

HARVARD LAW RECORD

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TWENTY CENTS

CR-CL Group's Position Upheld On Illegitimacy

By Frank E. Sisson

The federal district court for the district of Rhode Island last week upheld the position advocated in an amicus brief filed by the Law School Civil Rights-Civil Liberties Research Committee in a case concerning alleged denial of equal protection to illegitimate dependents, *Lucas v. Secretary of Health, Education and Welfare*.

The controversy arose from the requirement that illegitimate children present evidence or documentation of dependence upon a deceased father to collect Social Security death benefits; legitimate

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Unexplained Faculty Slowdown Delays Distribution of Grades

By Michael Bowen

Most grades for second- and third-year students were distributed nearly a week later than originally scheduled, and some second- and third-year grades have yet to be distributed at all, because numerous members of the faculty failed to adhere to the deadline for the grades' submission, Registrar Mary D. Upton said Tuesday.

A memorandum to the faculty from Dean Albert M. Sacks instructed Law School teachers to submit their grades to the Registrar's office by Monday, February 24, Upton said. If all faculty members had met this requirement, upper class grades could have been distributed as early as Friday, February 28.

Grades for more than a dozen courses were still out on the 24th, however. The Registrar's office waited until the evening of Wednesday, February 26, at which point nine instructors still had not submitted their grades, and then began the process of preparing the grades which had been received for distribution and permanent recording. These marks were distributed Wednesday, March 5. Another distribution will be made within ten days.

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'75 Law School Applications Decline

By Arnold S. Rosenberg

Applications to Harvard Law School have dropped 15% this year below the number received for the present 1L class. Despite the drop, Assistant Dean James N. Bierman feels that the Law School still has an overabundance of qualified applicants from which to select its students.

Bierman attributes the drop, from 7011 last year to 6057 this year, primarily to warnings inserted in the Harvard admissions materials and the *Prelaw Handbook* that applications received after February 1 would probably be rejected. He also notes that raising the application fee from \$25 to \$30 may have deterred some prospective applicants.

The state of the economy also made people less willing to

"take a shot at it," ventured Bierman. However, he doubts that the drop stems from a diminishing interest in, or disenchantment with the legal profession, since the number of people registering with the LSDAS and taking the LSAT has remained stable.

Both Bierman and Russell A. Simpson, Dean of Admissions, cited the increasing difficulty of finding law-related jobs as a factor in the decrease. Many law school graduates are becoming insurance and real estate salesmen, he observed, and Harvard has been frank in explaining these employment problems to potential applicants.

While the decline has not ren-
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HARVARD LAW SCHOOL APPLICATION MATERIALS

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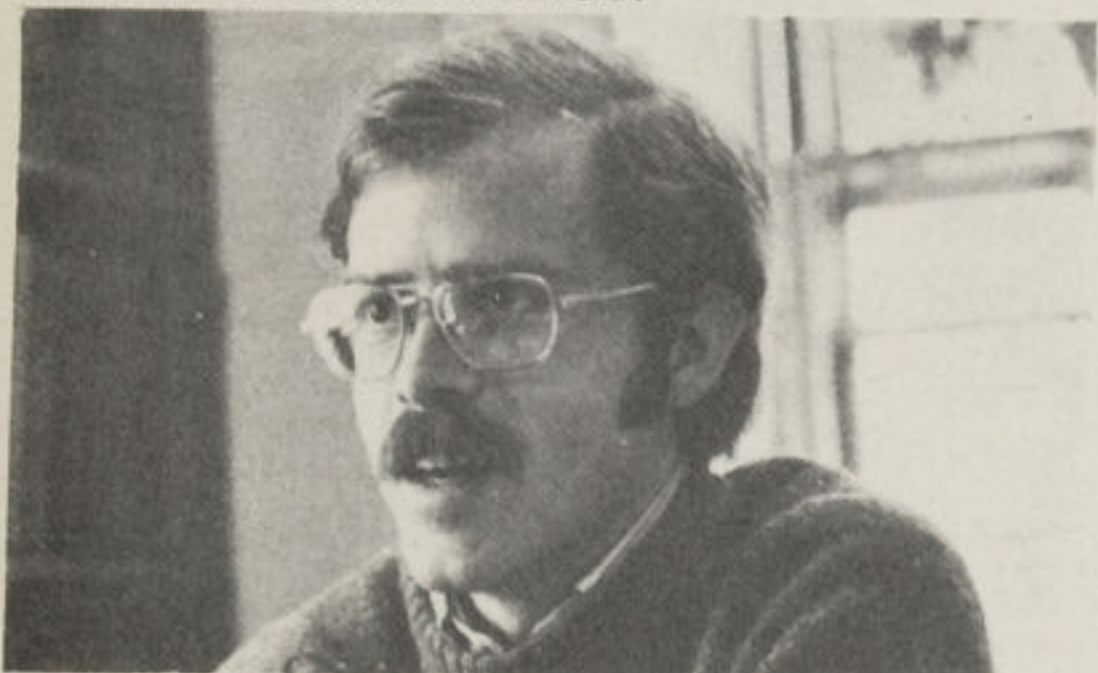
1975

Law Reviews Elects Peters As President for 1975-76

By Jeffrey R. Karp

On Saturday March 1 F. Whitten Peters, 2L, was elected by the editors of the *Harvard Law Review* as President for 1975-76 effective immediately. Peter's first duty was the appointment of other officers from among the rest of the second year students on the *Review*. The President is the only elected officer on the *Review* staff.

Peters named Robert A. Rosenfeld as Treasurer, a post which is traditionally the second in command on the *Review*. Robert D. Comfort and Phillip L. Spector are the new Supreme Court Note Editors. Their official duties will be completed when the Supreme Court case notes appear in the November issue of the *Review*. After that time they will assist Peters with his duties.



Roger Evans

F. Whitten Peters, 2L

Charles G. Cole is the new Senior Note Editor. Other Note Editors are Stephen J. Ellmann, Mark R. Levie, James D. Liss, and Michael K. Young.

Other officers named are Case Editors David M. Mandel, Theodore N. Mirvis, and Peter J. Rusthoven; Developments Editors Miles N. Ruthberg and John B. Quinn; Articles Editors Patrick O. Gudridge, Patrick M. Hanlon, and John F. McKenzie; and Executive Editor Theodore P. Seto.

All thirty-two second year students on the *Review* were eligible for the office of the President. In the *Law Review* tradition, those who did not want to be considered for

nomination made their desires known in "Sherman-like" statements of refusal to run. All but ten of the 2L law reviewers opted out of the election. The 3Ls then caucused to review the work of the ten aspirants. They nominated four of which Peters was one. These four candidates along with candidates nominated from the floor were voted on by their fellow editors.

Peters entered the Law School last year after his third acceptance to the school. He was first accepted when he graduated from Harvard College in 1968, but his education was interrupted for three and one-half years by military obligations which he met serving in the Navy. He declined his second acceptance to the Law School to accept a Knox Fellowship offered by Harvard University which Peters employed to earn a Masters Degree from the London School of Economics in 1973.

Peters is married and is the father of a five and one-half year old daughter, Mary. Peters' wife, Monnie, is a student in the Masters of Business Administration program at M.I.T.

The office of President of the *Harvard Law Review* is a full-time job, but Peters is used to spending long hours working for the *Review*. Meritorious work is in part the standard for election of the President.

Peters views his office as an educational opportunity. Everything that is printed in the *Review* is first checked by the President. This necessitates an exposure to a wide spectrum of legal topics. Peters also feels that being responsible for the final revision and acceptance of articles and notes written in varied writing styles will make him a better writer himself.

Dukakis Appoints Professor Lund To Judge Board

By Ricardo Hinojosa

Assistant Professor Diane T. Lund has been named by Massachusetts Governor Michael S. Dukakis '60 to serve on a newly created 11 member state Judicial Nominating Commission.

The Commission has been given the primary nominating role for



CWM

Professor Diane T. Lund

judges and court clerks as part of a Dukakis effort to eliminate patronage from the system.

Lund feels the Commission is a good idea because it is important "to have considerations other than political considerations enter into the selection of judges and clerks and to have the public believe that is the case."

The Commission, which was set up last month, has held one formal meeting so far. "At the moment we're developing our operating procedures and when they are finished we hope to make them public," Lund said.

Whenever a judicial or clerkship vacancy occurs the Commission has the task of sending the governor a list of three persons qualified for each vacancy. If the governor does not want to appoint one of these three, he may ask for a second list of three, but he then must pick from those six.

Lund stated that the Commission members have "started the process" of deciding what standards will be applied in picking the persons whose names will

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Goldfarb Challenges Legal Fee Setting

By Patrick F. Kennedy

The application of federal antitrust laws to the legal profession will be considered this spring when the Supreme Court hears the case of *Goldfarb v. Virginia State Bar*, 497 F.2d 1 (4th Cir. 1974), cert. granted, 43 U.S.L.W. 3246 (Oct. 29, 1974).

The specific basis of the claim is the legal profession's practice of setting minimum fee schedules—a practice which has come under increasing criticism from the Justice Department's Federal Antitrust Division and commentators on the subject.

The Court of Appeals in *Goldfarb* found that defendants were exempt from the antitrust laws, in part reversing the decision of the District Court. The Court of Appeals decision, however, was not followed in a recent Federal District Court opinion in Oregon brought by the Justice Department, *U.S. v. Oregon State Bar*, 43 U.S.L.W. 2234. *Oregon State Bar* claims there is no such exemption, and charges *Goldfarb* has actually forged a new exemption.

The *Goldfarb* case arose when Lewis and Ruth Goldfarb contracted to purchase a home in Reston, Virginia. To secure a mortgage on the property they had to retain a Virginia attorney to conduct a title search. The couple asked 20 different lawyers what it would cost to search the title and were quoted an answer of \$522 from all of them.

Upon investigation, the Goldfarbs learned that this was the price set by a minimum fee schedule published by the Fairfax County Bar Association and supported by the Virginia State Bar. The couple paid this amount under protest and brought a class action suit on behalf of other Virginia homeowners against the associations.

The suit alleges that the defendants have illegally restrained interstate commerce through the use of minimum fee schedules in violation of the Sherman Act. The Goldfarbs asked for \$1.2 million in treble damages on behalf of the class.

In Virginia minimum fees are not set by the State Bar but rather by local bar associations—in this case the Fairfax County Bar Association. The State Bar does, however, publish guidelines for local bar associations to use in setting minimum fee schedules. In the present case, the Fairfax County schedule closely corresponded with the guidelines suggested by the State Bar.

State Bar opinions state, in effect, that it is unethical for an attorney to habitually charge less than the established fee if his purpose is to increase business; there is no record, however, that any attorney has ever been disciplined for failing to follow the suggested minimum fees.

The antitrust laws prohibit "every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce." Price-fixing is a per se violation of the statute. Since courts have concluded that minimum fees are a form of price fixing, the primary issue addressed by the courts has been whether the antitrust laws apply to the legal profession, not whether the fee schedules were an actual restraint of trade.

The Court of Appeals in *Goldfarb* found both defendants exempt from the antitrust laws.

The Virginia State Bar qualified under a state action exemption to the antitrust laws, according to the Appellate Court. The state action exemption is derived from *Parker v. Brown*, 317 U.S. 341 (1943) in which the Supreme Court held that the Sherman Act prohibited individual action, not state action.

For an agency to qualify under this exemption, the Appellate Court stated three requirements: 1) the action must benefit the public, 2) there must be active and continual supervision by the state, and 3) the agency must receive authority and efficacy from legislative command.

On the first requirement, the Court declared that it would be "manifestly unfair" to separate the minimum fee schedule from the

other components which comprised the State's program to regulate the legal profession. Assuming this, the Court concluded that "the desired goal of the Code of Professional Responsibility is to benefit clients and the public in general."

Similarly, the court found the necessary "active and continual supervision." This requirement was met by the stipulation that the Virginia court initially gave authority to the State Bar to issue suggested fee schedules. Although the fee schedules in question had not been passed upon, the court stated that it was just as sensible "to infer that silence means consent, i.e., approval."

The court had no difficulty finding the third factor in a legislative enactment which created the machinery for regulation.

These three factors having been met, the Virginia State Bar was therefore exempt from the Sherman Antitrust Act, according to the Appellate Court.

However, the court quickly dismissed the claim that this exemption applied to the Fairfax County Bar Association as well, stating summarily that the State Bar did not regulate or supervise local bar activities.

The court proceeded to examine the contentions of the local bar association that there was a "learned profession" exemption, and that this was not within interstate commerce.

The court sustained both of these contentions.

Relying upon two Supreme Court cases, the court found a judicially implied exemption from the Sherman Act. The first case, *Federal Trade Commission v. Raladam Co.*, 283 U.S. 643 (1931), held in construing the FTC act, that doctors "follow a profession and not a trade, and are not engaged in the business of making or vending remedies but in prescribing them."

In later cases, cited in *Goldfarb*, the Supreme Court has explicitly declined to rule whether the practice of medicine is a trade or a profession.

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Letsche Latches Presidency, Heads Voluntary Defenders

By Ricardo Hinojosa

"To continue what we've been doing, getting ourselves organized, and getting a feel for what we are doing before we make any changes" is the view of the new administration of the Harvard Voluntary Defenders (HVD) according to newly elected President Karla J. (Tip) Letsche, 2L.

Letsche was elected to head the 26-year-old Voluntary Defenders

that HVD is involved in a lot of courts in different neighborhoods with different crime problems.

Under Massachusetts law only 3Ls are permitted to act as counsel in criminal cases. However, Letsche adds, this does not mean 2Ls are not heavily involved in HVD cases. Every case coming into the organization is handled by one 2L and one 3L. The work is evenly di-



Roger Evans

The new Harvard Voluntary Defenders officers.

on February 13. The organization represents indigents in criminal trials and conducts legal research for criminal cases.

Unlike some Law School groups, HVD has neither rigid requirements nor set formulas for picking prospective members. "We have no qualifications or requirements. We accept anyone who comes in the door, assuming they're interested," Letsche points out.

Over one-half of the cases handled by HVD are procured through court appointment. The rest of HVD's business, Letsche says, comes from people "who just call us." As to these, the Law School Group will seek a judicial appointment in order to proceed with the case.

According to Letsche, HVD gets "a big variety of cases." The number of felony cases is not as numerous as are breaking and entering, assault and battery, and other misdemeanor cases. Letsche attributes the variety to the fact

vided between the two except that the 3L will act as counsel in court.

The Voluntary Defenders handle about six to seven cases a week during the school year. The group also conducts a summer program in which four paid students keep the office operating on a regular schedule.

Letsche, who is enthusiastic about her new job, proudly states "Our clients get as good and probably better representation than they would from another organization" because each student handles only one case at a time. "We perform a valuable service in the community," she added.

The other new members, who are all 2Ls, of the HVD administration are: Harold R. Henderson, Administrative Vice-President; Michael B. Golden and Karen R. Hartwig, Operations Officers; and Arthur N. Lerner and John P. Amershadian, Research and Appeals Of-

Faculty Delays Slow Distribution Of 2L-3L Grades

(Continued from Page 1)

Courses for which grades had not been submitted by February 26 were: Professor Samuel E. Thorne's *English Legal History* and Professor Charles M. Haar's *Urban Growth* courses, grades for which were received by the Registrar on February 27; Professor Andrew L. Kaufman's *Legal Process* course, submitted February 28; Professor Oliver Oldman's course in *State and Local Taxation*, and Professor Laurence H. Tribe's *Evidence* course, submitted on March 3; Judge John C. Cratsley's course in *Criminal Trial Advocacy*, submitted, March 4; and Professor George Cooper's *Taxation* course, Professor John H. Mansfield's *Evidence* course, Professor Paul A. Freund's *Constitutional Law* course, and Professor Nathan A. Lewin's *Advanced Constitutional Law* course, none of which had been submitted by March 4.

Dukakis Names Professor Lund

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be sent to the governor when vacancies occur. According to Lund, the Commission has taken a look at some of the standards which have been used by other judicial selection commissions, which are presently in existence in 20 states.

The governor's executive order, which created the plan, states that the 11 members must include five lawyers and six lay persons and that no more than six may be registered members of the same political party.

Lund feels that having a majority of the members coming from outside the legal system is a good thing. Courts, she feels, "are one of the significant points at which the community and the law intersect" and it is important to look not only at the ongoing development of the law, but also at the effect of the courts on the community. The lay persons will be able to better take into account the latter, she added.

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CR-CL Illegitimacy View Upheld

(Continued from Page 1)

children have been presumed to meet the dependence criterion, and thus have automatically received benefits.

A Providence woman brought suit against then HEW Secretary Elliot Richardson to attack the validity of the social security law. Her attorney, Thomas W. Pearlman '52, requested the assistance of the CR-CL Research Committee in preparing for the equal protection case.

Scott B. Harris, 2L, one of three

on such a distinction.

To support the second argument, the brief cited *Frontiero v. Richardson*, a sex discrimination case holding that it was unconstitutional to obligate a female member of the armed services to prove actual dependency of her husband in order to receive the dependent benefits automatically given to a serviceman with a wife.

The Rhode Island district court, in an opinion by Chief Justice Raymond Pettina, found that illegitimacy is a suspect classifica-

illegitimates to make a showing of dependency. There the Court found the statute to be unconstitutional because of the lack of evidence that legitimates and illegitimates were sufficiently dissimilar, and because illegitimates were conclusively denied the ability to prove dependence. The New York court, according to Harris, put all emphasis on the latter conclusion.

When asked if he thought Chief Justice Pettina's opinion would be upheld on appeal, Harris replied: "if any would, that would." Harris praised the opinion highly.

Chairperson Abigail Elias, 2L, commented that the Committee's work is typically devoted to less polished research products than amicus briefs: "We happened to get two this year; but we generally can't act as amicus curiae — there has to be an attorney signing for us."

The amicus brief for the *Lucas* case was only one of 32 projects taken on by the Committee since September; Harris estimates there will be two or three more "trickling in" before the end of the year.

"We write memos and briefs for both public and probate attorneys all over the country on civil rights issues, and help draft legislation for the Massachusetts legislature and for the United States Congress," explained Harris. While technically the Committee will refuse to accept jobs not sufficiently related to civil liberties issues, in practice few of the requests that come into the office are turned down.

The Committee, closely re-

(Continued on Page 8)



Roger Evans

Abby Elias, Ken Richieri, and Scott Harris, all 2Ls, chair the CR-CL Research Committee.

chairpersons of the Committee, and Edward N. Beiser, 1L, wrote the brief and submitted it to Pearlman. Beiser was Harris' political science professor at Brown University. A Baltimore legal aid bureau offered some help on the research.

"We filed the brief in our own name," explained Harris. This practice is "very rare," according to Harris, for the organization. The court had to be petitioned to allow the brief, not signed by attorneys, to be presented.

The brief argued that illegitimacy is a suspect classification and thus legislation couched in such terminology must be reviewed for unconstitutionality with strict scrutiny. An alternative argument was that, even if the strict scrutiny test were not applied, there was no rational relation between legitimacy status and actual dependency, invalidating legislation based

tion and the law did not meet the strict scrutiny test, and that even without such analysis, the provision lacked a rational basis. Harris commented that this double conclusion essentially "set the case up for appeal."

"Three weeks ago the Eastern District of New York court on exactly the same facts in another case held that illegitimates were not conclusively denied benefits since they were allowed to make a showing," stated Harris. But he did not feel that this upholding of the statute was justified or that it would mandate a reversal on appeal of the *Lucas* case.

Harris explained that the New York case was based on a faulty reading of *Jimenez v. Weinberger*, a 1974 Supreme Court case involving similar benefits and the same classification but based on a stricter statute denying the opportunity for

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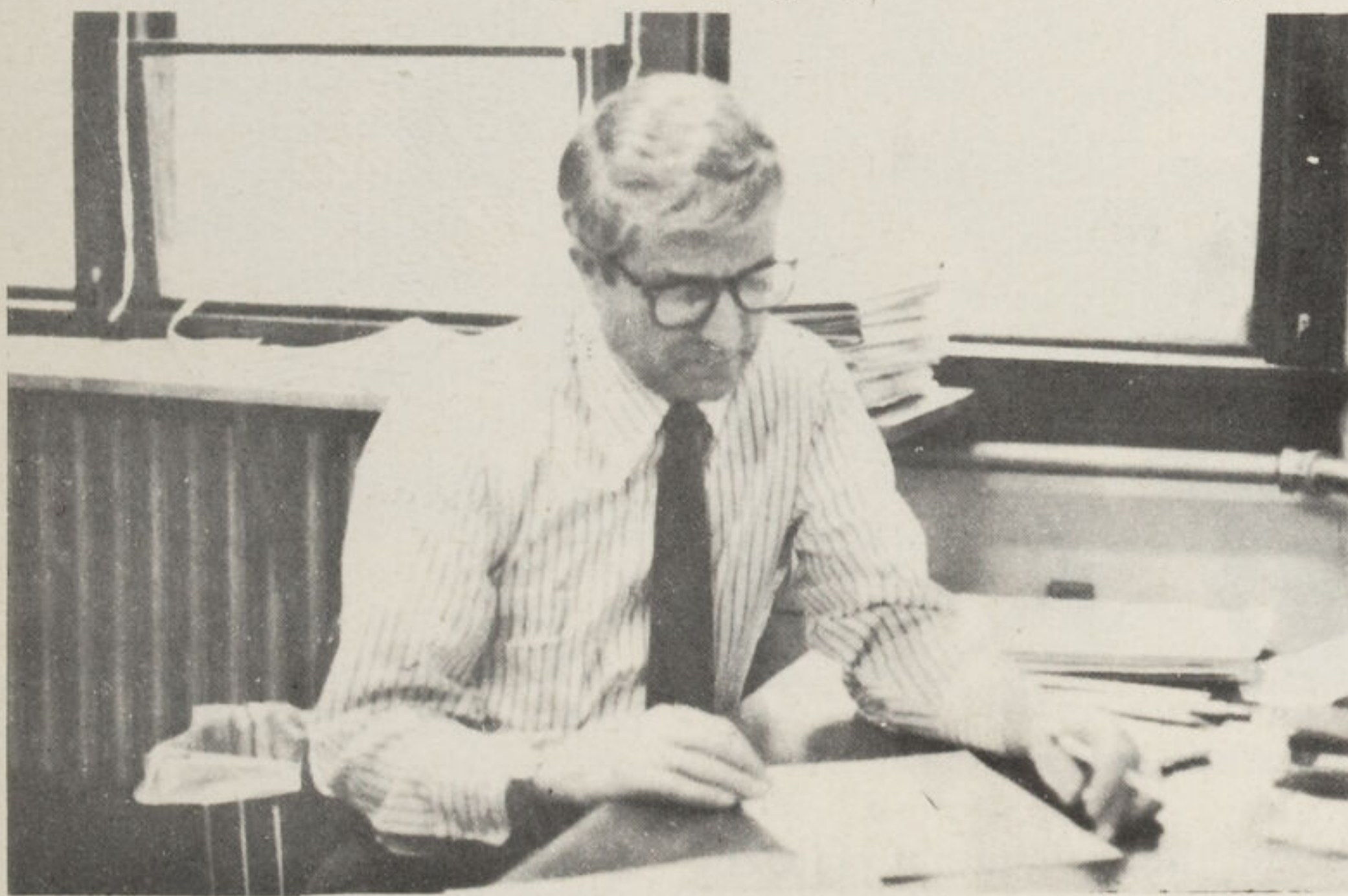
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Ares Adds Breath of Fresh Air —

By Bruce Kuehne

"Sometimes I shudder at the type of people we're turning loose on the world. The qualities of combativeness, pompousness, and arrogance may serve a lawyer well in some situations, but in others they cause the public to distrust lawyers or be intimidated by them. And I'm afraid the law schools have done very little to give the lawyer an image of himself as others see him."

Visiting Professor Charles E. Ares is one of those rare lawyers who's more concerned with how the law fills citizens' needs than whether it provides profit, prestige, or intellectual exercise for lawyers.



CWM

Visiting Professor Charles T. Ares at work in his office.

Coming from the University of Arizona Law School (Tucson), Ares spent the first semester at Harvard researching alternative means of providing legal services for middle-income people. The two modes he studied were group legal services and the English system of awarding fees. His preliminary study indicates faults with both systems. The group legal services will only partially solve the problem, he found, since the nature and quality of legal services provided will depend on the type of group to which the client belongs. As to awarding fees, there's only slight American experience with such a system, so it's hard to predict what its results might be. Ares' plans for

pursuing this study include obtaining a grant to try to do some empirical research on awarding fees.

This semester finds Ares teaching two courses — the *Legal Profession* and a seminar on *Judicial Administration*. Ares carries his curiosity about what's "really happening" into his *Judicial Administration* course. Students are acting as observers in various District Courts in Boston, attempting to discover such things as: "What does the judge's work consist of and how does he do it? Who are the important people in the judiciary system? What kinds of things does the judge spend his time doing and how

adequate are his resources? What kinds of things do we expect the trial judge to do and which could be better done by other types of institutions?"

Ares expresses slight disappointment with the seminar, probably because this is the first time he's attempted it, and because there were no guidelines. "If I do it again, I'll organize it as a research project rather than a course and concentrate on a specific court." But anyone who wants to find out about what trial courts do must be prepared to pioneer. The literature is "very thin" and "superficial."

Ares feels that the most important questions in the area of judicial administration, however, are not questions of efficiency, but questions of sociol-

ogy. "I'd like to know who gets appointed, how they get the job, how prepared they are when they get there, and how the system prepares them for their role. How do they see themselves, how do others see them, and, most importantly, what is the quality of what they do?"

It's hardly surprising that Ares should be interested in grass roots law since he was once intent on politics. After graduating from the University of Arizona with a degree in political science, he went on to that university's law school. He subsequently clerked for Justice William O. Douglas for the '52 term and then returned to Tucson. "At that time Morris Udall was county prosecutor and I joined his office. I was interested in trial work and I was interested in politics. Before Morris finished his term, he, I, and Stuart Udall formed a law firm. Eventually we added another partner. The firm had a strange career since Morris and I were still county prosecutors and Stuart decided to run for congress."

Ares at first thought he might join the Udalls in public life but soon discovered that he didn't have "whatever it takes to be a political candidate." He recalls that one of the things that brought him to his senses was Morris Udall's campaign for a Superior Court judgeship. "I worked very hard on that campaign. Morris was clearly and by far the most outstandingly qualified contender in the race, but he came in last in a field of four. Part of the reason was that it was in the early days of using voting machines. His name appeared at the bottom of the list. At the same time, his brother was running for congress and his father was sitting on the state Supreme Court. His name just got lost. I decided that I didn't want my whole future resting on that kind of chance."

"I also discovered that I didn't like personal campaigning. I don't want to be too hard on politics because I think too much is made of the compromises that are necessary. But the politician does feel

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Worries About Needs, Not Profits

tremendous pressures to satisfy a variety of different and antagonistic constituencies. I decided that that wasn't the way I wanted to live my life."

"Beyond that, I discovered that I valued my privacy and my family's privacy more than public life permits."

When he wasn't prosecuting, campaigning, or lawyering, Ares taught a few courses at the law school. He discovered he liked teaching and took a full-time position with New York University Law School in 1960.

While in New York, Ares helped pioneer work on law of the poor. He had begun work with the Manhattan Bail Project and the Vera Foundation which got him interested in the problems of the poor and the criminal process. He found himself on the advisory committee for the legal service unit of the Mobilization for Youth project, which was a prototype for services the OEO later developed. His experience in these movements led him to develop a seminar at NYU, which was one of the first such courses in the country.

The Arizona law school asked Ares to return as dean in 1966. Once again, he found himself back into politics. Again, he found himself facing the challenges of "diverse and divergent constituencies." In his case, this meant students, faculty, the board of regents, the legislature, the bar and alumni.

"It's very difficult to excite sustained interest by the alumni," he said, "but when something did generate interest, they were capable of stirring up a lot of activity."

The legislature, on the other hand, was always interested, especially in the admissions policies of the school. "When there began to be a lot of pressures on admissions, they began to hear from voters about their brilliant nephews who had been denied admission because of a minority admissions policy. People were caught in conflicting currents. On the one hand, they wanted to be sure that the school wasn't being a prisoner of numbers when reviewing the applications of their nephews, whose LSAT scores were low. But when you tried to

apply the whole person concept to minority applicants, then they wanted you to go by the numbers. If you wanted to drop below whatever numerical line they chose to draw, you were being invidiously discriminatory against Anglos or whoever."

"As you can imagine, I followed *De Funis* with great interest. We nearly got sued a few times, but I don't think our procedure was either mechanical or unfair. I think there's a serious danger in having an admissions policy based strictly on race, but I just don't know what the best solution is for these problems."

Ares also found students and faculty extremely vocal and persistent in pushing their views. Students were increasingly eager for clinical courses and often couldn't easily see the administration's point of view in that area.

"Clinical courses are difficult to manage so that they have educational content... and they're expensive. You just can't have students handling the same unedifying kind of problem over and over. They don't learn that way. Neither can you control the types of cases that walk in. Unless you're willing to discriminate against clients with uninteresting problems, you can't be sure of the educational content of the course in advance. Simulation gives you that control, but it can't give you the sense of reality or the awareness that you're dealing with a flesh and blood person with a real problem."

"Clinical courses are expensive because they demand close supervision of each student by the faculty. Otherwise, they won't have much educational value."

"But with all these difficulties, I don't think that we've worked out the proper method of utilizing clinical work. The trend toward more clinical work is obviously a healthy development in legal education."

Ares resigned his deanship in 1973 and went back to teaching full-time. He enjoyed the job very much, but didn't see himself as a "career administrator." After seven years, he'd had about all "the new ideas about that enterprise"

that he was going to have, and expended "about all the energy that I had implementing them. And in a state school, at least, you've used up about all of your political capital. The state university is a very special kind of institution. You make some tough and unpleasant decisions. Those who feel aggrieved by those decisions are starting to find each other. You begin to reach a political impasse."

"When you get to that point, instead of beginning your day with exhilarating challenges, you're spending 90% of your time shuffling papers and dealing with an incredible array of nagging, petty little decisions. It's no longer fun. At that point it's time to turn it over." One suspects that the same straightforward, sincere, and plain-spoken qualities that made Ares uncomfortable in the political arena may have also caused rumblings in the politics of the university. But it's to his credit that he stands where he thinks he ought to and isn't afraid to admit it. Ares has carried that same character back into the classroom, where one of his guiding tenets is that his students should be aware of the values that must inevitably find their way into a teacher's course.

"The teacher's responsibility isn't to attempt to be value-free. That's impossible. And that decision, in itself, is a value decision." Rather, the teacher should carefully examine his own values and make them known, although not necessarily explicitly, in the way he structures the class.

"My students know that I consider myself a liberal and what I think of the various Supreme Court justices. But I hope they also know that I don't intend to belittle other people's values." Ares concedes that there are risks in espousing values, but he feels that they are "minimal" with a "mature" group of students. Sometimes he wonders though, because "despite the fact that I encourage them to present their own viewpoints, students never fail to give me back my values on the examination."

Goldfarb Attacks Fee Settings, Opposes Antitrust Exemptions

(Continued from Page 3)

The rationale employed by the court to support the distinction is that valid forms of competition among trades are improper and demoralizing when applied to a "learned profession." Referring specifically to the legal profession, the court cites the professional responsibility to provide services to those who cannot afford to pay and the prohibition of advertising and solicitation to show that sanctions tailored to the business world will prove counterproductive when applied to the non-commercial sphere of learned professions.

Finding the existence of the "learned profession" exemption, the Court concludes that they are bound to apply it in the present case, in spite of their conclusion that the minimum fee schedules "act as a substantial restraint upon competition among attorneys practicing in Fairfax County."

The Court then bolsters its conclusion by finding that the effect on interstate commerce is insufficient to support a Sherman Act violation, although the district court had found that a substantial portion of funds for the purchase of homes came from outside the state of Virginia.

In light of these conclusions, the court asserted that the policy arguments pressed upon the court by the plaintiffs were matters for the legislature to resolve.

But the *Goldfarb* conclusions received hostile reception in *U.S. v. Oregon State Bar*. The Oregon court held that the State bar failed to meet two of the three requirements for the *Parker* state action exemption.

Contrary to *Goldfarb*, the court asserted, "The fee schedule should be examined apart from the general regulatory scheme; such an examination would disclose little public benefit."

On the second requirement, the Oregon court found that the failure of the State Bar to receive explicit approval for the fee schedule rates meant there was not the "active and continual supervision" re-

quired for the *Parker* exemption.

Responding to the *Goldfarb* explanation of the source of the "learned profession" exemption, the Oregon district court declared that "the 'learned profession' dicta in these two cases have no current vitality; *Goldfarb*, then, actually forges a new exemption to the Sherman Act."

By reaching this conclusion, the district court asserts it would be guilty of judicial legislation should it follow the path which *Goldfarb* has cleared.

Whatever result the Supreme Court reaches in the *Goldfarb* case is likely to have nationwide ramifications. A 1971 American Bar Association study showed that 34 states and the District of Columbia had statewide fee schedules while 11 states had fee schedules published by local bar associations.

If one examines the fee schedules apart from the regulatory scheme constructed by the bar associations, one encounters a variety of justifications. Alternatively the fee schedules are meant to raise income, augment the quality of service, help prevent solicitation, and provide guidance to young attorneys who are uncertain as to what they should charge.

Because of the legal profession's unique situation and responsibilities, it is possible that the Supreme Court will conclude the Sherman Act applies, but that fee guidance schedules, if not used as minimum fees, would be allowed under the data dissemination cases.

If the court does hold the Sherman Act applicable to the legal profession, the primary task they will face will be to determine which objectives are permissible in light of the legal profession's unique situation, and what are the least restrictive means of achieving those objectives. If this becomes the issue before the court, it is unlikely to be fully resolved with the *Goldfarb* decision. Rather it will signal a wave of litigation to resolve the question of how the lawyer should function in the commercial world.

CL-CR Group's Position Upheld On Illegitimacy

(Continued from Page 5)

lated to the CR-CL Law Review, sends letters to a number of Massachusetts and U.S. legislators, legal aid bureaus, and the American Civil Liberties Union offering their free services. It was established in 1959 primarily to aid in litigation; legislation drafting was a later expansion. A past Committee filed an amicus brief in the *Gideon* case.

The Committee has three chairpersons — Harris, also a member of the Board of Student Advisors, Elias, and Kenneth A. Richieri, all 2Ls. Through them, requests that come into the office are assigned to one of nine 2Ls and 3Ls who act as project leaders and are aided by a team of researchers, usually 1Ls.

This year's projects have included the drafting of rules for taking testimony in Senate hearings (for Senator Howard Baker) and research in connection with food stamp litigation, a suit to ban the importation of South African coal, a possible challenge to the Nixon pardon, and the use of tranquilizers by police (the lone Massachusetts legislature project this year, done for the Massachusetts Black Caucus).

In addition, the Committee sponsored three Ames Alternative Projects in which 11 1Ls participated. One case involved a claim by a non-alien defendant accused of armed robbery that he was denied the right to a fair cross section of the community in a jury devoid of aliens. Another involved the keeping of a "violence prone juveniles" file by the Los Angeles police department made up of names submitted by city employees on the basis of personal observance.

"We'll send the work-product of both sides to the attorneys involved; the cases will be coming up soon in litigation," explained Chairperson Richieri. He added that in the past two years 1L Ames briefs have been instrumental in enabling recipient attorneys to win their cases.

Albert Propelled Into BSA Chair

By Phil Heagney

In her first interview with the RECORD since becoming the new chairman of the Board of Student Advisors, Judith D. Albert, 2L, emphasized that the Board would continue the policy it established this year of emphasizing quality over quantity.

"I think it's better for the BSA not to do a project at all rather than to do it badly," Albert explained. "Most of the projects we do now

changes in the program," Albert noted. "I don't expect radical changes, but I hope the Committee will recommend that first-year students get credit for *Legal Methods*."

Albert said that she hoped the Board could meet with the teaching fellows next fall before the semester begins. "We need to keep the role of the BSA assistants flexible. Some teaching fellows like to use BSA help, and others want to teach their sec-

ulty judge for every oral argument. "We're meeting now with Dean Sacks to discuss the problem, and we need to work out a better arrangement well in advance of next year's Ames," Albert noted.

The BSA chairman said that the Board had tried to give first-year students more individual direction with their Ames cases this year. "It's foolish for us to pretend that we can know all the answers, but at least we can make ourselves available on a person-to-person basis to help work out problems and keep the 1Ls from wasting their time."

The Board will try to formalize the assistance it offers to first-year professors in grading practice exams, "I think many 1Ls feel lost during the first semester," Albert said. "Practice exams can help by giving them some feedback, but BSA people are limited in the quality of the criticism they can provide. I would like to see the faculty give us more advance notice when they want our help in reading practice exams, and we should insist that they give us detailed sample answers to work with."

According to Albert, the Board will begin distributing applications in a few weeks and will accept 20-22 first-year students for next year's BSA. Board members will continue to receive \$700 each per year for their work. All candidates are interviewed in the spring, but final decisions aren't made until after the first-year grades are released in the summer.

"In the past the Board went through long debates about whether it should choose people on the basis of their grades or their personalities," Albert explained, "but that debate misses the point. We only discourage students unless we give assistance that is both competent and personable. We need people who will work hard and who feel helping new students is important. We can't replace the teachers, and we shouldn't be hand-holders. But we can be available to respond to people when they need some help."



Roger Evans

Judy Albert and Caroline Wilson, 2Ls, are new holders of top B.S.A. chairs.

take time if they're going to be done well. It's important that we plan out our programs in advance because we can cause people a lot of frustration otherwise."

The members of the current Board chose Albert to take over the organization in an election held last week. Caroline C. Wilson, 2L, was elected vice-chairman at the same time. The Board will hold another election in a few weeks to elect its other officers and project directors.

The Board will continue to emphasize its role in *Legal Methods*, according to Albert, although the Trautman Committee on the First Year is still in the process of studying the program. "We're waiting for the selection of the new Legal Methods director and for the Committee's recommendations on

tions by themselves. Some Board members just don't make good Legal Methods assistants, but when the program works, it gives first-year students one of their few opportunities for one-to-one contact with upperclass students."

Although Albert felt that the scheduling problems with Upper Round Ames this fall had been unintentional, she said that the Board should insure that the schedule next year avoided any conflicts with the Thanksgiving break.

The Board will remain committed to the Ames Competition for first-year students, but Albert hoped that a better system for judging the oral arguments can be worked out. This spring the BSA has not been able to provide a fac-

Monopoly Profits

This spring the Supreme Court will decide the status of the legal profession under the Sherman Antitrust Act. More specifically, they will decide whether there is an exemption to the Act allowing Bar Associations to distribute minimum fee schedules — a practice which would otherwise constitute a per se violation of antitrust laws.

We believe that it would be a mistake to grant lawyers a blanket exemption from the operation of antitrust statutes. Minimum fee schedules doubtlessly serve some desirable objectives, such as providing fee guidance to young attorneys who would otherwise have difficulty setting proper rates. But when the schedules operate as a "substantial restraint on competition," as the Appellate Court in *Goldfarb* found, thereby maintaining prices at an artificially high level, it is time the Courts take action to seek a less restrictive alternative.

It is argued that minimum fees help maintain a high quality of service, but there is nothing in a higher fee which requires a lawyer to work harder for it. It may well be that these fees do no more than yield monopoly profits.

Moreover, fee schedules may cause a misallocation of resources. By keeping prices artificially high, they may discourage people from calling lawyers for advice when they are in doubt on a legal matter. They may also effectively support the inefficient lawyer.

The court in *Goldfarb* declared that it would be unjust to consider the fee schedule apart from the whole system of regulation imposed by the bar. This may in fact be true, but it does not justify a blanket exception to the antitrust laws. Rather, it implies that regulation of the legal profession under antitrust laws may call for different treatment under the Sherman Act in light of the profession's unique character.

The Wait

Earlier this week second and third year students stopped by Langedell North Middle to pick up some of their grades. They were told that more grades would be distributed in a week to ten days.

We think it is ironic that at the same time as the faculty is upping the student workload they are unable to meet a grade deadline which, by any standard, is already unduly delayed.

HARVARD LAW RECORD

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Fenno

"Gee," the 1L said to Fenno, "why are all the 2- and 3L's sitting around, playing backgammon and watching *Star Dreck* (check spelling) instead of studying?"

Fenno looked up from the backgammon board, on which he had so far been unsuccessful in his efforts to make his bar point with a 5-1 on his first roll of the dice.

"It's a Harvard Law School tradition for upperclass students to watch television and play backgammon instead of study after the interview season is over," he explained paternally. "And it's an HLS tradition to do it openly, instead of covertly, on the day second- and third-year grades are finally distributed."

The 1L looked at Fenno with some astonishment. "You mean they just got those things out today? Some of you people could have died of old age without knowing what you'd gotten in *Constitutional Law*."

Fenno shrugged. "You have to look at it from the professors' viewpoint," he said. "Take Professor Lemon, for example. He could hardly take time out to grade exams the past few weeks, since he's been very busy explaining the concept of Constitutional privilege to Senate investigating committees. You couldn't expect them to pick that kind of thing up as quickly as a Harvard Law School class does."

"Yeah," the 1L admitted grudgingly, "but most Law School professors aren't devoting themselves to the public good that way."

"That's true," Fenno said, "but then you have the more typical example of Professor Tripe. He's having trouble getting the Law Review to accept his latest article, *The Rectangulation of the Ancient Documents Exception to the Best Evidence Rule in American Samoa*, and he's had to spend a lot of time trying to persuade them to put it into print."

"Golly," the 1L responded, "he's one of the most eminent authorities in the field. I'd think they'd take it without any persuasion."

"Well," Fenno speculated, "there are two reasons why he's having trouble. First of all, it's a short article, because it turns out there is no ancient documents exception to the best evidence rule in American Samoa."

"What's the second reason?"

"Uh, he submitted it late," Fenno said.

The 1L shook his head. "It seems to me that the faculty attitude towards upper class grades is very irresponsible," he said.

"On the contrary," Fenno assured him, "it's just the professors' way of teaching students the most important thing they learn in the second and third years."

"What's that?"

"Where the faculty's priorities are."

HARVARD LAW RECORD

Letters to the Editor of the RECORD

"B.S. Associates" Face Fenno Flub

To the Editor:

While it has long been obvious that the RECORD has provided an alternative extra-curricular opportunity for disgruntled B.S. Associate rejects, it was not until the February 28th issue that we became aware of Fenno's bitterness over our failure to select him or her for membership at the end of his or her first year.

Although this inability to recover from old wounds is a drawback, it is apparent that Fenno has displayed the warmth, humanity, insight, ability to communicate, empathy and wit that characterize B.S. Associates. It is a mystery how he or she was overlooked by our selection process. We are forming a committee to look into this matter and propose how to avoid similar mistakes in the future. We thought you should be the first to know.

**Publicity Subcommittee of the
Ad Hoc Committee to Draft a
Response to Fenno.**

Cohen Red Pencils Kenety's "Red Set"

To the Editor:

This is to clarify Mr. Kenety's answer in his Rule 26 column of February 14 concerning the "Red Set." The Red Set is simply a collection of faculty writings which is stored in the Technical Services Department of the Law School Library. Most of the material it contains is also available in the regular collection. Despite the "Paper Chase," it does not contain notes kept by faculty members while they were students. We do have a few early sets of such notes, but they are kept in the Manuscript Department. Materials in the Red Set which are not bound when we receive them are traditionally bound in red cloth and thus red is the predominant color. Writings in the Red Set, which are unavailable in the regular collection, can be requested for limited use through the Reference Librarians.

**Morris L. Cohen
Librarian**

Sports Buff Rebuffs With "I Was There"

To the Editor:

I believe the answer to no. 7 [of the January 31, 1975 RECORD Sports Quiz] is wrong. The late Jim Krebs played for S.M.U. and Kansas and Chamberlain won. I was there.

**R.L. Dillard, Jr. '36
Dallas, Texas**

Ed. Note: Dillard refers to the following question: "When Wilt Chamberlain led his Kansas team to the NCAA finals in 1957 he was defeated by a North Carolina team which was led by a hook shooting center who went on to a mediocre pro career. Name this hooker." The answer listed on the next page was misprinted sbej Jim and should have indeed read sbej Jim. However, Sports Quiz Shah Sheldon L. Solow finds the rest of the letter in error.

Law Notes

The Yearbook currently has 100 more unpaid subscriptions than yearbooks on order from the plant. As our final plan order must be placed by March 15, 1975, we can guarantee books to subscribers only until that date. **Any non-subscribers** who wish a book should send a check in the amount of \$8 (\$9 after March 15) payable to the HLS Yearbook to 23 Everett Street, Cambridge, 02138. Books to non-subscribers will be sold subject to availability.

* * * * *

Passover: March 26-April 3. If you would like to conduct a Sedar at your house, celebrate the Sedar at Hillel or have holiday meals on Thursday thru Saturday, please contact Harvard-Radcliffe Hillel Society office at 495-4696 or 876-6138. Home hospitality can also be arranged.

* * * * *

Tickets for the fourteenth annual **Law School Show, Shake a Legacy**, are presently on sale at the noon hour in Harkness Common. Prices for tickets to the musical set in the American West of the 1870's are \$2.25 (Thursdays, Sundays) and \$2.75 (Fridays, Saturdays). Dorm Council Activity Card Holders in Due Course may receive discounts on tickets for certain performances. The extravaganza will run March 13-16 and March 20-23.

* * * * *

The ABA's Section of General Practice has published a brochure to aid law students in launching their professional careers. Entitled "**How to Find the Court-house**", the 60-page pamphlet covers topics ranging from specialization to fee computation. Copies may be obtained for \$3 from the Circulation Department 6002, American Bar Center, 1155 East 60th Street, Chicago, Ill. 60637.

The Unquiet Death of Julius and Ethel Rosenberg will be shown on March 12th at 1:30 and 9:30 p.m. and on March 13th at 1:30 p.m. in Welch Auditorium at Lesley College. The showing is open to the public. Admission is free. On Thursday, March 20th at 8:30 in Welch Auditorium, Robert Meeropol, the son of the Rosenbergs, will give an address which is open to the public. Admission is one dollar. Meeropol's speaking tour is in response to Louis Nizer's book *The Implosian Conspiracy*, and is being sponsored by the National Committee to Reopen the Rosenberg Case.

The Harvard Law RECORD is next scheduled to appear on March 21, 1975, two weeks from today. It will be the sixth of ten issues slated for the spring semester.

Cryptic Law

The following excerpt from a rather dated opinion is in "judicial code." Decode it. (Hint: Each letter stands for a different letter of the alphabet.)

Yotutmtn G itt h xhyvtn gubtnnejb husbotn xhyvtn ksn bot jenjsit sk whinejbguc husbotn xhyvtn'i xgut sk bosecob, G bogus gb'i eukhgn huw G ihv is huw bohbi tfrbxbv yohb ohjttutw otnt. Hi h ctutnhx next G wsu'b xtb xhyvtni gubtnnejb sbotn xhyvtm, huw G hgu'b csguc bs ibhnb gb. G'q bss sxw bs ibhnb wsguc bohbi isnb sk boguc.

(Solution on Page 13)

Sports Answers

1. Rick Barry
2. a. Seattle Pilots
3. a. Evansville
b. Loyola (Chicago)
c. Toledo
d. Gardner-Webb
e. NYU
4. Martina Navratilova
5. Nat Frazier
6. Horst Muhlmann, Cincinnati Bengals
7. d. Tom Kite
8. Gabby Street

'75-'76 Room Applications Due Today

By Susan Gillette

Today is the deadline for returning students to submit applications for dormitory rooms for 1975-76. Carole Costa, dormitory staff assistant, reported Monday that the number of applications received for the 260 available rooms was not excessive "so far."

Costa had speculated that returning students' applications would exceed the number of dormitory places because last year 225 entering students were placed on a waiting list for rooms after the 260 rooms reserved for 1Ls had been assigned.

Increases in dormitory rentals for 1975-76 may be affecting the applications, Costa said. Rents will be \$50 to \$250 greater than this year. This puts dorm prices at the "lower end" of the apartment rate scale, instead of at the bottom, Costa said.

Returning students who are assigned a dorm room will select rooms after March 14. Only Resi-

dence Assistants will receive priority in selecting rooms this year.

Rooms in the graduate center (Dane, Shaw, Ames, Story, and Holmes dorms) are priced at \$625 to \$725. All rents are up \$55. Wyeth Hall rates are \$595 to \$935.

Prices for Hastings Hall have been increased \$65 to \$250. The \$250 increase pushes the price of a study and bedroom for one to \$1,100. Only a two-room suite occupied by one person renting for \$1,450, would cost more.

Vice Dean William L. Bruce attributed rent increases to rising costs of heating fuel and maintenance supplies. Salaries of dormitory personnel will be increased next year also.

Many of the Law School dorms will be occupied this summer, Costa said. No major renovations or redecorating is planned. Bruce did say that one graduate center dorm will be re-roofed, completing a project begun last summer, and that new appliances will be provided for Wyeth kitchens.

Storm windows may be placed in the bathrooms in the graduate center dorms if windows of a proper size can be purchased. Bruce said the windows would conserve fuel and would make the bathrooms more comfortable in the winter months when heat is reduced.

Bruce has requested that students living in rooms which are "uncomfortable when everyone else is warm" notify him so that heating for their rooms can be improved this summer.

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'75 Law School Applications Decline

(Continued from Page 1)

dered it impossible for the Law School to fill its entering class with qualified applicants, it has been accompanied by a stabilization of the mean LSAT scores and grade-point averages of the applicants. These scores and averages failed to exceed last year's figures, the first such failure in several years, said Simpson.

The character of the applicant pool has changed over the past two years, said Bierman. Fewer have been involved in political action, and more in "social" activities. "Undergraduate masters say it's law schools them-

selves pushing kids into getting higher grades," he remarked. However, Bierman noted, that increases in grade-point averages during the past several years have been due more to grade inflation than to any major change in student effort in college.

Another pervasive change in the applicant pool has been an increase in the average age. Older applicants are not discriminated against, said Bierman, but he noted that grade inflation has made it more difficult to compare such applicants with younger ones. In making such comparisons great weight is placed

on estimates by college administrators of the pace of grade inflation at their schools.

Admissions decisions are being made somewhat later this year. Only 300 out of approximately 750 have been accepted thus far, as opposed to 500 at the same time last year. Simpson expects that the chances for admission of those on the waiting list will be correspondingly better this year. All decisions should be made by May 1.

The proportions of women and minority applicants have not changed from last year, and percentages admitted probably will not change either.

SOLUTION TO CRYPTIC LAW

306.
Giglio v. Valdez 114 So. 2d. 305.
thing."
I'm too old to start doing that sort of
lawyers, and I ain't going to start it.
don't let lawyers interrupt other
happened here. As a general rule I
say so, and that's exactly what
of thought, I think it's unfair and I
of disrupting another lawyer's line
rupt another lawyer for the purpose
"Whenever I see a lawyer inter-

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University Wine Quiz #4

1. How many "types" of Chianti are there?
2. What are the 3 major grapes of Alsace?
3. What is the name of the city that recently witnessed a major wine scandal?
4. Where is a store that is now featuring 49 wines, all under \$3.00?

For the answers, see next week's quiz, or drop in at the answer to question 4....

University Wine Shop

1739 Mass. Ave., Cambridge (across from the A&P)
547-4258

LAST WEEK'S ANSWERS 1. Chateaux D'Yquem 2. No. 3. 1855 4. Here

SPORTS QUIZ

1. Name the only basketball player who has led both the NBA and ABA in scoring.
2. Franchise moving is now an accepted part of American sports. Trace these major league baseball teams back to the site of the original franchise:
 - a. Milwaukee Brewers
 - b. Oakland As
 - c. Atlanta Braves
 - d. Montreal Expos
 - e. Texas Rangers
3. Match these NBA players to their Alma Maters;
 - a. Jerry Sloan
 - b. LaRue Martin
 - c. Steve Mix
 - d. John Drew
 - e. Happy Hairston
4. This week's Virginia Slims tournament is being held in Boston. The newest sensation to hit the women's tour is a Czechoslovakian teenager. Name her.
5. Morgan State was last year's small college basketball champ. Their season this year has been marred by controversy and forfeitures. Name their troubled coach.
6. Remember the football season? Alex Karras was recently delighted to learn a foreign born NFL placekicker faces possible deportation for Income tax problems. Name this evasive kicker.
7. Many young golfers have come into their own in the past two seasons. Pick out the only one of the following who has *not* won a PGA event in 1974 or 1975.
 - a. Terry Diehl
 - b. Tom Watson
 - c. Bob Menne
 - d. Tom Kite
 - e. Vic Regalado
 - f. Ed Sneed
8. The St. Louis Cardinals won back-to-back pennants in 1930-31, facing the same team, managed by Connie Mack, in both world series. Who was the Cardinal manager?

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Liberal View on Abortion is Bourgeois

By John Hagen,
Harvard Law School
Students for Life

Several weeks ago, in the March for Life at the nation's capital, I saw a little girl with a sign which read "EVERYTHING'S DISPOSABLE, EVEN PEOPLE." This pointed up rather eloquently the whole terrible paradox of the American left on abortion. The good liberals who have been drummed into line behind A Woman's Right To Choose are embracing everything which they so properly abhor about the way we live today.

Now Bill Baird and *The New York Times* and the other abortion-eers would be highly indignant if anyone accused them of promoting a bourgeois philosophy, and it is therefore high time that somebody did. To be bourgeois goes far deeper than the Marxist cant about classes, and deeper than all the counter-culture claptrap of liberation and life-styles. It is rather a fundamental approach to life, a temperament which infects us all to a greater or less extent, and it is not to be gotten rid of by growing a beard, or by castigating Puritans.

To be bourgeois is, quite simply, to be an egocentric materialist. It means denying, or ignoring, the spiritual and social kinship of man, and reducing all human rights and human dignity to the single principle of autonomy. And it is only in a sheerly bourgeois context that the pro-abortion slogans seem unanswerable.

For the logic of abortion is the logic of economic capitalism. The man with the big cigar thinks it an outrage that society should "tell him how to use his property." The lady in the orange hat thinks it an outrage that society should "tell her how to use her body." The answer to both of them is that this is not a Hobbesian jungle. Free choice is measured by the welfare of other lives. And it ill behooves anyone who believes this to ferret out polluters with a magnifying glass while piling up sophistries to prove that 900,000 abortions a year are

doing nobody any harm.

Double standards, as we know, breed double-talk. And the abortion people are coming near the Pentagon in its finest hours for inventing euphemisms to show that a baby is not a baby, or that anyway we are only destroying the babies to save them. Terms like "abortus," deliberately coined for their un-human ring, have been proliferating of late, along with the infamous "products of conception."

The liberal press have seized, as a sort of article of faith, on the Supreme Court's maxim that "theologians, philosophers, physicians, and biologists cannot agree on the question when life begins," and they invoke the litany continually to avoid addressing the question themselves. The evasion is irresponsible, and the disagreement posed is spurious. Everyone knows that fetal development is a continuum, without sharp stages or magical "quickenings," and that any line drawn after conception is an arbitrary and capricious one. The question is not where life begins, but what value we choose to place on it. And it is here that society reveals its character as a bourgeois jungle, or as a genetically-engineered socialist man-hive, or as a community which (with whatever sins) stands dedicated to the sanctity of every life within it.

There are few spectacles more obnoxious than those of prosperous men and women manipulating sentiment for the poor to justify their own ill-doings. That sort of song and dance has been fashionable lately among industrialists, who wring their hands and wail that if they can't befoul the lake they will just have to shut down shop and go pollute someplace else, and then Our Brothers The Poor will all be out of work. The abortionist rendition of the tune, that if abortions are banned all the rich women will fly to Tijuana and have them anyway, while the poor are left to suffer alone, is equally reprehensible. That the wealthy have access to

vices which the poor cannot afford is an excellent argument for spreading the wealth; it is not an argument for spreading the vices.

The poor are the particular victims of abortion, destitute as they are, plied as they are with every sort of commercial and hedonistic and anti-domestic propaganda, and perhaps maintaining a healthier sense of guilt than their suave cosmopolitan cousins. I believe — along with Jesse Jackson, and Cesar Chavez, and other supporters of the pro-life movement — that ending abortion must figure in a much more general commitment to economic justice and moral renewal in society. And it is essential (as groups like Birthright are trying to do, with no help from the liberal media) to inform unwed or incapable mothers that there are plenty of would-be adoptive parents around, if there were only some live unwanted children being born to adopt.

West Germany's highest court declared abortion unconstitutional recently, affirming the sanctity of life with particular reference to the Nazi experience. We too are living in the throes of a profound demoralization, following on the shame and horror of Vietnam, and we desperately need to affirm something more positive than our autonomy. For the existential egoism of the left is as barren and destructive as the commercial egoism of the right, and it is only on a commitment to the common rights of life that we can aspire, God willing, to a decent and a just society.

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Chayes, Keeton To Make Debut In HLS Show

Professors Robert E. Keeton and Abram J. Chayes will appear in this year's Law School Show, *Shake a Legacy!*, alternating in portraying former Dean Christopher Columbus Langdell introducing the Case Method of instruction at Harvard. Chayes will appear during the first week of the play's run (March 13, 14, 15, and 16), and Keeton the second week (March 20, 21, 22, and 23).

Over 100 people, many of them law students, are scrambling to get the show ready for its March 13 opening in the Pound Multi-Purpose Room. The set, highlighted by a period saloon, is presently under construction.

Among writers of the seventeen songs in the show are Richard F. Hope, 3L, Barry J. Cohen, 1L, Robert J. Cubitto, 2L, and Lee Emery, 1L Spouse. Special visual effects are being prepared by Bernard E. Nelson, 3L.

Friday and Saturday night tickets are \$2.75, while Thursday and Sunday night tickets are \$2.25. Holders of Dorm Council cards will receive a discount on Thursday and Sunday tickets.

Chayes and Keeton continue a tradition begun last year, when Professor Arthur R. Miller startled audiences as a leering judge in an obscenity trial in *The Paper Waste*.



HLS Show cast members prepare to "Shake a Legacy." Festivities will not officially begin until March 13th, but tickets are now available and may be purchased in the Hark from 10 to 2 or at the receptionist's desk in Langdell anytime during office hours.

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