

HARVARD LAW RECORD

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TWENTY CENTS

Pusey Seeks Aid In Naming Dean

By Michelle Scott

At the regular meeting of the Law School faculty last week, University President Nathan M. Pusey requested that faculty members write to him suggesting the names and qualifications of candidates to succeed former Law School Dean Derek C. Bok, Harvard's president-elect.

President Pusey urged the faculty to write brief letters of recommendation within the next two weeks. Noting that he had also requested them to write at length on their views of legal education during the selection process that resulted in Dean Bok's appointment to head the School in 1968, Pusey stated, "I can't believe the situation has changed so dramatically in the last two-and-a-half years that we need go through that again."

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Profs Discuss Deanship

By Greg Ward

Selecting a new dean is usually a laborious, painstaking process in which the views and concerns of the faculty are given great

Although most professors deny the existence of a "list," it is clear that a small number of men have emerged as prospective candidates for the position of Law



Charles Soberman

Acting Dean Sacks and Professors Bator, Keeton, and Shapiro were most frequently mentioned for the deanship by their colleagues.

weight in the ultimate decision. To survey faculty views, the RECORD set out last week to personally interview every member of the Law School faculty and now presents impressions of the views of the 33 faculty members who were reached.

School dean. Four men were continually mentioned — Acting Dean Albert M. Sacks and Professors Paul M. Bator, Robert E. Keeton and David L. Shapiro; and Professor James Vorenberg was included by several as a likely candidate for dean. Professors William D. Andrews and Phillip E. Areeda were also named as prospects.

This narrowed field fails to include some who were regarded as making "admirable deans" but who were considered to be too old for the position. Professors Archibald Cox, Benjamin Kaplan and Milton Katz were among those mentioned as falling into this category.

"It's hard to skip from a 38- to a 58-year-old dean," said one faculty member. Another commented: "The new dean must be

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University to Seek Rent Hikes

By Richard McManus

Harvard University is reported ready to seek rent increases in Harvard-owned housing, despite a memorandum by Law School Professor Stephen A. Breyer arguing strongly against such a move.

Administrative Vice-President Gardner Wiggins and Real Estate Director Henry H. Cutler both said last week that the University would apply to the Cambridge Rent Control Administrator for restoration of increases effected last year before the adoption of the city rent control ordinance in October. That ordinance or-

dered rents rolled back to their March 1, 1970 level.

Harvard owns between 500 and 550 non-dormitory dwelling units in Cambridge. According to Cutler, rents were raised in 55 per cent of them last year. The increases were between five and twenty per cent in most cases.

Professor Breyer's memorandum suggests that Harvard not raise its rents until increases are justified by greater operating costs, taxes or building improvements as specified in the rent control act. He argues that "the university should not raise rents

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Assisting in the research and preparation of this article were John York, Jerry Snow, Kermit Kubitz and Richard McManus.

Harvard Seeks Increased Rents

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simply because it has had to pay a high price to purchase a building; to raise rents in order to earn a return on this 'purchase price' is wrong because it runs directly counter to the purpose of the Cambridge rent control law, and for other reasons as well."

The purpose of rent control laws, according to Breyer, is to transfer the increased rental value caused by a housing shortage from the landlord to the tenant because, for the most part, they are poorer. He writes that to raise rent above increased costs "serves only to transfer income from tenant to Harvard . . . just the sort of transfer that it is the policy of rent control to prevent."

Breyer further argues that: (1) Harvard's expanding presence in the community drives land values up in the first place; (2) long-time landlords are less likely than Harvard to squeeze all that is possible from tenants because their original investment was much lower; and (3) since most of the university-owned apartments will eventually be used for University facilities, higher rents are, in effect, partly financing the cost of these proposed buildings.

"I think it preferable," Breyer writes, "to have alumni, students or faculty with generally higher incomes pay a bit more for their buildings than to finance them at the expense of present lower income tenants."

The memorandum is addressed to Professors A. James Casner and Louis Loss, Law School members of the Committee on University Relationships with Corporate Enterprise. It is reported that this committee will release its report within a week and will say, among other things, that, although the University has an obligation to maximize the return on its investments generally, an exception might be made on investments in the Cambridge-Boston area where the interests of

the entire community are affected.

Wiggins, who as administrative vice-president is in charge of the University-owned housing, said that Harvard seeks a five per cent return on its housing investments but rarely receives that much. He characterized Breyer's argument that the University was going against the spirit of the rent control act as "a fair one. But," he added, "many Harvard tenants were for years paying rents below fair market value. Why should student tuition subsidize their lower rentals?"

Cutler pointed out that Harvard had for many years what was in effect a rent freeze. "We feel that Harvard is a good landlord," he said. "In many cases, we have not imposed increases where hardship was shown." He also noted that nearly half the units had no rent increase at all in 1970.

Cutler said that Harvard made a preliminary application for rent increases immediately after the rent control act was adopted and will make a more formal application "as soon as one other landlord does."

"We don't want to be the first," he said.

Cutler expects the increases will be granted. "The rent control administrator isn't too sure of his procedures," he said. Breyer's memo says the rent administrator has been granting increases "as a matter of course."

Faculty Approves Pass-Fail Plan For New 2L Accounting Course

By Greg Ward

Students will be able to take *Accounting* on a pass-fail, one-credit basis next year under a restructuring plan approved by the faculty last week.

Under the new plan, course instructors will rely principally on the lecture method for the presentation of material during the first half of the term and students will be free to discontinue the course at mid-term. Those students who leave at mid-term will

receive one hour of course credit upon the satisfactory completion of a brief examination, to be given on a pass-fail basis.

After the mid-term point, the *Accounting* course would return to its traditional second-year class format with the fewer, more interested students who remain.

In a memo to the Committee on Legal Education, Professor David R. Herwitz described the present situation as one where "the

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Students

By Logan Johnston

Though it is still early in the term and many students are becalmed with the knowledge that exams are three months away, the Committee on Legal Education is thinking ahead. Last fall the Committee sent out a questionnaire asking law students what their feelings were toward an honor system on term examinations. The results of that questionnaire are in and have helped lead the Committee to propose an honor system to the faculty.

Last May great confusion in the examination process and schedule was brought on by the Kent State-Cambodia-New Haven events. Exams were taken on a do-it-when-you-feel-like-it basis, and this rather extreme version of an honor system both dismayed and delighted.

It was to study the reaction to last spring's experiment that Professor Stephen G. Breyer and Andrew I. Schepard, 2L, developed this questionnaire. Schepard explained that the questionnaire was originated "not because the honor system is a burning issue, but simply as a means of exploring law students' opinions on exam-taking and finding out what they would ideally like to see happen."

Polled on Honor Plans

The questionnaire offered three possible methods of administering examinations: (A) regularly scheduled exams but without proctors; (B) regularly scheduled exams that the student would be allowed to take outside the exam room; and (C) exams to be

forces its feeling that there may be too much psychological tension placed on the student in the present system. An honor system, the Committee believes, would both lessen such pressure and, at the same time, eliminate "undesirable paternalism" in the exam situa-

proposals; they just saw that C was the most liberal and voted for it." Moreover, he thinks that B may actually have the most widespread overall support of the three proposals.

Lurking in the shadows behind this whole study is the problem, real or imagined, of cheating. The Committee is concerned that implementation of an honor system would cause the faculty to rely more heavily on the open book exam, perhaps to the eventual exclusion of the already rare short-answer and closed-book questions.

The final question surveyed student reaction to the statement: "As part of an 'honor system' students should be obligated to report other students who violate the rules of the system to some disciplinary body. If a student did not report a violation, a sanction should be placed on him." (See table C.)

In light of the considerable hostility to the statement, the Committee restricted its recommendations to the suggestion that students be made aware of an ob-

Table A. Voting for Alternative Honor Systems

1st Choice	2nd Choice	3rd Choice
Option C 324	Option B 295	Option A 193
Option A 172	Option A 121	Option C 111
Option B 109	Option C 64	Option B 98

checked out one at a time in any order and taken at any time and place within a two to three week period. The questionnaire also gave the student the choices of voting for none of these proposals, (E); or of suggesting his own method, (D).

Among the 741 who replied, C was the predominant first choice. (See table A.) In each class the pattern of choice was the same: C, the clear-cut first choice; B, the second choice; and A, the third. The option of rejecting all three proposals (E) received only 66 first place votes.

The questionnaire also asked how strongly students felt about the statement that, "We should change from the present examination system to some variant of an honor system." (See table B.)

The Committee on Legal Education feels that the strong student sentiment in favor of some form of an honor system indicated by the questionnaire rein-

tion.

However, the Committee is going to propose a combination of proposals A and B, rather than C, to the faculty. Professor Breyer explained that proposal C would be an administrative nightmare for the Dean's Office and for the

Table B. Support for Honor System

	1 L	2 L	3 L
Agree strongly	108	80	50
Agree	81	84	61
No opinion	40	40	31
Disagree	28	20	32
Disagree strongly	17	40	29

Administrative Board in trying to prevent time and procedural violations.

There is also a suspicion among the Committee that, as Professor Breyer puts it, "many students didn't think very hard about the

ligation to report instances of cheating. The Committee is, however, considering a proposal that students sign a statement at the end of each exam to the effect that they did not receive or give "unpermitted aid."

One questionnaire response suggested that exams were an outmoded relic of "19th century scholastic dogmatism" and should be abolished. Had this been proposal F on the questionnaire perhaps more than 741 would have replied.

The Committee has made a complete discussion of its findings available at the receptionist's desk in Langdell.

Table C. Obligation to Report Violators

	1 L	2 L	3 L
Agree strongly	44	45	25
Agree	37	43	31
No opinion	14	36	22
Disagree	66	48	37
Disagree strongly	115	87	86

Nixon Administration Fails Midterm

By Kermit Kubitz

Someone stacked the deck for the Law School Forum's midterm appraisal of the Nixon Administration, held in Ames Courtroom last Friday evening.

Senator Thomas F. Eagleton, '53, D-Missouri and Nicholas deB. Katzenbach, former Attorney General of the United States,

ing the U. S. from the war in Asia; (2) bringing the overheated, inflationary economy under control; and (3) bringing the country together. He gave credit for the postal corporation, the draft lottery, and welfare reform, but described U. S. losses in Indo-China since the inauguration: 18,000 KIA, 2600 aircraft, in-

ing that all the law offers is forty years of bad jokes at the bar and the gout at the end.

Price chose James Reston's column last Friday morning as the best analysis of the Nixon policy. Reston had said that Nixon's decade of government reform was a coherent program and deserved a more serious response than it had received. Price reinforced Reston's conclusions with the claim that Nixon was making a unique reexamination of operating principles for the domestic government.

On welfare reform, Price said, "It would have been politically tempting to buy out the states in welfare costs. Instead what happened was a really thorough-going analysis of how the system worked and a proposal for radical change."

Turning to the war, Price remarked, "The President has promised to get out of Vietnam. On any objective indicator, that is what is happening." Another expletive from the crowd.

Price's opinion about Vietnam was based in part on an article in the *Wall Street Journal* that concluded that a genuine redistribution of land was taking place, with a concurrent redevelopment of stability in rural parts of the country. He revealed that he was also proud of his connection with



Jeff Petrucelly

Forum Panelists Eagleton, Katzenbach and Price.

blasted Nixon for gross failures of leadership and negative progress toward stated goals.

John Price, '65, a Special White House Assistant, was the administration's only defender, terming its record as the first new analysis of basic domestic policy since the New Deal. Price disclaimed inside knowledge of foreign policy, but claimed that the country is moving toward a period of greater stability both in Asia and the rest of the world. At this, one member of the audience replied with an expletive.

"To some Nixon is seen as one who carefully moves his bishops, and manipulates his pawns," quipped moderator Professor Henry J. Steiner, '55, as he introduced Senator Eagleton. "That is, the image is one of chess. To others the image is still that of Checkers."

Eagleton enumerated three great problems that Nixon has promised to solve: (1) extricat-

volvement in Cambodia and Laos.

"Thank God on January 20, 1969, Richard Nixon did not have a plan to *escalate* the war," exclaimed Eagleton.

"The President's economic policy must be chalked up as the second gross failure of leadership. President Nixon's new game plan is premised on a 23 billion dollar increase in revenue, as a result of an 88 billion dollar increase in GNP. This would require a 12% growth rate from the fourth quarter of '71 to the fourth quarter of '72," stated the senator, disbelievingly.

As to Nixon's goal to bring us together, "instead of conciliation, we had the early rampages of the vice president; instead of racial harmony, there was the Southern Strategy."

John Price took the stand and told how he had decided the law wasn't for him after reading in a biography of Disraeli the famed statesman's letter to a friend say-

Eagleton Charges Three Big Failures

the Nixon administration because of its new China policy. "For the first time in twenty-five years we are following a more realistic policy toward mainland China," said Price.

"It's called provocation," said a member of the audience.

Katzenbach followed Price. He criticized the feeling of helplessness that the Nixon administration has generated. "There exists almost a feeling that those on that large ship are satisfied with keeping it afloat, and not caring

Evaluation

where it goes, or what happens to the crew as long as the skipper remains in charge."

Comparing the Nixon with the Johnson administration in the areas of crime control, expansion of civil liberties, and civil rights, Katzenbach said Nixon is "batting zero. To the best of my knowledge Mr. Nixon has no civil rights program. How can a black man have confidence in this administration?"

'Nixon Batting Zero' Says Katzenbach

Price was allowed to reply and briefed the audience about the forces determining Nixon policy. "I think it is important to remember that the country is made up of incredibly disparate points of view. President Nixon is managing to pull a point of view very different from your own into a center meeting ground. Nixon is at heart, was, and always will be a centrist. There are heavy, heavy pressures on him from the right."

The evening concluded with questions on the crime control bills and civil liberties, conspiracies, and the prison raid into North Vietnam. Katzenbach, in answer to one question, said that he had considered use of the conspiracy laws back in 1946 when he had written an article for the *Yale Law Journal* (*Vicarious Liability for Criminal Offenses of Co-Conspirators*, 56 Y.L.J. 371) The uses being made of the law were twice as terrible now, he said.

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Viet Teach-In: New Old Wine

By Kermit Kubitz

At ten minutes to eight, moments after admitting President-elect Derek C. Bok and Mrs. Bok, the door to Sanders Theater was locked from the inside and the first 1971 Vietnam Teach-In began. The overflow crowd was shunted into Lowell Lecture Hall.

Several speakers, including the moderator, Professor of Government Michael L. Walzer, repeated the theme that we had been through all this before, that this was the third teach-in at Harvard since 1965. Walzer described politics as "... doing the same thing again and again until it succeeds. Tonight could very well be the beginning of the end of another President."

Bella Abzug, of Hunter College, the 19th Congressional District of New York, and the House of Representatives, said, "It's all right to sit here tonight, but don't do it after tonight," in developing her point that it was necessary to go into a community to elect a Congress to fix "a date certain" for the end of the war.

"We've turned our country's morality, our economy, our national purpose over to professional killers," continued Mrs. Abzug.

Professor of History Stanley Hoffman followed and reduced the war to a multiple choice question. Saying that all negotiation means is postponement of choice, Hoffman urged that the only possibilities were (1) protracted war or (2) serious negotiation about who governs South Vietnam leading to a "government of accommodation, wedded to peace."

The prince of peace, Eugene McCarthy, followed Hoffman and repeated several remarks that he had practiced on an audience of Boston lawyers at Faneuil Hall during the lunch hour. At Sanders Theater, McCarthy was much less effective, yielding to an

old, jerky style. His theme this year is the illegality and abandonment of constitutional principles inherent in the Nixon war plan. The inescapable impression is that McCarthy wants to run again.

Having called Johnson and Nixon "anti-civilization" during the downtown meeting, he expressed to the campus crowd sorrow over discontinuation of the medieval practice of executing councillors who gave bad advice, saying, "Now the practice seems to be to give them welcome sanctuary in the academic community."

Some groups in the audience attempted to disrupt the meeting, especially during the speech of Walter Pincus, former Senate Foreign Relations Committee staff head, but did not prevail

News Analysis

over the centrist (for the peace movement) sympathies of the rest. The hit of the evening was *New York Times* columnist Tom Wicker, whose candor and militancy were brought to bear on the question of method to effect change. Wicker suggested non-payment of taxes and other forms of civil disobedience, but said that a quick solution could not be found.

The point of view and the means proposed by the official speakers were attacked by pamphleteers outside the halls as just more suggestions to work within 'the system.' The attacks pose the central question for the peace movement: In what principles or in whom can be found the unity to oppose an administration whose immovable premise is to end the war with victory, or at least with grace? As Tom Wicker said, "We are fooling ourselves by thinking we can end with honor a war in which there was no honorable beginning."

Yale Professor John Hart Ely Joins

By Michelle Scott

Recently everything has been going well for John Hart Ely. He was named a full professor at Yale Law School in December and in January became a visiting professor at Harvard.

Ely — “sounds like really, not like rely,” — has moved his casebooks and a stern-looking caricature of himself arguing before a jury into FOB 210 for the spring semester. At Yale, Ely’s courses include *Constitutional Law*, *Conflicts*, *Federal Jurisdiction* and a *Criminal Trial Litigation* seminar. This semester he is teaching

Criminal Practice Left Little Writing Time

Constitutional Law and a first-year small section focusing on *Erie Railroad Co. v. Tompkins*.

Professor Ely earned an A.B. in philosophy from Princeton in 1960. As an undergraduate he specialized in symbolic logic. In 1963 he graduated from Yale Law School where he was Note and Comment Editor of the *Yale Law Journal*.

Chief Justice Earl Warren chose Ely as his clerk after Ely’s final year of law school. But, Ely was the first person since World War II to be denied a draft deferment for a Supreme Court clerkship.

Professor Ely spent his first six months after law school in the army. “I hated it,” he reported.

As a military policeman assigned to guard the post gate, Ely recalled that he always made it a point to check the cooks’ cars for food.

“At 3 a.m. I’d stop everything and do a complete search just to keep myself awake,” he said.

After the army stint, he joined the Warren Commission staff for six months prior to his clerkship. “I worked mostly on the biography and background of Lee Oswald,” he admitted. “It had nothing to do with who committed the crime.”

When his clerkship ended, Ely went to England on a Fulbright grant. “Theoretically I enrolled in the London School of Economics, but I only went there twice,” he recalled. “Mostly I played the piano.” That year he also published an article about trial by newspaper in the British monthly, *Encounter*.

Professor Ely never planned an academic career.

“I always assumed I would be a criminal defense attorney,” Ely said. “The only other thing I thought about was going on in philosophy. But I didn’t do that because I didn’t want to teach. I never thought about teaching law and I turned down an offer from Yale when I was out a year.”

In 1966, Ely was one of three attorneys who set up Defenders, Inc., a private defender organization in San Diego, Calif., funded by the Ford Foundation. “There had been no public defender in San Diego and now there are 30 to 35 lawyers in the organization,” Ely said.

He represented defendants accused of mugging, rape, burglary, counterfeiting and smuggling. “Smuggling cases are hard to beat,” Ely noted, “particularly if the person is caught with the goods on him. Usually they have some incredible story . . . but they’re not unwinnable.”

Highly successful, the Defenders, Inc. organization has become one of the alternative models written into federal legislation for providing defense in federal courts. The program attempted innovations in both personnel and structure.

“We paid more and tried to get better people,” Ely said. Defenders, Inc. also tried making their offices resemble customary firms — “so people think they’re getting a real lawyer.” Staffers only take about one-half the cases and the rest are assigned to private attorneys.

“There’s no question it works,” Ely stated. “The rate of acquittals, if that’s an index, and I think it is, has gone up significantly.”

Yet, Professor Ely left practice because “it gets boring. After you’ve argued your fiftieth search motion you don’t want to do another. That’s why I don’t want to teach criminal process or criminal law. I felt glutted by the time I got through.”

Nevertheless he feels “very itchy teaching a criminal litigation seminar.”

Teaching, Ely decided, would offer him more free time than practice for research and writing. His latest article, “Legislative and Administrative Motivation in Constitutional Law” appears in the June, 1970 *Yale Law Journal*. In this article, Ely acknowledges

Student Work Aided GIDEON and BROWN

that case-law is inconsistent on the relevance of motivation to constitutionality and that recent cases, particularly those dealing with draft-card burning, hold motivation irrelevant. Professor Ely, however, argues that motivation often is relevant.

While still in law school, Ely was involved in writing two significant legal pieces. He authored a *Journal* comment applying the

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Bill of Attainder clause to anti-communist legislation which influenced the decision of *United States v. Brown*. Following his second year at Yale, Ely was a summer associate at Arnold, Fortas and Porter, Washington, D.C. where he wrote the draft brief for the indigent defendant in *Gideon v. Wainwright*. Although a student, Ely was recognized on the *Gideon* brief and his

context of a greater number of subjects.

At Yale, *Constitutional Law* is taught in the first term, and Ely disagrees with this scheduling.

"*Constitutional Law* definitely should not be a first-term course," he stated. "The second-year section has a much higher level of discussion and perception and there are very good comments. Student performance is much

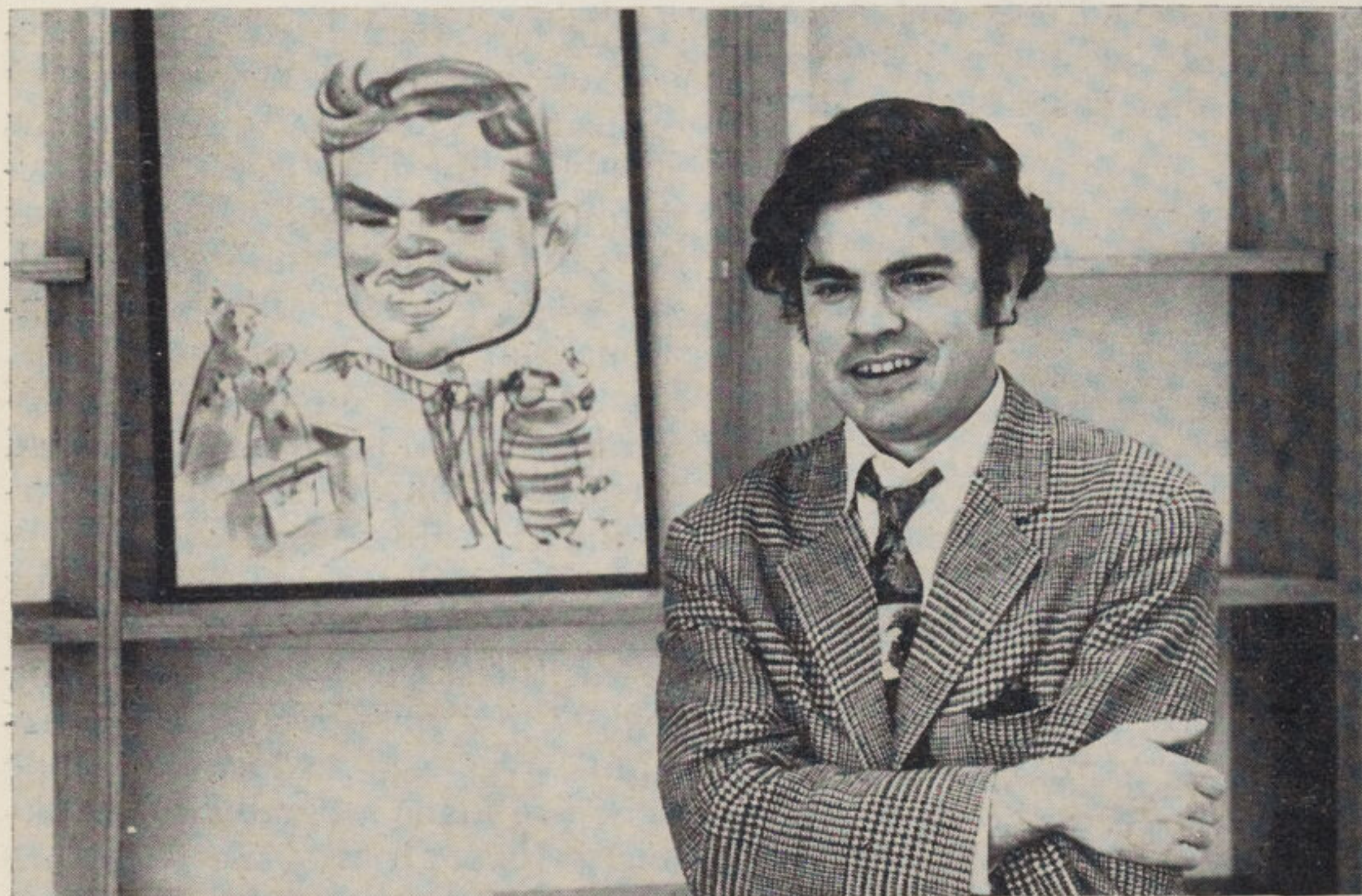
class," he said. "I feel like an opera singer in that damn arena."

The "170 people" in Ely's *Constitutional Law* section report that Yale's legal *wunderkind* prefers discussions to lectures but permits students to pass "without prejudice." Undaunted by four consecutive "passes" recently, Ely picked a fifth name from the seating chart, announcing, "I'm not going to be discouraged, I'll keep calling until someone answers."

While listening to student comments, he appears hardly a passive audience. Circling his desk constantly, pacing alternatively clockwise and counter-clockwise, he dons, doffs, re-dons gold-framed glasses, never quite filling his ever present though rarely puffed pipe, tugging at his "jury picking tie" with patriotic eagle emblems printed on olive and green squares.

Ely accepted Harvard's invitation this semester because "it is a great law school." The visit also affords a reunion with Professor Alan M. Dershowitz, an old friend who was a class ahead of Ely at Yale and who served as Ely's *Journal* editor. Like most professorial visitors, Ely disclaims any present interest in staying at Harvard.

Noting his recent promotion at Yale and the fact that appointments and classes are set already at both schools for next term, Ely emphasized, "I'm only here for a term; I couldn't at present consider anything for next year. And, indeed, nothing has been suggested."



Charles Soberman

John Hart Ely, right, and caricature.

role in the case included in Anthony Lewis' *Gideon's Trumpet*.

All of Professor Ely's academic leisure is not spent writing. He also finds time for viewing old movies, reading, attending the ballet and playing basketball.

"I played saxophone sort of professionally as a teenager in college," he said, but now he insisted he only "fool(s) around" with popular music. He also claimed he pawned his saxophone.

Ely prefers Yale's semester courses to Harvard's year-length tradition.

"I prefer the semester system, you spend less time the first few minutes getting everybody back to where we were," he said.

However, Ely believes that the Harvard system has the advantage of giving students a longer time to mull over materials and to consider their classes in the

more interesting because it is a second-year class."

While Ely considers Yale and Harvard students intellectually equal, he notices attitudinal differences.

"There's no difference in the extent to which students are prepared. There's no observable difference in quality," he remarked, "though students here are a little more concerned with what's expected of them, with credits, grades and examinations. At Yale you're more likely to get students worrying about what they're going to get out of a course than what they've got to put in. Here, they seem to think of it as something to get through without so much expectation that this might be interesting and fun."

So far, Professor Ely's only complaint is Harvard's class size.

"I don't like 170 people in a

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Profs Volunteer Comments on

(Continued from Page 1)

young enough to give a period of vigorous service." These and similar comments indicate that the new dean should be in the 35-50 year old age range, "so that he has both a useful work period of ten years and yet has been here some time so we'll know how he'll act." The formal age of retirement is 66.

When asked what chance exists that the next dean would be selected from outside the Law School, the faculty responded with virtual unanimity—very little. It was generally felt that there are enough qualified people within the Law School to make going outside unnecessary, and that none of the situations that usually require bringing in a man from outside existed. Many faculty members were unable even to name a possible candidate from "outside," although Yale Professor Alexander Bickel was mentioned by some. One professor suggested Bella Abzug.

"The times when they've gone out," said one senior faculty member, "there were factions on the faculty strongly supporting different candidates within. I don't anticipate that developing here." Other situations said to require a serious outside look—none of which were regarded as presently existing—were when the School is in trouble and some sort of shake-up is needed or when the outsider is as good or better than anyone on the inside and cannot be induced to come as a professor, but only as dean.

It was also felt that an outsider would be at a tremendous disadvantage. "It would be a great mistake to bring in someone from the outside to as large and complicated an institution as Harvard Law School," remarked one professor, and another felt that an outsider would have a difficult time adjusting to the Law School's informality.

A major consideration, however, is the fact that it is easier to act with respect to those who



Charles Soberman

Professors Andrews and Areeda, above, and Vorenberg, below, also received their colleagues' endorsement.



Charles Soberman

are known and trusted. "During the last few years the faculty has been through a lot together—they have good relations with

each other and have had a lot of discussion among themselves."

In general, it seems that the consensus was perhaps best expressed by one young professor: "I would be very surprised if they went outside the Law School and I would be dumbstruck if they went outside and it was anyone but Bickel."

In regard to the qualities which they personally would like to see in the new dean, many named "legal distinction" as their primary concern. Various descriptions as "intellectual qualities," "legal accomplishment," and "commitment to values of academic and scholarly life," this quality was mentioned almost as frequently as such obvious requirements as administrative ability and balanced judgment. One senior member explained: "Moving in with established prestige helps move other people." And another: "I don't think there can be good teaching unless it's inspired by scholarship. We need to have someone who has made a personal commitment through past performance

Pusey Urges Faculty Letters

(Continued from Page 1)

In his remarks, the outgoing president emphasized that deans of all Harvard faculties are presidential appointees and are considered part of the president's office.

"I think it's clear," Pusey said, "that the dean of a faculty does derive his standing and authority from the president's office."

However, President Pusey also noted that the new dean "has to be accepted as the legitimate dean of the faculty by those scholars forming that faculty." Confirming that Dean Bok would help in the selection, Pusey said, "It must be someone congenial to him—not to me. I won't be here."

President Pusey acknowledged that while the "legal choice" of

Dean Bok's successor rested with him, the choice will come from a process of wide consultation. Mr. Pusey stated that Law School alumni have just as much right to be heard on the choice as present students and that at least a selective number would be contacted. Lawyers, judges and legal educators will also be consulted. Noting the significance of the appointment, Pusey remarked, "There's a great public who cares deeply, devoutly about this School."

Faculty members were requested to forward copies of their letters to President-elect Bok. Bok invited the faculty to meet with him to discuss the selection and indicated that he would take the initiative in speaking to some professors.

Deanship

— careful, rigorous, high-standard work.”

Those professors interviewed also expressed great concern that the next dean have a sense of what the profession is coming to, “otherwise he becomes just an echo of the past.”

“There is something wrong with the School when a majority of third-year students can’t wait to get out,” said one professor. To solve this and other problems, professors suggested that the new dean “be someone with a vision of what the Law School is for” and “a man with a receptive mind, open to a consideration of changing problems in a changing world.”

Those professors interviewed mentioned other more obvious criteria, admitting that all prospective candidates did not possess them to an equal degree. These qualities included courage to face students, respect of the faculty and students, willingness to be available and keep the dialogue going, and — on a more personal level — his tone. (“We don’t want an authoritarian.”)

As one talks to professors about the deanship, it becomes increasingly apparent that many of them do not want the job themselves and in fact have refused offers to be dean at another institution. “It is a tremendous sacrifice for someone who takes the job. It moves you into a part of academic life that isn’t what usually pulls one into the institution. You’re completely shut off from all the things you’ve been working on.”

“I think there is some tendency to exaggerate the importance of the dean,” said another faculty member. “He’s really only the first among equals. The faculty sets the tone and pace of the school.”

Another prevalent attitude was summarized in the concluding remark of one professor: “I would be most happy to commit the future of the Law School into the hands of any number of people.”

Questionnaire, Open Meeting Aim to Assess Student Views

The Law School Committee on Governance is distributing a student questionnaire, arranging meetings with School organizations and special interest groups and is preparing an open meeting on legal education to help prepare their report to President Nathan M. Pusey on student opinion on the deanship.

Joseph D. Gebhardt, 3L, Law School representative to the University Committee on Governance, will serve as panel moderator for the open meeting, 8 p.m. Thursday, March 4 in Ames Courtroom. The panel will include Professors Clark Byse and Charles Fried, and students Ronald Simon, 1L, and Richard D. Klein, 2L. After brief introductory remarks, questions and comments will be accepted from the floor.

The Governance questionnaire on the deanship is being distributed in class sections and collected

at the Langdell receptionist’s desk. Students are requested to indicate issues they feel relevant to the selection of the dean, the specific personal and professional qualities necessary, individuals and the attributes that qualify them for the post and suggestions concerning the selection process.

Because of the Committee’s sensitivity to difficulties involved in reporting the questionnaire’s results, it has requested that students communicate strong, negative views on individuals to President Pusey, former Dean Derek C. Bok or Gebhardt.

The Committee on Governance reported that it hoped students would respond thoughtfully to the questionnaire since the earlier luncheon discussions on the deanship were attended by approximately only 75 students. Again the committee emphasized that students could write directly to Mr. Pusey or Bok regarding the selection.

Congressman Donald W. Riegle, Jr.

(Republican, Michigan)

A Fellow of the Institute of Politics during part of this spring term, Congressman Riegle will be holding two discussion sessions open to all interested students. He welcomes any and all questions.

HOW TO BEAT AN INCUMBENT CONGRESSMAN, STAY YOUR OWN MAN, AND GET RE-ELECTED

Thursday, February 25, 3 p.m.,
Winthrop Junior Common Room

CAN A YOUNG CONGRESSMAN REALLY DO ANYTHING ABOUT CHANGING THINGS FOR THE BETTER?

Thursday, March 4, 3 p.m.,
Winthrop Junior Common Room

Withdraw Now

"I think it is terrible that this country has its bombers ranging all across the face of Indochina, killing innocent men, women and children by the tens of thousands, paying the people of Vietnam and Laos and Cambodia to kill each other and doing all this in the name of self-determination for them."

Senator George S. McGovern, February 21, 1971

Once again this week American university communities, disturbed by the United States military participation in a foreign war, conducted teach-ins to express their concern for "the people of Vietnam and Laos and Cambodia" and their opposition to the continuing — and expanding — American involvement in the Indochina conflict.

The renewed effort to focus attention on United States' presence and policy in Southeast Asia comes at a time when many news commentators are reporting a "cooling" of campus attitudes and activity. The teach-in at Harvard and the others planned around the country should demonstrate that although their mood appears calm, students have not been convinced by proponents of military intervention nor are they indifferent to its effects.

This year's decline in activism at the Law School and on other campuses may be attributed to a sense of futility or apathy. Yet, the issue remains. Disenchantment with the war has become pervasive; opposition to it, deeply and broadly based.

The war has lasted too long to extend the search for historical or legal justifications. It has endured too long to permit national leaders to disclaim responsibility by shifting blame to earlier administrations. If there were ever any basis for such disclaimers, it disappeared with the decision to invade Laos. Whether our involvement was originally well-intentioned or base bears no relation to the morality or merits of present politics and actions. The Nixon administration has assumed the conduct of the war and the responsibility for its conclusion.

While American casualties decline, Vietnamese, Cambodian and Laotian deaths mount and refugees increase. And it is these victims whose suffering disturbs us most deeply. Student consensus, though not now expressed through public demonstrations nor through political personalities, can nevertheless be expressed with greater unity and intensity than ever: Withdraw.

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Israelis Oppose Socratic Method

[Editor's note: The following is a translation of an article appearing in the Israeli student weekly **Pi Ha-aton** of December 29, 1970, submitted to the **RECORD** by Shalom L. Kohn, 1L. As he notes, some problems are basic to law students everywhere.]

There is a growing bitterness among the fourth year students of the Law Faculty at the University in Jerusalem. The background of the dissatisfaction of these students in their final year is the instructional method of Dr. I. Neeman in his course in Tax Law, a required course of the fourth year.

In a gathering of all the students of the fourth year last week, the complaint was aired that lessons were not presented as concise lectures but rather as drills of question and answer which led to no clear conclusion or illumination of the general principles of the legal matter considered. The result, it was emphasized, was that students are expected to come to understand the difficult and complex material on their own.

Representatives of the students who presented their proposals to Dr. Neeman met with absolute refusal to institute any change. In his response to the student representatives, the lecturer stated that he found his teaching method quite satisfactory, and categorically refused to change it, even under the threat of student disruption of class meetings.

It is worthy of note that this is the first year for the lecturer at the Faculty of Law in Jerusalem, after a period of teaching at the University of Tel-Aviv. Students note that the rate of failure of Dr. Neeman's Tel Aviv students on the uniform tax examination is about 80%. This rate of failure was the primary factor in the decision of the University of Tel Aviv to change Tax Law from a required course to an elective.

Letters to the Editor of the RECORD

Grad in Eggshell Needs Greening

To the Editor:

I have followed the exchange between Mark Green '70 and John Fick '65 concerning the Harvard Law School student survey of law firms. I am inclined to simply agree with Mr. Green and leave it at that, but after reading Mr. Fick's letter in the December 3 issue, I feel compelled to stick in a couple of words of my own.

Mr. Fick recited examples of his practice intended to show that it covers a wide range of legal problems, and then offered the following judgment: "The ideal of justice, as it exists in this imperfect world, is reasonably well served by the bench, by the Bar which is made up of various-sized firms, and by sole practitioners, and not least, by the citizens from every walk of life who constitute our juries."

I hope there will come a time when the graduates of Harvard Law will not emerge from a half-dozen years of practice so comfortably satisfied with the availability of justice in our society. If the school produces such people in large numbers (as the television series on young lawyers misleadingly intimates is already the case), they probably will not find themselves comparing recent graduates of the school with "an unhatched chick."

Central Indiana, where I practice, simply cannot be too different from Central Illinois (*ed. note: where Mr. Fick practices*). The people here who think that the legal system does a reasonably good job in achieving justice tend to be the ones who think that one or two pauper cases and as many appointments to defend indigents in criminal trials constitute a significant contribution of their time for which they deserve much credit. There is simply no point at all in arguing with people who think that things are about as good as they could be. The only reason for replying to such suggestions is to underline their unreality for the audience that has the power to change things: the classes of law students and generations of lawyers yet to come.

Perhaps it is possible for those who share Mr. Fick's views of the legal system to be "greened" — by Professor Reich or by Mark Green. But, it is far more likely that the new consciousness of the obligations and responsibilities

of law will develop among those who are still students. And if any of them is subject to criticism because his view is obstructed by the hatching process, what can be said of those who set about encasing themselves in a shell after they have been hatched, a shell which seemingly grows thicker with the years?

Craig Eldon Pinkus '65

Bias on Blindness Depressing Attitude

To the Editor:

The article in your February 4, 1971, issue on the employment difficulties which Mr. Charles Hodge has encountered presents a depressing display of attitudes toward minority group hiring still held by all too many members of the legal profession.

The objections you indicate employers have typically raised toward hiring this applicant are tiringly similar to arguments which such employers formerly advanced to justify job discrimination on the basis of race, religion, and sex. These arguments are morally reprehensible. They are, moreover, so utterly lacking in factual support as to be an insult to the intelligence of anyone familiar with this area.

Over the past few years, some discriminatory law firm and governmental hiring practices have been at least superficially abandoned in the wake of criticism leveled on behalf of minority groups other than the one to which Mr. Hodge belongs. However, the lesson here would seem to be that we are operating in a system in which, absent both legal prohibitions and strong contrary public opinion, many persons who purport to be lawyers will base hiring decisions on unfounded assumptions about whole categories of job applicants. There is, indeed, something radically wrong with such a system.

Craig R. Anderson '68

Bar Information

Regarding admission to the bar, any third year student who has not already done so should immediately check the requirements for admission in the state in which he plans to practice. This information is available at the Registrar's Office and at the Placement Office.

Law Notes

"U.S. Investment in South Africa: The Polaroid Case" will be the subject of a panel discussion sponsored by the Harvard International Law Club today, Thursday, February 25.

Participating as panel members will be Thomas Wyman, vice-president in charge of the International Sales Division of Polaroid Corporation; Andrew Lukele, a black South African lawyer; and a member of the United Nations Council on Namibia, who is yet to be named. The discussion will be moderated by Edouard Bastin, associate professor in the Africa Studies Center at Boston University.

Scheduled to begin at 7:30 p.m., the discussion will be held in Room 107 of the Pound Building at Harvard Law School. Members of the Harvard University faculty, staff and student body are invited to attend. Harvard identification cards will be required for admission.

* * *

I. F. Stone spoke to Professor Leonard Boudin's class on Advanced Constitutional Litigation last Thursday and pushed violation of fire regulations in the 101 Pound room to a new high as students jammed the room to hear him. Stone despaired about the Indo-Chinese war. It appears to him that Nixon will never remove all the troops in Southeast Asia. Vietnam will become another divided, unsettled country and another liability to chances for world peace.

Stone questioned the ability of classroom discussion to affect the situation, which, to him, is bringing us closer to a nuclear holocaust. He despairs not only of the American government but of the world. "War is the principal pastime of mankind," opined Stone with dismay.

* * *

Ralph Nader is expanding operations. He will hire additional 3Ls for several new public interest law firms in Washington, D.C. Interviews will be conducted by Mark Green, '71, on Wednesday, March 3, and Thursday, March 4, if necessary.

Please leave résumés and sign up for an interview at the *Civil Rights Law Review* office, Langdell basement. For further information, contact Marshall Beil, 731-5472. If you have already had an interview for a permanent position with Nader or PIRG, you need not apply again.

Advisers Plan Alternatives to Ames Program

The Board of Student Advisers has announced the election of a new slate of officers and two major changes in the 1L Ames Program—the formation of a committee within the Board to plan alternatives to the mandatory Fall Ames Contest and a 1971 Spring Ames Contest devoted entirely to environmental law.

The modifications in the Ames Program were announced by the Board's new chairman, William A. Anderson, 2L, as a response by the Board to criticisms of the Ames Program in previous years. The change in the Spring Ames Contest will take effect this year, and the Ames Alternatives Com-

Spring Devoted to Environmental Law

mittee hopes to have its report ready for the Board's chairman later this semester so the alternatives can be instituted next fall.

Other officers, all 2Ls, chosen to run the Board until February, 1972, are: David C. Carrad, director; Peter L. Baumbusch, 1st year chairman; Charlynn C. Maniatis, 2nd year chairman; Robert C. Alexander, case editor; and Stephen G. Shank, Ames Alternatives chairman.

The Ames Alternatives Committee has invited representatives of every Law School student organization to submit proposals for supervised programs of legal research and writing which could be elected by 1Ls in lieu of the Ames Contest. All students who have proposals for possible alternatives to the contest are invited to submit their proposals to the Committee.

The Committee's recommendations will be considered by the entire Board. If proposals have been advanced which will provide 1Ls with adequately supervised training in legal research and writing, the Board will recommend their adoption to the faculty—which must approve any exceptions to the mandatory participation in the Ames Contest.

The Environmental Spring Ames Contest will begin March 12 when the records of the cases are issued. Participants must sign up at the Board office in Langdell by March 5 to be eligible. Draft briefs will be due March 19, final briefs on March 26 and oral arguments will be held on March 31 and April 1.

The cases used in this year's contest will be based on current environmental litigation. Outstanding briefs submitted in the

contest will be sent to the Environmental Law Society and made available to interested litigants.

More than 100 1Ls have signed up for the revived \$500 prize Williston Competition to draft a contract of employment between Admiral T. Palmer Anderson, U.S.N. (Ret.), a would-be educator, and unpresided Williston University. The contest will end March 4, so that interested 1Ls will have an opportunity to participate in the Spring Ames Contest as well.

Awards

The Committee on General Scholarships met on Monday, January 25 and confirmed Knox and Sheldon awards to seven law students. Philip Bakes, Joel Klein and Jerry Shulman will receive Sheldon awards. David Coleman, Roger Magnuson, Jared Stamell, and JD/MBA candidate, Bruce Wasserstein were designated Knox winners.

The Law School received 4 of the 10 University Knox awards and 3 of the 14 University Sheldon awards.

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Surprise Rallies to Scrap Cadillacs in A League

By Willard Fraumann

In one of the key games of the year, the Sunday Surprise, led by Eric Henrikson and Kenny Heitz, overcame a nine point half-time deficit to beat the Cadillacs 53-45. The win

narrowed the number of undefeated A League teams to two, but the top four teams are tightly bunched. In the B League, Lavell Jackson and Virgil Roberts led the Jackson Five to an impressive win this

past week. Alan Mendelson of the Lemons and Richard Fathy of the Charitable Deductions have been two of the outstanding performers in the C League, even though their teams have had their troubles.

A LEAGUE		B LEAGUE		C LEAGUE	
Sunday Surprise	4-0	Condors	4-0	PLAP	5-0
Mashuppee County Maulers	3-0	Sky Kings	4-1	Ralph Ralph	4-0
Cadillacs	3-1	Workers	3-1	The Jug-offs	2-1
Easy Rider Orphan School	4-1	Faunae Ferae Naturae	3-1	Harvard Legal Aid Bureau	2-1
Hot Shots	3-1	Voluntary Defenders	3-1	Red Pigs	3-2
Turkies	2-2	Jackson Five	3-1	7 Lemons and a Frankfurter	2-2
Roughage	2-3	The Crimson Swine	2-3	Class of 70	2-2
Grovinators	2-3	Harvard Law Review	1-3	Charitable Deductions	2-2
The Team	1-4	Abberations	1-4	Sneak Hawks	1-4
XLOTI	0-4	Dunkers	0-4	The Law Review	1-4
Juggernaut	0-5	Oscar Greeners	0-5	Globeplodders	0-3

Student Journals Seek Third-Year Paper Credit

Four student journals are seeking to allow more than 100 3Ls to fulfill the third-year writing requirement by doing journal work.

As a result of recent changes in the writing requirement, editors of the *International Law Journal*, *Civil Rights-Civil Liberties Law Review*, *The Harvard Journal on Legislation*, and *The Harvard Law Review* have informally presented a proposal to Acting Dean Albert M. Sacks. Because the Continuing Committee on Legal Education already has a heavy schedule, Professor Charles R. Nesson was asked to work out details of the proposed plan with students.

"There are just a lot more writing opportunities at the School this year," commented Erik Van Loon, 3L, editor of the *CR-CL Law Review*. "Our proposal will fulfill the idea of substantial legal scholarship in the writing program." Van Loon also noted that his journal and the *International Law Journal* are expanding from two to three issues a year, requiring more writing and more writers. Another reason for seeking credit at this time is possible competition from the clinical pro-

grams that apparently soon will be competing for student time outside standard classes. Last week the faculty passed a proposal to give credit for clinical programs in the civil and criminal areas. Students will receive eight credits, attend a three-hour class and write a paper in connection with their work. [See *RECORD* issue of Feb. 11, 1971.]

No grades would be assigned to journal work because of the editorial work of persons other than the author. Members of the journals feel that their articles are at

least as long and far superior to a typical third-year paper.

Andrew I. Schepard, 2L, a member of the Continuing Committee on Education, said, "It's rather silly to require someone on *The Law Review* to develop his writing ability with a third-year paper."

Major objections to the proposal question giving the journals special treatment and the equity involved in allowing only the limited membership of the journals to fulfill the requirement in this way.

Employment Opportunities Announced

There will be available again this summer several (more than 10) employment opportunities for students interested in working for government, private enterprise, and community groups which engage in low-income housing development. Last year, participating employers included, among others, HUD (Washington), UDC (New York City), Boise-Cascade (Los Angeles) and the South End Emergency Tenants' Council (Boston).

Students accepted for employment will be required to attend one orientation session to be held in the spring, to develop a case study on the agency they work for, and to enroll in the fall (1971) Seminar on Low-Income

Housing. If you are interested in this program, please drop off a résumé at Professor Haar's office indicating on it any geographical and/or agency preference you might have.

* * *

The Placement Office recently sent a questionnaire to approximately 1000 public-oriented organizations concerning the availability of openings for 2L summer clerkships or permanent positions. These firms included public interest law firms, public defenders offices, attorney generals, district attorneys, Model Cities programs, and legal services. The Placement Office has compiled a summary of 250 replies now available at the Placement Office.

'Free Taiwan' Scholar Seeks Chiang's Overthrow

By Tom Mitrano

Professor P'eng Ming-min may not be as well known as Mao Tse-tung or Chiang Kai-shek, but the controversy surrounding his escape from Taiwan, where he had been convicted of sedition, and his obtaining a visa from the United States Department of State, threatens to have major consequences for Mao, Chiang and the United States.

Professor Jerome Cohen invited P'eng to speak at his Mon-

day luncheon meeting. Well over a hundred people attended, and the vast majority were Chinese. Also attending was John King Fairbank, head of Harvard's East Asian Research Center.

P'eng chose to speak on the legal and political history of Taiwan. From 1895 to 1945 the island was under the colonial rule of Japan, and hisses greeted P'eng's assertion that Japan had honestly applied, and incorruptibly administered the law. When

challenged on this point, P'eng made it clear that he condemned the Japanese aggression, but was bound to say that their enforcement of law was fairer than that presently practiced by the Nationalist government of Taiwan.

P'eng characterized the Nationalist rule of Taiwan as a myth in so far as it claims to be the rightful government of all China, and a fiction where it sustains the hope of successfully retaking the mainland by military force. He went on to note that under the present military law which governs Taiwan, criminals are tried in military courts, there is no prohibition of *ex post facto* laws in political cases, nor do minority offenders have a right to diminution of punishment. P'eng had been tried in Taiwan for printing a statement calling for the people of the island to collaborate and overthrow the Nationalist government, and create a new government.

When asked how he, as spokesman for the Free Taiwan Movement which seeks to wrest control of Taiwan away from the mainland Chinese-dominated government and return it to native Formosans, would describe the legal rights of the Formosans to overthrow the Nationalists, P'eng protested that he was not the spokesman for "any organization." Then, when asked to state his view as a "member of a group which seeks to overthrow the present government," he disavowed any association with any group, and refused to consider

(Continued on Page 16)

Profs Study Law and Technology

Milton Katz, Henry L. Stimson Professor of Law and Director of International Legal Studies, and Professor Laurence H. Tribe are both participating in projects dealing with the role of law in controlling technology. Their work is described in the Sixth Annual Report of the Harvard University Program on Technology and Society.

Professor Katz is concerned mainly with the individual control on technology; for example, the power of a person injured by an industrial process to sue the enterprise that is responsible.

By reviewing recent court cases where enterprises were held liable for damages under the legal doctrines of nuisance, strict products liability, and liability for harm from abnormally dangerous activities, Katz has delineated the emerging legal document. He shows that the tendency in the courts is to hold enterprises responsible for the social costs of the technology they develop. This tendency acts as a spur to business enterprises to use their managerial and technological resources to reduce those costs.

Katz believes that this doctrine is beneficial, because it encourages industries to take account of all of the effects of their technological development. He adds, however, that the cost burden should be spread widely enough so that no one enterprise is pen-

alized by becoming the target of a lawsuit, or the victim of an accident. His findings have been published in the *University of Cincinnati Law Review*, 38, No. 4. Reprints may be obtained from the Harvard Program on Technology and Society.

Forcing enterprises to bear the social costs of their innovations by the threat of law suits is, however, not the only avenue of legal control of technology, nor is it always the best. In another of the program's projects, Professor Tribe has identified four basic types of legal intervention: (1) modification of economic incentives through tort liability and also through taxing systems or patent arrangements; (2) direct governmental supervision of some kinds of technological decision-making; (3) changes in the structure of government agencies and of corporations; and (4) the redefinition of traditional personal rights, and the creation of new rights such as a right of informational privacy, or a right of access to a healthful environment.

Professor Tribe is attempting to define an optimum legal strategy for technological control by matching specific problem areas or objectives with the most suitable legal approach.

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Review Voting: Mudslinging and Meatballs

By Fenno

The Law School may not have a dean for next year, but the *Law Review* has its new president. Jonathan B. Marks, a 2L from Tallahassee, was elevated to the post last Sunday morning around one a.m. after 16 hours of balloting.

He is renowned for his forthright remark made last spring during a grade-reform seminar, *to wit*, that he wanted to retain the grading system rather than go to pass-fail because he had been reviewing his notes and thought that he had a good chance to make the *Review*.

Bunky helped me drive a spike-mike through the wall of the Pound Building Student Lounge for the duration of the yawn-and-catfighting fest.

Shortly before nine o'clock Saturday morning each 2L *Reviewer* went to his mailbox at the white Greek Revival mansion and withdrew a coded slip. In this cross between *Monopoly* and *Mission Impossible*, no code words said "hatefulness" (that was someone else's code that went awry) and Gannett House did not self-destruct. But some did get messages that said "go directly to Pound."

Not among them were the four who had been nominated for the presidency by the outgoing *Review* officers (those four blokes got instructions that said something like "stay here in Gannett, watch Roller Derby on the tube [which they did] and bring the rest of us moguls some food at the appropriate hour.")

A fifth (person) joined them at about 10:15 a.m. when Melvyn H. Wald received the requisite seven votes to be nominated from the floor and was ejected from Pound with no more than reasonable force.

Outgoing officers spent an hour describing the quality of each person's notes, subcites, prelims, I.Q., morality, charisma, religion, table manners and virility. This spices up an endurance marathon that may see bored techcitechekers actually wrestling over any extant reading matter—even down to the pathetic throwaway *Case and Comment* (cranked out gratis by West Publishing Company—whadaya mean, high casebook prices?).

Actually, by the fact that they nominate candidates and then publicly evaluate their work, the 3L officers have a good bit of say in the choice of a president. Later, along with the newly-selected president, they again have a good deal of say in who the lesser officers will be.

And in the voting, too, the 3Ls outnumber the less-than-thirty 2Ls by two-to-one. This year's 3L *Reviewers* are an abnormally large group, giving that class more say than usual (though they don't necessarily vote any differently than 2Ls, Hashish or Black Dog).

3L Vote - Like Hashish, Black Dog

There were no great ideological splits among the five candidates. Most were considered of the reform-minded group who had attended and participated in a series of 2L meetings this year devoted to *The Role of the Harvard Law Review in a Pluralistic Albeit Class Society*. General conclusions were that the *Review* had class and would continue to have it even if it cut back from eight to seven issues per year. The guys who were diehards for the eight issues cited 87-year-old precedent for their case but it was found not in point. (*Semble?*) Decision on the merits is pending. Also, none of them got nominated for the presidency (cf. *Gannett Weathervanes Tell Which Way Wind is Blowing*, 7 DEADLYUS 69 (1971)).

Generally, the selection came down to a matter of who had done the best *Reviewish* work and who had the most pleasing personality. Several comments on both were heard, with the latter eventually becoming determinative. There were no Lew Sargentiches among the candidates, no one whose success had preordained him for the top spot. Enough of the 2Ls had withdrawn their names from contention (aha, didn't want their work exposed in front of the assembled congregation) to leave a relatively small pool of 2Ls from which to choose nominees.

Of course, these dudes get hungry just like anyone else. Several com-

plaints were picked up by the spike mike that not enough *boeuf rôti* and too many turkey sandwiches were carted back by the five nominees. The fault lay in the fact that the orders had only gone through char-treuse, mauve and heliotrope galleys and thus accuracy suffered.

By four in the afternoon each person had moved from chair to carpet to couch at least three times, and one candidate was eliminated and got to join in the delightful camaraderie. Last year one candidate was accused of plagiarism during the scholarly hack-job of that year.

At least one of this year's candidates (Wald) got some mud slung at him: he's lethargic, he's prolix, he's got character, *etc.*

One of this year's 3L officers practiced yoga during the entire session. Others just tended their knitting.

Then came the steatopygia-producing dinner: spaghetti from Natalie's. The carpet will never be the same. The meatballs were deemed as atrocious as the table manners. *Viva voce* pronunciamientos proclaimed that next year the repast would be catered.

When the hour was growing late and only two candidates remained—Marks and runner-up Ira M. Feinberg—the two stood outside and pelted the Pound windows with snowballs in an effort to hasten the decision. After it came, around one o'clock Sunday morning, the thundering hordes burst forth into the crisp night on their way to get stoned or drunk, as the case note may be.

The next day the following officers were elevated to the *Review* Pantheon: vice president and treasurer, Melvyn H. Wald; executive editor, Eric D. Green; articles and book review editors, James V. Babcock, David E. Gordon, Andrew I. Shepard, Charles B. Temkin; Supreme Court and note editors, Ira M. Feinberg, John A. Herfort; note editors, Neil W. Averitt, A. Stephen Hut, Jr., Lyman G. Sandy; development and case editor, Harris L. Hartz; case editors, Peter S. Hendrixson, Scott C. Moriearty.

Radical Accounting Changes Approved

(Continued from Page 2)

classes are often dull and pedestrian, and completion of the course often produces little sense of substantial achievement." Herwitz attributed this condition to the decline in the level of preparation for class by students and the consequent drop in the quality of class discussion.

"It's no fun to teach it [Accounting] anymore," said Herwitz, who commented on students' resistance to the use of the Socratic method in a basically informational course such as *Accounting*: "In *Accounting* it seems that the instructor knows the answer. . . . It's either two or four, why

doesn't he tell the answer rather than make people look bad?" This calls for a shift to lectures."

By adopting the lecture method for the first half of the course, Herwitz estimates that it would be possible "to give students enough of a foundation in the field to overcome their natural fear of accounting and their reluctance to grapple with accounting problems" in about 14 class hours.

"The notion," said Herwitz, "is that you start out with some information, give the students a running start and let only the really interested stay on."

Herwitz' conviction that all students should get at least a "running start" on accounting led him to propose the one-credit, pass-fail option, despite his own troubles with a pass-fail grading system.

"It is bitter irony to me that I should be the first to propose a pass-fail course," said Herwitz, who regards himself as a staunch advocate of grades. He felt, however, that if the mid-term exam were not pass-fail, "almost no one would take it. It wouldn't be a meaningful option. We'd have brought forth a mouse."

Herwitz explained that "November is a terrible time to take an exam for credit. Many would have started *Accounting* with a view to taking the option, but come November they wouldn't be up for taking an exam."

Herwitz said that the modifications may be applicable to other "informational" courses, and that other professors are considering the use of more lectures in their courses.

"While I'm not famous for seeking out student views on governance," said Herwitz, "I think that student views on curriculum are what we're looking for. If they think it's a waste of time, none of us will have a good time."

P'eng Ming-min Attacks Kai-Shek

(Continued from Page 14)

the question even as a private individual.

The New York Times, *Washington Post*, and *The Far East Economic Review* have all consistently linked P'eng with the Free Taiwan Movement. No explanation was offered for this contradiction. Cohen said only that another occasion was scheduled at the Harvard Yen-ching Library where P'eng would treat the subject.

Finally, Professor Fairbank rose to comment. He characterized the "American liberal" as an individual who doesn't feel threatened himself, but who "eggs on the protagonists" of critical situations in other countries, thereby getting "cheap excitement by vicarious participation in somebody else's problem." Fairbank's remarks were taken to be in response to the attempts to get P'eng to comment on the Free Taiwan Movement.

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