

HARVARD LAW RECORD

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TWENTY CENTS

Almost 700 Attend Discipline Debate Packs Ames

By Lawrence Gartner

After several days of disruption, hide-and-seek games concerning secret faculty meetings, and tactical debate, the Law School community regained partial sanity when it came together for a series of open meetings Friday and Monday to discuss the issues involved in the disciplining of five black law students.

Then on Tuesday the faculty met at 2 p.m. to take final action on the cases but adjourned when no decision could be reached by 12:35 a.m. Wednesday morning.

The meeting was scheduled to

For complete coverage of the debate of Friday's open meeting, see story on page 3.

resume at 2 p.m. Wednesday afternoon.

About 700 students and faculty jammed into Ames Courtroom Friday afternoon to hear a series of speakers, including three of the black students involved, debate whether last semester's demonstrators against Harvard should be subject to disciplinary measures and whether the procedures used by the Law School to discipline the blacks were just and fair.

Almost 200 more students listened to the discussion by means
(Continued on Page 5)

Assisting in the research and preparation of this article were Michael Lurey, Michelle Scott, Bob Hernandez, and Jerry Snow.



Mike Lurey

Kim Guggenheim, 2L, comes out of Wednesday night faculty meeting to speak to waiting students.

Women's Law Group at Chicago Brings Equal Employment Action

A group of women at the University of Chicago Law School has begun legal proceedings against that law school and three law firms alleging violation of federal laws barring sexual discrimination in employment.

In charges filed last month with the Equal Employment Opportunity Commission, 14 women law students charge the school with operating an employment agency and providing placement facilities

for employers who discriminate against women in hiring. The school's failure to remedy the situation once it was brought to its attention was included among the alleged violations of Title VII of the 1964 Civil Rights Act.

The three firms named in the claims hire on a discriminatory basis, the women charge.

According to Margie Gelb, one

(Continued on Page 14)

Search Begins for Pusey's Successor

By Michael Lurey

In the wake of President Nathan Pusey's recent announcement of his retirement effective June, 1971, the University Committee on Governance has announced it is formulating procedures to be used in selecting Pusey's successor.

The Committee's recommendations will be presented in a paper to be issued later this month or early in April.

The Committee, formed last September, had been exploring various topics. But as Chairman John T. Dunlop, Acting Dean of the Faculty of Arts and Sciences, noted, when Pusey announced his retirement "committee work on the paper on the presidency obviously assumed a sense of great urgency."

In a statement released by Dean

Dunlop this past week, he outlined the two-fold purpose of the Committee paper: to produce a "discussion of the qualities called for in a Harvard president at this particular time in Harvard's history, as well as procedures for involving all elements of the Harvard community in the process of selecting a new president."

The procedure currently envisaged by the Committee is to hold a series of "rounds of discussion." In the first round, letters will be sent to "interested individuals" by the Fellows of the Corporation.

The Corporation, headed by soon-to-be Senior Fellow Francis H. Burr, bears ultimate responsibility for the method of selection and identity of the new president. Burr, Harvard College '35, is a member of the Committee as well.

The letters will first seek opinions as to what the University's needs are, as seen from the disparate viewpoints of faculty, students and alumni. Secondly, the letters will invite the submission of names of individuals qualified to fulfill those needs.

The Committee hopes the initial round will be followed by informal discussions among "interested groups." And it is expected the Corporation will seek group responses to names previously acquired in subsequent "rounds of discussion."

Dunlop stressed that since the letters may be confined to representative individuals or groups, responses from other sources would be welcomed. However, he thought it was premature at this point to encourage letter-writing. Such action should wait, he said, at least until the Committee paper has come out and the Corporation has acted upon it.

Under questioning, Dunlop conceded that one preliminary decision to be made is whether the responsibilities of the presidency have grown too great to be carried out by one man. Dunlop said the paper will consider this, and "all aspects of the presidency." But, in formulating procedures, the Committee is operating under the presumption that a president will be selected to replace Pusey.

Kenneth R. Andrews, Professor of Business Administration and head of the subcommittee directly concerned with preparing the presidency paper, said he hoped to avoid the University's splitting into pressure groups, each with its own candidate. Dunlop agreed and said he wanted the discussions to be "as open as possible without leading to political campaigning."

Both men expected the first round to begin this spring. Subsequent rounds would carry into the fall semester.

Ames Semifinals Commence March 12

The semifinal round of the Ames Competition begins Thursday, March 12 at 8 p.m. when the Bruce and Learned Hand Clubs clash in the Ames Courtroom. A second semifinal argument will pit Marshall A against Marshall B at the same time and place on Tuesday, March 24.

Issues in the March 12 argument include the constitutionality of the federal anti-riot statute and challenges to contempt sentences such as those given in the Chicago trial.

Judges for this argument will be Judge Andrew A. Caffrey of the United States District Court, Massachusetts; Justice Robert M. Duncan of the Ohio Supreme Court; and Judge Abraham I. Freedman of the United States Court of Appeals, Third Circuit.

All the students are in the second year class. The Bruce Club will be represented by G. Kenneth

Norrie, Rodney F. Page, Robert B. Patterson, Ronald B. Patterson, Richard C. Smith, and Michael R. Sonberg.

For Learned Hand are Susan A. Cahoon, Kenneth F. Seminatore, Richard C. Brautigam, Gregory W. Byrne, Gregory B. Millard, and Jared B. Stamell.

The Marshall Clubs' argument concerns a northern school integration case in which a federal court has ordered busing of urban center school-children into suburban school districts.

Marshall A consists of Randell Bell, Joel Boxer, Jose Garcia-Pedrosa, Harvey Lippman, Martin Seneca, and Fillmore Wood.

Peter de Koszmovszky, David Leng, Stephen B. Presser, John Rose, Lawrence Samuels, and Fred Shauer form Marshall B.

The two winning teams will compete in the final round to be held next fall.

Law School Discusses Discipline Issues

By Michelle Scott

In Friday afternoon's three and a half hours of discussion of the issues arising from student demonstrations at the Law School protesting the disciplining of five black students, the conflict of principles was perhaps best expressed by Professor Louis Loss who spoke of three "profound truths."

"I start first with the conviction," said Prof. Loss, "that the problem of race relations in the United States is the most critical problem facing this country, and the treatment of the black man is such that I can understand—I won't say justify—almost anything the black man will do."

Loss' second truth was that "the American university with its imperfections is one of the greatest achievements in the world but could easily be destroyed." He asserted it must be preserved both from outside attack and internal disorder.

His third truth was that the first two truths were irreconcilable.

The meeting, held in Ames Courtroom, was to provide the faculty with an "opportunity for a broad exchange of views with students" before it dealt with the question of discipline for the five blacks.

Debate, in the form of statements by students and faculty, centered on the following two issues: the justification for punishing the socially motivated demonstrations of the blacks against Harvard's hiring policies and the appropriateness of the existing disciplinary procedures in such cases.

The audience, about 900 students and faculty who packed into Ames and the Austin North classroom where loudspeakers were installed, listened attentively for most of the afternoon. A brief dispute arose shortly after the three-hour mark, when several students interrupted the proceed-

ings to ask that discussion of the discussion of procedures be postponed.

However, the dispute was settled when after the formal, scheduled speeches on the second issue were delivered the meeting adjourned and more discussion was set for Monday.

During the afternoon, twelve faculty and student speakers of-

the demands of the Organization for Black Unity (OBU) on behalf of minority group painters' helpers and construction workers at the University. He believed the decision to require that 19 to 23 percent of the workers on Harvard projects be members of minority groups vindicated the five demonstrators.

Asking that the community re-

Laugh-in At Holyoke Center

One of the nice things about the human condition is that even in the midst of crisis there's usually something to laugh about. And last week's confrontation between students and faculty was no exception.

Sad as the spectacle of the faculty playing hide-and-seek with students over the location of Wednesday night's meeting was, there was some humor, too.

With the faculty meeting down the hall, Vice Dean Wil-

liam Bruce told RECORD reporters how he had outfoxed a group of students trying to tail him while driving to the meeting by making an unexpected right turn from the left hand lane. When he last saw them, Bruce said, the students' car was trying to back up, with a line of honking cars behind them.

When the students finally managed to get down that street, Bruce had disappeared.

A student member of the
(Continued on Page 13)

ferred a wide range of frequently conflicting views on the main issues and related topics. Debate included the advisability of imposing the recommended sanctions in the particular cases, the relation of means and ends in attacking racism, student-faculty roles in administering the Law School and the place of the University and the Law School in American society.

Almost all of the speakers acknowledged the "good motives" of the black demonstrators and the "moral ambiguities" of any decision balancing the objective of racial equality in employment with the orderly function of the University.

Raymond D. Jones, a 2L and one of the five defendants, argued that the question of punishment was already moot because the University had already agreed to

solve the dispute on its merits, weighing the value of the demonstrators' actions against the "relatively minor interruption of the University's order," Michael J. Haroz, 3L, found the five students' cause "just and compelling."

Thomas R. Gerety, a first year student who claimed, "I speak with and to some extent for the students who protested during the last few days," recommended that final decisions on the specific disciplinary cases be postponed until the entire community spoke on the issue.

"Had OBU acquiesced in the rules of procedure," Gerety stated, "this University would have acquiesced in discriminatory procedures."

Several students charged the University with failure to recog-
(Continued on Page 11)

Three Law Students Join Coop Directors

By Linda Standridge

Three Law School students were among eleven students chosen from a field of 23 candidates in the recent elections for the Board of Directors of the Harvard Cooperative Society (Coop).

Donald W. Mitchell, 2L, ran as a stockholders' nominee. Both Robert D. O'Connell, 2L, and Harvey C. Dzodin, 1L, ran as independent challengers. The three winners will attend the spring semester meetings of the Board of Directors, the policy-making body of the Coop.

As a result of their first meeting with the Board on February 26, O'Connell and Mitchell have some definite ideas about their role and effectiveness.

According to O'Connell, the boy capitalist of Harkness Commons, the \$12,000 spent by the Coop to print and mail election ballots "wasn't worth it." He found many of the topics discussed at the initial session incomprehensible to those neither closely connected with the detailed inner workings of the Coop nor extensively briefed. If the students' representatives become unduly influenced by the Board's explanation of issues, O'Connell suggested, they might be ineffective.

Nevertheless, both O'Connell and Mitchell felt that with effort the students' ideas could be represented at meetings. Mitchell noted that the large number of student directors, holding 11 of 23 seats on the Board, would in itself carry authority.

"The Coop's main problem is a management crisis," Mitchell stated. "So this is a good time for us students to be in there, offering fresh approaches to old problems." He also indicated that students had actively and articulately participated at the February meeting.

O'Connell, Mitchell, and Dzodin plan to coordinate their work in investigating Coop operations, seeking student opinion and casting their votes. O'Connell plans to distribute a report of the February meeting to all law students.

Topics discussed at this meeting included the planned capital expenditure of \$84,000 for renovation of the men's clothing departments at the main Coop store and the addition of a women's boutique at the MIT store. Losses of \$20,000 were reported on account of either shop-lifting or poor handling of merchandise. A student proposal to rotate guards from store to store in order to make them less detectable to potential shoplifters was considered.

Losses were also reported on textbook sales. For this reason, the Coop feels that it may have to cut back on its total volume of texts. High overhead, rebates, and shop-lifting were cited as reasons for the losses.

O'Connell is particularly disturbed by losses on texts which, he said, have high mark-up prices. He sees the causes of this problem in over-centralization and lack of foresight. Understocking, O'Connell claimed, costs the Coop both sales and wholesale discounts.

According to O'Connell, the Coop might get higher sales and lower overhead by encouraging independent salesmen to sell texts convenient locations, such as registration lines or newstands. Although current Coop management approaches this matter conservatively, O'Connell feels that student directors will bring a new and possibly influential viewpoint to Coop operations.

Areeda Oil Import Report Shelved by President

By Greg Ward

Last March President Richard M. Nixon established the "Cabinet Task Force on Oil Import Control" to conduct a comprehensive review of the long-standing import restrictions on oil. The recently released report, however, has been "shelved" by Nixon, despite the finding that consumers are paying \$5 billion more per year than they would be if there were no restrictions.

"By 1980 the cost to consumers will be \$8.4 billion a year," said Professor Phillip Areeda, Executive Director of the Cabinet Task Force. "For ten years the American consumers have been bearing

a very heavy burden," Areeda continued, "and such an extraction from oil consumers is not proper in the absence of convincing justification."

In 1959 justification was found in the threat to national security which was thought to be presented by United States dependence on foreign oil. The Task Force, however, reported that the existing fixed quota system bears no relation to security considerations and "has spawned a host of special arrangements and exceptions for purposes essentially unrelated to the national security, has imposed high costs and inefficiencies on consumers and the

economy, and has led to undue government intervention in the market and consequent competitive distortions."

Yet Nixon has shelved the Task Force's proposal for a phased transition to a tariff system for reasons which can only be regarded as political. While alleging that time is needed to talk with interested nations, it seems apparent that Nixon's inaction is a concession to oil-producing states, and press speculation is that any decision on the oil import question will be deferred until after the Congressional elections in November.

(Continued on Page 12)

Discipline Discussion Fills Up Ames



Dan Chill

Prof. Louis Loss

(Continued from Page 1)

of extension speakers in Austin North.

Six smaller sessions continued the debates Monday evening, with at least three professors attending each. Dean Derek C. Bok and Professor James Vorenberg, chairman of the Law School's Administrative Board attempted to make an appearance at each of the sessions.

Broke Up

The smaller meetings broke up around 9:30 p.m., and all remaining faculty and students adjourned to the Harkness Meeting Room to carry on the informal discussions.

After meeting almost ten hours on Wednesday, the faculty had decided to hold the open meetings before it took any disciplinary actions in order to have an "opportunity for a broad exchange of views with students."

Committee

The student-faculty committee appointed by the faculty to organize the open meetings was composed of Professors Frank Michelman, Jerome Cohen and Alan Dershowitz, Joseph Gebhardt, 2L, and Lavell Jackson, 1L. Thomas Gerety, 1L, was invited to represent the radical students, but declined.

For whatever the reasons the faculty decided to postpone its decisions until open meetings could be held, the impassioned

and eloquent statements by such members of the community as Professor Louis Loss; Raymond D. Jones, a 2L and one of the five defendants; Mike Haroz, a 3L; and Professor Charles Fried demonstrated that the debate and discussion were invaluable.

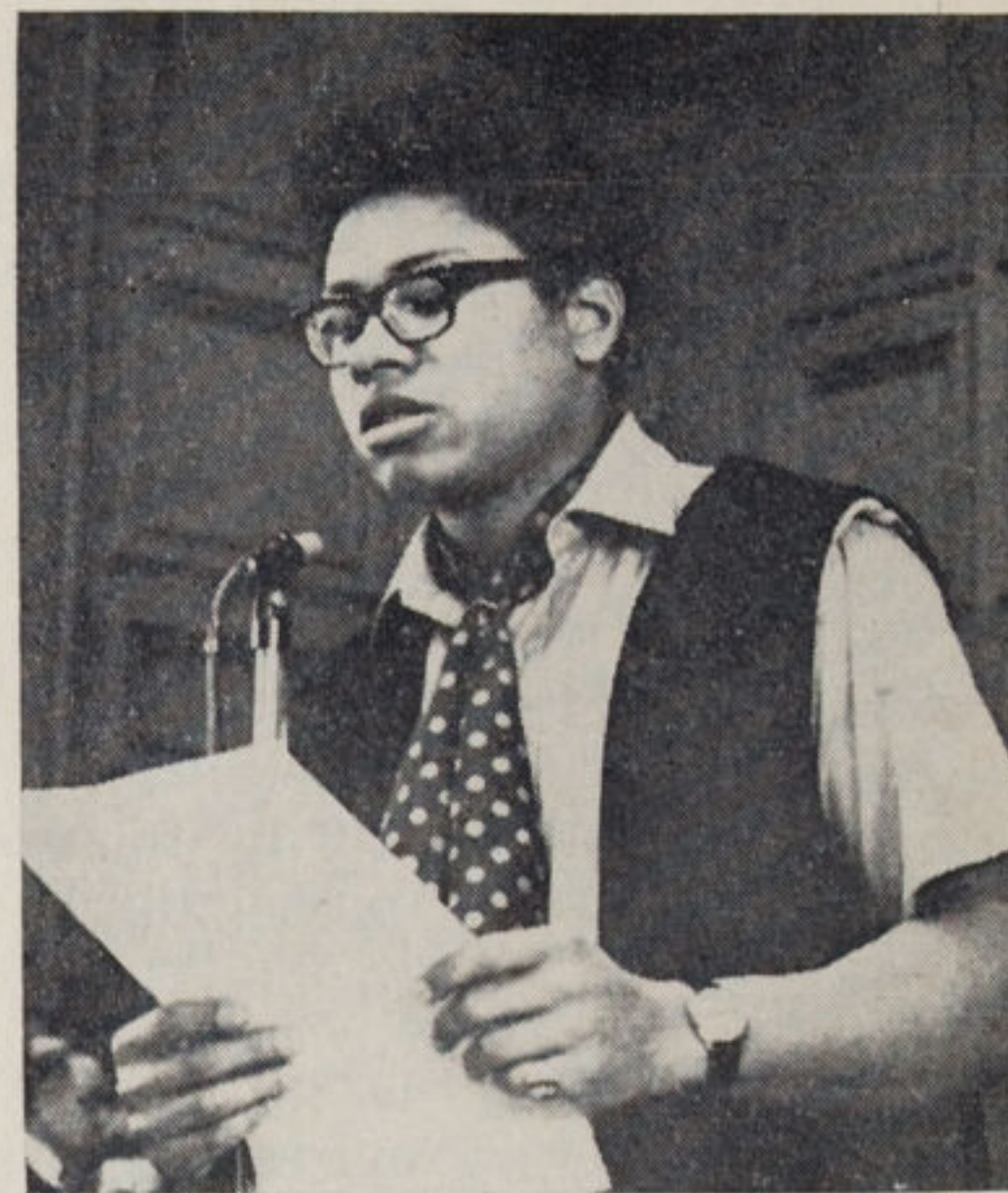
Other students and professors, — conservative, liberal, and radical, — expressed their sentiments in addition to an opening statement by Dean Bok and an explanatory statement of the Administrative Board's procedures by Professor Vorenberg.

Scheduled

The meeting had been tentatively scheduled to last from 2 p.m. until 4:30 p.m. But it was 5 p.m. before the eight prepared speeches and following debate concerning the appropriateness of disciplining political activity were concluded.

At this point, a student's call for adjournment interrupted the previously calm and low-key meeting. He argued that since many faculty had left the meeting and the remaining faculty and students were tired after three hours of discussion, the meeting should be carried over to Monday.

After Joseph Gebhardt, 2L, and Professor Stanley Surrey, co-chairmen of the meeting, ruled that it would continue until the



Dan Chill

Raymond D. Jones

agenda was completed, several students stood up and shouted that the people at the meeting ought to decide whether or not to continue.

While the four prepared speeches on the fairness of existing Law School disciplinary procedures were presented, the five-man committee which planned the open meeting met hurriedly and decided to adjourn and continue on Monday.

The decision to hold the open meetings resulted from a four-hour faculty meeting Wednesday night behind locked doors on the tenth floor of Holyoke Center.

(Continued on Page 10)



Buddy Warner

Greg Pilkington, 2L and one of the five black students, speaks to mass meeting in Ames Courtroom.

Attorneys Evaluate Chicago Trial

By Mark Goldowitz

Over eighty people gathered in Ames Courtroom on February 24 to hear several legal authorities discuss the significance of the stormy riot-incitement trial of eight movement activists in Chicago.

John Flym, young Boston attorney for the Black Panthers, emphasized the necessity for understanding the "sociology of law maintenance." The entire process, he noted, was greatly affected by "pressure from particularly powerful financial interests."

"I want law and order, yes, passionately," Flym declared, contrasting this position with that of "the ones who disregard the law, who make it a farce: the Government in Vietnam, the police and judges (they scoff at the law all the time), big business and white collar crimes (they get away with murder as a matter of course). These people are huge criminals."

During the discussion that followed, Flym uttered an equally strong indictment of most lawyers. "Lawyers," he said, "play god all the time, particularly when they have a strong belief in the legal system. The role of the lawyer has been exalted. Lawyers are on an ego trip."

We must, he emphasized, "get away from elitism. The only salvation is people making their own decisions. The only basis I can see for hopelessness is a lack of faith in people. I'm not hopeless, because I have faith in people."

Charles Jones, a teaching fellow at the Law School, explained that the Chicago Trial was in good measure an attempt to wipe out of the public mind the conclusions of the Walker Commission Report, which labelled the disturbances at the 1968 Democratic Convention a "police riot." By focusing on eight movement activists as defendants the Government hoped to shift the burden of guilt for the disorders.

But that plan may have backfired, according to Professor Charles Nesson. While "the strategy of the defense was at least in part to prove that the judicial process in this country is a farce," the conduct of Judge Hoffman during the trial would lead one to believe that this was "also the strategy of the government."

Nesson further questioned the wisdom of the defendants' approach, and asked if the law was not more of an asset than an infirmity to the radical left. He expressed fear that the decline of the courts would increase the relative power of the executive and the police.

Nesson made clear that he feels it is "fanciful to view the law as a means for massive social change." It is possible, however, to "use law as a means to protect people who are organizing."

This belief was supported by Bill Homans, Boston civil liberties lawyer and attorney for defendant Ferber in the Spock Trial. Homans said he feels that "the law is about the most valuable

(Continued on Page 14)

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Two Radical Law Views Presented

By Madeline Nesse

Two approaches to the practice of radical law were presented at the Law School Speaker's Program February 20 by Rich Baron and Ron Glotta.

The two lawyers' radical credentials are impeccable. Glotta, a member of a Detroit law firm which concentrates on political activity, was associated with the 1969 Ann Arbor rent strike. Baron counseled the St. Louis public housing rent strike and is involved in federally-funded legal aid work in St. Louis.

Glotta's law firm, organized in July, 1968, is composed of seven men whose political ideologies start from a position to the left of Eugene McCarthy. According to Glotta, the firm's most pressing problem is financing its non-remunerative political activity.

The firm currently subsists on private savings and the income derived from the personal injury and Workmen's Compensation practice of some members. But they hope to develop a larger, independent capital base so that they can expand their operations.

Glotta, a 1968 Michigan Law School graduate, discussed the more insidious pressures felt by radical lawyers.

"In this system if you're a lawyer for the people, you're going to get cited for contempt come hell or high water no matter what you do," he asserted. Several members of his firm have already faced contempt and disbarment

proceedings. And the expense of these proceedings constitute another drain on firm resources.

Nonetheless, Glotta insists that the radical lawyer must be self-supporting: government aid, he said, is too restricting in the effort to combat the oppressive features of American capitalism. He believes that a political revolution is "inevitable", but conceded that the task of "staying alive" in private practice, while working for the revolution, is difficult at best.

On the other hand, Baron feels he can accomplish most by devoting his energies solely to poverty work, even though federally-funded. He further characterized himself as "result-oriented," and criticized individualistic efforts which fail to achieve "meaningful change" because of lack of organization and use of self-defeating methods.

Baron said he is not concerned with simply defining the political issues for people. Through his legal-services approach to law, he hopes to develop a political struc-

ture which will give the hard-core poor power to generate pressure for change in housing, education, welfare, and mental health.

The power for change, Baron feels, must come from a self-conscious mobilization of grass-roots energies. He termed "romantic" the notion of an alliance between SDS and the black and Mexican-American poor, because of the basic inability of the middle and lower classes to understand and sympathize with one another.

Recently, Baron and other St. Louis lawyers began teaching courses in local high schools in order to educate and politicize the poor. The courses cover general Constitutional issues from search and seizure to more immediate problems, such as public housing.

Lawyers are also available for after-school consultation about students' personal legal problems, which often include police encounters.

Baron described the St. Louis rent strike as an example of suc-

(Continued on Page 13)

HARVARD ALUMNI

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The Day After

The Chicago trial is over. The verdict is in, and the jury has gone home. The defendants face long terms in jail, and their lawyers may perhaps join them. One of the most unique trials (or perhaps spectacles is a better term) in history has ended and now the long process of appeal begins.

So what.

So what came out of this spectacle which occupied the front pages of America's newspapers for so long? The government couldn't prove its case of conspiracy, but the defendants still face jail. The government thought it could solve the problem of political protest in the court, and the defendants showed it that it couldn't. And what was accomplished except increased political polarization in the country and a mockery of justice.

What made the government think it could end the deep, bitter, and very committed political dissent in this country by prosecuting the defendants with such a vague and potentially repressive law as crossing state lines with the intent to commit violence? What made the government think the defendants were going to be meek and submissive in what was essentially a political trial?

As lawyers and law students we should be saddened at the circus which the Chicago trial became. Saddened by defendants who had no faith in the judicial system; saddened by a judge who was obviously un-judicial; saddened by a defendant being bound and gagged; by fights and scuffles; by taunts and anger.

But we should be even more saddened that this trial took place at all. The law has traditionally been the forum of the status quo; the courts have traditionally supported the haves over the have-nots.

Recently, we have been in a unique and wonderful age of judicial activism, where the courts have often been ahead of other governmental agencies in attempting to solve the pervasive problems of our society.

It would be a real tragedy if the law once again assumed its traditional role; if the courts were used for repression rather than advancement.

If we allow this, then our courts will turn into a mockery with more Chicagos. Let's not let the government try to combat political protest in the courts. We need the law for more important things.

HARVARD LAW RECORD

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Fenno

"Hey Bunky! What are you doing eating a Mighty Moe! Don't you know we're striking against the Hark today?"

"Well, Fenno," grimaced Bunky. "I'm more than half way through, and I think I'm already beginning to pay my dues. But don't mention the word 'strike' to me. Strike, picket, demand, confrontation: I'm getting tired of all these radical political activities. Why can't I just be left alone to drink beer, play squash, and worry about my not writing my third year paper?"

"Bunky! The dispute over the discipline cases is the biggest thing to hit the Law School since two movies a month," said Fenno, looking hungry as the last of a decrepit Mighty Moe disappeared. "You can't just avoid the issue. Stay down in the squash courts and you'll be counted as part of middle America. Why, you might even become one of Ted Agnew's favorites. Would you like that? Keep playing squash at a time like this, and all you'll get is a letter from Richard Nixon."

"Why those radicals are just as bad as a Southern lynch mob," said Bunky looking green. "Why can't they just let the orderly, administrative processes of the Law School crush the defendants. Isn't that what orderly processes always do? Why do they have to make trouble and make my professors grumpy in class? And besides, those guys are lousy painters."

"I hate to bring this up Bunky, but lynch mobs usually attack defendants, not the prosecution."

"Well what difference does that make?" exhorted Bunky, starting to get a bit hot under the collar. "America was founded on law and order. Disruption is plainly anti-American."

"Bunky, the idea of disruption is not totally foreign. Have you read the Declaration of Independence lately?"

"Oh come, Fenno. That can be easily distinguished. The faculty isn't like King George; they really will take care of us."

At that Fenno left his friend Bunky. "Maybe Bunky was right; let the faculty take care of it. This thinking is hard stuff; playing squash, watching TV is a lot more fun; let the orderly administrative processes roll on. Anyway, King George wasn't such a bad guy."

More Comment On Sex Bias

To the Editor:

I want to add these comments to Mary Jane Gillespie's letter which appeared in a recent issue of the RECORD, (Nov. 14, 1969).

I graduated from Harvard Law School in 1968 and my experiences with the law school and law firm recruiters support Mary Jane's charge of sex-based discrimination. The most flagrant school-sanctioned example that I recall was "Ladies' Day," an annual event held by A. James Casner and W. Barton Leach.

Ignore Women

The theory was to completely ignore women in the classroom, perhaps in hope that they'd go away. Then on one day, only women would recite. Professor Casner solicitously chose a topic of "natural interest" to us. My question for the year of Property Law was: "Miss Mullarkey, if you were engaged—and I notice you're not—and you broke the engagement, who gets to keep the ring?"

It is easy to say from hindsight that we should have boycotted that class and that we should have vigorously protested any and all forms of discrimination. We also should have had the support and encouragement of our classmates who would have been indignant if "Jew Day" or "Chinese Day" or "Negro Day" had been held. But apologetics really are of no consequence. We need to consider what affirmative measures the law school must take to counter sex-based discrimination.

Matter of Education

First, it is a matter of educating the law school community. If you do not believe there is discrimination against women lawyers, read Professor James J. White's article, *Women in the Law*, 65 Mich. L. Rev. 1051 (1967).

His study destroys a few myths about women's working habits. Contrary to the belief espoused by hiring partners, the incidence of job changes and absenteeism among women was no greater than that among men in White's sample group of lawyers who had graduated in 1956-65. But women consistently received lower pay than did men for performing the same jobs. The pay differential ranged from \$1500-\$8300. For legal analysis of sex-based discrimination in general, I refer

Letters to the Editor of the RECORD

you also to Leo Kanowitz's *Women and the Law*.

Second, all discrimination in the classroom and activities related to the law school should be terminated. I think Mr. Casner no longer indulges in his minstrel show routine but there are other and not very subtle forms of discrimination.

No Reason

For example, there is no reason why a grown professor should be afraid to call on a woman student. Failure to ask women students to recite on a regular basis could be presumed to be a discriminatory practice designed to deprive women of a complete legal education.

Related to eliminating discrimination within the law school is adopting a policy of recruiting women students. Women comprise more than half of the United States' population and yet the enrollment of women in the law school has been held to 5-6%. It is senseless.

Third, the law school should investigate all firms and government agencies permitted to recruit at the school. If one employs no women, it should be presumed to discriminate. To rebut the presumption, the employer should be required to show a good faith attempt to hire women for jobs comparable to those held by men.

Cannot Rebut

Any employer which cannot rebut the presumption or any employer that has been shown to discriminate should be barred from recruiting. Law firms, of course, are subject to Title VII of the 1964 Civil Rights Act and should be reminded of that fact. It is no defense to a discrimination charge to protest that the aged partners or the firm's clients do not like women. Women should be encouraged to bring charges against firms which discriminate and the law school should be alert to prevent any "blackballing" of women who do bring charges.

Mary Mullarkey '68

Grades, Not Sex Barred Job Offer

To the Editor:

I read with interest the article on

page 10 of the January 29th issue of the RECORD, entitled "An Example of Bias Against Women in the Law."

After combining this correspondence with the articles relative to the pressure for the "pass-fail" grading system, I would draw the conclusion that Miss X's failure to obtain employment from Mr. Jones appears to be due to the fact that she had no grades in her first year at the law school from which to appraise her qualifications, rather than the fact that she was a woman.

Seeking

Those seeking the installation of a complete pass-fail system seem to overlook completely that employers need some objective basis for determining the suitability of an applicant for employment. Until a better system comes along, I suggest that it is in the interest of the students, themselves, to retain at least a four grade system of marking through their three years at the Law School.

Incidentally, Miss X appears to have thought that her good undergraduate grades were relevant when she was seeking employment. Does it not follow that her first year law school grades would be equally, if not more relevant when seeking employment in a law office?

John V. Phelan '32

Harvard Hiss: Social Commentary?

To the Editor:

Is the "Harvard hiss" referred to in your January 29 issue for real or is it a put on? Have you actually reached the point at Harvard where discourtesy and bad manners are institutionalized? Do you really think that hissing is "social commentary"? If so I suppose we really are "out of it" here in the midst of "backward Appalachia" (West Virginia to be exact) where such cruel and repulsive behavior is not the vogue. Perhaps we ought to send some VISTA volunteers from West Virginia up to Harvard to teach the hissers that you cannot love humanity while hating people.

J. Timothy Philipps
LL.M. 1966

Discipline Action

(Continued from Page 5)

Eleven students, from the Administrative Board and the Committee on Governance, were invited to attend that meeting.

They reportedly gave impassioned pleas to the faculty not to decide the disciplinary cases that night and to have open meetings to hear student views on the question.

Meanwhile, about thirty students were out in the hall, waiting for the faculty decision and discussing tactics in the event that discipline was imposed.

The place of the meeting was to have been secret — to protect students from taking rash actions which might jeopardize their future legal careers, according to Vice Dean William Bruce — but students found out anyway.

The Decision

The decision to allow eleven students into the Wednesday night meeting was made during the faculty's meeting on Wednesday afternoon in the Pound Room.

Before that meeting began, students met in Harkness Commons to discuss what they would do if the faculty decided the disciplinary cases behind closed doors. During the student meeting, Professor Jerome Cohen said that he would come out of the meeting and tell them what the faculty had decided as to student participation.

The faculty meeting began at 2 p.m. and lasted until 5:30 p.m. During that time about 40 stu-



Buddy Warner

We Love You Melvin! — So said Lisa, Toni, Judy, Rhea, Gwen, Ellen, Laura, Judy, Doris, Michelle, Ellen, Debbie, Margaret Ann and Marilyn, feminine members of Prof. Melvin A. Eisenberg's first year Contracts section, who presented him with a four-foot heart and box of chocolates in class on the day before Valentine's Day.

dents sat outside the doors to the Pound Room debating the issues. Many, perhaps half, were intent on disruptive action if the faculty decided to discuss the disciplinary cases in a closed hearing.

However, at 5:30 p.m. Cohen, came out to say that the faculty had decided to let the eleven students participate, and the group disbanded in preparation for the evening's meeting.

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Law School Debates Discipline

(Continued from Page 3)

nize demands for responsible action in social and racial matters. Some attributed this failure to lack of effective structures to hear and to respond to student views. Others spoke of a failure in leadership by an institution whose eminent position carries great moral weight.

DonCosta E. Seawell, 2L, one of the five blacks, presented the radical view. "There are no orderly procedures here (at Harvard)," he charged. "If there were, there would not be an occasion to take over University Hall or any other building.

"One thing I've learned since I've been here," Seawell continued, "when law and order fail to preserve justice, we should not preserve law and order."

With regard to the immediate determination of appropriate disciplinary action, Antonio Rossmann, 2L, said, "We shouldn't take it out on these students the fact that the University isn't run well." He was one of several participants who called for the creation of a board "to process complaints and to make decisions about things which the University is doing which need correcting."

Other speakers, however, contended that the decisions of the Administrative Board should be upheld. In a brief presentation which provoked some clear opposition from the audience, Dennis R. Nolan, 3L, warned the faculty "not to purchase a moment of peace by suspending the punishments." Nolan further contended that suspension of the punishments would make bad precedent for governing the Law School community in the future.

Professor Charles Fried stated that the decisions were made by a "tolerably responsible body" and were based on "tolerably fair procedures." He maintained that the community in order to assert its independence must exercise

some control over its own members.

Discussion of the Administrative Board's actions turned inevitably to consideration of its legitimacy and of the appropriateness of its procedures. Many participants discussed the validity of rulings made by three faculty members and three randomly selected students. Some speakers

Call for More Representation

called for a disciplinary committee more representative of the student body.

"If sanctions are to be imposed on members of a community," Justin Simon, a first-year member of the Committee on Governance argued, "these sanctions must reflect the values of the community."

Both Professors Loss and Andrew L. Kaufman noted that the Law School community was wider than some attending the general meeting recognized and included faculty, alumni and students present and future. Its influence, and thus responsibility, extended to the entire University and the American academic community as a whole.

Professor Louis L. Jaffe suggested that, in view of the many interests involved in Law School affairs, the professor is an "eminently legitimate judge" with the broad perspective required to settle internal issues. While supporting the legitimacy of procedures used by the Administrative Board, Professor Jaffe — and the other participating faculty members — acknowledged that better ones might be set up in the future.

Throughout the afternoon there was implicit acknowledgement by many speakers of the special meaning of the free, independent academic community. In particularly emotional remarks, Professor Paul M. Bator stressed the significance of fidelity to law within a law school.

"If we don't stand for it," Professor Bator asked, "who does?"

When the meeting came to a sudden close after the formal discussion of procedures, it was apparent that the long expression of opinion and of indecision had enlightened but tired the audience.

Many seemed to share the feelings of second-year student John A. Newman about the danger of dividing the community. "I feel worse confusion than I've ever had before in my career in the Law School," Newman, a member of the Governance Committee, admitted. "In my mind, the equities seem to weigh out."

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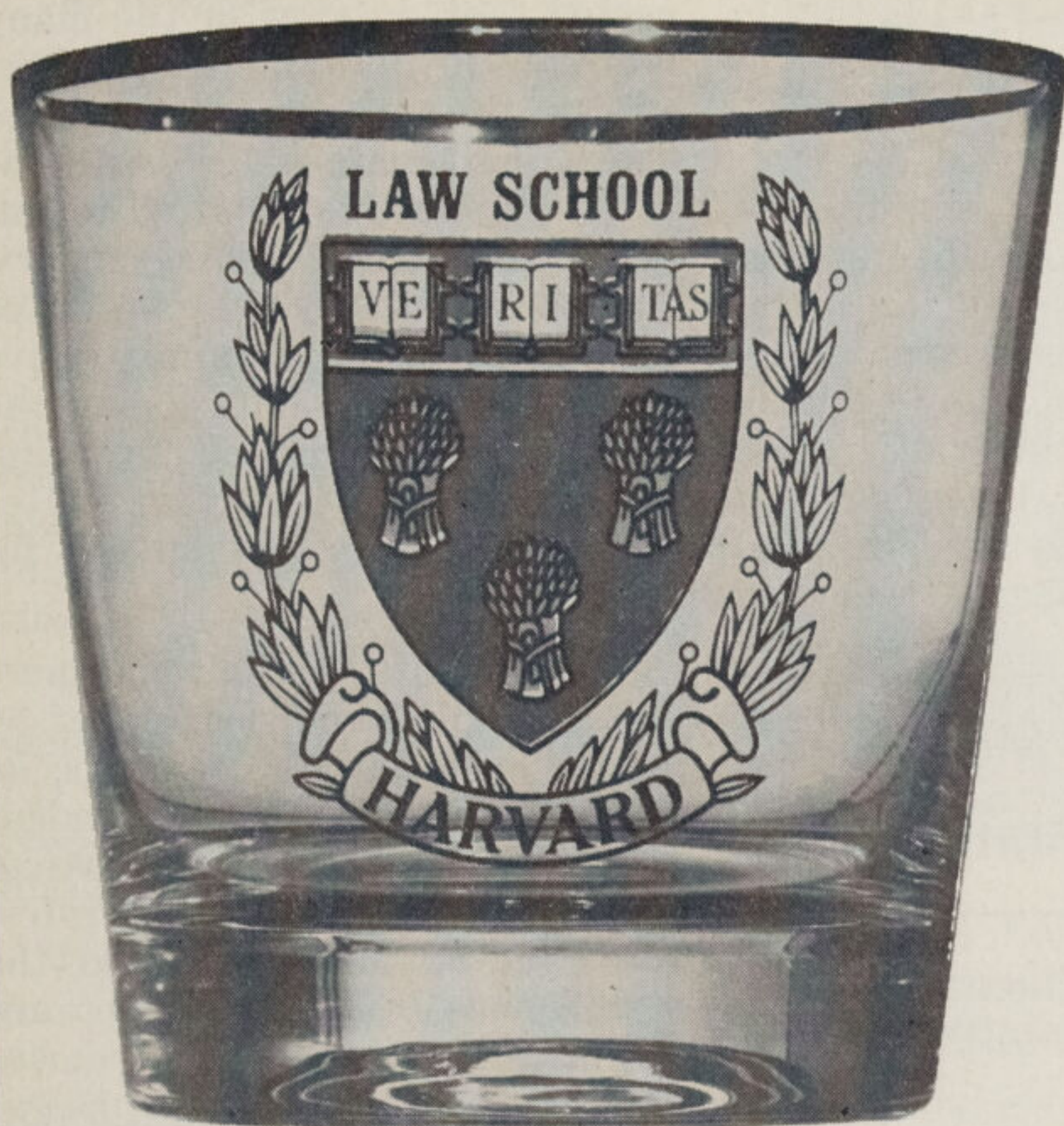
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Oil Report Shelved

(Continued from Page 4)

Under the existing quota system, the domestic price of oil is maintained at \$3.30 per barrel, and the removal of the oil import restrictions would cause the domestic price to decline toward the world market price of \$2.00 per barrel. As a result, some high-cost domestic wells would be forced to shut down and imports would come to supply a larger share of U.S. petroleum needs, a situation unsavory to American oil-interests and one which many fear would place the United States at the mercy of the supplying nations.

"The only legal justification for the restriction is protection of national security," said Areeda, and it was the analysis of the risks to security which served as the thrust of the Cabinet report.

Basically there are three "difficulties" which might be brought about by dependence on foreign

National Security Poor Quota Justification

oil supplies. First, if the United States were to become involved in a war with another super-power, U.S. requirements may be increased beyond the amount which foreign sources are willing to supply, and even if there were an ability to supply the needed oil, tankers needed to import the oil may be sunk.

Such a war, however, would have to be a conventional war ("In a nuclear war consumption decreases faster than production") of long duration with a submarine or air power capable of obstructing tanker movements. "You would have to postulate intense naval warfare with the Russians for one or two years," said Areeda, "and this is not likely."

Another hypothesized difficulty would result if local revolutions abroad interrupted petroleum production. Yet this situation does not pose a serious threat, as simultaneous upheavals in all exportation countries would be necessary to seriously affect U.S. petroleum needs, and then only if they continue for a long period of time.

A third danger, also adjudged "unlikely" by the Cabinet Task Force, would exist if hostile governments decided not to export to the United States for political reasons. "The simultaneous emergence of such regimes willing to dispense with their oil revenues for a prolonged period is unlikely," stated the report.

"While none of these risks are probable," said Areeda, "you must ask the question how seriously you want to consider conceivable, although improbable, risks." Even if any hypothesized difficulties were to come about, said Areeda, there probably would not be any interruption of imports from Latin America or Canada, and with all-out

(Continued on Page 14)

Laugh-in At Holyoke Center

(Continued from Page 3)

Committee on Governance, one of the eleven students invited to the Wednesday night meeting, told students following him as he went home that he just wanted to change his clothes and would be out the front door in just a few minutes.

He ducked out the back way.

Later at Holyoke Center, when word was received that the students had located the meeting and were attempting to get up to the tenth floor, the decision was made to lock the doors leading to the area where the faculty was meeting. Bruce remained outside to meet with the students, and the doors were locked.

However, it was then decided that Bruce should go inside. Only the police couldn't open the doors from the inside with their keys. After minutes of frustration trying to open the doors, the superintendent was summoned and unlocked the doors from the outside.

From then on, it became apparent the only way to open the locked doors was from the outside.

So, all throughout the night, the keys were passed under the doors to a student outside, so that late-arriving faculty members could go inside or student representatives could come outside to speak to the students.

Security was so tight that when Professor Robert Braucher arrived late, the Harvard

policeman stationed inside the locked doors refused to let him in.

Braucher, looking decidedly professorial in suit, topcoat, and hat, finally had to pass his identification card through the door for inspection by the police.

Meanwhile, students were good naturedly shouting at the police: "Don't let him in, he's a student." "Watch out, he's tried that before."

Braucher finally passed inspection, despite the efforts of the students to make him one of their own.

Vice Dean Walter Leonard also had some trouble getting into the meeting.

But Wednesday night at Holyoke didn't have a copyright on humor. Outside the Pound Room that afternoon, students were preparing a petition to send into the faculty meeting. After hours of debate and tension, the writer of the petition cried out in agony: "How the hell do you spell 'overwhelming'?"

And as a final note, shortly before the general meeting began Friday, an SDS organizer was overheard instructing his undergraduate pamphleteers outside the Ames Courtroom.

"Now go in there and spread out, like a representative part of the group," he ordered. "And remember," he warned his troops, "nothing disorderly, no disruptions. This is a LAW SCHOOL."

Two Radical Views

(Continued from Page 7)

cessful grass-roots organization. But, he said, it also demonstrated the frustration engendered by a system which makes people poor and keeps them impoverished.

According to Baron, the most important factor in staging rent strikes is "having a damn good understanding of procedural delays" to gain as much time as possible for the growth of community participation.

The two speakers agreed there is general public resistance to any program which seeks to achieve income redistribution.

Glotta predicted that every success scored by Baron and others in government-financed programs will increase official restrictions until all are driven into the ranks of those who oppose the system itself. Baron, however, plans to remain within the system as long as it allows him to continue his work for the poor.

Inn Elections

In recent balloting members of Lincoln's Inn Society elected the following officers for upcoming year-long terms: president, Joe Owens 2L; vice-president, Rich Lyon 2L; and treasurer, Joe Cavanagh 1L. Elected as second-year members of the Board of Governors are: Charles Hodge, Larry Pressler, Gordon Silver and John York. First-year members elected to the Board of Governors include: Ed Cox, Paul Daley, Chuck Wiggin and Mike Wyatt.

The Inn by-laws have been amended to admit women as members. Several have joined.

Tickets on Sale for Law School Show

Tickets for the 1970 Law School Show performances on March 13, 14, 19, 20, and 21 are now on sale in Harkness Commons and at the Reception Desk in Langdell. They are \$2.50 for the weekend performances and \$2.00 for the Thursday performance.

The show will be in Peabody Auditorium on Linnaean Street in Cambridge and will begin at 8:30 p.m.

Tickets for the March 27 performance in New York are also being sold now.

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Women Start Legal Action

(Continued from Page 1)

of the organizers of the Law Women's Caucus at Chicago, the students filed their charges against the law school because they felt it should and could be the most effective advocate of equal employment in this area.

"The law school isn't doing anything," she said. "It isn't possible for women to sue law firms directly because they are afraid of being blackballed. The law school is the only one capable of applying pressure."

Some women connect the law school's failure to act with the traditional deference among the various areas of the legal profession. Others noted that many firms contribute large sums to the school. Mrs. Gelb summed up the problem with the observation that

"the law school doesn't want to alienate law firms."

At Chicago's annual "Alumni Day," the women's group headed by Mary Jane Silverman, Aviva Futorian and Mrs. Gelb staged a teach-in on the experiences and grievances which led to the legal proceedings.

The impetus for the action stemmed from several students' participation in a law school seminar on Title VII last spring. Title VII forbids sexual discrimination in employment where based on employers', clients' or co-workers' preferences, or because of traditional job practices. It further requires equal treatment, regardless of sex, in job conditions, remuneration, and opportunities.

According to statistics cited by

the group, women attorneys are clearly victims of discrimination. Their studies show that within one year of law school graduation, men are earning 20 percent more than women. Ten years after graduation, men are earning 200 percent more.

Unless discrimination in employment is overcome, the women argue, the position of the female attorney may deteriorate because of the recent, sudden increase of women students graduating from law schools and seeking jobs.

Teach-in participants also recounted to Chicago alumni their own experiences seeking employment. They complained of token hiring, restrictions on the fields to which women are assigned, evaluation of women job applicants by higher standards than male counterparts and statements about feminine passivity and difficulties in adjusting to the professional environment.

Areeda Report Shelved by President

(Continued from Page 12)

efforts to develop existing sources within the United States and utilization of oil currently in storage the danger should not be great.

"In 1980, if North America received no oil whatsoever from the Eastern Hemisphere and no oil from Latin America, the United States and Canada would have only a modest deficit if over the next decade we had a price per barrel of \$2.50, which is two-thirds of the way to free trade," said Areeda.

In the light of these findings and considerations, the Cabinet Task Force recommended a tariff of \$1.45 on foreign oil in order to lower the domestic price to \$3.00 per barrel, and suggested further liberalization until the domestic price reached the \$2.50 level.

The report readily admitted that one effect of the proposed tariff system would be to decrease employment, profits, and investment, but stated that given the mobility of investment and employment the change would be "of insufficient magnitude" to have a severe effect on the national economy.

The number of people affected by the move to a tariff would be significantly less than the 300,000 men working in domestic oil and gas production, said Areeda, and while there will be some effect in certain geographical areas, this is "not an excuse for maintaining restrictions which are otherwise unjustified on national security grounds."

Adoption of the Cabinet proposal, however, de-

pends entirely on the discretion of the President, and at the present time, said Areeda, "the President hasn't made up his mind — he leaves it open to adopt some or all of the report."

"The fact that the President initiated the undertaking and was prepared to tell it like it is in a formal Cabinet document is to his credit," commented Areeda. Professor Areeda, however, was quick to add that President Nixon "could deserve even more credit when he makes his ultimate decision."

Chicago Trial Evaluated

(Continued from Page 6)

institution we have to maintain order — in the good sense."

In the discussion following the formal presentations, B.U. law student Jim Miller commented that it was extremely significant that the Chicago defendants were "indicted under the Civil Rights Act of 1968, sponsored by liberals, who had to compromise (the essence of liberalism), and used against men who tried to protest the fraud of American politics."

Another student took the fate of defense attorneys William Kunstler and Leonard Weinglass as a dire warning. "There is no *independent* bar. That's a myth. The first time any lawyer stands up to say what he believes — as opposed to what he's been programmed to say — he's expendable."

Blowing the Whistle on a Crisis

By Richard Hoffman

It's difficult to think of any point made by Professor Loss last Friday with which I would disagree. And yet there was something unsettling and unsatisfying about his eloquence, something which also bothered me during Professor Fried's erudition and Professor Bator's controlled passion.

For me, the whistle was first blown, so to speak, when one of the student speakers asked, in effect, why events at the University must push everyone halfway over the cliff before the by-now standard crisis procedures come into play with all the spontaneity of a Taft-Hartley national emergency fact-finding board.

Indeed, an even earlier version of these sentiments was disclosed when I asked a classmate if he intended to go to the big Ames talkathon. He said he didn't plan to attend and when I pressed further, he explained, "Someone's going to make a point and then ask, 'What do *you* think, Professor So-and-so?' and then the ball game's over."

All the Spontaneity Of Taft-Hartley

That wasn't what happened Friday. But it did happen last year at the grade reform open meeting when faculty members were able to skirt major questions and to postpone (in that case, indefinitely) any headcount on the issue. Radicals have good reason to fear the presence of Harvard Law School professors at such sessions, but not just because the points made by the faculty may be valid.

The professors appear on the scene when their self-styled "Law School community" hits the boiling point. One might wonder where both they and the community were playing squash before events reached the crisis level.

Moreover, is a large crowd which assembles in Ames courtroom after the spectre of disturbance lurches onto the scene a 'true community'? For me, the professors answered every other big question except the one which asks why is this all going to happen all over again as long as the faculty persists in facing the students only when Armageddon seems a little bit closer.

If the professors want to meet in the Faculty library, or in Holyoke Center, or in Fenway Park for that matter, I couldn't care less. And certainly the faculty of the Harvard Law School shouldn't have to charge across the countryside to be able to convene in private.

But until they are willing to show the multitude that cares about what goes on here that you don't have to take over University Hall or refuse to leave the Harkness Meeting Room in order to gain a hearing on the merits (and such a hearing inevitably turns into a discussion of the Law School's favorite topic, procedure, since that was what had to be violated to gain the hearing in the first place), there won't really be a Law School community that includes those of us without a corporation appointment.

* * *

Will there be a Hark next fall? Last Friday (truly an action-packed day) a group called Students for Less Overpricing (SLOP, couldn't you have guessed?) organized a one-

day boycott of the financially-troubled dining hall. The group was made up of both law and graduate students, apparently energized by recent austerity measures taken by management to combat deficit.

The Hark is losing a fat \$20,000 a month these days. So it wasn't too shocking when discount coupon books were discontinued. Recalling the 24-hour workdays of Stouffer's old manager, Norman Green, one wonders whether it's possible to show a profit at the Hark. And now that the benevolent city government of Cambridge has graciously lifted the Hark's beer license for prime hours, there's little hope for better days.

Little Hope For Better Days

As one who has consumed a generous quantity of farmhouse soup and squash pie over the years spent waiting on the ramp, I think the portions have been a good deal larger this year. True, the prices are higher. But they're higher everywhere around here, too, from Durgin-Park to Tony's Sub Shop, which takes in a significant range of eateries.

It may not be going too far to predict that food service at Harkness will vanish with such other departed Law School institutions as the Chancery Club, Williston Competition, Saturday classes, and the Griz. Since volume has dropped drastically, according to Marriott-Hot Shoppes Corp., which runs the Hark these days, students apparently have discovered some way to survive without the dining hall.

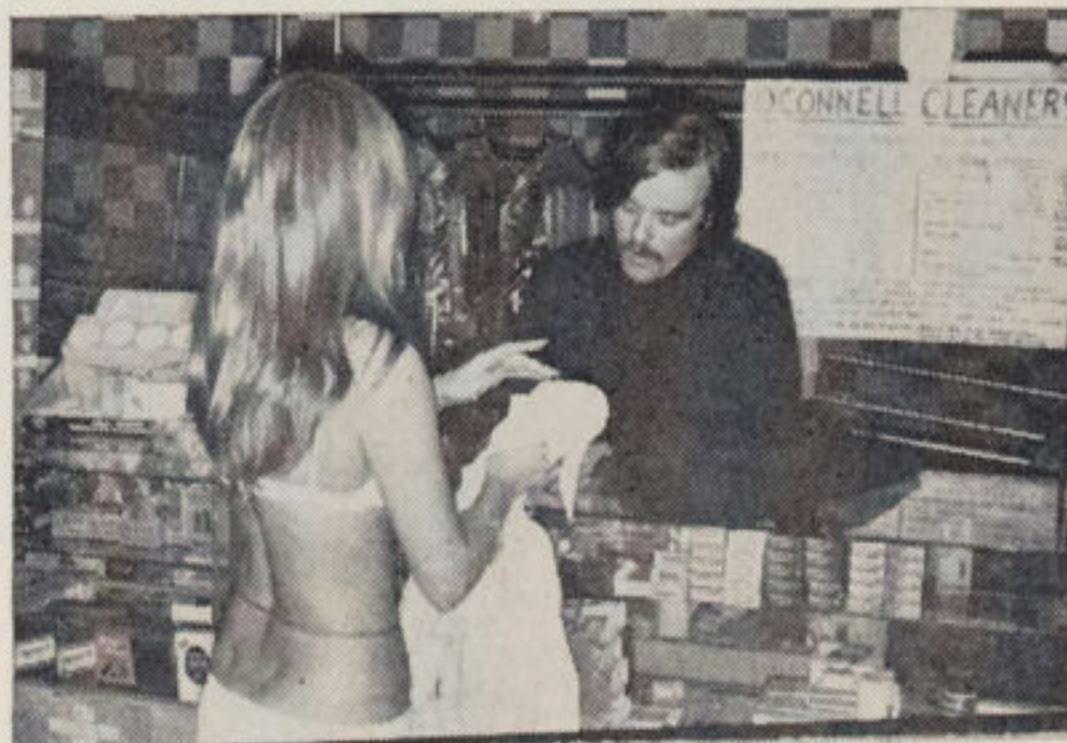
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