

HARVARD LAW RECORD

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TWENTY CENTS

Student Activists Boycott Classes To Oppose War

By Daniel M. Taubman

More than 250 law students boycotted classes Friday, April 21 to protest the escalated air war in Indochina, and more than 130 endorsed demands of a mass University-wide meeting the night before to protest the war and support the demands of black students who occupied Massachusetts Hall for seven days to end Harvard investment in Gulf Oil.

Some 25 blacks, including a 3L, occupied Mass Hall to force Harvard to divest itself of more than 600,000 shares of Gulf Stock, since Gulf has extensive holdings in the Portuguese African colony of Angola. They left Mass Hall April 27 because of the possibility of contempt citations following the University's threats to enforce a temporary restraining order against them.

No action has been taken yet by the University against the 3L or the other demonstrators. The student, who requested not to be identified, said Tuesday that he thought the Law School would seek to discipline him in some way.

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Apparent Suicide Sparks Renewed Grading Protest

By David Cocke

An apparent suicide by Lawrence H. Rosen, 1L touched off a wave of protest over grading and readmission policies by fellow students in Section One of the first-year class. Members of the section circulated a petition calling for mandatory pass-fail and guaranteed readmission for all freshman law students which attracted signatures of 71% of the class of '74.

The student reaction was kindled by reports that the deceased student had requested leave from the Law School and had been told that he could not be guaranteed readmission.

Stephen M. Bernardi, assistant dean and secretary of the Law School, acknowledged that he talked to the student two weeks before his death about dropping out of school. He declined to discuss the details of their conversation but did relate the general policy of the Law School toward readmission.

Almost every student in the first-year class is guaranteed readmission for financial, physical, draft or temporary emotional problems as soon as the disability is removed. Others who drop out for general emotional or attitudinal reasons are reviewed on a case-by-case basis by the Administrative Board.

Bernardi did not feel that the student's death was in any way connected with the Law School

policy but he admitted that he was not the best authority because of his direct involvement in the case. Bernardi stressed that the student was under a number of other pressures.

Friends of the deceased student confirmed that he was bothered by a number of personal problems.

Student protest centered quickly on the perennial question of pass-fail first-year grading to reduce the "unhealthy" tension associated with the present process. More than 200 students in the

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Oversubscription Of 2L Courses Brings Changes

In an attempt to solve the recurring problem of oversubscribed courses at preregistration, the registrar's office will this year provide each 1L with an opportunity to indicate which of the overbooked courses he listed on his preregistration forms is his first priority, which his second, and so on.

Then if 300 students preregister for Course X which is limited to 200, but only 150 list it as their first priority, all 150 will be allowed to enroll.

"We have no idea if a student is signed up for five oversubscribed courses, what his prefer-

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four first-year sections met Tuesday with members of the faculty, including almost all of the first-year professors, to discuss the grading issue. Assistant Professor Duncan M. Kennedy supported the pass-fail move, while most of the faculty present opposed it. Two students echoed this displeasure but the majority of students expressed support for the petition.

One student proposed that all of the first-year students sign a pledge to choose the present optional pass-fail if some designated percentage of the students, e.g. 70%, signed the document. A similar proposal failed for lack of adequate support last year. The purpose of the joint pledge would be to eliminate possible advantageous status to those who opted for grading. Another student proposed placing final exams in escrow until the faculty would approve the mandatory pass-fail scheme.

Further activity by the first-year students was expected later this week (after the RECORD went to press) in smaller section meetings.

One of the four first-year sections voted last week to give \$250 from funds left over from a party fund to the Menninger Foundation, an institution with which Rosen's family is associated. The other three sections, each with voting authority over

\$250 allotments, voted to donate the money to Cambridge and Somerville Legal Services (CASLS), possibly for the establishment of a summer internship.

Oversubscription

(Continued from Page 1)

ences or priorities are at all," according to Mary Upton, registrar.

Upton declined to reveal pre-registration figures. However, the RECORD has learned that sign-ups for two of the four second-year sections exceeded 200, and for one *Taxation* section and one *Antitrust* section surpassed 250.

More than 225 1Ls signed up for Section 2, with Professors Paul A. Freund, *Constitutional Law*; Victor Brudney, *Corporations*; and Donald T. Trautman, *Accounting*; while a slightly smaller number signed up for Section 4, with Professors John H. Ely, *Constitutional Law*; Louis Loss, *Corporations*; and David R. Herwitz, *Accounting*.

According to one source, fewer than 50 students signed up for Section 1, with Professors Archibald Cox, *Constitutional Law*; Richard B. Stewart and David R. Herwitz, *Corporations*; and Trautman, *Accounting*. Somewhat more indicated a preference for section 3, with Professors Andrew L. Kaufman, *Constitutional Law*; Detlev F. Vagts, *Corporations*; and David R. Herwitz, *Accounting*.

More than 300 students preregistered for Professor Philip Areeda's *Antitrust* section, and at least 250 signed up for Professor William D. Andrews' *Taxation* section, the source said. The source also indicated that about two and a half times as many students signed up for Professor Gary Bellow's *Lawyering Process* course as there are spaces available.

250 Students Protest War

(Continued from Page 1)

The building takeover was supported throughout the seven-day occupation by sympathetic picketers, ranging in number from 25 to 1,500 and including numerous law students.

Attendance in most classes Friday, April 21, was down 15 to 30 per cent as part of a nationwide strike to oppose the war. In various classes striking students appeared in class, with one spokesman explaining to the class their reason for supporting the strike. Following such statements, the striking students walked out, and classes were conducted as usual.

Although the University-wide mass meeting April 20 at Sanders Theater called for a strike until Tuesday, few law students failed to attend classes Monday and Tuesday.

A mass meeting Friday, April 21 drew some 140 students and 3 faculty members, but a follow-up meeting Monday, April 24 was sparsely attended.

The Harvard Black Law Students Association endorsed the five-day strike to protest the war and the demands that Harvard divest itself of Gulf stock.

During the week-long occupation, President Derek Bok distributed a statement reaffirming Harvard's decision to retain its Gulf stock. Bok's statement indicated that the University intended to "strongly influence Gulf Oil to use its power to aid the lot of the Angolese people."

Randall Robinson '71, helped organize the blacks' demonstration and the demands of the Pan African Liberation Committee. Another Law School graduate, University counsel Daniel Steiner '58 asked the blacks to leave Mass Hall peacefully on several occasions and was otherwise active in formulating University response to the demonstration.

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Boudin Recounts His Role in Conspiracy Trial

By David Cocke

Leonard Boudin was very much at home when he addressed an enthusiastic Law School crowd last week about his recent adventures as one of the many defense attorneys in the Harrisburg conspiracy trial. Boudin's unselfconscious ramblings contrasted sharply with his descriptions of the proceedings where everything seemed out of place.

Boudin, a visiting professor here last year and a popular and familiar face around the Law School, represented Eqbal Ahmad in the trial that ended three weeks ago in a hung jury and a moral victory for the seven defendants charged with plotting to blow up heating ducts to federal buildings in Washington and to kidnap Presidential Advisor Henry Kissinger.

The New York lawyer contrasted his client with the other defendants whom he characterized as martyrs of the "Catholic Left." "Ahmad belonged with the intellectuals in the Spock (conspiracy) trial," he said, "not to criticize the other defendants, but he was out of place." Boudin concluded that the government indicted his client with the other defendants to "provide the prosecution with a foreign agent. The government always needs a foreigner in a conspiracy trial to add color."

Boudin also saw himself as an outsider in the defense efforts, brought on by the peculiarities of a conspiracy trial, requiring a large number of defendants, each with different ideas and defenses, to be tried together. "In such trials the defendants should get together and hire a single attorney," he explained. "That attorney can hire other assistants, but one person should be in control." As it was Boudin had little contact with the other distinguished counsel which included former Attorney General Ramsey Clark, former New York Senatorial candidate Paul O'Dwyer, and Har-

vard Professor Charles R. Nesson. "Each had moments of brilliance," he explained, but were often at odds.

Finally Harrisburg itself seemed out of place to Boudin. "It was isolated from the real world—that's America of course," he said. "We were particularly concerned that a jury there might be affected by threats to the government's reputation (in bringing the suit)." The defense considered a change of venue and even consulted a market research group to research the possibility of developing evidence to prove community bias. "It would have cost us \$40,000 so we dropped it," Boudin explained.

The long-time defender of unpopular causes spent much of his time outlining his participation in the selection of the jury, "something that I have never done before," he noted (facetiously?). "Since it was going to be a long time, we picked a particularly attractive young lady, who, I might

add, looked like she was our friend. We also picked a retired storekeeper with an angry-looking face who turned out to be one of the two jurors who voted against us. We picked him because he was the only Kennedy Democrat in the area. It just goes to show you, never pick a man with an angry face."

Boudin also selected a woman with four conscientious objector sons who was a member of a very conservative church. She turned out to be the other dissenter in the jury box, "which shows you how to weigh the difference between church and sons," he added.

Most important was the selection of the intelligent, about-to-retire certified public accountant who later became the foreman of the jury. "We needed someone who could understand the complexities of a charge of conspiracy," he explained.

Boudin said he did not participate in the decision by the de-

(Continued on Page 6)

Long Live the Third-year Paper

By Little Bobby Dwyer*

The third-year class is currently conducting a lemming-like march to the third-year paper mill. Student Dwyer examines the underlying rationale for the paper requirement. He concludes that retention of the paper requirement is necessary for the preservation of the moral and intellectual fibre of THE LAW SCHOOL.

I. INTRODUCTION

Few issues have provoked so

much intellectual discussion at Harvard Law School as the third-year paper.¹ Its detractors suggest that "paper" heads a new class of obscenity, the five-letter word.² Its proponents suggest that whatever its inherent value, the paper is clearly superior to other forms of instruction at Harvard.³

This article will concentrate on the three foci on which the discussion has centered.⁴ An exam-

(Continued on Page 6)

*Age 24½; Third-Year Student, Harvard Law School, B.A., Amherst, 1969. The author wishes to thank generations of 3Ls for considerable help with this article.

¹Recent curricular reforms permitting the written work requirement to be fulfilled during the second year have made this term inaccurate, but its widespread use in the literature requires its adoption here.

²Surpassing even "money" and

"marry." Houlihan, "Equal Rights for Five-Letter Obscenities," 17 Hem. L.J. 107, 119 (1970).

³Cf. Stone, "Legal Education on the Couch," 85 Harv. L. Rev. 392 *passim* (1971).

⁴But see J. Osborn, *The Paper Chase* 123 (1971), which suggests that the paper metaphor is such a pervasive influence at Harvard that no rational separation into distinct balls of wax may be made; cf. Dershowitz & Fisher,

Student Counsel Score Firsts, Argue

By Paul Weiner

Timothy K. Hoelter, 3L, became the first law student in the Commonwealth to try a case before a 12-man jury when he successfully prosecuted two defendants for speeding and other moving violations before Judge Faraci in Lowell Superior Court.

Mark E. Schreiber, 3L, became the first student in the Law School's clinical program to argue in federal court, when he argued for the petitioner in a habeas corpus action in District Court in Boston Friday, February 11.

Hoelter is a member of the Student District Attorneys; he took Gary Bellow's *Criminal Trial Advocacy* last fall.

The Supreme Judicial Court last summer experimentally amended the general rules to allow student district attorneys to appear before 12-man juries. Under existing rules 3Ls can also appear before 6-man juries, held in the district courts.

The charges in this case grew out of an alleged drag race on Friday night, October 15, 1971. One of the defendants, driving in the left lane, narrowly avoided hitting an oncoming motorist when the second defendant bumped against his car on the side and both defendants went off the road on the right.

Both defendants had originally been tried before a judge and convicted of speeding, road racing, and driving so as to endanger the lives and safety of the public. The one who had been in the left lane was convicted of failure to keep to the right; the one who had been in the right lane was convicted of failure to yield to an overtaking vehicle.

Left-lane Driving Blamed On Illusion

The defense's argument was essentially that the witnesses had seen an optical illusion caused by headlights in the night.

The jury convicted both of speeding and one of failure to keep to the right and driving so as to endanger the lives and safety of the public.

"As far as experience goes, it was the best case I've tried all year," said Hoelter. "It was really a good trial. The jury was out for four hours. They had to come back for instructions" as to what the speed limit is when there is no posted speed.

Hoelter thought that the change from six to 12 made "very little difference, except you were looking at six more jurors. That's

what we were told, but you don't believe it until you get there."

Hoelter had only about an hour and a half in which to prepare his case. He arrived at the courthouse at 10 a.m., got the case at 10:30, and began impaneling the jury about noon.

The student district attorneys rarely get much time in which to prepare their cases since they never know which defendants will get continuances, which won't appear, and which will settle their cases by plea bargaining.

"I'd rather try a case as a prosecutor than as a defense counsel as a student," said Hoelter. "Who's going to be hurt worse" if you make a mistake, "an individual defendant or the entire state," considering that as a student prosecutor you handle misdemeanor cases.

Hoelter will work next year for a corporate law firm in Milwaukee.

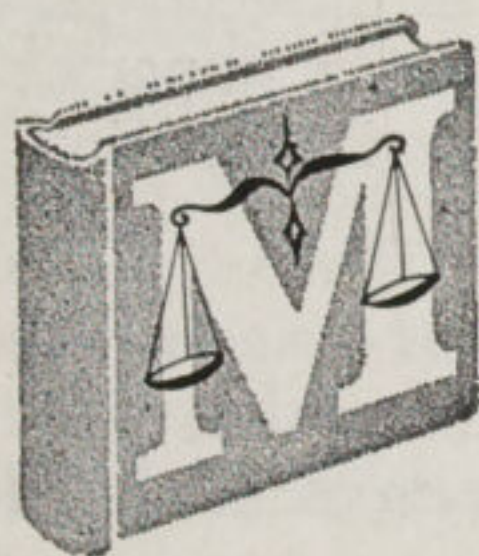
Judge Faraci had never had a law student appear in his court before, and Lawrence Fahey, an attorney who acts as adviser to the Student District Attorneys, had to show him the new rule beforehand to assure him that it was permitted. In the past two weeks, several other members of the Student District Attorneys have argued in the same court.

Hoelter said that Judge Faraci had been favorably impressed by his presentation and with those of the other students, and that this apparent success might insure that the 12-man jury program would be continued next year and that student defense counsel might also be permitted to argue before 12-man juries.

Schreiber, a 3L, argued for the petitioner in the habeas corpus action of *Gray v. Fitzpatrick* before Judge Levin Campbell in U. S. District Court in Boston Friday, February 11.

The case had originally been scheduled for argument before Judge Charles E. Wyzanski, Jr., but it was assigned to Judge Campbell when he joined the

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court. Schreiber worked on the case as a student staff member of Cambridge and Somerville Legal Services (CASLS).

Third-year students are allowed to argue cases in Massachusetts courts under Rule 3:11, but the rules of the federal courts make no provision for students. Schreiber was granted leave to appear in federal court under Rule 6(C) of the Local Rules of the U. S. District Court which allows people not members of that court's bar to argue before it in "special circumstances."

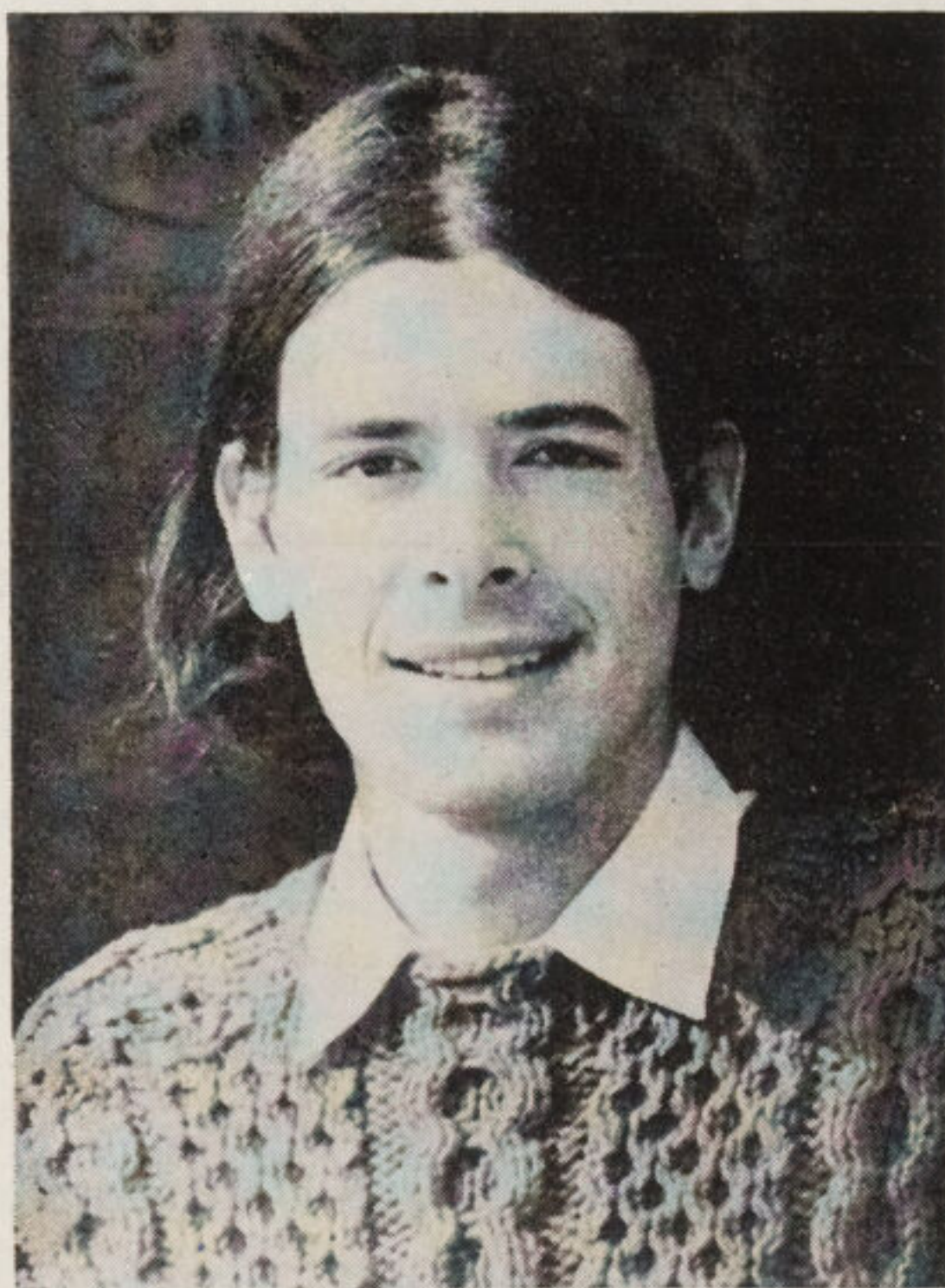
Several students in the Voluntary Defenders have argued in federal District Court in recent years, but none this year. According to an officer of the Defenders, Judge Wyzanski has on occasion granted 3Ls permission to appear before him.

Petitioner John Gray was convicted of assault with a dangerous weapon with intent to rob, assault with a dangerous weapon, and unlawful possession of a firearm — all charges stemming from the attempted robbery of a liquor store in Cambridge on December 5, 1967. He was sentenced to 15 to 20 years at the Massachusetts Correctional Institution at Walpole.

Gray and a codefendant had been arrested, handcuffed, and taken back to the store about twenty minutes after the attempted robbery. The sales clerk identified the two as the holdup men after the police had described the circumstances of their capture.

Schreiber, in his habeas corpus petition, argued that this "show-up" identification was unconstitutional and should have been suppressed because it violated the right to counsel and due process requirements laid down in *United States v. Wade*, 388 U.S. 218 (1967), *Gilbert v. California*, 388 U.S. 263 (1967), *Stovall v. Denno*, 388 U.S. 293 (1967) and subsequent cases. Schreiber ar-

gued that Gray was entitled either to a federal evidentiary hearing to explore matters not covered at the state level or to a new trial in state court with the sales clerk's identification of him suppressed.



Charles Soberman

Mark Schreiber

Schreiber asserted as an alternative ground for reversing the conviction that the trial court had relied on a perfunctory mental examination to establish Gray's competence to stand trial and that the trial court's denial of defendant's request for a more complete mental examination may have been a violation of the 14th Amendment guarantee of due process.

Gray was convicted in Superior Court on May 2, 1968; the conviction was affirmed by the Appellate Division of the Superior Court on December 4, 1968 and by the Supreme Judicial Court in its March sitting, 1970.

(Judge Campbell denied both requests of the habeas corpus petition in a 20-page opinion handed down Friday, April 21. This decision will probably be appealed.)

Schreiber began working on the case in September or October, 1970. He has drafted the petitions

and briefs for this case under the guidance of Michael Addis, an attorney at CASLS Somerville office who is attorney of record in this appeal. Addis was present in court while Schreiber argued.

John C. Cratsley, teaching fellow in law and clinical practice and lawyer in charge of CASLS criminal program, also helped Schreiber rework documents he had to submit and pointed out areas for him to focus on.

Last year, Schreiber worked for CLAO (the Cambridge Legal Aid Office — a predecessor of CASLS) handling civil cases — guardianship, divorce, support, landlord-tenant disputes and similar matters. He appeared in some divorce and probate matters.

Last summer he worked in the Legal Inservice Project in Cambridge which handled only military cases. Their clients were soldiers and airmen at bases around Boston and sailors attached to ships calling at Boston. Very few cases got to the court-martial stage; most of the work involved counseling.

This fall Schreiber took Visiting Professor Gary Bellow's *Criminal Trial Advocacy* course and has been working on criminal cases for CASLS all year. In addition to Gray's petition, he has handled some of his clients' problems at Walpole. Guards there allegedly harassed Gray and took his property from his cell in a "shakedown" possibly connected with the work strikes there. Schreiber petitioned the warden on Gray's behalf. "It is almost impossible to tell how things are disposed of in prisons," but as far as Schreiber knows Gray has not been harassed since the petition to the warden.

Schreiber is not sure what he will do next year. He is considering becoming a legal services lawyer or studying in Eastern Europe. He specialized in Soviet affairs as an undergraduate at the University of Michigan.

Boudin Recounts

(Continued from Page 3)

defendants to rest their case following the presentation of the government's case. He offered a number of theories for the dramatic procedure, stressing that the case might still be reopened by the Justice Department. First, it was the high point of the case legally. Boyd Douglas, the government's star witness, was not looking good, and although entrapment was not technically a defense when the charge was that the defendants initiated the conspiracy, nonetheless the jury was probably affected by Douglas' assertive role in the alleged plot. Second, the defendants might have had to explain their involvement in various draft board vandalism cases which the government did not have enough evidence to pursue.

The former Harvard professor noted that over \$500,000 was raised for the defense of the Harrisburg defendants. Much of this was allocated to fund raising expenses.

Long Live the Third-year Paper

(Continued from Page 3)

ination of the Gannett Envy Theory,⁵ the Scholarship Diadem,⁶ and the Boredom Rationale⁷ provides an understanding of the need for maintaining the third-year paper requirement in its present form.⁸

II. GANNETT ENVY THEORY

The fountainhead of this argument is that the vast unwashed 95% mass of non-Review types, frustrated in their final flailings, seek to emulate their scholarly peers and demonstrate their own well-honed ability to dangle par-

"Can the Double-Edged Scimitar Cut the Seamless Kaftan?," 25 U.A.R.L. Rev. 6 (1967).

⁵See S. Freud, *Unnatural Desires & Bad Dreams* 1 (1907).

⁶Also termed the "Big Apple Theory." Williston, "Advice to 3Ls: Don't Choke on the 'Big Apple,'" 1 Harv. L. Rev. 1 (1899).

⁷See Nader, "Three Years of Long-Distance Truck Hitchhiking," HARVARD LAW RECORD, April 1, 1958, at 2, col. 3.

⁸Although the present form may be so amorphous that maintaining the status quo is analogous to constructing wholecloth out of thin air. Compare H. Hart & A. Sacks, *The Legal Process*

ticiples and emasculate metaphors, seeking to create alchemical golden fleece out of purple prose and phlegmatic footnotes.⁹

III. SCHOLARSHIP DIADEM

"A fortiori, ipso facto, res ipsa loquitur."¹⁰

IV. BOREDOM RATIONALE

This theory may be discussed rapidly. 100% of all 3Ls responding to a recent poll gave an affirmative response to question 3, "Are you not bored?"¹¹

V. FINAL CONCLUSIONS

(to be continued)

1348 (Tentative Ed. 1958) *with Story*, "Yale L.J. Uses Termpapers Unlimited," 6 Termpapers Unltd. L. Rev. 23 (1971).

⁹This concern is reflected in the winning ABA poem of 1971.

HASTINGS HALL, 4 a.m.

Editors prowling, causing strife,
Casenotes giving eternal life;
Alabaster sepulcher blest

Your burning fires prevent my rest.
Psyche cut by double-edged knife,
Soul uncomforted by a wife,

Why can't I be among the best
Just because of a *Crim Law* test?

¹⁰Jaffe, "Maximus Super Vindicated,"

1 Buff. L. Rev. 2 (1951).

¹¹To be sure, 598 did not reply.

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Criminal Fellow Praises Miranda and Police

By Daniel M. Taubman

"Somebody said one time — I don't know who the hell said it but he was talking about Shakespeare — and he said that only the geniuses can convey to people something that those people have not experienced. And Shakespeare was one of them."

Thus spoke Richard Dillon, a captain in the New York City Police Department and a fellow this year at the Center for Criminal Justice, in explaining the need for a greater tie between the theoretical and the practical in the teaching of criminal law.

Dillon, a 38-year-old father of three with a B.S. in police science from New York's John Jay College, urged all criminal law professors to acquire some practical experience before teaching in the field.

"You've got a bunch of guys who've been here 35 years as professors — I'm not talking about anybody in particular because I don't know any professor who's been at Harvard Law School 35 years — but PU we'll take, University of P, you got a guy who's been there 35 years, he has gone to school 20 years. You've got a sum total of 55 years that he hasn't been out in contact with the subject that he's been teaching about. How does he know? You may say he's reading articles — sure. Who are the articles by? Somebody at Gopher Hole Tech who hasn't been out for 45 years."

The sandy-haired, witty captain praised the criminal justice program for bringing criminal law professors and students in closer touch with men with field experience. "That doesn't mean they have to go along with what Dick Dillon says from New York City, but at least they've heard from another source," says the former investigator of the New York City Civilian Complaint Review Board.

"I would like many more stu-

dents to ride with policemen, as often as possible, not just one night, and see what the hell they gotta go through, see they do wrong and they do right and I think they'll come up generally speaking on the side of the policemen because I think, generally speaking, the policemen do more right than they do wrong."

Summing up his impressions of the Law School's influence on

Would Like Students To Ride with Police

him, Dillon noted in his unmistakable Bronxese, "I've learned there is a place for the theoretical — when I say learn, it's been reinforced — I haven't come here completely blank and all of a sudden they say there's a 12th or 13th Commandment."

Asked what he thought of law students, Dillon said he found them to be less anti-Establishment than he had imagined. "Where I expected law students to challenge ideas and I expected them to be looking for new ways, I just thought they would be more vociferous." Dillon, who regularly attends Professor James Vorenberg's first-year course and another seminar with Vorenberg, explained that one student did start talking about Attica at the first class he attended, but that he

later found him to be the exception.

Dillon, a 16-year veteran of the police force, has worked in the Harlem, Wall Street and Riverdale sections of Manhattan, and had risen in the ranks from uniformed patrolman to his position as an investigator on the Civilian Complaint Review Board before coming to Harvard.

Drawing on this experience, Dillon praised the *Miranda* decision while conceding that it has hampered police departments. "I certainly think it's influenced police operations . . . I do see a difference. I know there would be a difference if these people who are given this warning took advantage of the fact that they could get an attorney. The attorney would say, 'say nothing' and any question the cop would ask the attorney would say 'say nothing'."

"I'm not gonna go all the way like they say, 'oh, he can't do nothing now with the *Miranda* warnings,' because it wouldn't be true. Guys are still making admissions. I think a lot of people underestimate policemen and that is their downfall."

Dillon has great confidence in the policeman's ability to judge character. As he explains it,

(Continued on Page 14)

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Visiting Law Professor William Gould

By Kermit Kubitz

When Visiting Professor William B. Gould came to Harvard from the faculty of the Wayne State University Law School, he was returning to the town of his birth, Boston, where his family has lived since the Civil War. His office on the fourth floor of the Faculty Office Building is cluttered as if he had always been there, even though it will all have to be packed and shipped when the year is over.

He had hoped to finish a book on racial discrimination in the unions as well as an article on foreign labor law. Although the article has been completed, the book remains undone. He attributes part of the delay to his own inefficiency but adds, testifying to the trials of becoming a visiting pro-

Brown v. Board of Education Attracted Gould to the Law

fessor, "it's also attributable to the general upheaval that I've had moving books and personal belongings. Lots of things have been lost along the way. I've lost a lot of time."

What compensates for this loss of time? He thinks that the Law School "is a terribly interesting place. I would say that the student body is very bright and intellectually energetic. They're very aggressive, not quite as well prepared as I thought they'd be. The Law School I think is a very good law school. I don't know whether it's the best law school although I'm sure much of the faculty would believe it's the best. I don't have any standard of comparison. I've enjoyed it here. I haven't come to know, though, many of the faculty people. The faculty, I think, is a bit inbred. It tends to think it has the very best and it knows what is the very best in the country. Like most establishments, it is essentially a conservative institution. If I had been here 10 years ago I would feel much more strongly on the subject than I do now."

Gould sees the presence of Professors Derrick Bell and Gary Bellow as indication of slow change and adds, parenthetically, "I often feel that the experiences I've had here, the stories I've collected, are so varied that I feel as though I could write something, if I had the talent and ability, along the lines of Jim Bouton's *Ball Four*."

The Supreme Court decision in *Brown v. Board of Education* influenced him to become a lawyer more than anything else. Although that decision came down when he was a senior in high school, until the last years of college law was merely another career to consider, along with the possibility

of becoming an Episcopal priest. He read history, politics, and literature with no particular thought to their usefulness to a future lawyer.

He thought that the *Brown* decision indicated that, "law could be quite useful for reforming basic inequities in society."

From there, he notes that he "became quite interested in politics generally and in the role of trade unions in seeking economic and social change in society."

While he has served as an assistant general counsel for the United Auto Workers and has often found himself in agreement with the basic political stance of organized labor, he cautions in a 1969 *Yale Law Journal* article that, "The past few years have shown that unions hardly have 'clean hands' in matters relating to discrimination."

After graduation from Cornell Law School in 1961, he studied comparative labor law under Otto Kahn-Freund at the London School of Economics in 1962-3. His primary interest was still in being a civil rights lawyer, but in the early sixties there weren't many civil rights lawyer jobs around. Another factor pushing him in the direction of labor law was a fascination with the intricacies of Taft-Hartley.

In those days, the UAW's attorneys handled Taft-Hartley problems, representation of workers in arbitration, including arbitration with the automotive industry's Big Three, but were involved very little in contract negotiation.

The reason for the limited role of the attorneys is explained by Gould this way, "The UAW still had in its background a very serious factional fight between the left and right wings in which lawyers played what the Reuther faction thought was a kind of disruptive role inside the union. Reuther was not particularly anxious for lawyers to play a role outside of litigation."

That has changed in the past 10 years, although

With Stories He Collected He Could Rival Jim Bouton

lawyers are still called in by unions usually after events rather than before they are played out. Gould participated in a New Jersey case in which the Curtiss-Wright Corporation was forced to give out information about who was a bargaining unit employee and who was a non-bargaining unit employee that is an important precedent in the right-to-bargain area.

But arbitration involving the Ford Motor Company remains the most useful experience for Gould because, as he says, "It gave me a feeling for how this whole industrial relations system worked. I

Focuses on Civil Rights, Labor Unions

think labor lawyers generally don't know enough about it and I don't think this is conveyed in law school teaching. We write articles endlessly about how many angels can sit on the head of the pin of section 8-4-b of Taft-Hartley or some of the more complicated secondary boycott provisions, but we know very little about some of the basic assumptions in the field."

Finally returning to the field of civil rights, the NAACP Legal Defense Fund has benefited by his volunteer assistance on briefs, mainly in Title 7, Fair Employment Practices area.

Gould has a very definite sense of priorities for the civil rights movement, at least in the areas of litigation to be pursued. He thinks that the court controversies over busing are draining energy in a defensive battle. But this is merely characteristic of a movement in which a disproportionate amount of energy has been spent on relatively unimportant matters, including the criminal process. While education is a different matter, some of the problems of civil rights litigation are related to the necessity that the main burden be carried by individual litigants. In this regard he feels that the March 24 amendments to Title 7 signed by President Nixon will be helpful because they permit the Equal Employment Opportunities Commission as well as the individual plaintiff to sue in federal district court.

He sees a great need for legal services not only among the poor but among the middle class as well, pointing out that, "It's an intolerable situation if we as a nation are going to make the claim that we are willing to undertake reforms in society and pass laws to embody those reforms and then institutionalize the basic inequities by not giving people the tools necessary to effectuate those same reforms."

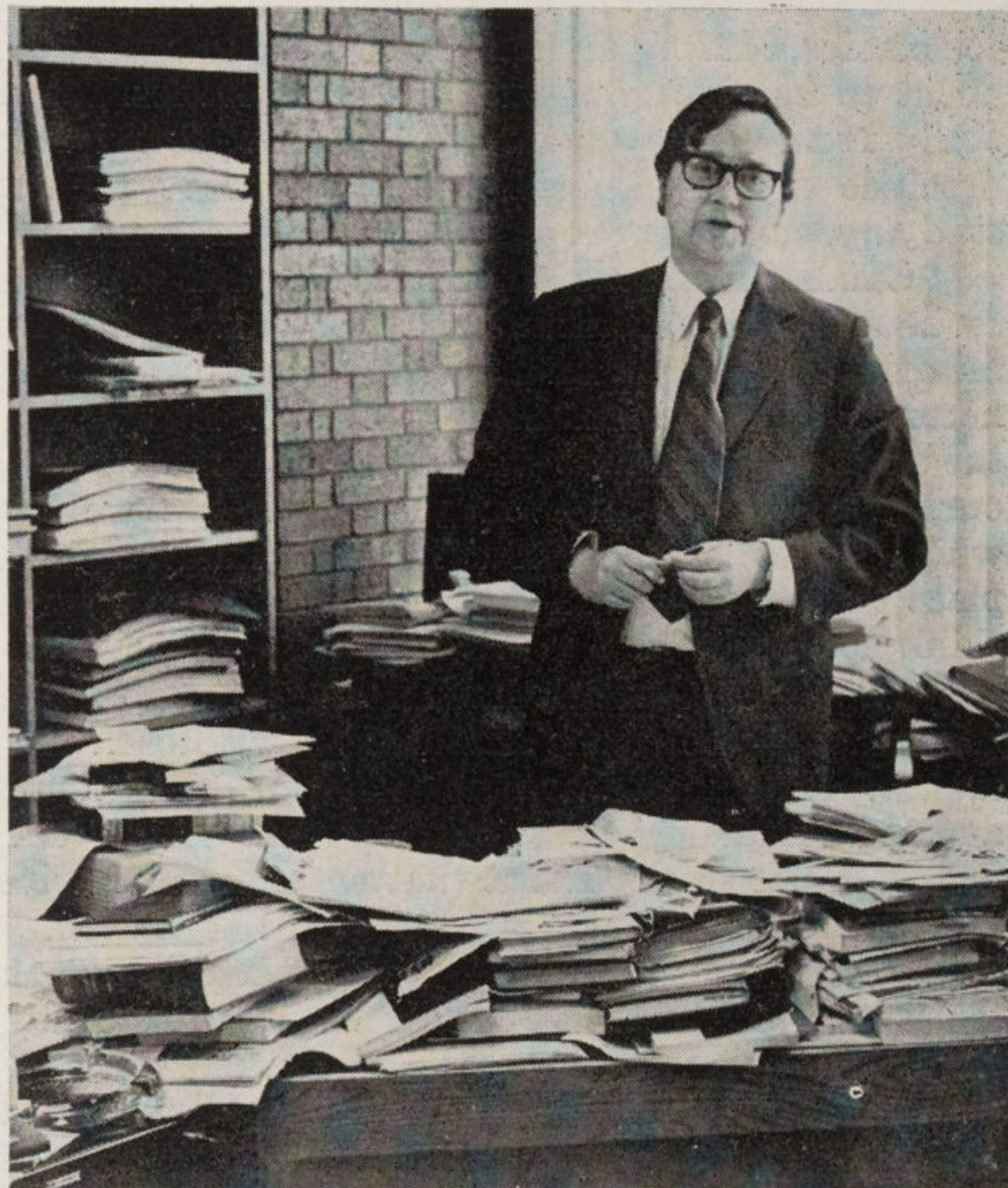
While Gould has not become involved in cases of employment discrimination against women, he sees in the stereotypes that men have of women a similarity to the stereotypes that whites have of blacks. In the universities, in particular, hiring is done by word of mouth and informal referral systems, the same things that courts are condemning in blue collar workers because they tend to perpetuate an all white and all male work force.

The synthesis between labor law and civil rights that is the dominant theme of Professor Gould's career is exemplified by the conclusion to "Black Power in Unions," 79 Yale L. J. 46, 84:

"While the industrial relations system's concept of exclusive bargaining rights for the majority has obvious merit and should be preserved, it must be accommodated to the policies contained in civil rights legislation, policies designed to eliminate exclusion of the black worker and his interests from the bargaining table."

The size of the Law School is a disadvantage for everyone, but especially for the visiting professor.

Gould has come to know some students as friends, but only the ones with stronger personalities, and he feels that, "the overall percentage of students in my classes pass by me without any kind of substantial contact at all."



Charles Soberman

William B. Gould

This complaint does not prevent him from affirming the belief that there is a considerable interest in labor law at Harvard. He notes that there are many more courses in civil liberties, civil rights, advanced labor law and employment discrimination than a decade ago, all of which result in more flexibility for the undergraduate law student.

Throughout his work, William Gould has worked to fulfill the statement of the UAW executive board: "There can be no separate answer. No white answer, no black answer."

There is still time to remedy that lack of substantial contact between student and professor. Room 406, FOB.

LAW REVIEW SUBSCRIBERS

Notify Gannett House of your summer address for May and June issues by May 12.

A Last Word

It was clear the first day that your classmates were going to offer the intellectual competition you thought you were going to get in college. The pressure was real, but it wasn't so much the pressure to learn the material better and achieve a higher grade. The pressure came from the fear of being asked to perform in class, of having to save face before the others and showing them that you too deserve your seat No. 184 in LSM.

The first year became routinized — going to classes, preparing for classes, leaving an hour or two each day to your own devices. Not about to sacrifice *my* extra-legal activities I graciously refused to study from Friday noon till Sunday. But I knew that this would preclude my "making it" — others were studying all week long; *studying*, not just preparing. It bothered me.

Cambodia relieved much of the year-end trauma for most of us by allowing us to schedule our exams over the summer. Perhaps this means that we are an unproven class — a class unbaptized by the hottest fire of the infamous first year. But we had learned that year the extent to which we will go in regimenting ourselves, in sacrificing ourselves, and to an even greater degree we learned the extent to which we will *not* go. But has this knowledge done any more than place us in awe of Harvard Law School and our submission to it? I think not.

For years students have been trying to make the first year less traumatic — the tragic death of Larry Rosen has renewed these demands. HLS should become solely an institution of learning and not an intellectual idol to which we must totally devote ourselves. The School is not so important that we should be driven to complete self-sacrifice in the name of a sound legal education.

Before I came to HLS I was warned that the B student leaves these halls considering himself a second-rate lawyer. My first year here I was comforted by the knowledge that it took many of our School's leaders the entire first year to learn how successfully to study the law. My last year here I learned that success in studying the law does not mean a hell of a lot if you have to devote your all to that one particular end. My fond memories of Harvard Law School will not be of the vast amounts of knowledge I acquired in the nuts-and-bolts courses — they will be of the many students and few professors whom I came to know here and of the extracurricular activities which finally gave some direction to at least one legal career. It took some time, but I got what I came for.

HARVARD LAW RECORD

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Fenno

Fenno asked me to write this column for him because he said he was too busy trying to persuade one of the disreputable females of his acquaintance to type up his third-year paper. I'm kind of surprised at that, actually, because I've *seen* his third-year paper, and it's only one page long, so typing it up shouldn't be too big a problem. It's a good paper, though. It begins, "I suppose you're wondering why I haven't turned in my third-year paper. Well, you see, it's like this. A while back. . . ." It gets better from there.

You'd better juice the Professor up pretty good before you turn that one in, Fenno.

But anyway.

I did see Fenno the other day in one of his rare appearances at the Hark. He was smiling and his eyes were bright.

"What's up?" I said.

"Nothing in particular," he replied.

"Looking forward to Fun City?"

"Of course. I've decided to resume my karate lessons, though."

"Wise, wise," I murmured. "We're going to miss you."

"I'll miss you too."

"What happens to the column?"

"Glad you asked. My cousin's coming to the Law School next fall."

"Oh? What's *his* name?"

"Fenno."

He left then, but not before slipping a piece of paper into my hand. This is what it said —

To All 3Ls: Show you deserve the degree by completing this exam in Harvard lore. (Choose the answers to Group I questions from Group II.)

Group I

- Two classmates who as 1Ls were publicly vociferous on behalf of Pass-Fail and who, of course, went grades.
- That person whose name you cannot escape whenever you open a Law School ballot for any office whatsoever.
- The person who has been immortalized and lionized by graffiti judiciously located in key areas throughout HLS.
- The female sex symbol of the Law School.
- The male sex symbol of the Law School.

Group II (an answer may be used more than once; every answer occurs at least once).

- you know who.
- you know who, or you know who or you know who or possibly even you know who.
- currently, you know who.
- you know who and you know who.

HARVARD LAW RECORD

Letters to the Editor of the RECORD

Placement Director Cites Salary Errors

In connection with your article of March 30, 1972 on placement, we have no record that the salaries in Boston have gone to \$14,500. Our records say that the salary range for Harvard Law School June, 1972 graduates is between \$13,500 and \$14,000 in Boston. The article also states that all cities beside New York are paying 2Ls a salary of \$250 per week. Our records do not say this.

We will publish very shortly a listing of the range of salaries reported to us by students.

Eleanor R. Appel
Placement Director

Gulf Widens Between Veritas and Harvard

In the April 21 number of the RECORD, alumnus Peter Teige ('44) chastises the advocates of divestiture of Harvard's Gulf stock for failing to recognize that the sale of the stock would not, as already issued stock, financially damage the Gulf Oil Corporation. But the issue has never been the profit or loss to the company or the Harvard Corporation. It is instead the appropriateness of a university whose motto is Truth and whose mission is the ennoblement of the human experience functioning as part owner of an enterprise allegedly supporting governments whose actions have been directed toward the denigration of man and the suffocation of the human spirit.

Nor should the practical consequences be underrated. The actions of those students who have protested Gulf's operations may, in making a call to the conscience of consumers, also affect the income statements and balance sheets which are the objects of Mr. Teige's knowledge and solicitude. And we can all profit from the reminder that the largesse affectionately identified with "the American way of life" was not achieved and is not maintained without enormous costs in lesser outposts of progress.

Mr. Teige closes his letter with the rather patronizing suggestion that the protesting students suffer from a "childish incomprehension of what issued corporate stock is and does,"

and that they would profit from more attention to *Corporations* and other technical courses. I have no similar remedial course suggestions for Mr. Teige, but his inability to perceive the moral issue in the Gulf question, so evident to the most uninformed layman, is surely a small and sad comment on another legal education.

M. H. Wald, 3L

Students Call For Rational Registration

To the Editor:

Another preregistration period has come and gone, leaving the usual trail of bewildered, annoyed, and disgusted students.

The system is beautifully organized for maximum irrationality. A student, particularly one living off campus, first finds out that preregistration materials are available through the grapevine. No signs, no letters, no announcements. If he gets all of the necessary materials before the deadline (April 20, although The Computer does not decide until sometime during the summer) he is faced with the task of arranging a schedule. This involves one book, several pamphlets, and helpful instructions such as, "this is in error . . . disregard the numbers." While trying to puzzle these out, the student learns (again through the grapevine) that "Supplements" are continually issued, and are available somewhere. These supplements are important because each one renders the student's previous planned schedule incorrect. Examples: "*Constitutional Adjudication in a Changing Court* will not be offered 1972-73;" later — "*Constitutional Adjudication in a Changing Court* will be offered on Tuesday 4-6:00." After several of these, the student begins to wonder where he can sign up for a course in *Registration Law*.

Finally, in a state of almost total confusion and despair, the student hands in a patchwork schedule, only to be met at the desk with Supplement 10b-5, informing him, *inter alia*, that Bator's *Ad Law* has been switched to the fall on different days, while *Federal Courts* has been switched to the spring. The change makes it impossible to take Ely's *Federal Jurisdiction* seminar in the spring, for *Federal Courts* is a

(Continued on Page 14)

Law Notes

The Harvard Legal Aid Bureau is now accepting applications from students interested in participating in its summer program of legal services work. The program begins about July 1 and ends about September 1. Law students interested in volunteering one or more mornings or afternoons a week during the summer should sign up at the Bureau's office in Gannett House.

* * *

The first prize of \$500 in the Wiliston Competition went to Barry Hager, Homer Mixson, Laurence Peters and Ronald Stern. Theresa Arnold, Michael Critelli, Stephen Eisdorfer and Shelley Green ran off with second place honors while third place fell to John Hinderaker, Ronald Kaplan, Thomas Martinson and Steven Rosenthal.

* * *

The new officers of the Harvard Law School Forum are Mark Elliott Mazo, president; Ernest L. Brazil, vice president, programming; Diana M. Daniels, vice president, promotion; Byron Burnett, vice president, administration; William Leroy Neff, secretary; Howard Brod Brownstein, treasurer; E. Joseph Hammond, Ann Wolman, Jonathan C. Stapleton, and Roger Cummings, directors.

* * *

Thomas Reavley will clerk next year for retired Justice Tom Clark of the U.S. Supreme Court. Peter M. Zimmerman (District of Maryland), Paul Hannah (Eighth Circuit), Patricia Del Toro (District of Rhode Island), Neil Averitt (District of the Virgin Islands), and Matthew Hall (Western District of Washington) will clerk for federal judges. Richard Licht and Edward Radlo will clerk for the Rhode Island Supreme Court.

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ORGANIZED LABOR

Fairness and equity require that organized labor be treated exactly like unorganized labor. This is imperative if there are to be pay controls by the government. Failure to do this forces all workers to be organized in order to be treated fairly. If all labor becomes organized, then all labor must be regulated in detail like any other monopoly. Regulation is the only way to protect each labor group from other labor group monopolies. The general public must also be protected.

Organized labor has a single purpose. That purpose is to improve the benefits and privileges of members compared to those who are unorganized. There is no other reason for their special privileges.

Organized labor is a legal monopoly. As such it has the right to exclude all others who would be willing to work otherwise. An employer has little way to resist union demands since he has no alternative. The terms of a "wage and working condition" contract are determined by the relative ability of the employer and the bargaining agent for labor to tolerate stress. It is a medieval concept. No fairness or justice is involved. Might is right. Supply and demand or competition are barred.

Historically there is little evidence that organized labor has achieved higher rates of income growth than unorganized labor. It has been permitted to survive because it has been ineffective in achieving significant discrimination against the unorganized. The cost of maintaining such an equilibrium has been very high. This war of attrition has produced obstructive work rules, high levels of unemployment, continual inflation and increasing damage to the public. These special privileges have reduced the standard of living of everyone. But ironically organized labor itself has probably not benefited the rank and file members in economic terms. Certainly it has punished working people as a whole.

The work rules, craft restrictions, hiring restrictions and featherbedding have all been conceived in order to increase bargaining leverage or to get paid for unneeded work. Each of these is a method of reducing job competition from unorganized labor and for strengthening a given labor monopoly. Each of these practices is costly to both the consumer and the worker because they decrease productivity and the standard of living that work can produce.

The general public pays heavily for the special privileges granted to the special interest groups represented by organized labor.

Organized labor produces unemployment. Unemployment is an inevitable cost of maintaining the unstable equilibrium with organized labor. If organized labor becomes stronger, then unemployment must become greater. There is no other way for organized labor's bargaining power to be reduced enough to prevent it from enforcing its demands for a disproportionate share. Only an increase in general unemployment can reduce the leverage since only unemployment shifts the balance between supply and demand for employees or removes alternate opportunities for employment.

Organized labor produces inflation. Inflation is the natural consequence of full employment if organized labor is given sufficient leverage. It is obvious that all gains of organized labor must be at the expense of the unorganized sectors if the economy is operating at full capacity. Yet full employment requires that even the least desirable employees must find their services in demand. The greater leverage of a labor monopoly under these conditions means that unionized labor demands become irresistible. The net result is higher wages for everyone with equally higher prices, and consequently no net gain for anyone.

Organized labor punishes the general public. Labor strife inevitably results in damage to the general public. Any work stoppage always disrupts commerce and penalizes third parties. These disruptions in sensitive sectors such as trans-

portation, communications, construction and power are particularly damaging to the public in general. Even if there were no work stoppages, organized labor reduces productivity and lowers the standard of living. Virtually every organized effort of labor is obstructive and degrades the ability of man to be productive.

The inherent leverage of monopoly labor groups is steadily increasing. Modern technology and productivity is very dependent upon specialization. But specialization in general makes the whole economy more dependent upon each specialization of function. Specialization greatly increases the leverage of each individual work group, and also increases the damage inflicted on the general public by an individual work stoppage.

It seems obvious that organized labor should receive only a fair wage, not all it can get. A fair wage must be the same for organized labor as for unorganized labor, neither more nor less. In a full employment economy what one takes another must give up. Being organized should not be a license to tax the public at will.

Since organized labor is a legal monopoly, it must be regulated as a monopoly. There is no alternative. With virtually unrestrained leverage, each union can demand and get an ever increasing share of the total economy. The sum of the shares must eventually and inevitably total more than the total available.

—Organized labor may be uncontrollable. If it is, the result must be anarchy. The police state lies at the end of that road.

—Organized labor may be able to increase significantly its own share of the GNP. That requires that others share with unorganized and reduce their relative standard of living. That is private taxation of the public. It also means everyone must become a member of an organized group in order to protect themselves.

—All labor may become organized and be able to demand and get far more from each other. That is civil war as well as rapidly escalating inflation.

The future of any nation or economy is bleak unless it can have an adaptable, coordinated and motivated work force. Organized labor is a symbol of all the obstacles that exist to true productivity. Organized labor is a concept that has outlived its time and become a malignant parasite which destroys the very values that it set out to protect once upon a time.

There is no question that organized labor and its leaders feel that they have a righteous cause. They feel that they are entitled to all that they can get. There have been only a few periods of labor shortage except during wars. Therefore, organized labor feels that it must create artificial shortages to keep the price of labor high.

Ghosts of bygone eras still haunt our labor mythology.

—“Automation destroys jobs rather than increasing productivity.”

—“Cheaper foreign imports displace the American worker rather than releasing him to do more productive jobs and making his money buy more.”

—“Make work projects that are unproductive increase the standard of living instead of being labelled as welfare.”

Memories are still keen of raking leaves, selling apples and the WPA. It is a tragedy that the excesses of organized labor produce the very things that they fear most. Even their victories are form, not substance, since the methods that they use are self-defeating.

Yet the aspirations of organized labor are legitimate enough. Only organization stands between the worker and complete personal insecurity. The very phrase “hourly employee” implies the temporary and uncertain nature of his employment. It also suggests a complete absence of long term mutual interest between employer and employee. Members of organized labor do not need more money. They need the certainty that the money they earn daily will continue to come, good times and bad, as long as they live.

The average union employee may live well enough when

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is working. But his job mobility is low. His adaptability to technological change is low. His ability to save for his old age is minimal. Even if he could save the money required for retirement he would face an impossible task of accumulation and investing in the face of the attrition of income taxes, ceilings on interest rates, the high cost of education for his children and medical care for his family. Financial security for the worker is virtually unattainable. A strong union and seniority rules are his only protection. Yet a strong union and seniority rules have necessarily created and enforced work rules that have taken all of the variety and richness from his working life and made it a drab grind.

There are solutions to the labor problems. The best solutions are those that tie the employees' welfare and future to the future of the firm, and the future of the firm to the employees which it hires. The Japanese have provided a model of this kind which has been very effective for them. It may not be adaptable to our culture. Whatever the mechanism, however, it is obvious that the employee must feel a deep seated identity with his employer which is fully reciprocated. Security, pride of belonging, sense of participation and recognition of mutual accomplishment are infinitely more attractive than short lived benefits that are won by street fighting and mutual attrition.

It is clear enough that changes in the labor culture will take time and be the product of evolution. But a start must be made on the long road back to a more tolerable and productive economy and a richer more secure life for the individual. This requires treating each labor relationship as one between a specific employer and the specific employees only of that firm. Industry wide unions must go. The fortunes of employer and employee must be tied together rather than employee and union.

There can be a beginning by making responsibility go with activity.

- Labor leaders must be made responsible personally for the actions of the members of those organizations which they purport to represent.
- Labor organizations and their members must be held financially responsible both collectively and individually for the consequential damage to the general public for acts taken in the name of the organization.
- Unofficial and unauthorized wildcat actions must be treated as permanent official resignations of the individual employees involved. Official protection must become official responsibility.
- All changes in wages and working conditions initiated by organized labor must be treated as requests by an authorized and regulated monopoly, and controlled in detail as a government regulated monopoly.
- Any regulatory body such as a Pay Board must represent the interests of the general public first and only, rather than any vested interests. When labor is the plaintiff, then labor representatives should never be members of the jury.

There is no solution to this problem of labor which is not dependent upon public opinion. The entrenched political power of labor is too great to be controlled unless there is a deeply felt conviction that the special privileges of labor are basically unfair. Millions of workers are unorganized, many of them are disadvantaged, many of them are discriminated against by organized labor. Many of them will never be employed as long as organized labor can escalate full employment into accelerating inflation. Organized labor has become the working man's worst enemy. Yet public opinion is not yet antagonistic to organized labor.

The special privileges and legal protection enjoyed by organized labor are at the expense of the public, at the expense of unorganized labor, and at the expense of the economy. Such privilege may have an emotional appeal in some times, but it is grossly unfair all of the time. The amount of injury that organized labor is permitted to inflict on others should clearly be controlled by public policy, not by guerilla warfare.

The time has come for organized labor to be held responsible for its effect on the general welfare. There is no place for unlimited, unregulated and uncontrollable monopolies in any kind of economy, least of all in a free enterprise economy. But common sense and fairness both require that membership in a labor organization should not confer special privileges compared to the unorganized. Unrestrained organized labor is incompatible with free enterprise or with an egalitarian society.

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Cocke Named Editor

David Cocke, relying on his vast experience in the real world, vaulted to the editorship of the RECORD beginning in September, 1972. A former managing editor of the *International Law Journal* and assistant editor of the *McCallie Tornado* at McCallie School in Chattanooga, Tennessee, Cocke served this last year as joint news editor of the RECORD. A history major at Yale, Dave grew up on Lookout Mountain in Tennessee, leaving HLS after his first year for a three-year tour in VISTA, working in Memphis and Hamilton, Alabama.

Paul Weiner, of Narberth, Pennsylvania, who also served as news editor this past semester, has ascended to the resurrected post of Editorial Manager. A physics major at Harvard College, Paul was Associate Editor of *The Cheltonian* at Cheltenham High in Wyncote, Pa.

As News Editor, Dan Taubman continues his journalistic bent, having spent four years with the *Cornell Daily Sun* where he rose to the post of Senior Editor. After graduating from Cornell in 1969, Taubman spent two years in Peru as a member of the Peace Corps. Former News Editor of the Oceanside Senior High newspaper, Taubman hails from Baldwin, New York.

Rising oh-so-slightly to the post of Assistant Editor, Kermit Kubitz, after a year's internship at the Business School, promises to revenge his loss of the *Harbiz News* franchise. Kermit is a Cal Tech alumnus.

Sharing the post of Associate Editor, and making their first appearances on the coveted RECORD editorial masthead, are Mark Rutzick and Bob Brown. Rutzick, a 1970 University of Michigan graduate who majored in economics, hails from Annandale, Virginia and claims to have had no journalistic experience. Brown, on the other hand, has journalism in his blood, having served as editor of *Common Sense*, the official organ of the Concerned Officer's Movement, Assistant editor of *The Manhigan '65*, and stellar reporter for the *Appleseed Press* at Johnny Appleseed Jr. High in Mansfield, Ohio. Brown is a 1969 graduate of Princeton, majoring in aeronautical engineering.

Charles Soberman, the tireless comptroller of the RECORD darkroom, will begin an unprecedented fifth term as Photography Editor. Soberman is also a 1970 University of Michigan alum. Terry Coleman will continue on in his role as Business Manager.

This is the last issue of the RECORD for the 1971-72 academic year.

Letters

(Continued from Page 11)

prerequisite. So it's back to the drawing boards, for the student has been coldly informed, "IF YOU PRE-REGISTER FOR 2 COURSES WITH CONFLICTING HOURS, YOU WILL NOT BE ADMITTED TO EITHER." Even after he hands in a final schedule, the student leaves with the realization that The Computer will remove him from half his courses — the interesting half.

The unfortunates in their first year face even more difficulties. They must have their schedules approved by faculty "advisors." Of course, these advisors generally know even less about the intricacies of preregistration than their advisees. Thus, the student receives conflicting advice, when he receives advice at all: "Don't sign up for more than the maximum number of credits;" "Sign up for as many credits as you want." Furthermore, there is no place on the registration form for the advisor's signature, which is naturally required. So students bring in their forms, only to be sent back for signatures, and then find out in some cases that the advisor is off to Geneva and will not return till April 21.

Would it really be so difficult to design a more rational system? Just a few suggestions: *clear notice*, which we have all been told is a fundamental aspect of due process, of when, where, and what materials are to be picked up. A *complete* and *final* package of materials, which will necessitate the professor's deciding whether and when they will teach their courses. A *mailing* of the materials to each student (surely 30¢ of that \$200 tuition increase could be set aside for the purpose). *Education* of the advisors so that they will be of genuine aid to the students, or abolition of the advisor requirement. And finally, *clear instructions* including an analysis of the game theory of registration: should you sign up for many popular courses in the hope of getting into a few, or should you only sign up for the one you really want? What courses were oversubscribed in the previous year? Etc.

It should not be beyond the collective eminence of the Law School faculty to devise, with or without The Computer, a system which at least gives the students a fighting chance to make informed schedules of their desired courses.

David Cynamon, 2L
Peter Raven-Hansen, 1L

NYPD Captain Lauds Miranda

(Continued from Page 7)

"From listening to so many people lie to you, listening to so many people tell you half truths and full truths and no truths and 10 per cent of the truth, you just get an ability after talking to somebody for a while, especially somebody who's trying to hide something, especially if there's someone who's guilty."

According to Dillon, the Supreme Court decision of *Mapp v. Ohio*, applying the Fourth Amendment exclusionary rule to the states, has not caused police to circumvent the law, as some critics have charged. Dillon describes it this way:

"I was in court one day and I heard a judge say, 'You know, it's very funny that ever since *Mapp* all these guys are throwing the stuff to the ground. Before *Mapp* they used to find it in their pockets.' The judge was questioning the officers' veracity. I said, 'yeah, he's probably right,' but then when I got involved in gambling I saw people take stuff out of their pockets when they saw you coming and throw it to the ground. . . .

"Look, I know there are certain instances where there was out-and-out lying — had to be. They're human beings . . . A lot of things that happen appear to be fluke. Well, it doesn't have to be that."

Plea bargaining also came in for strong criticism from the former detective. "I think it's wrong because a majority of the guys that are arrested are guilty.

Because the calendars are so packed, this guy can plea bargain. Instead of getting a felony conviction, he gets a misdemeanor conviction, he generally is sentenced to time served, and is out in the street.

"You don't have any kind of criminal justice system that way."

The solution, Dillon says, is "to pour millions into more judges, more courts, and after that, making them keep those guys, and then have it swift and sure, whatever it is, whether it's conviction or exoneration.

"If the guy's gonna be convicted, he should be convicted and sentenced as quickly as possible, and whatever the sentence, that sentence should be adhered to as closely as possible.

"That way a guy knows that if I go out and commit a crime and I am caught, I'm gonna have a trial by Thursday, and my ass is gonna be in prison by next Monday for five years because of the thing I intended to do."

Dillon, who has been involved with student demonstrations at New York University, maintains

(Continued on Page 16)

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By Robert Flanders

UP FROM NEVER by Joseph Sorrentino. Prentice-Hall, Inc., New York.

What with the renaissance of juvenile gangsterism making headlines today, Joseph Sorrentino's autobiographical account of his days as a teenage hoodlum in Brooklyn seems a bit more apposite than one would otherwise expect. This is a truly remarkable story about a kid who had the luck and determination to transcend the stigma of a poor immigrant neighborhood with its attendant crime and squalor. The dust jacket reads like some Horatio Alger fairy tale: the author had done time in jail, reform school, and the brig; he had flunked out of school four times; he tried his hand at some 30 odd jobs; and had been cashiered from the Marines wearing a pink suit (all before he was 20!).

Finally, realizing he was doomed without an education, Sorrentino enrolled in night school, finished with the highest average, went on to become president of the student body at the University of California, and, you guessed it, graduated from HLS after delivering the valedictory address.

The book, however, deals only with the *Never*; the *Up from* is culled from the Epilogue and cover. Brooklyn, during the 1950s, was indeed a never-never land of marauding gangs, and Sorrentino is not afraid to implicate himself in the pathetic machismo of a world where strength and reckless bravery were apotheosized beyond belief. The reader is not spared the sordid details of gang rapes, rumbles, and sorties into enemy turf.

But there is humor here too, whether it be found in the snatches of dialogue from the Sorrentino home, or in the description of the gang's assault of a moviehouse's promotion-Frankenstein.

The best part of the reading is reserved for the author's self-analysis. Throughout all the

hooliganism and Brooklynese, Sorrentino's character, as yet incipient and unsure, finds its way through the morass of human waste and moral carnage. More than a mere testament to one man's will to find himself, *Up From Never* brings a rare and insightful optimism to bear upon youth and the urban crisis.

UP FROM NEVER

By Joseph N. Sorrentino, gangleader, four-time dropout; served in reformatory, jail, brig, padded cell; thrown out of Marines . . . Harvard Law valedictorian.

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Criminal Fellow Rejects Racism

(Continued from Page 14)

that he's never been called a "racist" or a "pig." "Obviously, I wouldn't care to be called a racist or a pig, even though some people say pigs are beautiful," he said.

"As far as being a racist is concerned, I don't consider myself one. I used to work in Harlem. In fact, I spent some nine or ten years of my 16 years in the police department in central Harlem and in Spanish Harlem. The only way I think someone should evaluate someone else is to find out about that particular person.

"I wouldn't call a student with long hair and a beard a radical until I found out in fact—at least in my estimation—that he was a radical. I think it's wrong

for students to generalize. And I think it's funny that the bias they attribute to policemen they're most guilty of themselves.

"You know many times I ran into burning buildings to save black people, I never thought they were black. They were just human beings, and I'd hate for someone to call me a racist. I wouldn't know what standards they were using."

Often a wit when called on for the police view in Vorenberg's class, Dillon frequently disagrees with his professorial colleague. One of their few points of agreement, however, is a one or two-year post-law school internship, designed to give lawyers more practice in field work in criminal law, and to alleviate clogged calendars in the criminal area.

Asked when he decided to become a policeman, Dillon replied tongue-in-cheek, "I was on a welfare line, and I had a hole in the seat of my pants." Seriously, Dillon became interested in police work through a cousin who was on the police force.

"I worked for a bank and I wanted more than that. I thought there would be excitement; there's been a lot of excitement in my career so far.

"The most pleasure I've gotten is saving somebody's life. The worst part of police work is walking up and down a post, riding a radio car at 4 or 5 o'clock in the morning when you start to get groggy.

"Why did I become a cop? It's like why do I talk up? Somebody's gotta talk up. Not that I have the right answers all the time. Somebody's gotta do the dirty work and I enjoy doing it."

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