

HARVARD LAW RECORD

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TWENTY CENTS

Faculty to Act on Blacks' Cases

Board Recommends Discipline

By Lawrence Gartner
and Michael Lurey

The Law School Administrative Board has recommended to the Faculty that one of the five black law students who demonstrated against Harvard in November and December of last year be suspended for one term and that the other four be put on either probationary or warning status.

But at its regular meeting Tuesday, the Faculty decided to take no action on the recommendation until its next meeting, which could be a special one scheduled for tomorrow.

Each of the students has been informed that he may present a statement to, or appear before, the Faculty at the meeting during which it acts upon the Board's report. That meeting will be held tomorrow unless one of the students decides to present a statement or appear and would like more time to prepare. If delayed, the meeting will be held on February 24.

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Max Oppenheimer

Prof. A. James Casner greets friend at birthday party. See story on pages 6 and 7.

Dershowitz Holds Mock Pretrial Detention Hearing

By Greg Ward

Preventive detention is a reality for the 16 Black Panthers on trial in New York on conspiracy charges. Bail of \$100,000 each has been effective in keeping the Panthers in jail for 10 months, 14 of them in maximum security cells, although none have been convicted of the charge.

Thousands of defendants who are unable to raise bail await trial in a jail cell and many will ultimately prove their innocence. But

it is the rising crime rate which gains headline attention, and it is in an effort to confront this crime rate that the Nixon Administration has proposed a "preventive" pretrial detention statute, currently on review in Congress.

Last week, Justice Department Attorney Earl Silver defended the Administration's proposal before a mock "Committee on the Judiciary, Subcommittee on Constitutional Rights" at the Law School. Silver was one of several wit-

nesses who testified on the issue of pretrial detention during a two-day hearing chaired by Professor Alan Dershowitz and held in conjunction with Dershowitz' course in criminal law.

Under the existing Bail Reform Act, it is possible to detain a potentially dangerous defendant accused of a non-capital crime by setting extremely high bail. The proposed statute, said Silver, would permit the detention of

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2L Job Placement Harder Without Grades

By John York

A second-year student's choice not to disclose his grades in fall interviewing may not have left him any worse off in ultimately getting a job than had he re-

who disclosed grades, 83.3 per cent got jobs; of those not disclosing, 78.1 per cent obtained jobs. "The difference is encouragingly small," said Professor Robert Braucher, chairman-design-

which were disclosed were pretty good," said Professor Richard H. Field, outgoing chairman of the Committee. "This led them — rightly or wrongly — to conclude that those not disclosed were

Grade Disclosure, Prejudice, and Summer Job Availability
For Second-Year Students

Whether Grades Disclosed:	A. By Those Now Having Summer Jobs	B. By Those Not Yet Obtaining Summer Jobs	
I. Disclosed: (Those answering "other" or not responding were assumed to have revealed grades.)	105	21	126T
II. Did Not Disclose: (Those who did not reveal grades whether for moral reasons, self-interest, or because on pass-fail.)	175	49	224T
a) Prejudiced:	112	42	154
1) Yes	82	34	
2) Sometimes, or some firms, or some cities	23	8	
3) Began not giving grades, noted improved reception after later beginning to disclose	7	0	
b) Not prejudiced:	63	7	70
	280T	70T	350T

vealed his marks. But of those not disclosing grades to potential employers, a majority have thus far reported encountering some measure of job prejudice against them for this act.

These and other results have manifested themselves in 350 second-year survey replies returned so far to the Law School Placement Office. Questionnaires on fall interviewing experiences and outcomes were sent to the approximately 520 second-year students who registered with the placement office this year.

Last spring the faculty voted that interviewers were not to question 2L's about grades. It was left up to each student whether he wished to voluntarily proffer his academic record to prospective summer-job employers.

Of the total survey respondents

nate of the Committee on Placement.

"At this time, 280 2L's report having jobs, compared with only 257 reporting jobs by the end of the year last year," commented Placement Director Eleanor R. Appel.

According to Braucher, "both figures are encouraging in that under the new disclosure policy they show no backsliding in the number of jobs obtained. This is true even though the survey also tells us that the size of last year's class was different, that there were more students interviewing this year, and that we have better reporting methods this year."

Some had feared a sharp drop in recruiting at Harvard because of the grading options and disclosure policies.

"The general word from employers was that those grades

bad."

"Some students did feel that their job chances were prejudiced," Miss Appel verified. Of everyone not disclosing grades, (whether they obtained a job or not) 68.7 per cent felt that they encountered some measure of discrimination for this reason. Within this category, 64.0 per cent of those not revealing grades who *got jobs* felt some prejudice; 85.7 per cent of the *jobless* non-disclosers detected discrimination.

Another interpretation of the figures tells the same story: of all those who did not disclose and felt somewhat prejudiced, 72.1 per cent got jobs; of those who did not disclose and felt that they were not prejudiced, 90.0 per cent got jobs. As Braucher added, "There is a certain self-fulfilling prophecy to this — one who did

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Mathias Decries Tonkin Resolution

By Jerry Snow

Sometime in the near future, Congress may have occasion to pass what is perhaps one of the most significant foreign policy resolutions to come before them in years. The so-called Mathias resolution — now before the Senate Foreign Relations Committee — was the subject of a Forum address by the freshman Senator from Maryland, Charles Mathias, in the Ames Courtroom last Monday night.

Senator Mathias charged the United States with operating under color of outmoded cold war myths in the area of foreign policy. Communism is not the international monolithic force it is often made out to be, he said. But while more and more politicians would be willing to admit the fallacy of this notion, our foreign policy continues to be bound by the forms of the '50's.

His resolution calls for a reduction in the broad powers of international military intervention ceded to the President during past foreign crises and would specifically repeal the Formosa, Middle East, Cuba and Gulf of Tonkin resolutions. Its main thrust is to reassert the traditional prerogatives of Congress in the area of foreign policy — prerogatives which Congress, according to Senator Mathias, has culpably shirked.

Communism is a highly diversified, fragmented movement, varying from a party with rightist affiliations in Chile to traditional forms of socialism in Western Europe to the more familiar and, as they are taken to be, threatening modes of Asian Communism. Yet our only policy response over the years has been to meet apparent Communist aggression/subversion with military intervention, wherever it occurs and under whatever circumstances. Such a continual, automatic response in the 70's, said Senator Mathias, will be "worse than any form of deliberate isolationism we might adopt."

Thus the Senator defends his resolution against those who contend that it tends to be isolationist. He did not feel that America would or could adopt a more isolationist stance in the 70's. The choice is not between isolationism and increased American involvement in world affairs. The choice is as to who will be the chief formulator of foreign policy in the years ahead.

He urged that Congress take the initiative in this area, not only on the basis of its traditional and constitutional right to do so, but also on grounds that a shift back to Congressional initiative would lead to a more rational foreign policy. Such a resolution might not guarantee an immediate solution of all our foreign policy problems, he admitted, but the

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Group Studies Pretrial Detention

(Continued from Page 1)

three types of accused for a period of 60 days up to the time of trial — defendants accused of robbery, arson, rape and sale of drugs may be detained without a prior record, those accused of second degree murder or assault with a deadly weapon can be detained if they have had a conviction within the past ten years, and any defendant may be imprisoned if he represents a threat to potential witnesses.

The basis for this classification, said Silver, lies in the nature of the offense, and it was felt that a prior record is necessary before a person accused of a "crime of passion" be detained before trial. Robbery and arson, however, involve deliberation, and detention is justifiable even if there has been no previous conviction.

When questioned as to the constitutionality of the proposed measure, Silver was quick to point out that the Eighth Amendment states only that excessive bail cannot be made, and not that everyone gets bail.

The attorney noted that "type 1" crimes (robbery, arson, rape) were, at the time of the ratification of the Eighth Amendment, capital offenses, and "these crimes are still as dangerous today as they were then." There is no reason, said Silver, for prohibiting the withholding of bail in non-capital cases.

Derek Bell, Lecturer on Law

and representative of the black community, began what was to become an unceasing attack on the proposed statute by reprimanding the Government for its attempt to "give a veneer of legitimacy to policies of black suppression."

The need for the pretrial detention legislation, said Bell, has grown out of the fear that blacks will retaliate and destroy the white society. Bell traced the history of black suppression, citing the high bails set for peace marchers and the harsh probation procedures imposed on Eldridge Cleaver as evidence of discrimination of the black people within the judicial system.

The proposed bill, said Bell, only comforts the conscience of the whites while further alienating blacks and heightening fear in the black community of concentration camps.

To Joseph Oteri, a criminal trial attorney from Boston, pretrial detention simply "destroys the whole damn system." The effect of the proposal on defense strategy, said Oteri, would be to denigrate further the notion that a man is innocent until proven guilty, and to impose innumerable hardships on the defendant and his attorney.

Oteri, his chin resting on the conveniently placed microphone, fielded questions eagerly, report-

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Fisher Brings Adversary Process

By Bob Hernandez

Roger Fisher, Professor of International Law, has given television an infusion of new blood in the area of public affairs broadcasting.

On a year's leave of absence from the Law School, Fisher is creator and executive editor of *The Advocates*, a new Sunday night series on National Educational Television which uses the adversary process to educate the public and activate their participation in national affairs.

Each week Fisher commutes between Boston and Los Angeles, where the program alternately originates at WGBH (Channel 2) Boston and KCET (Channel 28) Los Angeles. *The Advocates* presents the viewer two opposing viewpoints on a question of national interest and a public official who is publicly uncommitted on the question.

Both sides of the question are represented by lawyers, who call expert witnesses and present visual aides to convince the public official and the audience. They argue in a variant of classical courtroom style, with the official sitting as judge and the audience around the country acting as jury.

A studio audience from one local station is polled each week, before, during and after argument, as an indicator of reaction to the argument. All other viewers are encouraged to write in their views, and the results are compiled for future shows. Since the choice is a real one for the guest official in his capacity as decision-maker, he is not expected to announce his decision on the program, although in at least one case the official eventually announced that his decision was largely based on the program's presentations.

The question argued is always very specific, designed to focus discussion on a few central points. For example, rather than debating the

Dissatisfied With Round-table Discussions

problem of air pollution, the program once presented argument on California's Petris bill to ban the sale of internal combustion engines by 1975.

It is because of the specificity of the question that Fisher is in television today.

His television career started a year ago when he began to discuss his dissatisfaction with the presentation of public affairs television with executives of WGBH. The standard presentation involved "a group of experts sitting around a round table, smoking cigarettes, commenting on the social scene."

He argued that such programs are self-defeating. "The public was being turned off. They were being told of things that had already happened, that they could do nothing to change.

"Each expert showed how complicated the particular issue was and each expert proceeded to outdo the next in demonstrating the complexity of problems. The viewer was made to believe that public affairs is purely a spectator sport."

When asked for suggestions to remedy the situation, Fisher came up with the idea of a program which "looks forward instead of backwards." In-

Looks Forward Instead of Backwards

stead of relying on public officials who would tell the public what they had done or how they had voted, he suggested use of officials who had a difficult decision ahead but had not yet made up their minds.

Instead of experts who frustrated the public by making solutions to problems seem outside their reach, he would depend on advocates "who would simplify the issue so that it's comprehensible, putting a solution to someone who sees himself as a potential activist."

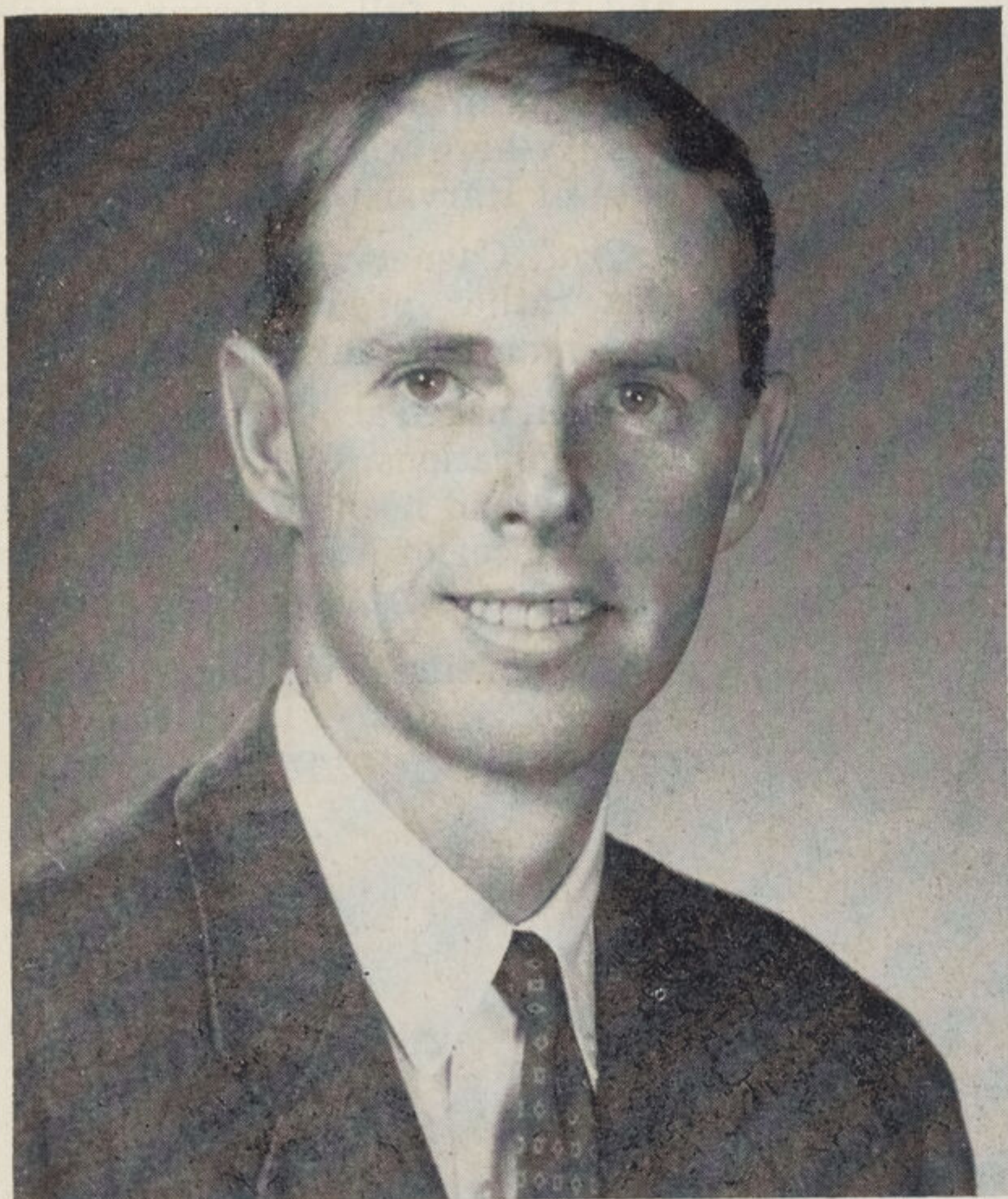
At the invitation of WGBH, Fisher set up several shows last spring, which eventually came to the attention of Fred Friendly. Friendly saw this as a good idea for strengthening public television, and he was anxious to encourage local production of programs with national significance. The Ford Foundation also liked the idea, and the series was approved in July.

Fisher organizes the show around a group of problem areas, which are clearly labeled on a bulletin board next to his desk. Underneath each area is listed a group of more specific questions from which one "question" is drawn as the focus of the show each week.

"It's so easy to do programs around a trouble that you can't do anything about. For example, everyone's talking about war, ecology, population, race. The real difficulty is to find some way to deal with the problem, looking forward to forks in the road rather than backwards at choices already made."

Fisher and his staff are constantly looking ahead for the "forks," important decisions which will be made or should be made in the near future, then narrowing the question to a workable form. "Each week we're looking for an important problem which can be set down as a decidable question. Then we bring in someone who is forced to make

To Public Affairs TV Broadcasting



Prof. Roger Fisher

a choice. We're concentrating on the immediacy of the problem, people who care, and reality of the choice."

Fisher is not worried that in this process of "narrowing the question" the issues presented will be oversimplified. "Undoubtedly a well-prepared documentary can do more about explaining the problem. But we're not trying to take a bucket full of knowledge and fill up people's minds with facts and figures. We're trying to change attitudes toward participating in politics. Most Congressional decisions are based on less debate than this.

"We are raising the level of presentation, by putting the relevant elements there in comprehensive form. With a question to which discussion can be channeled, we are directing attention to practical solutions. We put the case for and against and debate the point. This is *simplifying*, but not *over-simplifying*. It's always the academic type people who tend to complain about this."

Critics from coast to coast have had nothing but praise for the program. Audience reaction has been just as enthusiastic. Over forty-thousand letters have been received by Fisher since the show began.

"We get all sorts of letters, some from the academic community and some from people who can't spell. The reaction has been generally good. It's been over 100 to 1 in favor among those who write in."

Several unsolved problems remain, but Fisher is constantly working to eliminate them. For ex-

ample, there are some short-comings in the feedback system. The guest will naturally not commit himself on the spot, so a sample studio audience is picked to show shifts in attitude from the debate. These audiences have tended to have a particular interest in the subject discussed, however, rather than representing a random sample of the population. Fisher is now trying to get a more random audience.

Nor do letters expressing positions on the question reflect a random sample. Most who write are on the side which is probably not going to happen. The others feel less pressure to write.

A particularly concerned group might flood the mail in support or opposition to a particular proposal. For example, following a program on the SST, *The Advocates* received 2000 identical letters from Long Island, bearing the postage meter number of a Long Island plane manufacturer.

Feed-back need not necessarily be representative, however, to serve a useful function, according to Fisher. "The format may be unsatisfactory unless there is some form of feed-back. Feed-back makes it more real, reinforces the notion of audience participation, and stirs general interest in the problem discussed."

Fisher finds the role of television executive to be much more demanding than the classroom. "It's really a change from being a kibbutzing professor to having a staff of 50 people and commuting across the country once a week.

"I don't have time to think, much less time to do anything else. I can't talk to students any more or write." He has had a seven-day-a-week schedule with few days off since Labor Day.

Classroom Methods Brought to Television

But he regards the change as primarily one of medium rather than method. "In a law school class, when you speak to one student, you are hoping that the others are vicariously answering; each other student in the class tries to formulate his own answer to the question. Similarly, the purpose of this series is to see if we can make people a little more likely to participate, to formulate and verbalize their own answers to major problems."

Through the "case-method adversary approach," Fisher is convinced, the political process can be put within everyone's grasp. "It is easier to think clearly. You face a choice and set out what is

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Dean Casner's Birthday Party S

By Susan Carlson

Carrying on a tradition of many years' standing, Prof. A. James Casner properly class "surprised" him with a birthday party.

Prof. Casner's entry into Langdell South was heralded by a trumpet fanfare, after which the class sang "Happy Birthday." He was given a small toy skunk — said to be a "constructive fox" — as a memento of the occasion.

All present enjoyed Grand Maison (California) champagne and a cake decorated with the words "A Man for All Seisins."

Among the invited guests were Mrs. Casner and Prof. and Mrs. David Shapiro.

When asked to make a speech, Casner parried by citing the recent Letter to the Editor (RECORD, Feb. 5) from Ralph Nader which suggested that students teach professors, and asked the class what they thought professors should learn. When no one volunteered, Casner offered to an-

swer any questions the class cared to ask.

Reminiscing, Casner recalled meeting Prof. Leach when Leach was the reporter for the Restatement of Property in 1935 and Casner was working for a doctorate in law at Columbia. Casner sat in on some of the sessions and Leach was so impressed that he recommended that Harvard ask Casner to join the faculty.

In 1938 Casner came here as a visiting lecturer; after one year he was made assistant professor,

and then a full professor a year later. At that time there had never been a young man on the faculty here who was not a graduate of Harvard.

Prof. Casner admitted that he was rather proud of being the first man to break that tradition.

When asked about possible political aspirations, Casner explained that he had been deterred by the experience of his father-in-law who ran for Attorney General in

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Max Oppenheimer

Champagne corks fly as birthday gala commences.

Mathias Decries Tonkin Resolution

(Continued from Page 3)

clearing away all of the "cold war debris" would be a first and necessary step in that direction.

Without the color of a Congressional carte blanche, which functioned in most cases as little more than a cosmetic, the President would feel less free to use the power that he may legitimately wield as Commander-in-Chief. He would be forced to deal more openly and in more realistic terms with the American public, as well as with Congress.

Challenged as to the potential risks in the Congressional assertion of authority in foreign policy, and questioned as to Congressional fitness to wield this authority, Senator Mathias said that this is less risky than the specter

of a President "using national emergencies as stepping stones to omnipotence." Congress should have the final say as to our involvement in war. Such authority is in the Constitution, declared Mathias, "and I intend to see that Congress uses it."

Senator Mathias' resolution also calls for an accelerated schedule of troop withdrawals from Vietnam, for a broader-based government in Saigon, and for Congressional affirmation of the principle of a political rather than a military victory there.

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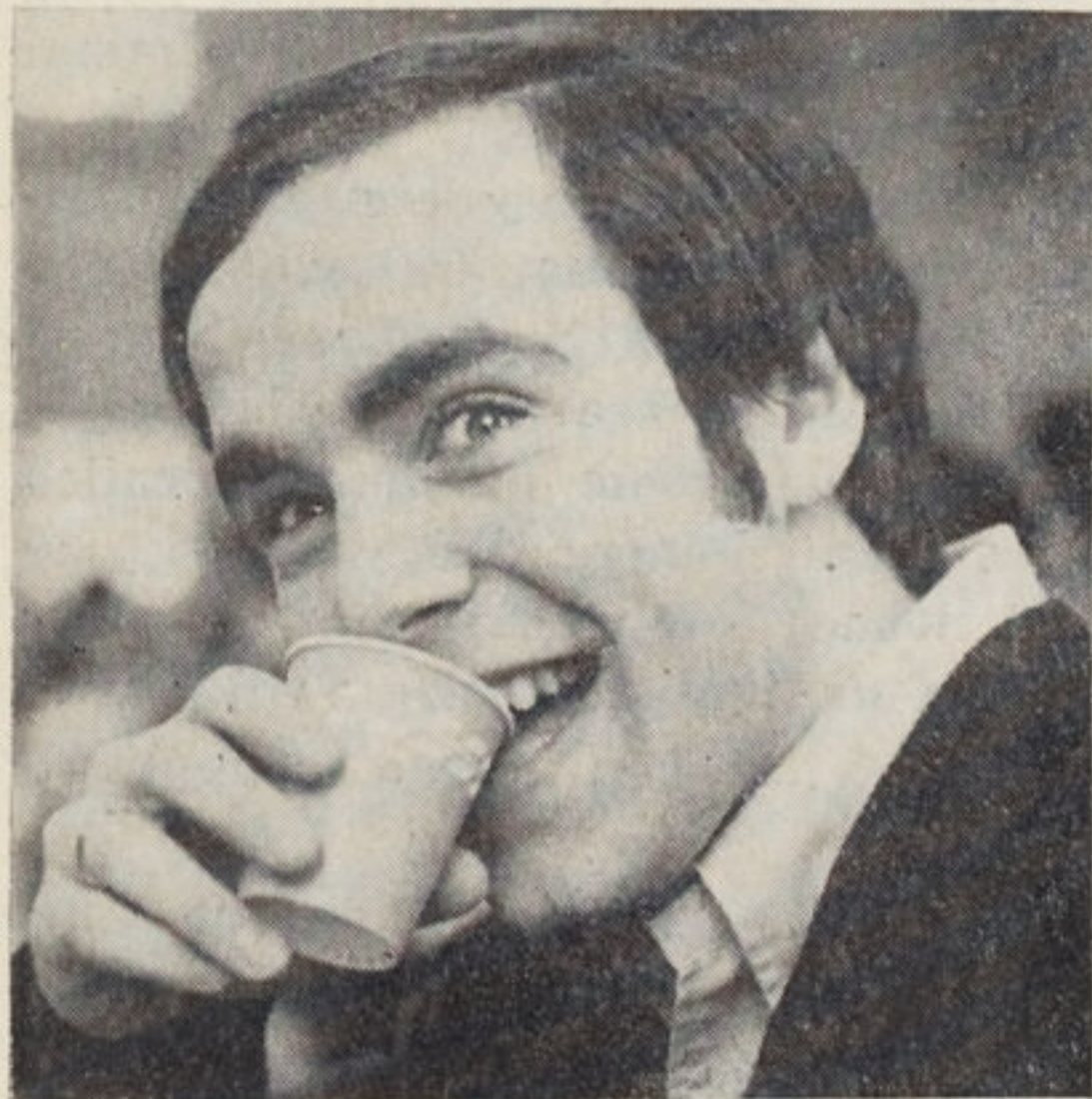
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Starts with a Trumpet Fanfare

(Continued from Page 6)

Illinois, carried every county but Cook County, and lost by an overwhelming vote.

He also told the story of his negotiations on behalf of the United States for the acquisition in 1951 of Wheelus Air Force Base in Libya. After months of arduous bargaining, he finally named the top price he was authorized to offer and the Libyans immediately accepted; they had known the price all along, but enjoyed the bargaining. This may seem rather masochistic to Cas-

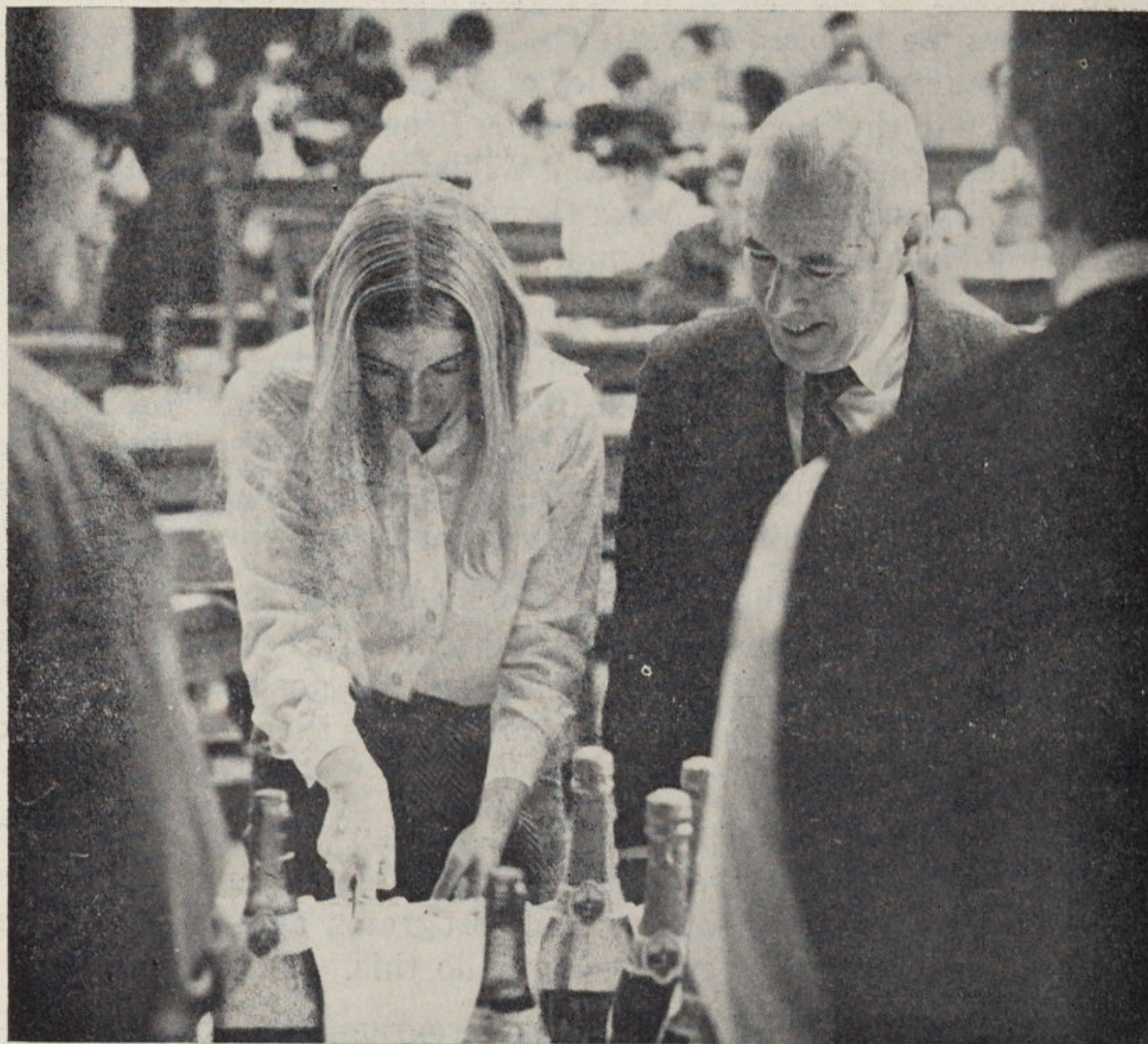


Max Oppenheimer

Madcap Reveler sips.

ner's students, who quickly learn that it is not very comfortable to have him as an adversary.

As Prof. Shapiro said, "You may be A. James Casner to some, but you'll always be *the* James Casner to me."



Max Oppenheimer

'Man for all seisins' celebrates with blondes and cake.

Another Birthday

For purposes of Patriotic Birthdays, next Monday will be Feb. 23 in the state of Massachusetts. Therefore, the RECORD will not be published next Thursday.

The RECORD will return February 26, all other things being equal.

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Extra-curricular Activities

In a Letter to the Editor in last week's RECORD, Professor Frank Sander raises the problem of diminished student interest in the traditional extra-curricular legal activities of the Law School, with particular reference to the Second Year Writing Program. The problem has been evident for some years now: the Williston Drafting Competition ended several years ago; the Ames Competition is in serious trouble; the Writing Program is nearly moribund. Even CLAO may be in danger, now.

Professor Sander implies a credibility gap between the call by many students for more relevance in legal education and the diminished student interest in these activities. We do not think this is necessarily so. It may be that "relevance" cannot be supplied to these activities merely by dealing with topics in poverty law or criminal law.

The problem with these activities may be that they are largely exercises designed to sharpen one's legal skills, rather than projects which apply legal talents towards some concrete goals. Even CLAO may be disenchanting to some who want to use their legal skills to implement legal reform.

Perhaps this attitude is immature; perhaps students ought to spend almost all their energies in law school on developing their skills to use after graduation; perhaps such programs as Ames and the Writing Program are the best means to do this.

On the other hand, a clinical legal program, such as that suggested by Arthur Kinoy in a speech here last semester, might be an excellent activity which would sharpen legal skills and would in addition point toward socially useful goals.

The program seems to have worked with great success at Rutgers, and we don't see why a similar activity could not be as successful here. The important point is that it is no mere exercise; the work is important and it counts for something.

We suggest that the whole question of extra-curricular legal activities, and especially the possibility of a faculty-student legal clinic, be discussed, either in a standing faculty committee or a special student-faculty committee.

HARVARD LAW RECORD

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Fenno

"Hi Bunky," said Fenno, his eyes bloodshot from trying to read his tax exam off the blackboard. "Why are you sad? Is your Mighty Moe that bad?"

"No, Fenno. It's just that I confessed to Dean Bruce that I've been using a phony I.D. number when I pick up my mimeograph materials."

"Did he threaten to throw you out of school? Is he going to call a disciplinary hearing? Is he going to bar you from the Hark?"

"Worse than that, Fenno. He said he was happy to see that I was picking up the material for class, but that he couldn't do anything unless I brought him documented evidence of my wrongdoing."

"That's terrible, Bunky. It's rough when you can't be an honest criminal these days."

"Well, Fenno. I guess there are more important matters around the Law School that Dean Bruce should take note of. I see that the lounge in the new classroom building is called the student lounge. If you ask me (and nobody ever has), that suggests a caste distinction at Harvard Law."

"What do you mean 'suggests,' Bunky?"

"You know, Fenno, when the Law Reviewers go into the new classroom building, they won't be able to decide whether to go into the student lounge or the faculty dining room."

"That's just part of their identity crisis, Bunky."

"Well, you'd think that if the Law School really wanted to save money, they'd eliminate the faculty dining room and have everyone eat in the Hark," Bunky commented. "You always see Professor Cox in the Hark."

"Yeah, Bunky. But Cox was already Solicitor General."

"What about Professor Freund, Fenno?"

"He could have been Solicitor General."

"But the feeling of many law students that they are an inferior caste at the Law School might be eliminated if the faculty and students ate together," Bunky said.

"Don't be silly, Bunky," said Fenno. "The separation of faculty and student facilities doesn't imply the inferiority of the latter. Any such feeling is solely because the students choose to put that construction upon it."

Reader Left Cold and Sad

To the Editor:

Miss Gillespie's letter and your entire issue of 11/14/69 left me cold and sad.

I started practice with a big firm at \$50 a month and felt unhappy, but fortunate. My father began with mere desk space beside a stenographer, but finished with over thirty years on the federal bench. Life's rewards can be, should be, and generally must be earned.

Life actually is changing more rapidly than people. My grandmother pumped her own water and made her own soap, and I helped. Of course the market place is more realistic, factual and colder by far than that protective hot house known as the class room. Both must accommodate themselves to life as it is. If the law school and/or interviewees think that they can dictate what questions interviewers may ask, they will be hanging out their own shingles, as Mary Jane is privileged to do.

Regrettably few young people know today what it takes to make a pound of butter, a loaf of bread, a peck of potatoes, a pound of bacon, a cake of soap, a livelihood in the law, or other competence. I hope they will learn, and trust that they will, because they must. My wife, sister, and brother, all lawyers substantially agree.

Things understandably look different depending on where you sit. My daughter, recently married, demanded that her husband take her away from a nice restaurant in the middle of a meal. The reason: young people at the next table were panning their parents, and "now that I am married, I am on the side of the parents."

When I got out of the army twenty-four years ago, I owed my father two thousand dollars. Recently I was a millionaire solely by my own efforts. More recently I lost half of it. If I had my druthers, I would like to start over knowing what I know now. I have never felt that bad apples or bad ideas should enjoy the privilege of destroying good ones by force of arms or otherwise. In the long run they doubtless will not, because most people will put their labor and money (read: accumulated labor) where such belongs.

Basically there is no such thing as an establishment. Every person, group or structure is generally and con-

Letters to the Editor of the RECORD

tinually replaced within one generation, or oftener. The process is necessarily a selective one. Youth will have its chance soon enough, as, if, and when deserved.

One important lesson which many youths apparently have not learned, and which most elders discovered only by hard experiences, shows that world problems frequently do not solve themselves by themselves. No one wants to be a world policeman and to date our efforts at international tranquillity and collective security have received insufficient world support. I only hope that we can achieve supranational government before everyone is again in the trenches, or worse. The coming generation should aspire to this, and not merely complain that everyone is not equated to the lowest common undisciplined denominator.

R. C. Bell, '36

Kudos to Mary Jane Gillespie

To the Editor:

I wanted to let you know how much I enjoyed reading Mary Jane Gillespie's letter included in your latest issue. Her vivid and personal description was not only enjoyable reading, but conveyed the point of discrimination, far more effectively than a dry, journalistic approach would have.

Dr. Richard Iacobucci '68

Resignation And Dismay

To the Editor:

I read with a sense of resignation that students were picketing Ropes & Gray because they represent a client who is allegedly "blocking mine safety legislation." After all, you need some excuse to be outdoors on a rainy day when you could be inside studying. But I felt a sense of dismay when the RECORD's editorial endorsed their action and stated the principle that lawyers should "refuse to advance the interests of those things which worsen rather than alleviate the problems of our society."

I should think that Harvard Law students should be the first to realize that every interest is entitled to legal representation, even those that allegedly "worsen the problems of our society." If this were the applicable standard, then I suppose no lawyer should represent a person accused of crime, since getting a murderer or rapist off on a "technicality" certainly worsens the problems of society.

Futhermore, I should think that Harvard Law students should be sophisticated enough to realize that very few problems are simply black or white, including the problem of mine safety legislation. And even if watering this legislation down is "wrong," does this mean a lawyer is derelict if he represents that interest? Should I concede every case where I personally conclude my client is wrong? I have thought the judge and jury were those charged with making that decision.

It seems that such picketing of Ropes & Gray is not based on any valid "principle," but only the protesters' personal opposition to the position of one particular client of the firm involved.

Ronald Lee Gilman '67

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2L's Report Discrimination

(Continued from Page 2)

not get a job is going to be more likely to report non-disclosure as the reason."

"The real reason for his not getting the job may have been bad breath," interjected Field. "There were three reasons a student might have chosen not to disclose his grades: because they were bad and he felt that it was in his best interests not to do so; because even though he took grades he didn't want by disclosure to put the pass-fail student at a disadvantage; or because he was on pass-fail and had no grades to report."

Miss Appel felt that the student having good albeit undisclosed grades and who was only an "average salesman" was the type hurt most by non-disclosure. "I'm not convinced that salesmanship is the test of success," she continued. "But to counsel a student to give his grades may make him feel that something is wrong with him because he is a bad salesman. He doesn't want to think that, so he doesn't give his grades."

"Last year several groups came to me," Field said, "to lobby either for or against mandatory pass-fail. Those who wanted to remain on grades feared mandatory pass-fail. One 2L among them testified that he wouldn't have gotten his previous summer's job without his good law

Horatio Algers Want Grades

school record. He, like many of these people, had come from a small high school and a little-known college. They all claimed that 'you know who'll get all the jobs — the ivy-leaguers!' They argued in the tradition of the poor Jewish immigrant boy who made good on the basis of his performance at the Harvard Law School."

Braucher and Field agreed that it was "easier to be on pass-fail

if you were a Rhodes scholar, had a good college record at a good college, and had high LSAT scores."

"Some employers flatly said they would not be persuaded to employ students not divulging grades or not having any to divulge," Miss Appel added. "However, I can't believe that they wouldn't take someone with no grades if he looked attractive and articulate to them. They would take the risk, and that risk probably wouldn't be too great."

Prof. Field recounted many instances this fall when students on pass-fail had come to him begging to rescind their option and take grades. They felt that they were not going to get a job without grades to reveal.

"Some of them were crying before they were hurt," Field continued. "Some eventually got a job. But we have no way of knowing whether the job they got was the one they wanted most. Perhaps their lack of grades closed the more desirable openings to them."

Both professors agreed that "if you come from Oshkosh and want to work in New York City or Los Angeles, you will more likely need to disclose grades to get jobs in the big cities away from your home area than if you chose to work in Oshkosh or Scottsdale." Lesser credentials would suffice in a smaller place or if you were known there.

The survey did not indicate how many of those getting jobs had gone back to their home towns for the summer stint.

All three interviewees felt that employers disliked the bar on grade queries because it manufactured a stilted and unnatural atmosphere at the interview. They said that it put both parties on edge: employers fearful lest they lapse into ordinary questioning and students searching for hints from employers about grades. Many innocuous statements may have been interpreted as attempted violations.

However, in some instances the employer resented the student's offering grades as not in line with Law School policy.

"One employer," Field began, "told me of a student he had interviewed, a 'leader in the pass-fail movement' who had opted for his grades to 'get the feedback.' Without any request from the employer the student said: 'they were so good I want you to see them', thrusting a transcript across the desk. The lawyer was repelled and scratched that student's name off his list forthwith."

Indeed, employer empathy for the student condition manifested itself in other ways, as well. Miss Appel noted that "so many more employers were growing longer

One Employer Repelled by Grades

hair, were wearing less conservative suits. They were in their appearance showing sympathetic cognizance of the 'phenomenon' among today's students."

The Committee on Placement, the Committee on Legal Education, and students will examine the statistics to decide several issues. "The faculty must decide whether we will have the same grade options again as now, whether to keep the freeze on pass-fail revocation solid until March as done this year, and whether placement practices should remain the same," Braucher said.

"There is feeling," he continued, "that the restriction on employers asking grades can go. This is the unanimous but informal feeling by members of the placement committee." Field agreed that the ban should go, especially in light of the small difference shown in number of students getting jobs regardless of whether they disclosed their grades or not.

"However," both professors concurred, "the placement tail ought not to wag the educational dog."

IRS Fights Tax Evasion, Rackets, Guns

By Madeline Nesse

Randolph Thrower, Commissioner of Internal Revenue, addressed the Harvard Law School Forum, Friday, February 6, on the subject of "The IRS and the Rackets."

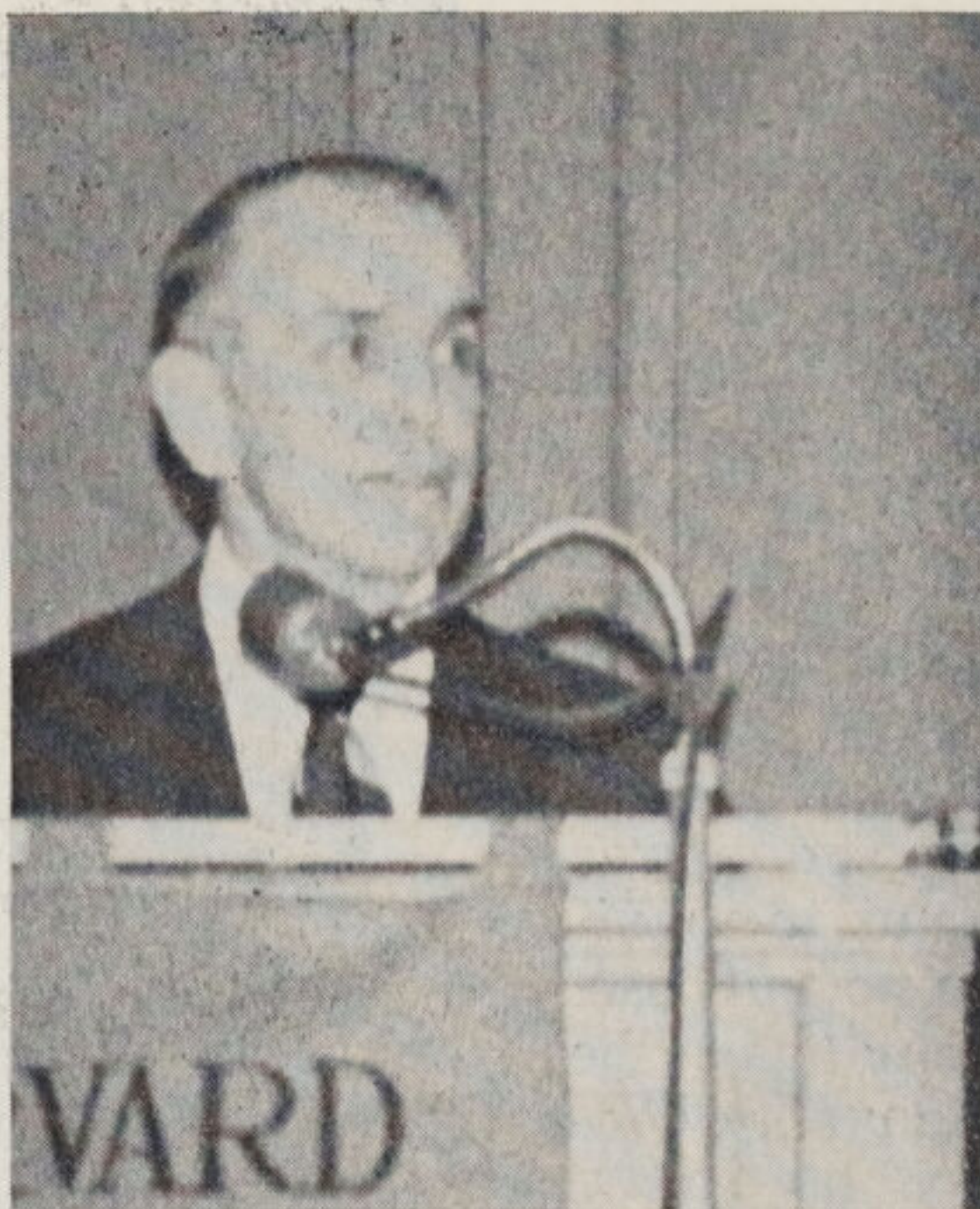
Thrower described the Internal Revenue Service as an agency of law enforcement, particularly in the areas of tax collection and gun control. He was critical of those who are preoccupied with the design of law, to the neglect of its administration.

"Law in its observance and enforcement," said the Commissioner, "are essential features of an orderly society." The United States income tax system, which requires the voluntary compliance of citizens, needs to assure each taxpayer that others are likewise paying their taxes. The IRS, in its law enforcement role, has a heavy responsibility for maintaining widespread cooperation by bringing sanctions against those who willfully violate the tax laws.

Some people, according to Thrower, say that the IRS, in enforcing the tax laws, has been the agency most effective in imprisoning racketeers. The Service numbers Al Capone and Mickey Cohen among its underworld conquests.

Present efforts against organized crime are concentrated in the strike force program initiated by former Attorney General Robert Kennedy. The Commissioner cited the Manhattan strike force as an example of "uniformity of determination, seriousness of purpose, and cooperative spirit" in the unprecedented effort to "relieve society of the curse of organized crime."

The Commissioner found "refreshing" the steps being taken against organized crime in Newark, headed by Fred Lacey, who took office barely three months ago. Other areas with strike forces, for which the IRS supplies



Buddy Warner

Randolph Thrower

the greater part of their manpower, are Brooklyn, Buffalo, Cleveland, Detroit, Los Angeles, Miami, Philadelphia, and Boston.

Despite the all-out efforts which are being made, Thrower admitted that many tasks remain. He questioned whether organized crime has been eliminated, reduced in strength, or even significantly retarded in growth, whether problems or only problem individuals have been removed, and finally, whether the government crackdown has stopped crime or has only "created job opportunities for young hoods."

The Commissioner noted that the "evil forces" have infiltrated local, state, and the federal governments, and have succeeded even in penetrating the IRS itself. While some breaches of security are inevitable, Thrower said, he is grieved by each one "because it encroaches on the pride and integrity of the Service as a whole."

The Commissioner revealed that secret agents of the Service accompany Mafia members to Superbowl games and backroom meetings, often for months, always in fear of a slip, detection, and unknown consequences.

Commissioner Thrower also discussed the responsibility of the IRS in enforcing the Gun Control Act of 1968.

The law prohibits the receipt, possession, and transportation of firearms by convicted felons, persons with dishonorable discharges from the armed forces, mental incompetents, former U. S. citizens who have renounced their citizenship, and aliens illegally in the United States. Thrower felt enforcement will be especially important against members of criminal organizations, militant groups of the right and of the left, and those who commit

(Continued on Page 14)

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Fisher . . .

(Continued from Page 5)

essential to consider. Then you can focus on those materials which will lead to a proper choice."

This method allows the public to become concerned with public affairs "one choice at a time. As in the Supreme Court, the problem is extricated by each side for real persuasion."

Fisher hopes that *The Advocates* will be a prelude to a new age in television programming, the beginning of "television with a purpose." He feels that programs must have an impact on the viewer for the resources of television to be put to maximum use. "Most television today has no purpose. It is like feeding a dragon — each hour has to be filled up. A maximum audience is their only concern."

He feels that public television can fill an important void in American society today. "Public television has been dedicated to do good broadcasting free from commercial restraints. But what's a good broadcast?"

"We should itemize what needs to be done in this country and get T.V. to do it. We have to have an objective in mind when we speak of television."

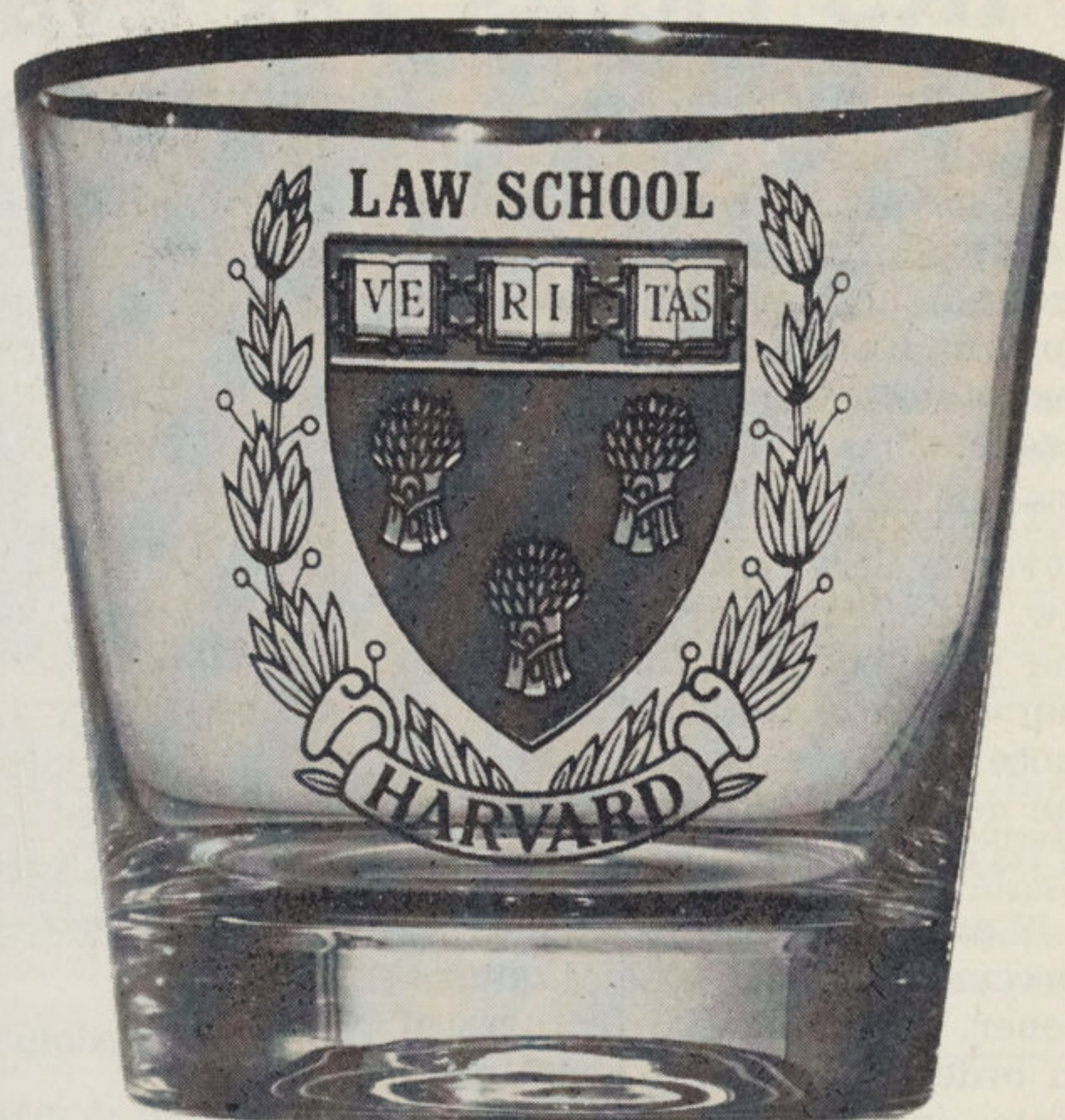
Although he is unsure of any future work he might personally do in television, Fisher does have more ideas in mind for programming. "I can see a program which would teach law to the public. There is no common understanding of law today, and the professional schools have drawn law out of the system."

"People have the impression that a lawyer's only function is to learn a series of regulations. I'd like to see a series which will bring an under-

Sees Program Which Would Teach Law

standing of law as a process of adjustment, which is an integral part of society and with which each individual can identify."

With the success of the adversary system in presenting public affairs to the television public through *The Advocates*, there is no reason to doubt that it could serve an equally effective role in bridging the gap between the legal profession and the general public. As Fisher has aptly demonstrated, legal training can lay a foundation for many kinds of public service, even in the world of public broadcasting.



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Women's Law Group Finds New Allies

The Women's Law Group has allied itself with the Dormitory Council to seek coed housing, with the Placement Committee to investigate job discrimination and with the Harvard Law School Secretaries' Association to improve medical services.

The housing campaign has set itself the goal of placing 50 women in rooms in university housing in the Law School area next year. There are now 17-19 women law students residing in Wyeth Hall, a Radcliffe graduate residence, between Harkness Commons and the New Classroom Building.

The Dormitory Council passed a resolution endorsing the assignment of housing without regard to sex, but without change in the number of total rooms and without change in the physical set-up of the dormitories.

Bob Duffy, 2L, who spoke to the women's group on behalf of the Dormitory Council, presented the reasons for coed housing. He said that coed housing was considered a sound, practicable idea and would overcome current inequities in the housing situation. Presently, the housing shortage at the Law School affects women students more than men. Moreover, if more housing were available to women, their recruitment might improve.

If women are assigned to the new dorms, it is expected they will reside on the third floor of Holmes Hall. Because of plumbing arrangements, assignments of men and women in alternate rooms in the new dorms would be impractical. Rooms tend to be small with some noise problem, but the rent of \$440-550 is considerably lower than elsewhere.

Hastings, which rents for \$660 and up, would be easier to change to coed living because of the entry structure. However, the large number of applicants for Hastings makes it unlikely that women residents, who would require a large proportion of the rooms, will be assigned there.

Wyeth residents are currently being polled about their attitude toward admitting men to that hall, as well as their interest in coed living in the men's dormitories. Rooms in Wyeth rent for \$620, but residents have preference in reserving rooms for the next year. New applicants re-

ceive preference in assignments to Hastings and the new dorms.

In addition to the Wyeth poll, a telephone survey of all women law students will determine how many would have liked to live in dorms this year, how many wish to do so next year, and what kind of housing is sought.

The telephone survey will also help contact women who believe they have been discriminated against in employment. A closed meeting of the Placement Committee will take up the problem soon. Firms found to have flagrantly violated committee rules may be suspended from interviewing.

While the Women's Law Group has discussed hiring and salary practices with the Secretaries' Association, the groups' first area of cooperation is an effort to improve gynecological services. Some women found facilities at Holyoke Center inadequate and inconvenient. They hope to have a gynecologist visit the Law School clinic at least once a week.

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Ad Board Recommends Discipline

(Continued from Page 1)

In any case, the effective date of the disciplinary actions has been postponed until the Faculty next meets.

The disciplinary actions were termed by the Board's report "the appropriate response of the Law School to the obstructive activities on December 5 and 11."

On those dates, members of Harvard's black community, organized into the Organization for Black Unity (OBU), occupied University Hall and the Faculty Club to protest Harvard's hiring policies.

In addition, the student whose suspension was recommended, Greg Pilkington, 2L, was charged with participating in a demonstration in Harvard College Dean Ernest May's office on November 24 which impeded the Dean's freedom of movement.

While a majority of the Board concluded that Pilkington should be suspended for one term with the right to reapply for admission in September 1970 or Janu-

ary, 1971, the report said that "there was some disagreement within the Board about the sanction to be imposed."

Pilkington would be put on warning status after readmission until the completion of his second-year work.

Two students were recommended for probationary status for one term and warning status for the following two terms. According to the report, probationary status means that "further misconduct of the sort involved in this proceeding will lead to separation from the Law School."

The remaining two students were placed on warning status until June, 1970. That means that "any further misconduct will lead to more severe disciplinary action, including possibly separation from the Law School."

The students who received probationary status participated in both the December 5 and December 11 demonstrations while those on warning status participated on

only one day, according to the report.

In the hearings held by the Board on February 3, it considered the "character of the obstruction to the normal life of the University community" in the December occupations. It also proceeded on the assumption "that the students engaged in these activities in a good faith belief that this was an appropriate way to further an important cause," the report said.

It also added that the Board considered that none of the students had any prior disciplinary actions against him while at the Law School.

At the hearings, the Board considered oral and written statements of persons connected with the University, viewed pictures taken of the demonstrations, and saw a film of students emerging from University Hall on December 5. It also considered a general statement of the events of December 5 and 11 made by the Committee on Rights and Responsibilities on January 22.

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Thrower . . .

(Continued from Page 11)

crimes, particularly in metropolitan areas, using firearms as means of coercion.

However, Thrower noted that loopholes in the law have weakened enforcement. For example,

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importation of the so-called "Saturday night special", an inexpensive handgun responsible for many deaths, is prohibited. But Thrower observed that the number of Saturday night specials now produced in the U. S. equals or exceeds the number formerly imported because importation of parts with subsequent domestic manufacture was not prohibited.

According to Thrower sportsmen should not see in the law a bar to their legitimate activities, and legislators should recognize their interest. But Thrower feels that much could be accomplished by proper enforcement of the law.

The program was chaired by Professor Oliver Oldman, director of the International Tax Program at the Law School.

Sports Briefs

By Jim Schuyler

Since many people have questioned the extent of Harvard's use of its stadium in the fall, it might be helpful to check next year's football schedule. Seven contests will be played at home, including five Ivy League games. The Crimson will begin a grid series with Northeastern, the only crosstown rival that Harvard has never faced before. Rutgers, which last appeared on the schedule in 1963, will visit the stadium in October.

* * *

It seems that baseball's major controversy concerning the "reserve clause" in professional players' contracts, might best be resolved by negotiation and compromise. In fact, attorney Arthur Goldberg could probably utilize his widely-recognized skills as a mediator to reach a successful conclusion to that complicated affair.

It is known that the Baseball Players' Association, actively supporting player Curt Flood in his suit, has stated that its goal is modification of the clause "to make

its provisions less absolute." They were forced to bring suit because of the refusal of the two leagues to consider any change in the reserve system.

Actually, the "reserve clause" consists of a series of agreements among the ball clubs and the leagues. When he signs his contract, a player accepts all of the regulations, which include an agreement among the other clubs not to "tamper" with a player "reserved" by any club. The club also has an "option" on the player's services for the following year.

* * *

Harvard basketball . . . After a more than creditable performance against nationally-ranked Penn last Friday, the Crimson five face another weekend of Ivy action at home. Harvard hosts Cornell Friday night, while one of New York's most talented squads, the Columbia Lions, bring the MacMillan and Dotson duo to Cambridge Saturday night. Harvard's highly-touted frosh face Exeter on Saturday in a warm-up before the varsity contest.

Detention . . .

(Continued from Page 3)

ing on the difficulty of working with a client who is "in the can". "They stick them in jails that are 44 miles from the city," and even when the trip is made, "the cops always know what you say to them—I don't know whether they got good ears or what."

The affable attorney emphasized the advantage of having a client available to run after witnesses and the disadvantage of having to reveal these witnesses in order to get his clients bail.

"The prosecutors have got the cops," said Oteri, and the system leaves the defense "with trickery and deceit." The most important consideration, however, is that the accused have a right to go free, and Oteri felt that the courts should worry about the rights of the defendant and not of the hypothesized next victim.

"The guy's innocent till he's proved guilty and he shouldn't be in jail for even one day," said Oteri.

Other witnesses testified as to the ability of judges to discover which defendants would commit crimes while out on bail, and Lloyd Ohlin, Professor of Criminology, suggested that a computer be used to determine eligibility for bail. Ohlin said that the development of profiles through the use of statistical methods has proved to be highly successful in predicting pretrial crimes of defendants, even more so than the predictions of the friends of that particular defendant.

Ohlin, however, was skeptical of the amount of crime which will be prevented as a result of pretrial detention even with extremely accurate prediction, and he stressed the need for continued investigation on the accuracy of such prediction of future crimes.

The hearing was the first concerted attempt at extracurricular investigation into the problem areas of criminal law conducted by Dershowitz' "small section".

Letters to the Editor of the RECORD

Editorial Smugness

To the Editor:

Your editorial of November 20th makes a great deal of smugness—your own and Nixon's. I was impressed to learn that whereas the President's smugness "keeps the war going and the people dying" in the belief "that the myth of saving America from the Communist, etc.," your own smugness derives from the belief "that peace is to be sought above all else."

Eager to learn more, I looked up "smug" in my dictionary and discovered that you both are, among other things, "complacently proper," "righteous," and "self-satisfied." But I suppose it's all right to be all these things if you think your President is behaving that way and if your cause is just and you believe in peace "above all else."

I am reminded of the words of Max Weber, addressing a group of German

students at the troubled close of World War One:

"If in these times the politician-idealists suddenly crop up en masse and pass the watchword, 'The world is stupid and base, not I,' 'The responsibility for the consequences does not fall upon me but upon those whom I serve and whose stupidity or baseness I shall eradicate,' then I declare frankly that I would inquire into the degree of inner poise backing this ethic. . . . I am under the impression that in nine out of ten cases I deal with windbags who do not fully realize what they take upon themselves but who are drunk with romantic sensations. From a human point of view this is not very interesting to me, nor does it move me profoundly."

Maybe Weber was just being smug.

Michael K. Heaney, 3L

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