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TWENTY CENTS

ABA President Smith Attacks Nixon Actions in Cox Firing

By Michael Bowen

American Bar Association president Chesterfield Smith castigated the Nixon Administration for its handling of the Watergate scandal, and put the ABA clearly on record in opposition to the dismissal of Archibald Cox in a speech here last week.

Smith's presentation, sponsored by the Harvard Law School Forum, touched on several topics, but it was dominated by Watergate and the various crises which have issued from it.

"By mandating limitations to the special prosecutor," Smith told the 150 persons in the audience, "... the President, in my judgment, violated basic principles of justice." Smith pointed

out that the ABA had called for an uninhibited investigation last spring, and that the Association had accepted President Nixon's appointment of Cox only after "the President had given every assurance he could give" that Cox would be genuinely independent.

In the wake of Cox's firing, Smith related, the ABA's board of governors had met in emergency session to pass a resolution calling for judicial appointment of an investigator truly free from executive control. Registering his personal endorsement of the board's action, Smith urged emphatically that "Congress should take whatever measures are

(Continued on Page 5)

Freund, Bator Testify Before Senate, House

Professors Paul M. Bator and Paul A. Freund testified before Congressional committees Wednesday that there is a strong Constitutional basis for vesting appointment of a Watergate Special Prosecutor in a federal court, rather than in the President.

In his testimony before the Subcommittee on Criminal Justice of the House Committee on the Judiciary, Bator admitted that he was reversing the position which he had taken in May in an article on the *New York Times*' op-ed page.

"When I first considered the question of the Constitutionality of empowering a prosecutor outside the executive branch to

(Continued on Page 4)

WLA Conference

Boston Women Discuss Law and Careers

By Karen Bier

More than 250 women from the Boston area gathered Saturday at the Pound Building to discuss their experiences, hopes and fears as lawyers, law students and law school applicants. The conference, dubbed Boston Women's Law Day by the sponsoring Women's Law Association of the Law School, focused on three areas of concern: admissions and financial aid, "what it's like to be a woman in law school," and career alternatives.

In three panels spanning the day from 10:30 a.m. to 3:00 p.m., speakers outlined current opportunities

(Continued on Page 2)



Mark McNeil

Participants in the afternoon panel session of the 1973 Boston Women's Law Day are (left to right): Mary Kay Kane, Research Assistant at Harvard Law School; Helen Mejan, criminal lawyer; Jean Kettleson, Assistant Dean for Clinical Programs at Harvard; Brenda Viehn-Naess, Corporate Counsel for John Hancock Life Insurance Co.; Sally Wasserman, Assistant Attorney General for Consumer Affairs.

Boston Women Discuss Law and Careers

(Continued from Page 1)

and problems of women in the law. Although the diverse viewpoints of the participants barred a consensus on many of the issues, almost all of the day's panelists indicated concern for reconciling their several roles as women with their legal careers.

Jean Kettleleson, Assistant Dean for Clinical Programs at the Law School, spoke of the conflicts inherent in assuming a professional role, conflicts which she said are "magnified for you if you are a woman, black, or other minority person because you have to fight a stereotype" of what a lawyer should be. She added that, since this stereotype does not include such personality traits as passivity, "smiling, coyness, and flirtatiousness," a woman has to be "especially thoughtful and self-conscious about dress, the tone of her voice."

Kettleleson emphasized that each woman must fashion her own legal style by making a "conscious decision about how she's going to deal" with what she considers the profession's stereotyped expectations. She added that "one of the greatest challenges for women lawyers is to be some of the things we've been socialized to be which are good — which are better."

Brenda Viehn-Naess, Corporate Counsel for the John Hancock Life Insurance Co., agreed, saying that while men have "many different role models" in the legal profession, women have "virtually none." She said she preferred her current work to employment in a law firm, where "I was put, initially, in Trusts and Estates."

The only criminal lawyer on the panel, Helen Mejan of Boston, said she believes "a woman has a rough road, especially in criminal law." The veteran attorney advised beginning

lawyers to "forget your femininity." Mejan added that, after trying what she called a "rough rape case before a conservative jury," she told the jurors, "I may have appeared indelicate at times. But I'm a lawyer first and then a lady."

All the panelists stressed hard work and competence as the most effective routes to entrance into the profession. Mary Kay Kane, a Research Associate at Harvard who will begin teaching law at the State University of New York at Buffalo next fall, said she found guest-lecturing at Harvard in Civil Procedure "exhilarating." She said a beginning teacher must "work very hard", but that "if you can excite students in the subject matter and draw them into the discussion, it makes no difference to them whether you're a woman or a man."

The Assistant Attorney General of Massachusetts for Consumer Affairs, Sally Wasserman, who said none of the Boston area law schools except Suffolk had part-time programs when she was a student, encouraged women with families to attend law school, on a part-time basis if necessary. She praised the attitude of members of the bench towards women, saying, "I've worked hard on my cases and done my homework; and while I've had problems with some members of the profession, the one group I haven't had any problems with is judges."

The panel on career alternatives in the afternoon complemented the morning discussions of admissions, financial aid, and student life. Potential law school applicants had questioned admissions officers from the law schools of Boston College, Boston University, Harvard, Northeastern University, and Suffolk University about admissions criteria, opportunities for women to study

part-time, and quota policies.

Mary Anne Radziwicz, Admissions Officer at Northeastern, drew a surprised buzz from the audience when she told them that 52% of this year's entering class at Northeastern are women. She described the curriculum there as incorporating "one full year's legal experience in the field," since second- and third-year students work alternate quarters at paying jobs with law firms, legal services and federal or state agencies.

All the admissions officers said their committees were "sex-blind" in reviewing applications and in answer to a question, all agreed that no discrimination against women with young children occurred.

Students from participating law schools presented a panel on "what it's like to be a woman in law school", but almost all had different views on "what it's like." Sydelle Pittas, 2L, said her experience at Harvard had been "terribly like going back to high school, but you can get used to it." She said she "liked it here" and advocated going to a "big" law school with many women students: "Most women who find themselves in law school go around thinking they're the only women of their kind around. Bigness proves this isn't true."

Students from other law schools indicated varying degrees of contentment with their academic experience. Pamela Herman, 3L at Boston University Law School, called herself the "token malcontent on this panel" and said, "At B.U. I found a tremendous amount of support from the women there. The problems of being a non-establishment person there are more subtle than I can possibly go into now."

Karen Porter of Northeastern had praise for her law school's treatment of women: "I really love Northeastern. There are so many women there that any professor who might feel like discriminating would have to fear for his life and limb."

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Boudin Describes Ellsberg Defense

By Robert Flanders

After removing his jacket, rolling up his sleeves, and kissing sundry women in the audience, Leonard Boudin rubbed his belly and began to speak on his observations about the Ellsberg case and related events. When someone asked him if he would please speak a little louder, he informed the large audience that he had just had a cardiological test the other day, but was willing to risk everything so as to be heard by all.

Boudin made it clear that he viewed the Ellsberg prosecution, not surprisingly, as springing from



Mark McNeil

Leonard Boudin

a "political crucible" rather than from any normal channel of the criminal process. He maintained that the government knew all along that a certain amount of Xeroxing of classified documents was taking place, yet it never bothered to prosecute anybody before Ellsberg.

Although the government lost its civil injunction suit in the Supreme Court, Boudin noted that before the civil suit was decided, charges were brought against Ellsberg for authorized possession of the Pentagon Papers in Los Angeles-despite the fact that "he was the only person so authorized." He characterized this as a shrewd maneuver on the government's part in that it gave the civil suit a "criminal flavor",

and resulted in three Justices alluding to this "probable criminal behavior" in their opinions.

One of the highlights of Boudin's talk was his reading to the group from several memoranda between various White House personnel. The now-familiar jargon of these memoranda still proved to be both humorous and instructive as to the behind-the-scenes rationale of Nixon's operatives (most of whom are now inoperative). One of those men, J. Fred Buzhardt, is still very much a part of the Washington scene, and Boudin left us to judge for ourselves whether there was any "consistency" between his involvement with missing exculpatory material in the Ellsberg case and the present controversy over the missing Watergate tapes.

Boudin left no doubt as to his feelings regarding the burglary of the psychiatrist's office. He opined that the President had knowledge of the burglary two or three weeks before Judge Byrnes was ever told, "nor would he ever have been given it, except that too many people knew about it already." As for the offering of the FBI directorship to the judge, Boudin commented on the unsavoriness of the public park locale for such an offer, and the fact that the defense had never criticized the judge for not making this known to them immediately.

Finally, Boudin defended the decision to urge a dismissal of the case before trial, rather than seeing it through to a verdict. First, he argued that since the government began the case, the defendant had no real duty to carry the case to the end, thereby risking conviction. Second, "a judgment of conviction of the government was an important thing." And third, given that there were 15 counts against Ellsberg, there was a certain fear that the jury might view a conviction on only one count as a reasonable compromise, a la the Berrigan case.

Council Votes New Committee Selection Policy

Positions on Law School student-faculty committees will be open to all students, with no absolute preference to be given to incumbent members of the committee. This change from past policy, which virtually guaranteed reappointment to incumbent committee members, was made by a unanimous resolution of the Law School Council at its meeting a week ago today.

An application form for all student-faculty committees is now available from the receptionist in Langdell or any Law School Council member. The form, which lists those committees which have openings, must be returned to the receptionist or to a Council member by Wednesday, November 14. In accordance with the new Council policy, incumbent members of committees must reapply if they wish to retain their positions.

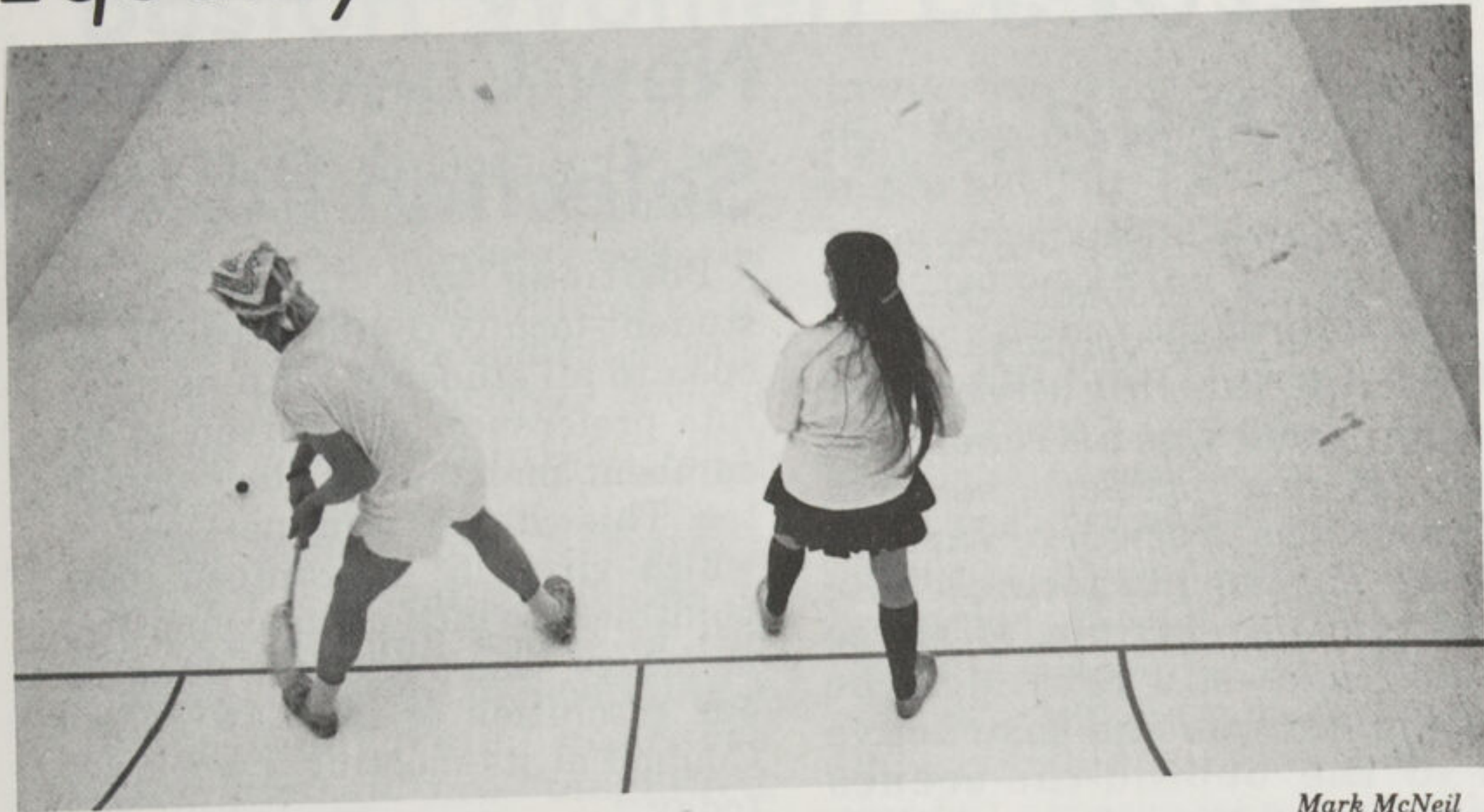
The Council also voted to require committee members either to file periodic reports or to report at selected Council meetings.

The Council announced the membership of this year's Executive Committee: Jamiene S. Studley, 2L, Council President; Brian A. O'Connell, 3L, Council Secretary and representative of 3Ls and graduate students; Russell L. Richeda, 2L representative; and Gary Fox, 1L representative.

The Council formed an administrative committee to handle the publicity and groundwork for student-faculty committee appointments.

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Equality Comes to Hemenway



Mark McNeil

Both sexes now fully share Hemenway facilities.

By Gerald S. Greenberg

Efforts by the Women's Law Association to open full facilities at Hemenway to women have, after a long battle, proved successful. Use of the squash courts in particular has been very heavy since the decision was made to make locker and shower facilities available for women.

In previous years women law students could use the Hemenway courts but were forced to change in the rest room and had no lockers or showers. Anne E. Libbin, 2L, who represented the WLA in negotiations with the University, recalled that she had to walk over to Hastings Hall to shower. "It wasn't just inconvenient; you courted the flu," she commented. "You used to feel that you didn't quite belong there."

Hemenway is controlled by the Athletic Department, which is in turn under the Faculty of Arts and Sciences. Law students pay \$50 a year for athletic facilities to which the Law School adds \$20 a head and a \$500 general contribution. Undergraduates, who are directly under the Faculty of Arts and Sciences, are billed \$300 a year.

Vice Dean William L. Bruce explained that the conflict over Hemenway was the result of a dispute on priorities between the WLA, the Law School, and the Athletic Department. The Athletic Department is also interested in opening facilities to women, but placed a

higher priority on the Palmer-Dixon Tennis Courts and the University Squash Courts. It felt that the University Courts at Linden Street were more convenient to a majority of University women.

Last spring negotiations left the WLA with the impression that the Faculty of Arts and Sciences would approve money for women's facilities at Hemenway. However, it appeared this fall that this was not the case. At this point the WLA began to explore the possibility of a discrimination suit against the University.

According to Dean Bruce, a solution was achieved after personal discussions between Dean Albert Sacks and the Dean of the College. Libbin agreed that the Law School administration had been very helpful.

Very little money was expended in finally providing facilities. A basement locker room and first floor shower area were earmarked for women. "It's a minor inconvenience," commented Libbin. "The facilities are adequate." Although there are still unclaimed lockers in the women's area, use of the facilities has been high. "There have been more women there on weekends than last year. It's important to people who want to use it," squash-fan Libbin concluded.

To compensate for the reduction in the number of men's lockers, the Law School arranged for the renovation and installation of some surplus old lockers.

Congress Panels Weigh Testimony By Freund, Bator

(Continued from Page 1)

prosecute crime," said the Associate Dean, "my initial reaction — adverted to in a short article published in the *New York Times* last May — was that such a measure would probably be unconstitutional. Further study and reflection have, however, led me to a different conclusion: Although the matter is not free from doubt, there is powerful and, ultimately, persuasive support in the law for the position that Congress has the constitutional authority to create such an office of Special Prosecutor."

Freund's testimony before the Senate Judiciary Committee closely paralleled a letter which Freund sent to Rep. Thomas P. O'Neill (D.-Mass.) which was printed in part in last week's RECORD.

Freund suggested Wednesday that, although he believed the chance of a successful constitutional challenge to appointment by the courts slight, the bill appointing the independent prosecutor "might include a provision requiring any objection based on the alleged lack of authority of the Prosecutor to be raised at the earliest opportunity, and in no event after the entry of a plea to an indictment or information."



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HARVARD LAW RECORD

ABA President Hits Cox Firing

(Continued from Page 1)

available to it to re-establish a Special Prosecutor."

Smith emphasized that President Nixon's appointment last week of Houston attorney Leon Jaworski as Cox's replacement would not satisfy the ABA. "I'm crazy about Leon Jaworski, and I think he's one of the best trial lawyers in the country," Smith said. "... But if Leon gets in there and uses all his legal skills ... and decides that John Ehrlichman is not guilty and shouldn't be indicted, the American people are gonna think, 'Well, the President picked himself a good man,' and they're not gonna believe it. I felt (at the time Jaworski's appointment was announced) that the interests of the country required that I and the ABA think about it and we're thinking about it and we still don't like it."

"The President is not above the law," Smith declared, "and he can not unilaterally withhold evidence."

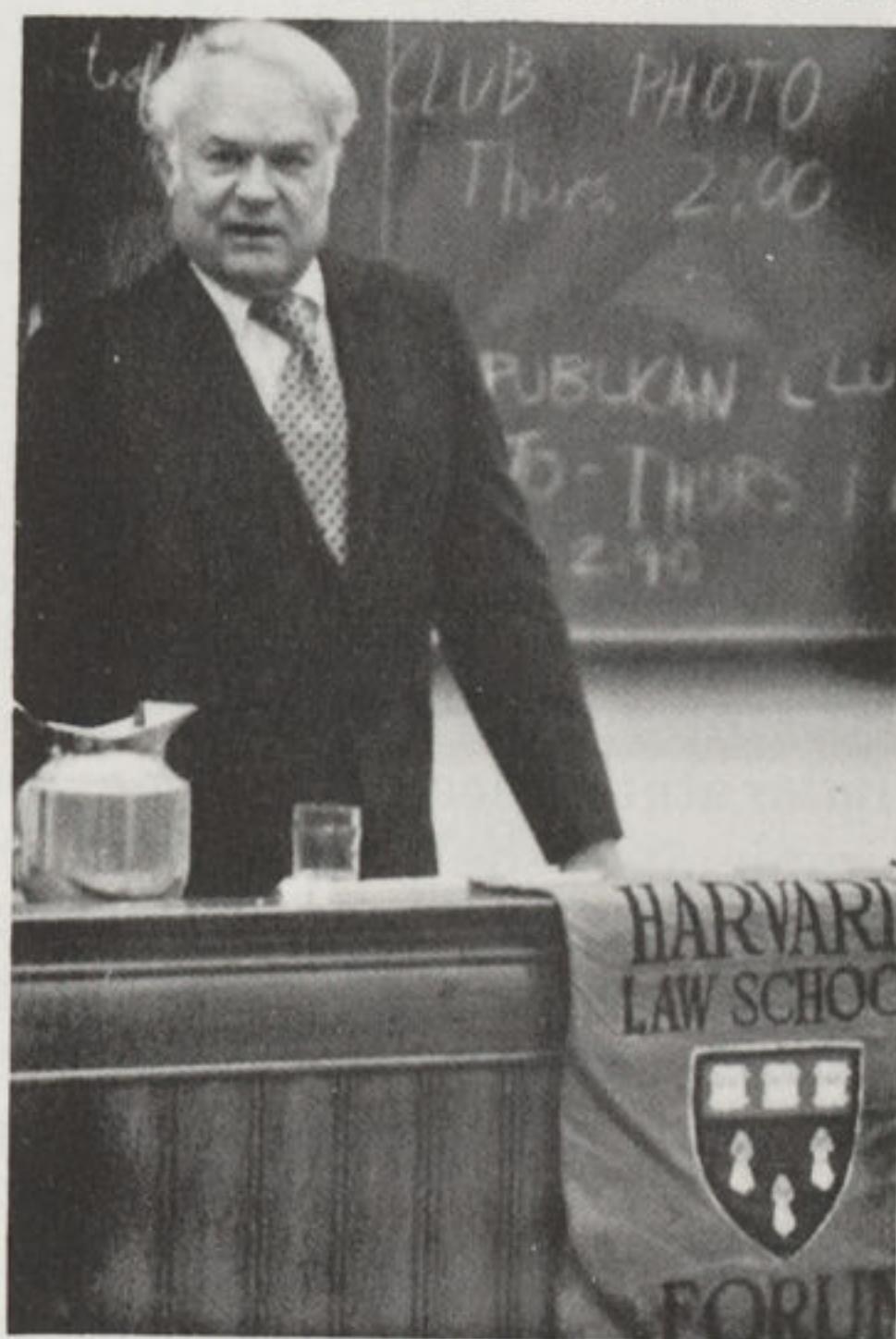
Smith suggested that the ABA's opposition to President Nixon's course is consistent with its traditional willingness to "rally to the defense of the courts and the judicial process." He likened President Nixon's recent actions to Franklin Roosevelt's attempt to pack the Supreme Court in 1937, which the ABA also opposed.

Smith emphasized that the ABA's concern for the integrity of the judiciary was not limited to Presidential interference. "We need someone to tell these people (Department of Justice and Internal Revenue Service employees) what due process is and what a fair trial is," he said. "We need to take a look at grand juries and leaks. We need to take a look at the selection process of U.S. Attorneys, who are selected in the worst possible way and who at least in my part of the country are usually political hacks and sorry lawyers."

In response to a question after his talk, Smith dealt with the propriety of Cox's revelation to Senators Edward M. Kennedy and Philip

Hart of his office's investigation of former Attorney General Richard Kleindienst. Smith dismissed this with an uncharacteristically mild, "Oh, I didn't like it much"

A question about bar association disciplinary procedures led to a discourse on the Watergate scandal's implications for the ethical standards of the legal profession. Acknowledging the problem, Smith noted that reporters often asked if the fact that "18 or 22 or now someone's said 32" of those implicated in the scandal were attorneys



Mark McNeil

Chesterfield Smith

indicated that lawyers' professional standards were low. "I don't tell them," Smith said conspiratorially, "but I can tell you, there are a lot more crooks than that in the legal profession."

Smith then proceeded to address the disciplinary question more directly. He observed that former Supreme Court Justice Tom Clark had supervised an ABA study of state bar procedures for enforcement of ethical standards, and had found "in a word, that most of the systems were deplorable." Smith suggested further that "Most lawyers say that that (teaching ethics) is one of the sorriest things law schools do."

Law School Dean Albert Sacks, who was in the audience, responded to this assessment by granting that

"the schools should do more," but expressing doubt that this could be done presently "without being utterly abstract and preachy." Sacks concluded that, "We need materials drawn from the practice of law itself," to deal with the problem effectively.

The only subject other than Watergate to attract significant attention from the Forum audience was the delivery of legal services. In response to a question about minimum fee schedules, Smith said, "I do not think they can be justified under the antitrust laws. I do not think they serve any useful purpose." He noted that the ABA officially discourages their use.

Commenting on various legal insurance proposals, Smith said that the relevance of such suggestions derived from the fact that "80% to 85% of the people don't get adequate legal service ... It takes a very rich man to afford a good lawyer ... If you've got a claim of less than \$10,000, you can't afford to talk to anyone in my firm, including the boys we hired last week."

For this reason, Smith said, he supported the insurance concept. "Justice costs too much," he remarked. "If we could get prepaid legal insurance, we could spread that cost around."

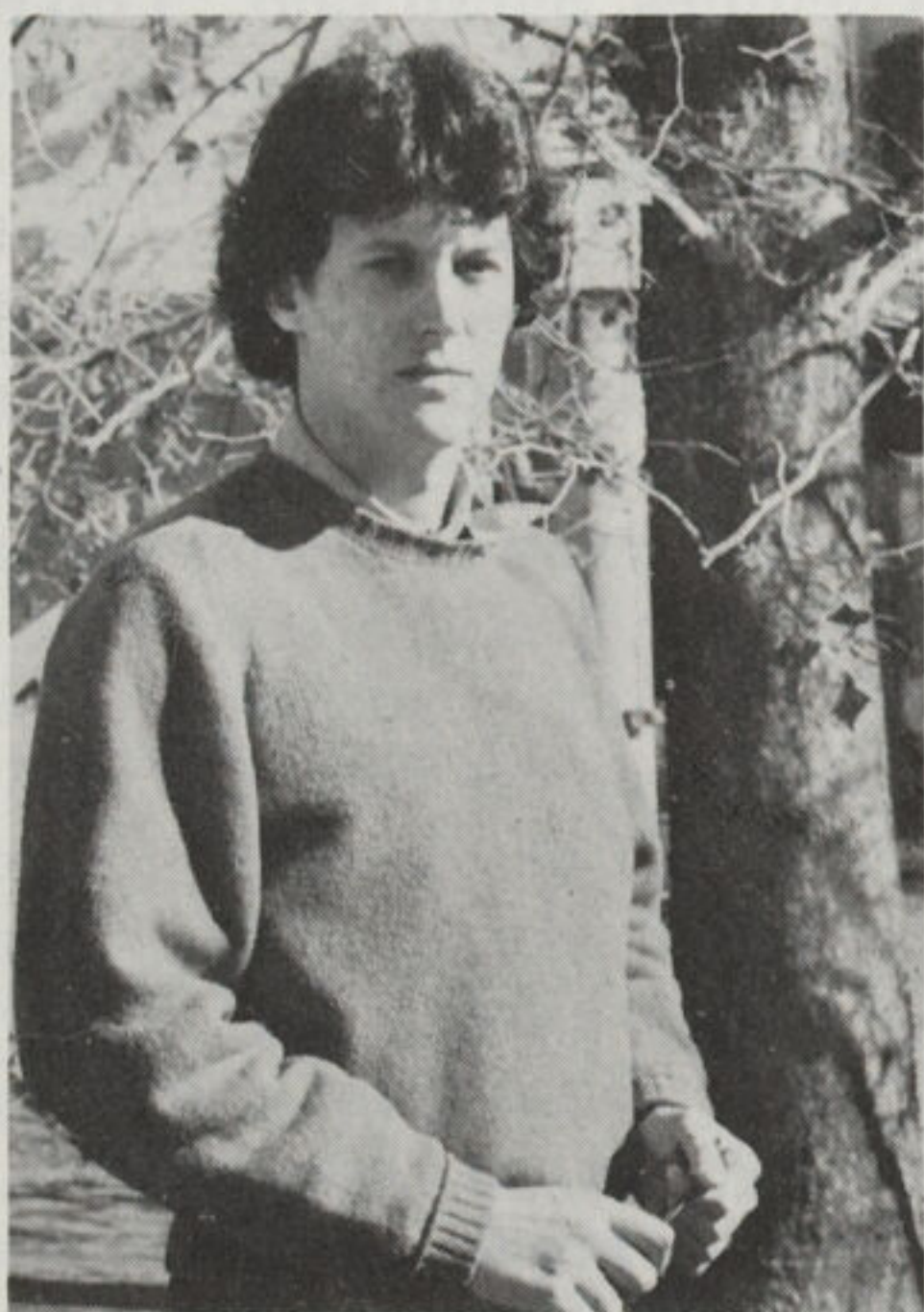
Smith touched briefly on legal specialization, remarking that "it's here, it's spreading, and the only question is whether we're going to regulate it." With comparable brevity, he called attention to the ABA's recent expression of support for decriminalization of sexual activity between consenting adults and of the possession, use and sale of small quantities of marijuana. Both positions, Smith said, reflect the basically realistic attitude of the typical ABA member and were therefore "completely predictable to me."

Redman Exposes Legislative Process

By Kermit Kubitz

The newest publication by a Harvard Law School student is a change from the novels which have created a distinct picture of the Law School in the minds of the American public. Eric Redman, 2L, has written a detailed study of the inlay of the American political process, which most saw, until the release of his book, only as a finished surface reflecting the initiatives of the executive.

Redman's book, *The Dance of*



Eric Redman

Legislation: An Insider's Concrete and Exuberant Account of the Workings of the United States Senate, traces the path of a single act, creating the National Health Service Corps, from its inception, through feeble initial attempts at implementation, through hearings, to passage by both Houses of Congress and enactment.

The idea of a corps of doctors and health workers paid by the Government to serve in "medically deficient" urban slums was conceived by Seattle pediatrician Abe Bergman. How it became the special project of a Harvard College graduate is a story in itself.

His undergraduate thesis on the operation of the Senate received a magna, the result, says Redman, of "two summas and a cum. One of the guys didn't believe my description

of how the Senate operated."

The sticking point was the function of the Senatorial staffs, largely ignored in academic literature. He also wrote a paper on the 1950 Tydings defeat in Maryland before taking a term off from college to work on the campaign of Sen. Warren Magnuson, Democrat of Washington, Redman's home.

"If you want to work in the Senate, it's best to work in the campaign first," Redman advises. He did speechwriting and kept tabs on the positions of Magnuson's opponent. He then became a legislative assistant in the second level of Magnuson's Washington, D.C. staff.

Among the many duties assigned him was shepherding the idea for a corps of Government - paid doctors. "We tried a succession of kind of cheapskate strategies before writing a bill," the youthful Rhodes Scholar states, describing attempts to implement the basic idea of the bill under the umbrella of a general funding provision. In spite of the fact that Magnuson controlled HEW appropriations, this approach failed.

The act was introduced only a month before Congress was due to adjourn, but the session's end was delayed by the SST filibuster.

Once having started the legislative process, Redman said that it was impossible to back out "partly because we were so mad at the administration."

Relations with the rest of the Senate, however, were fine, at least before the book's publication. Magnuson, according to his former aide, "gets along with everybody. He's the best-liked member of the Senate." Magnuson was Chairman of both the Scoop Jackson for President drive and, later, of the Washington State McGovern campaign.

Redman's book violates an unwritten rule that the administrative staffs of Congress must not come out in the open. He calls it, candidly, "telling tales out of school," but says, "I felt it had to be done once."

Extensive memos to the file on the bill provided the basic material for the book. Initially, Redman assumed the bill would fail, but when it passed, he xeroxed everything in the files and wrote a first draft.

Response to the book by insiders has been mixed. "A lot of people have been openly hostile about it."

Revision of the first draft continued during Redman's residence in England as a Rhodes Scholar. A former *Crimson* editor and classmate, James Fallows, helped Redman as did his wife and his editor from Simon and Schuster. " 'It's good but you have to cut 50 pages,' he would tell me by transatlantic mail" the 2L reminisced, "and I'd have to rewrite the whole thing."

Redman is now working on a novel, because the problem with books like his first is that "you have to tell the truth all the time." He finds some difficulty in combining writing and studying law: "Just studying law does tend to wear down your prose style. It reduces your vocabulary, keeps your sentences flat." He has also written for the *New York Times* and *Washington Monthly*.

His future plans are a reflection of his current activities. Where will you be in ten years? "In Seattle, practicing law, writing a little bit, practicing politics for other people." One of the points made by Redman's book is that it is not necessary to be an elected official in order to affect the course of events.

His experience in Washington as a Congressional aide had two important results: the publication of the first detailed study of the nature of the legislative process, and the passage of a bill that will provide \$11 million to provide medical assistance to 117 communities with a population of 1,770,000 persons this year. Only time will tell which was the more important.

Drinan Sees Nation's 'Most Serious Crisis'

By Ricardo Hinojosa

"Right now we have the most serious crisis in the history of our country in over 200 years. The authority of the Presidency is eroding before us every day." So stated Massachusetts Democratic Congressman Robert F. Drinan to a less-than-capacity crowd of about 150 in the Ames Courtroom November 2.

Drinan discussed his views on the possible impeachment of President Nixon, the confirmation of Vice-President designate Gerald R. Ford, and the appointment of a Special Prosecutor at a talk sponsored by the Harvard Law School Forum.

Discussing the possible impeachment of the President, the outspoken former Boston College Law School Dean said, "I feel like a prophet." Drinan was alluding to his introduction of an impeachment resolution in the House of Representatives July 31, long before there was serious impeachment talk.

Drinan mentioned that in his July 31st impeachment resolution there were no allegations of any specific Watergate-related activities. In that resolution the Congressman charged that the President should be impeached because he had conducted secret bombing raids in Cambodia, had impounded at least \$12 billion in appropriated funds, had allegedly established a police state in the White House, and had used electronic interception of telephones in the White House.

Drinan warned against equating impeachable offenses with criminal offenses and stated "that the

President can be removed from office whether or not he commits an actual federal or state crime." He claimed that "impeachment is purely a political thing" and should be "removal for conduct unbecoming the office."

On the confirmation of Congressman Gerald Ford as Vice-President, Drinan, a



Mark McNeil

Rep. Robert Drinan member of the House Judiciary Committee, stated that "We in the committee will have to figure out what the 25th Amendment means." He said that the Amendment called for more than just the advice and consent of the Congress. "We have to decide if this is a man we want to be President" and that, he claimed, is a higher standard than that used for the confirmation of other Presidential appointees.

"When people say you can't be partisan, that is not so", continued Drinan. "I can shoot down Gerald Ford because he is too far to the right." He did say that he had as yet no stated position on the Ford confirmation, and that the House Judiciary Committee was trying to do "what the Constitution says and what is just."

Drinan criticized the availability of a 1700 page FBI report on Ford to only the Chairman of the Judiciary Committee and the ranking Republican on the Committee. He felt it should be seen by all members of the Committee.

On the subject of a Special

Prosecutor, the Congressman questioned whether the nomination by the President of former ABA President Leon Jaworski as Special Prosecutor would prompt the Congress to drop plans to appoint another Special Prosecutor.

Drinan felt that Congress should not set up a Special Prosecutor accountable to itself because that would make it look partisan. "We should mandate the District Court in D.C. to set up a Special Prosecutor for two years", he stated.

Though this might mean there would be two Special Prosecutors, Drinan felt there was enough work for both. However, he felt that this would not happen since the President would veto any Special Prosecutor legislation and that it would be hard to override.

In closing, Drinan said that the political ills in this country were the people's fault. He claimed that "less than 1% of the people in this country have participated in political campaigns." He stated that during the Viet Nam war students had reacted strongly against some of the President's actions, but that there was no such reaction now. "One thing that will allow Richard Nixon to be President for the next three years is your silence," he declared.

Drinan also had some mild criticism for the Founding Fathers in his remarks. He said they had made a mistake in inserting the words "high crimes and misdemeanors" in the impeachment clause of the Constitution instead of hinging impeachment on actions related to official duties.

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Lesley College: Overcoming

By Daniel M. Taubman

"If you're a young woman who wants a teaching career — on the elementary level...—then Lesley College has a lot to offer you beyond a routine teacher college education." So begins the current admissions catalog of the small but well-regarded college located across Everett Street from Harvard Law School.

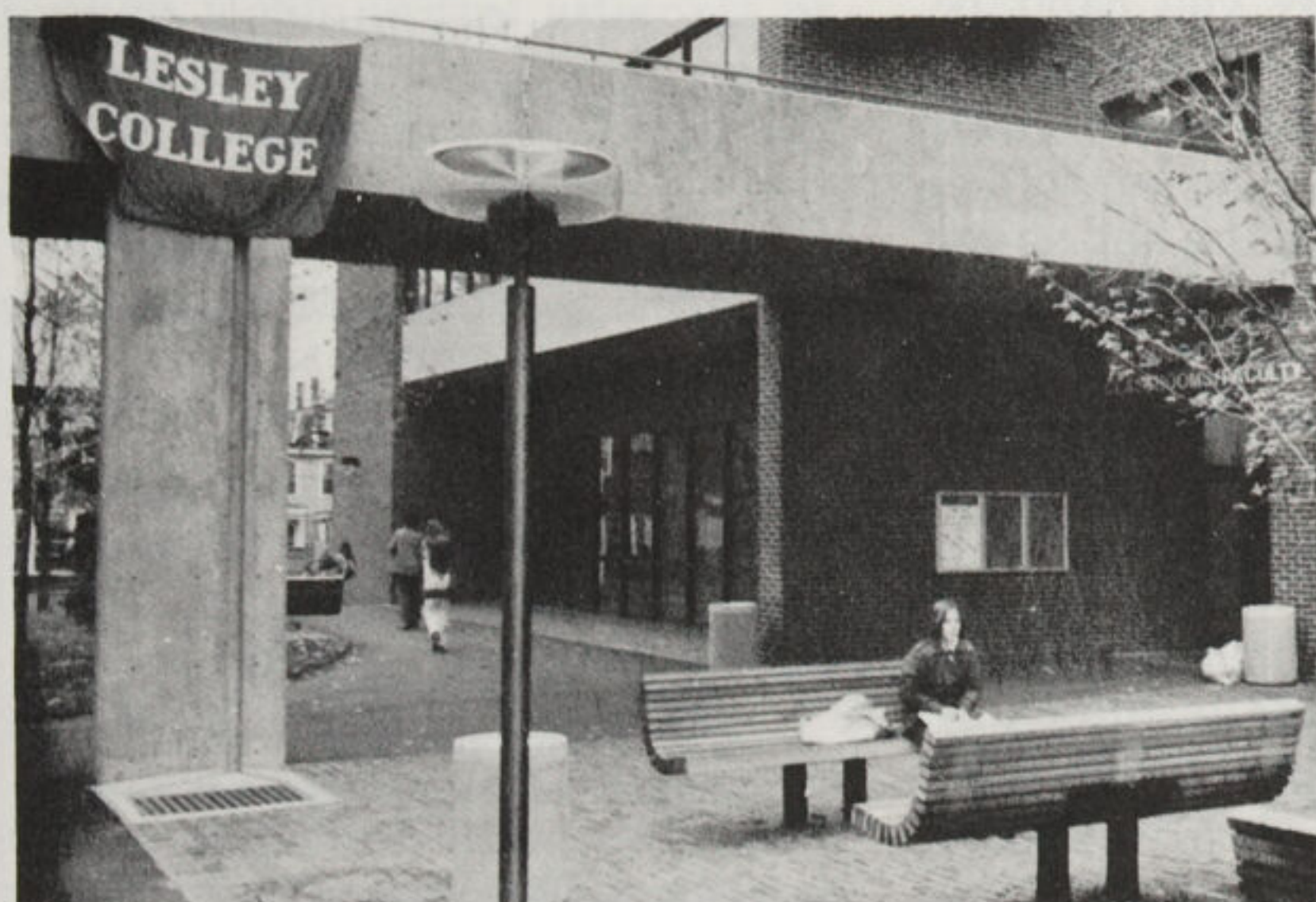
What the admissions catalog doesn't state, perhaps intentionally, is that one thing Lesley has to offer is its proximity to the Law School. Because of the nearness of the two schools, interaction has been frequent. Lesley students regularly work at the Harkness Commons dining area, sell the Harvard Law RECORD, and assist in the running of Law School mixers. Lesley students have often played major roles in the annual Law School show, and have occasionally performed at the Cage.

In addition, Lesley students traditionally date Law School students, attend Law School mixers, and party at the Law School dorms. Also, some Harvard students serve as resident directors at Lesley. And the Law School has rented classroom space to Lesley during the last three years.

Yet, despite this relatively frequent interaction between the Law School and Lesley College, many law students remain ignorant of the very existence of Lesley. Others prefer to rely on long-held stereotypes. As one second-year student put it, "I think Lesley is a substandard girls' school." Qualifying his remarks, he added, "But that is an uninformed opinion, based on conversations with other Harvard law students who are equally ignorant of what it actually is."

In spite of this apparently widely-held view at the Law School, Lesley is generally regarded as being one of the best teacher training schools for elementary education in the Boston area.

As Lesley President Don A. Orton notes proudly, "We have never placed fewer than 90 per cent of our graduates in teaching positions." Unlike most teaching schools, Lesley affords its students practical teaching experience beginning in the freshman year.



Mark McNeil

Center of Lesley's "Urban Academic Village"

Since its founding in 1909 as a two-year school "for young ladies who wish to become teachers of kindergarten," Lesley has prepared more than 4,000 women for careers as elementary school teachers.

Incorporated in 1941, the college's undergraduate enrollment is just under 650—all female. The coeducational graduate school, founded in 1954, has expanded its enrollment tremendously during the last five years, with present graduate and continuing education enrollment at 716.

This "dynamic expansion" in graduate school enrollment has been facilitated by the opening last May of five separate ultra-modern, five-story towers, each one with a lecture room and seminar rooms on the lower floors and dormitories on the upper floors. Each dorm in the new "urban academic village" features a patio, lounge recreation area, and kitchen.

The new towers, together with dormitory/cafeteria, White Hall, and the traditional wood frame building housing administrative offices on 29 Everett Street, forms a small, attractive-looking quadrangle. In addition to this complex, Lesley owns some two dozen wood frame houses on Oxford, Mellen, and Wendell streets, many of which are used as living quarters.

According to President Orton, the five new towers constitute the first third of a master project designed to modernize Lesley. The \$6 million additions to the school were financed predominantly by federal grants and loans from the Departments of Health, Education, and Welfare and Housing and Urban Development, as well as a bond issue from the Massachusetts Health and Educational Facilities Authority. However, \$1.2 million was raised by donations from corporations, alumni, businesses, and friends.

Orton would like to see the remaining two phases of the "master plan" implemented, but he is worried that there may not be adequate resources for proper financing. "My concern is that we don't go into debt," he stated in a recent interview.

Like all private institutions of higher learning, Lesley College has been cutting corners and trimming programs in order to beat inflation and maintain a balanced budget. Although tuition is presently \$2,550, with compulsory room and board and a comprehensive fee bringing costs to a round \$4,000, the income earned from this source has not been sufficient.

As a result, some non-tenured faculty members were discharged as an economy measure last spring, a move that aroused much anger and disenchantment among the student body.

Orton writes in the 1972-73 Report of the President that the discharge of three faculty members was due to rising institutional costs, the "mandates of tenure," and a prospective levelling of undergraduate enrollment. Orton admits that the release of several popular faculty members created a "widely experienced institutional trauma" and that numerous faculty-student-

'Mindless Coeds' Stereotype



Mark McNeil

Lesley students take a break at the cafe.

(Continued from Page 8)

administration dialogues last spring "in many instances ... apparently achieved little or nothing by way of modifying the conviction, widely held, that in practically no circumstance should the College fail to reemploy any of its teaching staff."

Another issue that has provoked student interest is coeducation. Despite what Orton calls a "strong interest on the part of the faculty in the last two years in coeducation" and his own view that "elementary schools desperately need more men teachers," the Lesley Faculty voted last month to keep the undergraduate division all-female.

"There's still a place for an all-women's college," Orton says. Eighteen-year-old men, he says, suffer from an "identity problem" which makes it difficult for them to decide that they want to teach young children. Graduate students, by contrast, do not suffer from similar identity crises because their career goals are more clearly defined.

Conversations with Lesley women during the last several weeks reveal that many — though not all — disagree with Orton.

"I think coeducation is inevitable," junior Mary Lou Schramm declared. She claims that it is both "discriminatory" and "chauvinistic" for the College to remain all-female. A coeducational Lesley, she says, "would add something to the classroom; it would be a learning experience for males and females both."

Susan Strouse, coeditor of Lesley's newspaper, *The Educator*, says that "a lot of girls are bothered by the fact that it's all girl, but I figure I'm here for an education, and that social life is a by-product." She predicted that Lesley would not go co-ed for three or four years "unless they're in desperate financial straits."

One issue that has been much discussed at the Law School — women's rights — does not appear to have attracted a great deal of attention at Lesley. Some students are intensely concerned about women's rights, but there is no Lesley counterpart to the Women's Law Association. As Strouse expresses it, "A

couple of girls are all out gung ho women's lib, but most of them are not."

According to Dean of Students Miriam (Mikki) Ritvo, "on campus there is no great (women's) movement at all." The dean herself, however, is interested in raising the consciousness of women about issues related to their studies. Toward this end, she teaches a course on "Images of Women."

With few male faces around, single Lesley women often look elsewhere for their social lives. Some Lesley women date Law School men, but more often they date undergraduates at Harvard, Boston University, Northeastern, and Tufts.

Most Lesley students have attended Law School mixers or parties at the Law School dorms, but many are not overly enthusiastic about them. "I've been to some parties over there (the Law School)," one student said. "Some are good, some are bad." What about Law School mixers? "I usually don't stay too long," she continued. "Girls don't care for a long, long relationship, but they like to be friends," she said. "A lot of guys look at it as a one-night stand type of thing."

"You get too many approaches in one night so you say 'It just isn't worth it,' and you watch TV and become a hermit."

Several Lesley students said they felt Harvard students (undergraduates more than law students) believe that "Lesley is Harvard's bedroom." One woman said she had been told that "Lesley is Harvard's second bedroom."

Sherman Stimley, 3L, who lives at Lesley and whose wife Ruth Ann is resident director of the new dormitory complex, said he thought many Law School students looked down on Lesley, and blamed this on an "unjustifiable elitism" among Harvard students.

"But Harvard students look down on everybody," he commented. "That's not a phenomenon that suggests there's something organically wrong with Lesley. Maybe there's something organically wrong with Harvard students."

Conversations with Harvard Law School men tended to confirm Stimley's view.

One 2L said he thought most law students think Lesley students are "mindless coeds" who are "nice to have around, but not someone you'd like to marry."

Academically, Lesley students are in the medium range of women college students across the country, with SAT scores generally averaging in the 500s. As President Orton notes, "it's by no means a Radcliffe in terms of SATs."

"But we look for students who are 'people-oriented,'" he adds.

Ruth Ann Stimley, who has frequent contact with Lesley students, defends their general level of intelligence. "Some of them are not too intellectual, but quite a few of them are, and they don't get a chance to show their intellectual abilities."

(Continued on Page 13)

Impeach With Honor

The rapid erosion of the American people's confidence in Richard Nixon's ability to govern, combined with serious allegations of his possible criminal misconduct, lead us to the conclusion that the President should be impeached by the House of Representatives. In calling for the impeachment of the President, we do so with the knowledge that a vote by a majority of the House of Representatives in favor of impeachment is tantamount to a criminal indictment, or a finding of probable cause that a crime has been committed. It would not amount to a judgment that the President has committed illegal acts. Rather, in urging impeachment, we suggest that the subsequent trial in the Senate will afford the President a full and complete opportunity to defend himself against all charges that may be brought against him.

While some maintain that the President's impeachment would leave the country in an ungovernable state, especially in the field of foreign affairs, we do not believe this to be so. First, it is hard to imagine that the President's authority after impeachment would sink much lower than it has at the present time. Moreover, we recall that the government did not cease to function when former President Andrew Johnson was impeached by the House of Representatives, and acquitted later by the Senate.

Some have urged that the President's repeated efforts to slow the Watergate-related prosecution, particularly the firing of Archibald Cox, are sufficient reasons for the President to resign immediately. We do not agree.

We believe that, like it or not, resignation will be viewed by the American people as tantamount to an admission of guilt. Moreover, the President's immediate resignation would undoubtedly lead to a distasteful backlash by those Americans who still believe that the President has not acted improperly.

By contrast, we feel that impeachment will allow the President to present in his behalf any evidence which has not yet been brought to light. Then the Senate will be able to judge whether such activities as the approval of a 1970 internal security plan that involved violations of law, carrying on secret bombing in Cambodia, and possible acceptance of bribes in the form of campaign contributions from milk producers and ITT, not to mention Watergate-related events, constitute "high crimes and misdemeanors."

More than 50 years ago, political thinker and journalist Walter Lippmann wrote, "The President is burdened with the task of a benevolent despot and then denied the authority and resources to make even a despotism effective. In the system of checks and balances, it is the checks alone which seem to have much vitality." The President has sought to establish himself as a benevolent despot; it is now time to demonstrate that the checks do indeed have vitality.

HARVARD LAW RECORD

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Fenno

"How's this?" the 1L asked, offering a letter seeking employment to an older student for evaluation. The 3L set the missive at an oblique angle so that the sunlight streaming through the dorm-lounge window fell upon it. Fenno was able to read the note without difficulty over the other's shoulder.

"To Whom It May Concern:

I would like to offer you the opportunity of employing me this summer. I will be available from June 15 to August 15, except for ten days in July when prior commitments will force me to be in Gstaad.

My resume is available upon request. Please enclose a stamped, self-addressed envelope."

An interesting approach, Fenno thought in a characteristic burst of understatement.

"I uh, don't think that will do," the 3L remarked judiciously.

The 1L seemed crestfallen at this wholly unanticipated pronouncement: the letter was clearly the product of much thoughtful composition.

"Where do you think it's weak?" he asked bravely.

With conspicuous effort, the 3L resisted the impulse to be clever; this was no time for witticism.

"Let me show you something," he said at last in a helpful tone. He then handed the 1L a letter that he had recently received himself from a firm he had interviewed. The 1L opened it tenderly and read it with evident apprehension.

"Dear Applicant:

I regret that we will not be considering you seriously for employment. Please don't take this personally: you weren't nearly as bad as a lot of people we talked to. Perhaps in some state that doesn't have no-fault insurance, your prospects might be brighter. Good luck."

"What does this mean?" the 1L asked plaintively.

Fenno and the 3L silently exchanged helpless glances, for the young man's hollow query was more an ejaculation directed to the Fates than a question addressed to any corporeal being. No one had said anything about *this* at orientation.

"Someone has to say something," the 3L mouthed to Fenno. Fenno arched his eyebrows slightly in a characteristic burst of expressiveness.

"You see," the 3L explained gently, "you just can't talk to firms the way the admissions office talked to you."

The 1L nodded numbly. A precious part of his world had just been obliterated: for eight golden weeks — until, in fact, this very moment — he had taken it as given that his only employment-related troubles would lie in choosing among his offers. The younger the better, Fenno thought in an uncharacteristic burst of tough-mindedness.

HARVARD LAW RECORD

Law Notes

Students can copy Law Review outlines held in the Library by arrangement with the Copy Center. During the month of November, copies of outlines will be deposited with the copy center. After November 29, the outlines will again be available on desk reserve for Reading Room use only, subject to a two-hour use limitation.

* * *

The publisher of *Time* magazine will speak at the **Harvard Law School Forum** next Friday. Ralph Davidson will hold his talk in the Ames Courtroom beginning at 8 p.m. and a question-and-answer period will follow.

* * *

Tickets for the **Harvard Law School Early Show** will go on sale starting November 5. "Peabody Terrace; The Watergate of Cambridge", will be performed Dec. 7-9 and 13-15. Tickets are Dec. 7, 8 and 13 - \$2; Dec. 9 - \$1.50; Dec. 14 & 15 - \$2.50. For further information call Hugh Maynard at 628-3353.

* * *

The **Law School Show** is currently looking for students to assist in script writing, arranging music, and playing in the show band. Interested students should contact Robert Ryken, 2L, at 498-4027, or Diane Spivey, 2L, at 864-7067. Casting for the show will begin next month.

* * *

Last year's Law School Show, "**Praise the Law and Pass the Erudition**", will be produced in a slightly revised version at New York University this spring.

The music and lyrics for the show were written by 2Ls Richard Hope and Bob Cubitto. Both are currently at work on this year's Law School Show, "The Paper Waste", to be presented in March.

The director of the N.Y.U. production, Elliot Polebaum, starred in the production last year as a Harvard graduate student. He is currently a first-year law student at N.Y.U.

* * *

Professor Robert Keeton spoke to an overflow crowd Tuesday in 101 Pound in the **First Year Writing Workshop Lecture Series**, sponsored by the Board of Student Advisers. Professor Milton Katz will speak Nov. 13, and Professor Derrick Bell will follow Nov. 19.

NOVEMBER 9, 1973

Letters to the Editor of The Record

Shock and Disgust

To the Editor:

As a former president of the Forum ('55 - '57) I must express my shock and disgust at their spineless capitulation to pressure from outside groups in cancelling the Shockley-Innis forum.

I have read both their statement and that of the Black Law Students' Association in the recent *RECORD*, and were I president, I would have held the Forum as living proof that NO ONE can, by raising the spectre of "exacerbated tensions" or any other threat, force cancellation of a program, *once it had been scheduled*. When I was president, and before, the pressures (and they were sometimes considerable) were from the right, rather than from the left, but I am proud to say that we, along with my predecessors, ignored completely these efforts to stifle debate.

There is some suggestion that the Forum should present only reasoned debate between "responsible" scholars. This is far too narrow a view. Surely part of the Forum's function is to present noted individuals, responsible or not, and to subject them to the pulverizing effect of a Harvard audience.

Now, it seems, our history of courage has collapsed into a mire of chickenhearted responses to special pleadings and the supposedly tender feelings of small segments of the community. The Forum may have been ill advised in the first instance to plan the program in question, and I have no comment whatever on that. However, ill advised or not, I and, I am sure, others among the alumni are once again disturbed that academic freedom is something which now at Harvard, of all places, is subject to the control, however well-meaning, of various self-styled protectors of supposed minority rights.

You, gentlemen, are standing in the tradition of Holmes, Griswold, Richardson and Cox. Things have come to a pretty pass indeed when the expression of ideas, however malicious or distorted, can be so easily thwarted in the very shadow of these gentlemen. Perhaps the next time you will strike a blow for the First Amendment. If not, you do not deserve the diploma which you are now seeking or the honor of your chosen calling.

H. Philip Howorth, '57
Nashua, New Hampshire

'Strong Protest'

To the Editor:

As a former member of one of the first Board of Directors of Harvard Law School Forum, I protest strongly their recent deci-

sion to cancel the debate on genetics. The purpose of the Forum was, and I trust still is, to promote the free and open discussion of controversial subjects. Their abdication in this regard, is a setback for the freedom of speech of the community in which this forum was to be conducted.

I hope that they will see fit to reschedule the debate.

Alvin Silverman, '49
New York, New York

'Fascist Tactics'

To the Editor:

I am profoundly shocked at the Forum's knuckling under to the neo-Fascist racist demands of the Black Law Students Association, who apparently threatened storm trooper tactics against the Shockley-Innis debate.

Does his alma mater need to be reminded of Mr. Justice Holmes's great admonition that we must attach ourselves to "the principle of free thought—not free thought for those who agree with us but freedom for the thought that we hate."?

Congratulations on your fine editorial.

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

(Ed. note: The Harvard Black Law Students Association did not threaten disruption of the cancelled debate and, according to a statement by Forum President Howard Brownstein, did not raise the possibility of disruption at the Forum Board meeting which two of its members attended.)

'Unpopular Ideas'

To the Editor:

As a former president of the HLS Forum, I must express my disappointment at the cancellation of the Shockley-Innis debate. This should not be taken as agreement that the debate would have been worthwhile, or even interesting, but rather as disappointment that the intellectual independence of the Forum has been compromised. The freedom of opinion for which the Forum stands must include the freedom to express unpopular ideas. Contrary to the Harvard Black Law Students Association letter (in the *RECORD* of October 19th), the Forum does not accord "academic respectability" to its guests. People as diverse as Governor Barnett of Mississippi, Madame Ngu, Fidel Castro, Gus Hall and many, many others were invited to the Forum simply so that the Harvard community could hear what they had to say. There may be a time and place to shut out unpopular ideas, but I regret to think that the time is now or that the place should be the law school.

David I. Faust '64
New York, New York

Letters to the Editor of The Record

Forum

To The Editor:

Cancellation by the HLS Forum of a debate on genetics between Mr. Roy Innis and Prof. William Shockley has raised doubts about the Forum's fidelity to its own purposes. Much of the criticism has been grounded in reports that the Forum bowed to expressions of displeasure, to challenges to its right to discuss dysgenics and intelligence at all, to suggestions that it must censor itself because somehow its sponsorship lends substantive authority to the ideas of its guest, and to threats of disruption. Those reasons in fact played no part in the decisions of the undersigned members of the Forum Executive Board to support cancellation. Our views of the problem and of the proper method of resolving it are different from those aired in the press, and our views were essential to the Board's collective decision.

The Forum Executive Board was presented with strong evidence which persuaded the undersigned that the Forum had failed to meet its obligation to minimize the appearance of sensationalism in this debate [which was originally scheduled at Mr. Innis's request and with little thought to its seriousness]. The objections of many faculty and students revealed that it was widely believed that our program was structured so as to be provocative and offensive to a great number of people in the Harvard community.

Several Black students, including the President of the Harvard Black Law Students Association, objected on a variety of principles. Inherent in some of their theories was a factual perception that the Forum was conducting the debate in a manner so irresponsible, exploitative, and degrading that the sure consequence would be destruction of the mutual respect of blacks and non-Blacks within the Law School community.

We were also told that even a high administrative officer of the Law School—someone presumably most familiar with the Forum's history, purposes, and motives—believed we were putting on "a circus."

The evidence persuaded us that a strong appearance of sensationalism had indeed stained our program, and since we had taken few steps to minimize that appearance we concluded that the Forum was partly responsible, through its omissions, for the aura of indecency surrounding the debate.

It seems to us that inherent in the obligations of the media to air all matters there are complementary obligations to do so in ways that do not unnecessarily affront the intelligence, sensibilities, or personal dignity of people. This minimal

limit on the manner of presenting discussion—the limit of sensationalism—is proper both because people deserve not to be subjected to serious offense which is avoidable by reasonable efforts and because such offense probably frustrates the ultimate ends of free inquiry. Sensationalism must be distinguished from controversy, and precise definition will be elusive; but surely sensationalism includes any intention to provoke strong emotions for the supposed entertainment of others. The touchstone will be the display of people's feelings, opinions, or conditions, the violation of their privacy or dignity in bad faith and as a means to some end not consistent with the moral stature and equality of all people. Sensationalism is the exploitation of the person.

Unless the proponent of free speech admits that its imperatives do not compel the media to facilitate discussion of every manner and circumstance, logically he must hold the media bound to accept every sort of exploitation and indecency in the methods of public discussion. If one rejects sensationalism as not properly within the reach of the media's duty to facilitate discussion, one must face the hard task of articulating standards by which a medium can judge what circumstances of presentation are to be excluded rather than accepted.

The Forum having been guilty by negligence of some degree of sensationalism in this case, corrective action was owed. We rejected the temptation to sweep our failings under the rug of "free expression," thereby charging the cost of our failings to our Black colleagues. Since no less-drastic alternative seemed effective, we were compelled to cancel the debate. Two of the undersigned believed the Forum bound to explore the possibility of presenting a later discussion of the same subject in circumstances as free from the appearance of exploitation as is humanly possible. Although one of us did not accept the wisdom or necessity of presenting a future forum on this subject all of the undersigned accept the preceding reasons for cancellation of the original Innis-Shockley debate.

None of us thought this problem susceptible to snap solutions. We tried in good faith to give proper recognition to the principles of free discussion and avoidance of sensationalism, and to mark off their reach so that each will be helpful to the ultimate ends of free inquiry. No doubt we labored under the constraints of our own powers of analysis, of less-than-perfect knowledge, and of limited time. We may have erred. But whatever the limitations of our skills and knowledge, there is no limitation so crippling

as the refusal to view a difficult problem as difficult. The Record's ritual incantation of "The importance of freedom of speech cannot be underestimated" is not analysis. Reciting Justice Holmes will not substitute for the more demanding and uncertain task of applying his principles to elusive and ambiguous facts. Holmes himself also wrote: "It is one of the misfortunes of the law that ideas become encysted in phrases and thereafter for a long time cease to provoke further analysis."

Since our process of decision was more complicated than a simple choice between the competing tags of "free speech" and "racism," we reject the criticism that our decision must have been wrong because it failed to vindicate someone's favorite slogan. Rather we invite those critics to find the failings in our analysis.

Neil V. Wake 3L
Ernest L. Brazil 3L
Edward M. Dunham, Jr. 2L

Against 'Em

To the Editor:

I want to manifest my "shock and outrage" that a Harvard Law School organization should bow to blackmail over the projected Innis-Shockley debate. The debate should have been held. If Dr. Shockley holds "wrong" views, their truth or falsity is no more established by threats of mob violence than by the generations of lynchings and rapes which blacks suffered in past generations. To believe that the threat of violence or public demonstration produces truth is in itself to manifest intellectual inferiority, whether or not genetically induced, of a sort which should not be tolerated to exist at the Law School.

Neil D. Thompson '63
New York, New York

Calkins' to Raise Scholarship Funds

Hugh Calkins '49, a member of the Cleveland law firm of Jones Day Cockley and Reavis, and his wife Ann have been named to head a two-year capital fund drive designed to achieve equality in scholarship funds available to Radcliffe and Harvard undergraduates.

In setting the goal at an estimated \$5 million, both colleges hope to go beyond statistical equality with their financial aid programs. They have taken into account the differences in summer and term-time earnings between men and women, the differing patterns of loan repayment and career timetables.

HARVARD LAW RECORD

Book Review

Lions' Tales Give Pause

By Paul Weiner

Lions in the Street by Paul Hoffman. Saturday Review Press. New York. 1973, 227 pages. \$7.95.

The relationship between the legal system and the press in this country has been rather contradictory. Although the doings of courts, legislatures, and lawyer-politicians are the bread and butter of most American newspapers, little if anything is reliably known about law as a business.

In recent years, a number of authors have attempted to pierce this veil, most notably Erwin O. Smigel with his scholarly *The Wall Street Lawyer* (1964), Martin Mayer with *The Lawyers* (1967), and Joseph Goulden in *The Superlawyers* (1972). With *Lions in the Street*, a work devoted almost entirely to the major New York law firms, uptown and downtown, Paul Hoffman has given us what is probably the best reading of all the legal exposés.

Lions is not a great sociological study, nor did Hoffman intend it to be. Instead the book, though it addresses social and political topics, is woven out of a series of stories and anecdotes about virtually all of New York's great law firms. It is entirely possible that five hours spent reading this book could give a 2L a better perspective on Manhattan firms than as many days spent in the basement of 23 Everett Street or on the third floor of Pound.

Some misadventures described in *Lions* provide an interesting background for the growing Watergate scandal, in which many lawyers have become entangled.

But most of Hoffman's book is lighter in tone, as when he describes Arthur Goldberg's futile insistence on being addressed as "Justice Goldberg" at Paul, Weiss and a probably apocryphal derivation of the expression "getting the shaft": "When Simpson Thacher & Bartlett was at 120 Broadway, the associates who were moving up got assigned to an office overlooking the street, while those who were not wound up on the airshaft and the word would spread through the firm, '— got the shaft.'"

Though Hoffman makes the usual criticism of the bar's past and present kowtowing to big corporations, *Lions* is by no means a polemic; Hoffman notes a trend towards greater public spiritedness in a chapter on "The Greening of the Bar Association."

Lions should serve the law student as an employment guide or a call to arms depending on his political orientation; New York lawyers will want to compare the tales about their firms with the version they overheard at the last Christmas party; lawyers in other cities may want to rank their own bar against New York's for intrigue or scandal, or perhaps even begin work on their own volumes.

Lesley Women Seek to Bury Witless Image

(Continued from Page 9)

"There are a surprising number of girls that are quite serious about what they are trying to do," her husband adds. "I would challenge a number of guys to do what they do."

Sherman Stimley is in favor of more interaction between Lesley and Harvard Law School students, and suggests that law students sponsor programs at Lesley on education-related topics.

The Stimleys, who are black, note that "there have been racial problems" at the predominantly white college (there are only 28 blacks now). However, they say that the administration is trying to work them out.

Some black women students are not as optimistic. They believe that the Dean of Students has been attempting to impose a black counselor on them without adequate prior consultation with black students. Dean Ritvo, however, described the black counselor as "excellent."

Racial problems are apparently few, as are problems relating to sex and drugs. The school is strongly opposed to any use of drugs. As one student put it, "the school would press charges rather than protect you." Nevertheless, she said, marijuana smoking is not infrequent.

With typical problems in handling students' personal lives, and special problems in training women to be elementary school teachers, Lesley remains unique because of its proximity to Harvard Law School.

As Sherman Stimley has noted, "Notwithstanding that Harvard Law School is right across the street, there is a big jump time-wise, and maturity-wise" between Lesley and Law School students. No doubt those differences explain many of the perceptions and misperceptions that students at both schools have of one another.

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Long Range Planning?

A condensed version of a talk made to The North American Conference of Management Consultants by Bruce D. Henderson, President, The Boston Consulting Group, Inc., at The Plaza Hotel, New York City, October 1971.

I hope this assembly can tolerate a skeptic. I have been asked to talk briefly about "New Dimensions in Long Range Planning."

I do not know your definition of long range planning. However, I am convinced that long range planning as we have seen it so far is a fad. It is also a fad that has passed its prime. The Boston Consulting Group deliberately set out to disengage its identity from long range planning several years ago. In view of my convictions, I do not know why I was chosen to speak on this subject.

It is my observation that long range planning is often used as a corporate narcotic. It is a means of postponing the need to face reality.

The chief executive officer realizes his objectives exceed his probable performance by a significant margin. There is a planning gap. His problem is solved by appointing a promising young man as director of corporate planning. The problem is thereby postponed for the chief executive. The new director of corporate planning studies the company for a year. He confirms the fact that a planning gap does truly exist. Furthermore, he confirms the fact that only a very major change can possibly close the gap. The young man is then replaced by a vice president of corporate development — "Perhaps a more experienced businessman can provide a more imaginative and creative solution."

I know of no job in business which has a shorter half life than vice president, corporate development. The vice president, corporate development has about two years to become president or get fired. A few do become president.

Meanwhile, the chief executive has postponed becoming personally involved in rethinking his business situation and his strategy.

Some people call a five year plan "long range planning." Technically, a five year budget could be called long range planning. However, most five year plans are not plans at all. They are extrapolations of the past with hope and optimism added. The catch phrases are: *Prices will firm. We will gain a little market share. The economy will improve.*

Our staff calls five year plans "The Chevron Effect." Annually you get a new stripe. The downside represents the past; the upside represents the hope for the future. The past years' stripes represent the same thing.

Do not misunderstand. The staff work to implement any significant change must be done. Sequence, timing and coordination are all important. Most companies have adequate and competent staff to do this. However, the staff work is usually paralyzed because the management does not know what it really wants to change.

Most companies have enormous unrealized potential. However, realization of that potential requires major changes in corporate direction.

- I estimate that one-half to two-thirds of the product-market segments in the typical company are cash traps. They will use more cash each year than they will generate. This will go on forever. Even if they report a profit, they are actually worthless and a burden.
- In my opinion, at least half of all acquisitions are the wrong company for the wrong reason.
- At least half the successful companies choose the wrong risks. They cheerfully accept enormous competitive risks and liquidate their leadership to avoid small risks.

Most companies do not fully use their resources because they choose the wrong goals to serve their shareholders best. I am talking about the large, successful businesses, not the failures.

All successful businesses are prisoners of their own past success. They enshrine the policies and practices that made them succeed. They preserve and observe them long after their competitive environment changes.

The management consultant has the task of changing the corporate religion. No insider can do it. If he tries, he is a heretic. Even the chief executive puts his leadership on the line if he deviates from orthodoxy.

There is probably no more difficult job in business than causing a successful organization to change its philosophy and self-image. This goes far beyond problem solving. You must change the whole character of the firm. The management consultant can try where an insider cannot afford to do so. If he fails, he loses a client, not a career.

The most difficult and the most essential part of the task is obtaining a corporate management consensus. It is a prerequisite to successful implementation. Yet that consensus is developed only after a long and painful self-examination. It is the consultant's opportunity to be the catalyst that brings about that changed perception. It is also the consultant's privilege and challenge.

Call this long range planning if you wish. I think it goes far beyond that. So does the opportunity, and so does the challenge.

Perspective #108

Bruce D. Henderson

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1973 Yearbook: Recycled Pulp

By Bill Kenety

Sadly Enough The Harvard Law School Yearbook has dengenerated to the point where last year's edition was little more than a mug book of student and faculty faces.

The 1971 edition contained a wide range of articles. There were eight pages on the then-now Pound Building and an equally long article on "Spring 1970: Issues and Events" by Professor Fried, Professor Cox, and a then 3L. Other subjects included "Love's Labor Lost; A Summer at Cravath", "The Symposium on the Black Lawyer in America Today" and three essays on Law School impressions. That edition also contained sections on the entire Ames Competition, intramural sports, and a sampling of original poetry.

The 1972 Yearbook had extensive dedications to retiring professors and articles on "The Student Mind" and "Women vs. Harvard Law: A Torts Case". That edition displayed 14 pages on student life, additional candids in the advertising section, and more original poetry. There were even group and candid pictures of the Law School secretaries. (Yes, it's nice to see them get some recognition.)

Now we come to the 1973 Yearbook. Last year's edition had only three articles totaling 18 pages. One article worth ten pages was written by an English grad student and had nothing to do with the Law School at all. Most of the faculty photos were identical to those of the previous years. In fact some of the pictures were identical to those used ten years ago.

Faculty "candids" originated in the 1964 and 1965 yearbooks. Last year Professor Louis Loss chose to use the same picture he used in 1964, ten years and ten editions ago. The same holds true of Professor Louis Sohn whose picture was the same in the 1973 edition as it was in the 1964 edition. Professors Elizabeth Owens and Philip Areeda have used the same picture since 1965. Professor Archibald Cox used the same picture in each



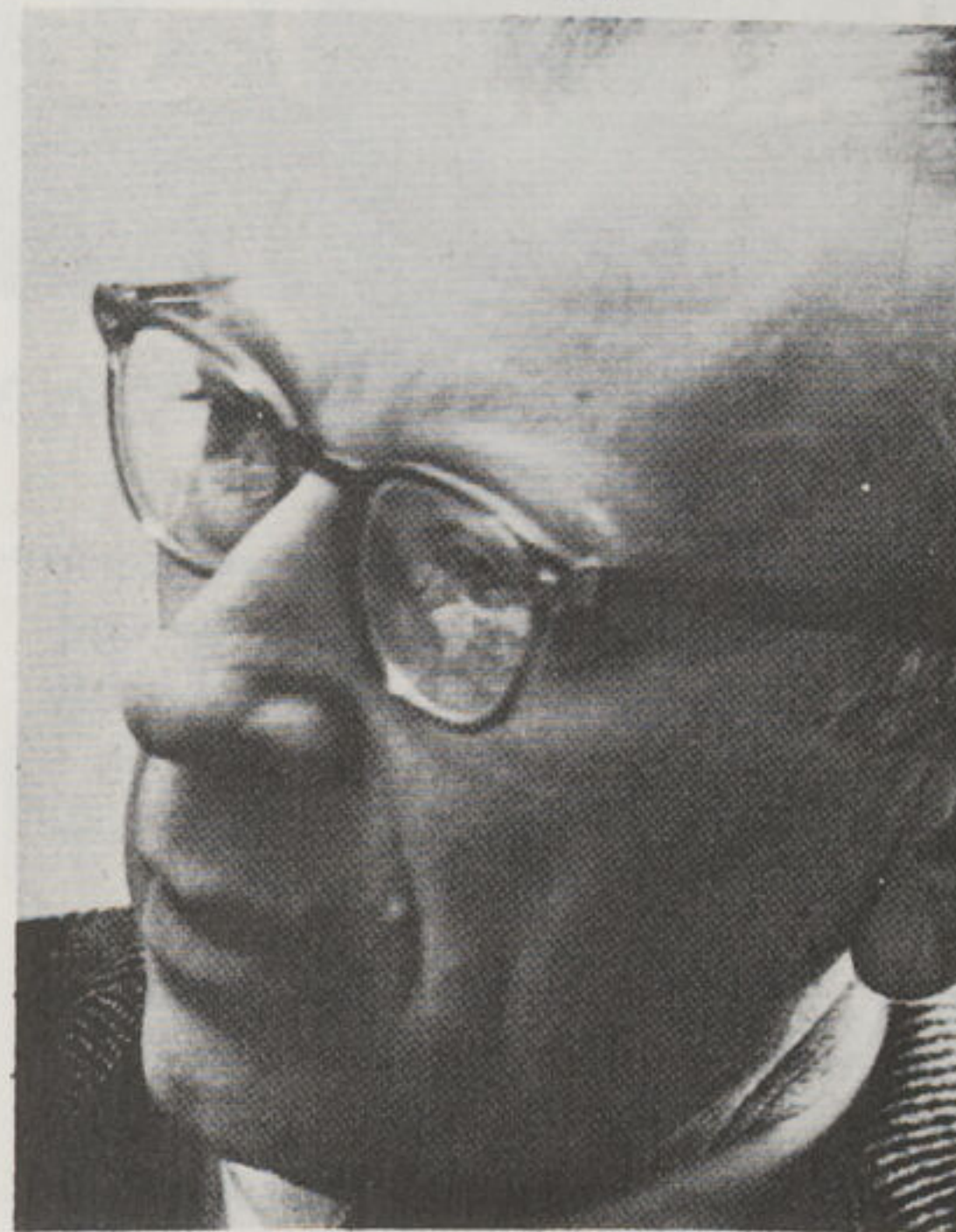
Professor Louis Loss, c. 1964
of his eight years here. Never having had any of these worthies in class I wonder if I'd recognize them from their ancient photos.

Last year's yearbook admittedly suffered from a small, probably overworked staff. It also suffered from a certain lack of imagination and perception of that nebulous hard to define "law school experience". It became nothing more than an outdated picture gallery of the faculty and a pictorial directory of the student body.

This years edition, under the direction of Mark Halperin, Fred Seegal, and Peter Wirth, promises some relief. However, due to the staff's late start (as chronicled in earlier editions of the RECORD) much is being done as before simply because there isn't time to change.

Most people probably get tired of seeing every Law School organization posed in front of Langdell Hall. Mark Halperin gets tired of seeing every Law School organization posed in front of Langdell Hall. But the yearbook's deadlines fall in January and the new staff didn't start until mid-October. Hence for this year at least, every student organization will once again be posed in front of Langdell Hall.

As before, clubs and groups pay to have their pictures in the yearbook. Current prices are \$20 for a half-page, \$35 for a full page, \$65 for two pages, and \$95



Professor Louis Loss, 1973
for three pages.

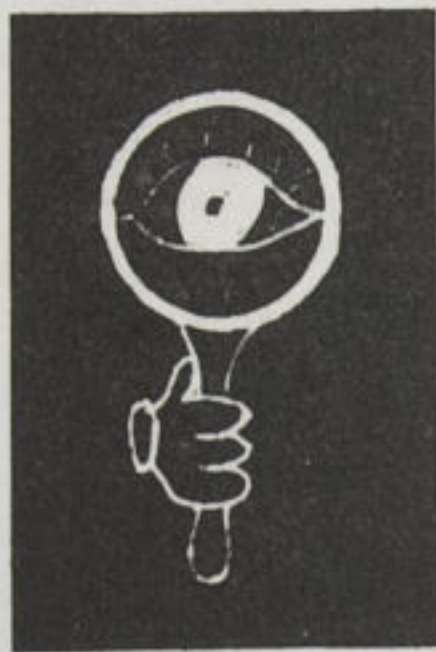
This year's editors plan a non-political yearbook with increased emphasis on student life. It will contain articles on various perspectives found around campus: that of a 1L, a woman, a Law Review member, etc. There will be many more candids than in the previous edition as well as informal shots of student activities.

Faculty will once again have the option of selecting their own pictures. Several of the aforementioned same-picture streaks appear headed for new records. The '71 and '72 editions had faculty "autographs" below the appropriate pictures. In keeping with the clean, uncluttered look this practice has been discontinued.

Observant law students have no doubt noticed posters and sign-up sheets for student photos. The editors are so eager to include everyone's picture that those failing to appear for their photo appointments have been called up and reminded to try again. This year's student picture section will do without the inane sculptures that graced (or cluttered) last year's picture gallery.

Considering last year's edition, the new editors have nowhere to go but up. But as well as they may intend, they are still trapped by their late start and the inherited mistakes of the past.

Rule 26: Why Do Tunnels Leak?



The following questions came to our Rule 26 correspondent by carrier pigeon, tied to a rock, and hung from a Hastings Hall window on a sheet. Future questions should be mailed to the RECORD.

Q. Who's in the Law School Show?

A. The Law School Early Show, Peabody Terrace; The Watergate of Cambridge, will feature Daniel M. Shapiro, 2L, and his wife Rhoda. It will be presented December 7-9, and 13-15 in Langdell North Middle.

Q. When will we get our directories?

A. According to co-editor Bob Abramowitz, the directory is in the hands of the printer who is waiting for the proper paper. Distribution should be within two weeks.

Q. What really happened with the WLA and the Cake & Cookie Sale?

A. A certain male 3L has confessed to the deed and says he was aided by some ten other individuals. According to 2L's Anne E. Libbin and Connie Joan Sipe, the posters were torn down as a result of the rage of individual women rather than concerted action of the WLA. Sipe theorized that the deed was done by males threatened by "the high profile of women around the campus" and that many of the posters were torn down not by women

but by chauvinist souvenir hunters including those attending a judges conference at the Law School. That certain male 3L reports he has no plans for further activity in the future. The Portly Pig Roast two weeks ago raised \$32 for the Mass. Women's Political Caucus. It was sponsored by the Carrie Nation Brigade, a "Radical Fringe Group" of WLA members.

Q. How come the tunnels always leak when it rains?

A. Because the waterproof membrane covering them is no longer waterproof. Dean Bruce informs us that the drip pan at the juncture of Austin and Langdell tunnels will be straightened and some sort of container installed to catch the drip. The ILS tunnel remains the wettest, worst problem. Over the coming summer the ground and walk above it will be torn up and a new waterproof membrane installed.

Jaworski, Cox Worked Together on Barnett Contempt Prosecution

In 1970, new Special Prosecutor Leon Jaworski described to a RECORD reporter several controversial cases in which he had appeared. The following is excerpted from the October 22, 1970 RECORD:

Jaworski served as Special Assistant to the United States Attorney General from 1962 to 1965. His task was to prosecute Mississippi Governor Ross Barnett for criminal contempt in defying both the Fifth Circuit's order to stop interfering with the admission of black James Meredith to the University of Mississippi and an ensuing civil contempt citation from that court for violation of the earlier order.

Barnett's argument that he was entitled to a jury trial for contempt went to the Supreme Court:

Professor Archibald Cox, then Solicitor General of the United States, argued the case with Jaworski before the Supreme

Court.

When Cox insisted that Jaworski accompany him to the Court in a cutaway coat and striped trousers, Jaworski had to admit that he didn't bring along a set of tails. The Solicitor General called in his staff and found a man "more or less about my size," said Jaworski, "and I borrowed his formal attire."...

"I have often wondered what impact Governor Barnett's defiance of the orders of the Fifth Circuit would have had on the administration of justice had the court not immediately directed that criminal contempt proceedings be brought," Jaworski said. "Emotional blindness often prevents irrational dissenters from realizing the importance of preserving the system itself, regardless of current issues that may strain it. It is sad that so many who strike at the system this way are often the loudest when it comes to proclaiming patriotism and devotion to the Constitution."

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