

HARVARD LAW RECORD

America's Oldest Law School Newspaper

VOL. 53, NO. 8

NOVEMBER 19, 1971

TWENTY CENTS

Klansmen Greet Black Students at Mississippi Polls

By Lavell Jackson

[RECORD staffer Lavell Jackson, 3L, writes in this article of his personal experiences as a poll watcher in Mississippi during the recent state and local elections.]

In an attempt to put justice into law, seven black Harvard Law students joined what amounted to a nationwide black pilgrimage to Jackson, Mississippi, on the week-

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Loophole Cited by CLRD May Stall Draft Till Xmas

By David Cocke

As a result of research by the Committee for Legal Research on the Draft (CLRD), a series of suits are now being filed in federal district courts throughout the country which may nullify the right of the Selective Service System to draft anyone into the army before December 28. The CLRD staff has uncovered a loophole in the 1971 Military Selective Service Act that calls for a 90-day moratorium on draft inductions after the bill is signed into

law. President Nixon signed the legislation on September 28.

The loophole, Article 20 of the 1951 Universal Military Training and Service Act, was designed to provide an opportunity for draft-eligible registrants to volunteer in the armed services before they were inducted. Attorneys for the SSS have been claiming that the section should apply only to the 90 days following passage of the 1951 law. A number of registrants are now arguing that the same clause should be applied to the current law.

The first case to be argued on the basis of this CLRD research was *Bohn v. California Local Bd. No. 117*, heard last week in a federal district court in Los Angeles. The attorneys for the registrant asked for and received a temporary restraining order preventing an induction.

In Boston a case has been filed in federal court before Judge Frank Murray, who granted a stay of an induction order pending a hearing on the merits. *Lawrence Doyle v. Massachusetts Board No. 72*. In a similar case U. S. District Court Judge Francis J. W. Ford has denied a stay for two plaintiffs and his ruling has been upheld on appeal to Circuit Court Judge Bailey Aldrich. According to Don Solomon, 2L, of CLRD, "The government's draft law experts are in town and they're fighting it (the *Doyle* case) tooth and nail."

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Professor Laurence H. Tribe, recently probed by FBI for his background investigations of Supreme Court nominees, in the privacy and seclusion of his office. See story on page 5.

Black Students Watch Polls

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end before Election Day to serve as poll watchers for Mississippi gubernatorial candidate Charles Evers and other black candidates for political office.

The Harvard seven met with other black law students from the Northeast in New York's LaGuardia Airport where they were presented with a poll watcher's manual and a guide to the Mississippi election laws. They then flew to Jackson where they joined an even larger group of black law and college students for a five-hour orientation session in a small country church.

Various speakers at the meeting sketched a portrait of "the man" that the students would meet on election day. The tone of the meeting was hard and sober. Students were forewarned that words would be met with clubs and reason with irrationality. On a final note of warning, the students were dispatched to stay with farmers in their assigned precincts.

I could feel the tense anticipation of the upcoming election. Blacks whispered to each other about the election as prisoners preparing for a prison break. Owners of soul food restaurants encouraged each patron to vote the following day and to pick up elderly folk that couldn't make it to the polls on their own.

The night before election day student poll watchers were schooled for the final time. As I stood outside the meeting, held in a rural church, I could hear prayer and spirituals being sung in order to reinforce a positive attitude toward the election. The next moment, a pickup truck full of whites drove by and lit the night with rifle shots fired into the church. The farmers I was standing with immediately unpocketed handguns and answered the shots. The incident was quickly over.

On the morning of the election students hustled off to the polls at five o'clock, to be met by contingents of the Ku Klux Klan who lined up in front of the polls

"These are the calls that I know the outcome of," said Bonner. "There were several calls of desperation that were cut off while we were still talking."

Velories A. Figures and James A. Gray, 2Ls, observed blatant cheating at their polls. "Under Mississippi law it is within the province of an authorized poll-watcher to challenge a vote if in his or her opinion the vote should be invalid for whatever reason," said Miss Figures. "I asserted several challenges but was not recognized in my legal capacity. In fact I was summarily dismissed."

Gray elaborated: "As is well known, many blacks, due to past and present conditions, are plagued by illiteracy. This proved to be a thief's tool for the white southern farmers. They would bring in black farm hands and point to white candidate Weller's name and the farm hand would make his mark. I challenged these votes, quoting Mississippi law which states in essence that an illiterate black man is allowed to choose a black poll manager to help him vote. The white poll manager just grimaced and said, 'That might be the law but that ain't the way we do things around here.'"

Blacks, Whites Exchange Fire On Eve of Mississippi Election

Living with local families, the volunteers were able to gain a sense of the political mood of present day black Mississippi. Robert Buford, 1L, and Humphrey Polanen, 1L, stayed, for example, with a preacher in his late 60's who reminisced about his commitment to social change in the last election. "I was met by three Klansmen armed with machine guns," said the preacher, "and was put in apprehension of my life, but they settled for beating me within a few heart thumps of my life." This man now stands ready to die for the cause of change in the South.

My own experience was similar. As I wandered about Woodville, Mississippi, where I was staying,

and refused to let the student poll watchers pass. After hours of hassling and red tape, the students were allowed in.

Arthur Bonner, 3L, who stayed in the city to do legal assistance and monitor distress calls, received word of several student run-ins with poll managers. "The students were met with anticipated discourtesy," he said, "but unfortunately, some even met with physical indignation. A black student from Morehouse College was pistol whipped. Black law students from Boston University were imprisoned by six white men carrying sawed-off shotguns, until they were rescued by a black group called the Deacons for Defense.

The evening of the election blacks crowded the cities waiting for the outcome. Few blacks won political seats. Charles Evers — mayor of Fayette — tallied a disappointing 20 per cent of the gubernatorial vote. Mayor Evers later publicly announced his belief that he had been cheated out of 150,000 votes.

Although none of the students was happy with the outcome of the election, most returned to school with a new perspective. And although blacks did not fare too well, this election may well mark the beginning of a renaissance period in the social reconstruction of Ole Miss.

McCarthy Wit Tickles Forum Crowd

By Richard J. McManus

With customary wit and perception, former Senator Eugene J. McCarthy examined the relationship of law to contemporary American politics before a Harvard Law School Forum audience last week. With customary ambiguity, he described his own relationship to the current presidential campaign.

The Minnesota politician-poet, who was the students' choice in '68 and calls himself "a potential candidate" in '72, received warm and prolonged, but not fanatic, applause both upon his entrance to

he might lead a fourth-party effort.

For example, in response to a question from the Forum audience, he said, "I am not so sure that a fourth-party candidate will necessarily insure Nixon's election. Whether a fourth party is organized should depend on a lot of other things. What is the alternative to Nixon?"

"One can always make the argument," he added, "that compromise is essential to victory, but each time we do, it comes out less and less satisfactory. Setting your goal at merely defeating

"The third," he said, "is the one applied to those who administer justice to those in the second order: National Guardsmen in Kent, Ohio, police in Chicago and Jackson, Mississippi."

The fourth system identified by the former senator was military justice, "which," he said, "has all the complications of civilian justice with additional aspects."

McCarthy called for a "redefinition of the Bill of Rights" to insure one system of justice for all Americans. Freedom of the press is "a right of the public to know the truth rather than a right to say what one wants to say in print," he said.

Freedom of assembly, he argued, should apply to many meetings now considered crimes of conspiracy. "If you think of something all alone," he said, "you are relatively safe, but if you think of it together or even simultaneously you are in trouble."

The Third Amendment prohibition against the quartering of troops should be interpreted to limit the use of electronic eavesdropping devices, he added.

Finally, McCarthy singled out the Fifth and Fourteenth Amendments' guarantee of due process as "basic to the right of citizenship."

"Essentially," he said, "it is the right to be treated as a person."

Under questioning, McCarthy had some further observations on the current scene:

Women's Liberation — "I guess there's only one position on that. It is pretty much mine, also."

The Burger court — "If the Supreme Court will meet on a Saturday to review a park board order [prohibiting the Vietnam Vets from camping in front of the Capitol], we have an activist court no matter what Chief Justice Burger should say."

The Pentagon Papers — "If *The New York Times* really believed in freedom of the press, they would not have honored the injunction."

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Potential' Presidential Candidate Still Uncertain Whether His Role Will Be Political or Poetical

Rindge Tech auditorium and at the end of the program.

He told the substantial crowd that he would not speak on his own role in the presidential race but that he was sure that they would question him about it. They did.

Asked for "a one-year projection of the career of Senator McCarthy," he replied, "I will try to be as effective a force as I can until the election. What I do depends very much on what others urge me to do, what I think should be done, what I think I might do."

"More and more of my poet friends," he continued, "are urging me to be active politically. More and more of the politicians and especially the columnists are calling me a poet. I am going to try and work it out between the two and I am not sure which way the balance will tip."

McCarthy's direction will apparently depend on whom the Democrats nominate and what they choose to write into the party platform. He reportedly has made some initial organizational efforts in several late primary and non-primary states and does not at all discourage speculation that

Richard Nixon is a pretty low target, especially at this early date."

McCarthy had these comments on the Democratic contenders:

George McGovern — "I have found no point of disagreement on Vietnam or any other issue with McGovern."

Hubert Humphrey — "Hubert isn't so bad. He, unlike some others, takes the blame on himself for the loss in '68."

Edmund Muskie and Henry Jackson — "Jackson, at least, defends his former position as a hawk. That's better than those who now say they were in against the war in '68 but didn't say so at the time."

In his brief address McCarthy argued that the major issues of the day were invariably winding up in court because "most of our governmental institutions are not functioning properly."

"The most serious reason for this state of affairs," he continued, "is that we do not have one system of justice. We have four. There is the ideal system for those who are established and have some money. There is a second for the poor, for minorities and for young people, for those who dissent or disagree."

Prison Studies, Legal Aid for Inmates Featured In Center for Criminal Justice Progress Report

By Nick Akerman

Entering its third year of operations, the Harvard Law School Center for Criminal Justice has released an annual progress report which cites its past accomplishments and future goals.

A number of rather ambitious projects conducted by the center over the past two years have recently been completed or are now in the final stages, according to the report. The center is also involved in several long-range projects and will soon undertake a new study of alternatives to the conventional methods of criminal rehabilitation.

Praising the center, James Vorenberg, criminal law professor and the center's director, termed it "the largest of its kind in the nation with one of its prime goals being to provide research facilities for those interested in the study and development of criminal law." He emphasized the center's desire to attract more students to take advantage of its facilities and project opportunities.

The center prides itself on being the largest employer of students in the Law School community. Last year it was instrumental in finding jobs for 66 students—as interns, research assistants and in other capacities in the center itself. Thirty-four of these students were placed in summer jobs in various criminal justice agencies across the nation.

The center is also responsible for the funding of the Prison Legal Assistance Project (PLAP), which provides clinical legal assistance to Massachusetts prison inmates in the state's maximum security prison and in the women's prison. PLAP is staffed by students who work under the supervision of a Boston law firm in assisting inmates with their legal problems.

Twelve criminal justice fellows owe their presence at the Law School this year to the sponsor-

ship of the center. The fellows are drawn from police departments, corrections agencies and the courts for a year of coursework and research away from their practical pursuits. In its initial year of operation there were only four fellows; last year there were nine. Included among this year's fellows is a detective inspector from Scotland.

The projects at or near completion include: a study of a Rhode Island prison "to explore what

Center's Twelve Fellows Drawn From Police, Correction Agencies

happens when a court responds" to problems of prison administration "by establishing new disciplinary and classification procedures"; a study of detainers in Massachusetts—requests received by prison officials to turn over prisoners to another jurisdiction on completion of their present sentence; an examination of robbery in the City of Boston; and revision of the Cambridge police department's manual of rules and procedures.

The most ambitious of the center's long-range projects is a five-year study of the Massachusetts Department of Youth Services, the state's juvenile correctional agency, to investigate the process and progress of change in the department under the leadership of the new commissioner, Dr. Jerome Miller.

The commissioner "has evolved a model of juvenile corrections fashioned after the therapeutic community approach developed in England and to some extent in a few institutions in this country," Vorenberg explained. Because the model differs greatly from that of the previous administrations, the center has a unique opportunity to study closely the variety of problems which may arise in the

course of radical change within a corrections agency and an opportunity as well to evaluate the relative success or failure of efforts to deal with these problems."

In New York City, the center is evaluating the crime rate effects of the Bedford-Stuyvesant methadone program which is sponsored by the city and a non-profit corporation. "The project will lead to reports based on surveys undertaken in the community dealing with the impact of the program on victimization rates and the perceptions of the area's inhabitants on the program's effects," said Vorenberg. "It will also analyze the relationship between crime and addiction and the effect of the program on the criminal activity of its patients."

The center's latest project is an evaluation of the family conjugal living experiment at Bilerica prison. Under this experiment, conducted by Sheriff John Buckley of Middlesex County, prisoners are being allowed weekend visits with their wives on prison grounds.

The center will soon begin its study of alternative modes of criminal rehabilitation. Many of these, according to Vorenberg, are "so-called 'diversion' projects designed to get persons out of the criminal justice system as early as possible. Others are new methods of treatment with emphasis on early re-integration into the community."

The program of summer job placement is being sponsored again this year. While information concerning summer jobs will not be available until sometime late in the semester, students who are interested in participating in any other of the center's activities are encouraged to contact Lloyd Macdonald, the assistant director of the center. His office is located on the fifth floor of the Pound Building.

FBI Probes Tribe's High Court Research

By Daniel M. Taubman

Harvard University is planning to lodge some form of complaint with the Federal Bureau of Investigation soon, expressing its concern and disagreement with the FBI's questioning of Professor Laurence H. Tribe ('66) about his activities in opposition to President Nixon's Supreme Court nominees.

President Derek C. Bok said in a telephone interview Tuesday that "some University action is quite likely. As an officer of this institution, I have the responsibility to try to indicate my disagreement with them (the FBI).

"I am sure Mr. Sacks and I will find some suitable way to communicate our concerns very clearly to the relevant authorities," Bok continued.

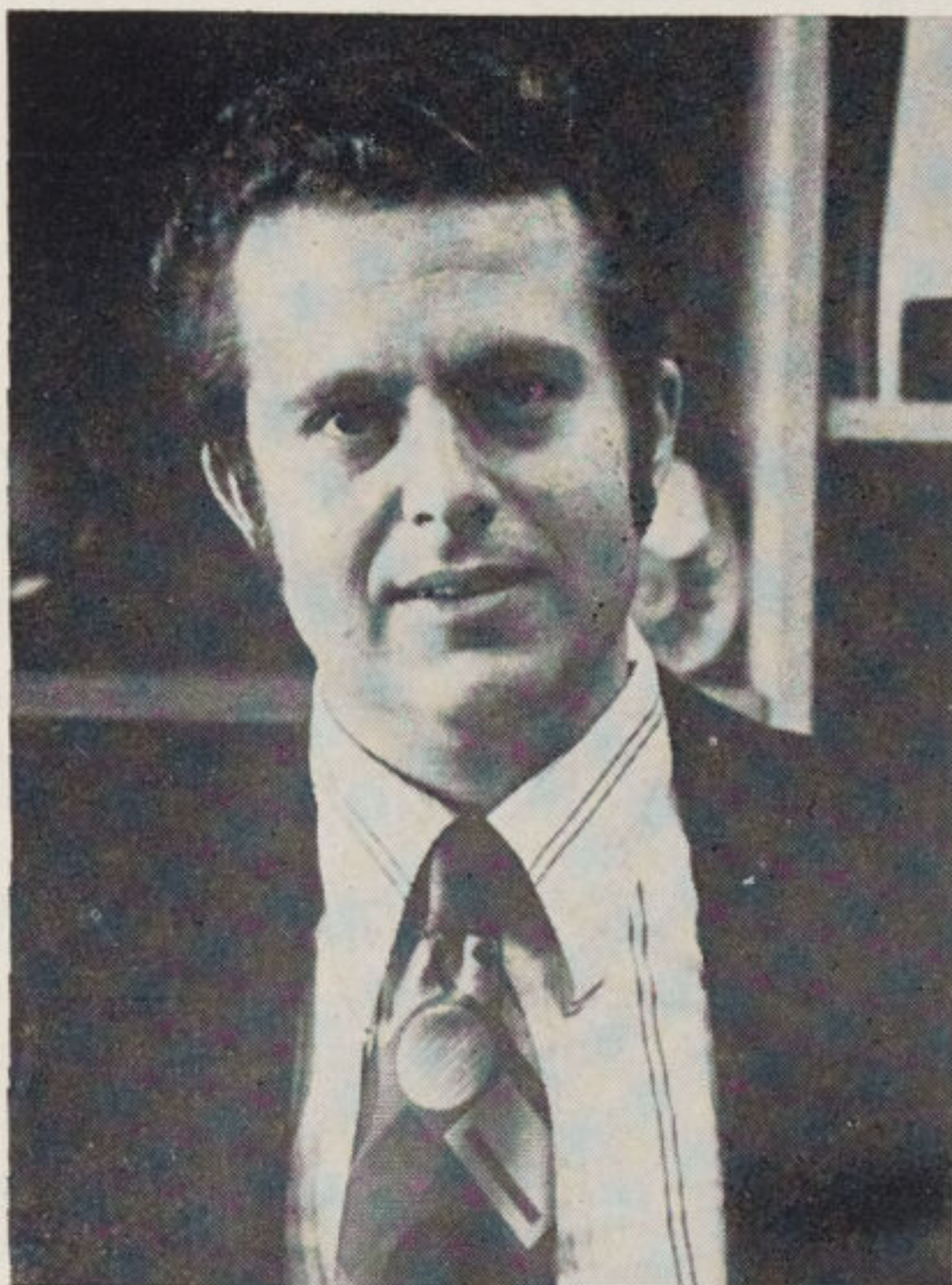
According to Tribe, FBI officials contacted him three times to question him variously about his investigation of California Court of Appeals Judge Mildred Lillie, recently mentioned as a possible Supreme Court nominee, and his subsequent investigation of the actual nominees Lewis Powell and William Rehnquist. Tribe's research was instrumental in the attack on Judge Lillie's qualifications for a high court appointment.

Quizzed Professors Critical of FBI, Term Questioning 'Improper,' 'Stupid'

The first encounter took place October 18. FBI officials asked Tribe whether he were investigating Lillie and her opinions and what his motives were for doing so. Tribe felt these questions to be improper and refused to answer them. He did, however, answer questions about his own background.

After the nomination of Powell and Rehnquist, Tribe was asked whether he had any "special

knowledge" of them. He again declined to answer. Later, according to Tribe, an FBI agent asked, "Have you ever done, are you doing, or will you do research on Rehnquist and Powell?" He refused to answer this question and



Charles Soberman

Professor Laurence H. Tribe

renewed inquiries concerning his motivation in investigating the qualifications of the Supreme Court nominees.

Tribe was sharply critical of the FBI's questioning. "At a minimum, they were trying to test the political waters for the Nixon

administration," he said. "At a maximum, they're trying to intimidate.

"The FBI is undermining the First Amendment and is eroding the ability of the Senate to advise and consent . . . in a chilling manner," Tribe maintained.

He warned that he would now be of little use to students seeking recommendations for positions with the Department of Jus-

tice. "If I speak well of a student, he may be harmed."

Marian Wright Edelman, director of the Harvard Center of Law and Education and a leader of the Washington Research Project Action Council, was also contacted by the FBI. She said the FBI apparently discovered from an article in *The Washington Post* that she had studied the qualifications of rejected Supreme Court nominee G. Harold Carswell and later of Nixon's six announced possibilities for the Court's current two vacancies.

The FBI asked Edelman her opinions of Powell and Rehnquist, but she declined comment. Edelman termed the FBI's questioning "improper" and "stupid," but made no formal complaint since "the FBI called us all the time" in her Washington office.

Tribe also said he has made no formal complaint to the FBI and does not intend to make one. "If the president or the dean were to make a complaint, that might have some impact," he noted.

"I have considered the matter and I have been in touch with President Bok, but I'm not prepared to announce what action will be agreed upon," said Dean Albert M. Sacks. Sacks said any action taken would likely occur "soon," but both he and Bok refused to indicate what form the complaint will take.

Bok had previously offered his name for use "if the dean of the Law School feels it helpful" to communicate the University's displeasure with FBI questioning of professors.

"Such overtures, while perhaps not dangerous in themselves, carry overtones which we find distasteful," Bok was quoted as saying in the *Harvard University Gazette* last week.

"I certainly do not know what the motives of the FBI were," Bok

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Dorm Council Endeavors to Add Human Touches to Law School

By Carol Plumb

The members of the Dormitory Council are among the unsung heroes of the Harvard Law School. While the results of their efforts to provide the student body with more varied social events are enjoyed by many, few of those munching popcorn while watching the Saturday night movies at the Hark, or sipping a cup of the free morning coffee offered daily in the Pound student lounge, realize that these humanizing touches around the School are only there because of the initiative and hard work of a handful of students on the Dorm Council.

Although the Dormitory Council, whose official purpose is to serve as a governing body only for those students residing in HLS dormitories, has been in existence since 1958, it has only been during the last two years that concentrated efforts to enlarge its area of concern have been made.

"We expanded our view of what our responsibility to the student body is," explains Joseph Newberg, 3L, who this year is serving as Dorm Council president. "We looked around and decided that no other group was representing HLS students as far as extracurricular activities were concerned, so we determined to fill that gap. We have been initiating new programs in accordance with our goal to make Harvard Law School a more humane place for all students."

Newberg is backed up in his view of the expanded scope of Council activities by the vigorous participation of the other members of the Executive Committee of the Council, each of whom assumes the leadership for a particular program: Vice President Carlton Eastlake, 3L, in charge of mixers; Secretary Robert Hebda, 3L, who has taken the responsibility for the Saturday night movie program; Treasurer Melvin Cox, 3L, Special Services; and Steven Schneider, 2L, comptroller, who handles financial matters.

This last is a very important component of the Council's functions because the Council receives no funding from the Law School. All its activities are self-generating. The money it raises through Law School Mixers and other social galas is used to provide one floor party per semester for every dormitory unit, and to finance the non-profit Council ventures such as the sports program, pay phones and vending machines and other amenities.

To increase its treasury and at the same time enable students to

last spring, he enthusiastically told Newberg one morning that there ought to be free coffee for the students in the student lounge each day. Newberg countered this suggestion by saying it *was* a fine idea but that the Law School ought to pay for it. When Sacks shortly thereafter became dean, Newberg was quick to remind him of his own idea and the school administration agreed to let there be coffee from 10 a.m. until "all gone." The Council provides a constant supply of newspapers and magazines in the lounge for the coffee sippers to mull over.

The movie program, which was newly initiated in September, was designed by the Council to accomplish two things: (1) to add more

Sacks' Suggestion Leads to Free Daily Coffee Hour in Pound Student Lounge

participate in more events for less money, the Council for the first time has this fall produced the Harvard Law School Activities Card. A flat payment of \$3 entitles the student to free admittance to all Law School Mixers (at least five are held each semester), a free drink at each TGIF party, and 25 cents off each movie program. This package idea has proved so popular that the Activities Card will be offered again next semester.

The Thank-God-It's-Friday parties were begun last year. The libations offered range from sherry to rum and coke and the imbibing offers a chance for students and professors to meet and talk informally over a glass of bubbly. "The Dorm Council's idea was to provide an opportunity for the give-and-take discussion which the Socratic method does its best to disguise," Joe Newberg states. So successful were the TGIF's at HLS that they are now being held on a regular weekly basis.

Enhancing opportunities for socialization in an atmosphere sometimes rigidly academic is in accordance with the views of Dean Albert Sacks. Shortly before he was appointed to the deanship

social activity by providing inexpensive entertainment; and (2) to get Harkness Commons open on weekends. Starting with a selection of slightly overripe Hollywood features, the program has filled an evident need at the Law School. Attendance has grown to an average of well over 100 each week.

Bob Hebda, who has become the *ad hoc* cinema impressario of the Law School, had hoped that the entire year's receipts would enable him to purchase a movie projector as a parting gift to the student body from this year's Executive Committee. The movies and free popcorn for \$1.00 admission have "been successful beyond all expectations," Hebda reports. "We are now able, while still in the halfway projection of the program, to invest \$1,000 in a projector and two speakers. We're also acquiring the funds and the expertise to secure better films."

But more serious concerns in the lives of law students have also lately come within the Dorm Council purview. When the Hark began a new policy this semester of no hot breakfasts, the Dorm Council circulated petitions requesting that full breakfast service be restored and so enthusiastic

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Inquisitorial Procedure on Display

By Paul Weiner

An HLS library exhibit, "European Inquisitorial Procedure — Old and New," is on display in cases in the main reading room in Langdell and in the passage-ways between Langdell West and the Faculty Office Building, levels two and three. The exhibit consists of books describing the inquisitorial procedure, ranging from *Tractatus de Questionibus et Tormentis Secundum Baldum* which was printed in Paris in 1486 to *Beyond Breaking Point* by Peter Deeley, published in London in 1971. The exhibit was prepared by Dr. Jan Stepan, reference librarian in the Law School library.

Many of the books in the display date from the eighteenth century or earlier; all but two were taken from the Law School library collection.

The exhibit commemorates the 300th anniversary of the French Great Ordinance of 1670 which provided, among other things, that a suspect could be tortured over and over again if necessary and that he could never talk to an attorney during interrogation.

There are basically two types of criminal procedure, the inquisitorial and the adversary systems. In the inquisitorial system, the state — through the police, prosecution, and judiciary — directly confronts the unassisted

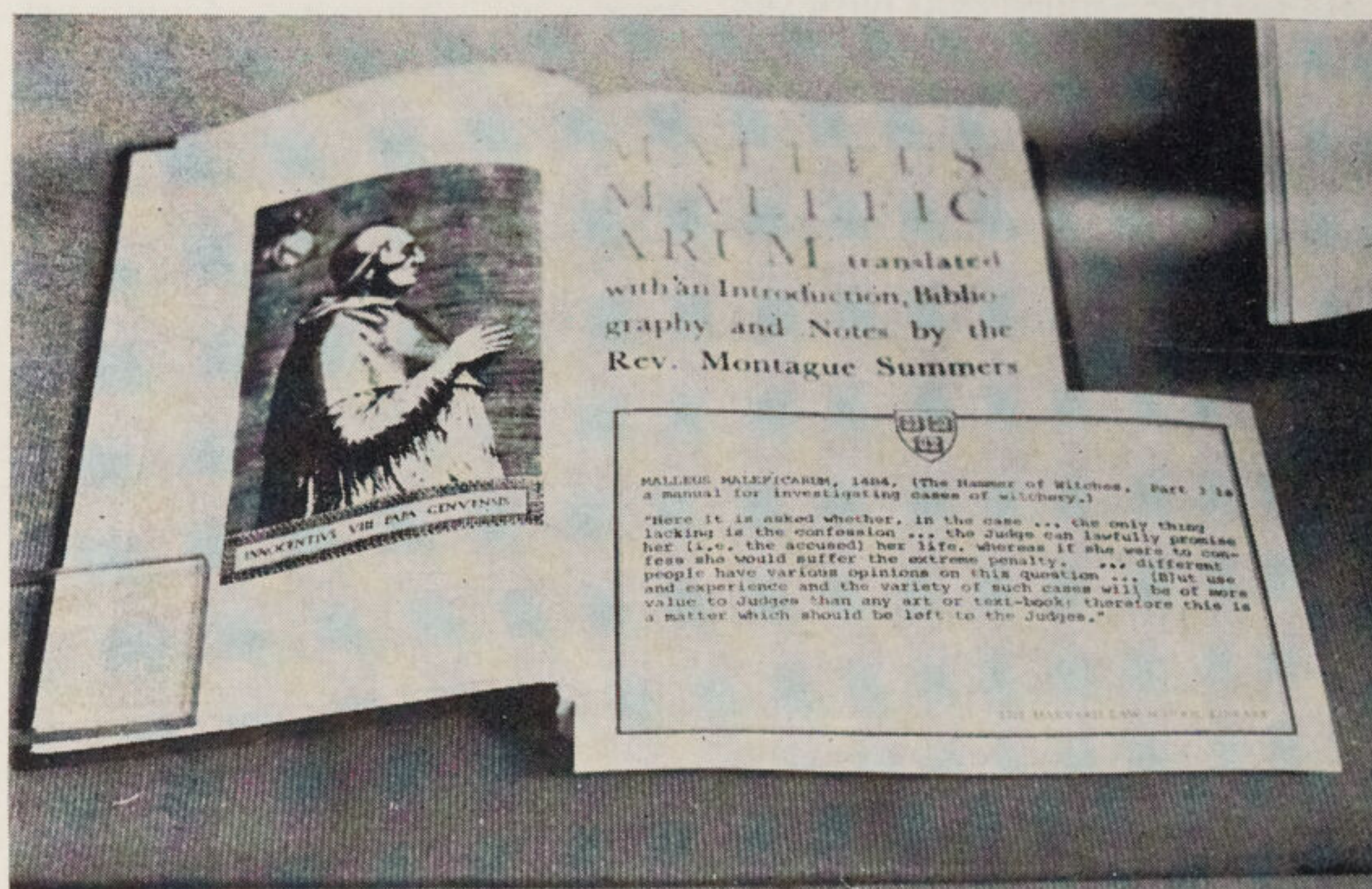
accused and attempts to wrest from him a confession of his crime. In the adversary system on the other hand, the judiciary acts as a disinterested arbiter between the state and the accused, while state and accused confront each other through their attorneys.

nal procedure has been basically inquisitorial. Modern European criminal process generally has two phases: an earlier inquisitorial phase in which the police or other state investigators confront the accused and other witnesses, followed by an adversary proceeding resembling an American criminal trial.

Although physical torture is the most notorious form of inquisitorial proceeding, it has in most countries been supplanted by more subtle forms of psycho-

served as consultant to the Czechoslovak bar on procedural and legislative matters.

His experiences with reform in Czechoslovakia and his readings about other countries have convinced him that unless the accused has a right to counsel at all times he is interrogated and unless the courts exclude evidence obtained through confessions at interrogations at which he was not so represented, what is officially an adversary criminal procedure will turn into an in-



Charles Soberman

Malleus Maleficarum — Medieval handbook of witchcraft investigation contained in Langdell exhibit on "European Inquisitorial Procedure — Old and New."

logical pressure, repetition, and trickery. Thus *Criminal Interrogation and Confessions*, fourth edition, by F. E. Inbau and J. E. Reid, published in 1967, advises investigators to try to convince suspects that the crime to which they are now being asked to confess is nothing compared to other crimes for which they have already been convicted or that their alleged victims were so contemptible that the crime was justified.

Dr. Stepan was at one time a defense attorney in his native Czechoslovakia. In 1963, he became a senior lecturer in criminal law and its processes at the law school at Prague. He also

quisitorial one, with confessions tricked or coerced out of defendants.

Thus, Czechoslovakia in 1961 adopted a rule allowing an attorney to be present at any formal interrogation of juveniles and incompetent defendants. Since this rule had a loophole for informal interrogations before the suspect was officially accused, the Czech prosecutors and police started to make the whole investigation of juveniles "informal" and prior to accusation.

With this in mind, the law in 1965 extending this right to defendants of all kinds made no

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Books Trace History From 1486 to 1971

accused and attempts to wrest from him a confession of his crime. In the adversary system on the other hand, the judiciary acts as a disinterested arbiter between the state and the accused, while state and accused confront each other through their attorneys.

From the Great Ordinance until recent times, European crimi-

Loophole Postpones Induction 'til Xmas

(Continued from Page 1)

One of Bohn's attorneys, Don R. Bay of Somors & Kallen in Santa Monica, argued that the government has already conceded that it erred in not recognizing a grace period following passage of the Military Selective Service Act of 1967, an admission made by the government earlier in a Ninth Circuit case, *United States v. Dell'Anno*, 436 F.2d 1198.

He further argued that both the 1967 and 1971 Acts were merely a series of amendments to the 1951 law and that neither Act specifically mentions the grace period, indicating that Congress intended to pass substantially the same act on both occasions. The government in *Bohn* tried to distinguish the two bills by noting that the 1971 Act, unlike its predecessor, was passed only after the lapse of the previous law.

The CLRD interpretation was enough to prompt United States District Judge Robert J. Kelleher to grant a 60-day temporary injunction against Bohn's induction until a full hearing on the merits could be held.

In spite of the fact that Bohn may be eligible for induction after December 28, this ruling will be important to him. He is presently trying to convince his draft board to give him a hardship deferment and can not receive a full hearing on this request while he is subject to induction orders. If his induction is cancelled he will be eligible for a hearing and a series of appeals on this issue. The draft law states that a request for deferment can be made after an induction order only if the circumstances are beyond the control of the registrant.

This and other possible appeals that might be available to registrants affected by this contested waiting period is of serious concern to Draft Director Curtis W. Tarr. In a recent article in the

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Heymann Prepares Classin

By Bert Halprin

Professor Philip B. Heymann knows that graduates of the Law School are apt to be more than just lawyers, and he thinks it is important for their education here to provide them with skills for their manifold futures. More graduates of the Law School go into government service, for example, than from either the Business School or the JFK School of Government. "In fact," he points out, "most employers will pick an HLS grad over anyone for almost any job."

Heymann knows the route. After his graduation from the Law School in 1960 and a year as a clerk to Justice Harlan, he went into the Solicitor General's Office, from there moving to the Department of State. He held the positions of acting director of the Bureau of Security and Consular Affairs, deputy assistant secretary of state for the Bureau of International Organizations, and finally, executive assistant to Under Secretary of State Nicholas Katzenbach.

Now back in the more insular world of Harvard, he feels that lawyers have a tendency to rely too heavily on the old skills they have been taught, leaving the new skills to someone else. "Lawyers are good at running most things for reasons that no one can articulate," said Heymann. "They're good, but they could be better."

a thing like when to settle." Heymann feels that the prime tasks of a good lawyer are negotiating and bargaining.

Professor Heymann stated his opinion that most of the unhap-



Philip B. Heymann, professor

piness and disenchantment felt by students at the Law School is connected more to what goes on in the outside world than to

'God plays dirty trick on law students,' Says Heymann in Defense of Harvard

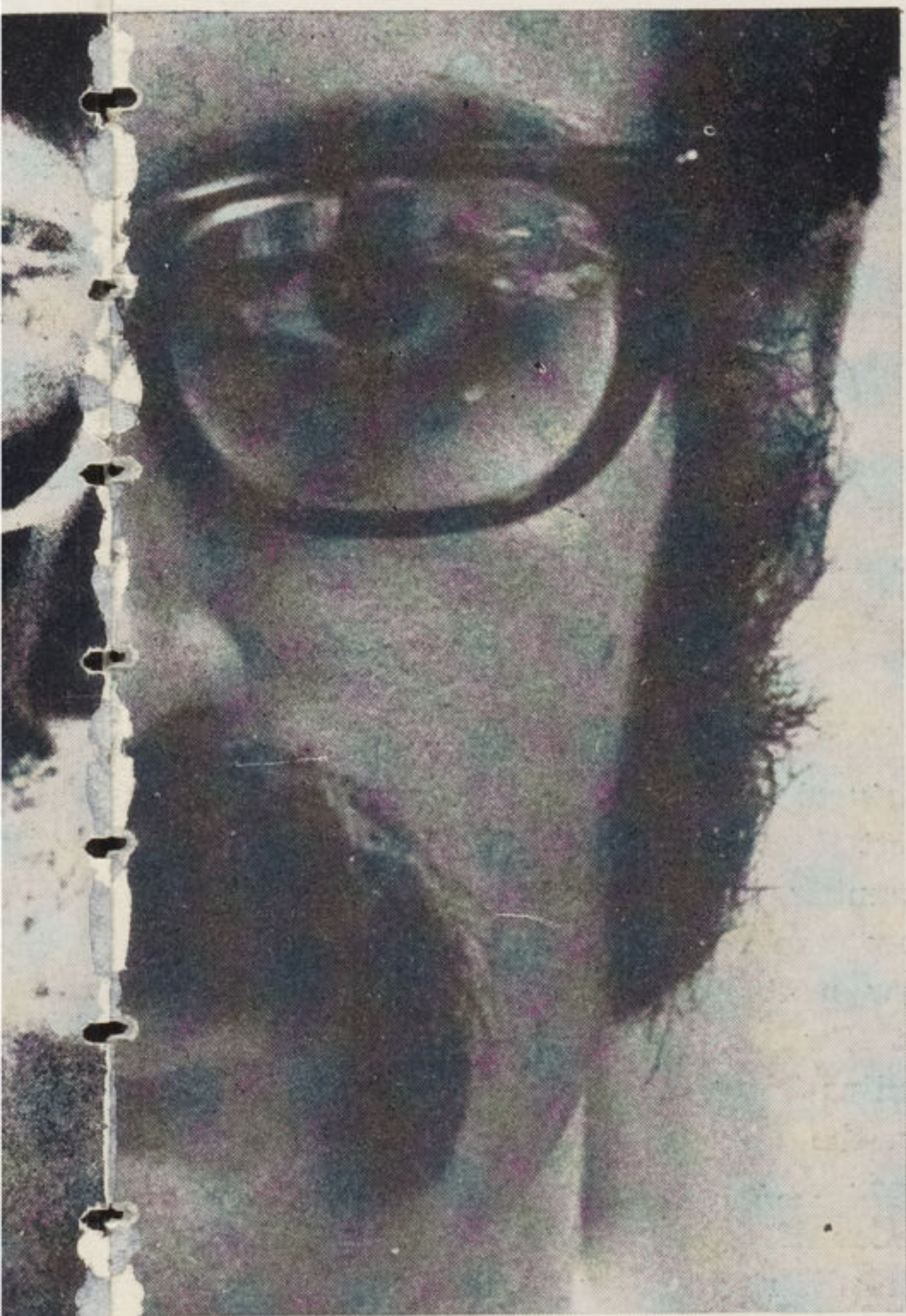
For example, Heymann feels that "[a]ll law students ought to have some contact with decision trees [the leading flora in the *Decision Making* course he teaches here, which magically make decisions when fertilized with appropriate outcomes and probabilities]. Clients will be using them, and lawyers could too, to decide

what happens here. It stems from the fact that most law students are interested in three things: money, status and prestige, and their own ideals. "God plays a dirty trick on law students," he observes, "not Harvard Law School but God. Prestige, status and money just don't go with following ideals." He expressed the

ss in More Than Just Law

strong opinion that of the three, lawyers tended to be most interested in prestige.

Perhaps the most important change to be made in the Law School curriculum, Professor Hey-



Charles Soberman

essor *Law and Decision Making*

mann said, "would be to set up a system to help students deal with the tough career problems of integrating the different goals of life." Maybe the students would then recognize, he went on, "the major problem of unhappiness with law school is just unhappiness with life."

He feels another major source of student discontent at the Law School, the lack of relevancy in the courses, is also due to an inability to put things in their proper perspective. "Law students exaggerate the generalized competence of their professors and their ability to intelligently handle current problems." His own reluctance to discuss the Attica massacre in his *Criminal Law* class was because "I didn't know

any more about it than the students, and what I did know I hadn't organized in my mind.

"When I first came here to teach," Heymann went on somewhat wistfully, "I thought you just teach what's relevant. But that's not the way it really should be. You have to teach what's important and, moreover, what you can incrementally add to the knowledge of your students." He added that he waited a year before he felt he was able to hold a valuable discussion of Kent State with his classes.

In response to a question about whether he was bored or unhappy to be back in the relatively secluded world of the academician after several years at the center of the action in Washington, he thought for a moment. Then he explained, "I guess by disposition, a large part of me is hopelessly intellectual. The difficult part of it is to suspend your disbelief about the worthwhileness of seeking truth. If you can keep your faith, it's an exciting thing to do."

Apparently Professor Heymann is able to keep the faith, since he said that at present he would not consider returning to government service. How about some time in the future assuming, of course, that the Democrats return to Washington? Perhaps tired from the continual suspension of disbelief, Professor Heymann sat for a second, then said, with a slight smile on his lips, "Well, maybe."

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Loophole Postpones Induction 'til Xmas

(Continued from Page 8)

Harvard Crimson Tarr is quoted as being disturbed at the possible delay that might result. If this grace period applies to both the 1967 and the 1971 Acts it could affect over 100,000 inductions, he said.

Since the California decision, CLRD and Bohn's attorneys have circulated copies of the briefs to draft lawyers in many cities. Law suits have been filed in San Diego, New York, Boston and Chicago, resulting in a number of temporary restraining orders from the courts preventing inductions of various plaintiffs.

The Los Angeles result is particularly important because Assistant United States Attorney Alan W. Peryam admitted in his brief for the SSS that Article 20 applied to the 1967 law. This may mean that all inductions, or convictions based on inductions, during the first 90 days after passage of the 1967 amendments are illegal. A number of soldiers currently in the army or draft resisters in jail or abroad might be able to take advantage of this ruling.

It is remarkable that the amendment escaped the eye of Congress during the debate on the draft extension. A *Crimson* article Saturday, November 13, speculated that Senators Alan Cranston (D-Cal.) and Mike Gravel (D-Alaska) may have known about the loophole and purposely ended their filibuster of the current law because of it. The article quotes aides in the offices of both Senators as denying this piece of speculation, but both could be interpreted as pleased that the loophole exists.

"If we win (cancellation of the induction orders) this could be very important," said Solomon. "If we lose it will be just another footnote in the history of draft litigation."

FBI on Campus

The probing by the FBI into the thoughts, motivations and intentions of Law School Professor Laurence Tribe as a result of his background investigations of several of President Nixon's recent Supreme Court nominees — potential and actual — is offensive, unwarranted and injurious.

Evidently Professor Tribe succeeded in adducing some evidence particularly damaging to the judicial reputation of California Court of Appeals Judge Mildred Lillie, widely mentioned as Nixon's odds-on choice for the first woman justice of the Supreme Court. In subsequently declining to nominate Judge Lillie — after ABA refusal to find her qualified — Nixon sought to blame the ABA for the fact that no woman would sit on the high court this term. If there is a pattern discernible in both Nixon's response and the FBI questioning of Tribe for his part in Lillie's being passed over, it is one that smacks not only of political dishonesty but also of petty vindictiveness.

The FBI is charged by the Department of Justice with the duty of investigating the background of potential nominees to the Supreme Court. To the extent their contacts with Professor Tribe were in line with this duty, on the basis that he had relevant information, there is no problem. But the FBI first contacted Tribe in connection with Lillie, whose qualifications — according to Professor Arthur Miller — they were not asked to explore. Moreover, the FBI seemed more intent on questioning Tribe concerning his own background and plans than those of Judge Lillie.

Not once, but three times did the FBI seek to obtain from Tribe answers to questions clearly unrelated to the task of gathering information on Supreme Court nominees. In addition, Marian Wright Edelman, director of the Harvard Law and Education Center, was contacted by the FBI on the same mission. She too declined to answer their questions.

Tribe termed the FBI tactic "intimidating" and "chilling" of First Amendment rights. Beyond the political damage these inquiries may have caused him, there is significant danger that public minded citizens will lose the courage to speak out on controversial issues if their motives and activities thereby come under FBI scrutiny.

President Bok and Dean Sacks have indicated a desire to respond in some appropriate fashion to this incursion on individual and academic freedoms. A vigorous protest is certainly in order.

HARVARD LAW RECORD

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Published Friday ten times each semester by The Harvard Law School Record Corporation, 23 Everett St., Cambridge, Mass. 02138. Telephone 495-4418. Subscription price: \$3.00 semester, \$6 year mailed; students, \$3.00 year distributed at the Law School. Individual copies: 20 cents at the Law School, 35 cents mailed. Second class postage paid at Boston, Mass. Copyright 1971 by The Harvard Law School Record Corporation.

Fenno

Cambridge, Nov. 18 . . . New lites are to be installed at the Law School to cut out crime, according to Vice Dean William Bruce. "They will also decrease spooning, as we called it in my day, in the pathways between Harkness and ILS," he commented slyly . . . Final details being shored up by our own Professor Fuller and H. L. A. Hart of Oxford for their gala trip to the Reichenbach Falls . . . Quote of the week: Prof. Phil Areeda, chastising a "sinner" in his *Contracts* class for being unprepared, quipped "The wages of sin are not frozen!" . . . Our informants tell us Phil is soon to be named "Czar of the Universe." Good going! . . . Confidential to Blue-Eyes: who was that lady we saw you with at the Iruña last week?

Pookie Moriearty seen romping *au naturel* on the grass in front of Gannett House. What kind of house are you running, Jonathan? . . . Cecil Zircon, low man in the class, will be teaching law next year. He will be employed at Swift's Mortuary College . . . Julius Smerdyakov has the inside track on the *Law Review* presidency, so we hear . . . Great bottlenecks are the order of the day at the RECORD tables on distribution days. Seems some Harvard Law students are interested in getting more than just the RECORD from the lovely Lesley lasses who sell the paper . . . J. C. G. broke up *Evidence* last week by indicating that his friends in the corner grocery used to switch the labels on dog food and roast beef cans. That's nothing new, J. C.; the Hark's been doing it for years

Res ipsa loquitur Dept: Most well-liked student at the Law School, dining *tête-à-tête* with lovely brunette from New York at Henry IV the other nite . . . Overheard at Peabody Terrace: "I sure hope Casner's film on the present-interest trust was the Last Picture Show." . . . Chilling Effect Dept: Carlisle Murgatroyd 4L sleeps in pajama tops in a king-sized water-bed filled with ice-water . . .

That's Fenno for now.

Letters to the Editor of the RECORD

Minor Inaccuracies Appear in Record

To the Editor:

This letter is to correct five minor inaccuracies which appeared in the article on Cambridge Rent Control in the November 5 RECORD. None of the errors undercut the general observation of the article, that pro-landlord city officials have sabotaged a law which could have brought (and still can bring) substantial relief to the tenants of Cambridge.

(1) I am not president of the Cambridge Tenants Organizing Committee (CTOC), but just one member among many.

(2) The present Rent Control Administrator, William J. Corkery, is not "a former pro-landlord city manager," but he was appointed by a pro-landlord city manager, John Corcoran.

(3) The majority of CTOC's members withheld support from the rent control initiative (over my dissent), on the grounds that city politicians would conspire with the courts to keep it off the ballot and tenants would better use their time organizing than getting signatures on petitions.

(4) The judge who ruled the rent control initiative off the ballot because he thought it was like a Soviet proposal spells his name Kalus, not Klaus.

(5) The research for the initiative lawsuit's appeal to the Massachusetts Supreme Judicial Court is not being done by the CRCL *Law Review*, but rather by the CRCL research committee.

Mark Goldowitz 3L

Mugged 'Liberators' Turning into Fanatics

To the Editor:

Regarding Ms. Plumb's series [on crime at the Law School]: Don't tell me a few muggings at HLS are turning all you would-be "liberators" of mankind into law-and-order fanatics.

Herman Schwartz '56

Warren Seavey Was A Great Teacher

To the Editor:

Warren Seavey was a great teacher.

Charles F. Hawkins '53

Impassioned Student Gets Smoke in Eyes

To the Editor:

I would like to make an impassioned plea on behalf of all the students who

are bothered by smoke to the few people who are smoking in class. I'm sure you do not realize how irritating your smoking can be to your fellow students, but it really can be quite bothersome to people even several seats away from you. And certainly it's hard enough to keep your mind on what a teacher is saying in many classes without any outside distraction like cigarette smoke.

Of course, it is against the law school rules, and perhaps even the state fire laws, for you to smoke. But more than this, it is extremely distracting to many of your peers. Please, could you show your consideration for your fellow students and not smoke in class.

Bob King 3L

INSTITUTE OF POLITICS

The Institute Student Advisory Committee welcomes proposals for non-credit student study groups in the areas of politics and public policy.

See Janet Fraser or Nora Littlefield at the Institute of Politics for details, 78 Mount Auburn St., 495-5792

Deadline for submission of proposals for spring term 1972 study groups: December 1.



"So you feel more relaxed your third year, huh?"

Council Humanizes HLS

(Continued from Page 6)

was the student body's response that as of the beginning of next semester, early-rising students will once more be able to restore the inner man (or woman) with piping hot bacon, eggs, oatmeal, etc.

Within the dormitories, a civil rights struggle is currently in progress as Wyeth residents attempt to retain exclusive use of their "luxury" facilities, such as laundry rooms and lounges, while Harkness domiciliaries clamor for Equal Protection and demand integration of Wyeth's facilities. The Dorm Council is attempting to achieve a peaceful solution. The Council has just announced that laundry facilities will be ex-

Dorm Council's Pleas Revive Hot Breakfast

panded. Additional dryers will be installed in several dorms to "equalize" access to washers and dryers for all dorm residents.

The plan to install outdoor lights throughout the School area which was announced last week was due to the combined efforts of the Council members and Vice Dean William L. Bruce. The Executive Committee is now looking into possibilities for installing more effective locks on all students' doors within the dorms.

Nor have athletics been forgotten: this year the program has been expanded to include two referees in each basketball game for most of the leagues. There have been some rumblings of "male chauvinism" directed at the Council by students who claim that most of the Council activities are geared only for male students. "I'm perfectly willing to include coed volleyball or whatever. I'd also be willing to have a separate women's athletic program," explains Council President Newberg. "So far we haven't been able to find anyone willing to take the responsibility of running such a program.

"The members of the Dormitory Council will do anything we can to make the Law School a more pleasant place for students up to the limits of our energies. However, we're really using the maximum energy of the personnel we have available right now. We have a few people doing a lot of work."

The Council consists of one person elected from each floor or entry in the Law School dorms. Each floor holds its own elections on the second or third week of each academic year. The members of the Executive Committee for the coming year are elected by the Council members in midyear. Currently there are 27 representatives and five officers comprising the Dormitory Council.

FBI Probes Tribe Probe

(Continued from Page 5)

said, "but it is not impossible that perhaps their motives were benign." He expressed his concern that the FBI had not made "very special efforts" to explain its motivations, and said in light of these circumstances "I have a feeling this [the FBI's questioning] was really wrong.

'Overzealousness' of FBI a Reaction to Previous 'Burning'

"I have no reason to believe Professor Tribe was intimidated," but this kind of tactic is "bound to intimidate a significant percentage of those subjected to it," Bok continued.

Visiting Professor Arthur Miller, author of *The Assault on Privacy*, stated, "That the FBI was overzealous to some degree is certainly clear. To the extent the FBI is simply trying to get data relevant to the qualifications of nominees or possible nominees and they feel Professor Tribe has access to that, they are simply pursuing the job assigned them by the Justice Department." He cautioned, however, that questions concerning Tribe's own attitudes and his plans are "inappropriate."

Questions relating to names of cases in which Judge Lillie had written opinions were "rather strange" since the FBI was not asked to explore Mrs. Lillie's qualifications, Miller explained. "The FBI has the same access to Mrs. Lillie's opinions as does Tribe."

Miller said he felt the "overzealousness" of the FBI was a reaction to their having been "burned" during the unsuccessful efforts to nominate Carswell and Clement Haynsworth.

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NEW CONCEPTS AND OLD PROBLEMS

The Boston Consulting Group

Strategy formulation does not come easily, even for the experienced executive who has many years of trial and error behind him. In developing administrative skills, the seasoned executive has learned from his mistakes. All of this experience applies to improving his understanding of strategy. But none of the experience was in developing and evaluating strategy. Few executives ever see strategy changed. Real exposure to strategy considerations does not even begin until near the peak of an executive career.

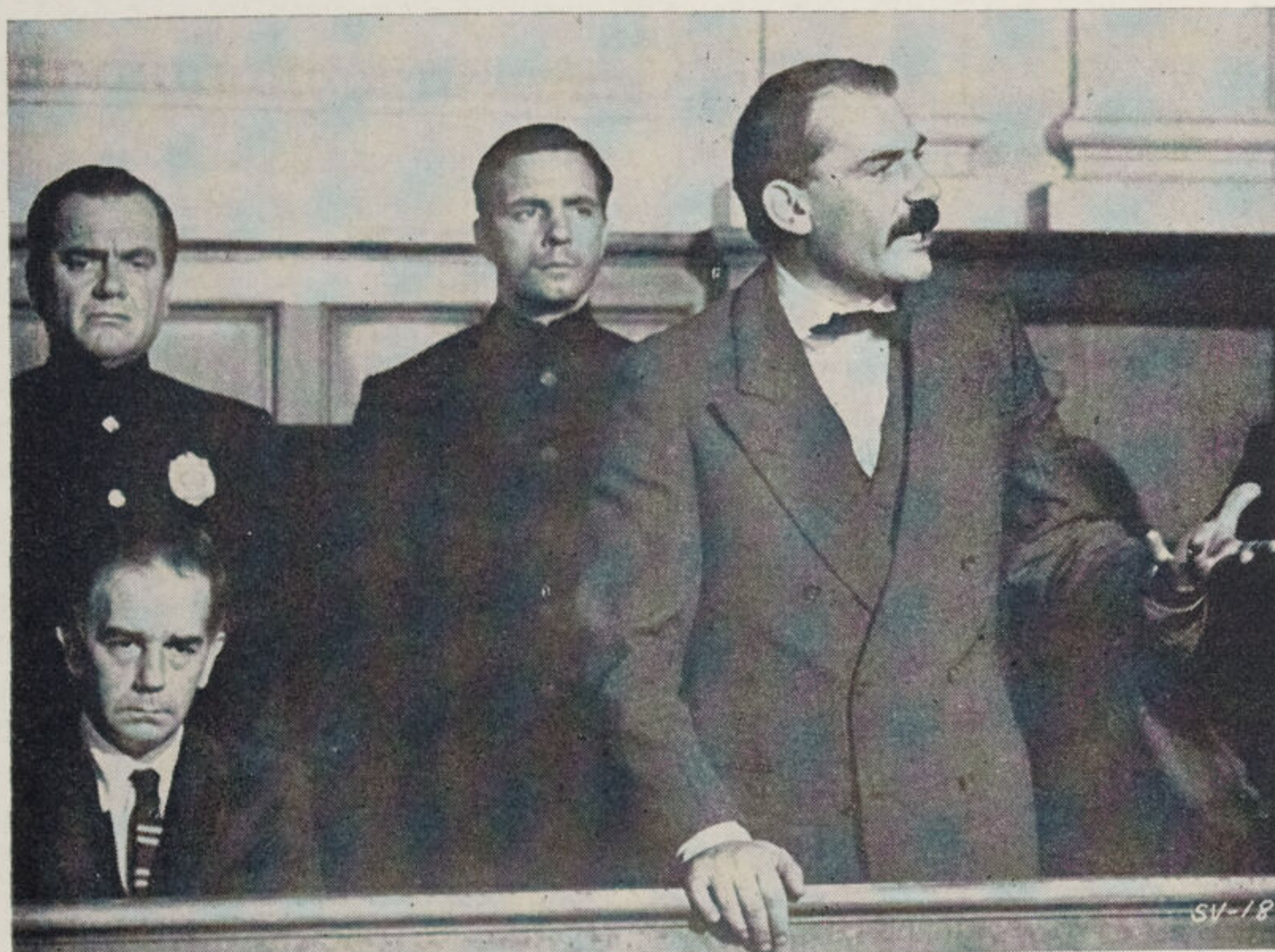
Strategy formulation, and strategy consulting, require that this most complex of problems be handled analytically rather than intuitively. There is no other way. Intuition is inadequate. There is insufficient experience base. In this process, conceptual ability is at a premium. But the concepts must also be validated by the most rigorous analysis.

A basic requirement for strategy consulting is an ability to identify the well-worn precedent which is no longer valid. But this requires questioning all assumptions and accepting no precedents merely because they are generally accepted. The implications are often far reaching. The task, however, is also far reaching. Those who succeed in strategy consulting do so because of their ability, not their experience. That ability has many facets but the most critical is the ability to see complex relationships clearly in terms of basic interaction over time. This must be coupled with the ability to cause others to see these same relationships equally clearly.

Few people can have more influence on their world over the whole span of their professional career than the strategy consultant. He has leverage on the decisions that are critical to society. A great deal needs to be done. American business is burdened with outmoded mythology about competition and managerial economics. Our whole way of life suffers because of this.

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WAS THE MOUSTACHE FOR REAL?



In response to a veritable avalanche of acrimonious letters to the editor, the RECORD is rerunning the above picture from the issue of October 22 along with the following quiz:

1. Who is the man gesturing in the foreground?
 - (a) Nicola Sacco
 - (b) Bartolomeo Vanzetti
 - (c) Russell A. Simpson
 - (d) Gian Volente
 - (e) Riccardo Cucciolla
 - (f) Perry Moriearty
 - (g) Thomas Dewey
2. Who is the man glumly sitting at his right?
 - (a) Nicola Sacco
 - (b) Bartolomeo Vanzetti
 - (c) Lodowick Post
 - (d) Gian Volente
 - (e) Riccardo Cucciolla
 - (f) All of these
 - (g) None of these
3. The two men in front are collectively known as
 - (a) Sacco and Vanzetti
 - (b) Vanzetti and Sacco
 - (c) Cucciolla and Volente
 - (d) Volente and Cucciolla
 - (e) Countryman and Kaufman
 - (f) Kaufman and Countryman
 - (g) Harris and Balk
 - (h) Balk and Harris
4. The two men in the rear are collectively known as
 - (a) Sacco and Vanzetti
 - (b) Vorenberg and Weinreb
 - (c) Carswell and Poff
 - (d) Pennoyer and Neff
 - (e) Countryman and Kaufman
 - (f) Vanzetti and Sacco
 - (g) Oyer and Terminer
 - (h) The Silent Majority

Please turn in your answers at the RECORD office, 23 Everett Street, no later than 5 p.m., Wednesday, November 17. All answers *must* be accompanied by ten-digit student identification number. You are limited to two bluebooks, twelve pages of pica type, or ten pages of elite type.

Meanwhile, Back At The Placement Office

By Bob Dwyer

Harry D. Student, 2L, entered the interviewing room.

"I've been looking over your résumé . . ."

"I bet you're curious what my grades are."

"Not necessarily. What was your law boards score?"

"I took the LSAT's pass-fail."

"And?"

"Mr. Interviewer, tell me truly, can a country boy like me find love and true happiness in a big-city firm like yours?"

"No. I see you were an Eagle Scout. I was too."

"That's really great, sir. What a coincidence. I hope you believe in the old aphorism, 'Birds of a feather flock together.'"

"I see you're also a turkey."

"Sir, I like close client relations. Is there much of that in your firm?"

"No, we specialize in divorce proceedings."

"Do you have black or women partners and associates?"

"We have offices with excellent views and membership in the Gotham Gentle Men's Club. Are you applying for our downtown or uptown offices?"

"I'd really prefer the uptown, sir."

"Unusual. But I think you'll like the Bronx."

"Mr. Interviewer, I am truly impressed by the name your firm has made for itself in just a few years. Tell me, how does one carve out a niche on Wall St.?"

"Chisel clients."

"What makes your firm different from the others?"

"There's a Persian carpet in the associates' bathroom."

"How big is your firm?"

"About the right size."

Do you do any work *pro bono publico*?"

"For our international practice, we are more impressed with French than Latin."

"It's rumored that yours is a

(Continued on Page 16)

Keep in Intellectual Trim: Talk Politics at Meal Time

By Paul R. Gupta

The several presidential aspirants who have spoken to Law School audiences recently have concentrated on a single message: they have chided us for our present political inaction, and lamented the loss of fervor which characterized student involvement in the 60's.

In an obvious sense, of course, they are being unfair. As Senator Kennedy said at Yale on Mayday, 1970, violence can never be an effective means of winning peace, and too often student dissent was "counter-productive" (in the once-popular revolutionary jargon). So, it is both saddening and encouraging to read in *The New York Times* a few days ago that the kids at Yale are now seeking self-fulfillment in the libraries rather than in the streets.

Many students now want to believe that they are forsaking activism in the present to prepare themselves for a significant social role in the future. Yet, in academia it is too easy to be enticed into eternal worship of the gods who promise comfort and private achievement. We have to ask if the apparently low level of political consciousness on the campuses, and particularly at the Law School, comes from maturity or simply from bitter despair.

We are probably sufficiently aware of those political acts which touch us professionally,

for example, the nominations of Supreme Court Justices; but, should we abandon other major issues on the grounds that we cannot claim special competence in dealing with them?

The current state of the economy exemplifies the kind of problem which might well deserve our interest now, especially as we struggle through the first week of Phase II of The New Economic Game Plan. There can be no doubt that economic policy affects us all,

Nixon Game Plan Alienates, Confuses

and apparently adversely at this time. Internationally, The Game Plan has alienated our friends (as Professor Edwin O. Reischauer discussed a few weeks ago at the Law School) and domestically, it has confused our countrymen (judging from the million or so recorded questions about Phase I).

If we believe that good citizens ought to care about the health of their country, or even that enlightened self-interest stimulates an effort to protect oneself, it is easy to come to feel we cannot afford to ignore unfortunate conditions around us. And, even more important, are we really willing to leave all our technical problems in the hands of the acknowledged experts in government?

Though it was painful to learn, the manifold disasters of the 60's have taught us that an expert — a man, or woman, who has been devoted to developing expertise in a field — will necessarily make decisions based both on knowledge and personal preferences.

Politicization of economists is very much a present problem. For example, the Report of the President's Council of Economic Advisors was a useful and sometimes forward-looking economic document

even at the beginning of the past decade; now, it has been generally seen as a political pamphlet defending existing policies. Similarly, politics has become involved in interpreting economic statistics, by virtue of Mr. Nixon's recent shifts in economic personnel. We also might worry about the professional competence of the economists involved in The Game Plan, since the present Administration has shown itself to be less than judicious in appointments in our own field.

Even if we wanted to allow others to make policies which affect us, we would presumably want those policies determined responsibly. In the real world, we cannot ask for sensitivity in government unless we are willing to contribute our own best judgments, and we cannot ask for change unless we ourselves are willing to guide it. The career administrators and politicians have not done well working in private.

It is easy to believe with Lewis Powell that we owe our first allegiance to the law and to the system. Don't we, however, owe more to society than merely investing in the stock market and being noncontroversial? Though the fruits of our efforts may not always be apparent while we are still in law school, we might begin by talking about politics over meals, rather than law, if only to keep in trim for intellectual activism.

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McCarthy

(Continued from Page 3)

The Forum program concluded with a question to McCarthy whether he would support a like-minded candidate or whether he just wanted to be president himself. "There is no envy among the angels," he quipped.

Later he reflected on his reply and added: "The angels did, of course, envy God. In fact, that was the beginning of envy."

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Tortures

(Continued from Page 7)

exception for "informal" interrogation. In the same year, the Czechoslovak Supreme Court issued an advisory opinion saying that no results of interrogation of an accused without counsel should be presented at trial. Though Czechoslovakia had only enough defense attorneys to represent perhaps ten per cent of those accused, the level of legality of police questioning techniques rose sharply. The third degree all but disappeared during the sixties. As in most continental countries, the accused had long had a legal right to remain silent; for the first time, a few defendants encouraged by the presence of counsel actually made use more relative of it.

In 1968, Dr. Stepan went to Salzburg, Austria, on a research fellowship. There he began a book on comparative criminal procedure, a subject on which he has already published several books and articles. In July 1969 he came to the United States to assume his present position at the Law School.

Interviewer

(Continued from Page 14)

stuffy firm. Is it true your summer outing is a white-tie affair?"

"Sure. Us Italians always wear white ties with our black shirts."

"Are you sure you're not interested in my grades?"

"No, not anymore."

"Frankly, Mr. Interviewer, I've been concerned about the quality of life in the Gotham City practice — specifically yours. The long hours, the air pollution, the fifty-cent subway fare, the curtailed family life, the high attrition rate among associates, the long years to partnership — I'm afraid the dehumanizing effects will destroy my individuality."

"Frankly, Harry, *you* won't have to worry about it."

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