

HARVARD LAW RECORD

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TWENTY CENTS

Alumni Hear Bok; Law Day March Protests Injustice

By Richard Hoffman

NEW YORK — Though the two occasions were separated by only a bit more than two miles, lawyers who attended both the annual dinner of the Harvard Law School Association at the Harvard Club on 44th Street last Thursday, April 29, where Derek Bok and Henry Friendly spoke, and the Foley Square Rally of the Lawyers Committee to end the War the next day, might have found the distance a good deal greater.

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Governance To Propose Student-Faculty Council

By Nick Akerman

After two years of deliberations, the Law School Committee on Governance released last week a draft report on student government at the Law School calling for the formation of a student-faculty council. The report will be presented for discussion at the faculty meeting on Tuesday, May 11.

The Committee on Governance, composed of three faculty members and ten elected student members, was established on an interim basis in 1969 to consider two problems: (1) the develop-

ment of permanent arrangements for student representation in faculty meetings; and (2) methods of selecting student members of faculty committees.

School Council

The proposed Harvard Law School Council would consist of five faculty representatives and one teaching fellow appointed by the dean, five student representatives from each class, and one graduate student representative. The council would also be empowered to include up to four additional student members "to represent organized and identifiable student groups."

The general functions of the council would be as follows:

— The council may direct its attention to any matter of Law School policy or practice touching the interests of students, and shall serve as a forum for the expression of student views and concerns on such matters.

— The council will keep itself informed of the work of Law School committees, may suggest matters for consideration by any committee, and may make recommendations to a committee about matters under consideration. It may, as appropriate, take measures to inform the Law School community about the work of the committees and proposals being developed by them.

— The council may make reports and recommendations to the faculty on any matter pending before the faculty or on any other matter of concern to the council. Any such recommendation will be placed on the agenda of the faculty meeting with the status of a motion made and seconded.

— It will be the responsibility of the council to develop communication within the Law School on issues of general interest. It will have the right and duty to convene open meetings of the entire Law School when appropriate, and to

(Continued on Page 2)

Legal Heirs Get Day-Care

By Lisa Friedman

The story goes that one father, on hearing of his offspring's acceptance to Harvard Law School, remarked with calculated cynicism: "Well, at least it keeps him off the streets." Now, the Harvard Law Wives — at Harvard Law School, the day-care center *par excellence* for hundreds of would-be attorneys — will provide child-care for the heirs and scions of same.

Located on the first floor of 23 Everett Street, the center is expected to accommodate, on a first-come-first-serve basis, 15 children (ages 6 months to 5 years) of faculty, students and staff beginning in September, 1971.

The Harvard Law Wives emphasize that the center is not a drop-in baby-parking terminal. The structured program of supervision, designed to fulfill a need for continual child-care during

working hours, is offered to full-time working mothers. Half-slots,
(Continued on Page 2)



Day-care candidate protests preventive detention.

Day-Care

(Continued from Page 1)

however, may be made available for part-time employees and women law students.

The idea was first proposed to Dean Derek C. Bok this fall by HLW President Rosemary Rossman. He was also gifted with a copy of the *KNOW Report*, a Radcliffe study of all Harvard University day-care facilities.

A committee of law wife mothers was subsequently organized to contact married students and substantiate the need and demand for a day-care center. In January, Acting Dean Albert M. Sacks agreed to donate a portion of the first floor of 23 Everett Street to the project.

Except for the rent-free space given by the Law School, the center will be self-supporting. Even medical care for the children, required by law, will not be available through the HLS Health Center.

In addition to the still to be raised \$5000 opening cost (including remodelling to meet the standards for day-care centers in the proposed Massachusetts Day-Care Statute), the annual operating budget will run between \$24,000 and \$28,000. Much of this will be used to pay the salaries of a director and assistant directors.

The center will charge a fee of \$30 per week per child and will additionally require some participation by parents. One progenitor, usually Daddy, must be available to feed his child at lunch.

The center will be subsidized by HLW fund-raising activities. The Women Law Students Association has ceded most of its office on the first floor to increase available physical space.

As the program develops, it is hoped that there will be extra spaces for children of the Cambridge community. In addition, some study is being made of the extent to which the availability of the day care center will free wives of HLS students to work and ease the demand on available financial aid funds.

Donations for the \$5000 open-

Faculty Backs Discipline Proposal

By Michelle Scott

The Harvard Law School faculty has voted to recommend adoption of the *Tentative Recommendations Concerning Discipline of Officers* formulated by the University Committee on Governance. Professor Alan M. Dershowitz was the sole dissenter from the law faculty vote on April 21, 1971.

The *Tentative Recommendations* propose procedures for the discipline of officers of instruction and certain

other corporation appointees who are members of a Harvard faculty.

The procedures would apply in cases involving violations of the third paragraph of the *Statement of Rights and Responsibilities* which condemns interference with freedom of speech, academic freedom, freedom from personal force and violence, or freedom of movement; theft and willful destruction of property. They would also apply to charges of grave misconduct or neglect of duty under the *Third Statute of the University*.

Complaints will be initially screened by a committee elected by the respondent's home faculty. If the screening committee decides further action is warranted, a hearing committee composed of four members of the faculty involved and three members from other faculties shall conduct a hearing, make findings of fact and recommend any appropriate action to the President and Fellows, who retain the power to make the final decision.

Professor Dershowitz objected to enacting procedures to try discipline cases without any substantive standards other than the cited sections of the statute and statement. By an 18-13 vote the faculty defeated Dershowitz's proposal to add an amendment suggesting consideration of the need for substantive standards.

During the course of debate on the recommendations, however, Professor Paul M. Bator, a Law School representative to the Governance committee, noted that in any case, representatives would report to the governing board the question of future codification.

After the meeting, Dershowitz stated he expected that the faculty eventually will recognize the need for substantive standards and urged the adoption of a bill of rights for members of the university.

Governance

(Continued from Page 1)

hold smaller meetings of groups concerned with particular aspects of Law School operations, and otherwise to insure that important issues are fully aired within the Law School as a whole.

In addition to handling broad student concerns, the council will establish a "committee of its own members consisting of one student and one faculty member to handle grievances, complaints and requests of students with respect to the administration of the School."

The council would also be charged with selecting student members of Law School committees. One of its tasks would be that of establishing student representation on the Admissions and Appointments Committees.

The practice over the past two years has been to allow students interested in attending a particular faculty meetings to sign a sheet at the receptionist's desk. From the names on the sheet, fifteen students have been randomly selected to attend each faculty meeting.

The Governance Committee has concluded that the "attendance of students chosen at random has not, however, served very effectively as a vehicle of publicity and accountability to the student body at large." For that reason "the value of student participation in faculty meetings would be strengthened if a small number of elected student representatives attended regularly." Student participation, however, would still be prohibited in special situations such as the consideration of appointments.

ing fund drive are being collected by Jeanette Barrett, 617-547-0907.

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Poll Favors Cost Deferrals

By Robert McGaw

Results from the Financial Aid Survey indicate students generally feel the present aid program is being fairly administered, believe some students are abusing the program and favor the Yale Plan of tuition payment deferral. Students overwhelmingly favor a plan containing a loan-forgiveness feature for students pursuing low-income public-service work on a long-term basis.

Student marital and financial source status and all three law

Yale Plan Will Not Be Recommended

classes were well represented in the 254 questionnaires which were returned to the committee in March.

Students favored the Yale Plan over the present financial aid policy (140-88) and over borrowing at the commercial rate, (176-44). Students not on aid strongly favored deferred tuition (79-37, 15 indifferent) but aid students are not so enthusiastic (61-51, 13 indifferent). Most students favoring the plan would continue to do so even if it meant a reduction or elimination of outright grants (126-54).

Antonio Rossman, 3L, member of the committee, explained that although the survey indicates approval of the Yale Plan, the committee has decided not to recommend its adoption.

"Most people don't know of all the aspects of the Yale Plan, which allows students to defer tuition payment until after graduation, and then pay a percentage of their annual income for a period of years," Rossman said.

He outlined that Yale's plan was university-wide and that the actuarial figures used for the plan were based on the professional schools carrying the brunt of the program. This burden has fallen to the graduate departments because their graduates were projected to have more remunerative careers than the undergraduates, even though more government grants are given to the undergraduate arts and sciences departments.

The Yale Plan also requires an annual law school tuition increase of

\$300, so that eventually tuition will cover all fixed costs of the law school.

"Students here at Harvard Law are generally opposed to tuition increases," Rossman added.

"Also, there is a danger that the plan would discourage alumni giving. Since the Yale Plan provides for a 35-year debt, the tendency will be for people to feel that their total obligation to the school is fulfilled when the debt is paid.

"About one-third of the Law School's costs are now borne by the alumni. If the Yale Plan caused giving to decrease, the School would be in a financial crunch," Rossman predicted.

More significant is the students' approval of an alternative plan where the "scholarship" part of the financial aid award would be decreased and the "loan" part increased, coupled with a provision for "loan forgiveness" for each year that the person works in low-paying public-interest work.

"This way, students could borrow the money for their education and would not be pressured to seek high-paying corporate practices in order to pay their debts," Rossman explained. "The committee finds this plan very appealing, and hopes at least parts of it are adopted."

BSA Awards Research Grants

The Board of Student Advisers has announced the award of five research grants totalling \$3,500 to members of the second-year class. The five projects, all connected to the applicants' third year papers, were selected by a six-man subcommittee of the Board of Student Advisers from nineteen proposals received.

Grants were awarded in amounts varying from \$550 to \$900 for the following projects:

— A study of the impact of a June 1970 NLRB order designating colleges as "employers" for collective bargaining purposes: Kenneth F. Kahn.

— A study of the black lawyer in New York City with the aim of establishing an institute to coordinate the use of legal and other professional skills to maximize benefits to the black community: Samuel Cooper.

— A study of the treatment and rehabilitation of women prisoners in Framingham: Gail G. Miller.

— A study of the impact of the 1969 abolition of capital punishment on

The survey revealed that students feel the financial aid program is being fairly administered (104-74, 56 don't know) although students not on aid were more skeptical (31-41, 42 don't know) than students on aid (74-33-14).

"It's O.K. if those on aid are satisfied, but since all graduates are later asked to support through alumni giving, it is important that everyone should have confidence in it," Rossman urged.

When asked the number of abusers known to them, most students said "none" (129) and forty knew of only one. "Over 70% of the respondents said that this was an insignificant factor, though, which indicates students will tolerate some cheating on the system," Rossmann expounded.

Part of the survey's purpose was to sample student budgets to see if increases in financial aid grants were warranted, since inflation continues to eat into students' budgets. The committee decided to recommend increases in the allowance for books to \$175 for each of three years and to increase by five per cent all non-fixed costs, such as room and food. The survey showed that fixed costs had changed little and the present allotment was sufficient.

Rossmann urged all students and alumni to give any suggestions in writing to Professor Andrew L. Kaufman.

Britain's legal institutions: Susan E. Reese.

— A study of the legal profession in Taiwan: Thomas J. Mitrano.

The money for the projects was made available by the *Harvard Law Review*. Each research proposal was read by at least one faculty member and by all six members of the Board of Student Advisers subcommittee, chaired by Daniel FitzGibbon, 2L. Applicants' names were removed from their proposals before they were read.

Each applicant received between 50 and 80 per cent of the amount originally requested for his or her project, but each has indicated a willingness to proceed with the project with the amount actually awarded. Recipients are permitted to use financing for their projects from other sources, but must report any additional funds received to the Board. Each recipient must also submit a copy of the paper written for the project to the Board before June 1, 1972.

Survey Indicates Ames A Valuable Experience

Efforts at making the Ames Competition more relevant to the education of the Harvard Law student seem to be paying off, according to the results of a questionnaire distributed to all the Ames participants.

Of the 402 students who responded to the questionnaire, fully 81 per cent considered the Ames competition to be a valuable or very valuable experience: 69 per cent found Ames to be enjoyable apart from the educational value. Only 14 per cent said that they didn't enjoy it at all or found it to be completely worthless.

In general, the respondents found the existing Ames competition to be adequately administered, but there were still some remaining areas which came under criticism.

The Harvard do-it-on-your-own theory suffered a set-back as 53 per cent said that they would have found a library tour to be helpful and 40 per cent said that they felt that more aid should have been provided in the research process.

Another area of criticism pertained to the extent of the comments (feedback) which were received on the final briefs and oral argument. Fifty-five per cent said that the commentary on their briefs was insufficient or quite insufficient; 33 per cent made the same remarks about the oral commentary.

In a memorandum to the First Year Committee, the Board of Student Advisers said that they were concerned with these statistics and intended to improve the quality and effectiveness of the legal research instruction given in the Legal Method groups.

Errata

Contrary to last issue's report the Dawson Club defeated Marshall Club and will face Learned Hand in next fall's Ames Finals. Dawson members are Raymond Bragar, John Cosier, Thomas Manley, Alex Bransford, Fred McGavran and Charlynn Maniatis.

* * *

In the March 11, 1971 issue of the *Harvard Law Record* it was stated that every admissions interview is recorded in an applicant's file. However, current practice of the Admissions Office is that interviews are for the information of applicants only and not a factor in admissions.

2L Summer Internships Open

By Richard McManus

The Second Year Summer Internship Program will undergo several changes for 1971-72. Current first-year students who wish to participate must express their preferences for the summer of 1972 as to type of employer, city, size of employer and salary by May 21, 1971.

During the summer the Placement Office plans to solicit employers to commit summer positions to the program. The number and type of positions sought will depend on the preferences expressed by students.

Shortly after registration in September, preferences will be matched with opportunities by random selection. Unfilled opportunities and unmatched students may then register for interviewing for summer employment.

Once a student formally expresses his preferences in May he may not withdraw from the program or change his preferences without special permission from the Administrative Counsel to the Committee on Placement. Students may join the program after May 21 but those who meet the application deadline will receive preference in the matching process.

The summer internship program, which grew out of student dissatisfaction with the interviewing process, began this fall. Eighty-four students submitted preferences in September, and law firms, legal services organizations and government agencies offered 78 positions. Only 33 students

could be matched with jobs, however.

Assistant Dean Russell A. Simpson said that the earlier commitment date should permit the Placement Office to find a greater number and diversity of summer positions. Many employers were reluctant to offer positions to the program this year, he added, because they felt that only students with poor marks would apply.

The pre-exam deadline should convince many employers that a representative sample of the class is participating, Simpson said.

According to Simpson, there has been considerable administrative consideration of future extension of the internship program. The Law School might assign participating students to law firms, he said, who would closely supervise the student's summer program. Salaries would be less than the present level, but credit might be offered for the summer work.

400 Students Endorse Impeachment Petition

Two first-year students, John Corwin and Robert Gippin, will attempt to have a petition asking for the impeachment of President Nixon introduced in Congress as a bill. The petition was signed by more than 400 students and three faculty members, Vern Countryman, Charles R. Nesson, and Derrick A. Bell, Jr.

Citing President Andrew Johnson's impeachment for "usurpation of power," the petition reads, "Congress alone is vested with the power to declare war."

While its drafters do not believe that the petition will actually bring about impeachment, Corwin said, "... the antiwar movement is strengthened by the fact that so many law students are enough opposed to the war to sign this strong statement."

"This is a little extreme for the average Harvard Law School student," commented Corwin. "We were surprised at how well it was received."

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**TONIGHT**  
Third Year Blow-Out  
It's not too late for  
Sherry at 5:30  
Dinner and Entertainment  
at 6:00  
in the  
Ropes-Gray Room  
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~~~~~

Yearbook Draws Close Examination

PUBLICATIONS

Professor Robert J. Dwyer

May 6, 1971

9 - 11:30 A.M.

This is an open book examination. You may refer to your *Yearbook* and any mimeographed poems distributed during the course. The examination consists of a series of multiple-choice questions, which will be weighted at the pleasure of the instructor. Circle the correct answers to each question, if any.

1. The *Yearbook* is bound in crimson because
 - a. the statutes of the University require it
 - b. it provides a good contrast for the green money it made for the editors
 - c. we must bleed and die for HLS
2. The five faculty dedications are written by five other faculty members because
 - a. no students can write
 - b. no students know any faculty members
 - c. the editors don't know any students
 - d. the editors are afraid of what the students might say
3. The section on "Spring — 1970: Issues and Events" was co-authored by
 - a. Abbie and Julius Hoffman
 - b. Fried, Cox and Tepper
 - c. Mao and Haile Selassie
 - d. J. Edgar and Herbert Hoover
 - e. Nixon, Mitchell and Farren
4. On page 21, the S.A.L.T. man-Stanford Indian "turned back and with a grin on his face . . . said, I played quarterback" to the HLS-U.C.L.A. Bruin. Why did he smile?
 - a. quarterbacks feel superior to defensive tackles
 - b. he knew Jim Plunkett would be back
 - c. he really lost 7-6 to Lou Little's Columbia
 - d. he recognized a nearby Whittier benchwarmer
 - e. some of the above
5. Which would Dershowitz, Stone and Sander prefer to discuss?
 - a. Pound's bricks
 - b. Langdell's caverns
 - c. Lionel's trains
 - d. Everett's street
 - e. Gropius's sterility
 - f. Austin's pride (and prejudice)
6. When a Cravath partner goes to see the president of General Motors,

he doesn't wait in the anteroom, hat in hand. Why?

- a. he drops Roger Magnuson's name
- b. he never gets that far
- c. it's uncravathlike to wear a hat
- d. a Cravath partner is president of GM
- e. Abe Lincoln once worked for Cravath

Some of the Above Or Nothing Happens

7. The student section is twice as long as the faculty section because
 - a. the student faculty ratio is 2:1
 - b. the faculty is only half as powerful as the students
 - c. a good lather is half the shave
 - d. *res ipsa loquitur*
8. "The *Yearbook* succeeds as an artistic creation." Which of the fol-

lowing groups would have most likely issued that statement?

- a. Shakespeare, Dante and Homer
- b. Freud, Freund and Fried
- c. Dow, Jones and Moody
- d. Farren
- e. none of the above
9. There are few pictures of anything happening at HLS because
 - a. nothing happens here
 - b. most subversives refuse to be photographed
 - c. the Republican Club and Lincoln's Inn are The Law School
 - d. "what is the use of a book," thought Alice, "without pictures or conversations?"
10. "If verisimilitude be the test, the 1971 *Yearbook* has succeeded beyond all possible dreams of its editors." The speaker probably believes that the *Yearbook*, like HLS, is
 - a. lively, dynamic and well-paced
 - b. lifeless and unexciting
 - c. oriented to fame and fortune
 - d. a victory of form over substance



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Five Receive JFK Grants

By Carol Plumb

For the first time the John F. Kennedy Institute of Politics has awarded three of its summer fellowships to Harvard Law Students. Charles M. Alcalá and George Rangel, both 1Ls, who submitted a joint proposal, will spend the summer studying chicano school segregation in Texas. Chicanos have been treated as "brown" for some purposes and as "white" when convenient, as in Houston, where the school authorities have put blacks and chicanos into the same schools and called it "integration," while leaving separate but equal the all-Anglo schools, the 1Ls report.

"We want to study the argument that chicanos come within

Studies on Chicanos, Women, Mentally Ill

Brown as a legally recognized minority group under the equal protection argument," explains Rangel. "We'll be focusing on the Rio Grande Valley in South Texas, but we'll also look into the situation in El Paso and Houston.

"Down there, the oppression is a cultural thing. I can remember myself and my friends being whipped in junior high school for speaking Spanish in the gymnasium.

"One of the reasons we want to make this study is to try to sensitize the institutions and the people up here to chicano problems." The results of the study will be published in the *Civil Rights-Civil Liberties Law Review* and will be released to the Mexican-American Legal Defense Fund for possible legal action.

Erica B. Grubb and Margarita C. McCoy, both 1Ls, will be conducting a two-pronged research project: (1) to explore the repeal or extension of state protective laws for women. Their study will deal with which areas ought to

be eliminated and which protective laws are beneficial and should be extended to cover males.

The women (2) will explore the problem of getting women into policy making positions in unions, particularly in those unions where females constitute the great bulk of the membership, but presently hold very few, if any, leadership posts. They will spend part of the summer in Detroit with the United Auto Workers and will also conduct research in Ohio, which has been conducting hearings on the advisability of repealing the state protective laws. In the fall, they plan to go over their findings with Visiting Professor of Labor Law, William Gould.

Meanwhile, the token, white, male, student fellow, Kenneth R. Wing, 3L, will be studying various types of commitment for mental illness.

"Massachusetts has a new statute which completely revises the process and therefore, all important standards and substantive decisions have to be reviewed in light of this new statute," Wing said. "The old statute was terribly inconsistent, but the new law puts many things in the hands of medical experts and doctors who tend to have great paternal attitudes and to be over-inclusive. I'm going to see that patients have the right to hearings, to counsel and various other safeguards."

Wing will also be writing a paper on how to organize a legal services office in a mental hospital.

Legal Aid

By Richard J. McManus

The Uniform Code of Military Justice guarantees each soldier faced with a court-martial the right to civilian counsel. Military training films shown to every recruit make much of this and other provisions of the UCMJ which provide more protection for the accused, they say, than the U.S. Constitution itself. But those who have had a brush with military justice will testify to the gap between the fine words and the facts of American military life—intimidation, command influence and lack of information about individual rights.

Nowhere was the emptiness of the right to civilian counsel more evident, until recently, than in Vietnam. Only the more infamous, the Calleys, the Medinas and the well-off, were able to retain non-military legal assistance. But since November three young lawyers, members of the Lawyers Military Defense Committee (LMDC), have been defending accused enlisted men with significant success.

One of them, Joseph Remcho '69, returned to Cambridge recently. He spoke to the *Military Law* seminar, and conferred with the directors of LMDC, among them Law School Professors John H. Mansfield and Charles R. Nesson.

He talked with the *RECORD* about the problems of his first several months in Saigon, and, in particular, about Army roadblocks to a normal attorney-client relationship.

Initially, the Army refused to let LMDC have a military phone, he said. As a consequence, the group was forced to use the Vietnamese phone system and was able to complete less than five per cent of their calls. (He noted, however, that a recent raid on a Saigon brothel uncovered a military extension.)

The mails and transportation were two other sore points. Forbidden to

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in Vietnam Hassled by Military

use the Army postal system, LMDC often had to mail letters to clients via APO addresses in San Francisco.

LMDC attorneys were permitted to use military air transportation, usually the only available means, but only on a standby basis. Remcho said that he wasted hours and days at military airfields, a situation that was further aggravated by Army prohibition against civilian use of military pay certificates, the only acceptable currency on military installations.

Remcho had these further observations on the situation in Vietnam:

—“Army discipline is falling apart. MACV (Military Assistance Command, Vietnam-American headquarters) has asked for daily reports on ‘fraggings’—the use of fragmentation grenades by enlisted men against their officers. We haven’t had a case yet of men shooting their officers but if I were a junior officer, I would worry about it.”

—“Many of our cases have racial overtones. There is a great deal of racial consciousness and black solidarity. . . . Army racial councils have not been effective in relieving racial tensions. Blacks tend to have lower rank and get more severe sentences from military courts. There is very little understanding of blacks or any enlisted men by officers.”

—“Vietnam is the best argument for gun control. Most men are in rear areas and are bored, but they have ready access to weapons and the training to use them. Enlisted men in Saigon are now forbidden to carry weapons because there were so many incidents of violence.”

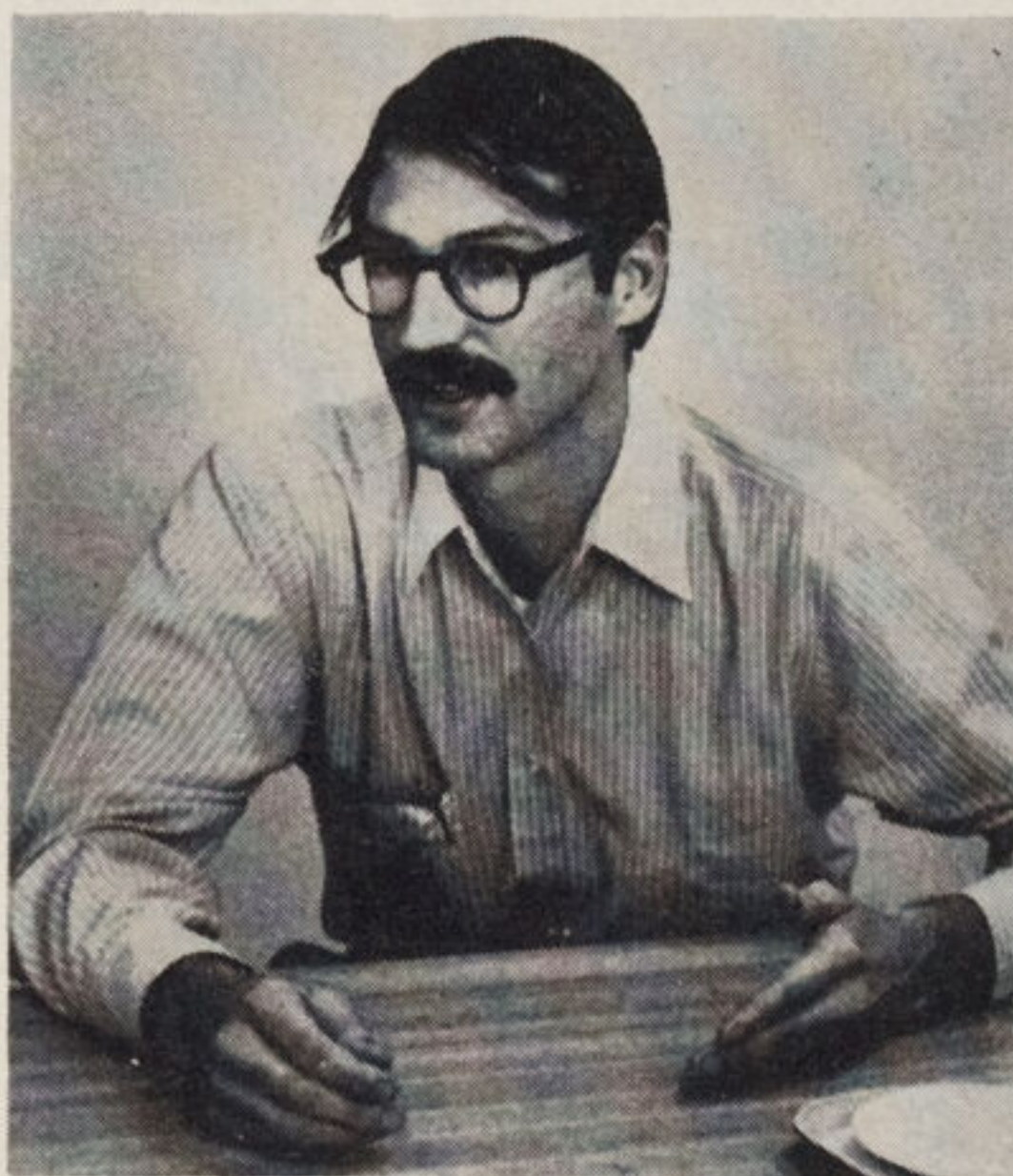
LMDC has now overcome much of its communications hassle with the Army because of considerable state-side activity. Visits by LMDC directors to U.S. senators interested in military justice, particularly to Senator Sam Ervin of North Carolina, and direct negotiations with Department of Defense officials have led to greater Army cooperation.

Professor Mansfield says that the group plans to testify before the Senate this summer on reform of the UCMJ. Senator Birch Bayh of Indiana has introduced a bill which would separate the judicial process further from the military structure. Mansfield expects LMDC to be able to make “a distinctive contribution” to the hearings.

LMDC began a year ago in Cambridge with discussions among a group of people who have since become its

directors: Professors Nesson and Mansfield; William Homans, a Boston civil liberties lawyer; Mrs. Ann Peretz, wife of Martin Peretz of the Faculty of Arts and Sciences; and Professors Norman Dorsen and Edward Sherman of N.Y.U. and Indiana Law Schools respectively.

Mansfield says that his initial reaction was that the task was impossible. “It was the kind of thing that should have been started five years ago,” he said. But the group went ahead and concentrated its efforts in seeking an experienced civil liberties lawyer to head the Saigon office. After a trip to Vietnam by Homans in September to determine the practicality of



Charles Soberman
**Joseph Remcho, member of
Lawyers Military Defense Com-
mittee.**

the project, LMDC chose Henry Aronson, a lawyer who had worked with Mansfield in Mississippi in the mid-60’s and had since been director of school desegregation litigation for New York City and the administrator of an experimental criminal rehabilitation program there.

Aronson opened the Saigon office on November 1 and was joined by David Addlestone, a former Judge Advocate General (JAG) lawyer. Remcho went over in December. LMDC also recruited a group of sponsors for the project including Law School Professor Louis Jaffe, former Attorney-General Ramsey Clark, Burke Marshall, John Pemberton and Abraham Goldstein.

“Much of our effectiveness has been due to our considerable stateside leverage,” Mansfield says.

Financial support for the project has come from a couple of private donors and small contributions from founda-

tion sources.

“There is also a large input of free service,” Mansfield points out. Remcho, for example, gets only his expenses. Carol Liebman, wife of Professor Lance M. Liebman, acts as an executive secretary here in Cambridge.

Both Nesson and Mansfield would like to see the program expanded and talk of two possibilities: short-term service by lawyers as in Mississippi; and the use of law students as staff workers in Saigon. Nesson says that the student program would necessarily have to be a long-term involvement in order to develop the necessary investigation and fact-organizing skills, perhaps as a year off between second and third years.

Now that LMDC’s logistical difficulties with the Army have somewhat abated, the group is focusing its energies on developing criteria to choose among the surfeit of cases coming into its office. Publicity in *Time* magazine, *Stars and Stripes* and word of mouth have acquainted thousands of GI’s with the group.

Nesson divides the cases so far into three major categories: (1) The big case, for example, murder and fraggings. “These cases also typically involve racial conflict and the breakdown of command,” he says. “They are the cases where the potential for command influence is great. Commanders tend to get very upset when someone attempts to kill their officers.” (2) Issues of principle—applicants for conscientious objector status being assigned to the field, for example. (3) Small cases that can be quickly handled.

“The soldier with a problem often feels friendless. He doesn’t trust his officers or JAG lawyers and a phone call from our office can improve the situation significantly,” Nesson says.

Mansfield speaks of LMDC’s task in broad terms. “The point,” he says, “is really to break down the distinction between military and civilian law. We want to widen the role of civilian lawyers in the military while, at the same time, not making them seem to be the enemy.”

“The problems of military justice in Vietnam,” he says, “reflect the nature of the U.S. presence there. We can speak of our operation as one for the improvement of military justice—or in terms of a broader conception the significance of the rule of law for American military involvement abroad.”

No-Fault Auto Insurance

Faces Constitutionality Test Today

By Greg Ward

The Massachusetts no-fault insurance plan, Chapter 670 of the Acts of 1970, will face one of its last court tests today as the Supreme Judicial Court of Massachusetts hears final argument on the law's constitutionality. A favorable ruling will pave the way for a nation-wide substitution of a system of no-fault basic protection for the fundamental tort negligence system.

For Law School Professor Robert E. Keeton — who, along with Jeffrey O'Connell '54, devised the basic no-fault plan on which the Massachusetts law is based — the no-fault system is the answer to the inefficiencies and inequities of the existing tort system of compensation.

"As a professor of *Torts and Insurance*," said Keeton, "I came to the conclusion that the system wasn't any good and was getting worse. By the mid-50's I had an interest in doing something about it. . . ."

The December, 1964, issue of the *Harvard Law Review* contained the first published presentation of the no-fault plan. The Keeton-O'Connell plan partially replaces negligence liability insurance and its third-party claims procedure with loss insurance, payable regardless of fault, and a two-party claims procedure under which a victim ordinarily claims directly against the insurance company of his own car. Negligence liability would be eliminated except in cases where damages for pain and suffering exceeded \$5,000 or other bodily injury expenses exceeded \$10,000. The Massachusetts law is a modification of this basic proposal.

The turning point came, said Keeton, in 1967 when Michael S. Dukakis '60, introduced the bill

into the Massachusetts legislature. "It amazed us all by passing in the House," said Keeton, whose brainchild had suddenly become a viable alternative.

Professor Keeton is quite optimistic about the no-fault plan, regarding the prospects for rapid acceptance throughout the United States as "pretty good. The problem is there in rather severe form," he said, "and we have an answer that appears to be proving itself out."

Statistical reports for the first three months in 1971 show that bodily injury claims have been re-

Injury Claims Down Despite Predictions

duced by 60 per cent over the same period last year and that average claim payments are down by 36 per cent. These figures are particularly amazing in light of the fact that even the proponents of the no-fault plan had predicted an *increase* in injury claims of 25 per cent and no-fault opponents had warned of increases of up to 168 per cent.

Three theories have been advanced to explain the dramatic reduction of claims: First, people may be waiting for a determination of the law's constitutionality, hoping that it will be found unconstitutional and they will then be able to obtain greater relief as a result of a lawsuit. Second, because no-fault claims are made against the individual's own company, people may be reluctant to make minor claims, fearing that their rates will be increased. Lastly, many persons may have decided to forego their bodily injury claims to speed up their company's payment for repair of their car.

The statistics also showed a speedup in the rate of claim payments — 12 per cent of all claims filed in the first three months have been settled, as opposed to only five per cent during the same period last year.

"It's working out a lot better than I expected," admitted Keeton, who said that he had been very uneasy about the Massachusetts version of his proposal. Under the Massachusetts law, recovery of damages for pain and suffering may be recovered in tort if the injured person has medical expenses in excess of \$500 — a figure scaled down considerably from the minimum suggested by Keeton-O'Connell — or if he suffered one of five specified earmarks of serious injury: death, loss of a body member, sight or hearing, a fracture or serious or permanent disfigurement.

It is this element of partial tort exemption, said Keeton, which is the distinctive part of his idea. He divides all "no-fault" proposals into two basic groups — (1) those which accept the idea of partial or complete tort exemption; and (2) those which are characterized as no-fault but do not have the partial tort exemption. "I regard [the latter] proposals as fundamentally unsound," said Keeton, "because they will increase insurance costs." Keeton explained that suits in tort would continue unabated while many more people would be paid under the basic protection plan.

Things are now happening so quickly that it is impossible to keep track of those states which are considering no-fault proposals. After reeling off the names of ten states in which he is sure no-fault legislation is under consideration, Professor Keeton attempted a generalization:



Professor Robert E. Keeton, insurance innovator

"All states that have large population centers have someone who's taking an interest in this matter." You will find a no-fault proposal, he said, where you find these symptoms: problems of cancellation and renewal, nonavailability of insurance to the young or old, and controversy over rate increases.

No-fault insurance received an added boost last month when the Department of Transportation issued the final report of its two-and-a-half year study of automo-

DOT Calls for No-Fault System

bile insurance, calling for a no-fault system and a congressional resolution to implement its concept on a state-by-state basis over a 25-month period. In its report the DOT set up criteria for a system with partial tort exemption using language, said Keeton, which implied that "the Massachusetts bill isn't as strong as they would aim for eventually" — the report allows suits in tort for intangible injuries only in "truly serious cases."

The report, however, raised

another major question — federal or state implementation? The report was issued to the Senate Commerce Committee as it opened hearings on a federal no-fault bill proposed by Senators Warren G. Magnuson and Philip A. Hart. DOT Secretary John Volpe told the committee that only by experimentation could a proper system be devised and he assured the members that if the states did not proceed fast enough he would immediately move for federal no-fault legislation.

The immediate question, however, is that of constitutionality. In rendering its decision the Massachusetts Supreme Judicial Court will not be without the benefit of judicious third-party opinion. Professors Archibald Cox and Philip B. Heymann, in behalf of the American Mutual Insurance Alliance and the American Insurance Association, are among several who have filed *amicus curiae* briefs supporting constitutionality; the American Trial Lawyers Association and other organizations of lawyers have filed, as *amicus curiae*, in opposition.

Opposition on the part of lawyers is understandable when it is realized that over 220,000 accident litigation lawsuits are filed

each year and that attorneys receive approximately 35.5 per cent of the recoveries under contingent fee contracts. [Study by the Federal Judicial Center, 1968.]

In its brief, the American Trial Lawyers Association argues that the Massachusetts statute (1) denies due process since it arbitrarily abrogates fundamental rights, (2) violates the equal protection guaranty, and (3) confiscates fundamental rights by imposing unconstitutional conditions. "The right to recover for personal injury is a fundamental right which cannot be abrogated without due process of law," began the summary of argument.

The brief argues that the statute fails to provide an adequate alternative remedy, is overly broad, has no reasonable relation to a proper legislative purpose and denies fundamental rights by arbitrary, unreasonable and capricious categories which invidiously discriminate against the poor.

The Trial Lawyers' brief points

Personal Injury Suit: Fundamental Right?

out that the court has already held the "rate reduction section" of the Act unconstitutional. [Keeton remarked that before passage the legislature had attached "sugar-coated torpedoes" to the Act which called for a reduction of all insurance rates by 15 per cent. This addition was declared unconstitutional and the insurance companies then withdrew their advertised threat to leave the state.] "If the legislature cannot confiscate business interests, it certainly cannot confiscate human values," concluded the brief.

In their *amicus* brief, Professors Cox and Heymann argue that the legislature has ample constitutional authority to substitute basic no-fault protection for tort damages in order to promote the general welfare and increase justice, and that the Act is a rational means of pursuing this

(Continued on Page 15)

Peace and Law

..... As lawyers we have observed the alarming damage that accumulating frustrations over Vietnam and its consequences have begun to inflict on traditions of respect for law and mutual forbearance

From HLS Faculty Letter to Congress
May, 1970

Last year at this time, the Cambodian invasion and its domestic death toll at Kent State and Jackson State aroused a nationwide protest movement against the Indochina War. Harvard Law students and faculty members joined in lobbying, research, organizing, leafletting and marching for peace.

During the summer and into the fall, activism waned. Although more confirmed than ever in their opposition to American military involvement in Southeast Asia, students apparently found political and legal methods of protest were fruitless and appeals to national leaders futile.

Last week nationwide anti-war demonstrations began again. The Vietnam veterans at Dewey Canyon III conducted a week-long protest impressive in its order and concern. This week, however, the first large-scale use of civil disobedience in opposition to national military policy is attempting to disrupt government operations in Washington, D.C., and major cities.

Confidence in lawful processes has so eroded that for many dissenters, the tradition of respect for law has ceded to the hope of forcing the Nixon administration to heed the peace movement.

Most of us condemn any violence and stop far short of condoning disruptive tactics. But, we share the sense of frustration felt by many participants in the "May Day" events. If further erosion of respect for law is to be avoided, lawful processes and public officials must both demonstrate greater responsiveness to the majority demanding an end to the war.

The anti-war movement is making a dangerous tactical turn this week. It is imperative that those of us who object to illegality and violence, whether civil or military, restate our commitment both to peace and to law.

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Law Notes

First-year students are invited to a meeting on placement on Wednesday, May 19 at 4 p.m. in Langdell North Middle. Sponsored by the Placement Office, the meeting will feature discussions on summer clerkships, summer internships, general information about summer legal opportunities, Placement Office facilities and the fall interviewing process.

Students interested in obtaining a copy of the Placement Office's *Directory of Employers*, which lists organizations frequently in touch with the Placement Office concerning their interest in employing students and graduates, should contact the Placement Office.

Dollar Harvest: The Story of the Farm Bureau by Samuel R. Berger, 3L, is scheduled for publication by D. C. Heath in the near future.

Professor Jerome A. Cohen will be in Kyoto, Japan, next fall on a Guggenheim Fellowship. Among the many objectives of his year's absence from the Law School, Professor Cohen lists studying Chinese and Japanese, the Japanese legal profession and visiting China. One of Professor Cohen's previous attempts to enter China was detailed in the *New York Times* Sunday travel section of April 18, 1971, by graduate student Jay Mathews, husband of Linda M. Mathews, 2L.

Results of the new Williston competition for 1Ls were announced recently. First place was won by the team of Dr. Edwin Vieira, Daniel L. Feldman, Norman H. Jackman and Charles T. Jackson. They shared \$250 of the \$500 in prize money donated by the Boston Safe Deposit & Trust Co.

Second place went to Evan J. Hunden, Jon S. Noetzel, Richard A. Gross and Charles M. Jefferson. Robert Heckart, Jeffrey Balash, Don Hanmer and Garry Watzke comprise the third place team.

Two teams received honorable mention: David T. McDonald, Dennis M.

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Perluss, Lawrence M. Slater and William S. Barrett; and John Elligers, Steven M. Schneider, Ben A. Frydman and Robert G. Stewart.

The competition involved writing an employment contract between the mythical Williston University and a fictitious admiral. Best negotiators for the admiral were the team of Heckart and Balash, while the best negotiators for the university were Timothy H. Gailey and Stanley M. Reim.

* * *

The newly elected officers of the *Harvard Journal on Legislation* are: Harris Wagenseil, president; Richard B. Spohn, director of legislation; Howard M. Weinman, managing editor; Allan D. Jergesen, senior editor; John P. Lilly, Donald S. Linky, and George A. O'Toole, article editors; David K. Ford, Lawrence B. Kessler and John J. McFadden, legislation editors; Elliot Gewirtz, Charles E. Harris and Simon B. Posner, note editors; and Gary L. Wolfstone, book review editor.

* * *

The Board of Student Advisers has announced that it will accept a limited number of applications from 2Ls for membership on the 1971-72 Board. Interested 2Ls should pick up application forms at the Board office in Langdell and return them to the Board by 5 p.m. Friday, May 14.

* * *

The officers of the *Harvard International Law Journal* for the coming year are: James J. Knicely, editor-in-chief; Stephen F. Gates, executive editor; William R. Pascoe, Stanley L. Paulson and Philipp von Turk, article editors; all are 2Ls.

Also, Timothy C. Ridley, graduate student, comment and United Nations editor; John S. Banta and Michael K. Wyatt, 2Ls, comment and note editors; J. Gregory Lynch, 1L, managing editor; William C. Benjamin and Stefan M. Lopatkiewicz, 1Ls, book review editors.

* * *

The Harvard Law School Dormitory Council has elected officers for 1971-1972. They are: Joseph H. Newberg, president; Carleton C. Eastlake, vice-president; Robert E. Hebda, secretary; Melvin M. Cox, treasurer; and Steven M. Schneider, comptroller. Schneider is a 1L. All others are 2L's.

* * *

This is the last RECORD of the current academic year.

Letters to the Editor of the RECORD

Simpson Clarifies Firm Suspension

To the Editor:

The story by Richard McManus appearing in the April 23 RECORD concerning the Law School Placement Committee's action against a New York City law firm conveys impressions which may be misleading about the findings of the Committee and the process by which those findings were made—impressions which should be corrected.

Your readers will recall that a representative of the firm, while separately interviewing two HLS students here last fall, was alleged to have made statements suggesting improper discrimination by the firm in the hiring of lawyers. The actual findings of the Placement Committee were "... that the firm's representative made the statements as alleged and that the firm was therefore in violation of the stated Placement Office rule against discrimination." Because of this violation, the Committee then voted to deny the firm the privilege of using our placement facilities until September 1, 1972.

The RECORD story leaves the impression of predominant if not exclusive student membership on the Placement Committee which made the findings in this case. The Committee in fact consists of six alumni members, practicing lawyers representing employers, six student members and a faculty chairman. The alumni and students were unanimous in making the findings and recommendations in this matter.

In reaching their decision, the members of the Committee carefully weighed all the available material in the case. The decision on this matter was reached only after repeated inquiries were made over a period of four months. The case was discussed at length during three Committee meetings. No findings of any sort were made until it was clear that no further information concerning the alleged statements would be available to the Committee. The process was painstaking; the findings precise. The McManus article may have given a different impression.

Russell A. Simpson Assistant Dean and Administrative Counsel to the Committee on Placement

McManus replies: Both Mr. Simpson and the student committee-mem-

bers that I interviewed repeatedly and strongly emphasized the default nature of the judgement against Parker, Chapin and Flattau. Considering that, the choice of words in the story, "... the committee found the firm's response to the charge of discriminatory conduct to be unsatisfactory," was more precise than the committee's own press release.

Second, while it is true that I did not describe the exact composition of the Committee on Placement, the phrase "student member of the committee" implies there are non-student members. And since the committee was unanimous in making the findings and recommendations, does the fact I quoted only student members make a significant difference?

Finally, Mr. Simpson suggests that the story gave a misleading impression of the process by which the committee reached its verdict. I think that it is slightly foolish for participants in a controversy to expect an outside observer to share their point of view. Is Mr. Simpson suggesting that his office should write all news stories concerning itself so that the "right" impression is conveyed?

In fact, the story mentions all the steps in the suspension process that Mr. Simpson related to me. Perhaps Mr. Simpson wanted a more colorful description of the committee's emotional state (sleepless nights?) but does that belong in a news story necessarily confined to salient points?

One suspects Mr. Simpson's real gripe lies in the RECORD's publication of the firm name.

Where there is a "free" press, there is a presumption in favor of disclosure to the public. The committee's best argument for overcoming that presumption—that release of the firm's name would discourage other firms from using the Placement Office—did not seem particularly persuasive. I am left wondering why the committee has been so sensitive to the position of a law firm that, in the committee's own judgement, discriminates against women and blacks and has the gall to admit it.

Baxter Corrects Student Critic

To the Editor:

I cannot believe that Mr. Pfendler, who wrote about the International Law Club program on "Westmoreland (Continued on Page 16)

Book Review

Miller Claims Computer Technology Outpaces Law

THE ASSAULT ON PRIVACY: COMPUTERS, DATA BANKS, AND DOSSIERS.

By Arthur R. Miller, the University of Michigan Press, Ann Arbor, 333 pp. \$7.95.

Associating the concepts of computerization and telecommunication with that of individual privacy immediately creates images of an Orwellian society in which the individual has sacrificed all semblance of freedom or individuality to the "higher good" of the state. One can usually dismiss such possibilities as remote if not fantastic, although most of us must feel a certain malaise as we read newspaper accounts of electronic surveillance of private citizens and try to understand the magical world of credit reports.

In *The Assault on Privacy* Arthur Miller, who will conduct a seminar on *Computers and the Law* at the Law School next year, explores the impact of the cybernetic revolution upon several aspects of American society and discusses the threat to individual privacy as the individual's life-style, personality and habits are exposed through the accumulation of computerized data about him.

Although it is a chilling picture which Professor Miller presents, it is also a careful, analytical one which avoids the neuroticism or hysteria for

which the subject is so ripe. He recognizes the benefits of computerized information-gathering as the American economy and society become ever more complex. He acknowledges and encourages important potential uses of computerized data created by the development of more sophisticated hardware and software coupled with the growth and adaptation of the communications industry to the demands for computer link-ups and computer sharing. But as these benefits accrue, he warns, the individual is also threatened with an unprecedented attack on

Demands for Data Threaten Individual

his individuality and privacy, as he loses control over the release of particular information about himself to other persons.

In the private sector, the increase in consumer credit has accelerated the demand for data about the individual from credit bureaus, and the computer has greatly facilitated the accumulation of that data. However, few safeguards have been created by the credit bureaus to avoid the release of such information for illicit purposes through electronic snooping or fraud. At the same time the individual is unaware of the contents of his own files and unable to correct any errors.

With the growth of the government's role in welfare and taxation, it too has developed an increasing appetite for data on the individual—an appetite which has been satisfied by the increased capacity and adaptability of the computer. Information-sharing be-

comes attractive as the size of the information-gathering task increases among many government agencies. Although the individual has a clear interest in limiting the release of certain information to some agencies and not others, he is often unaware of what information has been collected or to whom it has been released. At different times, different agencies accumulate information about his medical history, intelligence, education, psychological make-up, motivation, income, *ad infinitum* and as his personality is laid bare he remains ignorant of the entire process.

"The possibility of propagating a record-oriented citizenry which has lost its autonomy and individuality must be avoided," Miller warns. "By doing nothing we expose ourselves to the risk that the growing omnipresence of the computer may have a numbing effect on the congeries of values subsumed under the heading 'personal privacy.'"

Miller discusses privacy as an intangible sufficiently valuable as to be worthy of legal protection. Although invasion of privacy as a legal concept is relatively new, the law of privacy has not kept pace with technology, and the author argues cogently for an expanded legal framework to deal with it.

Through *The Assault on Privacy* Professor Miller calls upon the legal profession to recognize the promises and threats of computerization and to involve itself in defining the extent to which the computer will be allowed to affect the relationship between the individual and society.

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Alumni Club Hears Bok

(Continued from Page 1)

Beneath the Harvard Club's sumptuous wood panels, President-elect Bok chose to wear his hat as dean of the Law School for one last time as he told the generally older men, many with shortish, slicked-down hair and rimless metallic spectacles, what today's Harvard Law students are like.

Noting matter-of-factly that today's law students value solidarity, self-effacement and avoidance of competition over more traditional professional virtues, the dean pointed out that students now are more uncertain about why they're attending law school at all.

He urged the practitioners to provide a more effective bridge between students and the profession, adding that the Law School tries in the first year to come to terms with student questions about the nature of the profession.

The lawyers were told that students are concerned about their careers in the law and wonder whether they can fulfill themselves while delivering professional services to all segments of society.

Advising the attorneys of the increasing numbers of minority and women students who will emerge from the Law School in coming years, the dean pointed out that notices on the Placement Office bulletin board are already rather different from those of former years.

A recent graduate seated near

me rejoined *soto voce* at this: "The firms aren't any different, just the notices." Incidentally, your correspondent was backbenching more than usual. I was seated, along with other graduates of less than three years vintage, aloft in the balcony. Definitely up against the wall.

President-elect Bok was introduced by New York Alumni President D. Nelson Adams '35, who admitted that three years ago he had advised President Pusey to select an experienced professor to be dean. Bok was followed to the rostrum by Judge Henry J. Friendly '27, of the 2nd Circuit Court of Appeals in New York.

The judge devoted himself to decrying the overload of cases now clogging the federal courts. He called on Congress to limit federal cases, contending that more judges or courts would not solve the problem. He mentioned the difficulty of dealing with hordes of cases which had no merit.

The following day, beginning at 11:30 a.m., about 1000 lawyers trooped a few blocks from Fulton Street to Foley Square, where, in the shadows of New York's courthouses, they heard Representatives Paul McCloskey, Herman Badillo and Bella Abzug, Mayor John Lindsay, Francis T. P. Plimpton '25 and current New York Bar Association President Bernard Botein denounce the war.

Rain diminished attendance at the rally but a large number of pinstriped, vested retainers and

partners cheered the speakers as the Nixon Administration and the war were attacked with verve. A contingent of women law students sang a ditty berating the bar for not cleaning its own house, while SDSers hissed speakers who faltered, if only momentarily, in opposing the war and the regime without restraint.

In contrast to the Harvard Club gathering, the Foley Square rally represented a surprisingly great cross section of the profession in age and practice. Judges' clerks, Wall Street associates, sole practitioners, law students, even older partners, were all on hand.

It is unlikely that Judge Friendly's remarks concerning the crowded courts would have gone unquestioned, had they been addressed to this audience, by those who carried signs reading "The only justice in the Halls of Justice is in the Halls." The Foley Square rally was regarded as a first by many, including the speakers, who blasted the legal profession for acquiescing silently for so long in the government's conduct of the war.

The atmosphere in Foley Square this "Law Day USA" was characterized by a spirit of desperation, a feeling that even lawyers had to speak out now. The contrast between the rally and the alumni dinner was remarkable, if only because so many at the rally knew firsthand that the only legal progress made for many years in criminal law and civil rights had been won in the very federal courts from which J. Friendly now seeks to banish cases *en masse*. — (Former editor and backbencher Hoffman graduated in January, 1971.)

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Vets Overrule Supreme Court

By Kermit Kubitz

The week before Operation Dewey Canyon III, the incursion of Vietnam Veterans Against the War into the country of Congress, about 70 Harvard Law School students met in the Ames courtroom to plan their participation in the anti-war demonstration. But interest at the Law School, as indicated by poor attendance at the meeting, was apparently at a low point. The only activity planned was transportation to Washington for the march itself.

As we left Boston at midnight Wednesday April 21st, it looked the same as when we had returned from Vietnam and started school last September — nobody cared.

The next morning, Washington didn't look like the VVAW was having much effect. We couldn't find the veterans encampment, and worse yet, there weren't any guys in green anywhere.

We knew the Supreme Court, meeting in the four-minute-mile of judicial proceedings, had upheld the injunction against further use of the mall by the veterans. Fire Base Berrigan, as the place was called, was illegal as of 4:30 Wednesday afternoon. Although the Justice Department had decided not to move the vets off until Thursday, they had forbidden them to sleep or build fires.

We were driving around the rear of the Capitol, looking for a place to park when we saw the crowd of about three hundred fuzzy-headed, decorated, wounded wildmen heading for the Supreme Court. Our uniform was hanging in the window of the car, the one they give you when you're discharged on return from overseas at Fort Lewis, Wash. Patches, medals, ribbons, combat infantryman's badge. (It's all good PR. Make those hometown folks feel proud to know the kid is back and look at all those ribbons.)

The crowd of vets raised their fists and started yelling and we raised ours and started looking for a place to park. The closest we could get was two blocks away because the 4-H clubs of four Iowa counties were visiting that day. They got an exposure to free speech that they'll never forget.

As we walked up the steps the vets stood and began singing, "All we are saying is rule on the war." Apparently they had not been intimidated by the injunction. One dude later said, "I was scared when the Russian '22s (rockets) were coming over, but the Park Police? You have to be kidding."

The police were lazily talking on their radios, taking movies of us, and warning spectators to "clear the area, for your own protection." A group of elementary school children walked past and wanted to head toward the veterans who began chanting, "Join us,

Hart Chides Justice

join us." The kids were retrieved by their principal, who saw his job disappearing as his pupils were arrested for obstructing a federal court in session, the charge that police were preparing for the veterans.

When the time for the bust came, we were told to leave by some who knew that we went to law school. In spite of melodramatic visions of calling Leonard Boudin from the D.C. hoosgow, we headed for the sidewalk across the street.

The police buses began arriving, and, as the newsreel cameras turned, the demonstrators were led away, each with a D.C. policeman gently holding his sleeve, while they sang *America the Beautiful* and waved the Stars and Stripes. The last to go were two men sitting on the statue to the left of the steps; they smashed their toy M-16's before climbing down.

Mark Lane, wearing a jacket from the 3rd Armored Cavalry Regiment, traveled back and forth across the street, trying to find out from unhelpful policemen where the arrested grunts were being taken. This was the only time during the week that the police were unhelpful. The story later went around that one D.C. lieutenant said if he had to arrest the veterans for camping on the mall he would throw his badge into the crowd and join them. The police refused to arrest two veterans in wheelchairs.

Thursday afternoon we finally made it to Fire Base Berrigan, now a cross between a bivouac and a country fair. A food line distributed soup and sandwiches donated by the people of Washington.

The night before, the veterans had voted whether to violate the injunction's prohibition against sleeping. They voted 480 to 400 to sleep, and in the words of John Kerry that night, "The vets overruled the Supreme Court."

Federal Judge George L. Hart '30, agreed, as he called Justice Department lawyers into his court to ask why they had not enforced his injunction. By waiting to decide not to enforce the injunction until after the veterans had decided to violate it, Hart said, "You have put the veterans of this country in a situation of openly defying the law."

Thursday night we joined a candlelight march in memory of war dead, American and Asian. At the march's end, a double amputee was pulled up onto the stage at the camp who said truer things about the war than anybody has ever said. "Remember, there are 200,000 guys like me, who will walk on crutches for the rest of their lives. And for what? I don't think I did a single thing to help democracy, either here or over there. America is a beautiful place and all we're trying to do is straighten this country out. We shouldn't be spending our money on bullets and bombs, but on the ghettos in New York and Philly."

Friday, about 700 veterans lined up by state delegations to throw their medals at the base of a statue of Chief Justice John M. Marshall on the Capitol steps. Few could fail to be moved when, at the beginning of the ceremony, a Gold Star mother in tears embraced the wounded veteran who had spoken the night before.

Waiting in line we talked to some active duty Vietnam veterans from Fort Bragg who told us of a strange confrontation building for Saturday. Off-duty GI's from Fort Bragg were expected to join the Washington march, while troops from Bragg were on alert for possible riot-control duty.

When the moment came, we took off our green uniform jacket with the First Infantry Division and 11th Infantry Brigade patches and the Bronze Star with V with four clusters and the combat infantryman's badge and threw it on top of an already large pile of medals, draft cards and uniform gear. It was a gesture for some friends that died in ugly places for no reason at all. It was a weight off our chest.

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Snow Heads Record

Once again a Farm-boy has climbed to the top at Harvard Law School. Stanford University graduate Jerry Snow, 2L, was elected president of the RECORD at the corporation's semester meeting last month. A 6'5" English and creative writing major, Snow resides in Walnut Creek, Cal.

Greg Ward, 2L, moves from news editor to managing editor next semester. Editor of the *City on a Hill Press* while an undergraduate psychology major at the University of California at Santa Cruz, Ward hails from Santa Cruz, Cal.

Army reservist Bob Hernandez returns to HLS and the position of news editor next fall. A Princetonian from

Toms River, N.J., "hysterical Hernandez" spent the past fall in Fort Leonard Wood, Mo. Viet Vet and Caltech alumnus Kermit Kubitz, 1L, takes over the post of associate editor.

Former *Red Bank* (N.J.) *Daily Register* reporter Richard McManus, North Carolinian Robert McGaw, both 2Ls, and graduate student Carol Plumb have been appointed assistant editors. Charles Soberman, 1L, sartorially splendid and limber, returns with his Nikon F to the photography editorship. Larry Connolly, 2L, stays on as business manager.

Abandoning the editorship, Michelle Scott, 2L, moves to the post of senior editor vacated by Chicago-bound John York, 3L.

No-Fault Insurance

(Continued from Page 9)

permissible legislative end. Due process is met, they argue, by the availability of deductibles and alternatives to purchasing insurance from private corporations. Finally, it is argued that the only classification which the petitioner has standing to challenge is the legislative decision to abolish minor tort claims for pain and suffering while preserving claims for pain and suffering incident to more serious personal injuries, a classification reasonably related to the legislative purpose.

Always outwardly cool, Professor Keeton does not seem too distressed over the court action. "The essence of the complaint is that the legislature cannot change tort law," he said. "This is obviously fallacious as I see it." The odds are that the Supreme Judicial Court will agree, thereby removing the last judicial obstacle to no-fault insurance in Massachusetts.

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Letters to the Editor of the RECORD

(Continued from Page 11)

and Yamashita: Is There a Parallel?", was present at that session.

At the request of a fellow member of the International Law Club, I undertook to speak at that meeting, which was designed to present a diversity of views on the responsibility of superiors for the unlawful acts of their subordinates. My own contribution was a highly prosaic account of the state of the law as it had developed out of the cases tried during and after the Second World War. In my address, I did not mention the names of, or otherwise allude to General Westmoreland, General Abrams, President Johnson, or any other contemporary public figure. Because I know from past experience that at least one person can be counted on to get things completely wrong about what one says, I wrote out my text in advance. I will be happy to show Mr. Pfendler my manuscript if he would care to come to my office.

In failing to inform himself about the meeting, Mr. Pfendler has done

an injustice to the International Law Club. The "panel" did not act as a "kangaroo court" and did not implicate anyone "in absentia as war criminals under the Geneva Conventions." The occasion was a serious attempt to inform people about the responsibility of superiors through a balanced presentation of views, for which the club is to be commended. I devoutly hope that Mr. Pfendler does not suggest that "tenured 'experts on the law of war'" should never appear on the same platform with those with whom they may disagree.

If Mr. Pfendler will see me, I can tell him about what my personal role has been in trying to promote respect for the Geneva Conventions of 1949. If he does not appear, we can presume that he prefers fantasy rather than to seek the facts. As an earnest to him that my past leads me to take things seriously, I sign myself

R. R. Baxter
Colonel, Ret. Res.
Professor of Law

Sports Briefs

Bob Patterson's broken leg has been cited as the reason for the cancellation of the Law School football league championship game. Inclement weather forced its re-scheduling from last December to this spring, but, citing demoralizing injuries, Easy Rider Orphan School, the B league champs, have decided to let the Backbenchers reign as champions on the basis of their A league championship.

* * *

The Mashpee County Maulers won the championship playoffs of the Law School Basketball league with a victory over the Sunday Surprise. The Surprise, led by Kenny Heitz, couldn't overcome the offensive power of Tom Pfister, Rich Stoner, and Jerry Lopez.

* * *

The Harvard Rugby Football Club urges all interested law students to come out and get some exercise while competing in one of America's fastest growing sports. No experience needed. Call Eric Henrikson, 2L, for information.

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