



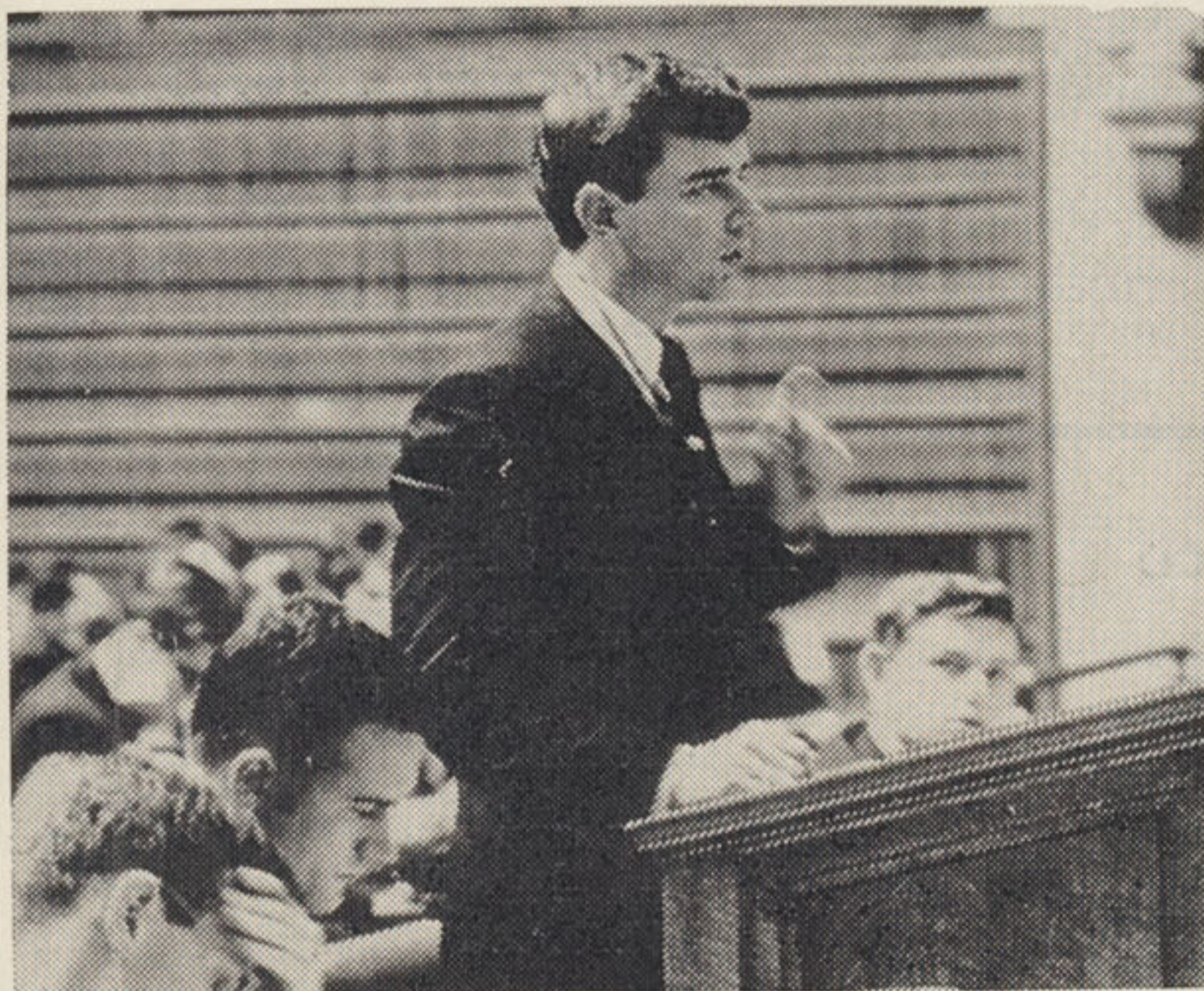
Harvard Law Record

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FIFTEEN CENTS



Oralist Tom Tinkham, in Quarterfinals

White Leads Panel Judging Ames Final

The constitutionality of using state funds to support scholarships at religiously affiliated schools will be among the issues argued at the final round of the Ames Competition, Tuesday, Apr. 9, at 8:30 p.m. in the Ames Courtroom. The Learned Hand Club, counsel for appellant, will be facing the Marshall Club, counsel for appellees.

The case, *Richard Howley v. New York Educ. Assistance Corp.* is set before the Supreme Court of the United States. Mr. Justice White will be the presiding judge. He will be joined on the bench by Chief Justice Robert B. Williamson of the Supreme Judicial Court of Maine and Judge Edward M. McEntree of the U. S. Court of Appeals for the first circuit.

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Faculty Readmission Statement Prepared

By Roger Lowenstein

Members of the Faculty have reacted positively to a student request for a policy statement concerning the readmission of students leaving after this year because of the draft. Details of the statement had not been released at press time, and will appear in the RECORD's next issue (April 11), but it was generally assumed that the document will reflect a careful, apolitical position in favor of readmission.

Three hundred and fifty first year students had petitioned the faculty, in light of the imminence of confrontation with the Selective Service System, to make some statement of policy with regard to readmission of those whose academic careers are thereby interrupted.

Returning veterans in the past have been readmitted as a matter of course. The petitioning students felt that those who obtain occupational deferments, perform noncombatant service as conscientious objectors, or serve jail sentences in preference to military service should receive similar treatment.

Dean Elder of the Harvard Graduate School of Arts and Sciences has strongly affirmed the right of readmission for those who conscientiously oppose participation in the Vietnam conflict. Deans at Princeton, Columbia and Yale have made similar broad declarations of policy, with Yale being the only university so far to include the professional schools within the scope of their statement.

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Legal Aid Revamps Summer Selection Plan

The latest step in the Legal Aid Bureau's continuing efforts to eliminate economic discrimination is aimed at the bureau's own practices of membership selection. Since last year, the group has taken up to one-fourth of its members from those who work for it in Cambridge in the summer. Now, anyone who's worked on any kind of legal assistance program anywhere in the country is eligible to compete for Legal Aid.

The change was made to aid those students who can't afford to stay in Cambridge over the summer, according to Barry Metzger, 2L. Increasing opportunities for summer legal aid work in

Cambridge and Boston have at the same time stimulated the bureau to seek more participants for its summer program. An increase from 20 staffers to 30 this summer is hoped for.

This summer, the bureau will also be staffing Fair Housing Inc. in Roxbury in addition to its Gannett House office. And since December, members have been permitted to appear with practicing attorneys before the Massachusetts Commission Against Discrimination.

Roxbury office to be staffed by Legal Aid

Summer program participants will also be able to make court appearances with the attorneys members work with in rent withholding and receivership cases for Fair Housing Inc.

About 600 cases or problems generally are handled during the summer, Metzger said. Two laws on the books but which haven't been employed to a great extent in the past may result in a rise in rent cases, he added.

Prospective 3L's as well as 2L's are invited to apply for the summer program. Applications will be taken through April 15. Participants are expected to spend either a morning or after-

noon a week throughout the summer at the Gannett House office and in Roxbury. Employers have been cooperative in the past about letting bureau participants spend the morning or afternoon on Legal Aid work, Metzger asserted.

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Metzger Picked By Legal Aid

Barry Metzger will head the Legal Aid Bureau during the coming year. Mr. Metzger was chosen by members of the group at an election meeting held Mar. 12.

Robert Olsen was named Vice-President, while Jeffrey Berlin and Cynthia Crounse were elected Secretary and Treasurer, respectively.

In addition, Henry Christenson was selected as Senior Director and Gerald Vinnard and Marguerite Filson were named the two Junior Directors.

Of the seven officers elected, three had joined the Bureau on the basis of the work they had done over the summer, rather than their first-year grades (See story, this page). Approximately three-quarters of the Bureau's staff were chosen on the basis of their grades.

According to Deanne Siemer, out-going President of the organization, the election was to be an indication that "the non-grades program was successful."

Research Bureau Elects Officers

William Gregory was elected President of the Harvard Student Legislative Research Bureau for the 1968-69 academic year. Mr. Gregory is a graduate of Western Reserve University, and received an M.A. from the University of Michigan.

At the same meeting of the group, Philip Luks was named Director of Research and Guy Moss was selected to be Secretary-Treasurer of the organization for the coming year.

Thomas Gallagher was chosen Editor-in-Chief of the **Harvard Journal on Legislation**, the group's quarterly publication.

Norway's Man at UN Envoy Discusses 'Practical' International Law

By Thomas Geisler

"It's a sobering experience to get away from books and to see what the role of international law is in day-to-day diplomatic life," said the Honorable Eduard Hambro, Norwegian Ambassador to the United Nations, at an International Law Club meeting last Monday.

Mr. Hambro analyzed the post-War emergence of two groups of nations which reject many tenets of classical international law and consequent implications for international relations, particularly with regard to the United Nations and the International Court of Justice. He strongly criticized the restrictive, static view of law for international tribunals, calling it, "not jurisprudence, but jurisprudence."

The Norwegian Ambassador observed that international law seemed to play a greater role in the years prior to the Second World War under the League of Nations. In one sense this was surprising, since the United Nations Charter explicitly refers to "international law" more than the League's organic document did. "When you try to appeal in the UN to principles of international law," he said, "some people will look upon you with great suspicion. They think it may mean you have a bad political conscience."

The explanation, Mr. Hambro said, lies in the emergence of the Socialist and "new nation" blocs. The former distrusts international law because it was the "invention of the capitalist states," used unfairly against Socialist states. Since under this theory everyone is influenced by his background, it is absurd in their eyes to postulate a "neutral, objective person." Hence their distrust of any international tribunal, which they feel would be heavily biased against them.

The new nations feel (rightly, according to Mr. Hambro) that they did not participate in the making of classical international law. But they are eager to take part in developing new international law not unilaterally set up by the former colonial nations; this is one reason new nations wish so much to join the UN.

The new nations are impatient with the old methods of changing international law, such as treaty-making and the long wait for international custom to change, and see in resolutions adopted by the UN General Assembly a potentially quicker way to change international law.



Jurisprudence
Instead of
Jurisprudery

Despite these varying views, Mr. Hambro observed, all states in the United Nations use legal arguments to buttress their political positions. This was a healthy sign in Mr. Hambro's view and should not be viewed as hypocrisy. In any event, he reminded his audience of La Rochefoucauld's maxim that "Hypocrisy is the homage that vice pays to virtue."

International tribunals are decision-making instruments as is the United Nations, but they are in a somewhat different position. The Ambassador discussed the manner in which judges on such tribunals arrive at decisions. Regarding Justice Holmes' statement that "law is what the judges say it is" as unhelpful, he said that in instances where no clear law already exists, a judge must make a choice.

Mr. Hambro felt that extended analyses of "reasons behind a judgment" often miss the point. "In making a judgment, a judge listens to arguments, feels the right decision by some sort of intuition, and *then* writes his reasons."

These articulated reasons serve two purposes. First, it shows the path by which a judge has come to his decision. Second, the reasons are thereby projected into the fu-

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The Law in Words of One Syllable:

By Don Passman

If you asked some of the students in Professor Robert Braucher's first-year Contracts class what they thought of his views on the Law School and the world, they might tell you that it's hard enough to keep up with his breakneck race through the casebook without stopping to figure out what else he's thinking about. Yet there's something compelling about a man who once told his first-year class: "When I want to know what the common man thinks, I have a formula. I simply ask myself what I think. And I get it right every time."

Prof. Braucher's resume, if he were ever to prepare one, would be impressive: A.B., Haverford, 1936; LL.B., Harvard, 1939 (Note Editor, *Law Review*; Ames finalist); fighter pilot and intelligence officer, 1941-1946; legislative draftsman, N. Y. State Law Revision Commission; associated with the Uniform Commercial Code since 1950; Commissioner on Uniform State Laws; ALI member (Reporter, Restatement of Contracts, Second; Reporter for the committee to review Article Nine of the U.C.C.).

Believing that the essential Braucher must be the Braucher who speaks for himself, The RECORD went to his office early this March. As Prof. Braucher (who stands six-foot-two and speaks with a resonant voice that commands attention) leaned back comfortably at his desk, a "Rockefeller for President" button was visible on his left lapel.

RECORD: *Could we start with some of your general ideas and feelings about the Law School "way of thinking" — assuming there is such a thing?*

BRAUCHER: Well, everyone around here has the same tendency I have — and that's to over-think a problem. It's an occupational disability. Instead of just reacting like a normal citizen, you think out issues, conclusions, and a whole chain of reasoning. And if it doesn't come out right, you go back and change the premises so that it will.

Do you think that you personally react differently to this kind of conditioning?

I think I have more contact with people who are not lawyers than some of the people around here. Five years in the army gives you a sense of respect for lay attitudes. I'm a little more concerned than some with the law in operation, rather than satisfying myself with what the "true view" of something is. I'm a little more influenced by what will sell.

Do you think this is reflected in your approach to lecturing?

Well, I do one thing that a lot of people around here don't do. I tend to translate things into words of one syllable. I'd done that for lay audiences, and then I tried it out on law students. And it turns out they like it too. I've been criticized on this. Not so much around here, but other places there's an image that if you're a Harvard professor



and you talk so that people can understand you, there must be some fakery. But I'm not alone in this. Lloyd Weinreb went down to teach some seventh graders in Roxbury about search warrants. And to get across the conception of privacy, he built the whole law of search warrants on the fact that they would resent someone's opening up their lunch boxes.

Do you think the students in the Law School today are any different from those, say, ten years ago?

I sense in the last few years that we seem to be getting a lot of people in here that don't want to have anything to do with

Braucher Keys Pitch to 'What'll Sell'

the law. I don't know why they're here, unless it's to stay out of the army. And if that's so, then I think the new Selective Service law will be a great thing eventually for the law school. The Selective Service law itself has a transition problem that is wretched — from the point of view of the army, the graduate schools and the people whose legitimate plans are being disrupted. If anybody had done this deliberately, you'd say they were so hostile to war they were willing to sacrifice the country to demonstrate how bad a thing war is. But for the Law School, in the long run, it will mean we'll get guys coming in because they want to study law and not because they want to stay out of the army.

How recently have you noticed this difference in attitude?

About the last two or three years. I find people in class sometimes that say, "Gee, couldn't we talk about something else besides law?" They're paying substantial sums of money to study law and I have a picture that they regard law as sort of marking time. They're wasting somebody's money. It used to be people came to this institution because they had gotten some understanding of the legal profession and thought they would like to be part of it.

Archibald MacLeish was a graduate of this school and I was always very proud of him. He was our poet. And I have no objection to that. But when you get 550 people here and you begin to have 200 of them coming here because they want to be poets, I would think that was rather doubtful.

We have this CLAO, for example, and I think that's a great idea. It gives people a sense of dealing with clients on a hard-headed, immediate, real basis. But I have a feeling that some of these people feel this is a little less "legal" than other things they might have to do, so they'd like to do that.

Why do you think they come here?

I suppose part of it is the draft. Part of it is the self-selection. And part of it is the thing that's grown up that everybody should go to graduate school somewhere.

But why law school?

I don't understand it. And I'm not very sympathetic with the idea that people should

go to graduate school just to mark time.

Well, to get into your views on the war, is it true you're a hawk?

Oh, I'm not a hawk. I'm just a peaceful dove as compared to all of these war-like doves around here. Let me first say that I do not believe there are such things as "just"



Photos by Michael Lurey

wars. Ever. I do not know of any war-like cause in the history of mankind where either side had justice on its side.

Not even World War II?

No exceptions.

Not even if a country is attacked?

No exceptions. Of course, there are degrees of outrage involved.

That answers the hawk question. How do you feel about the Viet Nam war?

Very badly.

Would you care to elaborate?

Well, what I've said so far may give you an erroneous impression. I have a very strong feeling that when you have a nation with 200 million people in it, you've got to have some procedure whereby they can act effectively — whereby problems are brought to a head, into some kind of issue, and entrusted to somebody with the power of making effective decisions. I think a certain loyalty to the system is required even by people who think it's working pretty badly. So I'm not much of a man to go around carrying flags denouncing the people who just won an election in which I was on the losing

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Tax Parley Set

William Popkin, a teaching fellow in the Law School's international tax program, will represent Harvard at a two-week-long seminar in Dakar, Africa, which has been arranged to work on a manual of income tax administration, to be designed principally for use by finance ministries of developing countries.

The international tax program has been collaborating with the United Nations secretariat in preparing the manual. The secretariat prepared the French translation of the discussion draft of the manual which will be used at the seminar. Representatives of African nations, both French-speaking and English-speaking, will participate.

Guide Adds Exams

The busybody editors of the **Conf Guide** earnestly request that course questionnaires be returned to their final resting places in the red collection boxes. For those who haven't filled one out, blanks are available at the same places. The deadline is tomorrow, Mar. 29.

In order to give the faculty equal time, a new section to the **Guide** will be added. This will consist of "excellent" and "average" answers to past exam questions, together with a brief comment by the professor. According to the editors, "this should provide some feedback and guidance from the faculty to the students as well as the other way around."

Appellant Wins Quarterfinal

(Continued from Page 1)

Oralists for the Marshall Club are David Beller and Howard M. Garfield; for the Learned Hand Club, Eugene Keilin and L. Douglas Pipes. Ronald Defelice is brief caption for Marshall; Daniel F. Stella, for Learned Hand.

The action is a taxpayer's suit to enjoin expenditure of state funds by the defendant Corporation, which had been established by the State of New York to provide financial aid to state residents attending schools or colleges. The specific point of controversy is a contract of grants made by the corporation with a non-profit corporate "funding arm" of the Littleton School, a prep school affiliated with the United Church of Christ.

Among the questions raised by the factual situation are the following: Does a taxpayer and atheist have standing to challenge the expenditures? Is the grant of monies an establishment of religion within the meaning of the First Amendment? Is the private school or its funding arm a religious establishment within the First Amendment?

In the Quarterfinals, on Mar. 19 the Bruce Club (appellees) defeated the Choate Club. That case involved the right of students to disrupt normal campus activity by a "peace" march in violation of a disorderly conduct stat-

ute which was attacked as vague and overly-broad. Judge John Dooling of the Eastern District of New York presided over the court. Oralists for the Bruce Club were Larry Ruzow and Tom Tinkham; Mike Berner served as brief captain.

Tonight the fourth and last Quarterfinal match will occur between the Sung-Kun Club (for appellants) and the Harlan Club. Oralists for Sung-Kun are Timothy Dacey and Marc Fasteau; for Harlan, Alan Hoffman and Louise Weinberg. The Sung-Kun Club, with a 4-0 record, was named the best team in the Qualifying Round, while Louise Weinberg from Harlan was named best oralist.

The Casner Club last Thursday became the first appellant team in the upper Ames rounds since at least Fall of 1966 to win, as it triumphed over the Kent-Sacks team. Edward B. Costin was brief captain for Casner, and Miriam Herzfeld and William T. Vicary were oralists.

The Casner Club's victory was followed this Tuesday by that of the Kaplan Club, also for the appellants, over the Story Club. For the Kaplan Club the oralists were Curt Von Kann and Stephen Cowan. Brief captain for the Kaplan Club was John Mathis. The oralists for the Story Club were Allan C. Gropper and Judith Wolf.

Kennedy Welcomed; McCarthy Endorsed

By Richard Hoffman

Were he alive, Plunkitt of Tammany Hall would be proud of the Harvard Law-Graduate Democratic Club. The party stalwart might not approve of the club's preference for Eugene McCarthy and Robert Kennedy over Lyndon Johnson, but he would agree with the members' decision at last week's special meeting: the last thing to be allowed is a club split.

As with most political compromises, the resolution approved (by a ratio of approximately 7-3) rides the high middle. "Be it resolved, that the Harvard Law-Graduate Democratic Club wholeheartedly approves the entry of Robert F. Kennedy into the Democratic presidential race," the statement begins.

Democrats approve RFK, but support McCarthy in Mass.

After praising Kennedy for "his sensitivity to the problems of this nation," and noting that "he has repeatedly displayed both the capacity and the courage for creative, thoughtful leadership," though, the resolution begins to disclose the influence of the club's McCarthy contingent, which apparently includes most of the club leadership.

"However, our primary concerns remain the goals

of ending the war in Vietnam and getting on with the needed solutions to the critical problems facing the country. We expect Senator Kennedy and Senator McCarthy to coordinate all their efforts to this end, and we urge their supporters not to jeopardize these ends by disunity," the statement continues.

Finally, as the resolution attempts to take back a bit of its earlier enthusiasm for Kennedy, "For this purpose we will continue to support the candidacy of Senator McCarthy in the Commonwealth of Massachusetts and will do all we can to assure him a resounding victory on April 30."

The meeting which was attended by almost 100 persons (out of a club membership of 485), first heard proponents of each senator advance arguments for the two candidates, but a majority began to react positively to the proposition that the movement was more important than the candidate.

An early motion to amend "wholeheartedly approves" (of Kennedy's entry) into "welcomes," and to omit the paragraph praising Kennedy was rejected by an approximately 60%-40% vote. A move to table the whole resolution lost by the same margin.

Some Kennedy adherents sought to eliminate the reiteration of support for McCarthy in Massachusetts, but this failed of passage by a whopping 85%-15% tally.

Most of Kennedy's backers weren't willing to go this far in antagonizing the McCarthy supporters.

Yarmolinsky, Chayes head Kennedy unit on strategy, issues

Many of those present felt that the resolution goes a long way toward laying the groundwork for a future endorsement of Kennedy. Martin Gold, 1L, who wrote the resolution, observed that its passage was the most that the Kennedy group could have expected the club to do.

The club also approved a resolution supporting blanket readmission of all students who leave the Law School because of the war. This would include those students accepted this spring to enter next fall. Whether such would-be 1L's are to be "re-admitted" should they be unable to begin in the fall has been a major stumbling block in the path of a school decision on readmission.

Meanwhile, a group of Harvard faculty members met at the home of Professor Adam Yarmolinsky last week and agreed to channel ideas on strategy and issues to Sen. Kennedy's campaign. Prof. Yarmolinsky and Professor Abram Chayes will be co-chairmen of the organization. Other law school members include Professors James Vorenberg and Jerome A. Cohen.

The Spring

APRIL, MAY, AND JUNE are about equally cruel to first year students faced with essentially the only test of their abilities and skills gained in the first year, the forbidding phalanx of four-hour exams. Very serious consideration should be given to grading some aspect of work before then, so that one's record is not completely a *tabula rasa*. Either graded written work or some formal exam in January might be employed toward this end. To be sure, some students do not "catch on" by January, but this is at least partially attributable to the reduction in incentive to study which a "practice" exam very often entails. The system may be great for January skiers, but the vernal equinox has now passed, and temperatures are rising.

The Sting

THE REPORT OF THE PRESIDENT'S COMMISSION on Civil Disorders (See Book Review, Page 11) was prepared under the careful leadership of Governor Otto Kerner of Illinois and Mayor John V. Lindsay of New York City. It gives every indication of being a document of great, painstaking research and honest, painful thought. Racial tension and urban decay are probably the twin problems of greatest lasting significance facing this country today. The Report may be stinging to some, but some catalyst for massive action toward solving these problems must be found. One would have thought that, for the purposes of such a catalyst, such a sting, painful though it might be, would be far preferable to the sight of more and more of our cities in flames.

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TONGUE 'N CHEEK

By Fenno

"All right, Private Fenno, let's get going on those potatoes," snapped the drill sargent. "You've been peeling for three hours now and haven't even finished that pot."

"But, sir, if we just washed these potatoes and boiled them like you were planning to do anyway, it wouldn't be necessary to peel them at all. Don't you realize that when the reason for the rule ceases, the rule ceases also?"

"That'll be 15 pushups for talking back to a sergeant."

"If you'll only listen to me, sir, we can make more out of what we have — lot's of food value in these peelings, to say nothing of the vitamins. By working together on this, we can turn our platoon supplies from a 'static pie' into a 'dynamic pie'."

"We're talking about potatoes, not pies. Start in on those pushups."

"But I was only suggesting something to you, not talking back. I realize that the Army must have discipline, but you must balance the adverse effects on morale arising from an unfair decision. Of course this fact situation is a close case, but don't you know that hard cases make bad law?"

"I'm just trying to get you to peel those potatoes, fresh guy. You know that's the way the system works."

"Oh, I admit it's easy to administer that way, going by precedent of Army discipline unchanged for 200 years, a stable organization where an order is an order regardless of rationality. Yet there are affirmative countervailing considerations, like the need for flexibility in the system and functional orders instead of point-blank commands."

With a grunt of disapproval, he pushed me over in the dirt and I began huffing my way through another series of pushups, finding only token solace in the maxim, "What pleases the prince has the force of law."

Letters to the Editor of the RECORD

The Noblest Lawyer of Them All

Dear Sir:

I have been following with great interest the battle over the J. D. Degree, both at Harvard and among the Law Schools in the midwest. I really feel constrained to say that up to now I have been quite satisfied with the L.L.B. In fact I would more or less resent being put on the same level as say for instance, a doctor of education. I know of one such doctor who learned his doctorate by plotting the movements of dancing girls on a football field.

However, I can understand the agonies of my fellow lawyers who have embarked upon government service business and other areas where the salary is tied to the Mickey Mouse of the degree letter.

I therefore make a suggestion, that the administration not only meet the thrust of this very vital matter, but also mount a massive counter attack. Some consideration should be given to not awarding a J. D., but rather moving beyond

that point to a "super degree." I would suggest the degree of Baron of Law. In this way if sociology and teaching meet our challenge, we have an infinite number of options open. We can then move through the varying of degrees of Marquis, Count, Viscount, Duke and Prince.

Certainly the education changes slowly and the end result is the same—a good lawyer. Why then settle for the lower pay level when with a little slight of hand we can move forward to greater heights. If we must enter Barrataria, let us do it with a flourish rather than a whimper.

K. G. Rush, '57
Springfield, Ohio

(Ed. Note: Cf. U.S. Constitution, Art. 1, § 9, cl. 8)

Another View of The Lawyer's Craft

To the Editor:

In response to the CR-CL discussion with the Visiting Committee and especially to the greater years and wisdom of the lawyer whose office does not practice poverty and Vietnam, I offer

herewith evidence on a question of future interest to law students: What, actually, does a lawyer practice?

1. He practices clerical work, including filing, filling out forms, phoning, and walks to the Court-house and the Registry. He does this very badly and his records will never come up to median business standards. Typing requirements let up when he makes junior. Training, negative.

2. He practices business. He had better not resist or he will remain forever on the unsecured list. Not daring to attempt the word aloud, he writes about debenture bonds; he directs real-estate speculations, he perpetrates conglomerate mergers and Canadian wraparound mortgages. He gets paid in the only value most clients can freely offer: a piece of the action. If a partner in a big firm with really big corporate clients, he may take a cash fee, but he still practices fancy financing. Training, nil.

3. He practices pure law, library memos, starting from 10 per cent of his time, on a declining basis as he realizes the impact of (2). Later he wishes he could do more. Ninety per cent of said 10 per cent involves brute discovery of statutory regulation. Training, 8 per cent declining.

4. Greater-years-and-wisdom notwithstanding, he increasingly practices governmental business, including judicare, medicare, and FHA housing. Ninety per cent of this does not significantly differ from (2), e.g. real estate development, contractors' bonds, mortgages. The rest is largely applied sociology. Clerical work percentage definitely higher. Training, up to 5 per cent.

5. He practices government. There is no positive training for this.

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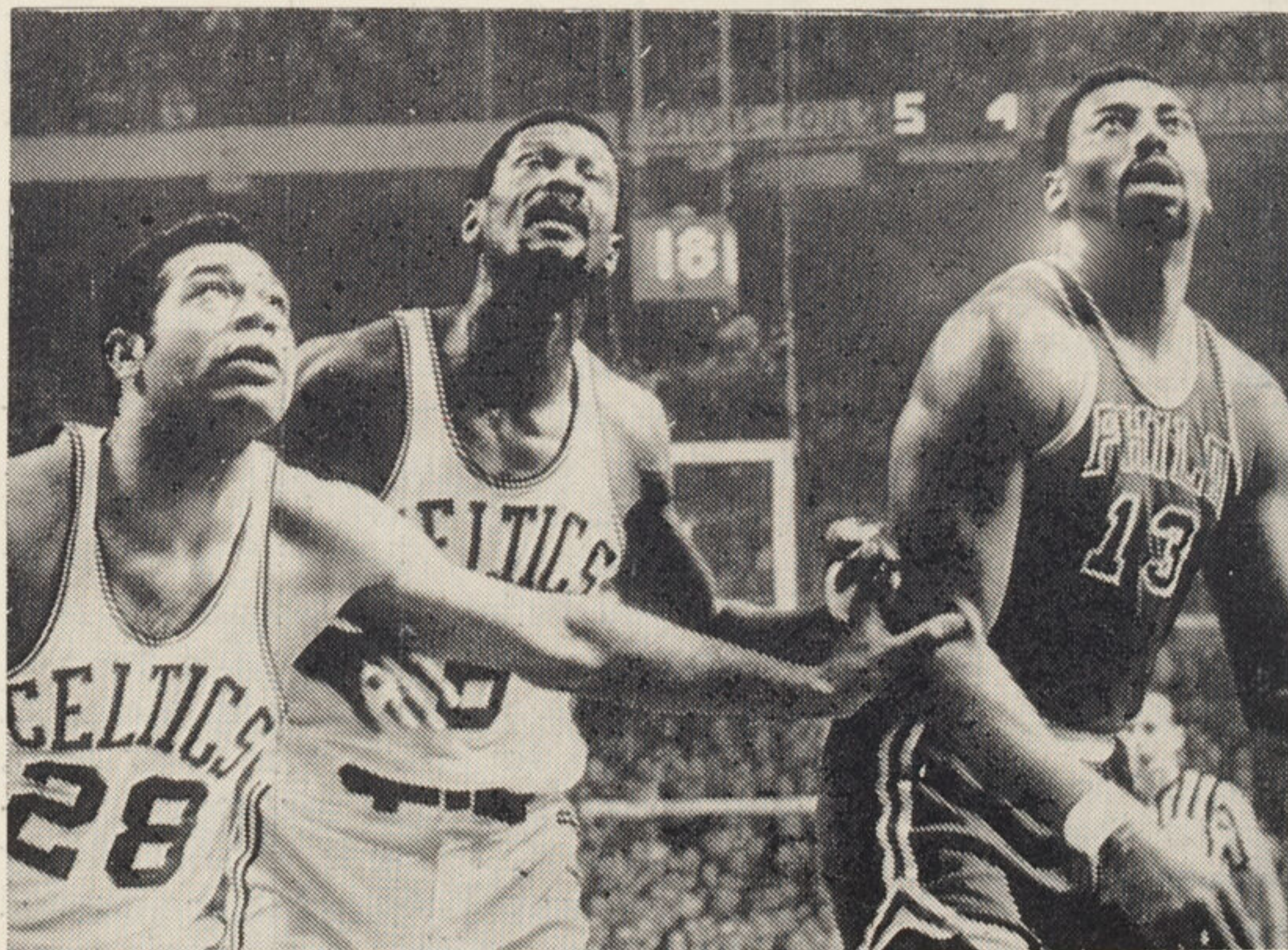


Photo by John Harris

Fair is foul, and foul is fair?

Law Text and Reference Books: First Resort to the Coop.

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Braucher . . .

(Continued from Page 5)

side. I guess I'm the only person on this faculty who voted for Senator Goldwater for President.

But is there a point where your personal convictions would be so strong that you could not accept the decision of the system's machinery?

Let me say this. I'm a member of the Republican Town Committee of Belmont, Mass., and I've several times gone to state Republican conventions. When you're going to be a part of an organization you try your best to get them to come out right on various things. If they don't, you're confronted with the problem whether the departure from your view of the matter is so serious that you should retire from the scene and go join the "Sons and Daughters of I Shall Arise" or something like that. I haven't found myself in that position. I would have a greater sense of responsibility if I regarded myself as having even the slightest responsibility for the existence of the present administration of the United States. But I don't.

But "It's your country," some would say, "and you have a stake in its decisions."

Sure it's my country. And we have a system whereby we vote. You can't operate that kind of machinery if every time you lose one you say, "Well, I'm not going to play the game any more." That's a withdrawal from the system and it forfeits your influence.

While I was in the service during World War II, several of us were sitting around looking at a **Time** magazine that said there were 12,000 conscientious objectors. And some of these fellows were saying, "They ought to shoot every one of those c.o.'s. They're no good to anybody." And I said, "I'm a conscientious objector." And they said, "Don't you believe in *this* war?" And I said, "Certainly not." "Well, what are you doing here?" they asked. I told them, "I don't want to go to jail." And they said, "Well, you should stand up for your convictions." I've always thought it was pretty interesting the way people can be turned around 180 degrees within a few minutes.

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Recent Book

Reading the Riot Act to the Riot Commission

Report of the National Advisory Commission on Civil Disorders. pp. 608. Bantam, 1968. \$1.25 (paperback)

By Jack Tate

The night of July 27, 1967, less than 24 hours after the Detroit riot ground to a halt, President Lyndon Baines Johnson announced that he was appointing a "special Advisory Commission on Civil Disorders."

What he could not have known then, but what became painfully obvious to him about seven months later was that six of the eleven persons he had appointed and most of the professional staff involved in the writing of the document were not inclined to praise him or white society. Instead, this majority of commissioners and professional staff came very close to speaking the language of militant black power groups.

The polished rhetoric of the report hit the black militants, looters, rioters and snipers (or were there any?) with the force of a BB gun fired at 500 yards. It saved the eight-inch howitzers, Bullpup missiles and napalm for white society.

- White institutions created the ghetto, white institutions maintain it, and white society condones it.

- The white police repress the black population.

- White courts administer justice unequally.

- White businesses deny Negroes access to higher paying jobs.

- White local governments remain unresponsive to Negro grievances.

- White politicians disenfranchise the Negro by gerrymandering and other techniques.

- White store owners use unfair merchandising techniques on their unsophisticated Negro buyers.

- All of this results from pervasive racism of white society.

The commission contends that using the year 1967 as a reference point and looking back over the history of this nation, one would find more retrogression than progress in the following areas: segregation of Negroes in inferior schools, restriction of Negroes to ghettos, barring of Negroes from fair employment, infliction of harm on their children, and maintenance of double standards in courts of justice.

Reading this type of statement and similar ones throughout the book, especially in the section in

Part II, "Why Did it Happen," I was left with the impression that the six commissioners who constituted a majority of the commission, along with the men who actually wrote the report, did not objectively analyze the masses of information available to them.

(According to Tom Wicker, the *New York Times* correspondent who wrote the introduction to the report, the commission broke into a rough six-five split on most questions — Kerner, Lindsay, Harris, Wilkins, Brooke, and Jenkins (the Atlanta Police chief) on one side and Corman, McCulloch, Thorton, Abel and Mrs. Peden on the other.)

They appear to have started the investigation and the writing of the report not with open minds but with a conclusion: The white race is totally and utterly responsible for the violence last summer.

The influence of organizations or individuals dedicated to the incitement or encouragement of violence is dismissed almost as if it were an absurd hypothesis. The possibility of Negro self-help is dismissed as impractical without a massive overhaul of white society's attitudes. And the black militants bear little responsibility for what happened last summer; the violence they perpetrated was

(Continued on Page 12)

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Report May Give Rationale for More Riots

(Continued from Page 11)

merely a manifestation of what the white man has done to the black man over the last 300 years.

Negro extremist organizations such as the Black Muslims were excused as "an important force in awakening Negro protest" and even in a sense, praised: "To those willing to submit to the rigid discipline of the movement, the Black Muslims organization gave a sense of purpose and dignity."

The commissioners and the professional staff of writers failed to isolate themselves from the temptation to reach a conclusion and then marshal all the arguments and data on one side of the question while simultaneously belittling hypotheses, arguments and data supporting contrary conclusions.

But considering the importance of the task that the President entrusted to them, it was not asking too much of them to require that criminals, whatever their color and by whatever sociological process they were produced, be condemned unequivocally. The Commission gives the lawbreakers only a light tap on the wrist with a few soft words on the importance of maintaining order.

The successes of the Commission, however, are more important than their failures. In

Part III, entitled "What Can be Done?", the Commissioners set forth a series of pragmatic suggestions and recommendations that if followed, would transform American society and eliminate the sources of racial inflammation.

Furthermore, the Commission carefully and factually analyzed the development of racial violence in 23 cities last summer and even reduced the events to graphs showing the levels of intensity of the civil disorder over the two to four days that the average riot lasted.

The report also contains a supplement on the control of civil

most egregious failure, the white man bears the entire onus of racial disorder.

Perhaps the shocking impact of overstatement, and the outraged reaction that often follows in its wake was precisely the aim of the Commission. Perhaps they wanted to shock white America into action and simultaneously to assuage the fears of black America that nothing would be done to improve its condition.

Summer 1968 and those following may vindicate their decision. The danger is that the Commission's words could become Negro leaders' rationale of violent resistance, an explanation of why they resort to violence, and, in a sense, a justification of it. At the same time, these same words could cement the position of those who oppose accommodation of society to the needs of the Negro.

Successes Outweigh the Report's Failures

disorder. This supplement evaluates methods escalating response to civil disorder beginning with local police and ending up with the summoning of the Army. The recommendations in this area, if followed, could provide for far smoother and more effective governmental response to the breakdown of order.

In what may be the Report's most significant success or its

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Republicans Publish Paper

The second number of The Republican View, a five-page, mimeographed publication of the Harvard Law and Graduate School Republican Club, features arguments for two possible GOP candidates.

Neither "The Case for

Richard Nixon" by John D. Lien, 3L, nor "The Case for Nelson Rockefeller" by John Herman, 1L, offers anything in favor of either man that hasn't been already said, but both are useful compilations of the principal good points of the candidates.

The remainder of the issue is made up of a summary of local activities by club president Kenneth Gray, 2L, and a "quotable quote" of Abraham Lincoln's castigation of "wily agitators" who induced soldiers to desert.

Now little more than a newsletter, it may prove interesting to see if The Republican View in the future becomes a forum for original political thought.

Letters

(Continued from Page 9)

Individually, most Law School courses can be made to yield 20-70 per cent net worth, to *specialists*: tax for tax lawyers, SEC for Blue-Sky devils, torts for litigators, con law for Supreme Court clerks, criminal pro for criminals. The rest is staying alive. A good course on Vietnam could come in handy for that.

Alexandra D. Dawson, '66
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Legal Aid . . .

(Continued from Page 2)

Since housing problems generally occur more frequently during the summer, and because Roxbury may well be more acutely conscious of all such grievances this summer, Metzger and the bureau expect to have little trouble in keeping their added charges busy.

Events of Note

Ralph Nader, '58, will address the Ford Hall Forum on the topic "Consumer Protection and Corporate Responsibility," Sunday, Apr. 7, at 8 p.m. at Jordan Hall, Boston. There is no fixed fee, but a collection is taken at the door to defray expenses. Mr. Nader, author of the book, **Unsafe at Any Speed**, is a former President of the RECORD.

* * *

The Library will be open its regular hours during the Spring Recess, March 31, through April 7.

* * *

Professor Alan Dershowitz will deliver the David Stoffer Memorial Lectures at Rutgers Law School, Newark, Apr. 1 and 15. He will speak on "Preventive Justice: The Psychiatrist as a Moralist and Empiricist."

* * *

Professor Robert Braucher has received appointment to the first Alumni Chair at the University of Minnesota for the academic year, 1968-1969.

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Readmission . . .

(Continued from Page 1)

Faculty resolution of the problems posed by the petition involved the lawyer's traditional delicate balance of competing considerations. On the one hand the petition could be characterized, as it was by one faculty member, as an inquiry directed to the faculty by other members of the same institution, posing the question, "What is the school's policy with regard to readmission?" In this form, the question is difficult to ignore.

On the other hand, a vague or unqualified statement would run the risk, of extending beyond its intrainstitutional purpose into the area of political pronouncement. The dangers of a political statement, it was felt, are manifold, not the least of them the possibility of seeming to commit the faculty to a position which many members could not support.

But the principal danger pointed out by some faculty members was the risk of seeming to encourage an act of civil disobedience which is at its essence an individual, moral decision with drastic impact on family, com-

Jurisprudence . . .

(Continued from Page 3)

ture, where they may serve as guidelines for future similar situations. "There is a desire that similar cases will be similarly decided."

All of this, concluded Mr. Hambro, indicates that decisions of international tribunals really do create law; they are not simply expositive of existing black-letter principles. He roundly criticized the "restricted view" that law is static as "jurisprudence." "Law must evolve with the world or it will become fossilized," he said. For this reason he felt it especially necessary that each major view of international law be represented in the formulation of judgments.

munity and career.

Further complications were suggested by the case of the hypothetical returning prisoner whose conviction was not clearly for an act of conscience. For this reason it was felt that the faculty's right to make decisions on an ad hoc basis had to be clearly stated and retained.

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Braucher Sees Defeat for 'Forces of Evil'

(Continued from Page 10)

What about the idea that the U. S. could maintain enough respect just by keeping up its influence in North and South America and possibly parts of Europe?

We could have. Just before the assassination of Diem you had ten or fifteen thousand so-called "advisors" in South Viet Nam. If we'd said, "We don't like the way you're running this and if you don't change we'll quit helping you," it would not have been a great devastation to our interests. But now we've taken a responsibility for that government so that it's become a puppet government to an extent that the Diem government never was. It would impair our utility everywhere to get rid of the only guy who could

run it, and then withdraw. I used to work with Reischauer in the War Department, and I go along with what he says in his new book. In terms of the long haul, and the lack of intrinsic importance of what happens in Southeast Asia, it's become a symbol of whether it's healthy to be friendly with the United States. If you pull out, you make it very clear that somebody who puts his trust in the United States is making a very bad mistake. And that would have repercussions everywhere.

Would you like to say anything for a closing statement?

Yes. I'd like to say that I'm a member of the loyal opposition. The forces of evil triumphed in the last election and, God willing, we'll turn 'em around in the next one.

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