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March 12, 1965

Mrs. Luther Moss
YALE LAW REPORT
401A Yale Station
New Haven, Connecticut 06520

Dear Mrs. Moss,

In preparing my address to be given April 30 at the Yale Law School alumni dinner, it would be helpful to have copies of remarks made by others in the recent past to prevent a duplication of topics.

Would it be possible for you to provide me with the copies. I will appreciate your help.

Sincerely,

Gerald R. Ford, M.C.

GRF:jm



Reading
Yale Law School Alumni Dim.

April 30, 1965

After November, 1960, it was said that Yale men were planning to form a government-in-exile with a few subversives like myself who were elected under the cloak of another diploma.

You will recall that after that institution in Cambridge pulled off its successful coup d'etat, there were some who thought the seat of government was going to be relocated on the banks of the Charles River.

I even know of Yalies in Washington who gave their return address as "Elba-on-the-Potomac."

Well, all that has changed now.

In government circles, I am sorry to say, Yale is still "out." But, at least, it is my pleasure to report to you that Harvard is now equally unfashionable! (Except for McGeorge Bundy, who now speaks with a drawl.)



One it was thought that the only inevitables in this life were "death and taxes." But now it appears that this should be changed to "death and Texas."

Of course, to be really far out, one must be both a Yale man and a Republican. I qualify on both counts. But, to coin a phrase -- with a little different twist -- we shall overcome.

I often wonder where I'd be today if in 1934, instead of going to Yale Law School, I had accepted an offer to play professional football with the Green Bay Packers -- perhaps on the Supreme Court!

Tomorrow being Derby Day at Louisville, I am reminded of Mark Twain's insight regarding the nature of our American society.

"It were not best," he wrote, "that we should all think alike; it is a difference of opinion that makes horse-races."

Let me say that I have absolutely no opinion, different or otherwise, concerning tomorrow's Kentucky Derby. I address any inquiry along that line to another Yale alumnus in Washington -- the distinguished Senator from the bluegrass country -- Thruston Morton.

When Governor Scranton was here last year, he said he would talk on a "safe subject" -- politics! Being a peaceful man myself, and wishing to avoid controversy whenever possible, I, too, will stick to that safe subject.

But, as House Minority Leader in the so-called age of consensus, I do have some ready views in the matter of differences of opinion and dissent in 1965 America.

Difference of opinion does make for horse-races -- but for a republic to survive, something greater is required of its citizens. Our need is for responsible dissent.

In the Nation's Capital, we of the Republican Party recognize the necessity of informed and responsible opposition to Johnson Administration programs. And we mean to fulfill our function as the Party of opposition in a constructive and responsible manner.

But, briefly, let me address my remarks beyond the Capitol Hill



scene. For we must all recognize a growing threat posed to our society and to the country by irresponsible expressions of dissent in this time of national crisis.

I refer to the crisis in Southeast Asia. It should be sufficient that our Nation's enemies know that the overwhelming majority of Republicans in Congress, though opposed to many of the President's domestic programs, support him in the matter of standing firm against aggression in Viet Nam. In fact, it is worth commenting that President Johnson might wish for an equal amount of support for his Viet Nam stand from members of his own Democratic Party.

I consider it incredible that a source of such irresponsible modern-day "know-nothing" dissent, based on emotional disregard for the morality and facts of the case, should spring from a few of our university campuses.



And I consider it appalling that much of the leadership for picketing with anti-American slogans in what at times amounts to irresponsible mob action comes from a small minority of university professors purporting to carry forward the banner of free academic inquiry.

Indeed, a central purpose of universities of free inquiry in our society is to prepare succeeding generations for the assumption of responsibility as citizens. Whenever our educational institutions fail to inculcate this sense of responsibility toward community and nation in their students, serious trouble for the Republic lies ahead.

This has been the case throughout history. This century offers tragic proof of the penalties which societies and nations pay for not meeting this fundamental requirement for existence.

During the recent Easter week-end demonstrations in Washington, some placards read: "Why Die for Viet Nam?"



How many of us remember the similar question raised by irresponsible voices in Chamberlain's Britain, little over a quarter century ago:

"Why Die for the Sudentanland?" and "Why Die for Densig?"

We know now -- and many of us knew then -- that these pacifist voices were serving the purposes of Nazi aggression. The placard-bearers cried for peace -- while the seeds for Buchenwald and Belsen were taking root.

Today, our so-called "teach-ins" and "peace" demonstrations cry for peace-at-any-price -- while the seeds of Communist atrocity take root. And yet the appeasers speak for morality.

Others are concerned with the physical uncleanness of these irresponsible protesters. I am not so much concerned with their personal hygiene as with their moral sterility. For, if we condemn public apathy toward victims of street crimes, what can we say of apathy and disinterest regarding victims of Communist aggression?



It is, of course, an apathy and disinterest shown only by a small, small minority of American professors and students. The so-called teach-ins -- which I regret to say may have begun at my own University of Michigan -- are not truly representative of the Nation's university campuses. However, it remains for responsible leaders of American higher education to make this fact unmistakably clear to our people.

The well-intentioned but unrealistic placard-carrying marchers, who bear no public responsibilities, cannot alter this country's policy in Viet Nam. But a danger exists that they will bring about a damaging loss of public confidence in the aims and operation of the country's educational system. In addition, their words and actions may lead to a dangerous miscalculation by the enemy of our Nation's course of present and future action. Such miscalculation by the Communists in Peiping or elsewhere could have dire consequences for all mankind.



Certainly, there must always be a place for responsible dissent and free inquiry on our university campuses. But, as President Nabrit of Howard University pointed out this past week, there is no place for irresponsible disruption of academic pursuits on behalf of forces opposed to our system.

Dr. Wilson H. Elkins, President of the University of Maryland, expressed a similar idea, saying that respect of students for authority and law is essential to the development of good citizenship, and the "insidious erosion, and sometimes outright defiance of authority, is a dangerous trend in our society."

Dr. Elkins added: "It seems clear that if any student or group... is allowed to seize power in the name of freedom of speech, then the universities should close their doors before rigor mortis sets in."

It is not too much to expect university students to understand that along with free academic inquiry goes responsibility to country



and society. And it is certainly not too much to expect their professors to know and teach that the prime master of free inquiry in Western society did not walk the streets of Athens carrying a placard asking "Why Die for Marathon?" when his community was threatened.

Indeed, Socrates knew the answer. He was prepared to do battle, and if necessary, die to preserve the freedom of others.....yet my main thesis tonight is the need for responsible dissent in the Age of Consensus.

In the years ahead, as never before, we must beware of men with ready answers.

For we will still have to live -- and find answers -- under moral ground-rules that were set down twenty centuries ago and under political ground-rules that were set down two centuries ago.

Leaving the former to the theologians, I would like to make some comments on the latter.



The American Constitution was not divinely created. The Founding Fathers, after all, were merely mortals -- why, four of them were even Yale men! (Harvard had only three. Though we must admit that nine came from Princeton!)

The important point to stress when discussing the Constitution, I believe, is not that it has been sanctified by time and tradition. Nor need we dwell on its immutability -- it can and has been changed from time to time. What is important is that it works. We have lived successfully and amicably under it. In a society that has always prided itself on pragmatism, this is the ultimate test.

The keystone of our Constitution has been its system of balances -- balances between levels of government, and balances between branches of government.

Anyone who has ever worked with balances in a scientific laboratory knows that they are finely attuned instruments. One must be



constantly alert to keep them in kilter; one must make immediate adjustments when there is a malfunction. Our governmental balances are no different in principle.

The legislative-executive-judicial balance, as established by our Constitution, is a simple, yet ingenious, system of insuring our freedom.

Yet today there are disturbing signs of slow erosion in the power of the Legislative, build-up of awesome power in the Executive, and regrettable change in the intended direction of the Judiciary. Each is a threat to freedom.

I think that much of today's criticism of Congress, the legislative branch, is a manifestation of our frustrations -- the tensions of a prolonged Cold War, the anomaly of poverty in the midst of plenty, the complexity of highly urbanized living, the gap between the American Ideal of equality and its realization.



"Let's stop talking and get things done!" we would like to shout at one time or another.

But Congress, by design, is a deliberative body -- 435 representatives in the House and 100 in the Senate who must reach majority decisions.

This criticism -- that Congress is too cumbersome, too old-fashioned -- is basically unwarranted for two reasons.

First, because Congress has repeatedly proved that it can act with dispatch to meet crisis. You will recall, for example, that in the famous Hundred Days of 1933, some bills were voted into law even before they were printed.

Second, because the advantages of precipitous action are often outweighed by the safeguards of deliberate slowness.

In the race to the brink of decision one can easily fall over into the chasm of irresponsibility. It is to prevent this dangerous



plunge that the Constitution provided checks and balances. It is only proper, when one stops to consider, that Congress should reach its major decisions after adequate research, thought, and full discussion.

After all, if the ultimate goal of government were merely speed, we could institute a dictatorship. What could be faster than one man giving an uncontestable order?

When the balance in Congress is steeply tilted by an overwhelming majority in one political party -- as it is today, with 294 Democrats and 140 Republicans in the House -- our system of checks and balances is further endangered.

This is because our two-party system, although not written into the Constitution, builds into government an additional set of checks and balances. Early in our history, a wise decision was made to follow the pattern of a two-party system. We avoided the loss of freedom of a one-party government; we avoided the chaos and confusion of a multi-party government.



Not only does a strong second party provide the electorate with legislative alternatives but also with a remarkably high level of honesty and frankness.

Without indulging in partisanship, I am sure we can all agree that a strong two-party system is Democracy's life insurance -- protection for our children against any drift toward authoritarianism. Conversely, a crushing over-balance of strength in either party for too long will make a mockery of our traditions in government and weaken the voice of the people.

This threat to the American system becomes even more serious when both legislative and executive branches are dominated by the same party.

The temptation for the President's majority in Congress to simply rubber-stamp his proposals can become irresistible. Especially when the President is a master at the art of arm-twisting -- or as the present incumbent calls it, "reasoning together!" The recently-passed Education



Act is a case in point. We had such quick passage of a bill without Congress really working its will that many conscientious citizens feel it raised more questions than answers. So, we now hear talk of correcting the flaws with additional legislation. But this is hardly an adequate substitute for well thought-out action.

We must also remember that the burgeoning growth of Big Government has given the President virtually unlimited resources for working his will. Besides the increased patronage and the increased leverage of administering massive spending programs, he now controls a veritable army of experts, researchers and propagandists whose job it is to present his administration in the best possible light to the American people.

Great power in a democracy should require great self-restraint. Yet only two weeks ago we were dramatically reminded that this is not always the case. I am referring to April 15th -- the day of reckoning for the American taxpayer. An incalculable number of citizens were then obliged to go into debt as a delayed result of federal tax legislation.



with political overtones. What happened was that after the 1964 tax reduction was passed the Administration wished to bask in the sun of voter gratitude, while muting the politically disagreeable fact that cutting the withholding tax would leave the taxpayer with a larger cash obligation to the Treasury on April 15th, 1965, than in previous years. The Administration's action -- in allowing a false impression to exist -- reminded columnist Arthur Krock of a television commercial that used fake sandpaper in a shaving cream demonstration. But in the case of the commercial fakery, the Federal Trade Commission ordered the company to cease and desist. Nobody, however, required the Administration to do likewise.

Today, the President is king pin of the branch of government that employs over five million civilian and military personnel, with a yearly payroll cost of \$28 billion, and a total expenditure of over \$27 billion tax dollars in fiscal 1966.

This is awesome power, indeed. And if consistently used improperly could mean the withering away of our tripartite system of government and the eventual death of the two-party system.

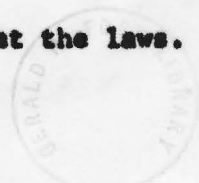


It is also necessary to remember that while the President is chief executive of all of us, he basically represents the views of only those who voted for him. (Many times this has meant less than a majority of the people.)

On the other hand, members of Congress, and particularly those in the House of Representatives, are closer to the Nation's citizens. They are chosen by smaller segments of the Nation. In the House they are elected every two years. They represent every section of the country, rural and city, suburbs, blue-collar and white-collar, every major profession, doctors and lawyers, nearly every national origin, Protestant, Catholic, Jew, Negro, even American Indian.

This is your strength. It should not be diluted by an over-balance in the executive and judicial branches of government.

While it is the duty of the legislative branch to enact laws, and the duty of the executive branch to administer laws, it is the duty of the third branch of government, the Judiciary, to interpret the laws.

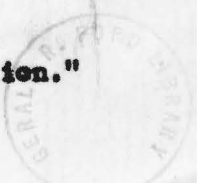


Unfortunately there is evidence that the Judicial branch is now arbitrarily elbowing its way into new positions of authority, and disregarding the wide suggestion of judicial restraint made by the late Justice Frankfurter and others.

When the Supreme Court ordered the states to reapportion on the "one-man", one vote" concept, Justice Frankfurter, in a dissenting opinion, was critical of an assumption by the Court of "destructively novel judicial power."

"In this situation, as in others of like nature," Justice Frankfurter said, "appeal for relief does not belong here. Appeal must be made to an informed, civically militant electorate. In a democratic society like ours," he continued, "relief must come through an aroused public conscience that sears the conscience of the people's representatives."

Justice Frankfurter emphasized that the Supreme "Court's authority---possessed neither of the purse nor the sword -- ultimately rests on sustained public confidence in its moral sanction."



It seems to me that the major goals to be sought in the area of government are two-fold. First: a sensitive balance between executive, legislative and judicial branches; Second: a strong two-party system.

As the goals are simple and straightforward, so, too, are the means of reaching them: a renewed sense of citizen participation at all levels of government; alert, enlightened and unfettered news media; self-restraint by those in positions of public trust; a general understanding of the workings of the American governmental system, so as to be able to detect deviations from it; and, above all, constant vigilance.



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Lexcetera

In 1955, when Eugene V. Rostow became dean of the Law School, this publication was only a year old. In the decade since then, he has given its editors encouragement and counsel, and a vision of what an alumni magazine should be. His articles and speeches, which we have been privileged to print, have been greatly to the advantage of the *Law Report*. Few if any alumni magazines have been able to rely on such a distinguished contributor.

In this issue we have two articles by him: a review, on the next page, of the Warren Report, first published as the lead article in *Book Week of the New York Herald Tribune* on November 22; and his speech "A Taste for Absinthe," given at the Friday night dinner on the last Alumni Weekend. The review displays the Dean's usual lucid and graceful style. In its historical perspective, its penetrating interpretation of events and clarion call to action for the betterment of society, it is characteristic of his persuasive powers and his sense of mission of the legal profession. "A Taste for Absinthe," in another key, is "pure Rostow" in its witty and light touch in the presentation of a serious subject — legal education at the Law School.

Eugene V. Rostow

THE WARREN REPORT --

The Legacy of Grief

The murder of President Kennedy is one of those rare public events — like Pearl Harbor, for example — which are also major occurrences in our private lives. They touch our consciousness so directly that we recall forever where we were, and what we were doing, when the news came.

Among the memories of those days, none is more vivid to me than the emptiness of streets during the hours of the funeral on Monday, while the people became a single congregation, united through television in mourning the President who so poignantly symbolized so many hopes.

The unique power of television had other consequences, good and bad. The world was literally flooded with reports of events and rumors of events, some of which the journalists helped to create. For journalism in all its forms, but particularly in its newest guise of television, was part of the news, and not simply the medium through which the news was transmitted. It brought unforgettably before us the vision of grief. And the nation stirred as it watched sad men gravely restoring a sense of rational order to a society shaken by the thunder of the irrational. But the new dimensions of journalism also put the institutions of order — and particularly those of the law — under novel strain. The intensity of that pressure was an important factor in the chain of accidents which gave Jack Ruby's madness the occasion for its climax.

In its turn, Ruby's act denied society the catharsis, and the emotional protection, of a public trial for Oswald.

With its ancient and familiar rules, and its ritual formality, a public trial serves many needs. It helps to dis-

charge intense feelings, or at least confines them to safe channels. Through a trial, society expresses its deference to the moral code embodied in the law, and its desire for primitive revenge — still a fundamental element in the criminal law, although we are sometimes ashamed to admit it. It helps to reassure us that evil is truly exorcised, if only by locking up poor Caliban. At the same time, a trial minimizes our anxiety about the risk of punishing the innocent, for the customs of the law are supposed to guarantee that no one be convicted unless found guilty "beyond peradventure of doubt."

The trial has other functions. It establishes an official record of the "facts" about an event which may be one of great general concern. Its atmosphere shapes public opinion about the issues implicit in the drama of the courtroom. The trials of Dreyfus, for example, and of Warren Hastings had far-reaching social and political effects. A trial is also, inevitably, a link in the chain of law. Public dissatisfaction about the conduct of the Sacco-Vanzetti case, to take one famous instance, opened the door to Justice Sutherland's opinion for the Supreme Court in the Scottsboro case in 1932, and thus to the majestic modern development of the Fourteenth Amendment as a code of national duties governing the way in which the states exercise their rights in the field of criminal law and criminal law administration.

The public trial must be viewed in other perspectives as well. It is, after all, the ultimate guarantee of human liberty. The act of arresting anyone threatens everyone. Men have always understood the inner meaning of Church-

ill's remark that habeas corpus was the crucial distinction between civilization and tyranny. Certainly the theme of his comment is burned deep in the collective mind of this age, which knows despotism so intimately and in so many aspects. The Great Writ of habeas corpus promises every man accused of crime, however solitary or degraded, an open trial, carried on under rules that protect his dignity and integrity, and those of society as well. He cannot be tortured, nor, in our tradition, forced to testify against himself. He can be represented by counsel; hear and challenge the evidence against him; offer evidence in his own defense; and have the advantage of some kind of appeal, to make sure that his trial conformed to the rules of law.

These rules exist not only to fulfill our sense of the uniqueness and worth of the individual human being; they exist, and evolve, also to express our sense of the quality of the society as a community aspiring to govern itself humanely, and without cruelty.

Many of the tensions normally dealt with and mediated by a trial appeared in acute form after Lee Harvey Oswald's murder. Without the confrontations of a trial, rumor ran almost unchecked, disturbing opinion and even the authority of the state. As the Warren Commission observes, "the events of these two days were witnessed with shock and disbelief by a nation grieving the loss of its young leader." The basic sobriety and good sense of American opinion soon dominated the atmosphere, however, as the nation rallied to its new President. So far as the murder of President Kennedy was concerned, there was tentative acceptance of the hypothesis that what appeared to have hap-

pened actually did happen: that Oswald and Ruby had acted alone, motivated by heaven knows what private lunacies. No mobs sacked the offices of the Fair Play for Cuba Committee, or demonstrated in front of the Soviet Embassy. But there was a strong and persistent undercurrent of doubt. The uneasy possibility that Oswald and Ruby were agents of one or another branch of the Communist movement troubled many minds. Others were convinced that they represented plotters of the extreme Right. One fantasist surmised that a mastermind in the oil industry had murdered Mattei, the head of the Italian state oil monopoly (who died in a plane crash several years ago), as well as President Kennedy.

There was, as always, resistance to the thought that senselessness could play so large a role in human life. People insisted on clinging to the more familiar modern view that events must have "rational" causes, and "rational" meanings, even when this led them to the irrational conviction that some nameless "They" in the background pulled strings while puppets danced. In Cairo, it was taken for granted that the Zionists had murdered President Kennedy, through their tools, the Communist bankers of Wall Street. Moscow understood that a conspiracy of war-mongering monopolists had ordered the President killed, and his assassin silenced, to prevent a *detente*, and a decline in munitions orders. France, naturally, was a center of imaginative speculation, which advanced one idea after another, all being deemed plausible except the possibility that the two murders were in fact what they seemed to be — acts of blind fate, without cause or purpose. And in England Bertrand Russell led a band of protesters, who were sure that no one who believed in fair play for Castro, and had gone to the Soviet Union to live, could possibly have been guilty of the crime.

Such opinions were as common at

home as they were abroad. A public opinion poll reported that more than half the American people believed that Oswald was part of some kind of plot or gang, and had not acted alone.

Other aspects of the tragedy in Dallas gave rise to concern, and to shame — reports of laxity or worse in the Secret Service and the F.B.I., for example, and the visibly low caliber of the Texas officials who appeared on television so often during the final week of November, 1963, and then later during the trial of Ruby.

The polity needed — and needed badly — an emotionally and intellectually satisfying substitute for a trial. President Johnson acted surely to organize an inquest into the circumstances of the President's murder. He persuaded Congressional leaders to give up their plans for Congressional committee enquiries and to support his proposal for a Presidential Commission of commanding eminence. Within a week the members of the Commission had agreed to serve, and an Executive order was issued establishing the body and stating broad and independent terms of reference: "to satisfy itself that the truth is known so far as it can be discovered, and to report its findings" to the President, to the American people and to the world. Two weeks later Congress passed a Joint Resolution empowering the Commission to compel testimony, and otherwise supporting its mission.

The members of the Commission, and of its senior staff, are men whose names are rightly taken everywhere to guarantee the probity of their work. For all the earthy vigor and the violent vocabulary of our public life, we have always been willing to put the sport of political warfare aside when serious national concerns required it. At such moments, except for a small group of true ideologues, the exuberant political gladiators discover that their most fundamental loyalties are to the nation, not to their parties, or even to their political principles. Whatever they may have said in

the heat of battle, in fact they trust the leaders of the opposition as fellow-members of the same tribe.

So it proved to be in the make-up of the Commission on the Assassination of President John F. Kennedy. The Chief Justice, who has resolutely opposed the old practice of having Supreme Court Justices preside occasionally over public enquiries, yielded to the evident emergency. Senator Russell, a weighty leader of the Senate, whose handling of the MacArthur investigation had the hallmark of political genius, sat beside the libertarian Chief Justice, whose powerful role in the development of our Constitutional Law of Civil Rights is widely cursed in Georgia. There could be no more powerful demonstration of President Johnson's effort to achieve national unity than the partnership of these two.

Senator Cooper and Congressmen Boggs and Ford are among the solid men of the two houses, accepted in Washington and in the country as serious, careful and conscientious, incapable of narrow partisanship where great affairs are in issue. Both Allen Dulles and John McCloy are New York lawyers in the tradition of Stimson and Root — men who have devoted large fractions of their lives to the public service, and earned their high repute through work of genuine distinction. Five of the seven members of the Commission are Republicans, as is the General Counsel — Lee Rankin, former Solicitor General of the United States, and an excellent lawyer — and most of the senior members of the legal staff, who are equally men of outstanding professional reputation, like Albert Jenner, Francis Adams, William Coleman and Norman Redlich.

The Commission and its staff carried out an exhaustive program of enquiry. They directed investigations by personnel of the F. B. I. and of the Secret Service, and by trained employees of other government departments. Reports were received from agencies of the State of Texas, and from abroad. The

Commission conducted some investigations of its own. Oral testimony was received from 489 persons, 94 of whom appeared before members of the Commission, the rest before staff members; 63 other persons supplied written statements. Elaborate tests were made, and inspections carried out, both in Texas and elsewhere, to verify various hypotheses about the circumstances of the murder.

The present report, of 469 closely printed pages in the official government version, with 17 appendices, and some 60 pages of footnote references, will be followed by 25 or 27 comparable volumes of evidence.

The Report is a masterly and convincing state paper. It has the high polish of legal writing at its best, carefully composed, terse, restrained and meticulous. In a detached and judicious tone, it deals with every feature of the case, discussing and evaluating the evidence at length to explain the basis for the conclusions the Commission reached, and their rejection of the various contrary theories which had been advanced.

As is universally known by now, the Commission found that both the murder of the President and the murder of his assassin were the work of isolated men, not linked to each other or to any third persons, and that the broad outlines of the story which poured out of Dallas late in November, 1963, were correct. It is a remarkable tribute to the work of the police and other officials, the journalists, and the public at large, cooperating under circumstances of indescribable confusion, that only details required revision in the light of subsequent study. As always happens in a lawsuit, a few loose ends remain unexplained and inexplicable still — the number of shots fired at the President, for example.

But the basic original account of what happened in Dallas, fantastic as only reality can be fantastic, is now confirmed. An alienated, erratic man, with a long history of emotional disturbance, bought several guns, and used them, first

to shoot at General Walker, and then to kill President Kennedy and Policeman Tippitt, and to wound Governor Connally. He was identified by eyewitnesses who saw him shooting both the President and the policeman. His Soviet wife, now a bizarre American celebrity, feared he was the murderer when she heard the news of the President's being shot, and went to see if his rifle had been moved from its hiding place. His actions and movements were demonstrably within the realm of physical possibility and corresponded to the various times at which the chief events took place.

The Commission concludes, after elaborate tests, that it would not take extraordinary skill to have fired three shots at the President from Oswald's position, with the rifle Oswald used, and within the time interval so curiously and exactly measured by the movie films three citizens happened to be taking of the President during the period of the murder. And it would take no more than passable skill to have fired two shots in the same time span. These observations are consistent with other tests of the same kind.

The President's wounds, and the Governor's, were compatible only with shots being fired from where Oswald was seen shooting. The Commission found no evidence of any kind to support the hypothesis of a second assassin shooting from in front of the President's car as it approached a railroad bridge: no holes in the windshield of the car, no wounds of entry in the front of either the President's body or the Governor's. Only those unfamiliar with the normal confusions of the process of proof, or those irrevocably committed to an *a priori* theory, will continue to be disturbed by the evidence presented in the Report on these fundamental factual elements of the case against Oswald.

Oswald's murderer was also a man of the shadows, living at the margin of society and emotional stability. He was a grubby figure out of *Guys and Dolls*,

to be found in any police court in any city of the world, hardly the man to cast himself as avenging angel for the murder of a President. Neither the Commission nor his lawyer, the redoubtable Melvin Belli, can suggest any even faintly plausible motive or explanation for what he did — "plausible," that is, if we start by assuming that human behavior must make sense in terms of some kind of calculus, felicitic or otherwise.

The human quality of the Commission, and the inherent intellectual quality of its Report, will persuade most readers to accept its reconstruction of the event itself. The doubts and wild theories of the long period between the President's murder and the issuance of the Report are fading, although they will probably never disappear entirely. It is normal to find judges and lay students disagreeing over ordinary cases. It would hardly be remarkable with regard to a catastrophe of such intense meaning if people continued indefinitely to argue about the more esoteric details of the medical testimony, or the other evidence so painstakingly reviewed in the Warren Commission Report.

There is, of course, another class of critics altogether — those of completely closed mind and predetermined outlook. Like Joachim Joesten, they know before they read the Report that it is part of a conspiracy to conceal the facts, and to pin the blame on two pathetic "fall-guys," Oswald and Ruby. They start their analysis with a premise it is not admissible to examine: that the F.B.I., the Dallas police, and "the Interests" generally, including "the Establishment" of the press and the universities, are joined in a conspiracy to repress the facts. Thomas Buchanan, one of the most celebrated of those who have spun myths about the Kennedy murder, puts this point of view simply in *Who Killed Kennedy?*: "I do not believe this case is closed. I do not think it will be, until some more satisfying answer has been given to the question which aroused the world: Why was the President of the

United States assassinated? I believe we do his memory no service in pretending no one but a lonely madman could have wished him dead. If this were so, his death would have no meaning. I believe he lived for something, and I think he died for something."

From this statement of faith in the implacable and here malevolent rationality of the universe, Buchanan and the school he typifies attempt to discredit the reasoning and conclusions of the Warren Commission. They comb over the evidence in the Report, repeating with only minor modifications the points they made earlier about the evidence as it had been reported in the newspapers a year ago. Their arguments seem neither startling nor disturbing, in the context of the Report and its patient, systematic effort to answer all these contentions, however preposterous. They do no more than repeat, with endless variations, that there must have been more to the story than the vulgar re-enactment of a plot from Camus or Dostoevsky, and they throw up one libelous theory after another, to hint at alternative and presumably more "satisfying" or "meaningful" explanations, in the now all too familiar style of the True Believer.

The present reviewer does not propose to summarize the Commission's findings as to the evidence, nor to review the bootless debate of the zealots. The Report of the Commission has been accurately recapitulated in many journals. It is an absorbing story, magnificently told. The full, taut text deserves the widest possible public. Nor is it proposed here to evaluate the Commission's findings systematically. That cannot be done professionally until the 27 volumes of evidence are published and then probably not without separate confirmatory enquiries.

For the purpose of this review, it seems preferable to accept the Commission's reconstruction of the facts about the murder of President Kennedy, and to concentrate on the methods and pro-

cedures of the Commission, and on some of its recommendations, as well as on certain inferences which might be drawn from the entire experience about the future of police work and criminal law administration.

The Commission's first decisions concerned its own procedures. "The Commission has functioned neither as a court presiding over an adversary proceeding [the Report says] nor as a prosecutor determined to prove a case, but as a fact-finding agency committed to the ascertainment of the truth." The Report points out that the law knows no proceedings for posthumous criminal trials. And the Commission in its investigative work necessarily dealt with hearsay and other evidence that would not have been admissible in court.

Yet the Commission was obviously troubled by its decision to proceed privately. It allowed witnesses to elect an open rather than a closed hearing, and one witness did so elect on two occasions. The witnesses were, of course, allowed to have counsel present when they were questioned, and to object to questions.

The Commission's argument does not seem altogether persuasive. The central part of its task was precisely to determine who killed President Kennedy and under what circumstances. It seems unfortunate that the Commission did not treat this part of its work as something closely akin to a trial. Of-course its staff and the men working with them were engaged in investigations and studies, not in the holding of judicial hearings. But in the end, on the central issues of Oswald's guilt, at least, it is regrettable that public hearings analogous to those of a trial were not held. For this aspect of the Commission's responsibility, the distinction between "a fact-finding agency" and a "court" seems more verbal than functional. A court, after all, is a fact-finding agency, too.

The Commission, responding to some of the critics of its procedure, did retain

Judge Walter E. Craig, president of the American Bar Association, to assist in its work. He was not exactly the lawyer for Oswald and his family, although the Report says he was brought into the proceedings "in fairness to the alleged assassin and his family." His function was defined as that of participating in the investigation and advising the Commission whether in his opinion its proceedings "conformed to the basic principles of American justice." Judge Craig and his associates were active in the enterprise, reviewing the work of the staff, cross-examining witnesses, and suggesting the names of witnesses who should be called by the Commission.

This step, desirable and valuable as it was, was no substitute for the openness of a public trial. The ancient requirement that trials be open is a central rule of law as the ultimate barrier to tyranny. "Star Chamber" is a phrase to reckon with, after all, in our collective memories. Some of the rumors surrounding the murder of the President measure only the prevalence among us of personalities given to irrational and virulent suspicions. Men of this stripe can never be persuaded or silenced by evidence. But they would have a harder time corrupting the rest of opinion if the crucial facts had been legally sifted in the full light of day.

Of course the Commission's problem went far beyond the demonstration of Oswald's guilt. It had a more difficult task, as the event was to prove: that of showing that Oswald and Ruby were not connected with each other, nor with a larger group of plotters. Proving a negative is a little like squaring a circle. It would not have helped to start by saying that there was no conspiracy unless somebody sustained the burden of proving that there was. The Commissioners had to convince not only themselves, but a skeptical, hard-bitten, and doubting world, which would never read the whole Report, and all 27 volumes of evidence. The Commission's analysis would have been more universally

accepted, and less vulnerable to obscurantist attack, if it had been presented and debated in open sessions.

The Commission was severely and convincingly critical of the administrative and police arrangements for the protection of the President. There was petty bureaucratic feeling between the Secret Service and the F.B.I., and the coordination of both agencies with the local police seemed slipshod. Surely much can and should be done to improve the protective process.

But one hesitates about one of the fundamental lines of the Commission's suggestions — the building up of elaborate intelligence files about those deemed potential murderers, and the development of procedures of "preventive protection" that might be used during Presidential visits, and presumably on other occasions as well. If we knew more about how to distinguish potential criminals from everyone else, perhaps the thought of "protective research" and "preventive protection" on so vast a scale would inspire less concern. But, as the Commission recognizes:

"... No set of meaningful criteria will yield the names of all potential assassins. Charles J. Guiteau, Leon F. Czolgosz, John Schrank, and Giuseppe Zangara — four assassins or would-be assassins — were all men who acted alone in their criminal acts against our leaders. None had a serious record of prior violence. Each of them was a failure in his work and in his relations with others, a victim of delusions and fancies which led to the conviction that society and its leaders had combined to thwart him. It will require every available resource of our government to devise a practical system which has any reasonable possibility of revealing such malcontents."

One can go further. The task is impossible, because "potentiality for violence" is not a criterion capable of legal definition, or any other kind of definition. And systematic and energetic attempts to use such a concept as the basis for widespread police action, in-

cluding surveillance, short periods of arrest or detention on special charges, or on classic vagrancy charges, and other restrictions on the liberty of the malcontent and the maladjusted would raise grave questions of democratic and constitutional principle. After all, it is only 20 years since we herded the Japanese-Americans of the West Coast in concentration camps because we thought they had a special potentiality for treason.

The Report criticizes both the Dallas police department and the news media for the frantic pressures — and indeed, the near chaos — in the police building after the assassination of the President. It concludes that those pressures were responsible for the disorganization that allowed Ruby his opportunity. It hopes for the adoption of a code of conduct by the profession of journalism, but adds that "the burden of insuring that appropriate action is taken to establish ethical standards of conduct for the news media must also be borne . . . by state and local governments, by the bar, and ultimately by the public."

The trouble symbolized by the chaos in the Police Department of Dallas on November 22 and 23 runs very deep, and it will not be simply cured. Part of the problem derives from the fact that most state court judges and prosecutors are elected officials, or hope to become elected officials, and are in no position to resist the demands of the press for "cooperation." As the Report drily notes, "the police attitude towards the press was affected by the desire to maintain satisfactory relations with the news representatives and to create a favorable image of themselves."

The practice of electing judicial officers is an anomaly of great historic meaning. The colonists were suspicious of the Tory judges, for good reasons of bitter 18th-century experience with cases of criminal libel and other politically sensitive problems, as well as the ordinary course of criminal law. There is

class feeling, and political feeling, behind the practice, which survives as a check on the professionalism and independence of the bench. On the other hand, the appointed United States judges have emerged over the years with higher prestige, and higher public regard, than their rivals in the state courts and in the administrative tribunals. It is time for reflective men concerned with the law to draw the true moral of the tragedy in Dallas and move towards higher standards of state criminal law administration by adopting the Federal model in the organization of state judicial systems.

The presence of the news media in the police buildings was not entirely a negative factor in the course of events, however. A Texas lawyer has said that in his 40 years of experience at the Texas bar, Oswald is to his knowledge the first man who was held over night by the police, and did not confess. There are frequent references in the Report to the possibility of third-degree methods in the interrogation of Oswald, and the concern of the police to parade Oswald before the press to rebut such charges. Whether the Dallas police do in fact use such illegal and outrageous methods in interrogating suspects, everyone with any knowledge of American law enforcement is aware of the fact that the stringent rules of the Supreme Court on the subject have not yet entirely stamped out the practice.

The third-degree is only one facet of the broad issue represented by what happened in Dallas. After all, it would not have altered the problems of policy raised by the level of criminal procedure in Texas if Lee Harvey Oswald had been arrested on a Federal charge of insurrection (or conspiracy, for that matter) and taken to a Federal institution for a few days. President Taft said 60 years ago that the administration of criminal justice in the United States was a disgrace to a civilized country. The Wickersham Report, 30 years later, reached roughly the same conclusion.

The work of the Supreme Court in raising the standards of due process of law in the state courts is one of the bright pages of our jurisprudence in the 20th century — an achievement of the common-law judicial process at its creative best.

But the function of the Supreme Court in this regard is to blaze the way. It cannot administer the law, nor accomplish basic reforms, save piecemeal, on a case-by-case approach. The experience of the President's murder, and its aftermath, suggest the desirability of a far more comprehensive attack on the shortcomings of our police practice and our criminal law. Is it not time for Congress to join the Supreme Court in affirmative action under the Fourteenth Amendment, as it has done in connection with Civil Rights, to give a large-scale impetus to the reform movement which the Court has led almost single-handedly for 30 active years?

Men will object to the idea of such action in the name of states' rights. The objection misconceives the nature of the Constitutional covenant. The articulation of national standards under the Fourteenth Amendment to govern the exercise of authority by the states does not deprive the states of constitutional or of political rights. It simply matches those rights with correlative duties — duties they owe, under our constitutional system, to "the people of the United States" whose Constitution it is. The Constitution is not a treaty among sovereign states, but an act of union of the people themselves, proceeding directly through constituent assemblies and conventions. The Constitution, enforced by the Supreme Court and other national agencies, is intended to keep state as well as national authorities within proper boundaries of power. And it is intended to establish appropriate criteria for the use of power by state as well as national officials.

In this setting, I suggest, we could hope that President Kennedy's tragic end might become a prod to progress we

know to be long overdue. As part of a general movement to reform criminal law, Congress and the courts can hope to deal with many problems which press upon our consciences quite as much as the excesses of the press — much as those excesses threaten the possibility of a fair trial — or the absence of a statute making it a Federal crime to kill the President: the selection of juries, for example; the control of wiretapping and like offenses as a form of search and seizure; the availability of counsel; arraignment, bail, and a hundred other practices where our customs still widely justify President Taft's harsh verdict.

In every society, there is a gap between the actual and the ideal. For us, the gap has been great — in some areas so great as to suggest hypocrisy. But the ideal exerts a strong influence on the actual in American life, even though its pull is not uniformly strong, nor uniformly effective.

Among other themes, the Warren Commission Report deals with violence as a national custom, the violence of a frontier which has not quite disappeared; the violence of primitive layers of the national culture; the violence of the last few skirmishes of a Civil War which has, in fact, been a Hundred Years' War.

One aspect of the national reaction to President Kennedy's murder should not be allowed to fade — the sense in which Governor Connally and other Southern leaders so eloquently linked Oswald's act to the resurgence of modern "extremisms," with their atmosphere of bitter suspicion and its poisonous, implacable hatreds. Governor Connally stated the ultimate moral of the catastrophe with passion, in an interview from his hospital bed:

"The President of the U. S. . . . has been asked to do something in death that he could not do in life, that is, to shock and stun the nation, the people and the world about what is happening to us, about the cancerous growth that is being permitted to expand and enlarge upon the society in which we live, that

breeds hatred and bigotry, and intolerance, indifference and lawlessness, and is an outward manifestation of what occurred in Dallas and could have occurred in any other city in America. . . .

" . . . extremism on both sides is the genesis of our own self-destruction if we are ever going to be destroyed . . . we see it in the bombing of the five little children in Birmingham . . . fascism and extremism have become a fad, a fashionable fad, and this has to be destroyed.

"The memorial to President Kennedy," the Governor concluded, should be "to freedom of the individual in society under law and under God, where men respect each other notwithstanding their disagreements."

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Assisting Representative Gerald R. Ford '41 and the other members of the Warren Commission in preparing what Dean Rostow has called "a masterly and convincing state paper" were Burt W. Griffin '59, assistant counsel, Norman Redlich '50, assistant counsel, Arlen Specter '56, assistant counsel, Howard P. Willens '56, and John H. Ely '63. Two members of the group, Howard Willens and Norman Redlich, received special recognition for their drafting efforts described as "the high polish of legal writing at its best . . ."

In October last year Eugene V. Rostow asked not to be considered for reappointment as Dean of the Yale Law School when his second five-year term is completed in June. "No dean in modern times has served more than two terms," he said, "and the Yale Corporation has reaffirmed its policy that heads of departments should normally rotate after two terms. I have always supported this usage as sound and wise."

President Kingman Brewster Jr., in a tribute to Dean Rostow's administration, noted that it had been marked by extraordinary success. At the same time, the President announced Rostow's appointment as Sterling Professor of Law and Public Affairs. "This appointment," he said, "recognizes Dean Rostow's outstanding accomplishments as scholar and teacher while shouldering the burdens of the deanship. The significance of the appointment in public affairs as well as law reflects our hope that he will continue to contribute to learning and teaching in a broad program concerned with public policy, of which law is only a part."

Following are four tributes to Dean Rostow. Professor Arthur L. Corbin '99, William K. Townsend Professor Emeritus of Law, an authority on deans (and other subjects), puts the Dean in "historical" perspective. Myres S. McDougal, Sterling Professor of Law, writes as a fellow colleague and a witness of the Dean's administration. Jan G. Deutsch *summa cum laude* '62 recalls a memorable student encounter. Oscar M. Ruebhausen '37, classmate and former president and chairman of the Executive Committee of the Yale Law School Association, fills out the picture as a personal friend and long-time co-worker with the Dean to bring the Yale Law School to its present eminence.

As They See Him

Gene Rostow is the tenth Dean of this school whom I have known personally and with whose administration I have been closely familiar. No other decade in the history of the School has been more distinguished and successful. No other Dean has had a finer understanding of the law and of the purposes and methods of legal education. Although long retired from active participation in faculty affairs, my association with Gene has been intimate and affectionate. I have had constant admiration for his untiring activity in behalf of the School, for his keenness of mind, and for the fairness and soundness of his judgment. Hereafter as teacher, researcher and writer he will continue to demonstrate all these fine qualities.

— Arthur L. Corbin



It is common knowledge what distinctive excellence Gene Rostow has brought to the performance of all the more conventional tasks of the deanship of our School. Everybody knows the broad vision with which he has perceived the School's national and international role; the imagination and leadership which he has exercised in the framing of a curriculum and program of inquiry appropriate to this role; the tremendous energy which he has expended, even at high cost to his health, in the effort to secure the resources and facilities necessary to put such curriculum and program into effect; the deep sensitivity to the many interests of the School which he has exhibited in the recruitment of faculty and staff; the extraordinary generosity with which he has encouraged and promoted the careers of younger colleagues; the superb model in productive scholarship and in participation in public affairs which he has offered for all of us; the statesmanship with which he has guided, and held together, an active and sometimes difficult faculty; and so on. I should like to add a note of appreciation for an excellence perhaps of less common knowledge — for the deeply genuine human warmth and understanding which he has invariably brought to all the personal relations and problems which must inevitably become the concern of the Dean. Whether for a senior professor or a new staff member, whether in time of crisis or in celebration of success or good fortune, he has always been at hand, as a friend and not as a mere administrative officer, with exactly the right word and exactly the right action. In this latter excellence, as in the others, he has of course always had the mighty, and gracious, support of his wife Edna.

— Myres S. McDougal

The quality of leadership surely is as subtle as it is unmistakable. Compound of personal force, intellect, and warm sensitivity, leadership requires that values be clearly, firmly, and flexibly held. It requires also that tolerance be poised with ambition in delicate tension. Even then true leadership does not arise unless stoked with energy and suffused with fire.

In Dean Rostow all of these qualities are abundant, were manifest early, and have remained enduring. For decades they have shed their restless magic on colleague and friend. They continue to do so.

Who is there who has known or worked with Eugene Rostow who has not felt the force of the intellect, nor basked in the warmth of the friendship, nor been moved by his values, so sharply perceived and stoutly maintained? Who, indeed, has not sensed the radiant glow of the consuming fire within?

Leadership alone is never enough. The purpose to which leadership is put is the criterion by which men and societies must be judged. Gene Rostow's consistent purpose has been to advance individual creativity and dignity in a free democratic society and a peaceful world. Such a purpose is more than the test of the man; it will perhaps be the measure of his generation.

As an undergraduate in Law School, at the same time both younger and more mature by far than most, he was a polar force among the student body. This was true long before he acquired a lectern or a dais, well before he earned the chief editorship of the Law Journal, long before the symbols of office and honors made a public person of the man. The voice in class, its lucid sparkle always accompanied with overtones of rustling gravel, came to be recognized not just for its probing wisdom but for its awareness of nuance and of the larger arena in which the law must live. We paid at-

tention to the voice and to the magnetic loping figure from which it came.

One reminiscence: In late May, nearly thirty years ago, at examination time, when almost anything can happen, and the most anxious among us were squandering vitality in exclusive and dedicated pursuit of the immediate objective, Gene Rostow was found pulling books, indiscriminately it seemed, off the library shelves. The behavior was strange enough to provoke my inquiry. The answer was that he was checking footnotes for an article on which he was working. I have long since forgotten whether the article was on Keynesian economics or something he had done for Edna or for Clem Fry. But I have not forgotten that Gene Rostow had not lost his perspective. His has been a marvelous instinct for seeing his life and career as entities which the immediate objective, no matter how important, must not distort or frustrate.

Later, as editor of the Journal and as a practicing lawyer in New York, he and Edna, with whom all things were shared, kept alive for their contemporaries the awareness of the richly complex fabric of the human values and institutions in our free society which if a lawyer does not seek to serve and support he may well wonder whether he has served at all.

Then came the full career as teacher, scholar, public servant, author, and Dean. What a wonderful tapestry it is — and made so by his fertile and challenging mind ranging provocatively over oil policy for the nation, economic planning for capitalism, fairness to the interned Japanese, the responsibility of management, the functions of federalism, antitrust policy, the ethics of the profession and the morality of the nation, the nature of education, the Atlantic Alliance, marketing economics, the functioning of diplomacy, and even a case-book on Debtor's Estates.

Dean Rostow has been an articulate advocate, and a diligent worker, in the

interface between law and society. It is in precisely this interface that the law, and lawyers, must function with all their skill and all their heart if the freedom and dignity of man is to be furthered, or indeed preserved. The full measure of Dean Rostow's contribution in this vital arena cannot yet be assessed both because we are too close to it and because it is yet to be completed. His, however, is the wonderful position of being at midpoint in a career consistently emblazoned with promise and fulfilled with performance. And the promise still persists: indeed, it proclaims the performance yet to come.

For ten years Gene Rostow's cheerfully restless but purposeful vitality has been in the administrative service of the Law School. Those who have participated in the Rostow deanship in the small but joyful way open to alumni have found it a fascinating experience. New goals were set — both academic and financial. New techniques and new talent were brought to the School. New horizons of what should be the proper concern of lawyers were established. It has been an enlivening, elevating period for the law, the Law School, and all who were touched by the Rostow fire. Surely his has been, and will be remembered as, one of the great Yale deanships.

Those of us who have followed and, in considerable happy part, shared Dean Rostow's career are thoroughly intrigued by what comes next. Already we have a sense of anticipatory excitement over the challenge and the purposefulness that will be unleashed when the administrative burdens are put aside. It will be vibrant, it will be productive. Above all, it will be fun.

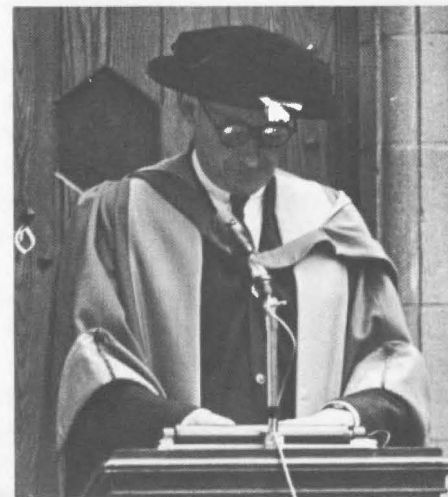
Had Eugene Rostow lived in the 15th century instead of sharing his talents with the 20th century and with us, there is no doubt that we would know him as a Renaissance man. In fact, we think no less of him now.

— Oscar M. Ruebhausen

My four years at the Law School gave to the conjunction of "Dean" with "Rostow" that sense of inevitability with which my childhood endowed the conjoining of "President" and "Roosevelt." I have come to accept that what I thought inevitable was but a single manifestation of possible truths. Yet that very acceptance, and perhaps this does render me at least partially qualified to speak, brings with it the realization that the Rostow manifestation was, for a student, a model one.

For a student, a good school can be defined as a course of events which confirms him in the conviction that his education is the center about which all other school activities revolve. For all of his multifarious duties and interests, the perpetually open door to Dean Rostow's office signaled his full implication in the benign conspiracy which maintained that conviction in full vigor during my years at the Law School. I vividly remember the astonishment I felt when what I anticipated as a brief and pro forma conversation about a piece I had written was transformed by his interest into intense working sessions lasting several days. It was only in the course of those sessions that I discovered he did not agree with much the piece contained. Characteristically, he did nothing to change my thesis; all of his efforts went towards building a better case for the views he did not share.

— Jan G. Deutsch



Dean Rostow at Commencement exercises in the Law School courtyard. Professor Guido Calabresi '58, of the Law School faculty, is at the right.



Dean Rostow with Myres S. McDougal, Sterling Professor of Law (left), and Chester Kerr, director of the Yale University Press.

A Taste for Absinthe

This talk was given by Dean Rostow at the annual Alumni Dinner of the Law School on Friday, April 24, 1964.

This is the end of my ninth year as Dean. It is naturally a time for reflection and rumination, even for decision, since no Dean in recent times has served more than two five-year terms. Bob Hutchins made a change of jobs every ten years a rule — indeed, almost a principle of education, or at least of mental health. It is also thirty years since I entered the School as a Freshman. Someone said you know you are getting on when the policemen look like boys. I'm at the point in life when some of the demigods of the faculty, the full professors themselves, give me that impression, sometimes.

The company of intellectuals is a mysterious one: habit forming, as a taste for absinthe is said to be. Wes Sturges used to say that good professors were not and could not be practical people. They could not keep their check books, and were often found in the post office paying their bills with money orders. There is much in his comment, for the academic viewpoint is and should be different from that of the realm of action. That difference is its justification. But law professors, unlike professors of classics, are often torn between the world of thought and that of action. This perennial conflict is inherent in the subject matter we study. I often marvel at the capacity of a faculty meeting to discover principles lurking beneath the surface of what I had naively supposed to be the simplest of practical problems. These are, I suppose, the same talents which permit men to become great teachers in the Socratic mode, and scholars capable of perceiving the true shape of the future within the turbulent

integuments of the present. I have the appreciation of a true addict for the higher flights of fancy and of rhetoric in this exotic field, where I rank the Yale Law faculty of today with the Supreme Court itself, and far above, say, the Senate Judiciary Committee, the United Nations Security Council, or lesser deliberative bodies.

A faculty has a collective personality which is something more than the arithmetic sum of the personalities of all the members. Our faculty today is about as individualistic a group of inner-directed individualists as one can imagine. We have no one given to Underhill Moore's transports of intense rage when confronted by stubborn resistance to the plain command of sweet reason. And I think that no one of my colleagues can match Edwin Borchard as a violinist, or Arthur Corbin as a baseball player. On the other hand, we have not in my recollection had so talented a poet as Charles Black on the faculty, nor so promising an oenophile as Ronald Dworkin.

Collectively, the faculty reminds me a little of the majestic and rather awe-inspiring figure who is President of France. The faculty, like President de Gaulle, really prefers the eighteenth century to the twentieth; it would invariably choose quality rather than quantity, reason rather than passion, hand-tooled works of art rather than mass-produced reproductions, an evening of elevated conversation rather than a bout of television or a night on the town. But, like the General, the faculty has an instinct for emerging reality. Sometimes we sigh as we acknowledge the imperfect world around us, and protest when we cut down our emphasis on the rule in Shelley's case, in favor of

more teaching and research on problems of Urban Law, or the Uniform Commercial Code, or the higher reaches of the law of outer space, or Outer Mongolia. All this, we know, must be. But sometimes, like General de Gaulle, we kick.

The faculty has been a lively place these days, and productive too. As President Griswold said in 1961:

"As has been true of the greatest universities from which Yale is descended and whose tradition she has thus far greatly furthered, these things are not produced wholly by design. They happen. They grow. But they happen most regularly and attain their sturdiest and most enduring growth in communities where men of conscience and character as well as of intellectual stature are forever trying to create them and improve upon them by design."

Serendipity plays as large a role in the growth of a University program as it does in any other kind of human creation.

The Committee on Long-Range Educational Planning, of which Mr. Abraham Goldstein was chairman, brought in a series of proposals for change in the course of study, and the composition of the faculty. Two have been discussed, debated and acted upon. The others will be considered next year. Out of this process of deliberation several changes are emerging in the internal procedures of the School, and in its intellectual life. Others are imminent.

So far as the Divisional program is concerned, the faculty has decided, or is about to decide, to reorganize it. The essential idea of that program, you will recall, was to require each student to write a major research paper — comparable to a law journal comment —

under faculty supervision, and to require him also to attend three or four small classes or seminars in the general area of his research paper. Thus the educational policy of the program was to put stress on supervised research, and writing, in a field the student studied intensively in small classes to a point where he was capable of doing genuinely advanced work. The faculty is still convinced of the importance of that aim as an integral part of the program of instruction in the Law School. Indeed, it has this week reaffirmed that goal with more unity than ever before. In the light of our experience, however, we are changing our procedure for reaching that end. We found the Divisional arrangement to be sometimes a little cumbersome and rigid in structure, and needlessly difficult to manage. So we are making the procedure more flexible, in order to make it easier to equalize the teaching burden so far as the faculty is concerned, and to make student freedom of election more complete.

Beyond these changes, the faculty is reaching out in several directions. We have voted to add an additional social scientist to our number, and a committee is considering the qualifications of young and not-so-young sociologists, students of social relations, and men of even more remarkable background. A group of our most active teachers are drafting a program of teaching and research in what I once called "Urban Law" — a name to identify a new vantage point for looking at the problems of the American city as a whole. Such an outlook could draw on all the accumulated wisdom of the law of real property, municipal corporations, constitutional law, city planning, and so on, but, hopefully, put them into more fruitful perspective by

directly confronting the manifold policy problems of urban life — the status of alienated minorities, the burdens on the educational systems, the perennial and worsening challenges of family life, crime and motivation. Third, we are reviewing the vast field of international and comparative law, and the implications for our own laws, and for our law schools, of the revolutionary changes which are transforming the position of the United States and its business system in the world outside. Fourthly, we are taking another look at the extremely important programs we offer to our foreign graduate students. The success or failure of those programs can greatly influence both the future of the universities of the new countries all around the world, and the attitude of their leaders towards the United States and its people.

Other ideas are just below the horizon — new areas I wish to see represented in the spectrum of thought which constitutes the life of the School, new institutions at the University to help fulfill and carry forward lines of work beyond the reach of any law school, even our own. Among the first, I should stress the study and teaching in the law of science and technology — a field which should include patent law, and the law and practice which govern the relation of government to science and to the most technologically advanced sectors of the economy. In the latter class, I should put first the need — strongly felt in the Law School — for an institute or center at Yale for the interdisciplinary study of social policy. Such a center should be closely linked to the Law School, and members of our faculty should be active in its program. It could help the work of the Law School as well as that of other departments of the University. But

it should not, I have concluded, be located within the Law School, for a number of reasons.

So I can report to you that although I have been much engaged in recent years in mobilizing the alumni, the life of the School has continued unabated. The faculty and the student body have bubbled as merrily as ever.

I don't want you to think that these discussions and debates have all been bland and easy, or that they have taken place without controversy, and even heat. These are intensely difficult problems, on which men are bound to differ. And the members of the faculty are human beings, who work hard, and get tired by the end of the year. They live together in a relationship like that of a family, which means that while they respect each other, and like each other, they can also be jealous of each other, and step on each other's toes, and on each other's footnotes, too. Such friction is an inevitable and healthy part of the life of all groups. And our life, harmonious as it has generally been and as soundly based on mutual respect, has not been without the counterpoint of summer storms. But, our debates over, like good lawyers on circuit we repair to each other's houses for a drink, and argue about the future of the Supreme Court, or the world.

These alumni gatherings represent a coming together of a community more and more aware of its communion: a proud faculty, an ardent body of students, and a devoted alumni group, maturely conscious of its responsibility.

It has been, and is, a great privilege to have had this opportunity to watch, and be, and do, in a process of helping to liberate forces which improve the law, and improve the nation.



Oscar M. Ruebhausen '37 with the Dean



Dean Rostow with Associate Justice Arthur J. Goldberg



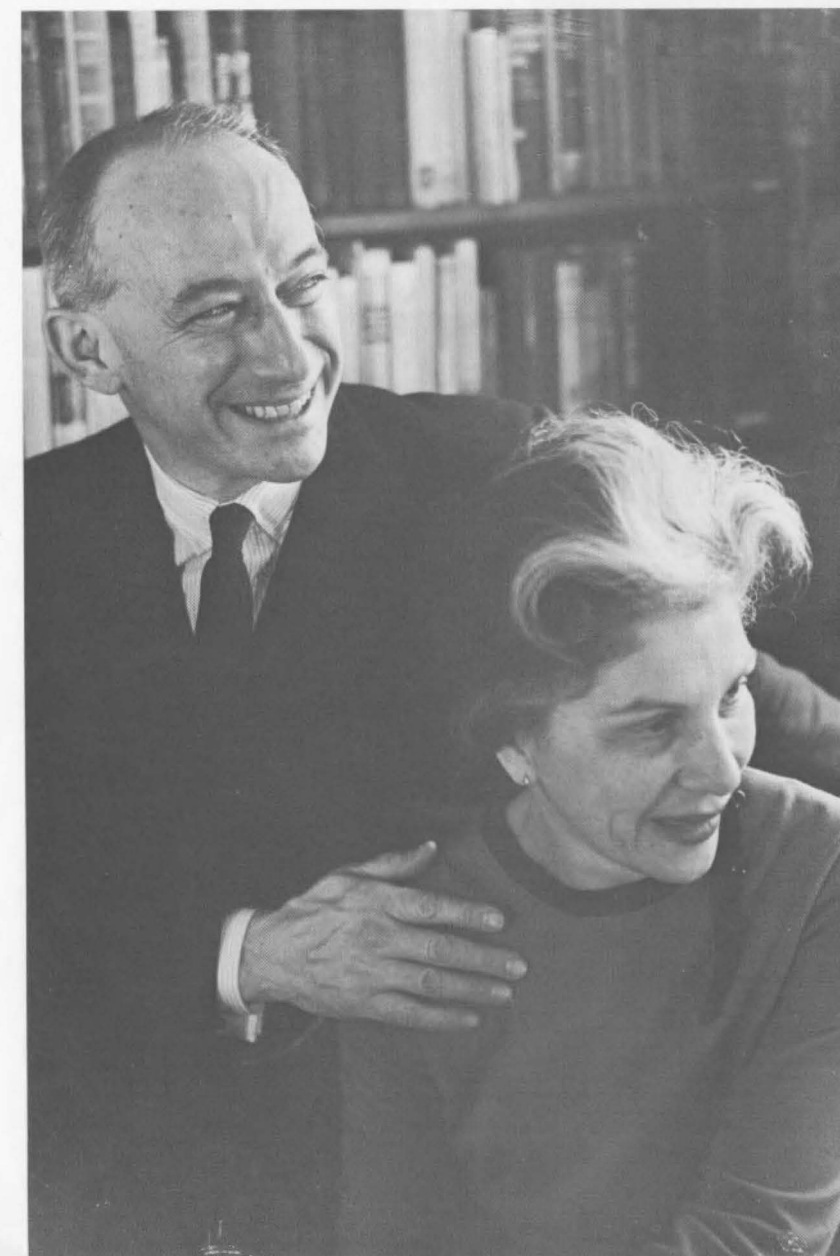
Dean Rostow and M. Bertrand de Jouvenel, president-director general of Societe d'Etude et de Documentation Economiques Industrielles et Sociales.



Dean Rostow with Mrs. Isabel Malone, his executive assistant for ten years. Mrs. Malone had been associated with Mr. Rostow for about five years before his appointment to the deanship.



The Dean and Mrs. Rostow at the annual dinner of the Oregon State Bar in September 1963, at which Dean Rostow was the principal speaker.

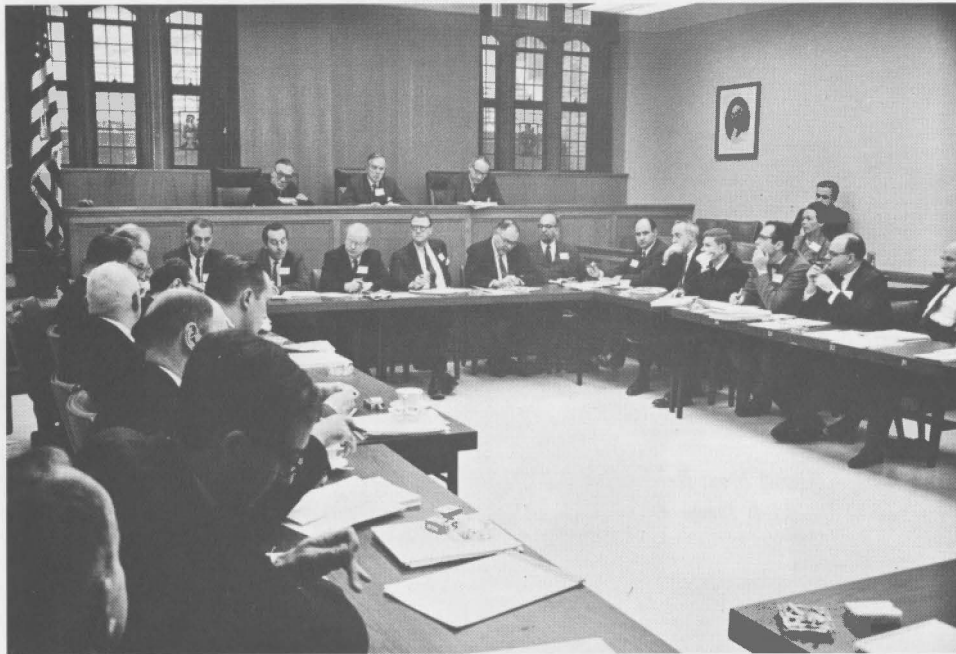


Dean and Mrs. Rostow

Sylvia Salmi



Dean and Mrs. Rostow in Tokyo

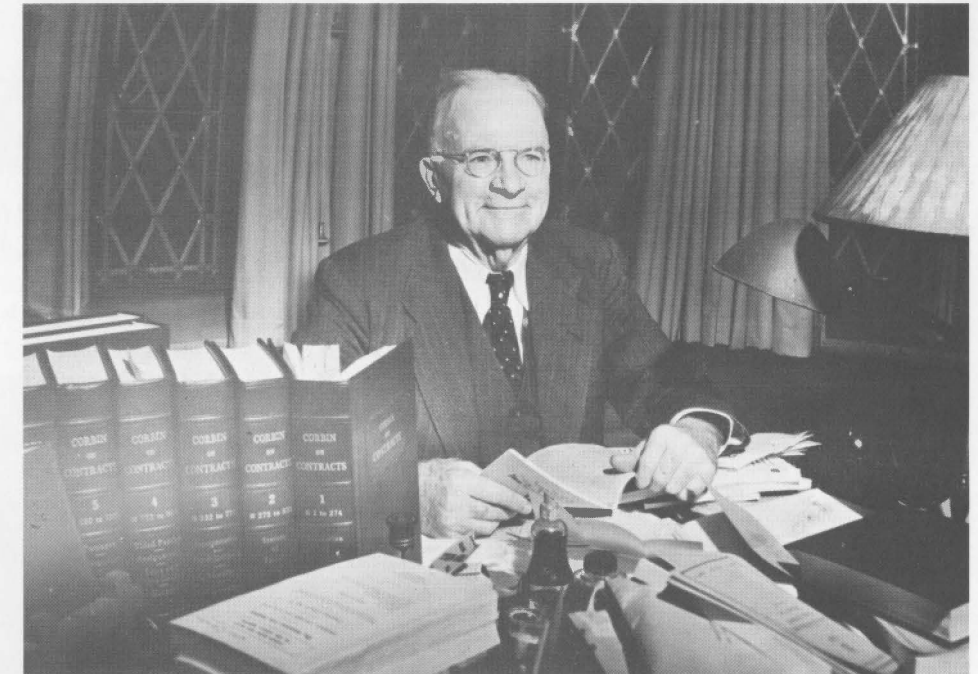


Over the weekend of December 5, Dean Rostow and the Yale Law School were host to a meeting of the "Futuribles" group, a collection of scholars interested in developing a "surmising forum" to predict the future of social and political institutions. Here the group is discussing one of Bertrand de Jouvenel's papers presented at the meeting.



The portrait of Justice Potter Stewart '41, painted by Gardner Cox, was presented by Richard A. Moore '39, following the dinner of the Executive Committee of the Yale Law School Association at the School on Friday, October 30, 1964. From the left: Richard A. Moore; President Kingman Brewster Jr.; Dean Eugene V. Rostow; Gardner Cox; Justice Stewart.

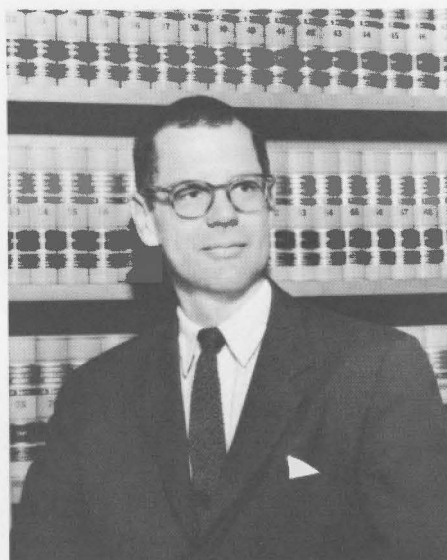
PROFESSOR CORBIN'S 90th BIRTHDAY



Arthur Linton Corbin '99, William K. Townsend Professor Emeritus of Law, celebrated his 90th birthday on Saturday, October 17, in honor of which occasion his colleagues and former students are planning two tributes. According to Dean Eugene V. Rostow, the Yale University Press will issue within the next few months a volume of Selected Essays on Jurisprudence, written during Professor Corbin's career, which will give the Corbin philosophy. A section of the book will be devoted to Professor Corbin's reminiscences of the Law School and its faculty over several generations. It will be published as a part of the Yale Law Library Series. "We have now assured the continued existence of his masterpiece, the eight-volume treatise on the Law of Contracts, first published in 1951 and already expanded in various ways," the Dean announced. The revi-

sion of *Corbin on Contracts* will be carried forward by a committee under the leadership of Friedrich Kessler, Sterling Professor of Law. Professor Kessler has also edited the volume of essays. Professor Ellen Peters, first woman to be made a full professor at the Law School, is a member of this committee. Funds to provide the research and editing on the project are being raised.

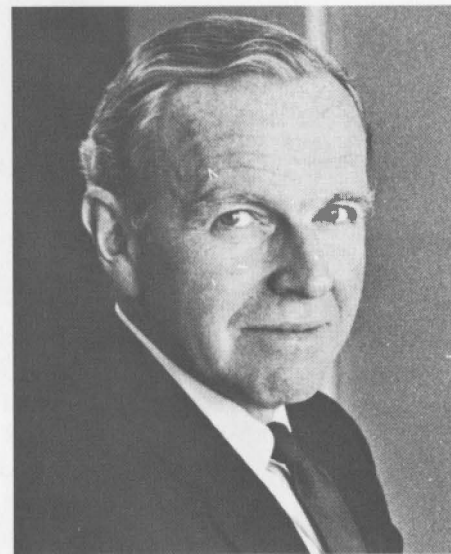
On the occasion of the birthday itself, the Dean offered the following salute: "Professor Corbin's 90th birthday lifts all our hearts. His teaching is a part of the blood and bone of every Yale lawyer, and of the spirit of American law. His insistence that law serve the needs of society is the key to wisdom in our field. The Law School gratefully hails our beloved Uncle-in-law and rejoices in his salty good health."



Judge Macklin Fleming '37 (left), who was recently elevated to the California District Court of Appeals, will be replaced on the Los Angeles County Superior Court by A. Andrew Hawk, '42 J.S.D. (right).



Gerald R. Ford '41, Alumni Weekend speaker, was recently reelected as Republican Representative from Michigan's fifth district. For his second victory of the season, Representative Ford defeated Charles A. Halleck as House Minority Leader, 73 to 67, on the opening day of the new Congress. Promising that "nobody is going to sit on the bench," the fifty-one year old former football star and part-time coach (football and boxing, to meet his Law School expenses) entered upon his task of rebuilding the House Republican organization.



President Johnson has recently named Roswell L. Gilpatric '31 chairman of a special group to study new policies to help prevent the spread of nuclear weapons in the world. The committee headed by the former Under Secretary of Defense has been urged "to explore the widest range of measures the United States might undertake in conjunction with other governments or by itself to accomplish" the halt in nuclear proliferation.

Class of 1940 -- Remember?

It was the year Eugene V. Rostow was guest of honor at the *Journal* banquet and Potter Stewart and Byron White each took class prizes. It was the year *For Whom the Bell Tolls* was published, the year of *Gone with the Wind*, Lend Lease, and the American draft law. It was the year that ended the depression decade, but it was a year of news more international than national, as the Germans advanced through Europe. It was 1940.

Dean Ashbel Gulliver, in his *Report* for the year, noted that more than the stipulated number of 120 entrants had been admitted because of the war situation. The graduating class numbered 113, Yale College having sent the greatest number, followed by Princeton, Dartmouth, Williams, and Amherst in that order.

Louis T. Stone Jr. and Charles S. Bellows, director and associate director of Moot Court, came up for special notice, having run the largest program ever and for the first time arranging that all judges sitting on the Court come from outside the School: 78 judges and lawyers presiding over 65 first-year arguments, 11 upperclass arguments, the model argument, and the final argument. Among the judges participating were Justice Hugo L. Black, Judge Charles E. Clark '13, William Clark, Alfred C. Coxe '26, Carroll C. Hincks '14, Robert Patterson, Thomas W. Swan, Herbert Brownell Jr. '27, and Arthur H. Dean.

The Barrister's Union was administered "vigorously" by Allyn L. Brown Jr., Gregory H. Doherty, John M. Kennedy, and William H. Timbers, the third-year directors. One hundred and forty students participated as counsel in the trials, 96 of them being competitors for membership in the Union. About 650 people served as witnesses, jurors, stenographers, and court officers. The bench was selected from outside the School, as

was Moot Court's. And there was an unusually successful Union banquet in December, Edwin F. Blair '28, presiding, along with Chief Justice William M. Maltbie '05 of Connecticut, Judge Lehman of New York, Assistant Attorney General Thurman W. Arnold, John W. Davis, and Professor William R. Vance.

At the *Journal* banquet its high position in legal literature and state of financial independence was celebrated. Langdon Van Norden was the outgoing editor-in-chief, MacDonald Deming and Louis T. Stone Jr., Comment editors; Frank A. Hutson Jr. and George J. Yudin, Note editors; and Irving Parker, Article and Book Review editor.

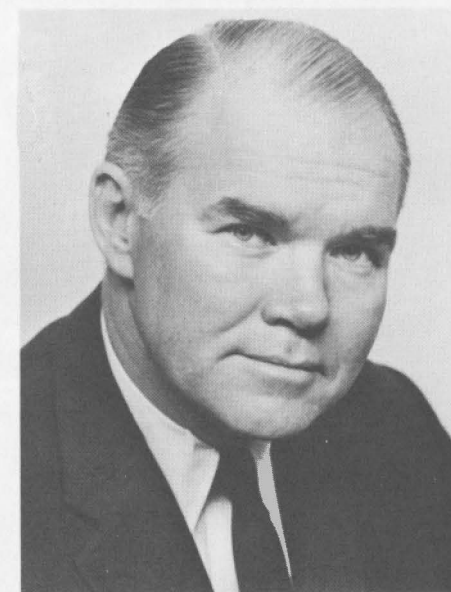
At the June commencement four members of the 1940 graduating class received their bachelor of laws degrees *cum laude*: Roy C. Haberkern Jr., Charles I. Pierce, Daniel B. Posner, and Langdon Van Norden.

Their commencement came at a grim time: by June 1940 France and most of eastern Europe had fallen to the Germans; the fate of Britain hung in the balance; blitzkrieg, panzer, and Dunkirk had come into our vocabulary. For many it was marching from classroom to war.

November Election Results, YLS

Of Law School combatants victorious in the November canvass, Democratic Senator Thomas J. Dodd '33 won reelection in Connecticut, defeating former Republican Governor John Davis Lodge. In New York, Republican Representatives John V. Lindsay '48 and Charles E. Goodell '51 retained their seats, while Democrat Jonathan B. Bingham '39 moved into the 23rd district position.

To the south, in New Jersey, Republican Representative Peter Frelinghuysen '41 retained his post, as did James C.



Justin V. Purcell Jr. has been appointed Director of Development of the Yale Law School. Mr. Purcell was graduated from Yale College in 1944 and from the Law School in 1946. A member of the New York and of the Pennsylvania bars, he has practiced law in Pittsburgh, New York City, and in Corning, New York. More recently, he has been Special Consultant to Amory Houghton Jr., chairman of the Board of Directors of Corning Glass Works.

Cleveland '48, to the north, as Republican Representative from New Hampshire.

In Ohio, Republican Representative Jackson E. Betts '29 stays on, along with Gerald R. Ford '41, Republican Representative from Michigan and recently elected House Minority Leader.

State Congress winners include Frederick Lippitt '46, Republican Representative in Rhode Island, and Democrat James A. Cobey '38 in California.



ALUMNI WEEKEND

April 30 -- May 1

To the Alumni:

We cordially invite you to the ninth annual Alumni Weekend of Yale Law School, on Friday and Saturday, April 30-May 1, 1965. On the following pages is a schedule of the program for this important event.

Alumni Weekend offers you an opportunity to renew your ties with the Yale Law School. You will meet other alumni, faculty and students and hear guest speakers of national reputation.

We look forward to seeing you.

Gerard C. Smith '38
Chairman, Alumni Weekend

Eugene V. Rostow '37
Dean, Yale Law School

Reunions are delightful opportunities to renew old friendships, and this is especially true for those who studied law at Yale. Detailed preparations are underway to make sure that the special events planned for members of returning classes will continue this fine tradition.

A list of Reunion Committee Chairmen follows:

1915: William B. Gumbart
1920: Arthur Mag
1925: Harold S. Shefelman
1930: Inman Brandon
1935: John D. J. Moore
1940: Daniel B. Badger
1945: Margery Gerdes Twining
1950: Thomas J. Quigley
1955: John J. Hart Jr. and
John W. Colleran
1960: Philip S. Walker

Program of Events

FRIDAY, APRIL 30

University Commons

6:00 P.M.

COCKTAIL PARTY

7:30 P.M.

ALUMNI DINNER-DANCE

Langdon Van Norden '40, President — Master of Ceremonies

Remarks by Dean Rostow '37

Address by Gerald R. Ford '41

United States Representative from Michigan

10:00 P.M. - 1:00 A.M.

Dancing, Lester Lanin Orchestra — Open Bar

SATURDAY, MAY 1

9:00 A.M. - 10:00 A.M.

Law classes in session

9:15 A.M. - 10:15 A.M.

DEAN'S FORUM

Dean Rostow will be present at an informal session to hear alumni comments and to answer questions about education, admissions, scholarships, placements, and any other matters concerning the School.

Coffee will be served.

Faculty Lounge

10:15 A.M. - 12:15 P.M.

PANEL: THE MASS NEWS MEDIA AND CRIMINAL JUSTICE

Mel Elfin, General Editor, *Newsweek Magazine*;
Moderator

Amory H. Bradford '37, Consultant; formerly with the Scripps-Howard Newspapers and *The New York Times*

Herbert Brucker, Editor, *Hartford Courant*

Gerald R. Ford '41, U.S. Representative from Michigan; Member, Warren Commission

Robert M. Morgenthau '48, U.S. Attorney for the Southern District of New York

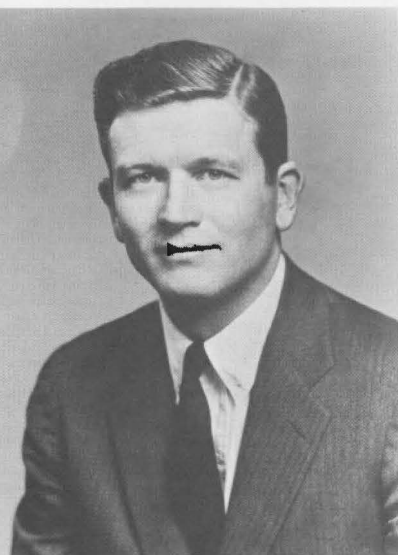
Gabriel Pressman, National Broadcasting Company, Television News Department

J. Skelly Wright, Judge, U.S. Court of Appeals, Washington, D.C.



Gerard C. Smith

Alumni are reminded that to the extent allowable under Federal Income Tax Regulations, a reasonable portion of their expenses (travel, meals, and lodging) in attending the School's Alumni Weekend sessions may be deductible for Federal income tax purposes. (Regulations Section 1.162-1 and 1.162-5 as limited by Section 1.274-4.)



John V. Lindsay '48

12:15 A.M. - Presentation of Portrait of the late Dean Harry Shulman by
12:45 P.M. Arthur J. Goldberg, Associate Justice, Supreme Court
Law School of the United States
Auditorium

1:00 P.M. ANNUAL LUNCHEON AND MEETING OF THE YALE LAW
University Commons SCHOOL ASSOCIATION
Langdon Van Norden '40, Presiding
John V. Lindsay '48, *Toastmaster*
Roger M. Blough '31, Chairman of Capital Funds Program
Kingman Brewster Jr., President of the University
Dean Acheson, former Secretary of State, Presentation of Citation of
Merit Award to Dean Eugene V. Rostow
Address by Dean Rostow

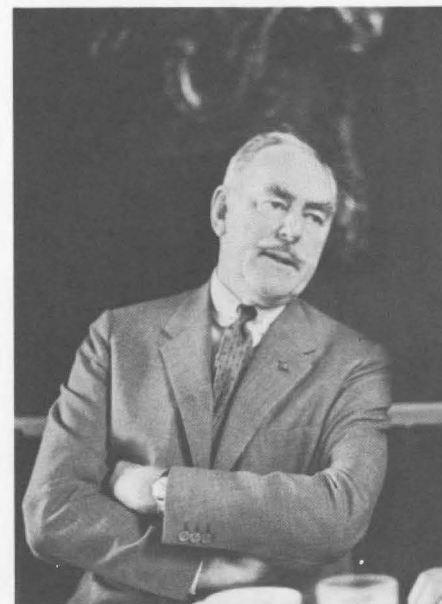
4:00 P.M. MOOT COURT COCKTAIL PARTY
Hall of Graduate Studies

5:00 P.M. Cocktail parties and dinners of individual reunion classes

6:00 P.M. MOOT COURT BANQUET
Law School Lounge



President Kingman Brewster Jr.



Dean Acheson

8:30 P.M. HARLAN FISKE STONE PRIZE ARGUMENT
Law School Auditorium Archibald Cox, Solicitor General, United States
David L. Bazelon, Chief Judge, District of Columbia Circuit



Archibald Cox



Fabian Bachrach

Judge David L. Bazelon

THE WALL STREET LAWYER -- *Professional Organization Man?* by Erwin O. Smigel

Reviewed by Amory H. Bradford '37

While reading *The Wall Street Lawyer* I received for Christmas a copy of *Matching the Hatch* by Ernest G. Schwiebert Jr., architect, angler, and naturalist, subtitled "A Practical Guide to Imitation of Insects Found on Eastern and Western Trout Waters." This traces the various Mayflies (and lesser insects) through their life cycles from egg, nymph, dun to spinner. As I read the two books together, an intriguing resemblance appeared.

The Wall Street Lawyer, subtitled "Professional Organization Man?," is also a descriptive study, by a sociologist and anthropologist, tracing the life cycle of the big firm lawyer (and some lesser types) from prep school through college, law school, associate to partner.

The first book will not teach the prospective angler how to tie flies or to catch fish, nor will the second show the prospective lawyer how to succeed in the profession. That can be achieved only

in practice. Each, however, provides a well arranged, useful body of knowledge, acquired by a keen, objective observer, which can be of great value to the neophyte and to the practitioner.

Because it is written from the outside, and analyzes their development in sociological terms, *The Wall Street Lawyer* may cause some discomfort to the partners in the large firms. They will find reassurance, however, in the fact that the question of the subtitle, "Professional Organization Man?," is answered in the negative in the concluding paragraphs:

"In our society the Wall Street lawyers' special function is to give independent advice in the practice of corporate law — a function they are at the

(Continued on page 27)



PRIZE TRIALS

The final argument for the annual Thurman Arnold Competition in Appellate Advocacy took place in the Law School auditorium on Friday evening, December 4. The prize bench consisted of Judge A. Leon Higginbotham '52, of the Federal District Court for the Eastern District of Pennsylvania, Chief Judge Albert Tuttle of the 5th Circuit Court of Appeals, and Dean Erwin N. Griswold of the Harvard Law School. The prize case was *Lucas v. 44th Assembly of the State of Colorado*, 84 S.Ct. 1472, decided by the United States Supreme Court in July 1964. The case presented the question of whether the equal protection clause of the Fourteenth Amendment of the Constitution requires that both houses of a state legislature be apportioned according to population or according to a standard other than population. In 1962, Colorado voters approved an amendment to the state constitution which provided for election districts for the state senate that were not apportioned according to population. Plaintiffs unsuccessfully argued before a three-judge district court that "one man-one vote" had to apply to the senatorial as well as to the lower house election districts.

Arguing for the Petitioner were Franklin W. Nitikman and Norman L. Blumenfeld; Douglas E. Rosenthal was on the brief. Counsel for Respondent were Peter A. Flynn and Lawrence R. Metsch, with Daniel V. O'Leary on the brief. All of the competitors are members of the Class of 1966. The bench declined to comment on the July decision of the Supreme Court reversing the decision of the district court and holding that the "one man-one vote" principle did apply and that the Colorado amendment was therefore unconstitutional.

A second competition was held at the Law School on Saturday afternoon, December 12, when the Thomas Swan Barristers' Union conducted the John C. Gallagher Prize Trial. The Acting United States Attorney General Nicholas deB. Katzenbach '47 was to preside, but owing to urgent matters at the Justice Department he was unable to attend. Professor Fleming James '28 agreed to preside in Mr. Katzenbach's absence.

Unlike most earlier prize trials, the case presented this year, *State v. Williams*, was wholly imaginary. It involved the stabbing of a New Haven policeman by a local youth. The alleged stabbing took place while the police officer was attempting to dissuade the defendant and his friends from obstructing the erection on the New Haven Green of a large Goldwater banner ("in your heart you know he's right") by the Yale Young Republican Club in preparation for a campaign speech to be delivered on the Green that evening by Senator Humphrey. Aside from the question of guilt, the case presented some underlying constitutional issues relating to seizure of evidence and denial of right to counsel. Actual New Haven policemen, the Catholic Chaplain of Yale, and a hematologist from the Yale Medical School were among those who appeared as witnesses representing themselves.

The case for the prosecution was eloquently presented by Allen S. Boston '66, Joel W. H. Kleinberg '67, and Robert S. Rivkin '65. But an heroic defense by Peter A. Flynn '66, Robert W. Miller '67, and William J. Thom '66 nevertheless secured an acquittal from the jury.

The Gallagher Prize was awarded to Robert W. Miller.

This fall has seen an innovation in the program of the Barristers' Union.

In addition to arranging the trial competitions, it has undertaken to offer seminars throughout the term on problems of litigation in selected substantive areas of the law. The directors believe that these seminars have been a valuable adjunct to the Law School curriculum by exposing students to matters not normally dealt with, or dealt with in a cursory manner, in the classroom. The seminars are conducted by prominent trial lawyers invited from outside who are experts in various types of litigation. Reading lists provided by the guest attorneys are placed on reserve in the library before each seminar.

The first seminar, on the evening of October 22, dealt with the subject of medical testimony. It was conducted by Morgan P. Ames '47, president of the Connecticut Trial Lawyers Association. Mr. Ames, assisted by Dr. Franklin Robinson, a New Haven neurosurgeon, discussed the preparation and examination of medical witnesses. On November 24 Arthur L. Liman '57, of the New York Bar, discussed problems of litigation in business fraud cases. He covered problems in securities fraud as well as tax fraud cases. Mr. Liman leaned heavily on his experience as a former Assistant U. S. Attorney in the Southern District of New York. The final seminar for the fall term was held on December 16. Philip Wittenberg of New York City, a well-known litigator in the field of copyrights, conducted a seminar on "Problems of Litigation in Copyrights and Unfair Competition."

Student response to the trial practice seminars has been favorable. The Barristers' Union is planning seminars in antitrust litigation and matrimonial settlement for the spring term.



Presiding (from the left) Erwin N. Griswold, dean of the Harvard Law School; Elbert P. Tuttle, chief judge, Fifth Circuit Court of Appeals; A. Leon Higginbotham '52, Judge, United States District Court, Eastern District of Pennsylvania.



Counsel for the Appellant (from the left): Norman L. Blumenfeld, Franklin W. Nitikman, and Douglas E. Rosenthal.



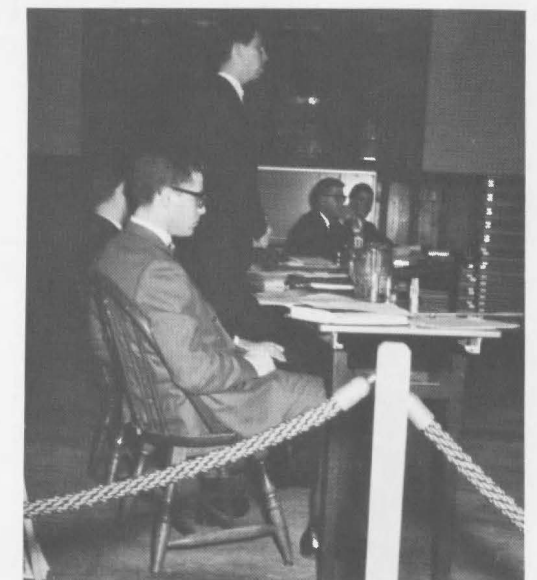
Counsel for the Appellee (from the left): Daniel V. O'Leary (on brief), Lawrence R. Metsch, and Peter A. Flynn.



Professor Fleming James presiding at the Gallagher Prize Trial.



Counsel for the Defense (from the left): Peter A. Flynn '66; Joel W. H. Kleinberg '67.



Counsel for the State, Allen S. Boston. Counsel for the Defense (from the left): Peter A. Flynn and Joel W. H. Kleinberg.

Graduate Placement*

POSITIONS AVAILABLE

EXCELLENT OPPORTUNITY FOR RECENT GRADUATE or third-year law student for general practice of law in growing two-man law office in Burlington, Vermont. Please send detailed resume. Box 1

YOUNG ATTORNEY FOR GENERAL PRACTICE in Larchmont, New York, office. Research background; corporate, negligence and trial practice. Please submit resume stating qualifications and salary expectations. Box 2

LAWYER WITH 0-5 YEARS EXPERIENCE; TO join corporate legal staff of a leading New England fire and casualty insurance company. Insurance background not required. Please submit resume. Box 3

ATTORNEY WITH 5-8 YEARS EXPERIENCE IN federal tax law wanted for responsible position by leading middle-sized Chicago law firm. Please send detailed resume. Replies held in confidence. Box 4

BALTIMORE, MARYLAND, LAW FIRM, ENGAGED exclusively in practice of labor law representing management, wishes to add two lawyers to staff. Experience in labor law desirable, but not necessary if applicant is recent graduate. Submit resume and interview will be arranged. Box 5

LAWYER FOR INTERNATIONAL PUBLISHING firm. Previous publishing experience not necessary. Willing to train. However, legal experience required. Spanish also required. Please submit full resume and salary requirements. Will be held in complete confidence. Box 6

ATTORNEY HAVING 5 YEARS EXPERIENCE with emphasis on taxation is required by law department of established NYC corporation doing a nationwide business. Assignments would include federal, state, and local tax matters and some general corporate work. Opportunity to advance. Liberal benefits. Submit complete resume indicating acceptable salary range. Box 7

TAX ATTORNEY. OUR CLIENT A MEDIUM-SIZED downtown New York law firm of outstanding reputation, is searching for an associate in its tax department. The successful candidate will have had an outstanding academic record and from 3 to 5 years experience in general tax law with a good firm. Compensation will range from \$10,000 to \$14,000 plus a discretionary bonus. Please send resume. Box 8

LAWYER WITH 2 TO 5 YEARS EXPERIENCE; commercial law background desirable. Legal department in bank in Boston, Mass. Please submit detailed resume. Box 9

NEW ENGLAND CORPORATION OFFERS EXCELLENT opportunity for patent attorney with good background in electronics or physics. 2 or 3 years experience in filing and prosecuting patent applications and investigating matters of infringement and validity preferred. Box 10

ATTORNEY WITH 2 OR 3 YEARS EXPERIENCE as assistant to senior vice president and house counsel of fast-growing publicly-owned company, headquartered in Miami, Florida, operating in diversified business areas. Submit resume and salary requirement. Box 11

LAWYER WITH 5 TO 10 YEARS EXPERIENCE involving substantial litigation and public utilities or other regulatory agency proceedings, for position as attorney in administrative office of expanding, diversified public utility company. Prefer accounting, business administration or engineering background. Location in southwestern Connecticut, suburban to New York City. Communications will be held in strictest confidence. Send complete resume, including salary history. Box 12

LAWYERS AVAILABLE

ATTORNEY, 36, LAW JOURNAL, 9 YEARS diversified experience with large New York firm, emphasis on administrative agency, tax and corporate matters; seeks corporate association in New York area. Box A

ATTORNEY MATURE AND EXPERIENCED, 12 years private practice in NYC in general corporate and commercial fields with special emphasis on administrative agencies, labor relations, federal and state taxes, including pensions and deferred compensation. Also trade regulation, acquisitions, litigation and SEC. Highly original, adaptive, alert and assertive. Excellent academic record. Foreign languages. Desires responsible law or executive position. Box B

ATTORNEY, CLASS '60, LAW CLERK TO CHIEF Judge, U.S. Court of Claims, former USAF JAG, admitted in Ohio and D.C., desires position with law firm or corporation with work in general corporate and/or government procurement matters. Resume on request. Box C

CORPORATE ATTORNEY, 33. PRESENTLY WITH listed company and its domestic subsidiaries. Experience in the general corporate, corporate secretary and commercial areas. Previously with governmental bureau in an investigative capacity. Desire challenging position with a corporation or law firm in Midwest. Box D

TAX ATTORNEY WITH 8 YEARS EXPERIENCE as a government attorney in highly responsible positions; top sixth of law school class. Desires growth, with preference for a position on the East Coast although other areas will be considered. Resume on request. Box E

ATTORNEY, 43, OUTSTANDING SCHOLASTIC record and broad background with leading N.Y. firm and two major corporations; extensive experience as house counsel and corporate secretary with emphasis on financial matters and organization. Seeks position requiring outstanding legal and organizational ability. Box H

TAX ATTORNEY. 5 YEARS PRIVATE PRACTICE. Experience in: domestic and foreign income tax matters, plus allied corporate and administrative law matters; estate and gift tax; and state and local taxation. LL.M. (taxation) candidate at New York University. Fluent knowledge of European languages. Seeks position in tax field with New York City law firm or corporation. Box J

CORPORATE ATTORNEY, 3 YEARS WITH NEW York City based major industry trade association. Experienced in general corporate and house counsel work with stress on legislation, trade regulations, administrative rulings, taxes and copyrights. Desires corporate position in New York City. Resume on request. Box K

ATTORNEY, SUBSTANTIAL EXPERIENCE IN litigation, before both courts and administrative tribunals. Eleven years of practice, including experience as legislative representative. Presently on legal staff of large corporation. Admitted to practice in Connecticut and before Federal courts. Interested in association with law firm or corporation. Resume on request. Box L

FEDERAL ATTORNEY WITH WIDE EXPERIENCE in variety of legal and management positions in Defense Dept. involving international law, procurement, administrative law, legislative drafting, Congressional liaison, trial work, military law, claims adjudication. West Pointer (BS) and 1951 Yale Law graduate. Taught college English for 3 years (expository writing and speaking). Seeks challenging legal or managerial position with law firm, corporation, state or municipal government agency, or teaching assignment. Box M

ATTORNEY, 37, 9 YEARS SPECIALIZED TAX experience with federal government and New York law firm, plus 4 years experience in securities industry. Seasoned in negotiation, financial evaluation, administration. Excellent academic record. Resume on request. Box O

YOUNG ATTORNEY, 1963L, GOOD ACADEMIC standing. Military service will be completed August 1, 1965. Seeks position with law firm in northern California metropolitan area. Interests: labor, negligence, criminal, domestic relations. Resume on request. Box P

ATTORNEY, AGE 26, MARRIED, B.A. CORNELL '59. LL.B. Yale '62, admitted Connecticut bar 1962. Upper third of law school class. Will complete service obligation 15 June 1965. Active duty as Air Force Judge Advocate since November 1962 at Barksdale Air Force Base, Louisiana. Extensive trial experience. Preference for litigation, but interested in any challenging position with good potential. Box R

LAWYER, 31, FOUR YEARS GENERAL AND international law practice, two well-known New York law firms, presently employed well-known international law firm, seeks legal or nonlegal position with firm, corporation, government, or international organization in international trade, business or investment fields or in the field of economic development. Author several articles in international trade field. Actively engaged in non-governmental organization work at the United Nations. Languages: Spanish, French, and good Russian. Phi Beta Kappa. Single. Will relocate overseas. Box S

ATTORNEY, NOW DEPUTY ADMINISTRATOR OF federal agency, formerly on legal staff of large corporation and associated with large Wall Street law firm. Extensive legal experience in corporate finance, acquisitions, and SEC matters; substantial legal experience in international, labor, tax, antitrust, and real estate matters. Top level government administrative experience on federal regulatory matters. Desires responsible corporate law or executive position. Resume and interview on request. Box T

LABOR LAWYER, 10 YEARS EXTENSIVE EX-perience all phases of labor relations including negotiations (national and local), arbitration, litigation in federal and state courts, practice before NLRB and other government agencies. Partner New York law firm. Box U

ATTORNEY, CLERKED FOR U.S. DISTRICT Judge; Yale '62 top 1/3; 2 years varied government experience; currently enrolled in LL.M. (tax) at N.Y.U.; accounting background, seeks challenging position involving some tax work. Prefer New York or Washington areas, but will consider other locations. Box W

ATTORNEY, 7 YEARS ANTITRUST AND COR-porate experience with government agency. Extensive litigating experience. Law Journal and Coif school record. Prefer Washington, D.C., but will consider New York City. Box X

ATTORNEY, LL.B. '61, PRESENTLY WITH single practitioner. Same employer since graduation. Assumes responsibility and works independently in general commercial practice with emphasis on real estate. Seeks position with NYC firm which offers opportunity based on excellent work rather than ability to bring in business. Box Y

INTERNATIONAL OPERATIONS PLANNING, LL.B. '54. Age 35, seven years of corporate practice in private practice with leading firms in Southwest and in Midwest. Two years in corporate practice on the International Operations Legal Staff. Currently on management team assisting line management in short-, medium- and long-range operations planning for both domestic and international objectives and reporting to vice president and president. Recent management change may result in elimination of present position. Actively seeking another opportunity (legal or nonlegal) to utilize my abilities to assist in identifying commercial objectives, in planning how to achieve agreed objectives and in implementing plan. Can furnish resume, job descriptions and references on request. Box Z

ATTORNEY, 7 YEARS WITH GOVERNMENT, 3 years with corporation legal staff. Substantial experience in food and drug problems, litigation in courts and administrative hearings and general corporate counseling. Seeking opportunity with law firm or corporation. Age 34. Box AA

THREE YEARS VARIED SECURITIES, LITIGA-tion experience; New York bar; seek position with law firm, corporation. Box BB

ATTORNEY, GENERAL AND INTERNATIONAL experience, '49 grad., Law Journal grades, Fulbright Scholar, Rome and Cambridge. Member of N.Y., N.J., and D.C. bars. Varied career includes 1 year visiting professorship Harvard Business School, 2 years in government and balance with New York law firm. Seeks challenging opportunity. Box CC

ATTORNEY — 3 YEARS OHIO PRACTICE WITH probate, corporate, and tax emphasis. Looking for responsibility and challenge. Willing to relocate and use several foreign languages. Resume available. Box DD

CORPORATE COUNSEL AND SECRETARY — All law phases. Industries include mining, manufacturing, electronics, merchandising. Box EE

CORPORATE ATTORNEY WITH INTERSTATE and international experience, plus general practice, including contract negotiation and drafting; licensing; SEC; secretarial functions and stockholders relations; financing; some labor, taxes, and trade regulation; real estate, and languages. LL.M. and Parker School certificate. Admitted in New York in 1948. Desires permanent business or law firm connection. Will relocate. Box FF

ATTORNEY, 34, 8 YEARS OF GENERAL PRA-ctice with emphasis on litigation and real estate. Seeks position with law firm or corporation. Resume on request. Box GG

*Placement Office Note

It is not uncommon for lawyers to make several changes during the course of their professional careers. An alumnus contemplating such a move may wish to avail himself of the clearing house facilities of the Yale Law School Graduate Placement Office. He also is welcome to take counsel with the Director of Placement and to have a notice published here. Similarly, law firms, corporations, and other organizations with positions available for experienced lawyers may have notices published here. All notices are published without charge. Correspondence relating to *The Bulletin Board* should be directed to Robert I. Stevenson, Director of Graduate Placement, Yale Law School, 127 Wall Street, New Haven, Connecticut 06520. Notices for the next issue must be submitted by May 3, 1965.



"Caveat emptor!"

REGIONAL NEWS

Georgia

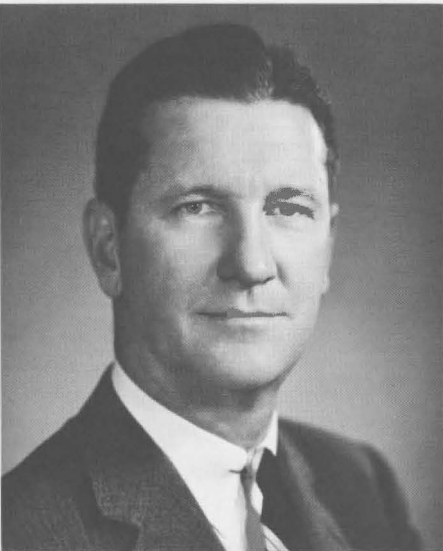
The YLSA of Georgia held a luncheon meeting on Friday, December 4, in conjunction with the mid-winter meeting of the Georgia Bar Association. The alumni gathering was held at the Piedmont Hotel in Atlanta, and Professor Myres McDougal of the School, who had earlier in the week traveled to Athens to deliver a series of lectures at the University of Georgia, was the guest speaker.

Illinois

Arthur R. Curtis '40, president of the YLSA of Illinois, was in charge of the alumni luncheon in the Palmer House, Chicago, on Monday, December 28, at the time of the annual meeting of the Association of American Law Schools. Recently elected officers are: president, Albert E. Hallett '31; vice-president, Sidney G. Saltz '62; and secretary, John C. Williams '54.

New Haven

On December 2, 1964, a luncheon meeting of the YLSA of New Haven was held in the Faculty Dining Room of the Law School. Election of new officers was held at that time. The new officers



Harmar Brereton '34



Taken at the New Jersey State Bar Association's midyear meeting in Atlantic City, from the left: William C. Gotschalk '24; T. Girard Wharton '28, president of the YLSA of New Jersey; and Marvin N. Rimm '56.

for the coming year are: president, Rhoda L. Loeb '44; vice-president, Lawrence R. O'Brien '61; secretary, Harry Wexler '62; treasurer, William Cousins '43; and regional representative, John D. Fassett '53. The guest speaker at the luncheon was Assistant Dean Henry V. Poor '42, who enlightened the gathered alumni on admissions procedure and financial aid policy.

New Jersey

A luncheon meeting of Yale Law School Alumni in the New Jersey Association was held in Atlantic City on Saturday, November 21, 1964, during the course of the fall meeting of the New Jersey State Bar Association.

New York City

The annual luncheon of the YLSA of New York was held at the Plaza on

Friday, January 29, on the occasion of the New York State Bar meeting. The guest speaker was Vincent S. Jones, executive editor of the Gannett Newspapers. Harmar Brereton '34, of the Eastman Kodak Company, was the chairman for this event.

Northern California

The Yale University seminar meetings for alumni will be held in March in San Francisco. In connection with this, Law School alumni on the West Coast will have a dinner on Friday, March 19.

Philadelphia

During the annual meeting of the Pennsylvania Bar Association, the YLSA of Philadelphia held a luncheon on January 28 at the Penn-Harris Hotel. Lieutenant Governor Raymond P. Shafer '41 served as chairman and presided at the luncheon.

The Wall Street Lawyer, from page 21

moment fulfilling. Their flexible organization, . . . allows and aids most of its members and professional employees to be autonomous within the limits of group practice. . . . Because the law firms are successful in sponsoring most of their attorneys' independence, the strains which generally stem from a clash of values between bureaucratic norms and professional norms appear to be very mild; because the firms have been successful in achieving autonomy for their lawyers, the client is in a position to receive the best from his attorneys. . . . It is the autonomy of the professional person which sets the stage for his creativity — a required ingredient when dealing with the esoteric, the difficult, and the exceptional."

For the college or law student planning a career, this book provides a mine of useful information, and a reliable profile of the opportunities offered by the large New York law firm. Much of the material is presented in quotations from extensive interviews, which give depth and flavor.

The reader not interested in sociological techniques is advised to skip Chapter Two, on "Sample, Method and Techniques," though it contains some amusing sidelights on the reactions of downtown lawyers when confronted by an interviewing professor, and vice versa. Also, the reader should be reassured that the main body of the book stands on more solid ground than the somewhat naive conclusions suggested in the opening chapter on "The Large Law Firm in American Society." This frequently confuses the role of the large firms with that of lawyers in general, particularly in relation to the legislative process, government service, and bar association activities.

In reviewing this book for a Yale publication, one can be objective in chuckling over the remark by the author, an NYU professor, in comparing the recruiting policies of Boston and New

York firms, that in New York "the majority did not come from Columbia, which to New York is almost [sic] what Harvard is to Boston." (p. 181)

This is a useful book, full of solid material, organized in a way which should prove useful both to law students considering whether or not to seek careers in large New York law firms, and to sociologists wishing to compare them with other organizations, particularly those in other professional fields. To one who has worked in and with these large firms, it fails to convey a sufficient sense of the challenge and excitement of their work, but that was not its purpose and some of it does come through.

In concluding, I would like to submit to the law students who may read this a quotation from the fishing book mentioned earlier: "Trout fishing luck consists of finding the fish in a feeding mood. Skill and knowledge are responsible for further success." Each of these books provides some of the useful knowledge. The requisite skill is up to you.



Judge Thomas W. Swan, Senior U.S. Circuit Judge and our former Dean, has given the Law School Library a first edition of Blackstone's Commentaries. According to Librarian Harry Bitner, this edition, which the Library's Blackstone Collection lacked, is exceedingly rare. Judge Swan has also recently given complete sets of the U.S. Supreme Court Reports, as the Federal Reporter, Federal Supplement, and the U.S. Code Annotated, in addition to many valuable legal publications. He has continued his subscription to the Supreme Court Reports for the benefit of the Library.

James L. Norvell, director of the Capital Funds Program for the Law School, resigned his position early in November to assume a similar post at the University of the Pacific, where he will be directly concerned with the health professions.

A Summer in Mississippi

Last summer six Yale Law School students taught at Negro colleges as part of the Southern Teaching Program, an informal organization of students founded at the Law School in October 1963. Miss Harriet M. Bograd '66, Nicholas S. Freud '66, Vincent J. Rinella Jr. '66, and Robert F. Walker '66 taught at Texas Southern University. James T. B. Tripp '66 was an instructor at Tuskegee University and Loren F. Ghiglione '66, the author of this article, taught at Rust College in Holly Springs, Mississippi. Last year the Southern Teaching Program found instructorships for 53 graduate and professional students. This summer it expects to place about 200 students on the faculties of Negro colleges throughout the South.

It is Freedom Day in Holly Springs, Mississippi, a small town on the edge of Faulkner country billed by its Chamber of Commerce as "Where the Old South Meets the New."

But the tense meeting of the old and new as forty Negroes quietly enter the county courthouse for voter registration tests represents a kind of meeting which the city fathers are not out to publicize.

Ten county and city officers plus a small army of fifty "volunteer" farmer-policemen mill around under the courthouse trees, shading themselves from the 101 degree sun. Across the street 200 Negroes watch.

Two officers fall into step behind a Negro civil rights worker who carries a walkie-talkie. They hold a jamming instrument that interferes with his calls to a nearby Negro church, where those ready for the walk to the courthouse are waiting. When grabbed

and sworn at, another student volunteer says over his walkie-talkie, "A sheriff's deputy has just walked up to me and said, 'God damn it, move on.'" The student is arrested for profanity and later bail is set at \$500.

A police dog rests in Sphinx-like position, tied loosely to a historical marker that captures the "Old South" side of this town's personality: "Holly Springs: Anti-bellum cotton town and center of social and cultural life. Home of 13 Generals of the Confederacy. Grant's southern advance halted here by Van Dorn's great raid, December, 1862."

The Old South of Greek Revival architecture, King Cotton, and Civil War victories lives on today in a stagnant culture intent on refuting the twentieth century's existence. Hastily lettered signs have sprouted in response to the Civil Rights Act. In Landruth's, a combined tackle shop and restaurant, three cardboard placards read "Membership Only." Window displays at Western Auto highlight rifle racks for pickup trucks and pistol holsters that strap under the driver's seat.

The only voluntary desegregation in Holly Springs came last year with the "integration" of the one-room public library. But the victory could have been mistaken for defeat; according to local Negro college students the library tables and chairs were removed and all the good books were transferred to a private collection.

Paternalism in Holly Springs is more insidious and just as lethal as segregation. In a self-satisfied tone, Sam ("everybody calls me Sam") Coopwood, Holly Springs mayor, city judge, clothing store owner, and former police chief,

explains how the town has thousands in unpaid fines to attest to local generosity toward the Negro.

"Last Saturday this colored man backed out into traffic. He couldn't pay the \$7 fine so I told him to come back when he could. I don't know anywhere in the world where they turn a man out to get money." Coopwood tells of one Negro who was worried about all the civil rights activity changing his way of life. "I told him, 'Just live like you've been living for the last fifty-five years — no one will bother you.'"

At the center of local resistance to this lap dog mentality is Rust College, a Methodist school on the edge of town founded by the Freedman's Aid Society in 1866 to educate former slaves. "It's difficult to get a man riled against the paternalistic system," says President Earnest Smith. "All Negroes don't think the same way — all are victims but some find a comfortable rut in the road."

When local citizens refused to rent a building to civil rights workers for a summer Freedom School, Rust College became home. Each morning, in the middle of Rust's front lawn Freedom School classes for 90 children were held in art, Negro history, dancing, and regular elementary and secondary school courses.

A two-family faculty residence was converted into a community and recreation center. The college became a book depot for Freedom Schools throughout the state with close to 100,000 volumes being unpacked, sorted, and prepared for shipment in the basement of the administration building.

Rust College has paid heavily for encouraging the Mississippi Project and

other local civil rights efforts. Mayor Coopwood and state Senator George Yarbrough both wrote to the area bishop of the Methodist Church asking that he investigate Rust and President Smith. A promise from one of the state's two all-white Methodist conferences to provide funds for a new student center has not been fulfilled.

"The question is no longer of white against black," William Faulkner said several years before his death. "It is whether or not white people shall remain free. We speak now against the day when our Southern people who will resist to the last these inevitable changes in social relations, when they have been forced to accept what they at one time might have accepted with dignity and goodwill, will say 'why didn't someone tell us this before? Tell us this in time.'"

It is too late now. White Mississippi continues to cry, "Go slow. Wait." And the Negro in Mississippi, as Mrs. Fannie Lou Hamer is fond of saying, has grown sick and tired of being sick and tired. He knows that "wait" has almost always meant "never."

Retaliatory violence by Negroes is in the air. One staff worker for the Student Non-Violent Coordinating Committee described how 40 young Negroes, largely teenagers, gathered outside a gas station in Holly Springs after a summer volunteer was threatened by a bottle wielding local white. "Man, they had everything — knives, stones, some guns. I told them to cool it — they're not about to take much more of this."

Colleges such as Rust, disparaged so frequently by civil rights leaders for not demanding freedom now, ironically enough will probably be at the center of the next rights push. Education has become more crucial as the vision of the Negro has widened from an integrated lunch counter to a totally reconstructed society. Negroes no longer are satisfied with attacking segregation and racial

prejudice; they are after a change in the basic social, political, and economic structure of the area.

So, to lead the efforts at redoing southern society and to meet the potential for violence, Rust and other Negro colleges in the South are struggling hard with what they get and do not get.

Rust gets many bright students but they are the products of some of the worst public school systems in the country. "We are expected," said a Rust teacher, "to make up the four years of work they never got in high school plus four years of college, all in four years." According to a 1961 survey, the average entering freshmen, through no fault of his own, has the reading ability equivalent to that of an eighth or ninth grader.

What Rust does not get is money. The starting salary as late as 1961 for an instructor was \$2400. There are no Ph.D.'s on the faculty. Professors are called on to teach from 12 to 20 hours of class each week and, during the summer session, as much as 36 hours a week.

But Rust keeps trying. The college took on six graduate and professional school students from Yale and Columbia to teach history, English, biology, and political science last summer. The instructors were part of the Southern Teaching Program, an informal organization of students at the Yale Law School, who found teaching positions for 53 graduate students at 13 Negro colleges throughout the South.

In addition to instructing classes, the group of six at Rust found time to start a weekly student newspaper, collect and catalogue 2,600 books for the college's outdated library, conduct remedial classes in spelling and grammar, and organize a series of seminars on "Race Relations in South Africa," "The Negro Writer in America," and other topics of interest to students.

The hope of Mississippi rests with young Negroes like Joe Stone, who was graduated last summer from Rust. An

honor student in college, Stone wanted to teach in the Mississippi public school system. His application was refused. The independent minded *Mississippi Free Press* described those Negroes who are hired as "having learned well how to satisfy their masters in local and state politics and having demonstrated in some concrete manner willingness to be obedient and to subordinate themselves at all times to all members of the 'closed society.'"

Unable to teach in Mississippi but still anxious to stay in the state, Stone works for the Student Non-Violent Coordinating Committee at \$9.64 a week. The frustrations he has experienced have only made him more determined. In an editorial for the Rust student weekly, which he helped found, Stone wrote: "The wrongs heaped upon us will be our constant cry but we shall overcome by labor, suffering, sacrifices and by our lives. There shall be nothing too great for the cause and the cause is freedom not in the years to come but now."

This was the spirit of Mississippi, summer 1964.

The annual banquet of the *Yale Law Journal* will be held on April 3. Judge John Minor Wisdom of the Fifth Circuit Court of Appeals will be the guest speaker. Professor Leon Lipson will act as toastmaster.

Cocktails will be served in the Hall of Graduate Studies, dinner in the Law School Dining Room. Alumni interested in attending should address their inquiries to Drawer 401A, Yale Station, New Haven, Conn.



YALE LAW SCHOOL ASSOCIATION

127 WALL STREET
NEW HAVEN, CONNECTICUT 06520

March 1, 1965

To All Alumni:

You will be called upon this spring to elect Officers of the Yale Law School Association and six additional Members-at-Large of the Executive Committee. The Nominating Committee invited recommendations for candidates from the regional associations and from members of the Executive Committee and reports its decision to nominate the following:

For Officers, the incumbents:

President	Langdon Van Norden '40, <i>New York City</i>
Vice-Presidents	Irving M. Engel '13, <i>New York City</i>
	Louis J. Hector '42, <i>Miami, Florida</i>
	Eugene M. Locke '40, <i>Dallas, Texas</i>
	Roy H. Steyer '41, <i>New York City</i>
	Ezekiel G. Stoddard '34, <i>Washington, D.C.</i>
Secretary	Wallace Barnes '52, <i>Bristol, Connecticut</i>
Treasurer	Arthur Mag '20, <i>St. Louis, Missouri</i>

For Members-at-Large:

Carolyn E. Agger '38, *Washington, D.C.*
G. d'Andelot Belin '46, *Washington, D.C.*
Cleveland C. Cory '43, *Portland, Oregon*
Richard D. Cudahy '55, *Milwaukee, Wisconsin*
A. Leon Higginbotham '52, *Philadelphia, Pa.*
Victor S. Johnson Jr. '41, *Nashville, Tenn.*
Peter H. Kaminer '39, *New York City*
Guy Martin '37, *Washington, D.C.*
Alfred M. Rankin '39, *Cleveland, Ohio*
Lyndes B. Stone '30, *Hartford, Connecticut*
Alan M. Stroock '34, *New York City*
Daniel G. Tenney Jr. '38, *New York City*

Additional candidates may be nominated by petition signed by at least twenty-five members of the Association and delivered to the Nominating Committee at the Yale Law School not later than March 27, 1965.

Ballots will be mailed to alumni in April, and results of the election will be announced at the annual luncheon meeting of the Association on Alumni Day, May 1st.

The Nominating Committee for this year consists of:

Stanley R. Resor '46, *Chairman, New York City*
Buist M. Anderson '29, *Hartford, Connecticut*
James H. Dempsey Jr. '41, *Cleveland, Ohio*
Morton Fearey '38, *New York City*
Eric Hill Hager '42, *New York City*
Hart Hunter Spiegel '46, *San Francisco, California*

By order of the Committee

Robert I. Stevenson '37
Executive Director

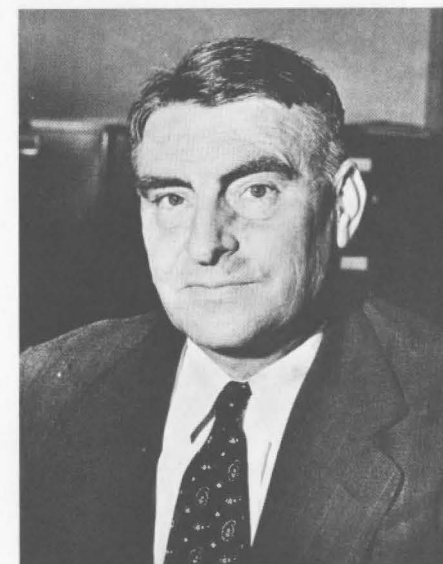
Judge Carroll C. Hincks, 1889 - 1964

Judge Carroll C. Hincks '14, retired member of the United States Court of Appeals for the Second Circuit, died on September 30 in New Haven. He was 74 years old, and had been a member of the Connecticut bar for 50 years (28 spent serving as a federal judge). He was a district court judge for 22 years, a circuit judge for 6. He retired in 1959.

President Hoover appointed Judge Hincks to the district judgeship on the recommendation of the late Senator Hiram Bingham. He was sworn into office in January 1931. At the time, Connecticut had two district judges, but between the resignation of Judge Edwin S. Thomas and the appointment of Judge J. Joseph Smith '27, Judge Hincks handled the work of the district alone. He achieved early prominence as a federal judge while presiding over the New Haven Railroad's first reorganizational proceedings (1935-47). He continued to preside over the present proceedings in Judge Anderson's absence.

Judge Hincks was elevated to the Appeals Court in 1953 by President Eisenhower. He was recommended by former Senator Prescott Bush to fill the spot vacated on Judge Thomas W. Swan's retirement.

He was born in Andover, Massachusetts, graduated from Phillips Andover Academy, and Yale College '11. He was a member of the 1914 Law School class. He was sent to the Mexican border in 1916 as a field artillery captain in the Connecticut National Guard and



served overseas with the unit from 1917-19.

After he was admitted to the bar, Judge Hincks practiced briefly in New Haven and then moved to Waterbury where he became a member of Meyer, Hincks & Traurig.

In a brief reminiscence accompanying a memorial contribution to the Dean's Fund, Sidney W. Davidson '16 recalled, "I spent the summer of 1912 with him at Lyme, Connecticut, and he tutored me for entrance to Yale College. I took ten examinations in September and passed the ten. He was more responsible than anyone else for my admission.

"Later I went to the Law School. I saw him from time to time while I was studying in New Haven and since then at Law School affairs, including meet-

ings of members of the Executive Committee of the Law School Association and at the Century. I admired him greatly and was extremely fond of him. He had a most distinguished career as a lawyer and as a judge, he abundantly discharged each duty that he ever assumed, and he made an important contribution to his country."

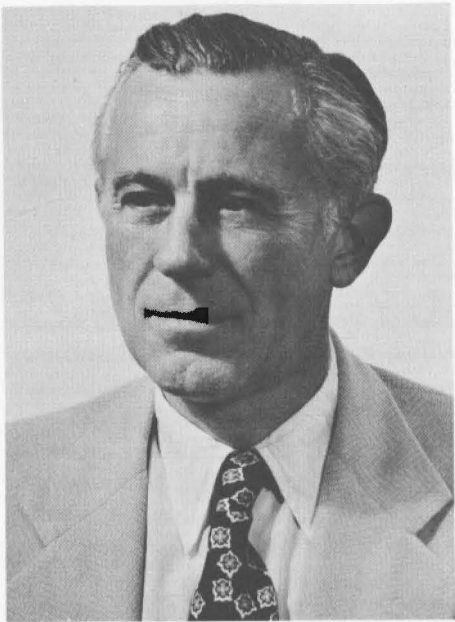
He is also remembered fondly by his former law clerks, who have established a memorial fund in his name at the Law School.

A joint session of the U.S. Court of Appeals for the Second Circuit and the U.S. District Court for the District of Connecticut was held on December 21 in memory of Judge Hincks. Chief Judge J. Edward Lumbard of the Court of Appeals presided. Superior Court Judge Herbert S. MacDonald spoke of Judge Hincks' long period of service to Yale and the New Haven community.

Others speaking of the memory of Judge Hincks were District Court Judge William H. Timbers '40, of the Connecticut District; and U.S. Circuit Judges J. Joseph Smith '27, Thomas W. Swan, and Harold R. Medina, who also read a tribute from U.S. Supreme Court Justice John Marshall Harlan.

Other judges on the bench during the ceremony were U.S. District Judges Robert C. Zampano '54, T. Emmet Claire, M. Joseph Blumenfeld, U.S. Circuit Judge Robert P. Anderson '29, and John Hamilton King '25, Chief Justice of the Connecticut Supreme Court of Errors.

Professor Fowler V. Harper, 1897 - 1965



Professor Fowler Harper, Simeon E. Baldwin Professor of Law, died on January 8 after a long illness.

In announcing his death Dean Rostow wrote, "Fowler Harper was held in deep affection by his colleagues, his students and his co-workers in the many causes to which he devoted so much idealism and zeal. The feeling of warmth he inspired is the more remarkable because he was a crusader by temperament, always engaged in highly controversial movements of reform. But everyone recognized his generosity of spirit, and the purity of his motives. His cuts and thrusts left no wounds.

"Mr. Harper's scholarship and teaching made him one of the leading figures of his academic generation. The *Treatise on Torts* he wrote with his friend Fleming James, Jr., is his masterpiece. But his many other books and articles are read with respect, and one of his most interesting studies — a book on Mr. Justice Rutledge — is in press, and will appear soon.

"Mr. Harper's death ends a long career of public service, both in government

and on several law faculties. He met the test of his long and painful illness with serenity. A host knew him truly to be a friend."

Born in Germantown, Ohio, Mr. Harper received the B.A. and LL.B. degrees from Ohio Northern University in 1923. Later he earned his M.A. from Iowa State University and the J.S.D. from the University of Michigan. After teaching at the Universities of North Dakota, Oregon, Texas and Louisiana State University and Indiana University, Mr. Harper came to Yale as a visiting professor of law in 1947. He was appointed professor of law the following year.

From 1937 to 1947 he was professor of law at Indiana University. He also served as general counsel for the Federal Security Agency and consultant for the Department of Agriculture from 1940 to 1942. He was on leave of absence from the University from 1942 until 1945, during which time he was chairman of the Joint Army and Navy Committee on Welfare and Recreation, deputy chairman for the War Manpower Commission, an associate member of the National War Labor Board, and solicitor for the Department of the Interior. He had been associated with the Bobbs-Merrill Publishing Company as editorial adviser since 1936. During World War I, Mr. Harper served as a cadet in the U.S. Air Service.

At the time of his last illness, Professor Harper was engaged in carrying through a legal battle on Connecticut's birth control law, and in late 1964 had won a round in the fight, when his legal brief on the conviction of Dr. C. Lee Buxton, medical director of the Planned Parenthood League in Connecticut, and Mrs. Estelle T. Griswold, its executive director, brought about a decision by the U.S. Supreme Court to review the case. The Supreme Court decision could

be historic in its import to the nation. Last December he asked his colleague, Professor Thomas I. Emerson, to argue the case for him.

Surviving are his widow, Mrs. Miriam Cohen Harper, and a daughter by a previous marriage, Miss Constance Lillian Harper of Los Angeles.

Memorial gifts may be sent to the Law School in care of Dean Rostow. They will be added to the School's Capital Funds campaign, and the income will be used to provide financial aid to students.

Deceased

'91 Harry Mighels Verrill	Aug. 1964
'02 Edward C. Ellsbree	June 1964
'02 Frederick S. Holsteen	Oct. 1964
'04 Charles S. Gerth	Nov. 1964
'04 Frederick B. Merrels	June 1964
'06 Otto P. Caplin	Sept. 1964
'06 William Edward Kennedy	Oct. 1964
'06 William P. Mulville	June 1964
'06 Charles A. Roberts	May 1964
'08 Timothy J. Campbell LL.M.	Nov. 1963
'09 Alfred W. Andrews	June 1964
'09 Frank W. Barnes	Aug. 1963
'09 Edward R. McGlynn	Oct. 1964
'10 Milton M. Eisenberg	Dec. 1964
'10 Alan R. Rosenberg	Oct. 1964
'11 Malcolm H. Clark	Nov. 1964
'11 Raymond E. Hackett	July 1964
'11 Patrick Healey	Oct. 1964
'11 Joseph A. Lockhart	Dec. 1964
'11 Francis G. Monahan	Dec. 1964
'12 Mack E. Meader LL.M.	May 1964
'14 Carroll C. Hincks	Sept. 1964
'18 Roy W. Hanna	June 1964
'18 Herbert Hoover LL.D.	Oct. 1964
'21 Charles J. McNamara	Sept. 1964
'21 Joseph Weiner	Nov. 1964
'25 Carl Merryman	July 1962
'26 Max P. Rapacz	Aug. 1964
'26 Albert Trepel	Sept. 1964
'26 Lewis H. Tribble LL.M.	Dec. 1963
'27 Irwin M. Ives	May 1964
'27 John M. Piriczky	March 1964
'27 Robert H. Wrubel	Aug. 1964
'29 Celestino C. Vega, Jr.	Nov. 1964
'30 George Nebolsine	March 1964
'31 Bolan Burke	July 1964
'31 Edward K. Mills Jr.	Aug. 1964
'31 William W. Wernitz	Nov. 1964
'32 Joseph A. Segal	Sept. 1964
'35 Lewis R. Whitehead	Dec. 1964
'39 Kenneth P. Dillon	March 1964
'50 John J. Czyzak	Feb. 1964
'52 Biehun Kumar Gupta J.S.D.	Jan. 1962
'56 George E. Webster	June 1963
'66 Myron Hayden Howell	June 1964
'66 Leonard Arthur Pullman	June 1964

CLASS NOTES

'08

CLARENCE J. BLINN has been elected without opposition to his 16th consecutive two-year term as County Judge (Probate Court) of Oklahoma County, Oklahoma. At its annual luncheon the Oklahoma County Bar Association will present a Lajos Markos oil portrait of Judge Blinn, which will be hung in the Oklahoma County courthouse.

'25

HAROLD S. SHEFELMAN announces the removal of the offices of his law firm, Roberts, Shefelman, Lawrence, Gay & Moch, to 1818 IBM Building, Seattle, Washington.

'26

The American College of Trial Lawyers has announced the election to fellowship of BERNARD WIESS of the firm of Wiess & Costa of Monticello, New York. Mr. Wiess was one of five lawyers from New York State chosen for this award during 1964. Justice Byron R. White '46 received honorary fellowship.

'27

Bradford Boardman
Boardman, Stoddard & McCarthy
955 Main Street
Bridgeport, Conn.

State's Attorney ARTHUR T. GORMAN of Connecticut has resigned after three active years in that post to devote full time to the private practice of law. Mr. Gorman moved into his position as State's Attorney after twenty-one years as assistant to Abraham S. Ullman '23. Prior to that he had served as Assistant U.S. Attorney for Connecticut for more than four years.

'29

James W. Cooper
205 Church Street
New Haven, Conn.

BERNARD P. KOPKIND has announced the removal of the offices of his law firm, Kopkind & Flynn, to 132 Temple Street, New Haven, Conn.

'33

J. Ronald Regnier
Regnier & Moller
37 Lewis Street
Hartford, Conn.

Governor John Dempsey of Connecticut has appointed MARTIN J. MOSTYN of Hartford a judge of the Circuit Court of Connecticut.

'34

Ezekiel G. Stoddard II
Wilmer, Cutler & Pickering
900 17th Street, N.W.
Washington, D.C. 20006

WILLIAM G. WOOD has become a member of the firm of Smith, Stratton, Wise & Heher, with new offices located at 70 Nassau Street, Princeton, New Jersey, and 1412 Trenton Trust Building in Trenton.

'35

John D. J. Moore
W. R. Grace & Co.
7 Hanover Square
New York, N.Y.

JOHN B. FORREST has opened an office for the general practice of law at 22 Boston Post Road, Larchmont, New York.

'36

John Q. Tilson, Jr.
Wiggin & Dana
205 Church Street
New Haven, Conn.

PHILIP C. BROWNELL has been appointed executive vice-president in charge of packaging for the Olin Mathieson Chemical Corporation. Mr. Brownell joined the company in 1947 after service with the Lend-Lease Administration, the Board of Economic Warfare, and the War Production Board. He is a member of the New York, North Carolina, and District of Columbia Bar Associations and has been admitted to practice before the U.S. Supreme Court.

'37

Florence M. Kelley
5 East 10th Street
New York, N.Y.

GUY MARTIN'S law firm in Washington, D.C., has changed its name to Martin, Whitfield & Thaler.

'38

Daniel G. Tenney, Jr.
1 Chase Manhattan Plaza
New York, N.Y.

GERARD C. SMITH has resigned as special assistant to Secretary of State Dean Rusk for coordination of United States policy toward the nuclear problems of the Atlantic Alliance to return to the Center for Foreign Policy Research.

'39

Louis W. Goodkind
Harriman Road
Irvington-on-Hudson, N.Y.

IRVING S. RIBICOFF of Hartford has been elected president of the Connecticut chapter of the Federal Bar Association.

ALBRIDGE C. SMITH III announces the removal of his law offices to 70 Nassau Street, Princeton, New Jersey.

'41

Harry O. H. Frelinghuysen
Far Hills, New Jersey

Before returning to Washington for the convening of the present session of Congress, Congressman PETER H. B. FRELINGHUYSEN attended a series of December meetings in Europe as a delegate to the 13th Conference of the United Nations Education, Scientific and Cultural Organization.

'43

Charles T. Stewart
J. C. Penney Co.
330 West 34th Street
New York, N.Y.

RUFUS KING announces the removal of his law offices to 827 Woodward Building, 15th and H Streets, N.W., Washington, D.C.

'47

Morgan P. Ames
Cummings & Lockwood
1 Atlantic Street
Stamford, Conn.

ROBERT COHN of Atlanta has be-

come a hearing examiner for the National Labor Relations Board. Mr. Cohn was with the NLRB as an attorney from 1950 to 1956. Since then he has been primarily an attorney for the International Ladies' Garment Workers Union, AFL-CIO, in the Southeast.

'50 William O. Shank
Chemetron Corp.
840 North Michigan Ave.
Chicago, Ill.

On November 18, 1964, **ELLIOTT E. VOSE** was married to Mrs. Pamela Daly Law in New York City. Mr. Vose is a vice-president of the Singer Sewing Machine Company.

'51 Peter G. Smith
Southern Natural Gas Co.
Box 2563
Birmingham, Ala.

RICHARD N. GARDNER, Deputy Assistant Secretary of State for International Organization Affairs, is the author of a new book, *In Pursuit of World Order: U.S. Foreign Policy and International Organizations*, which was published in December by Frederick A. Praeger, Inc. The book describes the efforts of the Kennedy and Johnson Administrations to promote the common interests of mankind in peace and welfare through the United Nations and other international organizations. Ambassador Adlai E. Stevenson has described it as "a lively and important book for everybody interested in the practical problems of peace in the nuclear age."

OSCAR S. GRAY has become a vice president of the Nuclear Materials and Equipment Corporation of Apollo, Pennsylvania. Mr. Gray has been secretary and treasurer of the company since 1957 and is a former member of the Legal Adviser's Office of the Department of State.

'52 George H. Nofer, II
Schnader, Harrison, Segal
& Lewis
1791 Packard Building
Philadelphia, Pa.

WALLACE BARNES has been elected president of the Associated Spring Corporation in Bristol, Connecticut.

'54 Harold G. Sterling
14 Devonshire Terrace
West Orange, N.J.

THOMAS M. KERR JR. has become a member of the firm of Patterson, Crawford, Arensberg & Dunn, 1404 First National Bank Building, Pittsburgh, Pa.

RICHARD S. NAIR has become vice president, corporate finance department, of the First California Company, Inc., in San Francisco.

JAMES STOTTER II has become an associate in the firm of Valensi & Rose in Beverly Hills, California.

DAVID R. TILLINGHAST, having resigned as Special Assistant for International Tax Affairs in the U.S. Treasury Department, has rejoined Hughes, Hubbard, Blair & Reed at One Wall Street, New York.

'55 John J. Hart Jr.
37 Wall Street
New York, N.Y.

DONALD J. COHN, who resigned as administrative assistant to the United States Attorney for the Southern District of New York, has become a member of the firm of Webster, Sheffield, Fleischman, Hitchcock & Chrystie at One Rockefeller Plaza, New York.

ARTHUR E. OTTEN JR. has become a member of the firm of Hodges, Silverstein, Hodges & Harrington, 1360 Denver Club Building, Denver, Colorado.

'56 Arnold J. Bai
Goldstein & Peck
955 Main Street
Bridgeport, Conn.

KENNETH F. CLARK JR. announces a change in the name of his firm which is now known as McCloy, Wellford & Clark. The firm's offices remain in the First National Bank Building in Memphis, Tennessee.

JOHN T. SUBAK, formerly an associate in the Philadelphia firm of Dechert, Price & Rhoads, has now become a member of the firm.

BENN E. G. EILERT worked as a member of the staff of Charles H. Percy, Republican candidate for Governor of Illinois last fall. Mr. Eilert is now engaged in the general practice of law in Geneva, Illinois.

RONALD L. GOLDFARB was on the staff of Robert F. Kennedy during his successful campaign for the U.S. Senate in New York.

On October 24, 1964, **MARTEN H. A. VAN HEUVEN** was married to Ruth Margerete Held in Manhasset, L.I., N.Y.

DR. CARL M. FRANKLIN '56 J.S.D., vice-president for financial affairs at the University of Southern California, has been elected president of the Association of Independent California Colleges and Universities.

'57 A. Edward Gottesman
Coudert Brothers
Aldwych House, Aldwych
London W.C. 2., England

ALAN DOFT has become engaged to Miss Elisabeth Hoffman of Fairfield, Connecticut. Miss Hoffman is an alumna of Wellesley College, Class of 1964, and is a student at the Yale Graduate School. Mr. Doft is president of the New York investment banking firm of Doft & Co., Inc.

GIACOMO ROCCA has become associated with the firm of Kupfer, Silberfeld, Nathan & Danziger, 405 Lexington Avenue, New York.

SAMUEL LOCKE HIGHLEYMAN has become a member of the firm of Coudert Brothers and will be at the firm's London offices.

AXEL H. BAUM, formerly an associate in the firm of Hughes, Hubbard, Blair & Reed, One Wall Street, New York, has become a member of that firm.

'58 Joel J. Sprayregen
Aaron, Aaron, Schimberg & Hess
38 South Dearborn Street
Chicago, Ill.

The *New York Times* "Review of the Week in Law" on December 6, 1964, said that **ROBERT ZICKLIN** had made "judicial history." Bob persuaded a Justice of the New York Supreme Court, and the District Attorney of Staten Island, to release a prisoner who had remained incarcerated only because he was too poor to pay a fine. The executive director of the Vera Foundation, which has run the Manhattan Bail Project, asked Bob to take the case. Ac-

cording to the *Times*: "Some experts in the criminal law said that this was the first noted occasion in which a judge had remitted an alternative sentence because of the prisoner's poverty. As discussion continues on the problem of poverty and the criminal law, the Grosso case is sure to be cited often."

ARTHUR FLEISCHER JR. former executive assistant to the chairman of the Securities and Exchange Commission, has resumed his association with Strasser, Spiegelberg, Fried & Frank, 120 Broadway, New York.

THOMAS J. WINANS has joined the legal staff of the Hooker Chemical Corporation as associate counsel, at corporate headquarters in New York City.

Since graduating from the Law School **EUGENE W. LANDY** has become the founder, director, secretary, and counsel to the Monmouth Capital Corporation, a publicly owned small business investment company, and has recently started a new bank, the Eatontown National Bank in New Jersey, of which he is a director, vice-president and counsel.

WILLIAM C. BASKIN, associated with the New Haven law firm of Wiggin & Dana since his graduation, has become a partner in the firm.

LARRY LEVINE is a member of a new partnership, Beldock, Levine & Hoffman, 385 Madison Avenue, New York City.

ABBOTT A. LEBAN has joined the Law Department of the Equitable Life mitchel Aron, in New York City.

'59 Jeremy E. Butler
Lewis, Roca, Scoville, Beauchamp
& Linton
919 Title & Trust Building
Phoenix, Ariz.

On September 6, 1964, Mr. and Mrs. **RICHARD MAIDMAN** became the proud parents of their second son, Mitchel Aron, in New York City.

HENRY A. LESLIE '59 J.S.D. has been appointed vice president and senior trust officer of the Union Bank and Trust Company, Montgomery, Alabama.

DONALD HOROWITZ received a considerable amount of publicity this

fall as counsel for State (Washington) Representative Charles Savage in a law suit brought against eleven persons whom he accused of libel and slander and conspiracy to brand him as a Communist.

As the years unfold, my contact with some of you is becoming limited to the annual Christmas card, but limited though the contact may be, it gives me something to talk about in the issues which follow Christmas.

ALAN WURTZEL sent us greetings from Washington, D.C., and announced that he had just become the Legislative Assistant to Senator Joseph D. Tydings (Dem. Md.). Alan and Barbara now have three children and when Alan was in Phoenix he reported that Barbara was doing graduate work. I think that it is safe to assume that it is a rather busy household.

TY HILBRECHT of Ruymann, Hilbrecht & Jones, in Las Vegas, had the foresight to enclose a calendar in his Christmas card. It was not as colorful a calendar as one might expect from Las Vegas, but then I am not sure that those kinds of calendars fit in one's billfold.

PETE ALEGI has joined the firm of Baker, McKenzie & Hightower in Chicago. The firm has a fascinating masthead inasmuch as there are offices in Brussels, Caracas, Frankfurt, London, Paris, Tokyo, Zurich, and several other foreign cities. Pete mentioned that the firm was particularly active in the field of international trade and development.

DICK STREETER wrote me several weeks ago and reported that he is now Assistant General Counsel for the United States Senate Democratic Policy Committee. The Committee is active in selecting bills for Senate consideration and the legislative process of getting bills passed.

ALLEN POPPLETON informed me that he has left southern California and is now with the firm of Bradley, Arant, Rose & White in Birmingham, Alabama.

There have been several announcements regarding the opening of new firms and becoming a partner. Let me

just report those, seriatim: **MITCH EZER** has joined with Richard P. Rich in Los Angeles; **FRED McNABB** is a partner in the firm of Goldstein, Goldman, Kessler & Underberg in Rochester; **BOB GINSBERG** appears to be still on his own in Manhattan; **DICK WINOKUR** is doing the same in Miami, Florida; **JACK WALTUCH** has joined with James P. Driscoll, forming a firm in Norwalk, Connecticut; **MARV B. DURNING** has opened his own office in Seattle; and **LAWRENCE F. DOPPELT** has become a partner in the firm of Dorfman, DeKoven & Cohen in Chicago.

Penny, the children and I took a 7,500 mile trip this summer in a Chevrolet panel truck which I had converted into an erstwhile camper. I must report that 7,500 miles is too great a distance to cover in three weeks but we achieved it and are looking forward to more such activity this summer. Our trip took us to Washington, D.C., where we stayed with Carlene and **MIKE PERTSCHUK**. Mike had just left his position with Senator Neuberger and was joining the legal staff of the Senate Committee on Interstate Commerce. We spent a few days in New York with Penny's parents while **BILLY KASS** and I conferred on a mutual problem. Billy has joined two others in forming a firm in midtown Manhattan. We passed through New Haven only long enough to note that the Quonset huts are gone and to stare at the fascinating new buildings on the Yale campus. We returned to Phoenix by way of Maine and such far-out places as my birthplace in North Dakota.

ROGER SHERMAN and I have been working together on one or two matters, the most recent of which may take me to Puerto Vallarta, Mexico. I read with particular interest a letter from the **CULLENS** about Mike's campaign for Congress. I devoted a fair portion of my time during the fall to an unsuccessful attempt to elect a Congressman from Phoenix.

SANDY SOUTER is one of the founders of the firm of Baggitt, Souter & Stonaker in Princeton, of all places.

I almost forgot to mention that we did

receive a note from Michele and **TERRY CONE** from Brussels. Terry continues to be involved in the legal problems arising out of the Common Market.

I hope I will hear from more of you before the next Christmas onrush.

'60 George M. Cohen
Cleary, Gottlieb, Steen &
Hamilton
52 Wall Street
New York, N.Y. 10005

WILLIAM T. BARR has joined the staff of the Chief Counsel's Office, NASA Manned Spacecraft Center, Houston, Texas.

ARTHUR M. NASSAU, formerly an associate with the firm of Rogin, Nassau, Caplan & Lassman in Hartford, Connecticut, is now a partner of the firm.

RICHARD J. ABRAMS has become a member of the firm of Richards, Layton & Finger in Wilmington, Delaware.

'61 Ralph G. Elliot
27 Brookline Drive
West Hartford, Conn.

Your Scribe confines this winter's tale to news of a professional nature. Herewith, the movings and shakings of sundry classmates:

PAT CONNELL has joined **GERRY MANGES** as an aide to New York's Senator Jacob Javits.

ADAM WALINSKY has left the Justice Department to serve as legislative aide to New York's other senator, Robert Kennedy.

PAULA LAWTON, recently returned from a year's study in South America, has joined the staff of the U.S. Puerto Rico Status Commission in Washington.

JAN and **BARBARA DEUTSCH** have moved to Cleveland, where Jan is with the firm of Jones, Day, Cockley & Reavis.

ED MEYER has joined the boys down at Foley Square as an Assistant United States Attorney in New York (an item I gleaned from Ed's own column in the Yale College Alumni Mag — ah, the sources a Scribe must resort to!).

MARGARET MACKENZIE is now an Assistant Lecturer on the Faculty of Law at the University of Leeds, Leeds 2, United Kingdom.

LARRY O'BRIEN has been made a member of the New Haven firm of Daggett, Colby & Hooker.

And finally, a sad note. Over the weekend in which this column was written, the newspapers reported the death of Professor Fowler Harper; and I know that I express the feelings of all members of the Class of '61 when I extend to his widow and his family the deepest sympathy of us all.

'63 Ashley L. Ford
6 Field Lane
Cincinnati, Ohio

Katy and **BARCLAY ROBINSON** write from West Hartford of the birth of a son and heir, Timothy Trumbull, on October 15. Timothy is reported to already "argue his cases well — for his bottle!" Congratulations Kate and Bark!

Jean and **BOB PHAY** are stationed with the 77th Medical Depot, whatever that is, in Vitry-le-Francois, France, where Bob is a Lieutenant with the U.S. Army.

Marcie and **ARMAND DERFNER** report from Washington that Armand has been admitted to the D.C. bar and is now with Covington and Burling. Marcie reports that she hopes soon to be working in the Washington area herself.

ED GORDON is back from reading in international law at Cambridge and is now working at Reid & Priest in New York. Ed wrote his paper at Cambridge on the International Court of Justice and is now specializing in international matters. Ed writes that **STEVE LOWENSTEIN** was found by him in Geneva working on materials for a course in criminal law to be given at Haile Selassie I University in Addis Ababa. **OWEN CYLKE** is reported to be with that University as well.

ARTHUR M. LEVINE has become an associate of the firm of McLaughlin & Stern in New York City.

ARTHUR V. GRASECK JR. has joined the staff of the New York Labor Relations Board.

ARTHUR LA FRANCE has become an associate in the firm of Gager, Henry

& Narkis in Waterbury, Connecticut.

I have a report that **KEN ROSENTHAL** has finished his clerkship with the Chancery Division of the Superior Court in New Jersey and is spending half a year as part of the fund-raising machinery for Amherst College.

PETER FELCHER writes from New York of his September marriage to Nancy Alice Kane, from Mechanicsburg, Pa., and Goucher College. Nancy and Pete are settled in Brooklyn Heights, from which Pete commutes across the river to Dewey, Ballantine.

Pete reports on **MIKE HEITNER'S** recent blast at which all manner of class members were seen, including Gail and **TED DONSON**, Pam and **JIM MURRAY**, **ED GORDON**, **JOE GELB**, **BOB SCHNEIDER**, and **BILLY AHN**. There may have been others, but this is all I can report.

ED MILLER has moved from the Labor Department in Washington to the office of the U.S. Attorney for the District of Columbia. Ed says he is busy learning all about criminal law after drafting research contracts for a year.

DAVIS MICHEL out in Oregon apparently knows a good thing when he sees it: this is hearsay, but I understand that Betty and Davis have got in or started a business dealing in prepared sandwiches and foods, which proves to be as good a line as it was with Equity Chow back in New Haven!

I have it that **DAVE PIERSON** is now married, the great date being December 19 out in Omaha. I have only her first name, Leilani, but of course now it is Pierson. Congratulations, you all!

'64 Edward L. Barlow
Cravath, Swaine & Moore
1 Chase Manhattan Plaza
New York, N.Y. 10005
and
Monroe E. Price
Chambers of Justice Potter
Stewart
U. S. Supreme Court
Washington, D.C. 20543

A multitude of weddings occupy the social section of this quarter's report.

Shortly after graduation **DAVE AUSTERN** was married to Hope Sinauer in New York, where they are now living. Hope, in the midst of her second year at the Law School, commutes three days a week to New Haven.

The wedding of **BOB BEIZER** and Clotilde Benitez, 1963L, in New York on September 3 was reported in the Class of '63 Notes this fall. It deserves coverage here as well. The Beizers live in New Haven, where Clotilde is head of the French department at Quinnipiac College and Bob clerks for Judge Anderson.

On May 31, **MARK BISHOFF** and Barbara Namkin married in Washington, D.C., and now living in Baltimore.

TOM MAZZA'S was, no doubt, the first post-Law School wedding. Tom turned in his last exam en route to Alexandria, Virginia, where he and Elizabeth Denholm were married on May 30.

STEVE FIELD and Linda Helen Schneider were married in Manhattan's Hampshire House on July 26.

BOB HOLT and Georgia MacLean, recently of the Law School administration, were married in August in New York. They are now in Atlanta where Bob is a member of the Georgia Bar.

The latest item, as these Notes go to press in early January, is the January 3 marriage of **JIM JALENAK** to Natalie Block in Buffalo. Jim and Natalie left after the wedding for St. Thomas Island and a honeymoon spot drolly named Bluebeard's Castle.

Immediately following the summer New York Bar exam, **DICK KATZIVE** was married to Marion Coen. The wedding, on July 19, took place in Passaic, N.J.

STEVE MINIKES and Sally Turner married on June 20 in Mystic, Conn., and then took a summer's tour of the United States before settling in New York City in the fall.

HEATON NASH married Janis Kay Neschke in Milford, Conn., during the summer. They traveled in New England before taking up residence in Baltimore in October.

On July 19 **AL SCHWARTZ** and Ilsa Roslow, a graduate student at Yale last year, were married in New York.

Also on July 19 **EARL SHAPIRO** and Brenda Ellen Mulmed were married in Tulsa while Earl battled a case of mononucleosis discovered on the wedding day. A sustained 104-degree temperature (Earl's, not necessarily Tulsa's) reduced their planned European honeymoon to a trip to New York, where Earl, fully recovered, now clerks for Judge Bonsal of the Southern District and next summer will become an associate at Hughes, Hubbard, Blair & Reed.

DAVE WHARTON married Patricia Granville Ditton in Buffalo on June 20. They then braved the treacheries of the Alcan Highway in a new Pontiac Le Mans to reach Juneau, where Dave is Special Assistant to the Attorney General of Alaska.

Two major prizes were won by **PETER STRAUSS** this fall. On October 10 he and onetime Law School classmate Joanna Burnstine were married in Larchmont. Joanna is now working toward a master's degree in social work under a Smith College program in Baltimore. Shortly after the wedding Peter was chosen by Justice Brennan as one of his Supreme Court clerks for next year. Peter, apparently, is Justice Brennan's first non-Harvard selection.

STEVE UMIN, ending a tour with Justice Traynor in California, will clerk next year for Justice Potter Stewart in Washington.

Among the international travelers, **JOHN KOSKINEN** is in England this year, working on a project at Cambridge for Professor Abe Goldstein. Next year John will clerk for Judge David Bazelon on the District of Columbia Circuit.

Some spent Christmas vacation abroad. **JON** and Pru **BLAKE** were in England, and **MONROE PRICE** was in Portugal and France. Monroe is engaged to Aimée Brown, who is currently doing research in Paris for her doctorate in art history at Yale.

After devoting the summer to a Euro-

pean tour, **BOB HOROWITZ** began practicing law in Georgia, but the appeal of New York won him back. Bob is now a tax lawyer at Cravath, Swaine & Moore, where he had been a summer associate in 1963.

At least three other New York law firm associates were not listed in last summer's *Law Report*: **ROGER TOMPKINS** is a litigator at Sullivan & Cromwell; **AL LOEB** is at Stroock & Stroock & Lavan; and **BON LOMBARDI** is with Adams & Eyster.

Political notes: Seen in October at a fund-raising dinner in New York for Congressman Stanley Tupper of Maine was **ELI JACOBS**, campaigning for Senator Hugh Scott of Pennsylvania. The geographic juxtaposition is somewhat puzzling but the results, with Eli involved, were, of course, certain — both Tupper and Scott were reelected.

The armed forces claimed a few classmates. **PEARSON SMITH**, apprentice fireman, was in the Indiana National Guard at Terre Haute until February, following six weeks of basic at Lackland AFB in San Antonio, where Airman **TIM O'REILLY** is currently in training. Privates **GIL O'CONNELL** and **JIM POLLOCK** took up residence at Fort Dix for four months through December.

Bar exam results appear to be excellent. Complete successes have been announced from Connecticut, Georgia, and Idaho, and a very high percentage from California. The New York returns were also extremely satisfactory, perhaps in part because of the recently adopted New York Uniform Commercial Code, an area covered rather thoroughly at Yale. That may be what caused one graduate of Brooklyn Law School to allegedly grumble: "Yale, yeah, that's where they spend three years studying for the New York Bar exam."

As proclaimed by co-chairmen **BOB HOROWITZ** and **ROGER TOMPKINS**, the Class of 1964 traditional Northeastern Seaboard and Contingent Areas Cocktail and Dinner Party will be held sometime in late March or early April in New York. More on that by mail.

Yale Law Report

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New Haven, Conn.

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American worker could easily commute from New York to Washington or from San Francisco to Los Angeles.

-- Commercial airplanes will be flying two or three times the speed of sound on transoceanic runs, so that it will be no effort to spend the morning at the office, fly to London or Paris for a conference, and be home for dinner.

-- By about 1970 the United States and Russia will land men on the moon; by the early 1980s men may reach Mars.

-- Controlled nuclear fusion could be providing cheap power in practically unlimited amounts.

-- Satellites and high speed data transmitters will link all parts of the world in an instant communications network.

-- Seawater could be economically converted to fresh water.

-- Automation will produce many items so cheaply that it will be more practical to replace them than to repair them. (Don't call the TV repair man -- throw your set away and buy a new one -- it's cheaper!)

-- Exciting breakthroughs will be made in biology. One scientist recently wrote, "It is plausible that in the next twenty

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years a baby's sex may be predetermined or, at least, the probability increased that a baby will be of the chosen sex." (Can't you hear a man saying to his wife, "Dear, let's have two of each.")

Yet in this Brave New World, this automated-nuclear-cybernated-supersonic tomorrow, the most vital decisions will still be made by men -- not machines.

No giant computer, no sophisticated data processor can deal adequately with the key questions of society -- the questions of war or peace, prosperity or poverty, man's relations with his fellow man, international amity or enmity.

These must still be resolved by the most complicated mechanism ever devised -- the human brain.

We may shake our heads and say, "Man can fly to the moon. Why can't he live in peace on earth?"

Indeed, we can expect, as the distance widens between the giant steps of technological advancement and the snail's pace of human understanding, that we will feel increasingly frustrated.

There will undoubtedly be those who will feed on these

4/29/65

Tomorrow being Derby Day at Louisville, I am reminded of Mark Twain's insight regarding the nature of our American society.

" It were not best, " he wrote, " that we should all think alike; it is a difference of opinion that makes horseraces. "

Let me say that I have absolutely no opinion, different or otherwise, concerning tomorrow's Kentucky Derby. I address any inquiry along that line to another Yale alumnus in Washington, the distinguished Senator from the blue-grass country, Thruston Morton.

But as House Minority Leader in the so-called Age of Consensus, I do have some ready opinions in the matter of differences of opinion and dissent in 1965 America.

Difference of opinion does make for horseraces -- but for a republic to survive, something greater is required of its citizens. Our need is for responsible dissent.

In the Nation's Capital, we of the Republican Party recognize the necessity of informed and responsible opposition to Johnson Administration programs. And we mean to fulfill our function as the Party of opposition in a constructive and responsible manner.

But briefly let me address my remarks beyond the Capitol Hill scene. For we must all recognize a growing threat posed our society and the country by irresponsible expressions of dissent in this time of national crisis.

I refer to the crisis in Southeast Asia . It should be sufficient that our Nation's enemies know that the overwhelming majority of Republicans in Congress, though opposed to many of the President's domestic programs, support him in the matter of standing firm against aggression in Viet Nam. In fact, it is

Yale Law School Alumni Dinner

April 30, 1965

After November, 1960, it was said that Yale men were planning

the inception of
to form a government-in-exile with a few subversives like myself who
were elected under the cloak of another diploma.

You will recall that after that institution in Cambridge pulled
off its successful coup d'etat, there were some who thought the seat of
government was going to be relocated on the banks of the Charles River.

I even know of Yalies in Washington who gave their return address
as "Elba-on-the-Potomac."

Well, all that has changed now.

In government circles, I am sorry to say, Yale is still "out."

But, at least, it is my pleasure to report to you that Harvard is now
equally unfashionable! (Except for McGeorge Bundy, who now speaks with
Texas
a drawl.)



One it was thought that the only inevitables in this life were "death and taxes." But now it appears that this should be changed to "death and Texas."

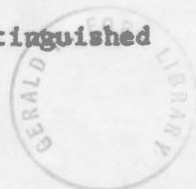
Of course, to be really far out, one must be both a Yale man and a Republican. I qualify on both counts. But, to coin a phrase -- with a little different twist -- we shall overcome.

Back in 1934 I came to New Haven to coach football & work admin. to Yale Law School, I had accepted an offer to play professional football with the Green Bay Packers, -- perhaps on the Supreme Court!
I often wonder where I'd be today if in 1934, instead of going

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When Governor Scranton was here last year, he said he would talk on a "safe subject" -- politics! Being a peaceful man myself, ~~and~~ wishing to avoid controversy whenever possible, I, too, will ^{same} stick to that safe subject.
1

But, as House Minority Leader in the so-called age of consensus, I do have some ready views in the matter of differences of opinion and dissent in 1965 America.

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here
I refer to the crisis in Southeast Asia. It should be sufficient that our Nation's enemies know that the overwhelming majority of *The loyal opposition* Republicans in Congress, though opposed to many of the President's domestic programs, support him in the matter of standing firm against aggression in Viet Nam. In fact, it is worth commenting that President Johnson might wish for an equal amount of support for his Viet Nam stand from members of his own Democratic Party.

I consider it incredible that a source of such irresponsible modern-day "know-nothing" dissent, based on emotional disregard for the morality and facts of the case, should spring from *very* a few of our university campuses.

And I consider it appalling that much of the leadership for picketing with anti-American slogans in what at times amounts to irresponsible mob action comes from a ^{very} small minority of university professors purporting to carry forward the banner of free academic inquiry.

Indeed, a central purpose of universities of free inquiry in our society is to prepare succeeding generations for the assumption of responsibility as citizens. Whenever our educational institutions fail to inculcate this sense of responsibility toward community and nation in their students, serious trouble for the Republic lies ahead.

This has been the case throughout history. This century offers tragic proof of the penalties which societies and nations pay for not meeting this fundamental requirement for existence.

During the recent Easter week-end demonstrations in Washington, some placards read: "Why Die for Viet Nam?"



How many of us remember the similar question raised by irresponsible voices in Chamberlain's Britain, little over a quarter century ago:

"Why Die for the Sudentanland?" and "Why Die for Danzig?"

We know now -- and many of us knew then -- that these pacifist voices were serving the purposes of Nazi aggression. The placard-bearers cried for peace -- while the seeds for Buchenwald and Belsen were taking root.

Today, our so-called "teach-ins" and "peace" demonstrations cry for peace-at-any-price -- while the seeds of Communist atrocity take root. And yet the appeasers speak for morality.

Others are concerned with the physical uncleanness of these irresponsible protesters. I am not so much concerned with their personal hygiene as with their moral sterility. For, if we condemn public apathy toward victims of street crimes, what can we say of apathy and disinterest regarding victims of Communist aggression?



It is, of course, an apathy and disinterest shown only by a small, small minority of American professors and students. The so-called teach-ins -- which I regret to say may have begun at my own University of Michigan -- are not truly representative of the Nation's university campuses. However, it remains for responsible leaders of American higher education to make this fact unmistakably clear to our people.

The well-intentioned but unrealistic placard-carrying marchers, who bear no public responsibilities, cannot alter this country's policy in Viet Nam. But a danger exists that they will bring about a damaging loss of public confidence in the aims and operation of the country's educational system. In addition, their words and actions may lead to a dangerous miscalculation by the enemy of our Nation's course of present and future action. Such miscalculation by the Communists in Peiping or elsewhere could have dire consequences for all mankind.



Certainly, there must always be a place for responsible dissent and free inquiry on our university campuses. But, as President Nabrit of Howard University pointed out this past week, there is no place for irresponsible disruption of academic pursuits on behalf of forces opposed to our system.

Dr. Wilson H. Elkins, President of the University of Maryland, expressed a similar idea, saying that respect of students for authority and law is essential to the development of good citizenship, and the "insidious erosion, and sometimes outright defiance of authority, is a dangerous trend in our society."

Dr. Elkins added: "It seems clear that if any student or group.... is allowed to seize power in the name of freedom of speech, then the universities should close their doors before rigor mortis sets in."

It is not too much to expect university students to understand that along with free academic inquiry goes responsibility to country



and society. And it is certainly not too much to expect their professors to know and teach that the prime master of free inquiry in Western society did not walk the streets of Athens carrying a placard asking "Why Die for Marathon?" when his community was threatened.

Indeed, Socrates knew the answer. He was prepared to do battle, and if necessary, die to preserve the freedom of others...yet my main thesis tonight is the need for responsible dissent in the Age of Consensus.

In the years ahead, as never before, we must beware of men with ready answers.

For we will still have to live -- and find answers -- under moral ground-rules that were set down twenty centuries ago and under political ground-rules that were set down two centuries ago.

Leaving the former to the theologians, I would like to make some comments on the latter.



The American Constitution was not divinely created. The Founding Fathers, after all, were merely mortals -- why, four of them were even Yale men! (Harvard had only three. Though we must admit that nine came from Princeton!)

The important point to stress when discussing the Constitution, I believe, is not that it has been sanctified by time and tradition. Nor need we dwell on its immutability -- it can and has been changed from time to time. What is important is that it works. We have lived successfully and amicably under it. In a society that has always prided itself on pragmatism, this is the ultimate test.

The keystone of our Constitution has been its system of balances -- balances between levels of government, and balances between branches of government.

Anyone who has ever worked with balances in a scientific laboratory knows that they are finely attuned instruments. One must be



constantly alert to keep them in kilter; one must make immediate adjustments when there is a malfunction. Our governmental balances are no different in principle.

The legislative-executive-judicial balance, as established by our Constitution, is a simple, yet ingenious, system of insuring our freedom.

Yet today there are disturbing signs of slow erosion in the power of the Legislative, build-up of awesome power in the Executive, and regrettable change in the intended direction of the Judiciary. Each is a threat to freedom.

I think that much of today's criticism of Congress, the legislative branch, is a manifestation of our frustrations -- the tensions of a prolonged Cold War, the anomaly of poverty in the midst of plenty, the complexity of highly urbanized living, the gap between the American Ideal of equality and its realization.



"Let's stop talking and get things done!" we would like to shout at one time or another.

But Congress, by design, is a deliberative body -- 435 representatives in the House and 100 in the Senate who must reach majority decisions.

This criticism -- that Congress is too cumbersome, too old-fashioned -- is basically unwarranted for two reasons.

First, because Congress has repeatedly proved that it can act with dispatch to meet crisis. You will recall, for example, that in the famous Hundred Days of 1933, some bills were voted into law even before they were printed.

Second, because the advantages of precipitous action are often outweighed by the safeguards of deliberate slowness.

In the race to the brink of decision one can easily fall over into the chasm of irresponsibility. It is to prevent this dangerous



plunge that the Constitution provided checks and balances. It is only proper, when one stops to consider, that Congress should reach its major decisions after adequate research, thought, and full discussion.

After all, if the ultimate goal of government were merely speed, we could institute a dictatorship. What could be faster than one man giving an uncontestable order?

When the balance in Congress is steeply tilted by an overwhelming majority in one political party -- as it is today, with 294 Democrats and 140 Republicans in the House -- our system of checks and balances is further endangered.

This is because our two-party system, although not written into the Constitution, builds into government an additional set of checks and balances. Early in our history, a wise decision was made to follow the pattern of a two-party system. We avoided the loss of freedom of a one-party government; we avoided the chaos and confusion of a multi-party government.



Not only does a strong second party provide the electorate with legislative alternatives but also with a remarkably high level of honesty and frankness.

Without indulging in partisanship, I am sure we can all agree that a strong two-party system is Democracy's life insurance -- protection for our children against any drift toward authoritarianism. Conversely, a crushing over-balance of strength in either party for too long will make a mockery of our traditions in government and weaken the voice of the people.

This threat to the American system becomes even more serious when both legislative and executive branches are dominated by the same party.

The temptation for the President's majority in Congress to simply rubber-stamp his proposals can become irresistible. [Especially when the President is a master at the art of arm-twisting -- or as the present incumbent calls it, "reasoning together!"] The recently-passed Education



Act is a case in point. We had such quick passage of a bill without Congress really working its will that many conscientious citizens feel it raised more questions than answers. So, we now hear talk of correcting the flaws with additional legislation. But this is hardly an adequate substitute for well thought-out action.

We must also remember that the burgeoning growth of Big Government has given the President virtually unlimited resources for working his will. Besides the increased patronage and the increased leverage of administering massive spending programs, he now controls a veritable army of experts, researchers and propagandists whose job it is to present his administration in the best possible light to the American people.

Great power in a democracy should require great self-restraint. Yet only two weeks ago we were dramatically reminded that this is not always the case. I am referring to April 15th -- the day of reckoning for the American taxpayer. An incalculable number of citizens were then obliged to go into debt as a delayed result of federal tax legislation.

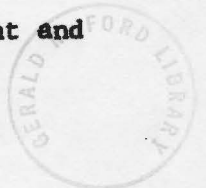


Nasser
Education

^{some}
with political overtones. What happened was that after the 1964 tax reduction was passed the Administration wished to bask in the sun of voter gratitude, while muting the politically disagreeable fact that cutting the withholding tax would leave the taxpayer with a larger cash obligation to the Treasury on April 15th, 1965, than in previous years. The Administration's action -- in allowing a false impression to exist -- reminded columnist Arthur Krock of a television commercial that used fake sandpaper in a shaving cream demonstration. But in the case of the commercial fakery, the Federal Trade Commission ordered the company to case and desist. Nobody, however, requested the Administration to do likewise.

^a
Today, ~~the~~ President is king pin of the branch of government that employs over five million civilian and military personnel, with a yearly payroll cost of \$28 billion, and a total expenditure of over 127 billion tax dollars in fiscal 1966.

This is awesome power, indeed. And if consistently used improperly could mean the withering away of our tripartite system of government and the eventual death of the two-party system.

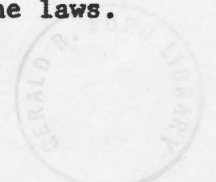


It is also necessary to remember that while the President is chief executive of all of us, he basically represents the views of only those who voted for him. (Many times this has meant less than a majority of the people.)

On the other hand, members of Congress, and particularly those in the House of Representatives, are closer to the Nation's citizens. They are chosen by smaller segments of the Nation. In the House they are elected every two years. They represent every section of the country, rural and city, suburbs, blue-collar and white-collar, every major profession, doctors and lawyers, nearly every national origin, Protestant, Catholic, Jew, Negro, even American Indian.

This is your strength. It should not be diluted by an over-balance in the executive and judicial branches of government.

While it is the duty of the legislative branch to enact laws, and the duty of the executive branch to administer laws, it is the duty of the third branch of government, the Judiciary, to interpret the laws.

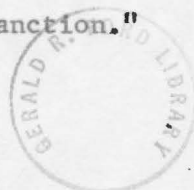


Unfortunately there is evidence that the Judicial branch is now arbitrarily elbowing its way into new positions of authority, and disregarding the wise suggestion of judicial restraint made by the late Justice Frankfurter and others.

When the Supreme Court ordered the states to reapportion on the "one-man , one vote" concept, Justice Frankfurter, in a dissenting ^a opinion, was critical of an assumption by the Court of "destructively ₁ novel judicial power."

"In this situation, as in others of like nature," Justice Frankfurter said, "appeal for relief does not belong here. Appeal must be made to an informed, civically militant electorate. In a democratic society like ours," he continued, "relief must come through an aroused public conscience that sears the conscience of the people's representatives."

Justice Frankfurter emphasized that the Supreme "Court's authority-- possessed neither of the purse nor the sword -- ultimately rests on sustained public confidence in its moral sanction."

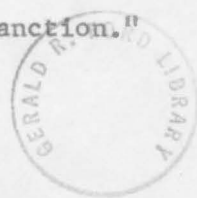


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It seems to me that the major goals to be sought in the area of government are two-fold. First: a sensitive balance between executive, legislative and judicial branches; Second: a strong two-party system.

As the goals are simple and straightforward, so, too, are the means of reaching them: a renewed sense of citizen participation at all levels of government; alert, enlightened and unfettered news media; self-restraint by those in positions of public trust; a general understanding of the workings of the American governmental system, so as to be able to detect deviations from it; and, above all, constant vigilance.

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I consider it incredible that the source of such irresponsible modern-day Know-Nothing dissent -- that is, dissent based on emotional disregard for the morality and facts of the case -- should spring from our university campuses.

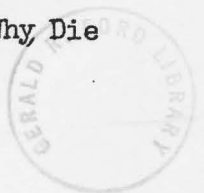
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Indeed, a central purpose of universities of free inquiry in a society such as ours is to prepare succeeding generations for the assumption of responsibility as citizens. And whenever ^(G.I.) educational institutions fail to inculcate this sense of responsibility toward community and nation in their students, serious trouble for the republic lies ahead.

This has been the case throughout history. This century offers tragic proof of the penalties which societies and nations pay for not meeting this fundamental requirement for existence.

During the recent Easter week-end demonstration in Washington, some placards read : " Why Die for Viet Nam ? "

How many of us remember the similar question raised by irresponsible voices in Chamberlain's Britain, a little over a quarter century ago : " Why Die for the Sudetanland ? " and " Why Die for Danzig ? "



Yale Speech - 2

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Yale Speech - 3

We know now -- and many of us did then -- that these pacifist voices were serving the purposes of Nazi aggression. The placard-bearers cried for peace -- while the seeds for Buchenwald and Belsen were taking root.

Today, our so-called "teach-ins" and "peace" demonstrations cry for peace-at-any-price -- while the seeds of Communist atrocity take root. And yet ~~the appeasers speak of morality.~~

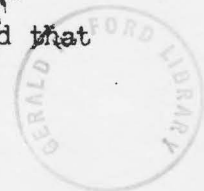
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~~Now~~ It is, of course, an apathy and disinterest shown by only a small minority of American professors and students. These so-called "teach-ins" -- which I regret to say began at my own University of Michigan -- are not truly representative of the Nation's university campuses. Yet it remains for responsible leaders of American higher education to make this fact unmistakably clear to our people.

The pacifists and fellow-travelling irresponsibles cannot alter this country's policy in Viet Nam. But a danger exists that they will bring about a loss of public confidence in the aims and operation of the country's educational system.

There must always be a place for responsible dissent and free inquiry on our university campuses. But as President Nabrit of Howard University pointed out this past week, there is no place for irresponsible disruption of academic pursuits on behalf of forces inimical to our system.

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Yale Speech - 3

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Yale Speech - 4

along with free academic inquiry goes responsibility to country and society. And it is certainly not too much to expect their professors to know and teach that the prime master of free inquiry in Western society, when his community was threatened, did not walk the streets of Athens carrying a placard asking :
" Why Die for Marathon ? "

Indeed, Socrates knew the answer. And he was prepared to do battle and if necessary to die to preserve for others the freedom he cherished.

Yet my main thesis tonight is the need for responsible dissent in the Age of Consensus. (Into body of speech)



Yale speech

Tomorrow being Derby Day at Louisville, I am reminded of Mark Twain's insight regarding the nature of our American society.

"It were not best," he wrote, "that we should all think alike; it is a difference of opinion that makes horse-races."

Let me say that I have absolutely no opinion, different or otherwise, concerning tomorrow's Kentucky Derby. I address my inquiry along that line to another Yale alumnus in Washington---the distinguished Senator from the bluegrass country---Thurston Morton.

But, as House Minority Leader in the so-called age of consensus, I do have some ready ^{views} ~~statements~~ in the matter of differences of opinion and dissent in 1965 America.

Difference of opinion does make for horseraces---but for a republic to survive, something greater is required of its citizens. Our need is for responsible dissent.

In the Nation's Capital, we of the Republican Party recognize the necessity of informed and responsible opposition to Johnson Administration programs. And we mean to fulfill our function as the Party of Opposition in a constructive and responsible manner.

But briefly let me address my remarks beyond the Capitol Hill scene. For we must all recognize a growing threat posed our society and the country by irresponsible expressions of dissent in this time of national crisis.

-more-



I refer to the crisis in Southeast Asia. It should be sufficient that our Nation's enemies know that the overwhelming majority of Republicans in Congress, though opposed to many of the President's domestic programs, support him in the matter of standing firm against aggression in Viet Nam. In fact, it is worth commenting that President Johnson might wish for an equal amount of support for his Viet Nam stand from members of his own Democratic Party.

I consider it incredible that the source of such irresponsible modern-day "know-nothing" dissent based on emotional disregard for the morality and facts of the case should spring from our university campuses.

And I consider it appalling that much of the leadership for picketing with anti-American slogans in what at times amounts to irresponsible mob action comes from university professors purporting to carry forward the banner of free academic inquiry.

Indeed, a central purpose of universities of free inquiry in our society is to prepare succeeding generations for the assumption of responsibility as citizens. Whenever our educational institutions fail to inculcate this sense of responsibility toward community and nation in their students, serious trouble for the republic lies ahead.

This has been the case throughout history. This century offers tragic proof of the penalties which societies and nations pay for not meeting this fundamental requirement for existence.



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New basic non-partisan speech

"Get into Politics"

Our beloved country is faced with historic problems at home and ~~abroad~~ abroad.

Those dealing with foreign policy, naturally grab the headlines and the top of radio-television newscasts.

On the domestic scene, however, the Nation faces double dangers that threaten the very foundations of our Democracy. One is the present imbalance of power in the legislative and executive branches. The other is the possibility that our two-party system could become a ~~myth~~ myth.

Without any indulgence in political ~~partisanism~~ ~~partisanism~~ partisanship, I believe we can agree we must maintain a ^{sensitive} ~~sensitive~~ balance in the branches of government as established by our Constitution.

~~But~~ There are disturbing signs of slow and steady erosion in the power of the Legislative branch, a growing build-up of iron-fisted strength in the executive arm, and a change from the intended direction in the Federal Judiciary.

When either party controls Congress by a crushing 2 to 1 majority, the traditional system of checks and balances in the interest of all Americans is endangered.

As private citizens how can you have a stronger voice in correcting these two dangerous trends that must be reversed to strengthen the foundations of freedom?

Simply stated, the answer is — "get into politics!"

— more —



Practically speak, I know that not all business and professional people can take front-line positions in government as have George Romney, Robert McNamara and others.

However, by being citizen-participants in our Democracy and not just spectators, you develop a stronger loyalty to your community, your State and Nation.

There are many ways of "getting into politics" other than running for office and being elected.

You can fulfill your public responsibilities by establishing closer contact with government officials, encouraging your associates to become more active in practical politics, and by speaking out with courage as individuals on major public issues.

In so doing, you become a strong part of what the late Supreme Court Justice Felix Frankfurter described as an "informed, civically militant electorate."

It is encouraging to see more and more business firms actively supporting bi-partisan political and public affairs programs.

Recently, for example, National Airlines announced a plan designed to encourage employees to serve on local political committees, to seek elective office and to participate in community ~~political~~ activities.

When L. B. Maytag, Jr., president of the airlines, described the program he ~~emphasized~~ emphasized that "while we may not agree among ourselves as to our own choice of political parties and candidates, we thoroughly agree that men and women who actively work for a party and the candidates of their choice are

better citizens and better employees"
- Maytag -

I whole-heartedly endorse the ~~idea of~~ idea of business and industry encouraging employees to become knowledgeable on all sides of leading issues and with all political personalities.

As Mr. Maytag pointed out, "any community is a better place in which to work, to conduct business and to live if the people there actively exercise their rights of citizenship."

As with any ~~challenging~~ ^{challenging} task, it takes mental and ~~moral~~ ^{moral} courage to become involved in the political world as voters, as taxpayers, as partisans, as candidates for office, as office-holders -----as patriots.

It is easier to sit on the sidelines, uttering harping ~~criticism~~ criticism. However, political spectators fail to strengthen the foundations of our Nation. Neither do they help correct an imbalance in the branches of government. Nor do they strengthen the two-party system.

At present, the most glaring example of imbalance in government is the relationship between Congress and the executive branch.

With one political ~~party~~ ^{party} having a 2 to 1 majority in the House and Senate, and the same party dominating the executive branch, ~~approximately~~ approximately nearly half the American electorate is ~~virtually~~ ^{virtually} ignored at this point in time.

Although the present Congress has set some sort of a record for ~~speed~~ adopting legislation that is long on quantity, but short on quality, the legislative branch has been criticized as being too slow to react in this age of speed.

Critics have rapped the House and Senate as being too cumbersome and too *old-fashioned.*



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These critics perhaps are unaware that in Congress a system of checks and balances is provided by the Constitution.

Congress has proved many times that it can react with dispatch to meet a crisis in war or in peacetime, in days of economic depression or in times of golden prosperity.

It has been said by critics that Congress frequently makes haste slowly. However, the act of deliberate slowness is a safeguard against racing to the brink of decision. It prevents a dangerous plunge. Congress should reach its major decisions only after adequate research, thought, and exhaustive discussion.

When the executive branch is dominated by the same political party that controls Congress, the balance of power obviously is steeply tilted.

Although the President is the chief executive and head of state for all of us, he does represent especially the views of the people who voted for him.

Members of Congress, and particularly those in the House, are closer to the citizens because they are chosen by smaller segments of the Nation. Being elected every two ~~years~~ years, Representatives are therefore closer to the people.

As in the Senate, the House is represented by nearly every major profession, national origin and religion. Congress is a cross-section of the American people. This is your strength. It should not be lessened by an over-balance of power.

I include the Federal Judiciary among the branches of government in which a ~~firm~~ sensitive balance of power is essential.



There is evidence that the Judicial Branch is arbitrarily elbowing its way to new positions of authority, disregarding the wise suggestions of restraint made by the late Justice Frankfurter and others.

When the Supreme Court ordered states to reapportion on the "one-man, one-vote" concept, Justice Frankfurter in a dissenting opinion was critical of an assumption by the Court of "destructively novel judicial power."

Justice Frankfurter in essence said that the Court was not the body to decide the issue pointing out "...appeal for relief does not belong here...." He also said that "in a democratic society like ours, relief must come through an aroused public conscience that sears the conscience of the peoples representatives."

Justice Frankfurter emphasized that the Supreme Court's "authority--- possessed neither of the purse nor the sword---ultimately rests on sustained public confidence in its moral sanction."

As private ~~citizens~~ citizens have an opportunity to help create an aroused public conscience. And in becoming part of what Justice Frankfurter described as an "informed, civically militant electorate," you discover the deeper meaning of service and true citizenship.

You have the education, the knowledge; you have proved a willingness to give more of yourselves than you receive.

The Nation needs you and your readiness to accept challenges as loyal citizens of a free society to maintain and to strengthen the two-party political system - at the same time helping to maintain proper balance



non-partisan speech

-6-

I am confident that you will accept your responsibilities in an
exciting, turbulent, demanding and changing time.

#



"Whither America?"

By Congressman August E. Johansen

Prophecy is a precarious business. I offer no final answers to the question "Whither America?" But I do venture to raise that question with respect to four main areas of controversy and concern: I propose to discuss some of the factors, some of the considerations and "ifs", which may well determine the answers; and I venture to suggest that a vigorous two-party system, which means a strengthened Republican party, has an important bearing on the potential answers to "Whither America?"

1. Whither America: With respect to the historic and hallowed concept of a "Government of laws rather than of men"?

The Martin Luther King doctrine that citizens are free to select the laws they choose to obey or disobey is a current challenge to the government of laws, but it is not the only such challenge. Congressional rubber-stamping of Executive demands is "government of men." When, in the words of Mr. Justice Harlan, the judiciary "exceeds its authority" by substituting "its view of what should be so for the amending process," it is government of men. When a President (Franklin D. Roosevelt) urges the Congress to pass a law regardless of "doubts as to constitutionality, however reasonable", it is government of men.

As to the King doctrine -- and his concept of non-violent civil disobedience -- it is well to remember that Webster's dictionary defines "violence" not only as "exertion of physical force" but also as "injury done to that which is entitled to respect, reverence or observance." By definition, therefore, there can be no non-violent civil disobedience -- no non-violent violence.

"Whither America?", in terms of the concept of a government of laws rather than men depends upon whether what we are witnessing today in terms of civil disobedience -- including defiance of draft laws -- reflects a severe but passing fever or a malignant, organic impairment.

There are those who want to make the civil disobedience and mass demonstration concept and techniques a permanent thing, those who advocate "creative violence"; there has even been a proposal to conduct such massive protests as to compel the resignation of the President of the United States, an unthinkable, un-American proposal. All such activity can lead only to anarchy, or tyranny, or both. Right-thinking Americans of both parties will resist that trend. The Republican party must be in the forefront of such resistance.

2. Whither America? With respect to the historical, Constitutional concept and safeguards of "limited government" and the system of built-in check and balances?

Undeniably the trend today is toward centralization of governmental power in Washington, and its concentration in the Executive branch and the bureaucracy.

Alarming and discouraging as this trend is, with its massive intervention of the Federal government in so many areas reserved heretofore to state and local government and the individual citizen, Republicans and conservative Democrats who have shared in the effort to resist the trend may take some encouragement from certain facts and factors.

Recent refusal of the Senate to repeal 14-b (section of the Taft-Hartley law) proves that Congress itself can be a check and balance when it gets the gumption to use its power. The awakening to the threat of Federal bureaucratic controls is becoming bi-partisan: It was a Democratic congressman from Illinois and Democratic Mayor Daley of Chicago who led the vehement protests against the U.S. Commissioner of Education's move to cut off Federal funds to Chicago without conforming to the due process requirements of law. Florida's difficulties with Labor Secretary Wirtz over off-shore labor, finds its counterpart in California's complaints, in grievances of New

A people accustomed to the habit of freedom and local self-government, and familiar with the adage that "necessity is the mother of invention," are likely to find ways to invoke old and to devise new checks and balances on central government. It is amazing, for example, to find Senate Majority Leader Mike Mansfield admitting that the Great Society-dominated first session of the 89th Congress, in its mass production of laws -- many ill-considered -- has left "a number of gaps and any number of rough edges, over-extensions and overlaps." And he proposes as an urgently necessary check and balance that "thought be given to the frequently mentioned but generally under-exercised congressional function of legislative oversight" . . . designed to "catch these shortcomings . . . before they become solidified by repetition into the administrative practices of the departments and agencies."

Certainly the two-party system, which means a strong and vigorous Republican Party, whether in the majority or minority, is one of the essentials of our checks and balances system. And certainly there is greater need than ever for a watch-dog function performed by the Republican Party -- something not particularly welcomed by those whose theme song is "What Lyndon Wants, Lyndon Gets."

3. Whither America: With respect to the future course of racial relations? I speak with utmost restraint -- and as one who voted against the Civil Rights legislation on Constitutional grounds and as one who has always rejected the notion that this is a geographical area problem.

We want to see progress toward both justice and domestic tranquility. If that goal is to be realized it is necessary that both races develop leadership, including the kind of leadership that works quietly and calmly, dedicated to mutual cooperation; leadership which refuses to denounce the spirit of give-and-take as Uncle Tom-ism or "betrayal". And there needs to be a repudiation of the absurd and vicious doctrine of mass guilt or inherited guilt. There is no place for such a concept. Needed reform, not continual and perpetual self-reproaches, is the way to progress. Let Republicans set the example in this difficult area.

4. Whither America: With respect to realism in facing up to the facts, the threats and the overt acts of our "enemies, foreign and domestic"?

What are some of the determining factors which will decide where we are headed, where we are going, in this area of national challenge and peril?

Whether we learn to distinguish between those enemies who are Communists, Communist agents and dupes, and those who injure America through stupidity, incompetence, weakness.

Whether we recognize the fact that between Communism and freedom there is eternal and inevitable hostility -- despite talk of coexistence and peace; even though subversion, propaganda, economic conflict and diplomacy rather than outright violence of the physical and military variety are the techniques of cold war. President Johnson is quite right in ordering full investigation of Communist influences in the Anti-Viet Nam and anti-draft demonstrations. But you can expect him to be the next target of "McCarthyism" charges!

Whether we recognize that the Communists are exploiters -- and that they have already given evidence of plans to exploit the sincere and eloquent peace pleas of Pope Paul, exactly as they formerly exploited the so-called Spirit of Camp David following Khrushchev's first visit to the United States.

Whether we recognize that any sign of weakness, of retreat, of backing away is an invitation to new Communist pressure, demands and aggressive thrust -- whether that weakness is in the form of our abandonment of the Monroe Doctrine vis a vis Cuba; whether in Korea or Viet Nam; whether in our unconscionable concessions in Panama, or our post-intervention failures and blunders in the Dominican Republic, or wherever.

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I refer to the crisis in Southeast Asia. It should be sufficient that our Nation's enemies know that the overwhelming majority of Republicans in Congress, though opposed to many of the President's domestic programs, support him in the matter of standing firm against aggression in Viet-Nam. In fact, it is worth commenting that President Johnson might wish for an equal amount of support for his Viet-Nam stand from members of his own Democratic Party.

I consider it incredible that a source of such irresponsible modern-day "know-nothing" dissent based on emotional disregard for the morality and facts of the case should spring from a few of our university campuses.

And I consider it appalling that much of the leadership for picketing with anti-American slogans in what at times amounts to irresponsible mob action comes from a small minority of university professors purporting to carry forward the banner of free academic inquiry.

Indeed, a central purpose of universities of free inquiry in our society is to prepare succeeding generations for the assumption of responsibility as citizens. Whenever our educational institutions fail to inculcate this sense of responsibility toward community and nation in their students, serious trouble for the republic lies ahead.

This has been the case throughout history. This century offers tragic proof of the penalties which societies and nations pay for not meeting this fundamental requirement for existence.

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We know now---and many of us did then---that these pacifist voices were serving the purposes of Nazi aggression. The placard-bearers cried for peace---while the seeds for Buchenwald and Belsen were taking root.

Today, our so-called "teach-ins" and "peace" demonstrations cry for peace-at-any-price---while the seeds of Communist atrocity take root. And yet the appeasers speak of morality.

Others are concerned with the physical uncleanness of these irresponsible protesters. I am not so much concerned with their personal hygiene as with their moral sterility. For if we condemn public apathy toward victims of street crimes, what can we say of apathy and disinterest regarding victims of Communist aggression?

It is, of course, an apathy and disinterest shown only by a small, small minority of American professors and students. The so-called teach-ins---which I regret to say may have began at my own University of Michigan---are not truly representative of the Nation's university campuses. However, it remains for responsible leaders of American higher education to make this fact unmistakably clear to our people.

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Indeed, Socrates knew the answer. He was prepared to do battle and if necessary die to preserve the freedom of others...yet my main thesis tonight is the need for responsible dissent in the Age of Consensus.

In the years ahead, as never before, we must beware of men with ready answers.

For we will still have to live-- and find answers -- under moral ground rules that were set down twenty centuries ago and under political ground rules that were set down two centuries ago.

Leaving the former to the theologians, I would like to make some comments on the latter.

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The important point to stress when discussing the Constitution, I believe, is not that it has been sanctified by time and tradition. Nor need we dwell on its immutability -- it can and has been changed from time to time. What is important is that it works. We have lived successfully and amicably under it. In a society that has always prided itself on pragmatism this is the ultimate test.

The keystone of our Constitution has been its system of balances -- balances between levels of government and balances between branches of government.

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Second, because the advantages of precipitous action are often outweighed by the safeguards of deliberate slowness.

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This is because our two-party system, although not written into the Constitution, builds into government an additional set of checks and balances. Early in our history a wise decision was made to follow the pattern of a two-party system. We avoided the loss of freedom of a one-party government; we avoided the chaos and confusion of a multi-party government.

Not only does a strong second party provide the electorate with legislative alternatives but also with a remarkably high level of honesty and frankness.

Without indulging in partisanship, I am sure we can all agree that a strong two-party system is Democracy's life insurance -- protection for our children against any drift toward authoritarianism. Conversely, a crushing over-balance of strength in either party for too long will make a mockery of our traditions in government and weaken the voice of the people.

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Great power in a democracy should require great self-restraint. Yet only two weeks ago we were dramatically reminded that this is not always the case. I am referring to April 15th -- the day of reckoning for the American taxpayer. An incalculable number of citizens were then obliged to go into debt as a delayed result of federal tax legislation with political overtones. What happened was that after the 1964 tax reduction was passed the Administration wished to bask in the sun of voter gratitude, while muting the politically disagreeable fact that cutting the withholding tax would leave the taxpayer with a larger cash obligation to the Treasury on April 15th, 1965, than in previous years. The Administration's action -- in allowing a false impression to exist -- reminded columnist Arthur Krock of a television commercial that used fake sandpaper in a shaving cream demonstration. But in the case of the commercial fakery, the Federal Trade Commission ordered the company to cease and desist. Nobody, however, required the Administration to do likewise.

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(Many times this has meant less than a majority of the people.)

On the other hand, members of Congress, and particularly those in the House of Representatives, are closer to the Nation's citizens. They are chosen by smaller segments of the Nation. In the House they are elected every two years. They represent every section of the country, rural and city, suburbs, blue-collar and white-collar, every major profession, doctors and lawyers, nearly every national origin, Protestant, Catholic, Jew, Negro, even American Indian.

This is your strength. It should not be diluted by an over-balance in the executive and judicial branches of government.

While it is the duty of the legislative branch to enact laws, and the duty of the executive branch to administer laws, it is the duty of the third branch of government, the Judiciary, to interpret the laws.

Unfortunately there is evidence that the Judicial branch is now arbitrarily elbowing its way into new positions of authority, and disregarding the wise suggestion of judicial restraint made by the late Justice Frankfurter and others.

When the Supreme Court ordered the states to reapportion on the "one-man, one vote" concept, Justice Frankfurter, in a dissenting opinion, was critical of an assumption by the Court of "destructively novel judicial power."

"In this situation, as in others of like nature," Justice Frankfurter said, "appeal for relief does not belong here. Appeal must be made to an informed, civically militant electorate. In a democratic society like ours," he continued, "relief must come through an aroused public conscience that sears the conscience of the people's representatives."

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As the goals are simple and straightforward, so, too, are the means of reaching them: a renewed sense of citizen participation at all levels of government; alert, enlightened and unfettered news media; self-restraint by those in positions of public trust; a general understanding of the workings of the American governmental system, so as to be able to detect deviations from it; and, above all, constant vigilance.

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