

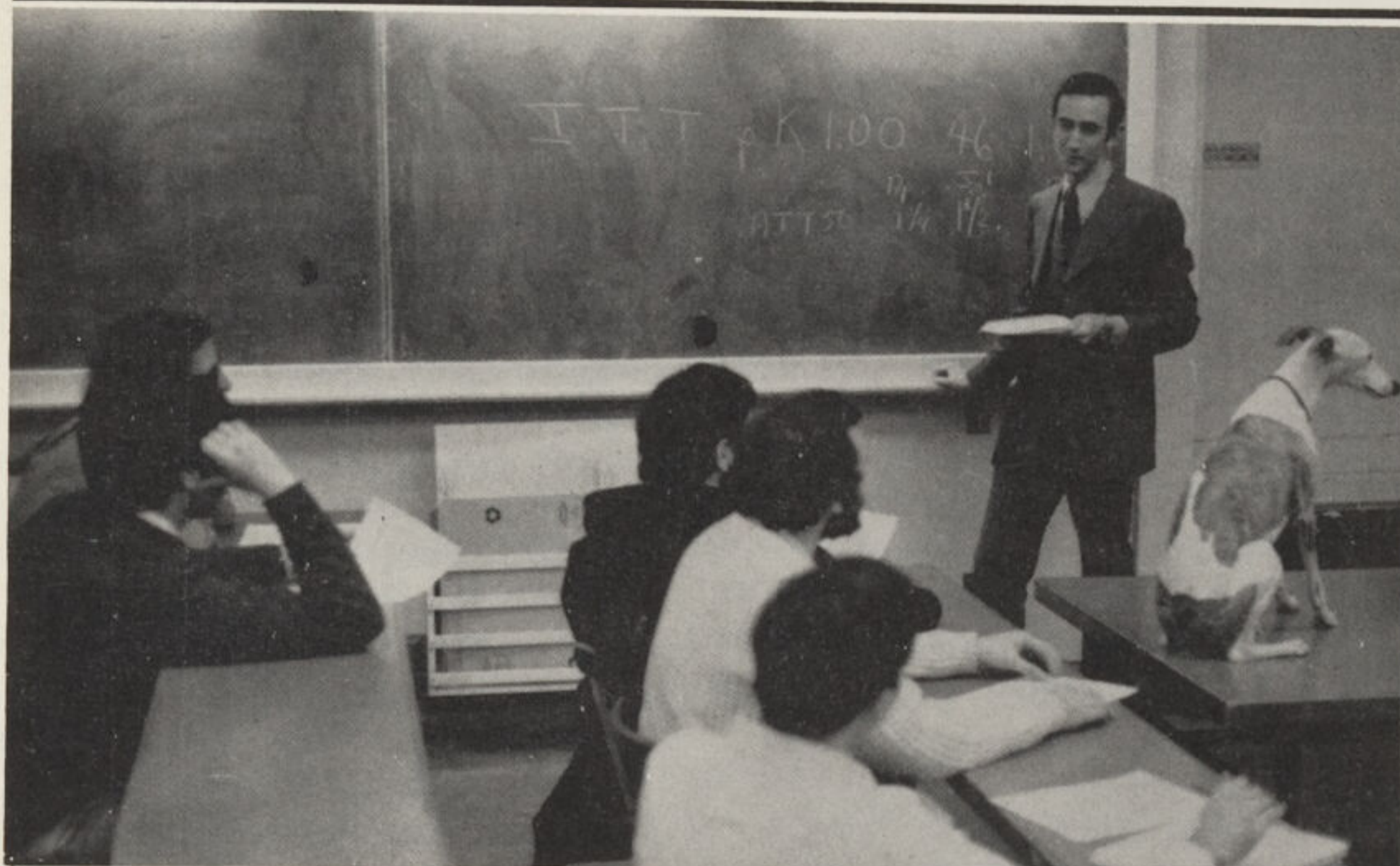
HARVARD LAW RECORD

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TWENTY CENTS



Bryan W. Aldridge 2L, describes puts and calls to the Gentlemen's Law Association and his dog, W. W. Whippet. See story, Page 3.

'DeFunis' Court May Hear Cox Oral Argument

If Chicago law professor Philip B. Kurland's petition for time to argue for the appellant is granted, Professor Archibald Cox may argue for the University of Washington in the case of *DeFunis v. Odegaard*.

The challenge to the discretion of universities to accept minority students with lower LSAT scores and grades than other applicants has attracted a flood of amicus briefs, among them Harvard's on the side of the University of Washington. The Harvard brief was prepared by Cox.

Daniel Steiner '54, general counsel to the University, said Tuesday that he offered Professor Cox's services to Assistant Attorney General James B. Wilson, Washington's chief counsel in the case, during a telephone conversation.

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Four to Clerk On High Court

Four 1973 graduates of the Law School will clerk for the United States Supreme Court next fall, while 63 members of the graduating class and one other recent alumnus will clerk for other courts throughout the nation.

The four future Supreme Court clerks are Dennis M. Perluss, who will clerk for Justice Potter Stewart; Karen M. Nelson, who will clerk for Justice Harry A. Blackmun; Jay K. Wright, who will clerk for Justice William O. Douglas; and Stephen B. Burbank, who will clerk for Chief Justice Warren E. Burger.

While at the Law School, Perluss, Nelson, and Wright were members of the *Law Review*; Perluss served as Articles Editor.

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Faculty Refuses Bid by 1Ls To Restore P/F Option, 25-19

By Daniel M. Taubman

The faculty voted 25-19 last Friday to maintain the Law School's mandatory grading system. The vote represented a rejection of efforts by first-year students and others to restore a pass/fail option in the first year.

The faculty vote came after ten-minute presentations on behalf of the pass/fail option by two students, and an hour of vigorous debate by the faculty.

Much of the debate centered on the question of whether the lack of the pass/fail option rep-

resented paternalism by the faculty. Second-year student Patrick Shea, a former member of the Committee on Legal Education, argued in his opening remarks to the faculty that the abolition of the pass/fail option last spring represented "a rather paternalistic attitude" by the faculty.

Several faculty members countered this charge, asserting that the pass/fail option was not sound educational policy, and denying that they were being paternalistic. As one faculty member contended,

(Continued on Page 12)

Professor's Letter Protests Legal Services Amendments

An estimated 20 to 25 faculty members will send a letter today to Massachusetts Congressman Thomas P. O'Neill urging him to act to eliminate what they regard as crippling House of Representatives amendments to a pending bill establishing a national legal services corporation.

The action comes on the eve of a conference scheduled for next Tuesday which will seek to resolve differences between the House and Senate versions of the bill.

The faculty members' letter particularly criticizes four House amendments which they feel would unnecessarily restrict the scope of activity by legal services attorneys.

"In our opinion," the letter states, "these and other amendments ... are the equivalent of saying 'we do not trust lawyers for the poor and want to curb their activities.'"

One of the four amendments criticized by the faculty would prohibit the use of corporation funds "directly or indirectly" for legislative and/or administrative advo-

cacy except at the local level. The faculty signatories maintained that general legislative solutions are preferable to a multiplicity of lawsuits in some instances, and that Legal Services' attorneys should not be barred from utilizing the same alternative that is available to private attorneys.

Faculty members also criticized an amendment which would prohibit government funding of research and technical assistance back-up centers, such as the Harvard Center for Law and Education. The other two criticized amendments would require Legal Services programs to give preference in hiring to local attorneys and would provide that a court could assess costs and legal fees against the Legal Services corporation.

In regard to the latter amendment, the letter said; "We do not presently have a prevailing practice of awarding costs to the winning litigant. Applying such a rule solely to Legal Services lawsuits,"

(Continued on Page 16)

Remarks Hint Tenure Likely For Liebman

Assistant Professor Lance M. Liebman has probably been granted tenure. Liebman, who has been a member of the faculty since 1970, told the RECORD this week that he will be at the Law School next year, an indication that he had either received tenure or been granted a longer than ordinary period in which to achieve it.

Professor Phillip E. Areeda, a member of the Appointments Committee, explained Tuesday that "four years is rather common these days," as the period within which assistant professors are expected either to be granted tenure or to leave the faculty.

Areeda cautioned that the Law School occasionally waits five years to make the decision, and that "there is no prohibition of an extension" even if tenure is not granted within the prescribed period. He acknowledged, however, that extensions are "fairly rare."

Some students speculated that Morton J. Horwitz, who also completes his fourth year at the Law School in June, has received tenure.

"He's in for sure," asserted two third-year students confidently. Horwitz, who teaches American Legal History and Torts, was grading examinations and could not be reached for comment.

Tenure decisions are confidential — the portion of the faculty meeting devoted to appointments does not begin until all students have left. The faculty has discussed tenure and appointments at least three times since September.

Liebman responded to questions about tenure by saying, "I don't want to talk about that. Why should I talk to you about that?"

The reticence of the faculty contrasts sharply with a tendency among students to speculate at length about the results of the faculty's deliberations.



Professor A. James Casner celebrates at his annual surprise birthday party February 7. He was 67.

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Cox May Present Argument For University of Washington

(Continued from Page 1)

He said that he had earlier discussed the possibility with Cox while working on the brief.

"There aren't many people, in my view, who have the capability of Archie Cox to advocate before the Supreme Court," said Steiner in explanation of his offer.

Cox was expected to know by today whether he would be appearing before the High Court in the case, which is scheduled for oral argument February 26.

Cox said Wednesday that the Washington attorney general had told Steiner that, in Cox's words, "if Professor Kurland was granted time, time would be granted to the state side. In that event," continued Cox, "I would be of some help."

However, Cox expressed skepticism about the occurrence of this sequence of events, stating, "I imagine the chance that it (Kurland's petition for time) would be granted is less than one in 100."

Even if that petition were granted, Cox continued, "There are a lot of amicus on the side of the State of Washington," and felt that it was uncertain which, if any, of them would be allowed to speak.

"It's silly and anybody who's reporting it is wasting his time," Cox stated.

A Harvard *Crimson* article Tuesday stated that Professor Alexander Bickel of Yale had also petitioned the court to argue on DeFunis' behalf. DeFunis appealed to the Supreme Court after his victory in the Superior Court of King County, Washington was reversed by the state supreme court.

Harvard filed the amicus brief because of its interest in maintaining discretionary control over its own admissions process. The ruling of the court as to the University of Washington might be applicable to Harvard and many other privately endowed colleges and universities because of the government grants they receive.

Professor Alexander Bickel of the Yale Law School faculty confirmed Wednesday that he and Professor Kurland had pe-

tioned the Court for time to argue in DeFunis. Bickel was retained by the Anti-Defamation League of B'nai B'rith to prepare a petition for certiorari.

Asked for a reaction to the news that Cox might be asked to argue for the University of Washington, Bickel replied, "I wouldn't mind. I've crossed swords with him before."

Bickel regards DeFunis as "a very important case. How important depends not so much on anything intrinsic that we put into it," he explained, "It could be decided on any number of grounds. What will be important is the way the court deals with it."

"I don't know what the position of the Yale University is," said Bickel, relating that Dean Louis Pollak and Professor John Baker of the Yale faculty prepared an amicus brief for the NAACP Legal Defense Fund on the side of the state.

"I don't know who offered Professor Cox's services to whom, but nobody at Yale offered my services to anybody," Bickel concluded.

New Group for Gentlemen Meets at HLS

A new Law School organization seeks to appeal to the nation's largest minority group. The Gentlemen's Law Association was founded December 22, 1973 at an informal meeting in the Pewter Pot on Harvard Square. It will deal with two stereotypical male concerns: high finance and meeting women.

The Association held its first formal meeting last Thursday, February 7. Bryan W. Aldridge, 2L, the group's president, led a discussion of "Puts, Calls and Arbitrage Operations on the Chicago Board Options Exchange."

Aldridge also announced that the Association would host a dance with Wellesley girls at the Law School on Saturday, March 2.

The next meeting will be held Thursday, February 21 at 7:30 p.m. in Langdell North to discuss "Treasury Bills and Other Short-Term Money Market Instruments."

Men interested in joining the GLA should contact Aldridge in Dane 222 or call 498-4704.



Honorable William H. Hastie '30 of the Third Circuit Court of Appeals looks on at the unveiling last year of his portrait which now hangs in the library. Hastie will give the first Francis Biddle Memorial Lecture at the Law School next Tuesday at 8:00 P.M. in the Ames Courtroom. The subject of the lecture will be: "Free Speech: Contrasting Constitutional Concepts and their Consequences."

Friedan Hits Sexual Class War

By Karen Bier

Betty Friedan, founder of the National Organization of Women, told an Ames Courtroom capacity crowd of about 500 Wednesday that women should not use the strategy of "class warfare which makes men the enemies" in pursuit of social and sexual equality.

Noting her disapproval of "a sexual politics," the author of *The Feminine Mystique* advocated instead a restructuring of "obsolete sexual roles" and "oppressive institutions." The means of change, she suggested, should be "action" rather than the "radical chic" of man-hating; the goals, universal "personhood" and alleviation of what she considers a crisis in the American family.

Throughout her presentation, sponsored by the Harvard Law School Forum, Friedan emphasized the distinction between "reality" and "the image of Women's Lib created by the media ... a dead end." Dealing with the "reality," she said, means transcending limited goals of employment equality and changing "more subtle conditions of inequality."

Friedan deplored the roles she said men and women play in marriage: "If he were not playing masculine, there might be a danger that he would be more feminine than she in ways we have been taught to believe are feminine. So he plays more and more at being a great big machismo. She ... plays more and more at being passive and accepting. And they take it out on each other in bed and out."

The "crisis in the family" results, Friedan said, in women's isolation and children suffering "paternal deprivation." Her proposed solutions included new living arrangements, changes in work patterns, child care centers, shared housework, and reform in marriage and divorce laws.

Friedan sympathized with what she "guessed" were women's problems at Harvard Law School. She conjectured that many women at the Law School were "self-conscious" in classes and that they adopted various attitudes such as "becoming a mouse, or becoming a

bitchy career type, or coming out of each class with a headache and an I.Q. 20 points lower."

Despite the "fact that women have always been the last hired, and the first fired," Friedan said, "there is no kitchen for 35 million women to come home to anymore."

The well-known feminist characterized the woman's movement today as "at a juncture." "The enemy has been engaged," she said. "Doors have been opened. The more subtle conditions must be changed. In order to move to the next stage, we must step back and distinguish between the image of women's lib the media portrays and what I think is the reality."



Chuck Maurer

Feminine mystiquist Betty Friedan

And to do so, she added, women should not be viewed in isolation, but rather in relationship to men. According to her, the "sexual politics" which "says make yourself as ugly as possible" is a denial of woman's "personhood." Therefore, she argued, while the conditions which have made motherhood the "only" alternative for a woman must be changed, motherhood and marriage should not be made the "scapegoat of what is really a more general condition."

Friedan believes the women's movement can liberate men from "a rat race that's impossible to win" and thereby increase the "possibility of love." She concluded optimistically, saying "What is getting us through is this fantastic existential

feeling that we are changing history, that we are changing the face of society as no group of women has ever changed it before."

In the question and answer period which followed Friedan's talk, several students picked up the theme of the male perspective on the women's movement. Lucia Fakonas, 2L, commented, "We've left out the process of educating men. A lot of men at this school are very confused about how they're supposed to act." Friedan responded that one remedy might be "consciousness raising groups" for men and women. Another might be Sweden's policy of "breaking down" traditional sex roles in early education, she said.

Another woman law student observed that there is "a basic political problem" in full equality in employment: "If Harvard Law School admitted 50 per cent women, that means there would be 35 per cent fewer men. I don't think we can expect men to like that." Friedan then asked, "So what are you going to do? Go to bed until the revolution comes, and what's worse, go to bed alone?"

In response to another student, who asked whether she supported the "capitalist system," Friedan said that although in her youth she thought socialism would bring about full equality for women, she now believes that "Words, whether this system or that system, don't make a difference." Actions, she implied, do.

Leg. Journal to Publish Article by Sam Ervin

Senator Sam J. Ervin '22 will discuss the "newsman's privilege" in a rather lengthy article to be published in the next issue of the *Harvard Journal on Legislation*. The issue is expected to appear at the end of March.

The North Carolina Democrat's contribution, "In Pursuit of a Press Privilege," will be one of several major articles in the Journal's second special review of Congress issue. The "review of Congress" concept is intended to provide for a single session of Congress the same type of detailed analysis of leading questions now provided for terms of the Supreme Court by the *Harvard Law Review*.

E. Joseph Dean, 3L, president of the *Journal*, described Ervin's article as a "process piece" which will identify the concept of press privilege and trace "where it went" during the first session of the 93rd Congress. Dean said Ervin supports the recognition of a qualified privilege based on constitutional grounds and opposes the adoption of a purely statutory protection.

Although contributions from political figures are not routinely found in the Journal's pages, Dean said that in the past Senators have written articles for the publication, mentioning as an example a piece by Indiana's Birch Bayh five years ago. He also cited hopes that

Senator Henry Jackson will contribute a future article concerning his proposed federal land use planning legislation.

Asked if the *Journal* would be looking actively for opinion opposing the views expressed in Ervin's essay, Dean said "no." He said that the *Journal* had not directly solicited the Senator's contribution, and that his offer was probably the result of informal staff contacts in Washington.

Ervin's article will include an analysis of a number of historically important cases in the area of press privilege, beginning in the 18th century. It also contains some thoughts on the reasons behind the recent increase in controversy in this area. According to Dean, the article includes reflections on the problems associated with the Vietnam war and opposition to it, and those connected with the relationship of the press to radical groups such as the Black Panthers.

Even before the advent of Watergate, Ervin had achieved widespread recognition as an expositor of constitutional principles. He is most widely known for his interest in individual privacy, his investigations of permissible limitations on executive power, and his opposition to federal civil rights legislation.

Jessup Finals: 5 1Ls Selected To Participate

Five 1Ls have been selected to represent Harvard Law School in the Philip C. Jessup International Law Moot Court Competition. The five, who successfully emerged from the second round of the intramural elimination competition are: Greyson L. Bryan, Hanson Y. Huang, Peter M. Olson, and Ralph B. Palmer, with Howard O. Boltz on the brief.

The annual competition is sponsored by the Association of Student International Law Societies, the student branch of the American Society of International Law. The HLS team will face other Northeastern schools in the regional round of the competition at Boston College March 8-9, with the winner going to Washington D.C. to represent the region in the national round. This year 80 schools in the nation are participating to select the school which will then face the winner of the foreign competition, in which 12 countries are participating.

The moot court problem concerns the law of the sea, which is the subject of the United Nations sponsored Law of the Sea Conference to be held in Caracas this summer. Specifically, the problem concerns deep sea mining, but the underlying issues include broader topics such as ownership of the world's oceans and the resources in and under it.

The final round at the Law School to choose the three oralists will take place Monday, February 25.

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Lowenstein Blasts Nixon and GOP Moderates

By Ricardo Hinojosa

"The state the country is in today is obvious. No one needs to recite it." So stated former Democratic New York Congressman Allard Lowenstein to a crowd of about 50 people at the Harvard Business School last Monday.

Lowenstein spoke on the subject of "Wallowing out of Watergate" at a talk sponsored by the Harvard Business School Debating Society and the Harvard Law School Forum.

The former President of Americans For Democratic Action harshly criticized liberal and moderate Republicans. Lowenstein, who is a possible Democratic candidate for United States Senator in New York, was particularly critical of Republican Senator Jacob Javits, his potential opponent. He stated that political courage in this country, "is not in the liberal or moderate wing of the Republican Party" since its members refuse to publicly criticize President Nixon.

Lowenstein was also highly critical of President Nixon and mentioned as potential grounds for his impeachment the "secret bombing" of Laos and Cambodia, the "milk fund", and corporate contributions to the President's re-election. He said, "pick any corporation in any field and see what was being done to extort money from those corporations" during the campaign.

He continued by asking his audience to "understand the sabotaging of what we thought were free elections." Lowenstein, who presently serves as New York's Democratic National Committeeman, concluded this is the result when the "President of the United States decides to use his office to screw his political opponents." He remarked that if the President were allowed to stay in office under such circumstances "there is no limit to what politicians can do."

Republicans were advised by the liberal former Congressman to "be out with their banners demanding the impeachment of President Nixon." He expressed the view that the only way the

President can be cleared of the charges leveled against him is through a trial by the Senate after impeachment by the House of Representatives.

Lowenstein stated that President Nixon's removal "would not be sufficient" to cure the country's present problems. Yet, he said "the opportunities in the United States to solve its problems are the greatest they have ever been."

"The mood is not one for despair, but outrage and commitment," he continued. He hoped there would be commitment not only to change Presidential leadership but also leadership at other levels. Once again, Lowenstein singled out Senator Javits as an example where a change of leadership is needed.

Lowenstein concluded his remarks by stating that the "United States in 1974 is a very different country than we ever thought it would be" but that state "isn't what America has to be." Harvard, he said is a place with great influence and the degree to which that influence is used in the 1974 and 1976 elections will play a significant role on what the lives of Americans will be like in the future.

After his remarks Lowenstein answered questions from the audience, while munching on an apple.

Asked if one should consider the question of the qualifications of the President's successor when deciding the impeachment issue, Lowenstein said that Congress should consider it.

"One would rather have Gerald Ford than someone

whose career has encompassed what the incumbent's has." However, Lowenstein admitted he "would have voted against" Ford's confirmation as Vice-President because he felt President Nixon should not have named a successor to former Vice-President Spiro Agnew. He felt that there should have been a special election in 1974.

Responding to a question about factionalism in the Democratic Party, Lowenstein asserted that the "Democratic Party is less factionalized now than since I have been in it." He said the problem with the Democrats was not factionalism, but the lack of candidates who could inspire people to work for their election.

If Senator Edward M. Kennedy runs for President, "I will be for him," said Lowenstein in response to a question. However, he said he felt he could not urge Kennedy to run for President because there were family considerations that needed to be taken into account and that decision should be made by Senator Kennedy himself.

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ABA Revitalizes Disciplinary Procedures

By Kermit Kubitz

The word disbarment is one familiar to most law students, but few members of the public or even members of the bar have a real understanding of how the process works. The alleged misconduct of many of the attorneys involved in Watergate, however, has brought the subject into focus for both the bar and the public.

The best authority on disbarment at the Law School would seem to be Professor Andrew L. Kaufman, whose course, *The Legal Profession*, "concentrates on difficult problems of professional responsibility."

But Kaufman can only refer to the Clark Commission report of the ABA. Disbarment is not something which receives regular coverage in his course: "Sometimes I get to it and sometimes I don't."

The ABA, initiated the study, headed by former Supreme Court Justice Tom P. Clark, of Problems and Recommendations in Disciplinary Enforcement. That study's report, issued in 1970, is the most pervasive statement of the status of discipline within the legal profession.

The Clark Committee report stated in 1970: "this Committee must report the existence of a scandalous situation that requires the immediate attention of the profession. With few exceptions, the prevailing attitude of lawyers toward disciplinary enforcement ranges from apathy to outright hostility. Disciplinary action is practically nonexistent in many jurisdictions; practices and procedures are antiquated; many disciplinary agencies have little power to take effective steps against malefactors."

Dormitory Council Activities
This Weekend

TGIF - Friday, Feb. 15 4-6 P.M.

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Some of these problems have been alleviated by steps taken since 1970. Said Robert W. Meserve, past president of the American Bar Association and a member of the Clark Committee: "multiple hearings and exhaustive appellate procedures have been substantially reduced" in accordance with committee recommendations to speed disciplinary procedure.

Another problem mentioned by the Clark Committee was the failure of disciplinary action in one jurisdiction to have an effect on the attorney's ability to practice in another.

"The ABA created its national data bank," explained Meserve, "and it has the names of all lawyers who have been disciplined in the United States."

The use of the data bank was explained by Richard J. Vita,

ABA Establishes Attorney Databank

staff attorney of the Massachusetts Bar Association, who works closely with the state Grievance Committee.

"Whatever judicial office had acted would report to the national discipline databank. It issues quarterly reports, which we examine and match against our roles of attorneys," said Vita.

"We take action based upon that prior action." The action taken by the Massachusetts Bar Association, either as a result of an investigation in this state or as a result of another state's disciplinary action is the filing of an information.

The question of the collateral effect of disciplinary action taken by a state court upon an attorney's right to practice in the federal courts is not clear.

"It used to be more automatic than it is now," said Professor Kaufman. "As between the federal system and states, the Supreme Court has told federal courts they should take their own look" at an attorney's conduct, in cases such as *Selling*, 246 U.S. 546 and *Theard*, 354 U.S. 278.

Kaufman also commented upon the lack of uniformity of state disciplinary procedures, stating, "It's like admission. Each state has control over its own procedure."

In Massachusetts, that procedure begins with the filing of a written "application" with the Grievance Committee. About 500 of these formal applications are filed yearly in the state.

There are 14 grievance committees in Massachusetts, appointed by the county and state bar associations. The grievance committee may decide to hold a hearing on the application and, if a hearing is held, may issue a complaint.

Once the complaint issues, there are two courses of action. 1) Private censure by the Bar Association. The censure remains in the records of the state and county bar associations in lieu of further direction action.

2) The committee may recommend to the governing board of the Bar Association the filing of an "information" or pleading with the clerk of court, in the case of Boston, the Suffolk County Court.

The information is a request to the court to take disciplinary action. It is entered and docketed for trial.

Vita estimates that approximately 20 of these informations are filed per year, and that in the majority of cases, they result in the Supreme Judicial Court disciplining the attorney involved.

(Continued on Page 15)



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Eager Degnan Distinguishes C

By Bruce Kuehne

A casual observer would never guess that he's a member of the faculty. His plodding step is neither aggressive nor pretentious. His baggy trousers and short-sleeve white shirt, open at the collar, portray no sartorial distinction. His speech is plain and direct. He neither evades questions nor challenges remarks.

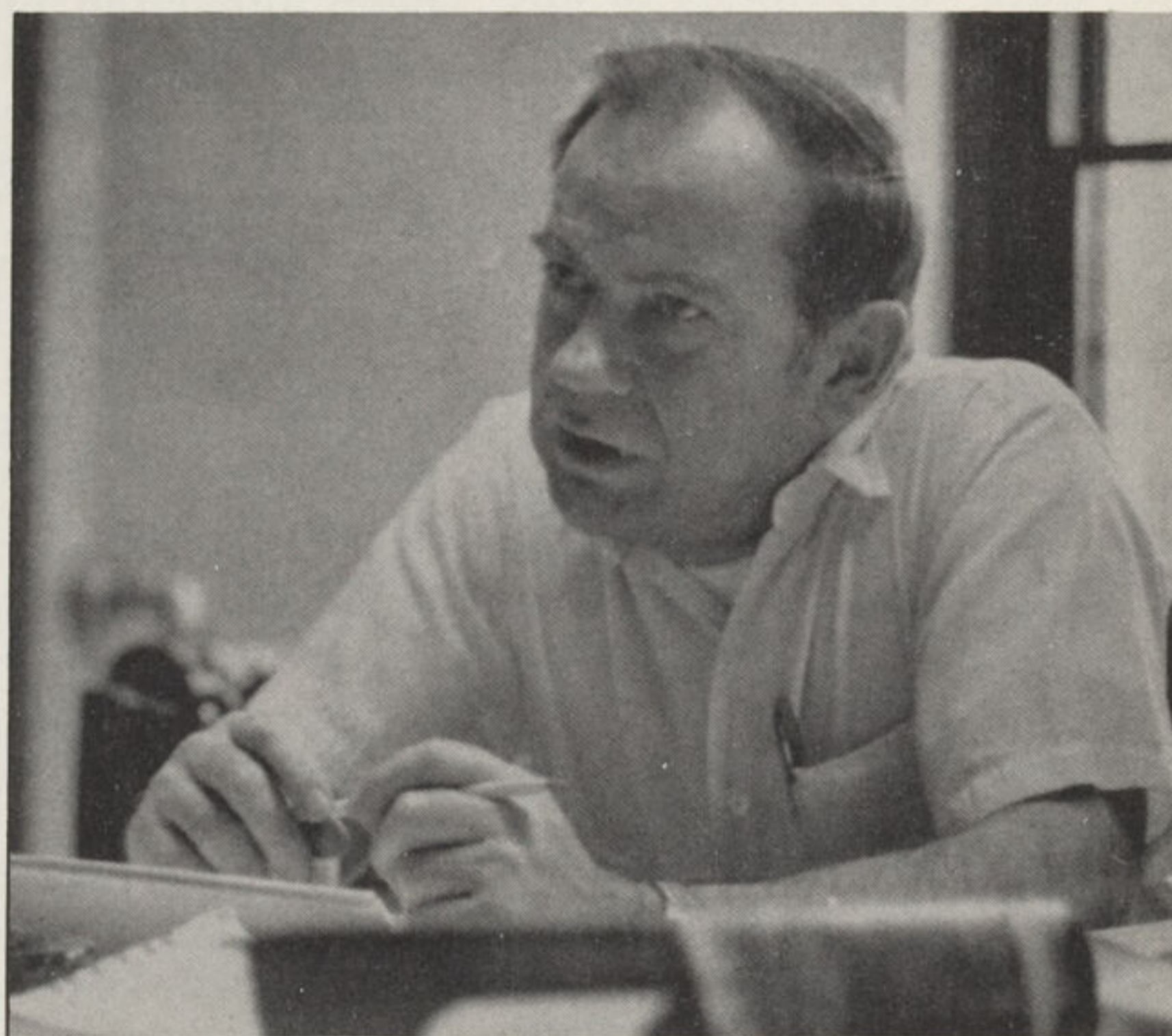
But Visiting Professor Ronan E. Degnan's plainness subtly camouflages his special contribution to the School: he is enthusiastic about his job. He likes to teach law. And his interest in his subject is contagious. You can't help but be interested in a legal problem when you're discussing it with Ronan Degnan.

Degnan comes to Harvard from Boalt Hall, the law school of the University of California at Berkeley. He received his B.S.L. and his L.L.B. degrees from the University of Minnesota in 1949 and 1951. He immediately accepted a position as assistant Professor of Law at Drake University and in 1953 moved to a similar post at his alma mater. In 1954 he accepted an associate professorship at the University of Utah and then moved to Berkeley in 1962. Harvard is the eleventh law school at which Degnan has taught, including his years as visiting professor at other schools. During his year at Harvard, Degnan is teaching *Evidence* and *Civil Procedure*, the same courses he teaches at Berkeley.

Like most newcomers to the school, Degnan is overwhelmed by the richness of activity here. "The diversity and variety is more than one person can consume. I'm just sorry that I can't take it all in." Unlike some newcomers, however, Degnan doesn't feel isolated or lost. "I knew some of the faculty from other schools where we'd taught together," he said, "and I didn't have any trouble settling in. I found my office, got my class schedule and key to the faculty library and it was like being in any law school anywhere. This university is perhaps forbidding to some, more distant perhaps. But I think that is simply a function of its size. Some people like the anonymity, some can't stand it. For myself, my relations with the people here, especially with the students, have been very warm, friendly and personal."

Degnan credits his students with making his stay thus far rewarding. "It's not that they're smart. I always expect my students to be smart wherever I am. But the interest and enthusiasm which these people bring to the class, I find very rewarding."

Degnan denies the existence of any Harvard mystique. He finds the attitudes of the faculty, the students and others at Harvard very similar to those he has encountered elsewhere. "There's no doubt about it, Harvard is a superior school. The quality of the faculty, and of the students is very high. But different, no, Harvard's not different. If there is something extraordinary about the school, it may be the administrative staff. It's superb. If you walk into the Registrar's office, or



Visiting Professor Ronan E. Degnan

the Dean's office, even during very hectic times, you always find that the students are treated as individuals. The anonymity disappears, people are treated as people. Even the faculty is treated as if they were human beings. I find it quite impressive."

Degnan decided to go into the teaching profession at a relatively early stage. "When I was a second-year law student, I decided that teaching law was a most admirable calling. Perhaps it was because I held my teachers of the time in such high esteem. Unlike some people, I didn't give up a lot of money to enter the profession. Then too, I don't need a lot of money."

"Aside from the admiration I had for my own professors, however, I felt that the teaching of law was great in itself. It allows you to think about the problems that you think are important, rather than those which trouble your client at any particular moment. It requires you to be in constant and close association with bright and eager students. Sometimes these students are overconfident, but they are nonetheless mature people themselves. The exchange is very satisfying. The thrill of communicating with a good class never diminishes. The material never gets stale. I've read *Erie v. Tompkins* at least 500 times, yet I look forward to considering the case with each class. It's different each time because the students always approach it differently."

Degnan sees his job as one of trying to get the student to ask his own questions. "We have a library full of answers. They change with time and place. But the problems are always the same. The most important capacity any student must develop is the ability to frame his questions. If we can ask the right questions, then there's usually a workable answer in our mass of books. We won't have much trouble finding it."

"But I think that we in the law teaching profes-

esCase and Socratic Methods

sion have made a fundamental error in the way we get the students to frame their questions. What we've done is confuse the Socratic method with the case method. I firmly believe in the Socratic method, but I think we've gone too far on the case method."

"The Socratic method, it seems to me, is nearly indispensable to a worthwhile communication between the students and the teacher. Students have told me that they were tired of the Socratic method, but when I've avoided using it, they're no less determined to drive at the underlying problems, and they themselves force the class back into asking basic questions."

"What they mean when they say that they're tired of the Socratic method is that they are tired of reading cases. We have casebooks which are full of what really amounts to illustrations of problems. Many of these cases take too long to read for the value of what they contain. The problems could be much more briefly illustrated, leaving more time to think about them."

"This seems especially true when you consider that first-year students have achieved about 90 per cent of their proficiency in reading cases by the end of the first semester. After that, I think we waste too much time and energy reading and insufficient time thinking and questioning."

"Our worst mistake, though, is in thinking that the case and the Socratic methods are the same, or that they are inseparable. What starts as an exercise necessary to train the student to read cases becomes a habit. Because lawyers do case analysis well, they tend to overdo it."

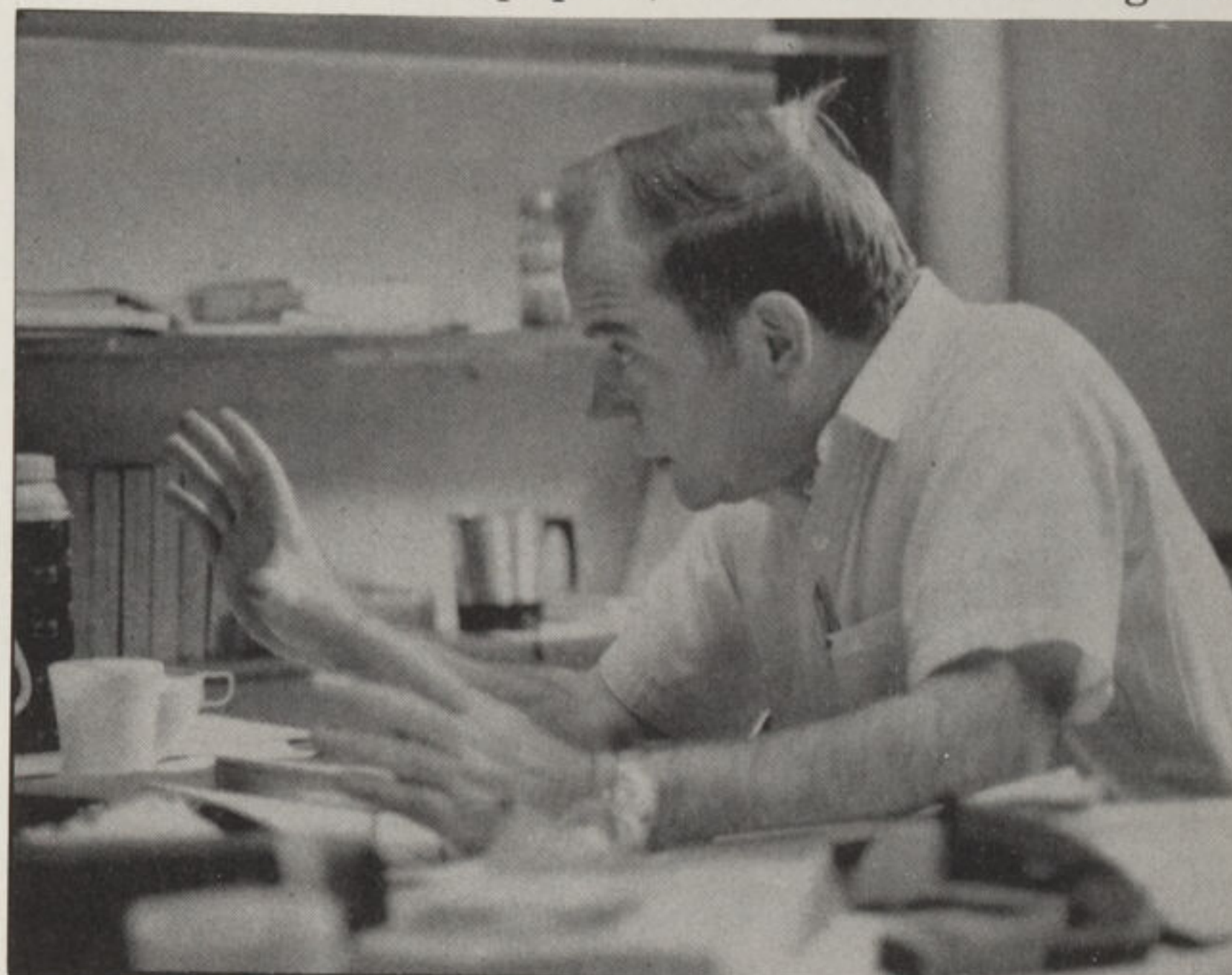
By contrast with the cases which are merely illustrative, Degnan sees certain cases as seminal "wellsprings" of law. These represent instances where the Socratic method and the case analysis method must draw close together. A close examination of these cases is also a close examination of the underlying problems behind the doctrine. To these cases, any teacher who tries to guide his students' thinking must turn. "When students ask me if they have to know case names for exams, I always say 'no.' But it is hard for me to imagine that they could forget a case like *Erie* or *Palsgraf*."

Degnan claims that students have "changed violently" in the 23 years since he's been teaching. "They've swung from one extreme to the other and back again. Right now, I sense that students are extremely conservative compared to those I taught four or five years ago. I don't mean that in a political sense. They're not what you call conservative politically. Neither are they apathetic. But it does seem to me that students of today are more interested in learning how the system we have functions than in changing it without caring how it works."

The shift in student attitude sometimes creates a "cleavage" for Degnan, who describes himself as "somewhat conservative." Since the students aren't

nearly so willing now to take extreme positions, I as a teacher often have to resort to doing that myself. I wind up arguing the side that I don't really advocate. But I don't have trouble doing that. I believe in the adversary system and I don't see anything at all inconsistent in strenuously defending a position which is not my own. I think the adversary system works well, but that is not to say that it can't stand a lot of change. Hearing both sides of the argument is essential to wise alterations.

Degnan is not all optimism and grace. In his mind the law teaching profession has a single overweening defect. It's one he has never been able to adjust to in his long career. "We teachers still have to grade each of our examination papers, rather than allowing stu-



Degnan: Enthusiastic Law Teacher

dent readers to do it for us. Some of the papers I've read are excellent. I don't think I've read a bad examination yet. But we can only stand so much; everyone has his threshold of boredom."

Boudin Argues Today

A mock oral argument of *Secretary of the Navy v. Avrech* will be held today at 1:30 p.m. in the Ames Courtroom. The case involves a Marine private, who was punished for publishing anti-war pamphlets while he was stationed in South Vietnam. Avrech challenged his military court conviction, which was based on Article 134 of the Uniform Code of Military Justice (UCMJ), in federal court. The Court of Appeals for the D. C. Circuit has struck down the UCMJ Article as being vague and over-broad. The case will be heard by the United States Supreme Court on February 20.

Arguing in the mock presentation are Dorian Bowman, who has represented Avrech, and Leonard Boudin, who will present the government's side. The mock arguments will be held before a panel of Law School professors—Paul M. Bator, Vern Countryman, and Laurence H. Tribe.

Curses, Pass/Failed Again

Associate Dean Paul M. Bator said last September that "it would be desirable to have the pass/fail matter rest now for several years." Despite this "optimism" on the Associate Dean's part, action by the Board of Student Advisers and members of the first-year class forced an early reconsideration of the faculty's action.

We think that history will repeat itself as the consequences of the recent faculty meeting became known. Some members of the faculty candidly stated that they voted against optional pass/fail in order to speed the day when mandatory pass/fail for the first-year would be considered and approved by the faculty.

The faculty's action also seemed more symbolic than real, since Dean Albert M. Sacks indicated that he intended to investigate achieving the goal of pass/fail — suppression of first-year grades — by alternative means: allowing students to obtain transcripts of only their second- and third-year grades.

The symbolic effect seems to be the essence of the faculty action, and an aspect of the vote that was overlooked in the professors' discussion. Many faculty members were concerned about the ideology that ratifying pass/fail would communicate to the outside world. But few wondered what the rejection of pass/fail would communicate to students. The merits of pass/fail as a device for enriching or eroding the educational experience aside, many students, and not those in the first-year class alone, must feel that this negative vote by the teachers of this School is a reinforcement of a philosophy of education which many students abhor — mandatory competition among all students.

The lines of communication between the students and the faculty have always been slim and in danger of breaking. While the administration attempts to improve the sense of community at the Law School by installing 1500 pigeonholes in the basement of Langdell, the faculty ignored a petition in favor of optional pass/fail signed by over 400 members of the first-year class.

The opportunity for student-faculty dialogue that existed during the recent meeting is one that is rare, indeed, for most meetings are attended by only five students who have no opportunity to speak.

Thus the impression usually made by faculty action is that the administration gives, and the students take. Perhaps many professors would object to that characterization of student-faculty relationships, but there are others on the Law School faculty for whom that is the ordained scheme of nature.

Patrick A. Shea, 2L, one of the two student speakers, made the suggestion that there had been insufficient faculty contact with students who had taken pass/fail. Perhaps if such communication had been the basis of the decision, rather than flimsy statistics, the vote would have turned out differently.

As a result of the faculty's action, however, within a few years there will be no opportunity for such contact, for no one then at the Law School will remember pass/fail.

Fenno

"You don't look very happy," Fenno said as the 1L sat down at his table.

"The Ames pairings are out for first-year students," the 1L sighed, assuming an expression even more morose than the one Fenno had commented on.

Fenno tried to be consoling. "That is a depressing prospect," he acknowledged. "But it doesn't last forever. And look on the bright side: it may be your last chance in your career here to see the inside of the library."

"Oh, I'm not unhappy about doing Ames," the 1L responded, nearly causing Fenno to drop the legal beverage he was sipping. "It's just that we got our second choice."

"Choice?" Fenno asked, his elaborate sense of the order prevailing in that part of the universe occupied by the Harvard Law School suddenly threatened. "In Ames?"

"Mm hmm." The 1L's nonchalance was shocking. "Everyone got to put down three areas, and people were assigned to topics by choice, with random selection if too many people chose the same area."

Fenno had nearly recovered. "Which topic did you get?" he asked.

The 1L shook his head. "Nuisance and Employment Discrimination: 20th and 22nd Amendments," he answered.

"That *doesn't* sound like the most exciting subject in the world," Fenno allowed.

"It isn't too likely to turn up on a final exam, either," the 1L observed bitterly.

"On the other hand," Fenno said, "if you're so down on it, why did you name it at all?"

"Well," the 1L began with elaborate hesitation, "I figured if I put an unpopular topic as my second choice, and my second preferred topic as my first choice, I'd increase my chances of getting my third choice, which was my real first choice."

"I see," Fenno said, which was not true. "But it didn't work out that way?"

The 1L shook his head. "No. My first choice should have been my non-choice, and my second choice should have been my real first choice. That way, I would have been sure of getting either it or my last choice, which would have been my real second choice."

Fenno found this recital strangely reassuring: the doubts which had been engendered by the 1L's suggestion that HLS was actually going to allow students to choose their Ames cases were beginning to diminish.

"It's funny," the 1L said reflectively. "I've talked to a dozen first-year students, and none of them got their first choice."

"Yes," Fenno said, the doubts gone altogether, "that is funny."

HARVARD LAW RECORD

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Letters to the Editor of The Record

Impeachment Call 'Wrong and Unfair'

To the Editor:

Those who call for impeachment or resignation of the President are both wrong and unfair. They have prejudged the matter before competent evidence has ever been presented to a Congressional Committee that is charged with the duty to determine whether or not grounds for impeachment lie. Why should any man undergo the ordeal and expense and time of trial merely because numerous persons make irresponsible charges? Despite millions of words, thousands of articles, and hundreds of hours on television, and dozens of witnesses, not one iota of competent evidence has been produced to substantiate any criminal activity by our President.

It is also unfair to analogize a grand jury indictment to the impeachment process, it ignored not only the bias of the media but also the bias of the "grand jurors," the House members. A substantial number of these "grand jurors" have already reached opinions, have submitted bills of impeachment and have made speeches. And these are the men who should start with open minds, hear both sides, and reach a fair conclusion? Surely one would object to a grand jury, several of whose members had already publicly announced their conclusions and intentions to vote to return an indictment. Yet such is the case with numerous House members, almost all of whom were McGovern supporters.

In the end, the question is not one of separating the roles of the House and Senate in the impeachment process, for that is a "cop out." It is rather one of whether a person believes there has been enough competent evidence to justify the ordeal of a groundless trial on the charges already brought by the media and self-serving politicians. I offer that the lack of any such solid evidence is the most amazing aspect of the entire situation. The lack of fairness, guilt by association, innuendo, rumor and repetitious but groundless charges will go down in history as a classic example of mass hysteria and injustice.

Thomas W. Pearlman '52
Secretary of National Citizens'
Committee for Fairness to
the Presidency
Providence, R.I.

'We are not fragile flowers'

To the Editor:

As a product of the "good old days" when only 5% of the members of a Harvard Law

School class were women — way back in the era of Dean Griswold's famous dinners for entering women students when post-dinner entertainment required that each woman justify her presence at the Law School — I feel qualified to comment on the remarks of Assistant Dean Williams reported in your December 7, 1973 issue.

I beg to take issue with Dean Williams' statement that:

"It may be that Harvard's reputation of producing high-powered corporation lawyers discourages some women applicants, but we are trying to explain that aspect of Harvard's reputation and encourage women applicants...."

Dean Williams, with all respect, we are not fragile flowers who must be coaxed into the Law School by assurances of a low-keyed life. The recruitment effort made towards women should be virtually identical with that made towards men: that Harvard Law School is the place to have one's mind honed into a fine tool capable of dealing with any legal problem. The only additional reassurance which women applicants require is that their equality will be recognized at the Law School.

The mentality behind Dean Williams' statement is identical with that which, not too many years ago, regularly prompted male interviewers for law firms to note that a woman's place in law — if any — is dealing with widows and orphans in the trusts and estates field. (Parenthetically, I must note that I do not intend in any way to denigrate the practice of trusts and estates law by those of either sex who enjoy and excel at it, but merely to protest the old assumption that this was all that a woman could do.)

I would appreciate Dean Williams' response to my comments.

Linda R. Blumkin '67, LL.M. '73
New York City

BU Dean Sets RECORD Straight

To the Editor:

The percentage of women in the first year class at Boston University Law School is 28%, and not 23% as reported in your December 7 number. I report this not by way of taking a bow (or even a curtsy) — our process is and will remain sex-blind — but simply to set the RECORD straight.

Nancy Halliday Ely
Dean of Admissions
Boston University Law School

The World Tree— Looking Upward

To the Editor:

The beautiful photograph of Lippold's World Tree that appears on page 8 of the RECORD (November 30, 1973), is, according to architect Benjamin Thompson, the view of the World Tree that the viewer was originally intended to see. Mr. Thompson worked with Gropius on the design of the graduate center. He tells me that the sculpture was originally supposed to be mounted on a tall pedestal, affording the view of the sculpture that appears in the RECORD photograph.

Incidentally, the World Tree was Mr. Lippold's first commission. The commission was awarded to him by Gropius. For both of these reasons he has an especially warm interest in the work. He returned to the Harkness quadrangle this spring to look at the sculpture and to make suggestions to the University for its care and preservation.

William L. Bruce
Vice Dean

Law Notes

The following people have been elected officers of the Board of Student Advisers for 1974: Henry B. Gutman, Chairperson; Connie J. Sipe, Vice Chairperson; and Evelyn A. Lewis, Michael L. Fay and Debbie Levin, directors. All of those elected are 2Ls.

* * *

The Dormitory Council elected the following officers on Monday: President, Andrew P. Geoghegan 2L; Vice-President, Mary F. Gibbons 1L; Secretary, Henry C. Kollenberg 1L; Treasurer, Lucia A. Fakonas, 2L; and Comptroller, Douglas L. Miller 2L.

* * *

Robert Allen, a captain on the San Jose, California police department, will speak today at 3 o'clock on, "The Mixed Record of Public Employment Civil Rights Litigation." The presentation will occur on the fifth floor of the Pound Building.

Allen is a 1973-74 Fellow with the Center for Criminal Justice. His talk will be part of a series of CCJ presentations under the heading, "Criminal Justice from the Operations Perspective."

* * *

Theodore W. Striggles, '67, performed with James Cunningham's Acme Dance Theatre in the premiere of Dancing with Maisie Paddock at the Spingold Theater, Brandeis University Saturday.

Faculty Rejects Bid To Restore P/F Option

(Continued from Page 1)

"It's not a question of paternalism; it's just a question of telling the truth."

Richard Ziegler, 3L, a member of the Board of Student Advisers, began the meeting, citing three justifications for faculty reconsideration of the pass/fail option:

- Last year's May 31 faculty vote to end the option occurred in the context of the overall proposals for grading reform by the Committee on the First Year and Related Matters. The principal recommendation of that committee — mandatory pass/fail during the first semester of law school — was also rejected last May.

'It's not a question of paternalism; it's just a question of telling the truth.'

- The presence of widespread confusion among students and some faculty members regarding the grading system. Also, he said, "The appearance of justice is as important as the existence of justice itself."

- Res judicata shouldn't apply, since acceptance of this argument would preclude further discussion of pass/fail.

Professor Jerome A. Cohen, chairman of the Committee on the First Year and Related Matters, disagreed with Ziegler's first point, arguing that the committee had "carefully considered" the pass/fail option last year before rejecting it. He also said that the committee had recognized the problem of tension felt by many first-year students, but felt that its possible advantage in reducing tension was outweighed by its detrimental effect on educational policy.

According to Cohen, the semes-

terization of *Criminal Law* and *Torts* during the 1972-73 academic year played a more important role than the pass/fail option in reducing tension.

Associate Dean Paul M. Bator, another member of the Cohen committee, spoke out strongly against the pass/fail option. Citing statistics used by the Cohen committee which he said could not be made public, Bator concluded that the option led first-year students choosing pass/fail to underperform during their first year of law school. Students who had chosen pass/fail fared below average during their first year, but did average work during their second year, when they did not have the pass/fail option, Bator stated.

Jamienne S. Studley, 2L, a student representative of the Law School Council, reacted angrily to Bator's assertion that students choosing the pass/fail option "underperform." She said that such students work as hard as those choosing the traditional nine category grading system, and that she knew several people on the *Harvard Law Review* who had chosen pass/fail.

Professor Laurence H. Tribe, another member of the Cohen committee, also criticized Bator's use of statistics. Earlier, however, Tribe announced his intention to vote against the proposal to restore the pass/fail option. He said he believed that it would be a mere curricular palliative which would reduce pressures for adoption of mandatory pass/fail, which he said he favored.

Professor Duncan M. Kennedy, also a proponent of mandatory pass/fail, took a position different from that of Tribe. He said he would vote for the restoration of the pass/fail option because he believed it would contribute to the ultimate adoption of mandatory pass/fail.

The pass/fail option was also favored by Professor Alan M. Dershowitz, but on different grounds. Dershowitz said he was opposed to the adoption of

(Continued on Page 15)

Sports Quiz: Who Played Second Fiddle?

1. Who was the famous athletic personality who was the quarterback in the Michigan backfield with Tom Harmon?

2. Who did Bill Russell replace at center for the Celtics?

3. Billie Jean King, aside from being a great singles and doubles player, is a dominant mixed doubles player. Name her regular partner with whom she won the 1973 Wimbledon title?

4. Who played third base in the Tinkers to Evers to Chance infield?

5. This man had apparently won the Masters until he signed an incorrect scorecard. Name him.

6. Who played the end opposite Don Hutson on the Alabama football team?

7. Who was blocking back for Mercury Morris when he was the NCAA rushing champion?

8. Lou Gerhig holds the record for consecutive games played, 2,130. Who was the regular Yankee first baseman who came down with a cold and enabled Gerhig to start the streak?

9. Who holds the record for most home runs in a single season in the National League?

10. What present U.S. Congressman was the medal winning number two sprinter behind Jesse Owens on the 1936 U.S. Olympic team?

Questions supplied by the HLS Sports Trivia Society.

(Answers on Page 16)

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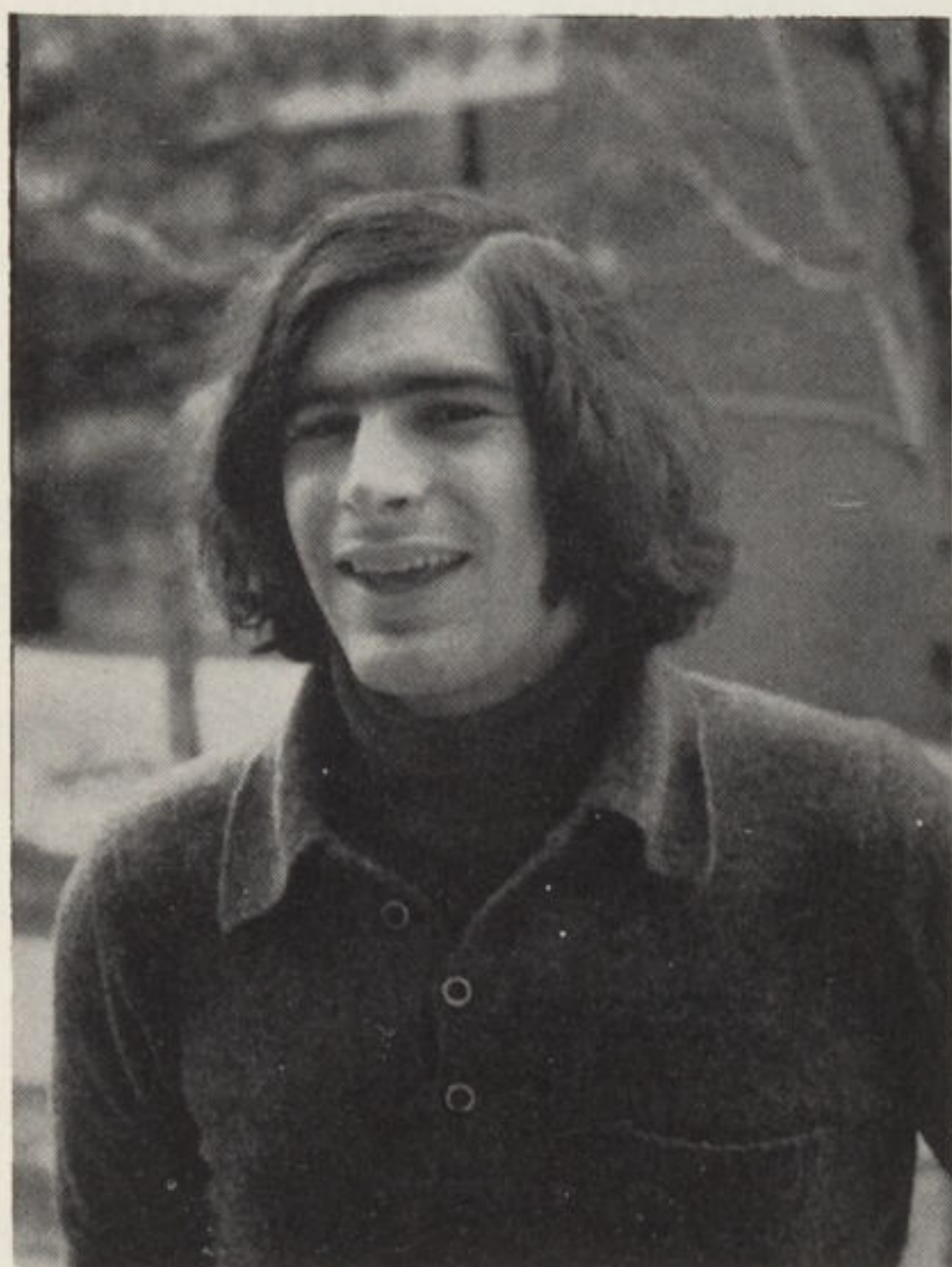
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Freak-Out Friends Face Finale

By Frank Sisson

Two and a half years ago was born an organization known as the "Freaked-Out Friends" — the result of efforts of a few of the more alienated 1L's to combine talents. Now, as their "paper chase" nears its home stretch, the philosophy of the more staunch "Friends" seems to have been successfully maintained against five semesters of Harvard Law School living.

Jeremy D. Fogel, 3L was one of the core group which organized the "Friends;" he and five or six others met the night after registration of their first year. "Fogel who graduated from Stanford, stated:



Jeremy D. Fogel, 3L

"All of us came out of some type of student political background." The core group put out a leaflet, circulated among the 1L sections, which sought to bring together those who felt "alienated from the law school or left-out in it." Preliminary meetings, largely for general discussion, drew up to 50 people.

"When we started," commented Fogel, "we didn't have any conception of it being permanent, we just wanted to have some way of getting people who vaguely saw things the same way in touch with each other and to break the isolation down."

Feeling a need "to stick together to fight the institution," the "Friends" was active for the first

month of the semester. A demonstration was planned around an upcoming appearance of then Attorney-General John Mitchell at Northeastern, but was sacked when Mitchell failed to arrive.

"One of the things we talked about was whether to organize around law school issues or to be active in the community. There was a split of sentiment on that. I felt more like relating to community issues in which law was involved. Others wanted to relate to pass/fail and things like that." Yet Fogel believed that the main purpose of the organization had been served simply in getting the "Friends" together.

The organization continued less formally in a social vein — members remained friends and looked to each other for psychological support, but became more involved in other activities not inconsistent with the "Friends" philosophy.

Fogel and a few other "Friends" devoted part of their efforts to the *Outlaw*, which had begun the year before. The underground paper was a four or eight page student-written effort distributed free and financed by solicited contributions. Articles dealt with such topics as the Deer Island Prison, sexism, white collar crime, and economic analysis of law firms. The *Outlaw* appeared Vogel's first and second year, once or twice per year, but has not been put out this year. Fogel commented, it "conceivably might — we have all of the copy of an issue written; we just have to sit down and do it."

Members of the "Friends" took part in the Indochina demonstrations that occurred in the spring of Fogel's first year. Of the 50 who had expressed early interest in the group, only 25 could by that time be considered true "Friends." An effort to attract 1Ls to the group the next fall was basically unsuccessful, though 20 1Ls attended an organizational meeting. The 2L "Friends" had less time to spend organizing within the law school, being tied up with other activities; Fogel added that "people were more into working."

Fogel commented that his sec-

ond year reflected this changed attitude toward coursework. As a 1L "I couldn't do anything and feel good about it; I just didn't know why I was doing things." By the second year, "I reached a conclusion that it was okay to take my work half-seriously and not feel bad."

One factor in this change in attitude, which appeared as well in most of his "Friend" friends, was the *Lawyering Process* course which he and other "Friends" took in their second year. Fogel stated, "For most people it was a real positive experience. It was a little bit less alienating to be doing something that was actually doing things for people." Like other "Friends" Fogel still put as much as he could of his effort outside of the Law School, working on mental health issues and for the counseling center. The Lawyer's Guild, the Law Commune, and prisoners rights attracted the attention of other "Friends."

A few "Friends" will not be graduating this year. John R. Muenster, 2L, who hopes to eventually work in a law collective organization with efforts directed toward political cases and reform of the criminal justice cases, spent the year after his 1L exams away from the law school. Thomas L. Tosdale, 2L, similarly took the year off to aid in the Ellsberg trial. Muenster commented "the *Paper Chase* was an accurate depiction of the hyper quasi-neurotic snakepit situation that tends to occur in 1L classrooms."

But for Fogel, the feeling of nearing the end "makes the whole question of what happens at the law school seem kind of irrelevant." Fogel plans to devote his efforts next year to the mine workers or toward the California public defenders' office.

While the "Freaked-Out Friends" have ceased to exist as a formal organization, their ideals — those of the leaders of the late 1960's college radicalism movement — appear to have withstood erosion from the waves of Harvard education and will be seen next year in the legal profession.

63 3Ls to Take Clerkship Jobs

(Continued from Page 1)

Burbank, who received the Fay Diploma, resigned from the Review in September, 1971 because "I had other things that I wanted to do."

Wright, who participated in a joint degree program with the Kennedy School of Government, also holds a Master of Public Policy degree.

Nelson is now clerking for Judge Malcolm R. Wilkey and Wright for Judge Harold Leventhal, both of the United States Court of Appeals for the District of Columbia Circuit. Perluss is clerking for Judge Shirley M. Hufstедler of the Ninth Circuit Court of Appeals. Burbank is now clerking to Justice Robert Braucher of the Massachusetts Supreme Judicial Court.

Of the 64 others, 22 will work for federal Courts of Appeals, 24 for lower federal courts, 16 for state courts, one for the District of Columbia, and one for American Samoa. Only seven courts attracted more than two clerks: the Second Circuit (with its center in New York) with six, the District of Columbia Circuit and Southern District of New York (which includes Manhattan) with five each, the United States Supreme Court, the First Circuit (with its center in Boston) and the Massachusetts Supreme Judicial Court with four each, and the Eastern District of New York (which includes Brooklyn) with three.

The list of clerks follows, arranged by court and judge. All are third-year students, unless otherwise indicated.

United States Courts of Appeals:

District of Columbia Circuit: Daniel Segal '73, *Chief Judge David L. Bazelon*; Steven S. Rosenthal, *Judge Malcolm R. Wilkey*; David C. Patterson, *Judge Carl McGowan*; Ronald A. Stern, *Judge Harold Leventhal*; Barry S. Simon, *Judge J. Skelly Wright*.

1st Circuit: John C. Sims, *Chief Judge Frank M. Coffin*; E. Joseph Dean, *Judge Edward M. McEntee*; Boisfeuillet Jones, Jr., *Judge Levin H. Campbell*; Joel S. Perwin,

Senior Judge Bailey Aldrich.

2nd Circuit: Shalom L. Kohn and John L. Garvey, *Chief Judge Irving R. Kaufman*; Myron Kirschbaum, *Judge Paul R. Hays*; Gregory K. Palm, *Judge Henry J. Friendly*; Roger L. Cummings, *Senior Judge J. Edward Lumbard*; Timothy C. Sherck, *Judge Walter R. Mansfield*.

3rd Circuit: Thomas M. S. Hemnes, *Judge Francis L. VanDusen*; James E. Tyrrell, *Judge Leonard I. Garth*.

5th Circuit: Jay P. Urwitz, *Judge Irving L. Goldberg*.

8th Circuit: John-Mark Stensvaag, *Judge Gerald W. Heaney*.

9th Circuit: Eldon J. Spencer, *Judge Eugene A. Wright*; James W. Jandacek, *Judge Charles M. Merrill*.

10th Circuit: Steven D. Gordon, *Judge William J. Holloway, Jr.*

United States District Courts:

California, Northern District: Byron S. Georgiou, *Judge Robert F. Peckham*; Edward T. Savage, *Judge Samuel Conti*.

California, Southern District: Gerald P. Lopez, *Chief Judge Edward J. Schwartz*.

Maryland: Neal M. Janey, *Judge Alexander Harvey, II*; Steve Ostrach, *Judge Frank A. Kaufman*.

Massachusetts: Brian A. O'Connell, *Chief Judge Andrew A. Caffrey*.

Minnesota: Robert L. Schnell, *Judge Philip Neville*.

New York, Eastern District: Ronald J. Tabak and Toby R. Hyman, *Judge John F. Dooling, Jr.*; Clifford D. Stromberg, *Judge Orrin G. Judd*.

New York, Southern District: Edwin P. Rutan, II, *Judge Milton Pollack*; Martin Flumenbaum, *Judge Whitman Knapp*; Frederick B. Utley, III, *Judge Inzer B. Wyatt*; Daniel M. Taubman, *Judge Charles E. Stewart, Jr.*; Philip J. Ward, *Judge Marvin E. Frankel*.

Ohio, Northern District: Mark I. Wallach, *Chief Judge Frank J. Battisti*.

Ohio, Southern District: John R. Fisher, *Chief Judge Joseph P. Kinneary*.

Pennsylvania, Middle District: Stephen A. Northup, *Judge William J. Nealon, Jr.*

Utah: James S. Jardine, *Judge Aldon J. Anderson*.

Virginia, Eastern District: Robert C. Randolph, *Judge Robert R. Merhige, Jr.*

Virgin Islands: William L. Neff, *Judge Warren H. Young*.

Washington, Western District: Louis D. Peterson, *Judge Morell E. Sharp*.

5th Circuit: E. Mabry Rogers, *Senior District Judge Seybourn H. Lynne*.

United States Tax Court: Laurence Peters, *Judge Arnold Raum*.

American Samoa High Court: Robert L. Schwartz, *Justice Leslie N. Jochimsen*.

District of Columbia Superior Court: Mary K. Hite, *Judge Theodore Newman*.

State Courts:

Alaska Supreme Court: Douglas K. Mertz, *Chief Justice Jay A. Rabinowitz*; Steven T. Wax, *Justice James M. Fitzgerald*.

California Supreme Court: Stephen L. Yeazell, *Justice Mathew O. Tobriner*.

California Court of Appeal: George J. Ho, *Justice Winslow Christian*.

Delaware Superior Court: Richard H. Morse, *for the court*.

Maine Supreme Court: Peter H. Jacobs, *Justice Sidney W. Wernick*.

Maryland Court of Appeals: Arnold L. Polinger, *Judge Irving A. Levine*.

Massachusetts Supreme Judicial Court: Stephen B. Deutsch, *Justice Benjamin Kaplan*; Donald R. Ware, *Justice Paul C. Reardon*; Jonathan M. Wohl, *Justice Robert Braucher*; Renee D. Chotiner, *Justice Herbert P. Wilkins*.

Massachusetts Appeals Court: Stephen P. Mahinka, *Chief Justice Allan M. Hale*.

Michigan Court of Appeals: Ralph R. Safford, *Judge S. Jerome Bronson*.

New Jersey Supreme Court: Stephen M. Eisdorfer, *Justice Morris Pashman*.

Pennsylvania Superior Court: Paul J. Weiner, *Judge J. Sydney Hoffman*.

Texas Supreme Court: Thomas R. Phillips, *Justice Ruel C. Walker*.

Faculty Rejects Bid to Restore P/F

(Continued from Page 12)

either a mandatory pass/fail or a mandatory grading system. Judging the pass/fail proposal on its merits, he said he would vote for the restoration of the grading option.

Several faculty members said they regarded the issue as "a very close question." Associate Dean David L. Shapiro was among them; he noted that his thinking had been influenced by a December petition signed by 413 1L students favoring the reinstatement of the pass/fail option.

Dean Albert M. Sacks presented his own views at the conclusion of the debate, immediately before the vote was taken. Sacks recalled that he had favored the pass/fail option in 1969 when he had been a member of the Keeton Committee, which initially recommended the optional pass/fail system, and that last year he favored the adoption of the Cohen Committee recommendations for mandatory pass/fail during the first year.

He said, however, that the pass/fail option had in his experience not served to reduce tension, but to the contrary had contributed to tension among first-year students. He agreed with Cohen that semesterization of *Criminal Law and Torts* last year had gone a long way toward reducing tension.

Seventeen per cent of the present 2L class utilized the pass/fail option last year, according to Shea.

After the faculty voted, Sacks said he would investigate the possibility of providing student transcripts with only second and third-year grades.

At the present time, Law School transcripts contain all grades a student has received. Those students who don't wish to receive grades can only do so by requesting that the Law School withhold release of their transcripts to them.

At the beginning of the meeting, Ziegler criticized the transcript withholding alternative. He said that this option was no different from just tearing up an envelope with grades, what one professor termed "the 'Paper Chase' option."

The pass/fail alternative which

the faculty rejected was slightly different in form from the optional pass/fail system which previously existed. The only modification was that the four category system of reporting (high, satisfactory, low, and fail) was omitted.

The faculty vote came after the recommendation to consider the issue by the Committee on Legal Education. The committee, how-

ever, did not take a formal position either favoring or opposing the pass/fail measure.

In its January 30 memorandum to the faculty, the committee recommended that the faculty debate "center upon the merits of the ... proposal as an operating system rather than upon any transitional questions with respect to immediate implementation."

ABA Revises Disbarment Methods

(Continued from Page 7)

The court may take four possible steps. 1) Dismiss the information 2) Publicly censure the attorney 3) Suspend, for a term or indefinitely or 4) Disbar.

Grounds for disbarment are different in each state, but recent examples emphasize that a felony conviction and an income tax evasion conviction are sufficient. One of the criticisms of the Clark report, however, was the many attorneys were able to continue their practice while appealing convictions.

"As a practical matter, the committees would act on a conviction," said Vita about Massachusetts procedures. Appeals, however, are "something on which there isn't a definite policy ... they are handled on a case by case basis." Vita referred to new Supreme Judicial Court rule, 3.01(6) which he said, "would lead me to believe that upon conviction, a proceeding would issue."

As to the promptness of bar actions in disciplinary proceedings, former ABA President Meserve said, "There is a feeling in part of the bar that at times when it can be done without prejudice to the rights of the defendant, prompt disciplinary action should be taken."

Meserve also mentioned that the ABA had, in response to its study of disciplinary enforcement, set up a disciplinary center. The Boston attorney called this, "an attempt to provide a clearing house of legal information and practical procedures for people who voluntarily or as representatives of bar associa-

tions take on the disciplinary function."

The disciplinary function is an example of the bar association's quasi-governmental status, in that in few cases would an attorney ever be disbarred without a recommendation from the organized bar. Thus in Massachusetts, the proposal for an integrated bar would bring even closer coordination between the work of the grievance committees and the duties of the courts.

The status of an attorney who has become physically or mentally incompetent is a grey area in the profession. "Old age without a showing of incompetency would not be a basis for discipline," says the Massachusetts Bar's investigator, but he adds, "If in the course of a matter an attorney is mentally incompetent to continue the practice of law, that would be a basis for the court to take action until his competency is restored."

The steps taken to improve disciplinary enforcement, some national and some local are a response to a crying need, emphasized by the Watergate affair, to restore public confidence in the law and those who practice it.

As the Clark Committee noted in quoting from the report of a state ethics committee, "A good and decent profession has a headache that cries out for fast relief. We have been put on notice repeatedly. We will compound our own cure or someone will mix up a dose which will curl our hair."

'Saints' Still Unbeaten

Standings as of February 2, 1974

A LEAGUE

Saints
Grovenators
Jackson Five
Longballs
Malcontents
Three-Fifths

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Slaughterhouse 5
Son of Manslaughters
Crimson Swine
Five Easy Pieces
Paper Tigers
Swordsmen
Fuck-Ups
Liz Lewicki

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B LEAGUE

Bureaucrats
One Buffalo Won
Frankfurters
Upstarts
Jardine
Nunc Pro Tunc
Too Late Too Soon
Over-The-Hill Gang
Jeff Seder

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Big Ten
Elements of Style
Probate Prowlers
Something Rotten
Beeber's Revisited
Boston Ballet
Screaming Meemies
Love's Labor Lost
Lugosi's Legions
Trashers
Beleaguered E-leaguers
Shrug
None of the Above

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C LEAGUE EQUITY

King's Service Station
Big Blue plus Two
Bucaneers
Little Big Men
A-Mazers
Duck Soup
From and After
Juggernaut
Law School Sucks
Kahouteks

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Short Strokes
Strict Liabilities
Sons of Puto
Iowa All-Stars

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C LEAGUE LAW

Master-Debaters
Roaches
Turkeywimps
Hoops
Justus Blacks
Michael's Misdemeanors
Tort-Teasers
Exhumators
Manuel's Laborers
Rechtswidrigkeits

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Sports Answers

10. Ralph Metcalf (D.-Ill.)
9. Hank Wilson (56)
8. Wally Pipp
7. Duane Thomas
6. Paul "Bear" Bryant
5. Roberto DeVincenzo
4. Harry Steinfield
3. Owen Davidson of Australia.
2. "Easy Ed" MacCauley
1. Forest Evashevski.

Profs Protest Legal Service Bill Provisions

(Continued from Page 2)

without at a minimum restricting the award to cases where the court felt the suit represented an abuse of the legal process, is unwarranted." The faculty letter was initiated Wednesday by Professors Frank E.A. Sander and Gary Bellow and by Lecturer and Judge John C. Cratsley. As of Wednesday afternoon, the following professors had also agreed to sign the letter: Donald T. Trautman, Lloyd L. Weinreb, Paul M. Bator, Frank I. Michelman, and Professor Emeritus Austin W. Scott. Sander, reached at his home Wednesday evening, predicted that 20 to 25 faculty members would ultimately sign the letter. "This is clearly something on which we as law teachers ought to speak," he said, citing law professors' expertise in this area.

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