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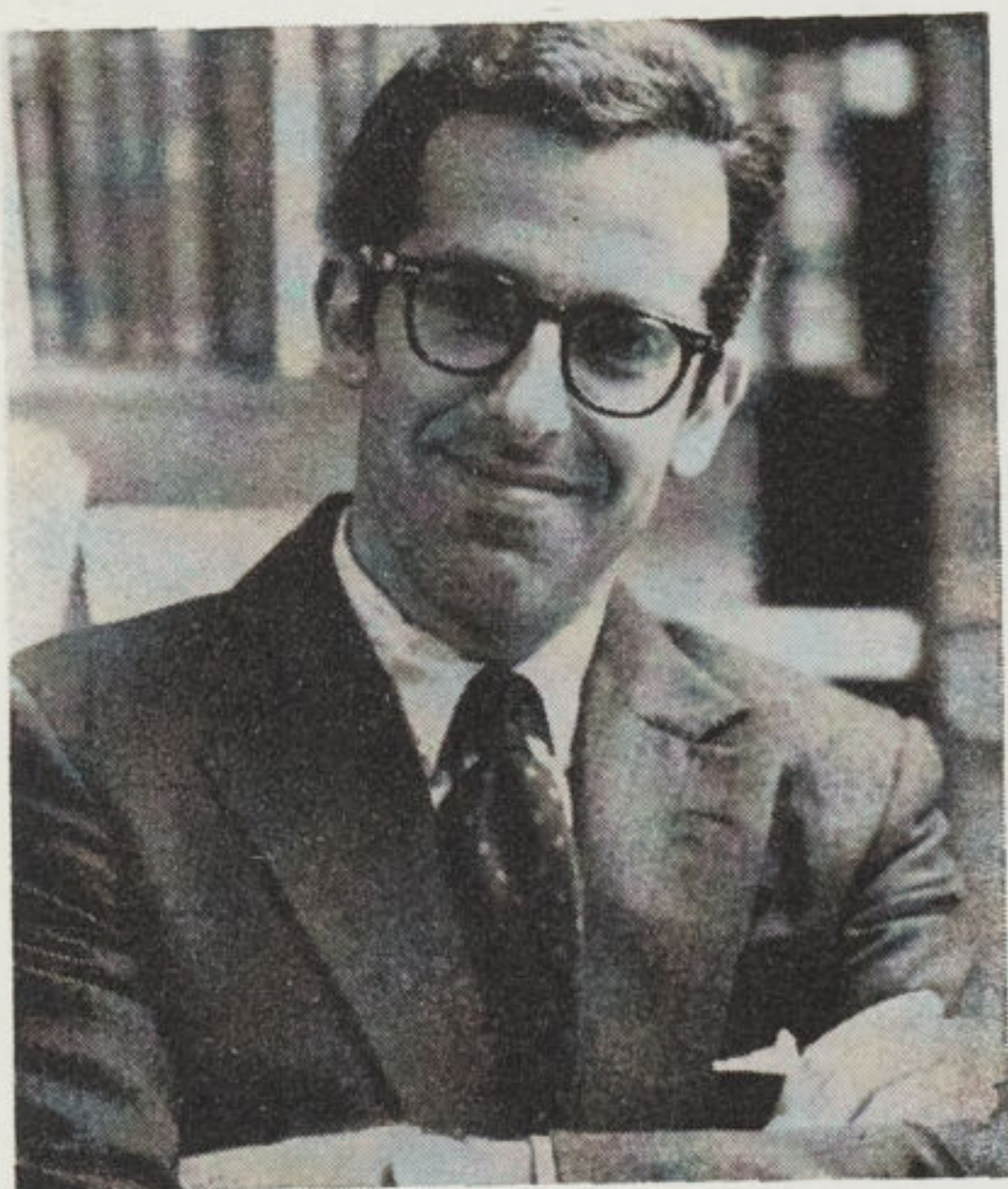
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APRIL 27, 1973

TWENTY CENTS

Cohen Group Will Ask Fall Pass/Fail, Full Semesterization of 1L Curriculum

By Paul D. Gutierrez and Kermit Kubitz



Associate Dean Paul M. Bator

Registrar Discloses Students Overenroll In Five Courses

By Daniel M. Taubman

Professor Stanley S. Surrey's *Taxation* course proved the most popular course among first- and second-year students according to preliminary registration results announced Wednesday by Registrar Mary D. Upton.

She reported that 283 students preregistered for the three-credit, one semester course, and that an as yet indeterminate number of students would have to be cut from the course.

Otherwise, preregistration went smoothly, as only four other
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The Committee on First Year Evaluation and Related Matters is expected to propose the institution of a completely semesterized first year curriculum and the adoption of mandatory pass/fail grading of first semester examinations. The committee's tentative recommendations were disclosed last Friday by Associate Dean Paul M. Bator, a member of the student-faculty group, while addressing a luncheon sponsored by the Learned Hand Club, the RECORD has learned.

The substance of the Committee's recommendations revealed by Bator was later confirmed by other members of the Committee.

The Committee's report is the product of eight months of deliberation under the direction of Professor Jerome A. Cohen. Opinions within the group were reported to be widely divergent, reflecting the tension between attempts to preserve some evaluation of the student's first year performance, felt by many faculty members to be the basis of a legal education, and attempts to avoid penalizing students on the basis of their first experience of law school exams.

Cohen Wednesday said that he could not release the report and refused to comment on the Committee's recommendations.

Bator revealed that the courses for the fall semester would include *Criminal Law*, *Torts*, *Contracts I* and *Civil Procedure I*

while the spring semester would consist of *Property*, *Contracts II*, *Civil Procedure II* and an elective. The number of mid-year examinations would increase from two to four.

Under the proposal, the mid-year papers would indicate an actual letter grade, for student feedback purposes, but those grades would not be officially recorded. All grades for the first
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Black Alumni Look Ahead At HLS Fete

By Mark C. Rutzick

Eleven of the Law School's black alumni returned to HLS Saturday for the first annual Black Alumni Day and described to a group of black law students the opportunities and dangers facing black lawyers in America today.

The all-day event was held in the Pound Building and was sponsored by the Harvard Black Law Students Association. Over 60 of the Law School's black students gathered at two panel discussions to hear the alumni, who represented a wide range of legal and non-legal vocations, describe their own experiences in and after law school.

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Unit to Ask 1L Fall P/F

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semester exams would be recorded and reported either "pass" or "fail".

One committee member said proposed January exams would be preceded by practice exams in November and at both occasions, extensive faculty feedback will be encouraged. This may include nine-category grades reported to the student, encouragement of marginal comments, and some form of make-up examination.

The make-up examinations may assume some importance, he said, because, "there is an expectation that there will be failures." Details of a make-up examination system are reportedly still unresolved.

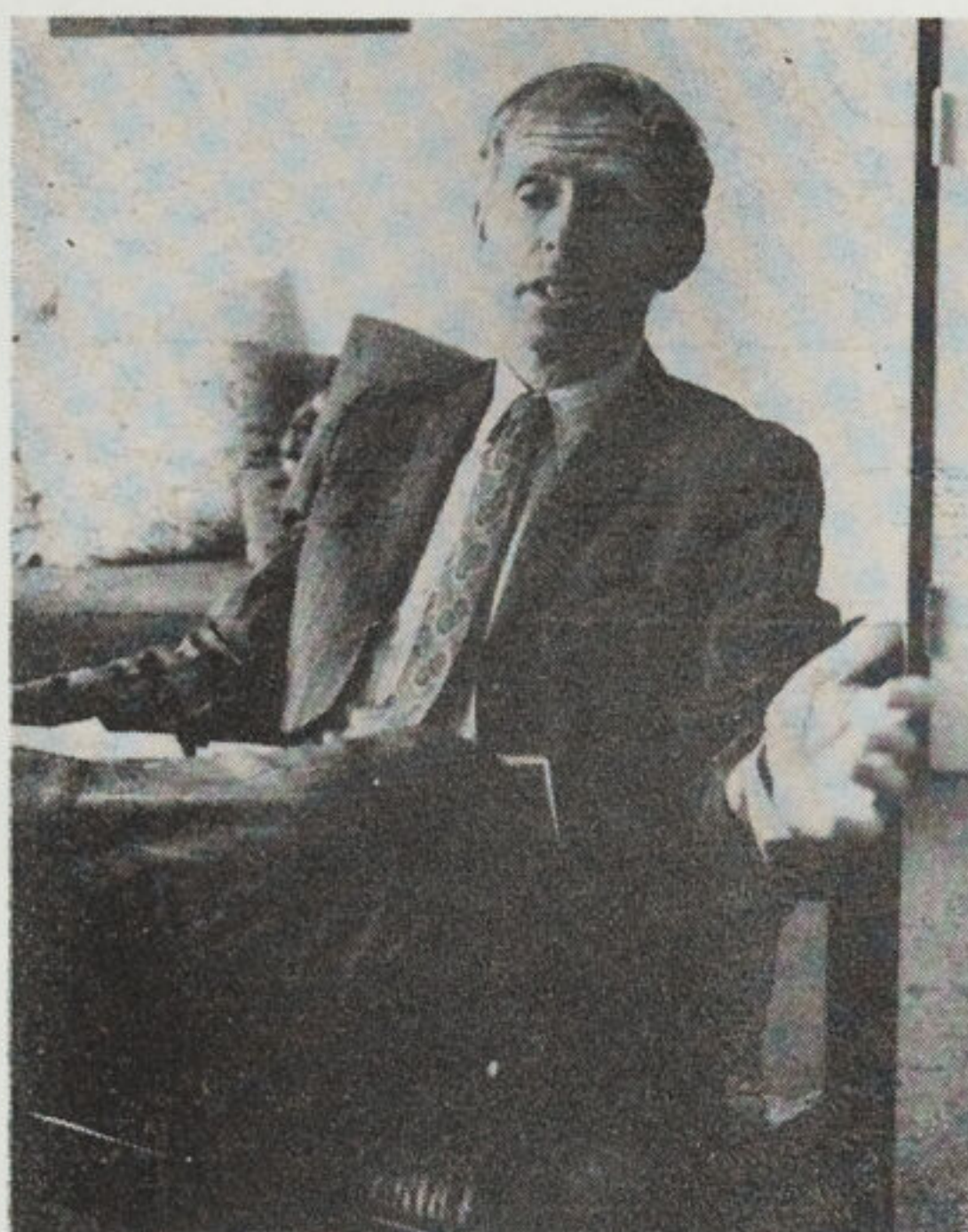
In the tentative plan, Bator reportedly said that first year spring examinations would be conducted as in the past, but that some sections would have different professors for the two parts of the *Contracts* and *Civil Procedure* courses.

The RECORD has learned that other changes recommended include elimination of the little used four-category grading system. It would also be possible to "curtain" one's June first-year grades until the release of grades for the first semester of the second year.

This delayed pass/fail system is being considered in conjunction with a possible move of the 2L hiring season from the fall to the spring semester. Thus, the interviewer and interviewee would still have two semesters' grades available, but they would represent the student's second and third semesters of law school.

If hiring is moved to the spring term, Harvard would probably be out of phase with some other schools, but it is not felt that this would penalize Harvard students.

While there are parts of the recommendations involving grad-



Professor Jerome A. Cohen

ing options that could be implemented this year, it is not expected that any changes affecting this June's examinations will be made.

Although Bator expressed his concern over some students' reaction to their performance in this year's January examinations, Bator reportedly told students at the luncheon that he believed it was good for some students to realize early that they were not all going to "graduate number one in their class". In addition, he recounted a similar program used at Yale Law School that proved successful. Bator indicated, however, that various "wrinkles" remained to be worked out with the Committee's plan.

According to Bator, the first year plan was designed to avoid the discouragement experienced by many students early in their law school career, to act as an incentive for performance, and to reduce tension.

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Council to Hold '73-'74 Voting Next Wednesday

In a departure from previous policy, the Law School Council will hold elections next week for the 1973-74 council. The change, according to Council secretary Brian A. O'Connell, 2L, will take place in order to give the Council a head start with respect to the Council's fall activities.

This year, students were not chosen for the Council until mid-October.

The elections will take place Wednesday May 2, at which time five 1Ls and five 2Ls will be chosen as 2L and 3L representatives for 1973-74. O'Connell said students can nominate themselves by signing the list at the Langdell receptionist's desk before noon this Monday.

In related news the Law School Council has requested the Committee on Legal Education to re-examine the third-year writing requirement. The request states that the examination should be completed, "as soon as possible, but in any event by the conclusion of the 1973-74 academic year."

Among the issues the Council asked to be considered were the purpose of the writing requirement and its success as a teaching method. The Council also asked consideration of credit for journal work in satisfaction of the writing requirement, and whether the requirement should be broadened to allow independent projects, "in addition to academic legal writing."

The resolution requesting the re-examination was approved April 19.

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Hark Bistro Opens With Gratis Booze



Mark MacNeil

Students celebrate opening of Hark nightspot.

Council to Fund Exercise 'Gym'

The Dorm Council voted Monday night to appropriate \$500 toward the purchase of a universal gym for installation in Hemenway Gymnasium. The Council's appropriation represents about one-third of the total cost of the equipment, with the Law School and Athletic Department each expected to contribute another third.

A universal gym is a multiple-use exercise device with several different stations for exercises and variable weights for each station. The model being considered by the Dorm Council would have equipment to allow various weightlifting, hand and wrist exercises and sports swing practice devices. This model is advertised as being designed for coed use.

Funds to purchase this gym will come from the Dorm Council's surplus, currently over \$6,000. Some opposition to the appropriation came from the fact that in Hemenway the exercise machine would be available only to those who purchased an athletic participation card or paid a use fee. The Council will attempt to negotiate some means of access for dormitory residents to use equipment purchased with Dorm Council funds.

In other action, the Dorm Council voted \$175 for publication of next year's activities calendar to be distributed at registration and in the dorms.

Future dorm council policy will apparently be to charge equal mixer admission prices to both sexes, based on two experimental mixers this year. One of the mixers at which men and women were admitted for the same price, \$1.50, lost \$410 and the other made \$300, with the difference being attributed to the weather and the higher cost of two bands at one of them.

The price charged for activity was the subject of a memo earlier this year from University Counsel Daniel Steiner '58, stating that Massachusetts law probably precluded discrimination in mixer prices on the basis of sex. If the long run financial effect of a one price plan is negative, however, the price schedule may be split again on the basis of age.

The price equalization policy cards next year will rise from three dollars to four dollars, based on an estimated increase in the value of the cards, assuming full use, from \$22 to \$37.

A new tavern, "The Cage," has opened in the basement of Harkness Commons and will feature beer and wine from 4:00 p.m. until midnight from Monday through Friday until the end of the school year, according to J. Francis Gallagher, manager of the Harkness facility.

Gallagher said the new beer-garden was intended to provide a spot for students to meet in the evening after the closing of the Grill Room, which was recently moved up to 8:00 p.m. throughout the week.

The Harkness manager said he proposed the new bistro, located in a former storeroom in a previously closed-off section of the Commons, to Vice Dean William L. Bruce only last Friday. Bruce had responded enthusiastically and urged Gallagher to open the new watering hole as soon as possible, he added. Gallagher said he managed to ready the room over the weekend, and the new tavern opened Monday with unlimited free beer for the night.

Gallagher added that he expected "The Cage" to remain open next year for the foreseeable future.

Gallagher said, in a related story, that grill services had been reorganized and that hamburgers would be available from the cafeteria line behind the Grill Room, rather than in that room. He said he expected service to be significantly faster now.

He also added that with the new service the price of the regular hamburger had been cut from fifty cents to forty cents. He said that he was unable to lower the price of the Mighty Mo from its present level of eighty-five cents.

He noted that the new hamburger service line was modeled along the lines of fast-food hamburger chains such as McDonald's, which have achieved successful economies of price.

Alcala Submits Petition for Coop Director

The Harvard Cooperative Society is on the verge of holding its first election for nonstudent director as a result of petitions submitted Monday by Carlos M. Alcala, 3L, and Donald Steele. Both were required to submit the names and signatures of 100 nonstudent members of the Coop.

Howard W. Davis, General Manager of the Coop, was out of town Tuesday, and his secretary said it had not yet been determined whether the signatures on the petitions were valid.

Steele submitted 130 signatures last year, but 40 were invalidated by the Coop's lawyers and he was not allowed to run. Steele has since filed suit against the

Coop, claiming irregularities in last year's election.

Alcala is running as a candidate to prompt the Coop to stop selling Farah slacks. Farah slacks have been the object of a nationwide boycott in support of the workers who have been trying to unionize at the El Paso, Texas factory.

José Silva, 1L, one of 13 students submitting lists of 100 signatures for the position of student director, also is seeking to persuade the Coop to change its policy regarding sales of Farah slacks.

Another of the students, Howard Brod Brownstein, is a second-year student in the combined J.D.-M.B.A. program.



Carlos M. Alcala, 3L

California Bar to Study Bias Charges

The President of the State Bar of California, Leonard S. Janofsky '34, announced formation of a commission to study the state bar examination's validity and effects on minority law students.

The formation of the commission follows the case of *Henry Espinoza v. State Bar of California*, which charged that the bar examination discriminated against minority students. Despite a dissent by the late Justice Raymond Peters, the California Supreme Court refused to hear the case.

California is one of eight states in which legal challenges to allegedly discriminatory bar admission procedures have been recently initiated, as revealed in the RECORD March 9, 1973.

Janofsky said the members of the commission would comprise "a broad spectrum of educational, racial and ethnic backgrounds."

Its duties will be to investigate

whether parts of the exam are culturally biased and unrelated to legal performance. If such factors are found, the commission will seek to determine how they can be eliminated while assuring the public of the qualifications of the bar.

Criticism of the bar has come from the leaders of the Chicano group La Raza Unida at Loyola Law School of Los Angeles, where Janofsky made his remarks at a symposium on "Minorities and the Legal Profession." Some critics believe that the scope of any inquiry should be broader than the validity of the bar exam, and should include the entire legal system, the makeup of law schools, and the structure of the private bar.

In an earlier speech at Loyola, ABA President Robert Meserve '34, when questioned about the controversy over the bar examination, said, "Mere graduation from law school is not sufficient reason for admission to the bar."

Lawyers Calls for Japanese Public Interest Institute

By David J. Cocke

A young environmental activist lawyer told a group of law students and faculty early this week that the Japanese should create a public interest institute, based on the American model, to deal with the serious pollution problems in that heavily populated, island country.

Julian Gresser, speaking at an informal meeting sponsored by HLS' East Asian Legal Studies Center, said that such an institute could coordinate research information and legal services to the public of Japan in the same way that environmental activist groups have operated in this country. Gresser, who has been studying and lecturing in Japan on a Japan Foundation Fellowship, said that the institute could have an international base with ties both to other nations and to supernational bodies.

In the long run such an agency might be composed of "blocks of

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Poll Exposes 'Best and Brightest'

By Robert Flanders

The results of last week's Adviser's satiable curiosity survey number one have now been tabulated, and the HLS community should be pleased to learn that there is no dearth of extra-curricular reading—at least among those responding to the survey. Ninety-two replies were received in less than a week, and then hermetically sealed to await the RECORD's scrutiny. The volume of response is a remarkable blow to proponents of economic man, unless a possible remuneration exists in seeing oneself emersed in the final statistical compilation. Yet who can discount the conscience factor in surveys such as these? Not to respond may be a grievous sin of omission to that stern, aesthetic homunculus lurking within us: after all, shouldn't we be reading *something* besides law?

Of the 92 responses, only six had the temerity to confess that they had indeed read nothing of non-legal character since January 1, 1973. What was somewhat disturbing was the variegation with which this admission was tendered. Three of the six negatives took the form of a simple declarative quote "none" in the upper left hand part of the ballot; the fourth appended a parenthetical quote "most regretfully" to the "none"; the fifth was an abrupt quote "no" followed by six empty spaces, and then a most elaborate *mea culpa* going far beyond the confines of the survey to aver that the respondent had not read a single non-legal work since coming to law school in September of 1971; the sixth negative, my personal favorite, was a big, slightly lilting zero, rather hastily composed, but terribly expressive nonetheless of a vacuous, sorry plight.

Turning now to the 86 affirmations, the vast majority of which were lengthy and varied listings,

the sheer number of books read by most respondents taxes the credulity of a non-Evelyn Wooder. Perhaps the best and brightest of our classmates chose to indicate the David Halberstam best seller most often, in any case that perennial favorite, the *Bible*, again made a powerful showing by coming in second, presumably on the strength of its publicity buildup. Of less divine afflatus, the third place winners, *The Boys of Summer*, *Gravity's Rainbow*, and *I, Claudius*, display a kind of best-seller solidarity.

Conspicuous by their poor showing were such authors as Vonnegut (only one entry), Xaviera Hollander (two votes), and Shakespeare (Hamlet was cited, but it was Faulkner's creation, not the Bard's). Poetry took a dismal drubbing, with only Rilke making a cameo appearance alongside a scribbled anthology. Mickey Spillane's *Erection Set* received brief mention, as did Jean Shepard's *Wanda's Hickey's Night of Golden Memories*. Breadth of reading was characteristic throughout the survey. One respondent wrote *Love Story* (twice), the *Myth of the Male Orgasm*, *The Autobiography of John Mitchell*, and *the Myth of the Watergate Scandal*. Yet crank entries were rare. On the contrary, there was a commendable assiduity evident throughout. Some scholars went so far as to update their responses as their memories were refreshed; others saw a need to indicate the publisher of each volume perused; while still others, not content with mere listing of title and author, indicated that further information was available upon request.

Pairings of books could provide revelatory shocks: *Semi-Tough* invariably followed *Vaginal Politics*; a spate of church history books preceded Terry Southern's *Candy*; and Doctor

Seuss and Freud shared the same reader. One declarant professed addiction to mysteries, having read 12 of Agatha Christie's novels since January 1, and Sherlock Holmes was the brunt of considerable scholarly saturation too. Another ballot listed some 15 tomes only to end by sighing, "this may explain my grades." Science fiction citations abounded, but typically author and title were deleted as if they were too frivolous to bother including, although, again, here too, one was reminded that this information was available on request.

The survey, although it may not satiate our curiosity, nevertheless has gone along a way to appease our interest in extralegal reading, and should give us food for thought for the coming summer months.

Law Fee Survey Reveals Link To Community Size

A survey of 204 law firms by Altman & Weil, management consultants from Ardmore, Pennsylvania, shows that gross legal fees per lawyer bear a direct relationship to community size.

In cities over one million, the survey showed median gross receipts of \$66,614 per lawyer, and median income of \$41,700 or 63¢ of each fee dollar. In cities of more than 250,000 but less than one million, receipts per lawyer were between \$53,000 and \$59,000, and in smaller cities median gross income was \$47,800 per lawyer.

In these smaller towns, income was \$32,400 or 70¢ per fee dollar. Offers made to 1973 law school graduates averaged \$13,300, with the highest individual offer reported being \$20,000.

Hot Pots: Bator Surveys Evils of Art World

By Robert Flanders

Last week the Root Room played host to Associate Dean Paul M. Bator and those curious about the latest brouhahas in the art world. Bator delighted the well-attended gathering with a lively and informative discourse as he talked of his past involvement with the control of international art trading as a member of a UNESCO delegation which was to draft provisions for an international conference on the subject. Bator discussed a few recent and questionable "deaccessions" by the Metropolitan Museum of Art in New York, and then addressed himself to recommendations which would tend to alleviate problems long endemic to the art world.

The overwhelming need for secrecy in art dealing received considerable attention from Bator. The museums say that secrecy is vital to protect their current and future sources of art objects. Yet even where secrecy cannot be kept, as in the recent, well-publicized Greek vase affair, a museum is not loathe—indeed, is almost expected—to produce a most predictable canard as to where, how, and from whom it acquired the *objet d'art*. The furor created by the Met's purchase of this one million dollar "classical pot" typifies the clandestine politics and guileless dissembling which, in art circles, is received *comme il faut*. The explanation proffered for the provenance of these masterpieces which mysteriously appear in the museum's hands is usually understood to be quite specious, Bator indicated. Bator emphasized that it is bad policy for a museum to acquire art works secretly even though the work and its acquisition are entirely legitimate.

However, Bator noted that it is not illegal to possess art merely because it was exported in violation of another country's export laws. Distinguishing between cat-

alogue-listed art and "fungible, archeological art, previously unknown," Bator explained that illegal export has nothing to do with the question of title. For it seems the one immutable value in the art world is authenticity; the laws of various nations are too easily reduced to and flouted as tawdry technicalities.

According to Bator, one of the remediable mistakes in the laws governing art trade is for a country to take an all or nothing stance on export. "No nation should be a hothouse of its culture," he believes. "Even Raphael would think it absurd that all his paintings must hang in Italy." Bator favors a more selective, administrable regulation of art export designed to further an inter-

nationalization of culture, since to proscribe all art trade is to insure a thriving black market where authentication is often hurried and sloppily performed. However, Bator warned that it is equally baleful to denude poorer countries of their art. He thinks one of the major problems is the preservation of archeological sites: here scientific excavation is paramount, and the law should focus on preventing the fragmentation of monumental art.

Exclaiming that he had inadvertently hit the relevance jackpot, Bator seemed hopeful that overextended regulation could be modified so as to create a more realistic ambiance for a legitimate market to establish itself.

Unit to Ask 1L Fall P/F

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Student reaction at the luncheon was generally unfavorable. To some the plan was a reversion to the pre-1972 procedure of non-counting "practice exams" at mid-year. Although Bator stressed the fact that the mid-year examinations under the proposal would be, in fact, "real examinations graded by the professors", few in attendance felt that such mandatory pass/fail exams would be taken more seriously than the earlier practice tests. Too, some felt that the pressure in the spring would increase proportionately.

Members of the present first-year class at the luncheon agreed that the current curriculum was satisfactory to them as providing a feeling of "progress" in law school, but expressed doubts as to the potential success of the Committee's plan at Harvard Law School.

Copies of the Committee's Report were not available at press time. Cohen commented, "We're meeting Friday morning for breakfast and we'll try to hammer out a final draft then and have it typed for distribution Monday or Tuesday."

As to the lateness in the year for consideration of such a report, Cohen said, "It's only a short period insofar as the recommendations might require some changes in scheduling next January . . . We're making changes for some period of time and we don't want to make them in an atmosphere of haste."

The Committee's report contains six pages of recommendations and approximately 24 pages of explanations for the proposals. Copies are expected to be released shortly for distribution before a meeting with students Thursday, May 3 at 4:00 p.m. in Austin North to discuss the recommendations. The report will be presented for consideration by the faculty at its meeting next Friday May 4.

Miller Heads State Computer Privacy Council

By Paul Weiner

Public fear of crime has the power to brand anyone accidentally arrested a "criminal offender"; computerization has the potential to make this "criminal record" available to anyone, anywhere in the country, in a few seconds. Leading privacy expert Professor Arthur R. Miller and eight Massachusetts citizens appointed by Governor Francis W. Sargent have been constituted a Privacy and Security Council to devise a strategy for preventing such abuse while the state gradually builds up its criminal records computer system.

"The big long-term issue," according to Miller, who is chairman of the Council, "is the development of procedures and standards for the protection of the computerized information. . . . In theory, a completely computerized system would be more secure than the incredibly archaic quill-and-ink-stand system now prevailing in Massachusetts."

"Virtually none" of the Massachusetts data is now in usable computerized form. "I have heard reports," Miller added, "that in some parts of the state there are still private organizations going over the records."

Last July, the legislature enacted a statute to establish a computerized "criminal offender record information system."

"Of course," says the author of *The Assault on Privacy*, "I get violently upset when I see this

term 'criminal offender.' Like the term 'Defense Department', it's a subtle form of brainwashing. . . . People don't appreciate the difference between an arrest and a conviction."

The new law, which took effect in January, created two committees, a Criminal History System Board, consisting of the chief judicial and law enforcement officers of the state, and the advisory Privacy and Security Council, appointed by the Governor.

The law also forbids any individual or agency not certified by the Board from receiving data from the state's criminal records.

"The Board has all the power," says Miller. What's more, the Board got a tactical jump on the Council: the Board was convened in January, while the Council did not start operating until the end of March. By the time the Council was convened, the Board had already certified 58 agencies to receive information.

But Miller added that the Council had the power to sensitize public opinion to the issue of privacy and authority to hold hearings, compel testimony and do whatever else is necessary to fulfill its statutory purpose.

"We are the experts on matters of privacy and security," said Miller. "The composition of the Council is such that we have a unique expertise." The nine Council members include computer systems analysts, law enforcement officials, and civil rights lawyers, all of whom have had experience in dealing with the elusive field of computerized privacy.

Members of the Council have been appointed for terms of one, two, and three years. As a further indication of the Council's initial problems, Miller has not been told which term he has been appointed to.

"I personally wish the Council had been able to begin its work earlier and wasn't in a position

of having to play catch-up with the Board," Miller concluded.

The statute allows the Board to certify "only criminal justice agencies" and "individuals and agencies who are authorized access by statute."

The problems of statutory interpretation have already led to a conflict between Board and Council, with the Council arguing for a narrow reading of these two categories.

"In the meantime," Miller continued, "the Board has asked for a legislative expansion of these two categories to allow it to certify anyone it chooses by regulation." The Council at its last meeting voted to oppose this request. "One wonders why they should even be given discretion to give information to private organizations."

A security system is only as good as its weakest link. For this reason, Miller would also oppose "linkage with the FBI system [National Crime Information Center] until there is a greater concern with secrecy and privacy in the FBI than there is now."

Miller also served this year and last year on the HEW Committee on Automated Personal Data Systems, which will soon release its report on that department's data system and the possibilities and dangers of dossiers based on a "universal identifier" such as the Social Security number.

Younger Members' Committee
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Black Graduates See Opportunities,

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Though most of the alumni expressed an intention to continue to work within white society, many acknowledged that the goal of blacks should be to create institutions independent of whites, and a few expressed outright hostility to white institutions including the Law School. Yet all of them agreed that a Harvard Law degree conferred special status on black lawyers and placed them in a peculiar middle ground between the white establishment and the black community.

The predominant youth of the alumni group reflected the recent trend of increasing black enrollment at the Law School. Nine of the 11 alumni graduated from HLS within the past six years, when black enrollment had expanded to meet the demands of the civil rights movement of the 1960s.

The conference began with a morning panel discussion on "Nixon Administration Policies and

no effort to defend the national leadership, but rather justified their jobs as a valuable training experience for black attorneys. Patricia A. King '69, Deputy Director of the Office of Civil Rights in the Department of Health, Education and Welfare, urged blacks not to be "shortsighted." She said, "If we're going to set up our own institutions, we need to know what the hell we're doing." She named the Tax Division of the Justice Department, the National Labor Relations Board, and the Securities and Exchange Commission as good locations for "short-term experience" for black lawyers.

Frederick L. Brown '67, New England regional counsel for the Department of Housing and Urban Development, told his audience "your Harvard Law School education will be the single most impressive thing that happens to you." He said, "The best courses are the least interesting and stimulating ones. What you should avoid is becoming social workers."



Afternoon panel participants (left to right): Richard Banks, Claude Pickens, BLSA Chairman John Daniels, 2L, Reginald Gilliam, Reginald Lewis, Weldon Rougeau, Clarence Ferguson, Robert Washington. Mark MacNeil

Their Effect on the Practice of Law." Massachusetts Secretary of Community Development Thomas I. Atkins '69, a former Boston City Councillor, described the two major effects of the Nixon Administration as being "the elimination of priorities-setting at the national level" and the "shifting of control of local priorities back to the local level" and away from the federal government, through revenue sharing. He urged black law students and lawyers to shift their attention to the functioning of state and local government, saying, "If you study the national government, you're preparing for the past."

Two current Nixon Administration officials made

Bishop C. Holifield '69, Deputy Director of the Florida A & M Business Development Corporation, an organization specializing in assisting minority business enterprises, strongly urged blacks to "set up our own institutions. And nothing is more important than establishment of black law firms." He said blacks must become independent of the "whims and caprices of the man in Washington."

In response to a question, Atkins scored the failure of black professionals to provide leadership for their community. He said, "In order to become leaders, the first thing black lawyers must do is get down in the street and take the same shit as their brothers." He noted, however, that there is

Dangers For Black Lawyers Today

"no one goal for all black people" and that this was "not astounding, surprising or disappointing."

Law School Professor Derrick A. Bell, Jr., a member of the audience, suggested at one point that blacks should "begin to think through" moving to another country, even if there is "nowhere to go right now."

This prompted an energetic rebuttal by Clarence C. Ferguson, Jr. '51, Deputy Assistant Secretary of State for African Affairs and an afternoon panelist, who replied, "We're not Africans. Why if you go to Africa people ask you what tribe you are. We don't have a tribe. And they don't even want us."

After a luncheon in the Ropes & Gray room of the Pound Building, an afternoon panel considered "The Role of the Black Lawyer in the Seventies: Changing Goals, Perspectives, and Opportunities." The discussion centered on each panel member's own career and viewpoint toward the legal profession.

At one end of a broad philosophical range, two panel members expressed harsh anger at Harvard Law School as a racist institution. Reginald E. Gilliam '68, an Assistant Dean at Williams College, said, "My recollections of law school are unpleasant and bitter. I was antagonistic toward the faculty, because I regarded the Law School as a bastion of racism. And it hasn't changed." He acknowledged that law school had provided him with "valuable analytical ability." He ended by warning his audience that "the danger of genocide is from extermination by being without any ideology or commitment."

Claude A. Pickens '71, Assistant Professor of Law at Texas Southern University, spoke in even more abrasive terms. He said, "Black students are at this law school to get the white man's education to work for white society. But the white man is dying, and you should just take from him what you need."

He continued, "They gave me hell when I was here. And when you get out you can expect more hell. You can expect slavery and suffering and death."

Pickens also castigated the Law School for its high cost. He said, "It's just an indentured passage. You're paying for it for 20 years afterward. You're paying for the passage from ignorance to wisdom, from nigger to Negro, from serf to bourgeois."

Other members of the panel struck a less hostile posture. Robert Washington LL.M. '71, a former teaching fellow at the Law School and currently Chief Counsel of the House District Com-

mittee in Washington, described his committee's work as "transferring power from Congress to D.C." He heads a 17-attorney staff which was once entirely white and is now predominantly black.

Ferguson, a former Ambassador to Uganda, warned of the danger of "cooption, especially if you have a Harvard degree." The former Howard University Law School Dean also strongly urged the students in attendance to avoid unethical practices in the first three years of practice, when such acts are most common among lawyers without a steady income. He said charges of unethical practice were more common against black lawyers than whites, and had ruined the careers of many promising black attorneys.

Weldon J. Rougeau '72, director of the Citizenship Education Department of the National Urban League, urged law students to consider taking non-legal jobs, and to learn management skills, perhaps by attending business school for a year.

Reginald F. Lewis '68, an attorney in private practice specializing in private financing for business ventures, called for a strong black bar in the 1970s, and for black lawyers to learn to perform the entrepreneurial skills now still largely confined to whites, in order to work for black clients.

Judge Richard L. Banks '58, newly appointed to the Roxbury District Court bench, compared the job market for blacks today favorably with that when he graduated from law school. He said he looked for a job for nine months before finding a position with the Boston Legal Assistance Project for \$3,000 a year. He also warned his audience that they will find themselves "caught in the middle" between the establishment and the black community.

Surrey Group Votes

The Advisory Committee on Shareholder Responsibility chaired by Professor Stanley S. Surrey urged Harvard to cast its proxy votes Tuesday in favor of resolutions calling for disclosure of political contributions by the Eastman Kodak Company and the Standard Oil Company of California. However, the ACSR decided not to support another resolution calling for disclosure of Kodak's degree of contact with the federal government.

Two weeks ago, Harvard followed the recommendations of the Surrey faculty-student committee and supported a resolution asking Phillips Petroleum to halt oil exploration off the coast of South African-administered Namibia. The University also followed ACSR's suggestions on four General Electric Company shareholder resolutions, supporting management on three of them.

On And Off The Record

Recent conflict between the RECORD and some members of the faculty and administration over the scope of the RECORD's obligation fully and fairly to report news events of interest to the Law School community requires us to restate the principles under which we believe a law school newspaper must function.

The policy of the RECORD is to report all meetings and discussions which are advertised as open to the public or to the Law School community. We can not accept the assertion that what can be said to some members of the community can not be reported to others. When a faculty member or outside speaker holds himself out as willing to address the Law School community, he should not be able arbitrarily to limit his audience to those whose schedules permit their attendance at the time and place of the lecture. It does violence to the principles of free speech and free press to claim that those unable to attend public lectures in person have no right to be informed of the content of the presentation.

At the same time, the RECORD recognizes and will respect the wishes of the faculty to preserve some forums for private, off-the-record discussion.

The RECORD will not report the content of classroom discourse without the consent of the professor. RECORD staff members will not directly report any meeting or lecture in which the speaker clearly states at the outset that his remarks are not for publication, without later obtaining his consent. However, if the RECORD obtains important information concerning Law School administration or affairs from other persons present at such lecture or meeting, it may in some cases report it without the consent of the speaker. The RECORD may also report any news item involving class, lecture, or meeting which is earlier reported in any other news medium.

The RECORD applauds the recent trend by the faculty of addressing groups of law students informally. It hopes that such contacts will continue and flourish, for the exchange of information is at the heart of the academic process. We hope that faculty members will respect the rights of other members of the Law School community and cooperate in the reporting of their remarks. We urge them to do so.

Law Day

President Richard M. Nixon has proclaimed May 1 to be Law Day. He said, "We honor the law because it preserves civilized society. We revere the law because it protects the dignity of the individual."

John Mitchell, H. R. Haldeman, John Ehrlichman, John W. Dean III, Jeb Stuart Magruder, Maurice Stans, Charles Colson, Dwight Chapin, and Gordon Strachan were unavailable for comment.

HARVARD LAW RECORD

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Fenno

The Treasure Room was dark and quiet as Fenno rummaged furtively among its priceless contents. It must be here, he thought, somewhere among these magnificent works. There was Justice Stewart's noted study on pornography entitled "I Know It When I See It." Beside it sat majestically Professor Keeton's oft-quoted 125-volume treatise on Federal Tort Law.

Fenno eased behind the exhibit containing the remains of a Harvard Law student who, as a passenger, was the first to discover that MTA buses had but two speeds: fast and stop.

He continued along the shelves, whose volumes glared at him from behind their transparent shields. There was a copy of Professor Jaffe's book on legal education. It was titled: "Excitement in the Classroom." In the corner lay a stack of papers and Fenno thumbed through them hurriedly. He set aside Professor Fried's one paragraph law review article entitled "Law School Can Be Such Really Good Fun," he pushed away Professor Chayes' crumpled autographed copy of George McGovern's inaugural address, he ignored a three-hundred-page report by the HLS Republican Club of 1952 urging the Dean to declare the Lincoln's Inn a national shrine.

It's got to be here, Fenno thought as he walked across the room to yet another exhibit beneath Rembrandt's masterpiece: "A Law Student Hurling Obscenities at a Bust of Socrates." There were two objects in the glass case: a gold encrusted make-up kit presented to Professor Dershowitz in honor of his 100th appearance on "The Advocates," and a recently unearthed ancient Roman tablet that once graced the halls of the Emperor Nero School of Law. The Latin inscription, literally translated, proclaimed "The law is not absurd. It is only half asinine."

Fenno was desperate. Spotting a small gray box on a nearby bookcase, he rushed over and threw open the lid. It was filled with old fraying photographs. They lay like washed-out brown chips with curling edges. He picked one up. It was an extremely rare picture of Professors Heymann and Kennedy in which both were caught wearing ties!! Fenno gasped. Again he searched until . . . at last he had found it!! It was a worn and tattered photograph of Professor Miller as an infant. Although faded it proved conclusively that he was, in fact, born with a vest!

Law Notes

Jorge C. Rangel was elected Class Marshal in third-year elections held April 17 and 18. Michael C. Harper was chosen as Class Secretary.

Those elected to the Class Committee were Rayetta Nee, Norman H. Jackman, and Oswald B. Silvera. The elected class officers have appointed the following three additional members of the Class Committee: William S. Barrett, James H. Burnley, Darryl G. Gorman.

* * *

The 1973 Class dinner for graduating 3Ls and graduate students will be held next Thursday, May 3, beginning at 5:30 p.m. Following a cocktail hour, students will feast on roast beef and unlimited wine and sherry. The dinner, which is free, is open only to members of the class.

* * *

Richard M. Neustadt, 2L, is organizing Harvard Law students to do research and advance work for the Democratic Party Commissions working on the new party charter and on delegate selection rules. Any student who will be in Washington, D.C. during the summer wishing to do volunteer work for the party commissions should call Neustadt at 666-8228 or David S. Fishback, 3L, at 498-4802.

* * *

A Law School Forum panel discussion on the constitutional basis for the executive privilege doctrine was held last night in the Ames Courtroom. Participants were scheduled to be Raoul Berger, Harvard Law School Senior Fellow and a leading scholar on executive privilege; Joseph A. Califano, former special assistant to President Lyndon B. Johnson; Rufus L. Edmisten, Chief Counsel, Senate Subcommittee on the Separation of Powers; and government Professor Arthur Maas of Harvard College.

A story on the panel will appear in next week's issue of the RECORD.

* * *

The following students have been named to the Marshall Club executive board for 1973-74: Theresa J. Arnold, 2L, Chairwoman; E. Joseph Hammond, 2L, Vice Chairman; Roberta G. Watson, 2L, Secretary; Richard F. Hope, 1L, Treasurer; Paul D. Gutierrez, 1L, First-Year Chairman; and E. Leo Slaggie, 1L, Second-Year Chairman.

Letters to the Editor of The RECORD

More on Moore

To the Editor:

Howard Moore was quite correct in saying that the Angela Davis trial was political. He should know—he did a fine job of making it so. Does he suggest that any prosecutor, given the evidence, could have refrained from prosecuting her?

He should have added that it was a grossly unfair trial. One of the jurors, we later learned, had a public record of opposition to the Viet Nam war that had led him to write a vile, abusive letter to the parents of a young soldier who had expressed pride in serving his country. How he got on the jury is an interesting question. Perhaps Moore might shed some light on it. In any event, the juror could not possibly have been fair to both sides, and it is apparent to those of us who followed the evidence closely that the trial was unfair to the prosecution.

If one accepts the Davis and Magee verdicts, Judge Haley must have committed suicide.

If Moore would cease being an ardent racist for a moment, he would have to admit that trials of blacks these days are rarely fair—to both sides.

John M. Naff, Jr. '47
San Mateo, California

In addition, R. Eric Vogt, 1L was named Social Chairman, and Carol L. Newman, 1L, Lounge Chairwoman.

Other directors are: Carolyn E. Beck, 2L; Paul R. Gupta, 2L; Brian A. O'Connell, 2L; and Phillip L. Spector, 1L.

* * *

Harvard Law Students are invited to a reception at 6 p.m. today sponsored by the Harvard Overseers Committee to Visit the Law School and the Harvard Law School Association. The visiting committee is holding its annual meeting here today and tomorrow.

The reception, which will last for one hour, will be held in the John Chipman Gray Room of the Pound Building.

* * *

Paula Gold, the Boston Legal Assistance Project attorney whose nomination to the Dorchester District Court bench was defeated by the Governor's Ex-

Pots or Potter?

To the Editor:

I always enjoy reading the RECORD, and I was particularly intrigued by some of the information contained in the March 23, 1973 edition. From three articles covering appearances by noted personalities, the following information was obtained: (1) Mr. Justice Stewart spoke at Lowell House before a crowd of about forty students; (2) defense attorney Howard Moore, Jr. spoke at the Lowell Lecture Hall before a crowd of about fifty students; and (3) French chef Julia Child spoke at Harkness Commons to a standing room only crowd. While I do not know if there is any appropriate correlation to be made, I have a gut feeling that the data has some cosmic significance. And, although I can't quite put my finger on it, those attendance figures somehow made me feel better.

Craig Eldon Pinkus '68
Indianapolis, Indiana

'Disgust'

To the Editor:

Permit me to express my disgust with so much of your editorial (March 23, 1973 [The Need For Amnesty]) as relates to those who fled the country to avoid participation in the Viet Nam war.

Francis H. Baldy '21
Brownsville, Texas

ecutive Council, will speak at a luncheon Tuesday, May 1 at 1:00 p.m. in Pound 335. The talk is sponsored by the Women's Law Association.

* * *

This year, instead of holding its annual banquet, the Board of Student Advisers will host a dance for the entire Law School community. The fete will be held at 8:30 p.m., Friday, May 4 in Harkness Commons and all HLS students, faculty, and staff, as well as their spouses and dates, are invited.

The dance will feature a live rock band and free beer, soda, and pretzels. The Law School will pay directly for the liquid refreshments; everything else will come out of the Board's entertainment budget.

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The Minimum Profit

The minimum profit for survival is not zero. In a healthy economy, the required minimum profit is typically quite substantial. The average American company needs about 10 to 15 percent return pre-tax on shareholder equity in order to survive. It needs to be twice that if half of earnings are paid in dividends.

Failure to achieve a minimum profit means that growth in parallel with competitors cannot be self-financed and maintained, even with all earnings retained. Failure to achieve parity in growth means loss of market share. This in turn leads to an unfavorable shift in relative cost. The progressive deterioration of competitive position must eventually lead to a permanent negative cash flow.

Many products that show a reported profit are still net users of cash. It is probable that a majority of all products that report profits are still permanent cash drains. Rarely does anyone have a significant positive cash flow unless he has a leading market share. There are more followers in every product than there are leaders.

Growth is normal in a healthy economy. In addition, inflation requires financial growth even in the absence of physical growth. This growth must be financed. Financing is required for the increase in both working capital and fixed assets. The minimum reported profit must be adequate to provide this either directly or by supplying the base for debt.

In every case, the shareholders' equity must eventually grow as fast as the business on trend. There is no alternative. Any growth in value of equity per share requires an equivalent minimum profit margin on equity.

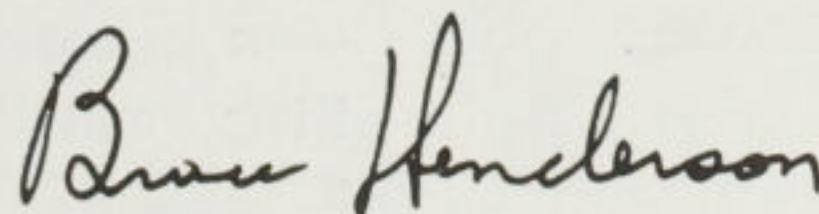
This minimum applies to the company as a whole, not to individual products. Consequently, competition is competitor vs. competitor, not product vs. product.

If there is a difference in profit margin between competitors, then the high cost competitor must still earn a minimum profit to keep up. The low cost competitor needs no more to keep up. The differential in cost is reflected in cash throwoff available for dividends or investment in other businesses.

Any sales price which provides less than the minimum profit for any company will cause a shift in market share towards the competitor who already has the lowest cost.

The low cost competitors have the option. They can buy market share. They can do so by setting the price level so that competitors cannot earn the minimum profit and thereby finance their continued growth. However, their own cash throwoff in the future will be determined by the difference between their own cost and the minimum required profit of the highest cost survivor.

The minimum profit is a key reference in a critical strategy choice: Which is more valuable — a larger market share at a lower cost and a lower price, or the *status quo*?



Bruce D. Henderson

Perspective #84

BOSTON • LONDON • MILAN • PARIS • TOKYO

Sated Gourmet: How The Other Half Eats

By Mark C. Rutzick

Those who have astutely read the Sated Gourmet's previous endeavors may have drawn the conclusion that he is embarked on a singlehanded effort to support the Cambridge restaurant industry. A regrettable proportion of the restaurants reviewed involved expenditures approaching double figures for a single meal.

But the Sated Gourmet (not to speak of his creditors) is happy to report that less expensive (in fact cheap) meals are available, and that he has had his share. Indeed as the year progresses, such meals have become more and more regular. This week we'll look at some of these low-budget havens, and a few medium-priced gems sprinkled around the area.

For the uninitiated, *'s refer to quality, +'s to ambiance (Americans call it atmosphere, I suppose) and the prices are for average "dinners" (using the word loosely this time around) without liquor, tax or tip.

Underdog 1/2* 1/2 + 6 Bow. As its title presumably suggests, this obscure little operation offers little more than hot dogs, or frankfurters, as some would say. Kosher franks, franks with cheese, franks with bacon. Frankly, the menu is pretty small (though expanding), and the dogs really aren't so hot. Rather overpriced, too, though the bagels, cream cheese and lox are something of a bargain. They sometimes have nice pictures on their walls, and the help is very friendly. \$1.

Elsie's* 1/2* 1/2 + 71A Mt. Auburn. Reviewing Elsie's is like reviewing the American flag; its importance far surpasses its tangible appearance. Indeed, Elsie's is a state of mind. As fine as a roast beef special or a turkey deluxe or a hot Roumanian pastromi may be (which is incredibly fine) the fact that it comes from Elsie's sets it apart from the ordinary sandwich even more. Eating at

Elsie's is like dining in Heaven. Well, almost... \$1.

Joe's Pizza * 1/2 + 1 Linden. This represents half of the partnership of the original Joe's on Boylston Street, which ended with the demolition of its building in 1971. That was the finest pizza house around, and Joe has retained most of his magic. The prices are low, but the atmosphere is somewhat gamey (with pinball machines in the background and Cambridge high school kids often playing them). \$1.50.

Casa Portugal: 'a fine restaurant'

Pewter Pot * 1/2 + 3 Brattle. A dinner of muffins is tough, but I suppose one could do worse. The Pewter Pot does have other items, too, but none of them are particularly worthy of note. Their fudge nut muffins really are in a class by themselves, though. \$1

Pinocchio's * 1/2 + 74 Winthrop. This is the other half of the old Joe's and about equal to the new Joe's. Prices are about the same, and the atmosphere a little less hectic. \$1.50.

Wursthaus * ++ 4 Boylston. While not quite aptly named, this is overpriced and certainly not the finest kitchen in town. Though it offers a large variety of foreign beer (and is therefore known to be a favorite of Professor Dawson), the food is only fair, with a bizarre cosmopolitan effect, such as "spaghetti mit meatballs." \$4.

Hungry Charlie's 1/2* 1/2 + 1380 Mass. Ave. This hip capitalist venture by New York's mammoth Restaurant Associates conglomerate is being brought to its knees by the street crowd it originally set out to conquer. The prices have gone up as the quality of clientele has dropped. Still, their burgers aren't so bad if you're really hungry. \$1.

Taj Mahal *1/2* + 1/2 + 14A Eliot. The only Indian restaurant in the

square, this is certainly not the place to go for a fast meal, and not for a large meal either. The service was nothing short of incredible; by the time dinner arrived I had forgotten what I had ordered, and there wasn't enough food on my plate to remind me. The waiter did not understand English well enough to understand my request for vindaloo (extremely hot) curry; as a result it was about as hot as vanilla ice cream. I know there's a food shortage in India, but this is ridiculous. \$4.

And a few dispersed notables:

The Restaurant at the Orson Wells ** ++ 1001 Mass. Ave. A wide cosmopolitan cuisine with organic overtones is very successful here. The natural honey-made bread is fresh and delicious, the salads excellent, and the entrees quite good—the chicken in orange sauce being especially fine. The slide show on the wall can be pleasant, and there's a wait on weekends. \$4.

Peasant Stock * ++ 421 Washington. This is another restaurant with "natural" overtones, but not quite as successful as the Welles. They feature a shifting selection of stews and braised dishes, which vary in quality. The service is a little slow and note that they now have a liquor license, so bringing wine is no longer allowed. \$4.

Casa Portugal ** ++ 1200 Cambridge. It's billed as a "typical Portuguese restaurant" which may be true for all I know, and if so the Portuguese sure eat well, because the Casa Portugal is a fine restaurant. The curried chicken was excellent, the tripe good (if you like tripe), the squid only fair; the Portuguese fries which come with every entree were delectable, and the desserts (flan and a rice pudding) were delicious. The daily specials are very moderately priced. Alas, the strolling guitar players are no longer present. \$3.

Smoke Gets In Your Eyes at HLS

By Phil Spector

Not long ago, a professor announced to his large first-year class that he had quit smoking and that he now expected the "NO SMOKING" signs in the room to be observed. The class applauded, indicating the sentiment of the non-smokers, and making one wonder why any smoking in a "No Smoking" classroom was ever tolerated.

The Backbencher

These columns usually discuss problems in the law or at Harvard Law School as an institution, but today I want to focus instead on the significant (but hopefully diminishing) minority of my fellow students who smoke tobacco. I won't be concerned here with what they are doing to their health; the dangers have been well-documented elsewhere. If a person wants to commit slow suicide *without imposing on anyone else*, perhaps he or she should have that choice. But nearly all smokers *do* impose their pollution on others at times, and many either can't or won't recognize the significance to non-smokers of the imposition.

In the Langdell Library, smoking is ostensibly allowed only in the north end of the reading room. Smoking is now very common in the stacks, however, and is beginning to spread in the reading room. When a student or library staff member asks someone either to stop smoking or to go to the smoking area, he or she will often be met with an expression suggesting the silliness of the request, and the smoker is likely to be puffing away again soon after the non-smoker leaves.

The Hark, where food is served and consumed, does not even have a no-smoking room. A Mighty Mo eaten in a haze of

smoke from the next table, joined perhaps by the pungent aroma of stale cigarette ashes from the ashtray on one's own table, must be a low point in man's uncertain progression toward more enjoyment and better digestion of his food.

The deferential attitude of non-smokers toward this air pollution is incredible in these times of militant action for a decent environment. Students who work long hours researching briefs to help attorneys enjoin industrial polluters will often go meekly along, for the sake of sociability, when someone deliberately poisons the air around them. Indeed, the smoking polluter himself may be an environmentalist, concerned about the nation's increasingly scarce resources while he burns some of them up. Or perhaps he's concerned about the plight of the poor, as he sends scarce dollars, not up in smoke, but rather into

the laps of some very rich corporations. (Would there be any poverty in America if all the money spent on tobacco were given instead to poor people?)

As with every form of pollution, the polluters themselves may voice understanding, but they're obviously not going to do very much about the problem. It's up to non-smokers to aggressively confront polluters puffing where they're not supposed to or where they're imposing on others.

In facilities where smokers are not yet segregated, such as the Hark, non-smokers must demand de-integration. If smokers feel like social outcasts, perhaps they'll "kick the habit." Whether they quit or not, however, at least the rest of us, by our own actions, can avoid one of the most totally unnecessary pollutants of all.

5 Courses Oversubscribed

(Continued from Page 1)

courses were oversubscribed. Those courses, Upton stated, are the *Lawyering Process*, Professor Gary Bellow (150 enrolled, 29 cut); *The Lawyer as Negotiator*, Visiting Professor James J. White ("more than 100" signed up); *Constitutional Litigation Workshop*, Professor Charles R. Nesson; and *Advanced Clinical Instruction*, Judge John Cratsley (less than 10 to be cut).

This year a lottery, which was held Tuesday, was established for those wishing to take Bellow's course, in order to allow those who did not "make the cut" to enroll in other courses. Upton said this procedure worked effectively, and that she is considering expanding it next year for a number of other courses.

Although only five courses were oversubscribed, a number of the traditionally popular courses are now closed.

About 200 students enrolled for each of the following courses: *Antitrust*, Professor Phillip E. Areeda; *Commercial Transactions*, Professor Andrew L. Kaufman; *Estate Planning I*, Professor A. James Casner; *Evidence*, Visiting Professor Ronan E. Degnan and Laurence H. Tribe; *Federal Courts*, Professor Paul M. Bator; *Land Use Planning*, Professor Charles M. Haar; and *Constitutional Law*, Professor Laurence H. Tribe.

Two other courses which are now closed are *Family Law*, Professor Frank E. A. Sander; and *Labor Law B*, Visiting Professor James A. Gorman.

3L Rates Review Experience

By James H. Binns

The author was an editor of the Harvard Law Review in 1971-72.

Much has been said about the burdens which the *Law Review* imposes on the Law School as a whole, compared to the benefits *Review* membership bestows on a few. Those who could change the *Law Review*, the faculty or a majority of the student editors, believe that the cost is defensible, so the institution is destined to remain as is for the moment. Rather than rehash the familiar arguments challenging their position, it is interesting to observe that the implications of accepting it call for more extensive changes within the Law School — specifically, credit for other extracurricular legal activities.

The job preference and overall elite status granted to *Review* members is generally justified on the grounds that the editing process constitutes legal training superior to conventional classroom and casebook exposure. That one learns more is undoubtedly true. In 40 hours a week of researching, criticizing, and proofreading law, some knowledge has to rub off. But time is far from the most important element in the educational experience.

First, it is an on-going, continuous process, requiring a constant exertion of effort: precisely what the faculty would like to make of their courses, but which

the all-or-nothing final exam system is least likely to produce. Assignments are given out and are due as often as twice a day, so there is considerable pressure. But it comes in the form of a challenge to apply one's abilities to a specific, individually-assigned piece of work, not as a joint mass production of *The \$64,000 Question* and *Beat the Clock* with 150 other contestants.

A second educational advantage of the *Review* process over the course-examination system is a more productive relationship with one's superiors. This is not to say that budding legal scholars are not often vastly more obnoxious than the most self-satisfied full professor. But at least a *Review* 2L knows exactly what his 3L editor is judging him on, and there is straightforward give and take between them *over that work*. If he has misunderstood an important issue, he is permitted to correct the error on the next draft. Most professors encourage some interaction in class, but examination grades are *res judicata*. Further, exams are mysterious surprises, which require some strictly exam-related skills and preparation, compared to a straightforward attack on the legal problems.

A third important difference is that the *Review* editor has greater responsibility than the same student passively sitting on the benches in Langdell. From time

to time, although with less awe than its producers would sometimes like to think, the *Law Review* is relied upon by practitioners and law reformers. An editor's work, good or bad, can make a difference to someone else. More is at stake than a private game between the student and the Law School for the best transcript at the least effort.

The foregoing can be summarized by saying that the *Law Review* process gives a better education because it is closer to the real world. What lawyering job, from legal aid to corporate house counsel, tests a man or woman on the basis of annual or bi-annual quizzes? And what job permits an attorney to choose to do virtually nothing during the rest of the year?

The virtues of a continuous, straightforward, responsible educational experience are obviously not the monopoly of the *Law Review*. Most of the other extracurricular activities at the Law School qualify equally, including the other legal publications, the research organizations, and the programs offering clinical experience. There is an admittedly wide assortment of such activities available to Harvard students, but that hardly means that equal educational opportunity exists.

A kind of Gresham's Law operates in competitive education to the effect that graded work "drives out" non-graded work. In essence, a student cannot risk spending great amounts of time on work where he will not be evaluated, however educationally valuable, when he *will* be evaluated on the basis of *other* work. In every extracurricular activity there are people who put in long hours despite this fact, but most students understandably will not risk the consequences.

The *Law Review* alone gives its members the security of knowing that their work counts in terms of future opportunities. Although the Law School gives no credit

(Continued on Page 16)

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3L Rates Review Experience

(Continued from Page 15)

for *Review* work (except sometimes granting satisfaction of the third-year paper requirement), the outside world is willing to accept the *Review* credential over coursework results, should grades be low as a result of heavy commitment to the *Review*. This plain fact explains why *Review* editors are more consistently willing to work long hours than most of their counterparts in other extracurricular activities: they can afford to. By working they are helping, not penalizing, their own chances to get the job they want.

Direct recognition of an activity's educational value exists in other areas. A legal service office may prefer to hire someone with poverty law experience. But the preference seldom takes priority over the grade scale, and Gresham's Law comes into play.

The Law School ought to remove the existing penalty on students who seek the educational benefits of an extracurricular legal activity but who are not mem-

bers of the *Law Review* by choice or chance. It can do so by giving evaluated credit for participation in these activities. They merit credit not as a sop to "relevance" but because they offer the same educational advantages as those which justify, if anything

does, the *Law Review*. These advantages should be available equally to all students. The courses under Professor Bellow demonstrate that such credit is feasible, but they cover too few students, too few credits, and too few activities.

Lawyer Sees Japanese Pollution Ills

(Continued from Page 4)

countries" cooperating on common environmental problems "such as pollution in a river basin," said the youthful economist and attorney. "As a first step, however, a cooperating center would have to be carved into the environmental milieu of each country," he said.

Gresser said that the Japanese public may be even more sensitive to the growing problems of pollution than its American counterpart, particularly because of the serious and deadly results of pollution in that country. "But there is a traditional resistance to speaking out in Japan — especially in an institutionalized, formalized fashion," he explained.

In many cases, he said, there has been severe public reaction to a problem only to be followed by an official investigation and eventual lapse of public attention.

One of the most serious problems of introducing such a program, said Gresser, is making certain that it is politically neutral. He has been somewhat successful, he said, by presenting the concept to the Japanese bar and to the Japanese academic community. "The big problem now is finding the money."

Gresser, presently with the Center for Law in the Public Interest in Los Angeles, will next year be a Visiting Professor of Environmental Law at Doshisha University in Kyoto.

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