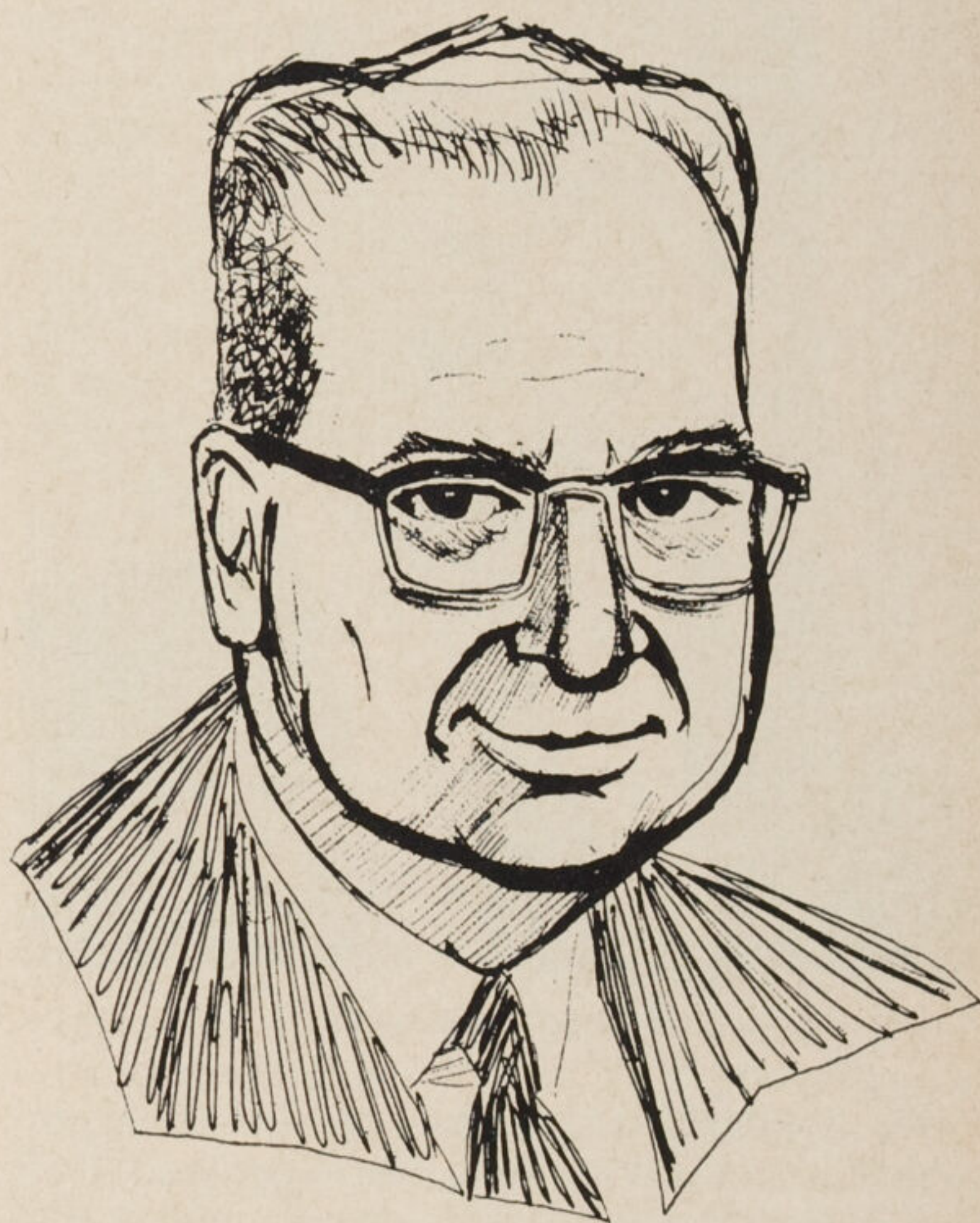
"Since I've been on the Court I've heard many eloquent arguments," Justice Frankfurter took delight in explaining. "I've heard many learned arguments. I've heard many powerful arguments. But I've only heard one perfect argument."

At Harvard, Prof. Freund has gained the reputation of being extremely accessible, to undergraduates as well as law students. "I once encouraged a student who wanted to talk with Mr. Freund but was reluctant," Professor John Finley, the legendary master of Eliott House and a long-time friend, recalls. "The student finally approached the awesome Langdell Hall with great fear and trembling only to find his office door wide open." Freund has an innate ability to allay students' fears. Prof. Finley calls it "his gentle good will and that sort of avuncular quality about him."

Freund's office would also help. "Anyone with an office that cluttered can't be all bad," a student once observed. Literally everything, including Dean Langdell's giant desk at which he sits, is covered with books, and

the overflow fills part of the publications office across the hall.

All the status symbols and accoutrements of success — a plaque proclaiming him Man of the Year in Law, a pen used by President Johnson to sign a recent enactment, a leather bound copy of one of his books — things a less modest man would display prominently — are there, but they are buried. Freund,



however, can usually find whatever he wants with ease, a knack which some of his friends find unnerving. "I have a kind of archeologist's sense of layers of deposit," he explains.

His office is so cluttered and the interruptions so frequent, that he inevitably carries work with him each evening to the house on Memorial Drive which he shares with Professor Ernest Brown. There, in the century-old, frame house with red shutters which is near the Charles River, he accomplishes

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Assistant Legal Advisor Says:

Trade Goods Not Bullets With Communist Nations

The way to build more common understanding between the east and the west is to trade goods rather than bullets, explained Murray Belman, the State Department's Assistant Legal Adviser for Economic Affairs, last week.

Mr. Belman discussed the main features of



Murray Belman

trade legislation which has been recommended by the President to Congress. "Most important, the legislation would permit the President to accord nondiscriminatory tariff treatment to products of East Europe and the Soviet Union."

In 1951, he said, Congress stripped "most-favored nation" treatment from any country that was "dominated by World Communism." While Poland and Yugoslavia were granted non-discriminatory treatment in 1960, the rest of Eastern Europe is still subject to the rates established in the Smoot-Hawley tariffs, which presents a practical barrier to imports from the East.

While it is unlikely, he emphasized, that trade with Eastern Europe would "even ap-

proach that in automotive parts alone with Canada," an increase of 150 per cent, from \$200 million to \$500 million, could be expected.

In return for this nondiscriminatory treatment, the legislation should require the President to negotiate equivalent benefits for the United States, for example:

1. Protection of patents, copyrights and other industrial property.
2. Nondiscriminatory treatment of American products, not only as far as tariffs are concerned, but the selling price of the item as set by the state.
3. Procedures for the settlement of commercial disputes, as well as arrangements for trade and tourist promotion offices.

No Munitions

Mr. Belman does not envisage the Act as altering the present controls on exports of strategic materials and munitions, nor as allowing trade with certain countries, China, North Vietnam, North Korea, Cuba or East Germany, because of "political considerations."

"The Iron Curtain has not crumbled away, but it is now penetrable," he remarked, citing increased dissension between China and the Soviet Union, and more independent action by individual Communist countries, as well as increased unfettered debate among them.

War No Obstacle

In addition, there is more and more demand for consumer goods within the communist bloc, and this is paving the way for radical changes in economic policy. For example, he said, Czechoslovakia has recently begun an economic reform program that "stresses a market place system of planning." The Soviet Union itself has started to use prices, costs and profits as economic regulators, in accordance with the theories of Yevsei Liberman.

Mr. Belman believes that a trade agreement can be arrived at, in spite of the war

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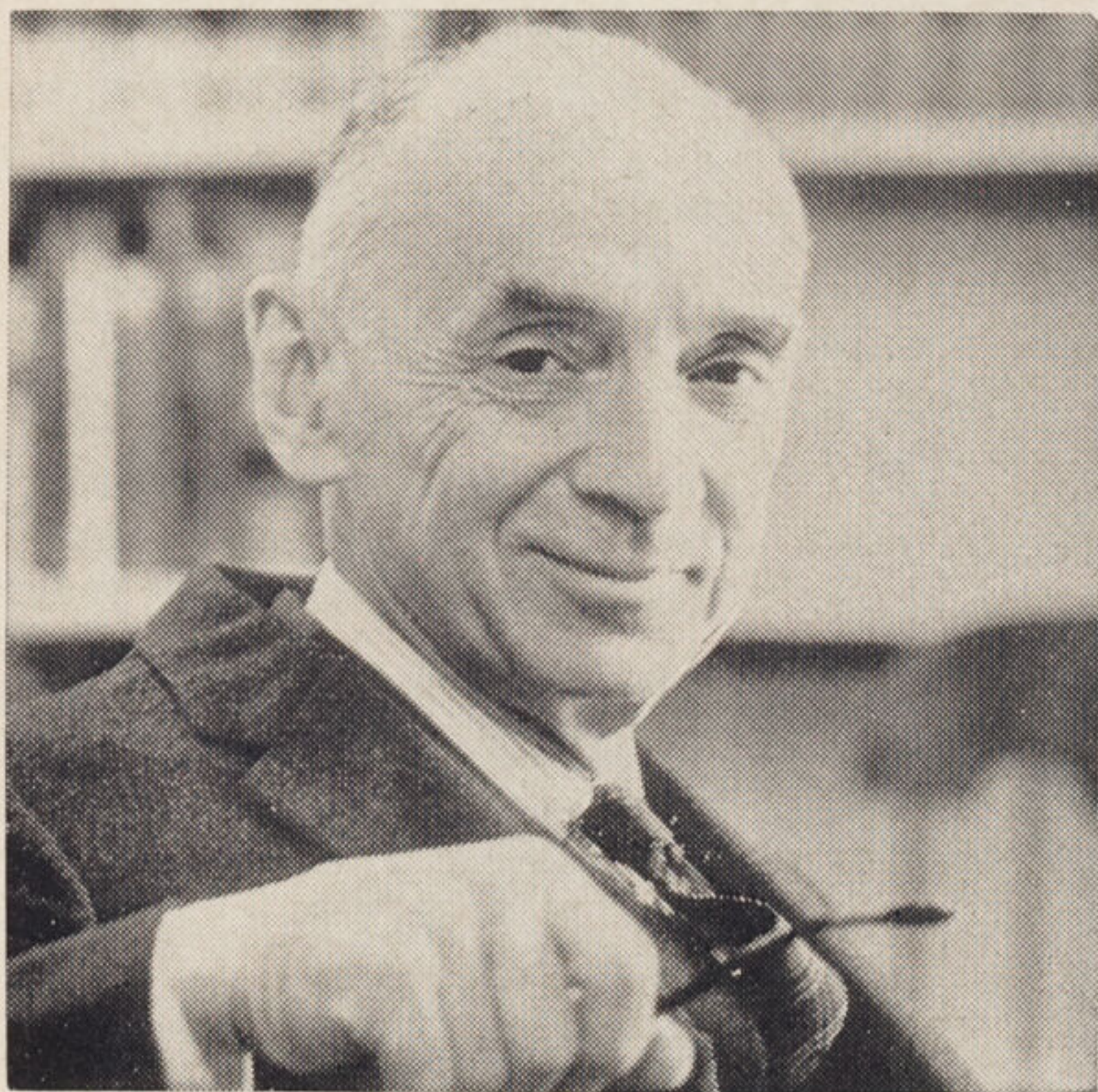
Sutherland Evaluates Powell's Legal Rights

By Steven A. Goddard

"I don't think it was wise for the House of Representatives to refuse to seat Adam Clayton Powell. Rep. Celler's plan would have been a wiser solution," explained Professor Arthur Sutherland, in commenting on the recent House action.

"After re-election," he continued, "the question will be right back on their doorstep. And every time they refuse to seat him they alienate more people."

Distinguishing the Julian Bond case, where a Georgia legislator was refused a seat for his stand against U. S. policy in Vietnam, he said, "this was a clear violation of the right of free speech." The recent case



Professor Sutherland

of *Garrity v. Spivack* before the Supreme Court held that a public official cannot be fired for exercising a constitutional right, "A *fortiori*, Bond had the right to speak out on national policy."

"On the other hand," he noted dryly, "it is hard for me to be persuaded that there is a Constitutional privilege to misuse Congressional funds," but he still favored seating Powell, though stripped of seniority and slapping him with a fine.

The question as to whether the Supreme Court would even hear the case is debat-

able, and Prof. Sutherland would not venture an opinion. "If they did hear the case," he reflected while gazing at the ceiling, "quite possibly they would hold that the Constitution vests the power in Congress, and that would be the end of it."

Both Houses of Congress have, in the past, disciplined their members and temporarily denied them their seats, for treason, polygamy and even criminal conviction, but the Court was not asked to interfere.

The main grounds given by the House of Representatives in not seating Mr. Powell were his refusal to pay a libel judgment to Mrs. Esther James, which has since been paid, a criminal contempt conviction stemming from that case, and misuse of Congressional funds. "A contempt charge for money the Court of Appeals says he didn't owe doesn't sound persuasive to me," Prof. Sutherland quipped, his eyes twinkling.

"Yet, even disregarding Mr. Powell's pranks with the New York judgment, the misuse of Congressional funds alone may have been good grounds not to seat him."

Prof. Sutherland also noted a distinction between the House and the Senate. "The Senate is a continuous body, while the House is a new house every session," he said. "After re-election, for all we know, Powell can have acted like an angel. If so, should the present House boot him out for pranks committed during the last House session?"

Representative Powell's argument was that the three specific qualifications listed in the Constitution are the only ones for which the House may refuse to seat a duly elected member. Since the refusal was not on the grounds of age, citizenship or residence, he has said that he has been improperly excluded.

"The expression of one is the exclusion of the other," Prof. Sutherland explained, and queried "even conceding misuse of funds, could they legally expel him?"

Moreover, there is the question what would happen if the Court ordered him seated and Congress refused to obey.

However, if a more humble Mr. Powell is re-elected and then seated, or the Court refuses to hear the case, these questions will never be answered.

'Law Is Not a Manifestation of

(Continued from Page 1)

(C-plus), now a professional radical and angry old man. Mr. William Stringfellow had come to town to warn his fellows laboring in the poverty vineyard that the peasants were growing restless. He warned of an "imminent insurrection" by the nation's poor unless the nation's well-off move boldly to head it off.

He charged the legal profession with "aggravated and terrible neglect of the 23 millions in the black ghettos."

Comparing today's Negroes to the Israelites of old, he said: "We white Americans are the Egyptians, and we are drowning."

It was an emotional start to a conference that would provide some moments of tension, as speaker after speaker rose to challenge the conservative powers-that-be with views intentionally obnoxious to those powers.

The Saturday afternoon topic for discussion was "the caseload problem." That is, since there are so many poor wanting legal help and comparatively few attorneys ready to provide it, what should be done to bridge the gap?

Leading off the program were Dr. and Mrs. Edgar S. Cahn, prominent attorneys in the field, from Washington, D. C. They both obviously felt deeply about their radical plans for revamping society. Not only would their views be obnox-

ious to much of society (as they intend), but so too, their attitude. Dr. Cahn spoke softly, but regarded the bar and even his generally sympathetic audience with a kind of affected superciliousness.

Mrs. Cahn, in a deep-throated voice, didn't attempt to conceal the impatience for action and contempt for any government-proposed "reform" that the Negro feels in the nation's capital.

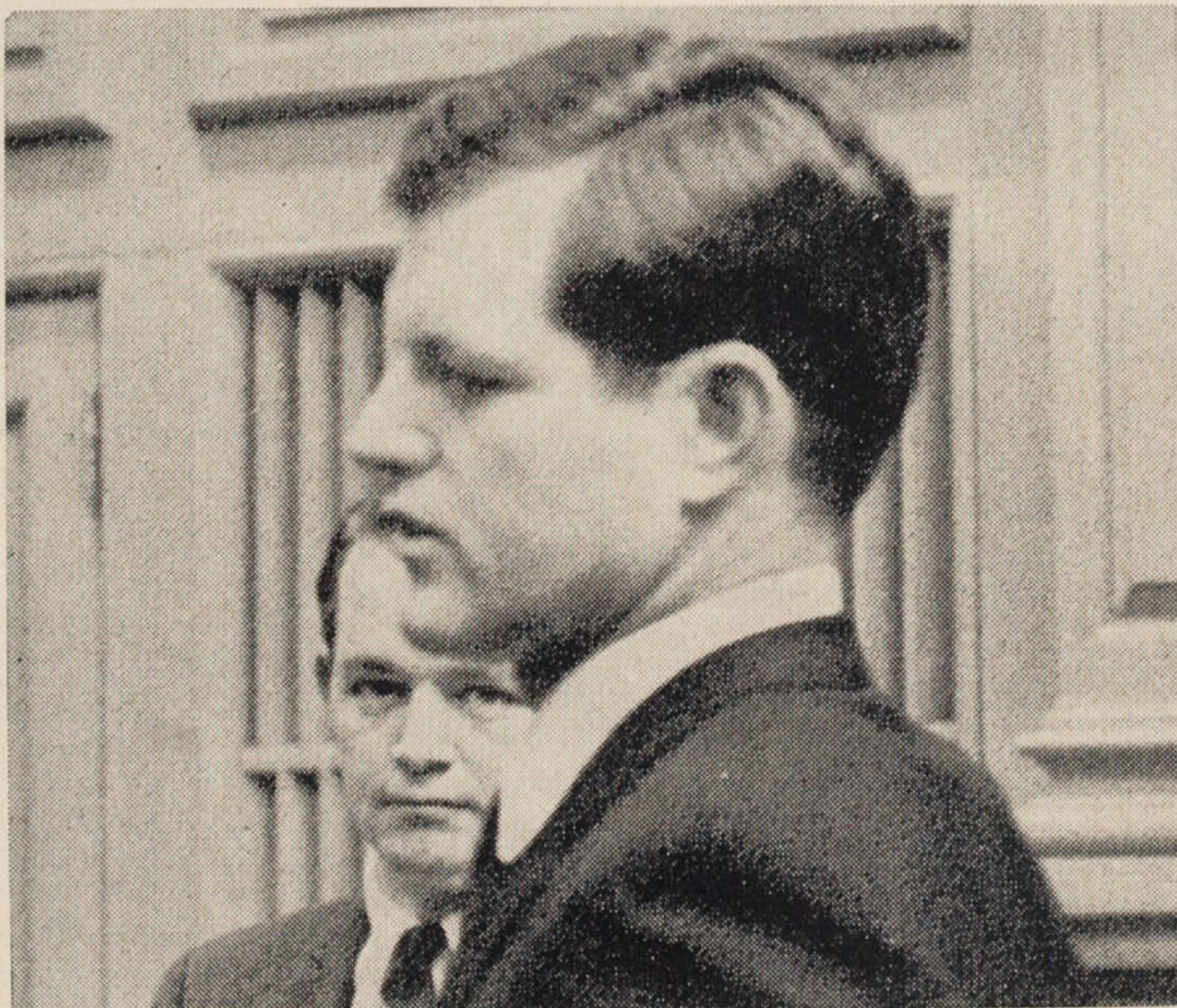
Their fairly elaborate plan for bringing justice to the poor begins with the premise that "litigation is not the road to justice." Many of the problems now dealt with in court should not really be considered "legal" problems, they said.

Thus, a neighborhood "court" system should be

established, to settle disputes "by arbitration, mediation and fact-finding." Those in charge would not have to be lawyers. Neighbors would thus be encouraged to work out their own problems, and settle disputes by mutual consent.

This would be "situational justice," outside the bounds of the conservative bench and out of the hands of the attorneys for finance companies and landlords.

And under their scheme, the question of allocation of the limited resources of the poverty bar would be left to the "consumers" (i.e., the poor) themselves. The Cahns, didn't explain just how this would work, but said that neither the OEO nor the organized bar nor the independent legal assistance agencies had any "right to dictate; the pro-



Senator Edward Kennedy at Poverty Conference

Justice, but of Privilege, Power

gram ultimately belongs to the consumer, not to the LL.B.'s with a personal, messianic vision. Democracy," they said, "must begin to work here, with the allocation of resources."

The next speaker, Mr. Harold Rothwax, director of the Legal Services Unit of the Mobilization for Youth in New York City, took issue with the Cahns. Mr. Rothwax was the aggressive cynic — the realist — on the panel.

"Law," he shouted, a tremor of emotion and indignation in his voice, "is not a manifestation of justice. It reflects the preferences and privileges and power of those who've been listened

docket were his cases, and pointed out that because of the size of that single day's caseload, "That court was *my* court. It couldn't move if I demanded a trial in each case." And so he used the caseload to get "justice" for his clients.

Later, Dr. Cahn commented that that kind of power scared him; it gave Rothwax, he said, "the power to make deals with the D. A., to decide that this man gets off, this one goes to jail."

But, with some heat, Rothwax denied it, saying that, though Dr. Cahn may have read a lot of books and written some articles, he didn't know what he was talking about. Rothwax said that because he had so many cases he would not have to compromise a single one.

Sunday afternoon's session dealt with how law schools could help. Dean Griswold opened with a few remarks. He said it was a "charge wholly unwarranted" that "law schools are interested only in educating the Wall Street lawyer." But: "One can't be a good poverty lawyer without being a good lawyer."

And his meaning became clear as he extolled the *corporate* background of the afternoon's main speaker and pointed out that other lawyers devoting their time to poverty law did it only because they had now made enough money in corporate law.

"What we need," he said, "are not narrow-minded, single-track poverty lawyers."

The speaker, Mr. E. Clinton Bamberger of Piper & Marbury in Baltimore was director of the Legal Services Program of OEO. In an



Dr. Edgar Cahn

overloud voice, he purposely tried to offend segments of the audience. But with his good humor and reputation in the field, he didn't succeed very well.

He directed himself to the problems of attracting and retaining in poverty law some of the bright graduates of the best law schools. It is OEO policy that salaries be competitive with legal salaries in the community, but the law presently sets a maximum of \$15,000.

Mr. Bamberger thinks this ceiling can be repealed (though probably not in-

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Dean Griswold:

'A fine corporation lawyer has the background and breadth of understanding to recognize the scope of the [poverty law] problem.'

to — and the poor have not been listened to."

He pointed out that "the caseload is power"; that "it is a fallacy to assume that people will come to law reform by reason and persuasion."

He recalled the day that 80 of 100 cases on a court's

Justice Fortas Judges Ames

With the Ames Finals only five days away, the Blackstone Club and the Kaplan Club are making the final preparations for their argument next Tuesday at 8 p.m. in the Ames Courtroom.

Blackstone oralists, Jack Fallin and Alton Harris, will face Robert Currie and Charles Updike of the Kaplan Club. The issues center around a claim of fraud in securing a drug patent and the application of the Federal Trade Commission Act.

Mr. Justice Fortas of the United States Supreme Court, the Hon. Charles Wyzanski of the U.S. District Court of Massachusetts, and the Hon. Giles S. Rich of the U.S. Court of Customs and Patent Appeals will judge the competition.

In last Monday's Competition, John Griffin and Mary Mullarkey prevailed over Griswold Club oralists Perry Moore and Bruce Paisner. The winning Blackstone team also included Philip Ackerman, Rodger Cohen, Cornelius Dwyer, Philip Johnston, Jerry Klima, and Robert O'Hare, who worked on research and the brief.

The Story Club and the Bevins Club match law and policy arguments in the fourth Ames Quarterfinal Argument this evening at 8 p.m. in the Ames Courtroom.

Joining the Marshall Club and the Learned Hand Club, last week's winners, and the Blackstone Club, which prevailed last Monday evening, the top team in tonight's argument will fill out the roster for the semi-final round of the competition next fall.

The Atomic Energy Commission had run into the opposition of irate residents and city council regulations in its attempt to provide electric power from nuclear reactors for the city. The issues to be argued tonight include the extent of the AEC's power under the Atomic Energy act of 1954 and the

(Continued on Page 20)

Events of Note

F. Lee Bailey will discuss "Treatment of the Criminally Insane," on a panel which also includes Donald Conn, Assistant Mass. Attorney General, and Assistant Prof. Lloyd Weinreb, Monday, Mar. 27, at 8:30 p.m., in Lowell Lecture Hall.

* * *

Jack Mates is the newly selected president of the Student Bar Association, a post made vacant by the resignation of Gregory Smith.

* * *

"Old World, New Horizons," will be the topic of the last of this year's Godkin Lectures, tonight, at 8 p.m., in Sanders Theatre. The lectures this year have been delivered by Edward Heath, the leader of the Conservative Party of Great Britain.

Mark Peters has been elected president of the Harvard Student Legislative Research Bureau for the coming year. Ben Johnson was selected to be director of research, while Berndt Lohr-Schmidt and Allen Horstman will occupy the positions of editor of the Harvard **Journal on Legislation** and Secretary-Treasurer, respectively.

* * *

Col. Paul Feeney, deputy director of Mass. Selective Service will speak on "How Law Student — the Old Law the Draft Law Affects the and the Proposed Changes," Wed., Mar. 29, at 1 p.m., in Harkness Meeting Room, sponsored by the Casner Club.

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Credibility Chasm Reflects LBJ's Deviousness

(Continued from Page 1)

seek the "consent of the governed" from the people at election time, but after that he has a moral obligation to fulfill the duties of his office from the dictates of his own wisdom and conscience.

"The conception Johnson has brought to his office and American democracy is profoundly mistaken and extremely dangerous," continued the professor. "He wants consensus on his policies in detail and regards dissent as a failure of the duties which a citizen owes his country. He puts dissenters into the sphere of traitors and unreliable people."

'He Wants to be Loved'

Robert B. Novak, another member of the Forum panel and a nationally syndicated columnist, amplified Prof. Morgenthau's remarks by adding that Johnson "not only wants to be obeyed, he wants to be loved. He is a man who could not in the Senate and still cannot in the White House 'take it' when the going gets rough. He demands a consensus not out of a design for power but as a personality trait—whenever he is crossed, he goes deeper and deeper into a hole and sulks."

The columnist and co-author of a recent Johnson political biography injected another element of Johnson's conception of the presidency by stating that LBJ is essentially a "maneuverer," not a statesman. Outlining the development of the "credibility gap" to

the credibility "chasm," he recounted a recent example of the President's "deviousness."

A week before Henry Cabot Lodge resigned as ambassador to Vietnam, Johnson responded to a question at a news conference that he "wasn't looking for a successor for Lodge." Then, a week later when Lodge unexpectedly resigned, Johnson immediately announced that Ellsworth Bunker would be the new ambassador.

A White House official purported to explain the discrepancy by blithely explaining that "it was true the President wasn't 'looking' for a successor to Lodge last week since he had already *found* a successor by that time." (A tidy distinction, which would be heartily approved by medieval philosophers.)

Contemporary of Rutherford Hayes

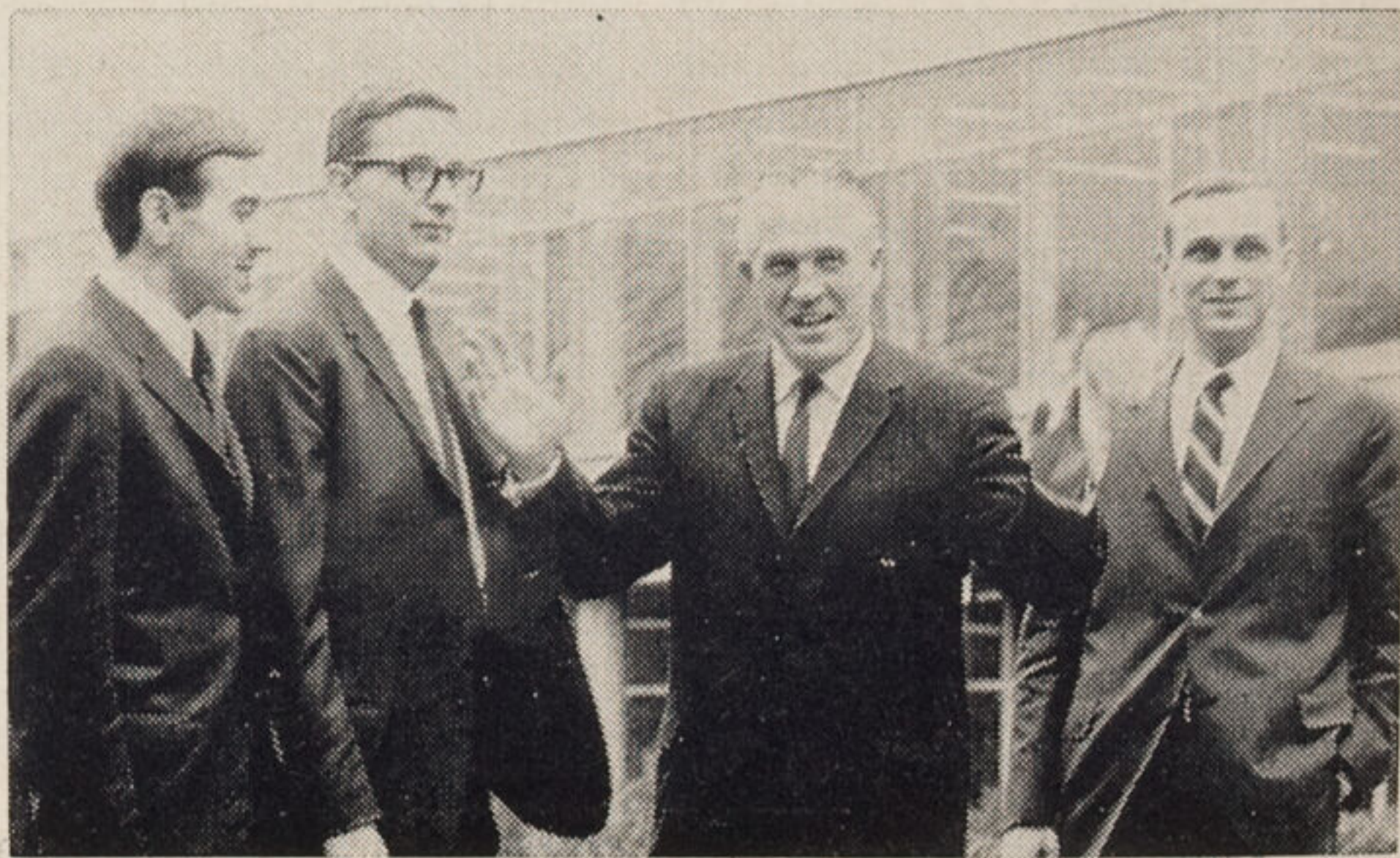
"There have been other presidents who have lied and lied often," Novak continued, "Ike about the U-2 affair and Kennedy about the Bay of Pigs. But Johnson has a special quality of deviousness, of hiding the cards from the rest of the players."

"It worked well in the Senate, but not in the presidency. He's acting as if he was a contemporary of Rutherford B. Hayes, not as an attractive personality in the telegenic age."

Professor Adam Yarmolinsky, recently returned to the Law School from the Defense

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Governor Romney confers with law students during his stay on campus last week. Gov. Romney was a guest of the Kennedy Institute of Politics at Harvard.



A Long, Hard Road

For the past several months, the halls of Harvard Law School have reverberated with cries that discrimination exists among law firms that use the facilities of the Placement Office. Finally, a Faculty Committee on Placement was set up by Dean Griswold to make certain that employers permitted on campus do not use race, religion or sex as criteria in hiring.

Not many complaints have thus far been directed to the Committee. At least three possibilities exist for this state of affairs: there really is no discrimination among law firms; students just don't care enough to report such incidents; or the students find that it is just impossible to tell whether a particular firm discriminates from their own isolated cases.

The third alternative is by far the most likely. An individual who was turned down by a law firm cannot know that he was turned down because of his color or his creed.

The real contribution of the Faculty Committee should be to bring statistical analysis to bear on the problem. It will undoubtedly be a long and arduous task to take each firm individually and examine the records of students that have applied and those that have been hired, attempting to see if there is any correlation between employment and race, religion, or, indeed, sex.

However, in the final analysis, this is probably the only way to make certain that innocent firms are not unjustly accused on the basis of an incident related by a rejected applicant and that those firms that do discriminate, no matter how subtly, are barred from using facilities supplied by the Law School.

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TONGUE 'N CHEEK

By Fenno

"Fenno, what are you doing with skis on in the Main Reading Room!" exclaimed a friend as I shuffled past the check out desk.

"We've developed a new ski wax that will run on everything from rubber tile to newsprint," I said pantingly as I executed a kick turn back in his direction. "This afternoon at 3 we are going to run a giant slalom starting from the Legislative Research Bureau at the South end, a flush through the central colonnades, a tight gate through the North door, hairpin down the stairs and a finish in Langdell North Middle."

"On thin air through the library gates?"

"No. On books."

"On books! You'll ruin them!"

"I suppose so, but that's half the purpose of the race," I answered dryly.

"To destroy books?"

"A new Spring cleaning program or jurisprudential catharsis, if you like, to weed out useless tomes."

"Oh come on. You know they never throw anything out up here except copies of 'Trial' more than four years old."

"Not any more. There've been too many complaints from wearied Ames quarterfinalists and disgruntled third year students doing papers that there's entirely too much useless material in this place. So we're taking every obsolete or unduly boring law review article, shoddily-reasoned case, and platitudinous hornbook to form the 'mountain' down from the Legislative Research Bureau."

"Then what will happen to this morass of miscellaneous thoughts after the big race?"

"Cambridge snow removal trucks will be backed up beneath library windows and all the books thrown in."

"But Fenno! There very likely won't be anything left of the library at all after the race."

"Perhaps. But it'll fill up again pretty fast."

HARVARD LAW RECORD

Letters to the Editor of the RECORD

Change Present Honoraries Set-Up

To the Editor:

Many students welcomed the suggestions of the subcommittee of the Student-Faculty Committee for revising the status of activities at the Law School. Whether agreeable or not, they at least represented a re-examination of the present set-up. However, they have aroused opposition. Part of the membership in the honorary organizations and non-honorary organizations have fought the scheme and now the chances that it will be implemented are apparently faint.

This is a great disappointment. But an even greater one is that, as the dust settled, it is increasingly obvious that the recommendations instead of creating a ferment of new ideas have made all factions even more tenacious in defending the status-quo. The whole debate seemingly has been polarized into a choice between the Student-Faculty plan and the "stay-put" factions. The unfortunate consequences of this is that students may think now there is no way out except to retain the present system intact.

But another simpler alternative is still at hand. It involves abolishing the ranking system altogether and opening up the Legal Aid and

the Board of Student Advisors (retaining the \$800 salary) to a competition based on interest, not on grades. It also involves attaching a few positions on the **Law Review** to a competition carried out through an expanded Second Year Writing Program.

Before students return too easily to the familiar uncomfotability of the status-quo, it must not be forgotten that other alternatives still exist and ought to be considered — and that these in the long-run may have more beneficial effects than the present arrangement of activities.

Stephen Schlesinger, 2L

Reader Recounts Past Discrimination

To the Editor:

I was heartened by the reaction of the students and alumni to the letter of Peyton Randolph Harris in the issue of February 2nd, in which he excused the Wall Street firms which discriminate against Jewish graduates. I saw him in 1921 at the suggestion of the Placement Bureau and he sent me to such firms though I could hardly believe that he was not then aware of their policy. It was humiliating to go through pro forma interviews with subordinates which usually ended when I was asked my religion and, upon my inquiry, was told that Jews were not hired. Personality, background and qualifications did not matter.

I had hoped that after these many years conditions would change. The reappraisal of the procedures of the Placement Bureau is long past due. At the very least firms which discriminate on the basis of race, religion or ethnic origin should not have access to its services.

Mordecai Konowitz, '21
New York, N.Y.

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Photo Gallery



Photo by John Harris

Time present and time past
are both perhaps in time future,
and time future contained in time past.

Classes Abound in Colloquies on

(Continued from Page 3)

most of his serious work in an easy chair, balancing a reading board on the arms.

Joining the faculty in 1939, through the years he has ascended the hierarchy of the chairs of law, first the Fairchild and then the distinguished Royall. In 1958 he reached the pinnacle of Harvard professorial stature, joining the ranks of six other scholars who bear the title University Professor and, according to the original scheme of President Conant, may teach in any department of the university.

Prof. Freund is currently the only member of the law faculty who is a University Professor, although Roscoe Pound and Zechariah Chafee had both been given the honor, and he is the first occupant of the Loeb professorship which was established in 1956 by the partners of the late Carl M. Loeb, the New York banker.

To his classes, whether in the Law School or the College, Freund brings a warm sense

On Education: Education, John Maynard Keynes remarked, is the inculcation of the incomprehensible into the ignorant by the incompetent. This is manifestly a gross canard—we know that the students are far from ignorant.

On Uncertainty: The cardinal sin of our classrooms is one-dimensional thinking, all warp and no woof, making for glibness of mind that knows the answers without really knowing the questions . . . For the ultimate issues veiled by time and mystery, in law as in life, the most meaningful answer may be the question.

of humor and a rich stock of anecdotal material and literary allusions reflecting a wide reading taste which began during his undergraduate days at St. Louis' Washington University where he was on the staff of the literary magazine and, he says, "a very bad poet."

Like Learned Hand he seeks to make law "a department of literature," and his class lectures abound with appropriate selections from Latin classics which he is always careful to translate. ("It's for the benefit of the Yale men," he says.)

Each year when his Constitutional Law class reaches the Brandeis opinion in the *Whitney* case, he points to a phrase describing the founders of the American republic and asks the class to furnish its derivation. Last year, to the delight of his classmates,



Justice Goldberg Confers with Prof. Freund

one student correctly told him that it was part of Pericles' Funeral Oration, whereupon the two carried on a learned colloquy on the identity of the translator, concluding that it must have been Sir Alfred Zimmern.

Prof. Freund's prime goal is to convince his students to be more conscious of the thinking process. He urges them to read such philosophical books as Willard Quine's *From a Logical Point of View* and characteristically observes, "The issues are rarely right against wrong in the law, but rather right against right." He embraces Morris Cohen's theory of polarity, that truth may best be approached not by deduction from one established postulate, but rather by the synthesis of two opposite legal theories, each with a measure of validity.

Classical Points

His efforts are not always successful, however. A student once approached him for a clarification of the principles applicable to state taxation of interstate commerce. Freund talked with him for a half hour, and when he left, the student thanked him and remarked that it was all clear. "Well, if it's all clear then you don't understand it," Freund indicated, his eyebrow arching quizzically. "Oh, it's not that clear," came the quick reply.

Freund was the only living person to be referred to by name in Judge Hand's monumental Holmes Lectures, and the quotation chosen reflects what he would have his students learn: Simple concepts like "clear and present danger" are not "substitutes for the weighing of values. They tend to convey a delusion of certainty when what is most certain is the complexity."

Grade-wise, his commitment to his students is less obvious. Although few people actually fail his course, extremely high marks are almost unique. "I give my fair share of A's," Prof. Freund explains, "but an 81 is really *awfully* high for me."

On Goals: Sometimes the practical-minded need to be reminded that we hit the target by aiming above it.

On Lawyers: Anyone who has been forced to think like a lawyer on a vexing constitutional issues is likely to acquire a spirit of tolerance, a distrust of slogans, a bent toward accommodation of conflicting interests, that are sorely needed in a world torn by warring ideologies.

A figure of immense dignity, his class lectures often reflect the quiet eloquence and poet's artistry that characterize his public speeches. Although no professor can satisfy all the students all the time, his overall popularity as indicated by the RECORD's recent survey, ranks among the highest in the faculty, in all categories.



His classroom demeanor falls somewhere between the bravado of E. H. (Bull) Warren and the gentleness of Samuel Williston, whose portraits hang, appropriately, at opposite ends of the Library. The faltering student who answers, "I don't know exactly" will be asked, "Well, inexactly, what is it?" And the student who tries to hedge and delay answering until Freund's reaction is indicated, faces a difficult task.

Justice Reed, when Solicitor General, concluded that Freund's disapproval could be supposed whenever he began to stare out the window, but his more sophisticated students have devised their own system. "You just watch the eyebrows," one explained. "He has great, bushy eyebrows that begin to arch when you're wrong. And when you're really in trouble he raises only one of them."

As to extracurricular activities, Prof. Freund describes himself as "a very uninteresting fellow." Although a loyal Harvard football fan (For many years he sat at the very rim of the stadium), for the most part he declares "I'm a lover of the great in-

(Continued on Page 17)

Conference . . .

(Continued from Page 7)

creased much). Were it repealed, then the foundations, bars, or law firms might contribute to a fund for adequate monetary reward for those who devote their lives to the field.

He suggested that law students should begin to

look on a one- or two-year experience with a legal assistance agency as a broadening and enriching experience, a prelude to practice in other areas if they wish not to continue in poverty law. They should regard it, he said, as they now do a judicial clerkship or a government agency job.

Once the legal assistance programs gain a reputation of attracting the good students for these short, post-law school periods, then law firms will become accustomed to hiring new associates who have been poverty lawyers, as well as those who have worked in the courts or for government.

He concluded on a note of smug reassurance, as one (corporate) poverty lawyer

to others: "We are respectable. We've got the majority [of the bar with us] — and we're right."

That may sound obnoxious. But everyone present, professional poverty people all, agreed with him.



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Prof. Countryman Calls for HUAC Abolition

By Edward Hines

"Subversive propaganda is any thought or any word the committee disagrees with," commented Professor Vern Countryman at a luncheon meeting last Wednesday sponsored by the Griswold Club. Prof. Countryman's topic was the "House Un-American Activities Committee."

Prof. Countryman prefaced his argument for the abolishment of the committee by noting that the committee has been operating for 29 years and has spent over seven million dollars, and that it has been called by former President Harry Truman "the most un-American thing in America."

Character Assassinations

Prof. Countryman said that there were three main reasons for the abolishment of the committee, the first of which is the chilling effect of the committee on the freedoms of belief, speech and association. The committee seeks to expose those with whom it disagrees as Communists, he said, and has compiled dossiers on millions of people which are readily available for character assassination purposes to any of the "hate-groups."

According to Prof. Countryman, anyone whose name appears in the **Daily Worker** automatically has a dossier, regardless of the context in which it appears. "The committee is the **Daily Worker's** best subscriber."

He felt it a fair prediction that, "when the Supreme Court gets a crack at H.U.A.C., it will decide that its mandate violates the First Amendment." He said that Federal District

Courts of Appeal in Chicago and Washington, D.C., have already so decided.

Nixon and Miller

The second reason Prof. Countryman advanced for the committee's abolishment was the unfairness and unreliability of its proceedings. He said that the committee evinces no interest in the reliability of witnesses friendly to it: "All it wants are names." Friendly witnesses, he said, ramble on for hours without cross-examination while accused witnesses are allowed only to answer questions.

He ascribed these procedural policies to two causes. The first was the failure of the House to prescribe any procedural rules for its committees. The second reason, he said, was the fact that the committee is and has been composed of the "dregs" of the House. When reminded that Messrs. Richard Nixon and William Miller both served on the Committee, Prof. Countryman commented, "The committee has produced no distinguished statesman."

Useless Committee

The last reason Prof. Countryman put forth for the committee's abolishment was that, "It serves no useful purpose." In its 29 years of existence, he said, the committee can be credited with only four pieces of legislation. Prof. Countryman concluded that any legitimate function of the committee could be assumed by the House Judiciary Committee, since this committee already has jurisdiction over subversion.

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Garbed with at least a dash of green and warmed by the spirits of celebration, the hardiest affiliates of the H. L. S. Gaelic Society again assaulted the homeland of the Irish in Boston for the annual St. Patrick's Day Parade.

Go-Go Girls

With numbers diminished by "English" weather, a persistent few finally managed to finagle the anchor position in the parade, just aft of the car-top go-go girl show featured by a local radio station.

There, with composition, numbers and rated "proof" changing at the baying of a hyper-active contingent of bar-bloodhounds, the Gaelic Society swept down the parade route.

Marching Notables

Behind such notables as Ted Kennedy and Louise Day Hicks, and with ranks swelled by neighborhood kids and parade followers in general, the Harvard contingent brandished a banner saying, in effect, "We're from Harvard Law School—Where are you from?", which was obviously designed to provide common ground for friendly chats and new friendships with the cheering multitude of onlookers.

And with a double display of loyalty, the marchers carried high a placard sporting the phrase — "Er(w)in Go Bragh."

Goods Not Bullets . . .

(Continued from Page 4)

in Vietnam. Trade with the East, he said, will not increase their ability to aid the Viet Cong or North Vietnam, since curbs would still be placed upon strategic materials that would help their war efforts. In addition, the Soviet Union is "self-sufficient militarily and supplies conventional arms to other countries."

Secondly, he explained, "We are not in Vietnam to rid the world of Communism," and the war should not prevent the United States from expanding the community of interests between the East and the West. While the war will probably keep down increases in trade with the Soviet Union itself, he said, it will not much dampen trade with other East European countries, such as Czechoslovakia, Rumania and Hungary.

Freund's Eyebrows — Key to Success

(Continued from Page 13)

doors." Although he lives close to Harvard, he prefers to drive back and forth in his red Rover. (It's my one flamboyance," he discloses confidentially, with the quick clarification, "but it's a very dark shade of red.")

Otherwise, his connection with Boston society is so slight that some have considered him aloof, and his activities center on law and education. He is a trustee of his alma mater, a fellow of Kirkland House, and he collects appellate briefs with the gusto that some bestow on rocks and stamps. During the McCarthy scare he was named president of the Harvard chapter of the A. A. U. P. "I've been trying without success to get rid of the job ever since," he explains. "Really we have very little to complain about here."

Most of his non-Harvard affiliations attest to his reputation as (in Prof. Finley's words) "an old fashioned and genuine scholar." He is a member of the Saturday Club, the famous Boston intellectual society which traces its history back to Emerson, and he is currently the 32nd president of the American Academy of Arts and Sciences, founded during the American Revolution. Not since Roscoe Pound was president 25 years earlier, has a lawyer held this post. In 1957, he became the first lawyer to hold the Pitt Chair of American History at Cambridge.

Freund's name first came into prominence as a potential Supreme Court nominee during the presidency of John Kennedy, for whom he had served as a campaign adviser and who shortly before the Inauguration asked him to become Solicitor General.

After considering the appointment, Freund, who has developed what he once called "an immunity to Washington," declined, explaining to the president-elect that he hesitated to abandon his work as editor in chief of the multi-volume **History of the Supreme Court** (which is being financed out of the famous bequest of Justice Holmes to the United States). Kennedy's response was

instantaneous and characteristic: "I would rather make history than write it."

Prof. Freund's legal philosophy, as he once said of Justice Jackson, is in the term applied to the common law, working itself pure. He is particularly skeptical of easy answers and in the final moments of each year's Constitutional Law class, cautions his students that there are no eternal, dogmatic concepts where the Constitution is involved.

"To ask what the Constitution means is like asking what the play **Hamlet** means," he tells them. "Like any work of art it means different things to different people and different ages of men, and it is in that quality that its true greatness lies."

Shortly after coming to Harvard Mr. Freund appeared in a model argument before Judge Magruder in which he criticized the reasoning of Judge Edgerton, remarking that the judge was a former torts professor. Judge Magruder, himself a former professor, demanded to know if that was a serious drawback. "Perhaps I can say what the court cannot," a delighted audience heard him respond. "Some judges surmount the handicap better than others."

Watching him preside over the Boston College Moot Court, some would conclude that he would have little to surmount; that for him the two roles are consistent. "He's fitted by temperament and nobility of character to guide the judiciary in troubled times," Judge Wyzanski once declared.

It would be difficult to imagine him as a Williston, a Wigmore or a Corbin, applying encyclopedic knowledge to a given case.

The picture he finds most appealing is not of Chief Justice Marshall devising an "original package doctrine" to provide a measure of certainty in law, but rather of Justice Holmes jauntily entering his study, flinging his hat on the rack, turning to his clerk and challenging, "State any proposition and I'll deny it."

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Yarmolinsky Says 'Johnson Fails as Teacher'

(Continued from Page 9)

Department, the third Forum panelist, disagreed with Morgenthau and Novak about the merits of the Johnson presidency, and rapidly ran through LBJ's legislative accomplishments to support his point:

1) Civil Rights Act of 1964, 2) 1964 Tax Cut, 3) Economic Opportunity Act of 1964, 4) Medicare, 5) Elementary and Secondary School Education Act, 6) Head Start, 7) Demonstration Cities Act, 8) Rent Supplements, 9) Teacher Corps, 10) Consular Treaty with Russia, 11) An administrative revolution modeled after the techniques of the Defense Department, 12) President during the longest period of economic prosperity this country has ever known.

Impressive Accomplishments

While pointing out that these were impressive accomplishments, the outspoken professor added that there were also "some negative items on the balance sheet." He asserted that the United States military participation in Vietnam has turned out to be a "serious mistake," although admitting that "I did not recognize this at the time" and also that the "global consequences of a pull-out at this time would be bad."

Prof. Yarmolinsky also indicated that Johnson has "failed as a teacher," a role of the presidency which the panelist believed was extremely important. He asserted that LBJ has lost the support of the young people, the intellectuals, labor, big cities, minority groups, and the "uncommitted mass of the third world."

After pointing out that a teacher should be able to "confess ignorance" and constantly demonstrate "what needs to be done" (instead of lauding past accomplishments), the professor concluded that "the Administration lacks the capacity to generate understanding which I regard as a more valuable goal than consensus."

Support Principles

All the panelists seemed to support in principle Prof. Morgenthau's opening statement that "everything which we admire or detest in the Johnson Administration depends on its success or failure. If he fails, what we admire will be forgotten. If he succeeds, what we detest will be forgotten."

But the theorist, in the quiet but assertive tones of a sage, went on to declare that there is "another standard" by which Presidents may be judged. "Even if Lincoln had failed in the War," Morgenthau declared, "Posterity would still look upon him as a great man. There is an intrinsic greatness in some presidents which transcends success or failure."

Lacks Intrinsic Greatness

The persistent critic of Johnson made it clear in the remarks which followed that he believes Johnson lacks this certain "intrinsic greatness."

Novak, who travels extensively throughout the country to sample grass roots opinion, stated that "almost any moderate Republican would carry 35 to 40 states if a Presidential election were held tomorrow. I don't see how even winning the Vietnam War can change this result in '68."

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Letters to the Editor

(Continued from Page 11)

Firms Should Pay Costs of Placement

To the Editor:

I have been following with interest your reports of the placement situation and would like to add my comments.

The cost of sending a partner of a New York firm to Cambridge for a single day of interviewing runs in the neighborhood of \$400.00 or more. This figure is based on the loss of an average of seven hours of billing time at an average of \$50 plus the expenses of the trip. Further interviewing time in New York by the firm only adds to this cost. Similar figures may be computed for other cities.

With these facts in mind, it would seem that a fee, for example \$100 per day of interviews, could easily be levied on the firms seeking employees in Cambridge. The fee would only represent a marginal increment to the firms interviewing, but would provide the funds for the rental of whatever space was necessary in nearby hotels and motels for the fall rush and help defray the operating expenses of the placement center.

I am sure that a fee system would require various exceptions, such as for governmental and charitable bodies seeking students, but I am also sure that there is enough law and regulation-making talent at the Harvard Law School to devise a reasonable system.

Lewis Bart Stone, '62
New York, N.Y.

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Ames Finals . . .

(Continued from Page 8)

power of local governments to outlaw atomic reactors.

Bevins oralists, Raymond S. Andrews, Jr. and G. Randolph Shreve will match wits in the Supreme Court of Ames with Baruch A. Fellner and John F. Shelley of the Story Club. Judging their argument will be the Hon. Herbert B. Cohen of the Pennsylvania Supreme Court, the Hon. John R. Bartels of the U.S. District Court for the Eastern District of New York, and former A.E.C. Commissioner John G. Palfrey.

Judges for the argument, which was set in the U.S. Court of appeals for the Ames Circuit, were the Hon. M. Joseph Blumenfeld of the U.S. District Court of Connecticut, Charles Donahue, U. S. Labor Solicitor and Hans Loeser of Foley, Hoag and Eliot.

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