

HARVARD LAW RECORD

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TWENTY CENTS

Course Options To Be Offered On Legal Ethics

By Phil Heagney

The faculty's approval of a two-credit professional responsibility course requirement on March 19th has raised questions about the steps the Law School will take to provide offerings in this area.

The new course requirement will apply to Law School classes beginning with next year's 1Ls. The faculty approved the requirement with the understanding that "it may be fulfilled by a student in any of the three years of residence and in any of a variety of ways approved by the Dean after consultation with appropriate committees and faculty members."

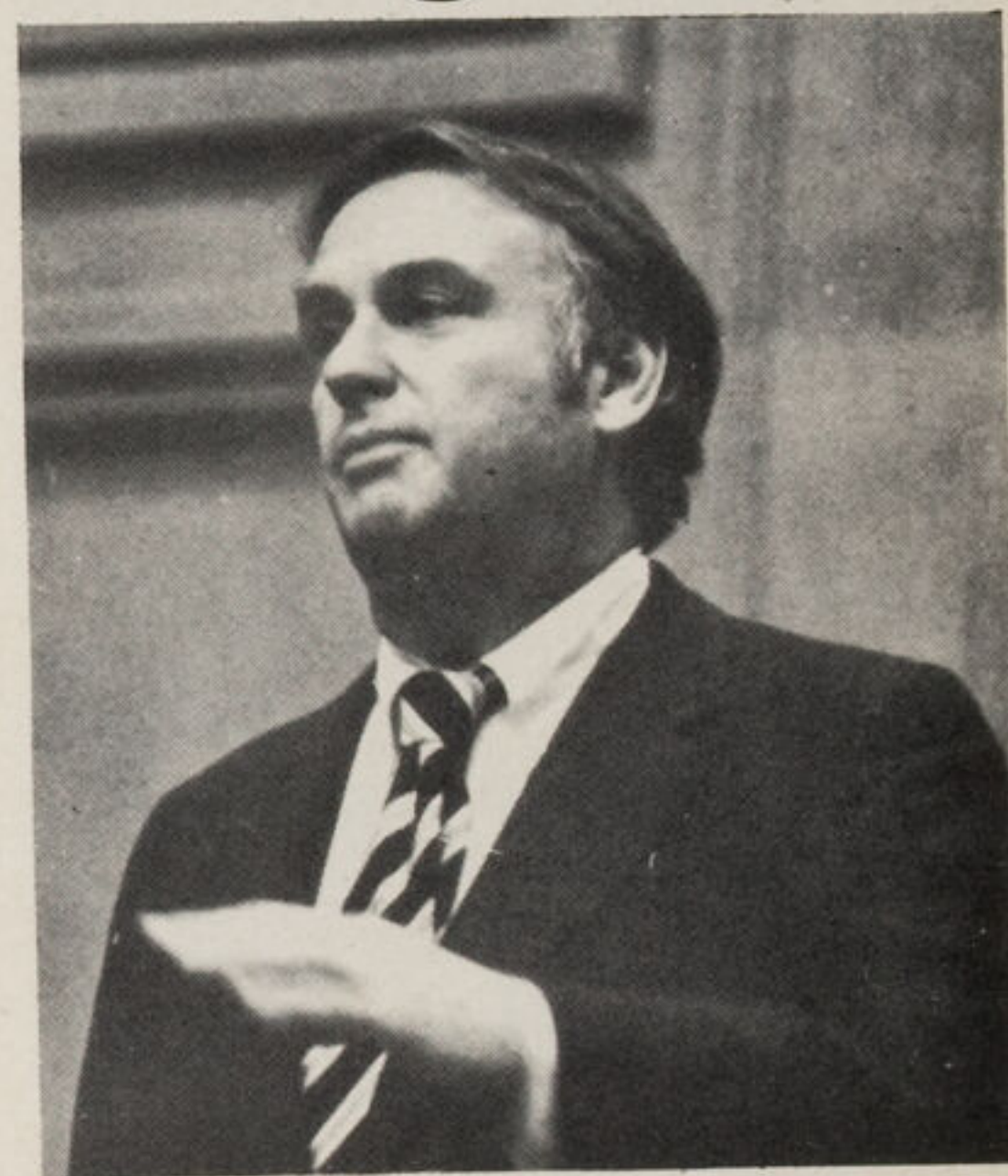
The faculty also urged that whenever possible the school offer sufficient options in the professional responsibility area
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Weicker Decries Failure To Legislate on Agencies

By Patrick F. Kennedy

Declaring that his greatest disappointment and concern has been the failure of Congress to pass a single piece of legislation to provide oversight of the operations of the CIA and the FBI, Senator Lowell Weicker asked a large Monday night crowd during his Law Forum address: "How many more facts do you want to know before you realize that these agencies have gone ape and are way beyond their charters?"

"In the summer of 1973 we realized the CIA was off-base," Weicker said. "We also knew about the FBI being off-base in 1973. These matters haven't been acted on. Now you have a rash of stories about the legitimate acts of these agencies, and the abuses are going to be forgotten. If you take the valid and lump it in with the illegal



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Senator Lowell Weicker
you're never going to know what to do," Weicker said.

Acknowledging that it would be impractical to have 200 million Americans tramping through the FBI, Weicker asserted that the 535 duly-elected Senators and Representatives should have free access to the CIA and FBI operations.

"From what I've seen in the last two years," Weicker noted, "our enemies are in the CIA and the FBI."

Conceding that it was possible a person might be elected and use access to the CIA or FBI to favor a foreign country, Weicker said: "It is one of the inefficiencies of the system that possibly someone will get information that shouldn't be divulged. But on that small chance I wouldn't bottle the information up." He added that "those types don't last very long."

To solve this problem, and others, Weicker said the people

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Edelin Appoints Nesson Counsel

By Frank E. Sisson

Professor Charles R. Nesson has agreed to act as co-counsel in the appeal of the Edelin fetus-manslaughter case.

The announcement was made last Thursday, March 20, over a month since a Suffolk Superior Court jury found Dr. Kenneth C. Edelin guilty of manslaughter on facts involving the death of a fetus in a Boston City Hospital abortion operation upon a 17 year old girl.

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Professor Charles R. Nesson

New Allocation System Utilized for Dormitories

By Patrick F. Kennedy

Utilizing a new system of room selection, the Law School's Housing Office with the assistance of the Dorm Council has recently completed the annual process of distributing dormitory rooms to next year's second and third year classes.

The purpose of the new selection procedure, which was drawn up by a committee of Dorm Council representatives, was to give students a



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Housing Office Director Carole Costa at work.

greater choice in the selection of rooms, speed up the process, and provide a better 2L-3L mix in the dormitories.

According to Housing Director Carole Costa, Dormitory Council President Thomas L. Burroughs 1L, and other students, the new procedure was implemented with remarkable ease and represented a substantial advancement over the system employed in previous years.

In an interview with the RECORD earlier this week, Burroughs explained the objectives of the system, its performance in the previous weeks, and possibilities for future refinements.

"The impetus for the change," Burroughs said, "came from three different factors. First, there was the factual situation of 213 1Ls on the waiting list this Fall. The system literally broke down. Secondly, the officers of the Dorm Council at that time were very interested in seeing if an improvement could be made. And finally, Vice-Dean William L. Bruce was very amenable to a change."

At the second Dorm Council meeting in September a committee was established to devise a new system. According to Burroughs, the committee had three main goals. First, they wanted to allow people to choose specific rooms rather than a type, thereby enabling them to consider with whom they would be living as well as any other factors they might consider important.

"With regard to choice of rooms,"

Burroughs said, "people are choosing on the basis of who they want to live near, shady side or sunny side, street side or common side, color of rooms, and being close to or away from bathrooms, stairways, telephones, etc."

The second goal of the Dorm Council Committee was to speed the process up, to give those on the waiting list a much better idea of their chances, and to require a stronger commitment from the people who did sign up. In order to achieve this objective, the designers of the plan increased the penalty for breaking the contract to \$50 until June 1, \$100 until September 1, and \$150 after September 1. Burroughs said he felt this penalty operated as a considerable disincentive for students to sign up for a room as insurance against not finding a suitable apartment over the summer.

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Nesson Becomes Co-Counsel On Appeal Team for Edelin

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The addition of Nesson to the Edelin team occurred three weeks after a mild heart attack was suffered by William P. Homans, Jr. '48, who served as defense counsel for the trial. Nesson, however, had no comment on the relationship between the two events.

Nesson had already started work on the case when contacted by the RECORD: "Right now I'm reading the transcripts," explained Nesson in a telephone interview earlier this week. Nesson pegged the date of appeal as "sometime in the fall, although it hasn't been set."

While not actively involved in the Edelin defense before last week, Nesson was supportive of the physician's case. Earlier this year, he characterized the Superior

Court proceedings to the members of his *Evidence* class as "the modern Scopes trial."

Nesson, a 1963 graduate of the Law School, and former clerk for Justice Harlan, suggested that Edelin may have sought him out at the recommendation of Homans. "I've known Bill for many years," stated Nesson. But Nesson hopes that the invitation to serve as co-counsel resulted more basically from "a feeling that I could do a good job."

While Nesson was supposed to have been on sabbatical this year, he defined his current status with the Law School as a "partial leave." He has been spending most of his time consulting with the Massachusetts Defenders, but does come in to HLS twice a week to teach *Evidence*.

When asked if he had any general feelings concerning the Edelin appeal project for the months ahead, Nesson commented: "No — just a lot of work on an interesting case, and I feel it's an important case."

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Women's Conference Explores Reforms

By Beth Emery

Reforming rape laws, obtaining credit for women, establishing alternative law practices and litigating under Title VII, were some of the subjects studied by five Harvard women who attended the Sixth National Conference on Women and the Law at Stanford Law School, March 21-23.

The Women's Law Association representatives were: Sherry A. Sherman, Marsha C. Macey and

tems, saying they may be disadvantageous to women. She noted that since 1971 women have outscored men on the LSAT.

Included in her list of necessary changes at law school were loosening of transfer policies; allowing part-time legal studies; prohibiting law firms engaged in discriminatory recruiting practices from the law schools' placement office; revision of law texts; and requiring all students to take a course dealing with women and the law.

120 women attorneys and professors, including Jan Goodman; Ginsburg; and Catherine Roraback, attorney in the New Haven Black Panther trial.

The workshop provided either broad overviews or technical exchanges of strategy.

According to Macey, all conference materials will be compiled into a resource notebook for students' reference. The notebook will be kept with those from the prior conferences in the WLA office.

Among that information will be texts and comments on the Michigan and New Mexico rape reform bills, gathered during a technical workshop conducted by Professors Connie Borkenhagen, University of New Mexico Law School, and Virginia Nordby of Michigan Law School.

Both states have written laws which set up degrees of rape, and eliminate the need to prove non-consent.

Michigan's law took effect November 1. New Mexico's law is on the Governor's desk.

Also to be included in the notebook will be information on proof and discovery in Title VII actions and discussion of the impact of community property and common law property systems on credit and divorce.

Macey added that although the national conference won't be at Harvard, representatives from area law schools who were at the conference discussed having a regional meeting, probably next winter.

"We have great resource people in the area," she explained, "and our goal is to provide a forum to share that knowledge with Northeastern area women."



Gail Lecce 2L, Sherry Sherman 1L, and Lucia Fakonas, three of the WLA's representatives at the Sixth National Conference on Women and the Law at Stanford Law School.

Beth Emery. 1Ls; Gail M. Lecce, 2L; and Lucia A. Fakonas, 3L.

A WLA bid to bring the conference to Harvard in 1976 was unsuccessful, according to Macey. The steering committee chose Temple University Law School in Philadelphia as the next site.

"But our primary goal — to bring the conference to the East Coast — was realized," she added.

Ruth Bader Ginsburg, Columbia law professor and winning counsel in the recent *Weinberger v. Wiesenfeld* decision, gave the keynote address Friday night. The *Wiesenfeld* case concerned social security "widows" benefits for widowers with children.

In a broad overview of women's issues, Ginsburg stressed the need for affirmative action as an intermediate stage before "neutrality of the law."

On affirmative action, she spoke out against numerical quota sys-

Ginsburg also stressed the need for renewed efforts to ratify the Equal Rights Amendment saying mounting unemployment, not "the coed potty and foxhole fearmongers," is the reason for the stall.

She said women have always been considered expendable in the work force, and it is time for "Rosie the Riveter to refuse to go back to the home."

The body of the conference consisted of 76 workshops led by over



University Wine Quiz #6

1. Name the driest type of sherry.
2. What grape grown in California has an unknown origin?
3. Where in Spain are the best red wines produced?
4. Where is there a store whose employees go out of their way to please you?

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

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Last Week's Answers: 1. St. Emilion 2. '60, '63, '66 3. False 4. Here

Populist Harris Seeking 'Basic

By Bruce Kuehne

Fred R. Harris carries his own bags.

That about sums up the type of campaign this presidential hopeful is running. His program is not slick; no dashing entourage follows. In fact, he has no paid campaign staff at all. And when he's on the campaign tour, he stays with friends because "I have more fun

he called "revolutionary . . . the most massive political change in my lifetime." He pointed out that in the past candidates had to "spend three-quarters of their time talking to rich people — one at a time." But that, he says, has changed.

The new law limits individual contributions to \$1,000 with heavy penalties for violations and provides the nominee from each major political party with 20 million dol-

National Committee. In 1971, he made a bid for the Democratic Presidential nomination.

Harris raked the Ford Administration over the coals for a number of sins, including "keeping 150,000 troops in Europe 30 years after the war," and "keeping the blood bath going in Southeast Asia when everyone knows that the present leaders will eventually fall." He then fielded questions from the audience.

One of his first acts as President, he said would be to appoint a different Secretary of State. Kissinger's suggestion that the U.S. might go to war over oil was "gravely irresponsible." The "elitists" in State, he said, "act with no discernible principles."

America's role, he said was not to manipulate the international balance of power. "We don't know how to do it and we don't have the right to ask the people to pay the bill for it." Although Harris said that his vision for the world, and his vision for the United States, included a "widespread diffusion of power, we should be aware that the extent to which we can impose our vision on others is rather marginal. But what we can do is refrain from complicity in evil."

To the question "What type of person would you appoint Attorney General?" Harris replied "A guy like Ralph Nader."

As for the CIA, Harris said that our operational premise now was — Is there a better way? For that he would substitute a new question — Why do we need the CIA at all? In his view, sophisticated information-gathering techniques are all we need. Those "guys running around in false mustaches and red beards" who attempt to assassinate foreign leaders and interfere with other governments simply "do not comport with the kind of principles we ought to exemplify."

Harris found Ford's energy program lacking. He said the United States had "no idea" of what oil and gas reserves it had. "Nor did we know how much is imported, or

HARVARD LAW RECORD



Roger Evans

Former Senator Fred Harris on the pre-campaign trail.

that way and learn a great deal more about what's going on in this country. Besides, it's a financial necessity."

The former Senator from Oklahoma addressed a Law School Forum crowd of several hundred on March 20. Hands wedged firmly in his pocket, he mixed no words about the "basic changes" he hoped to develop in the United States. Among these are: an end to subsidization of big business and the wealthy; a large tax cut for the middle classes; reduction in military expenditures; a guaranteed job program; strict enforcement of the anti-trust laws; selective price controls; formation of a federally-operated corporation to develop U.S. owned natural resources.

Harris' confidence stems largely from the passage of the new bill to finance national campaigns, which

lars, which is the limit each party can spend. Perhaps as important is the provision of matching funds in the primaries, if the candidate meets certain minimal requirements.

The result of this law, says Harris, is to place "enormous power" in the hands of the voter. "A few rich people or party managers will no longer be able to dictate what kind of candidate we'll have. We'll decide for ourselves."

Harris is a self-styled populist and the author of two books — *Alarms and Hopes* and *Now is the Time: A New Populist Call to Action*. After practicing law in Oklahoma and serving in the State Senate for eight years, he won a seat in the U.S. Senate in 1964. Besides serving on the Finance Committee and the Government Operations Committee, he co-chaired the Humphrey-Muskie campaign in 1968 and in 1969 was selected as the Chairman of the Democratic

Changes'

from where. Nor do we know what it costs to produce a barrel of oil." He would set up a federal energy resource agency which would have charge of studying, conserving and developing the energy reserves that are on federal property.

But he felt that the U.S. could make little headway until it got from under the thumb of big oil companies, who "are now buying up the coal companies." He also claimed to be shocked by the recent discovery that 49 of the top officials in the Department of the Interior Geological Survey branch had large holdings of oil stock.

Harris saw no contradiction between full employment and maintaining a decent environment. One of the problems, he pointed out, was that industry didn't have to "internalize its true costs." Users of large quantities of electricity get huge discounts as compared to ordinary consumers. This leads them to prefer manufacturing processes that use enormous amounts of energy, but less labor. He would charge industry the same price for energy as the individual consumer.

On the affirmative side, Harris felt that the government had the obligation to provide jobs to those in need of them. "I believe in the work ethic. A job ought to be a personal, enforceable right."

Providing jobs, he said, was a sensible solution in an economy in which 24% of the construction force is out of work while millions need homes, in which we have such needs for day care, mass transit and health care. "There's plenty of money to do it. People ask me if they'll have to sacrifice. There'll be sacrifice, but I've got a long list of people who'll have to start. We'll sacrifice a wasteful economic system, but we'll gain a better quality of life."

Harris has had little exposure. His style is not flamboyant—it's his wish, he says to be a "citizen president." His plain-spoken drawl will raise the hackles of the classy folk. But he's hoping the voters will discover Fred Harris and make it the year of the populist.

MARCH 28, 1975

Sra. Allende to Address HLS Forum on April 8

Señora Salvador Allende will speak at the Law School on Tuesday April 8, at two o'clock in an address sponsored by the Harvard Law Forum.

Allende is expected to speak on the overthrow of her deceased husband's Chilean government. According to John Foster, 2L, vice-president of the Law Forum, this will be Allende's first trip to the United States since the time of the coup.

"The only places I know she will speak are Yale and Harvard," Foster said, "although

she may speak at other places." Foster said he is expecting a very large turnout.

When asked how the Law Forum managed to get Allende, Foster said they had sent her a routine letter at the start of the year. They received a reply saying she would keep it under advisement. Nothing more passed between them until a few weeks ago when the Forum was contacted by a person for Allende asking if they would still be interested in sponsoring her talk.

Foster added that he felt her address would be the star of the semester.

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Weicker Decries Inaction on Agencies

(Continued from Page 1)
of the country will have to address themselves to the political system.

"You will not get better excellence in the White House or on the Congressional floor than you get in the voting booth. Until the people in this country vote in substantial

made in advancing respect for the government."

Asked about reports of refugees fleeing from communist-held sectors, Weicker said: "I don't know why people are fleeing, I don't know whether they could defend the areas with arms."

"The force of arms no longer has

otherwise, I wouldn't deserve my position."

When asked, Weicker denied that Watergate had changed his political ideology.

"People on both sides said: 'He's obviously a liberal because of the position he takes on Watergate.' We are simply talking about the process of upholding the Constitution and the laws of the country," Weicker explained. Were the situation reversed, he said he'd hope the Democrats would be at the forefront of those searching out the truth. What gives value to the country, he claimed, is what people do in such situations without regard to their personal interests.

But, Weicker said: "There isn't the feeling in this country any more that one ought to be out there for the other guy."

Weicker was asked what differences he saw in the two parties and, if not nominated by the Republicans, whether he would run as a Democrat.

Stating that he would run as an Independent if he doesn't get the Republican nod, Weicker said he would not run as a Democrat because "I don't want people to think I was a Democrat in a Republican cloak during the Watergate hearings."

But with regard to differences between the two parties, Weicker asserted that there were none. "Individuals give the parties substance," Weicker said. "You should vote on the responses of the individual, not upon the party line." He added that the main justification for parties was to prevent a fragmented electoral system.

Concluding, Weicker asserted: "I'm an enormous optimist." He admitted he may be hard-nosed, but said he was convinced "this nation has a great future ahead of it."

"Maybe we are not the most caring, honest, and compassionate people in the world, but we think we are, and so some of it comes true everyday. I'm not willing to accept the situation in which we admit we are rotten and cynical," he said.

"The toughest thing in the world has been, and will continue to be, to fight for the good."



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Senator Lowell Weicker speaking in Ames Courtroom earlier this week blasted Congress for failure to pass legislation to oversee the CIA and FBI.

numbers, I will not let the people off the hook," he declared.

Before opening the forum for questions, Weicker concluded his preliminary remarks stating: "If Americans don't care about the concepts that gave dignity and status to many before us, then we have a recession of the American Spirit."

Responding to a question which asked his position on further aid to Vietnam and Cambodia, the Senator from Connecticut averred that he was against such aid. "I don't take this position on a philosophic kick," he said. "I do it as a matter of facts. Those facts clearly state that 55,000 lives and 200 billion dollars have been spent to allow these people to determine their fate."

"It is the people over there who decide this on the basis of whom they stand by." And on this matter he commented: "very little headway has been

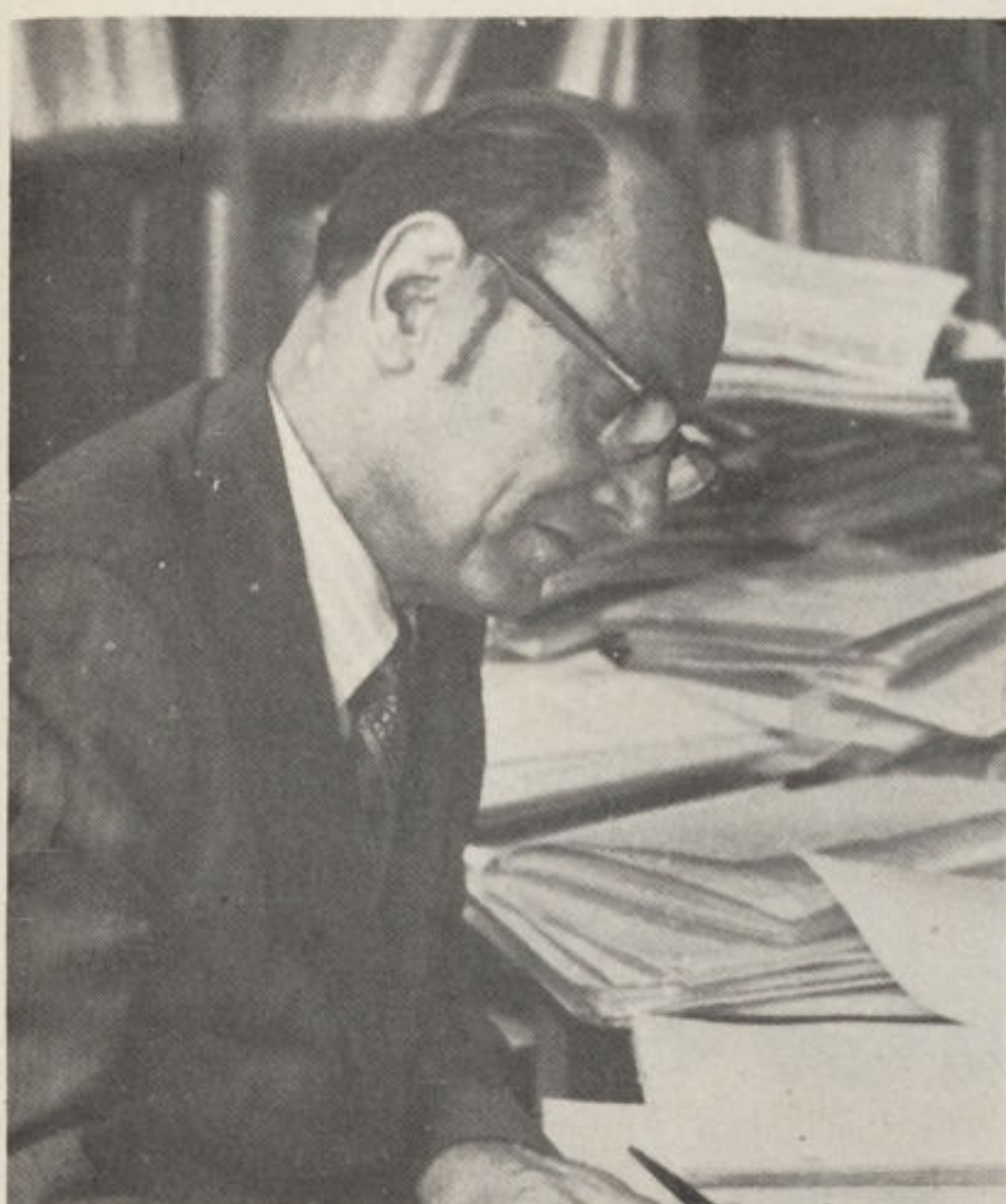
the binding effect it used to have, not in this day and age," Weicker said. He added that the Americans had met whatever commitment they had in a "substantial and honorable" fashion.

Questioned on the Boston busing situation, Weicker replied: "I don't see what the problem is. You either obey the law or you don't. I refuse to go along with the idea of selective law-breaking whether those breaking the law are in blue suits, blue jeans, or blue collars."

Weicker asserted that government officials were responsible for busing through their failure to take action. "The fact is it never should have gotten to this point," Weicker added that government officials were using the judicial process as a scapegoat.

"I will stand beside the court. I don't care how unpopular it is;

New Requirement Meets Needs of Practice



Professor Robert E. Keeton's Committee on Legal Education supported the new professional responsibility course requirement.

(Continued from Page 1)

to keep enrollment in most of the courses to a maximum of 50 students.

Dean Albert M. Sacks said that the program would be in the experimental stage for at least a couple years. "It's too soon now to say how the program should be structured," Sacks noted, "but two years from now we should have learned a good deal. At present, we have at least four or five models in mind."

Professor Robert E. Keeton, whose Committee on Legal Education had urged the faculty to approve a professional responsibility course requirement, felt that "whatever ways are chosen for students to meet the requirement, each option should include at least two things. First, there should be a problem-oriented treatment of issues arising under the Code of professional responsibility. Second, there should be some discussion of the structure of the legal profession and its role in the community."

Professor Andrew L. Kaufman, who teaches a course on the legal profession, agreed with Keeton's description of the "core" of the professional responsibility requirement. "The field is very broad," Kaufman said, "and a course can focus on conflicts of interest, Watergate problems, provision of legal

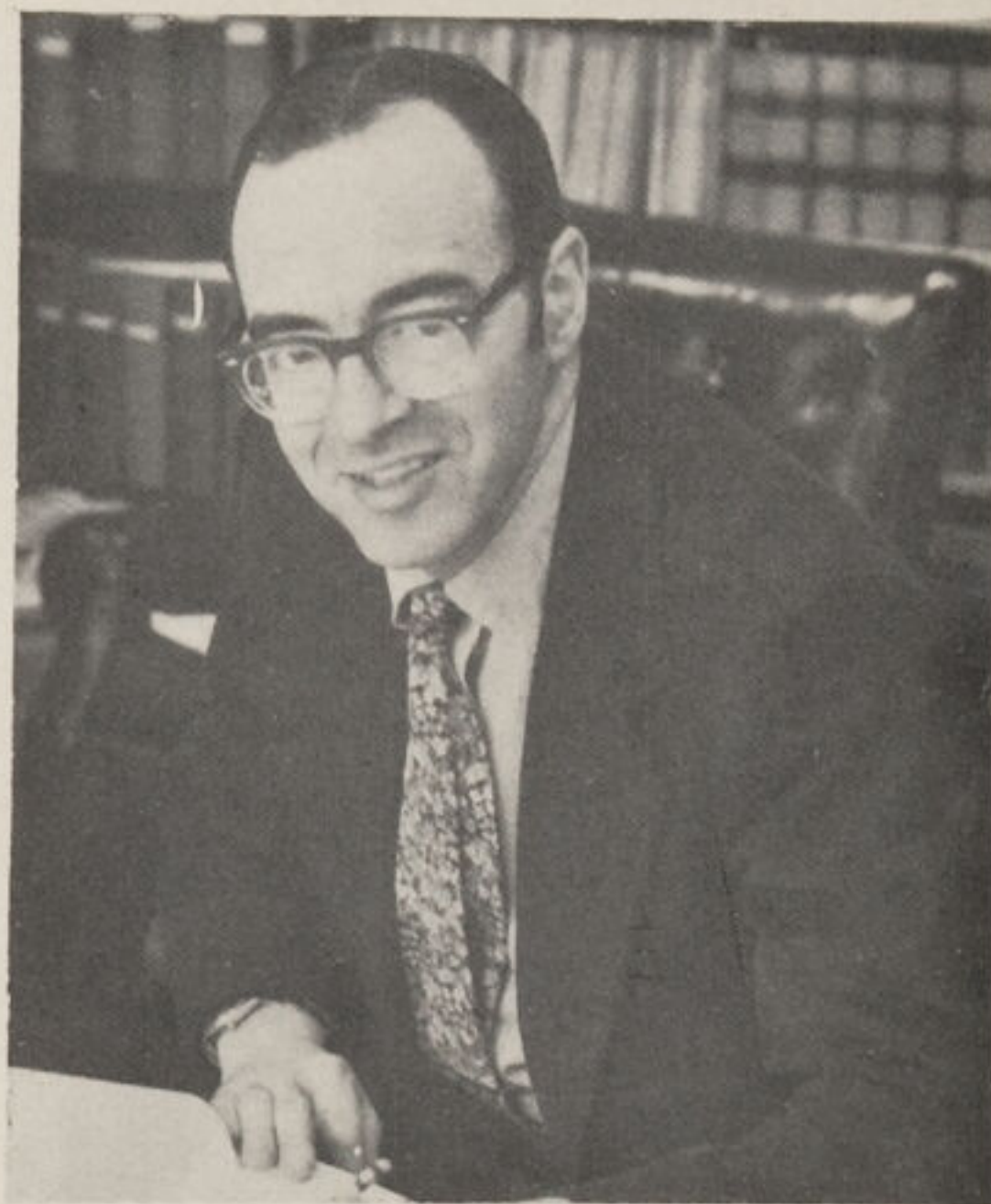
services, minimum fee schedules, problems of the adversary system, the sociology of the profession, and on and on. But wherever such a course goes, a substantial part of the time should be focused on these two areas."

Kaufman explained that he first started teaching a course on professional responsibility in the late 1960's. "Originally, I taught the course out of a standard casebook on the legal profession. But this is an area that generates a lot of class discussion, and it's important for students to have an opportunity to formulate their ideas by talking in class. So I've developed a set of materials that consist primarily of discussion problems with supplementary readings."

Kaufman said that his own experience from practice was that most attorneys simply don't perceive problems of professional responsibility when they first arise. "But since these problems are so difficult it's important to have started thinking about them before a lawyer finds himself in the middle of a situation with lots of financial considerations bearing down on him. The profession has been hurt by the fact that most practitioners have not been exposed to a systematic examination of professional responsibility problems."

The Law School has no records of the number of Harvard graduates who have been formally charged at some level with violations of professional responsibility standards. Sacks noted, however, that alumni had played an active role in encouraging the faculty to adopt a professional responsibility course requirement.

Both Sacks and Keeton were optimistic about the Law School's ability to offer enough professional responsibility course options to keep class sizes below 50 students. Sacks commented that next year about 90 students could take clinical courses with a professional responsibility component. In addition, there will be at least two first-year electives on the legal profession and from three to five electives for second- and third-year



Professor Andrew L. Kaufman will continue to teach his course on Legal Ethics.

students Sacks said.

Keeton and Sacks also saw the use of teams of a professor and a practicing lawyer to teach professional responsibility as an option that the faculty would pursue in coming years.

Keeton's Committee on Legal Education urged the faculty to consider adding at least one professor whose major area of concentration would be professional responsibility. Kaufman said that he would devote most of his teaching and research work next year to this field but that the need for work in professional responsibility would justify the hiring of new faculty members to work in the area.

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Sargent Urges Defense of Privacy Rights

By Ricardo Hinojosa

Charging that there is a threat to the right of privacy, which he labelled as "the most fundamental of all our rights as Americans," former Massachusetts Governor Francis W. Sargent exhorted law students to become involved in the development of "privacy law."



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Former Massachusetts Governor Francis W. Sargent listens to a question posed after his address in privacy sponsored by the HLS Forum.

Sargent made his remarks in an address to about 80 people at the Law School last Saturday afternoon. His talk was co-sponsored by the Harvard Law School Forum and the Law Student Division of the American Bar Association.

Americans, according to Sargent, are the victims of unrestrained governmental and private record keeping. Because of this, he feels, "We must protect and cherish our right to privacy. Our right to be left damn well alone."

The former governor, who is currently a fellow at the John Fitzgerald Kennedy Institute of Politics, cited as examples of excessive governmental record keeping the countless files kept by various governmental agencies and departments.

The Justice Department was particularly singled out by Sargent because of his belief that the Federal Bureau of Investigation files it keeps "not only lack legal restric-

tions, but aren't even regulated by administrative guidelines set forth in the Federal Register."

Alluding to recent investigations of the Central Intelligence Agency, he remarked "God only knows what we will find the CIA has in their files."

Sargent did not limit his criticism to records kept by governmen-

tal agencies. He cited what he regards as dangers in the millions of records kept by credit and insurance companies.

The governmental and private data gathering activities are for the most part, Sargent admitted, "well intentioned." Law enforcers must keep records and insurance companies need to protect their investments. But, he quickly added, "there are risks involved" in unrestrained record keeping.

"If a citizen knows that his conduct and associations are being kept on file, and knows that there is some possibility that information might be used to harass or injure him, he may become less willing to stick his neck out even in pursuit of his constitutional rights." This Sargent sees as a "potential threat to values basic to the fibre of our society."

As a solution, Sargent suggested, "what is necessary now is the development of a framework to strengthen the protections guaran-

teed by the constitution." He called for the inclusion of "information practices and technological developments" within this legal framework.

During the question and answer period which followed his remarks, Sargent was asked his views on a wide range of issues dealing with privacy.

Responding to a questioner who asked what passage in the Constitution he would cite for the right of privacy, Sargent said, "I can't get into a constitutional legal argument." The MIT architecture graduate added "the right of privacy is generally provided for in the Constitution. I just think it's there."

In response to another question, Sargent stated that "it's very tough" to decide how much privacy a candidate for public office should be allowed.

In his unsuccessful campaign for re-election last November, Sargent released his income tax returns. "I got sore afterwards" because some newspapers pried into specifics of the tax returns, he said. "There is so much overreaction from the Watergate syndrome, that it may be tough to get people to run for public office."

Sargent also gave his support to the Buckley Amendment, which has opened student records for inspection. "I've always felt that students and their parents should have access to their files."

Sargent closed off his address by stating that he had learned that the privacy issue "is not a matter of easy platitudes."

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Breeding Boredom

Students who attended the Law School Show during the last few weeks were treated to a dramatic presentation of Christopher C. Langdell's introduction of the case method to HLS. However amusing that brief exposure was on stage, the use of the case method in second and third years is anything but amusing.

The validity of the case method in the first year as an educational tool is generally acknowledged, and we concur in this view. But by the end of the first year, and arguably well before that time, students understand how the judiciary works its magic. Beyond that time the costs of the method far outweigh the benefits. Few things on this campus are more pointless and inefficient than the commonplace requirement that students read extended opinions to unearth a few important paragraphs.

It would be a mistake, however, to suppose that the only cost of using the case method in the second and third years is some inefficiency in covering course material. The unnecessary reliance upon this teaching practice has bred boredom and created disillusionment with education at the Law School. Assignments are left unread, and if read, considered of only marginal utility. With the "Real World" floating like a mirage in the not too distant future, the belief has become common among students, particularly in the third year, that they are putting in time on a treadmill, learning next to nothing.

A good number of professors have abandoned the case method in second and third years recognizing that it does no more than act as a brake upon class progress. Most others have recognized, perhaps by necessity, that a 2L/3L class should be taught differently than a 1L class. Nevertheless, what is needed is a wholesale reevaluation of the teaching of second and third year courses. At some point education must be placed ahead of tradition.

Deserved Praise

The Dorm Council and the Housing Office deserve praise from Hasting to Dane for their new room selection system. As seen in operation over the last few weeks, the new system represents an improvement that is difficult to exaggerate. Perhaps the most amazing thing is that the revision did not come about until now.

We believe that the opportunity to choose whom one will live near; and the color, size and location of the room, will make a substantial contribution to the everyday life of students in the dorms. For this accomplishment, those responsible for the changes merit gratitude for their efforts.

HARVARD LAW RECORD

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Fenno

"Damn," the 2L said as Fenno walked past him to the Pepsi machine, preparing to gamble twenty-five cents that today would be one of the days the apparatus worked.

Fenno surveyed the speaker apprehensively; four-letter salutations were seldom propitious, especially from second-year students.

The 2L was not in particularly good shape. Slumped in uncomfortable dishevelment, sixty-hours growth of beard on his face, and a look of abject desolation in what was left of his eyes, he was a picture of Bergmanesque depression.

"Off-hand," Fenno observed, "I'd suggest a nap, a change of clothes and a shower. In no particular order. What happened to you, anyway?"

"Ames," the 2L replied briefly.

"I really can't generate much sympathy for you," Fenno commented. "I mean, 2L's are supposed to know enough about brief-writing that preparing one isn't a traumatic experience, especially if you have six teammates.

"We didn't have six people," the 2L said. "We had five people and a maniac."

"I think I'm beginning to get the picture," Fenno replied.

"When we finally started putting the brief together, we faced the minor problem of condensing 95 pages of mini-briefs into one 40-page brief."

"How did you accomplish that?"

"We started by eliminating all adverbs and prepositional phrases. Then we adopted the dirty-dozen rule: any policy argument that can't be stated in twelve words or less is prolix per se. Next we eliminated all cites that weren't absolutely essential. Then we had everyone take back their mini-briefs and cut them to the absolute bone."

"That sounds like a very intelligent way to proceed."

"It was. It got us down to 87 pages."

"What did you do then?"

"Fortunately, one of our members had to leave the room for a few moments, and we took the opportunity to reduce his twelve-page section to a four-line footnote."

"That was wise."

"Yeah. It sort of got the ball rolling. After that, every time someone turned his head, he'd be missing two paragraphs when he turned back."

"So you finally got it done?"

"Yes. Finally. It was really great seeing the sun come up. I figure, that's what being a lawyer's all about."

"One thing I don't understand," Fenno commented. "Your opponents don't seem to be going through this kind of agony on their brief. Why do they have it so much easier?"

For the first time in the conversation, a gleam returned to the 2L's eyes.

"That's easy," he said. "For them, Ames is just a competition. For us, it's Life."

Letters to the Editor of the RECORD

"Our Bloodiest Acts: The Prettiest Names"

To the Editor:

I must confess that I am completely baffled by Mr. Jan Ting's letter, which appeared in the March 21 edition of The RECORD. To the best of my knowledge, no one, and certainly not John Hagen, has ever said anything about disturbing the free speech of those who favor abortion.

So what is left of the argument once this straw man has been disposed of? The United States Constitution, or, to put it more precisely, the Constitution as interpreted by the Supreme Court, the very Court that handed down the *Dred Scott* decision. But let that pass. And let us not heed Professor John Hart Ely—himself an advocate of legal abortion—when he writes, "(*Roe v. Wade*) is bad because it is bad constitutional law, or rather because it is *not* constitutional law and gives almost no sense of an obligation to try to be."

Instead, listen to Dr. Bernard Nathanson, a founder of the National Abortion Rights Action League and former director of the Center for Reproductive and Sexual Health, one of the world's largest abortion clinics:

I am deeply troubled by my own increasing certainty that I had in fact presided over 60,000 deaths. There is no longer serious doubt in my mind that human life exists within the womb from the very onset of pregnancy.

Nicholas von Hoffman, too, has his doubts:

We've always known that, *au fond* (sic) the case for abortion is terribly weak...As my friend writes, "saying 'interrupting a pregnancy' is a lot easier than saying 'killing an unborn child.' It's an even better euphemism than 'terminating a pregnancy' because it doesn't sound so irreversible. Goebbels slipped up on that one. He should have spoken about the 'interruption' of the Jewish question."

Of course, Nathanson and von Hoffman still favor legal abortion. Yet von Hoffman concludes, "But in any case, we should recognize abortion for what it is and not fool ourselves by calling it a medical procedure. In Cambodia, in the CIA and in the hospital abattoirs we have this unfortunate habit of giving our bloodiest acts the prettiest names."

However, as Mr. Ting points out, such moral sensibilities are characteristic only of Francos and Mussolinis, while Stalin and the masters of the Gulag Archipelago have been far more solicitous of women's rights in this sphere—as in others. Strangely enough,

MARCH 28, 1975

Mr. Ting is quite wrong in thinking Hitler an anti-abortionist; any good history of the Third Reich will reveal that, his reputation to the contrary notwithstanding, Der Fuhrer was an ardent civil libertarian in the finest tradition of NOW. He, like Mr. Justice Blackmun, realized that unborn children are "not persons in the whole sense" and that they "lack meaningful capacity for life."

I must catch myself here; Mr. Blackmun and Mr. Ting are no more Hitler than Mr. Hagen and I are Franco. Only fools slide recklessly down slippery slopes. But can it really be folly and base reaction to insist that human beings, *qua* human beings, have a right to live?

Paul Strohl, Jr., 1L
Cambridge, Massachusetts

Hagen Responds To Ting Critique

To the Editor:

Mr. Jan Ting was very angry with my performance in a recent Backbencher, so angry indeed that he felt compelled to write the RECORD and denounce me as a Nazi. Now no one, I hope, would wish to be unfair to Mr. Ting, and if his rhetoric seemed the least bit gaudy, and his historical statements somewhat broad and speculative, and his Constitutional notions more appropriate to Li'l Abner than to a Harvard lawyer, it is at least undeniable that he was very strenuously provoked.

Mr. Ting's Constitutional theory is apparently this: that the Constitution is written in plain English, and that it is the judges' job to explain it to us, and that "herefore if I fail to square my shoulders and salute in Dogpatch fashion whenever Mr. Justice Blackmun renders a text (at least a text involving Individual Rights) I stand revealed as a scamp and a subversive. From the vehemence of his wrath, it would appear that to dispute *Roe v. Wade* is to deny, not just a rather dubious Constitutional penumbra, but the great Sun of Liberalism itself.

Now Mr. Ting has presumably heard, somewhere in the swirling mists of his legal tutelage, of the ancestral horrors called *Dred Scott* and *Lochner v. New York*. In those times, he may recall, learned justices not unlike our own Mr. Blackmun discovered arcane portents in the Constitutional entrails, Individual Rights against which no one could be protected by the state. In those times, too, staunch patriots were found to defend the Court, and to thunder that no one was being forced to own slaves or extort the workers if he didn't want to, and that dissenters had no right to impose their private beliefs on others. Yet it nevertheless occurred that men and women of good will arose to say that the

Court was wrong, and that their saying so had neither the intent nor the effect of subverting the Constitution, but in fact served to strengthen it.

To Mr. Ting's long litany of dictators great and small, I can only answer that the pioneers of legalized abortion in the West were Soviet Russia and Hitler's Germany. The intrepid moralists of the Kremlin have twice completely legalized abortion and twice completely banned it, accordingly as it seemed good to them to raise the birthrate or to summon women into the factories. The Nazis provided for "voluntary" eugenic abortions by women in consultation with their doctors, and the standards of "good medical practice" thus encouraged grew into a burgeoning hell of post-natal medical murders. In both countries, all this was accomplished under constitutions framed in the very best fashion of Western liberalism.

Law and language, as we know, are both very pliable mediums. A Constitution is no stronger than the philosophy of those who apply it. Out of liberalism come the creeds which deny it, and if Mr. Ting dislikes the company of Nazis he would do well to study the course of constitutionalism in the Weimar Republic.

John Hagen, 3L
Cambridge, Mass.

Weinreb Cites Review Flaws

To the Editor:

Gabriel García Márquez, whose novel *One Hundred Years of Solitude* was reviewed in the RECORD of March 21, 1975, is not Argentinian, as the reviewer states, but Colombian. The novel as well as other writings of García Márquez (some of which also tell about the Buendia family) reflect the Colombian tradition and experience. It has been reported that he has recently completed a new, large novel called *El Otoño del Patriarca*.

García Márquez has lived most of his life outside Colombia, but not in Argentina. The reviewer may have been misled by the fact that *Cien Años de Soledad* and others of García Márquez' books were published originally in Spanish in Buenos Aires.

Lloyd L. Weinreb
Cambridge, Massachusetts

The Fenno Tune: What's He Dune?

To the Editor:

No one ever really can know
The true lineage of Fenno,
But, whether spawn of hoary crooks
Or of scribes of learned books,
His RECORD jottings should remind us,
Though we lack for gifts sublime,
The least of us can leave behind us
Excreta on the sands of time.

John M. Kahn, '54
Boston, Massachusetts

Letters

Paper: No Waste For Past Chaser

To the Editor:

I take typewriter in hand to comment on your news article of February 14 which states that over 200 HLS students met in the TV room of the Hark on a Wednesday afternoon to discuss the Written Work Requirement. This in itself is astounding. When I attended HLS you couldn't get 200 students to visit the Hark on a Wednesday afternoon to see Perry Mason play for the Bruins, let alone discuss serious business.

I thoroughly enjoyed doing my third-year paper. I enjoyed it in the same way every HLS student enjoys capping his three years of camaraderie and hard work — not unlike a chain gang, when you think of it — with a final burst of determined yet purposeless effort. It truly telescopes the experiences of three years into six weeks and brings back lots of memories in the process.

Now I rest secure in the knowledge that my paper, along with those of so many others, has been carefully placed in the HLS archives next to the Hark loading ramp and taken away for preservation by the City of Cambridge in facilities located at, near or in Fresh Pond. My own copy of the paper has proven quite useful, but its beneficial value would have been greater had it been xeroxed on a perforated roll.

The ideal solution to the paper requirement is to increase the number of credits to 150 and allow the student six semesters in which to complete the task. Of course, papers of this scope would be expected to be of somewhat higher quality than at present, but (after all) rigor is its own reward.

Don Solomon '73
San Francisco, California

NOTICE TO RECORD READERS

This is the last week the RECORD will be sold in Austin Hall. Sales in the Hark will continue as in the past.

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Law Notes

The 1975 Yearbook is slated for distribution shortly after spring vacation. There are still a limited number of books available to those who have not yet subscribed. Anyone wishing one of these copies should send a check for \$9 payable to the HLS Yearbook, 23 Everett St., Cambridge, Mass. 02138. Local address should be included so that checks can be promptly returned when no further books are available.

* * *

Law School Registrar Mary D. Upton has announced that her office will begin distributing materials for preliminary registration for the 1975-76 academic year on April 9, 1975. This year preliminary registration will occur in two stages. A special registration for clinical courses only will be held first, followed by a separate registration period for all other courses.

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.)

Ec ek ohcchd uid xzz cwh nidzq, eu
eskchxq iu nxecest ci hlhpbeh qhthshdxch
iuukgdest uid pdefh id ci zhc cwhf kcxdrh
uid cwhed efohpezeca kipehca pxs gdhrrhsc
cwikh nwi xdh fxseuhkcza bsuec udif pisces-
best cwhed mesq. Cwh gdespegzh cwxc
kbcxesk pbfgbzkida rxppesxteis ek odixq
hsibtw ci pirhd pbceest cwh Uxzzigexs
cbihk, cwdhh thshdxceisk iu efohpezhk xdh
hsibtw.

(Solution on Page 14)

Sports Answers

1. George Stallings
2. Darryl Stingley, New Eng-land
3. Kentucky, UCLA, Kansas
4. Jar Droby
5. (a) Harry Simpson, baseball (b) Mickey Walker, Boxing (c) Dan Towler, Football (d) Ric Cobb, Basketball
6. Susie Maxwell Berning
7. Ducky Medwick, 1937
8. Sandy Koufax
9. Bum Phillips
10. Robert Tyre Jones

Williston Ends As 1Ls Await Contest Results

By Susan Gillette

Earlier this month 82 1Ls entered the Williston contract writing competition and yesterday nearly all of the competing teams turned in contracts and negotiating memos.

Last year 298 students signed up for Williston, probably because registration was held before Ames, according to Board of Student Advisors coordinator Catherine G. O'Sullivan, 3L. She said the number of entrants this spring is "reasonable," by comparison.

The negotiating began on Monday, March 17, when opposing clients' "attorneys" met for a five-hour bargaining session to settle salary and termination provisions. Each side was represented by four persons, two of the two-person teams which continued bargaining for the next 10 days.

This four-on-four negotiation is a new procedure in Williston competition, O'Sullivan said. The idea for the change came from an American Arbitration Association workshop held at the Law School last spring.

O'Sullivan said the "great range of results" from the opening negotiations indicated that the four-on-four method "gave people a chance to prove their skills."

The judges will evaluate both the drafting of the contract prepared by "attorneys" representing opposing clients and the effectiveness of each team in securing its client's desires.

This method of judging should alleviate "collusion" which occurred two years ago when prizes were awarded for the contract written by both parties' teams, and the sort of "fierce competition" which resulted last year when only the individual team's work was considered.

The Boston Safe Deposit Trust Company has provided \$750 prize money. Prize-winners will receive their checks at a banquet.

HARVARD LAW RECORD

New Allocation System Utilized for Dormitories

(Continued from Page 2)

The increased penalty was combined with the plan to have students select their own rooms to insure that the process would proceed at a quicker pace than in previous years.

"On the question of speed," Burroughs said, "the plan certainly seems to have worked. It looks as though by the end of the week we will have given out every room, and worked our way through half if not most of the waiting list. This is, as I understand it, a vast improvement."

The third goal which the Committee set out to achieve was a better mix of 2Ls and 3Ls. This year, after the first year class was reserved their traditional 50 percent, 40 percent went to 2Ls and 10 percent went to 3Ls. Although Burroughs had no definite figures at the time, he said he felt sure that the mixture had been substantially improved by means of the Committee's provisions.

Burroughs also discussed some of the errors which had

taken place during the selection process. Responding to a report that C. Bryan Wainwright 2L, a member of the Dorm Council Committee, had been mistakenly allowed to sign up for a room reserved for 1Ls, Burroughs explained the Housing Office had let Wainwright keep the room, taking the position that it had been their error not to tell Wainwright at the time the room was unavailable so he could make another choice. "Bryan had received one of the top numbers in the general lottery, and at the time he chose we weren't completely organized," Burroughs explained.

Burroughs noted that there had been two or three other slipups, including one male student who mistakenly had been given a girl's room on the third floor of Wyeth. But on the whole, Burroughs asserted that: "The remarkable thing is that it ran as smoothly as it did." He noted that the Dorm Council was there to help, but that they were "gross amateurs" and constantly

taking each other's places throughout the day.

Burroughs added that: "The two or three mistakes which did result were probably more our fault than Miss Costa's. Miss Costa has been spectacular to work with, she has been extremely cooperative, and so have all the people in that office."

"Now that we've run the system once and we know that it works, we can give consideration to improvements and refinements of the system," Burroughs reported. "The fine system will be one thing we will reconsider. I think it did discourage people who would've signed up, but we might want to structure the fine to encourage people to give up their rooms earlier if they know they won't use them."

Other matters which Burroughs said would receive additional consideration include the process of roommate selection, the contract itself, and the means of allotting 1L rooms.

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SPORTS QUIZ

1. Who was the manager of the 1914 "Miracle Braves"?
2. Otis Armstrong led the NFL in rushing last season. His running mate at halfback in college, best known for his pass catching ability, is also a rising young star in the NFL. Name him.
3. What three schools have appeared most often in the NCAA basketball tournament?
4. Martina Navratilova, a left-handed Czech tennis star of today, follows in the footsteps of a left-handed Czech male tennis star who won at Wimbledon in 1954. Name him.
5. Match the following nicknames with the sports personalities who bore them:
 (a) Suitcase
 (b) Toy Bulldog
 (c) Deacon Dan
 (d) The Elevator Man
6. Sandra Haynie won the U.S. Women's Open last year breaking a two-year streak by another woman golfer, who has won the Open a total of three times. Name her.
7. Who was the last triple crown winner in the National League?
8. What pitcher led the National League in E.R.A. for five consecutive years?
9. Name the newly-appointed coach of the Houston Oilers.
10. The Sullivan award for outstanding amateur was first given in 1930 to whom?

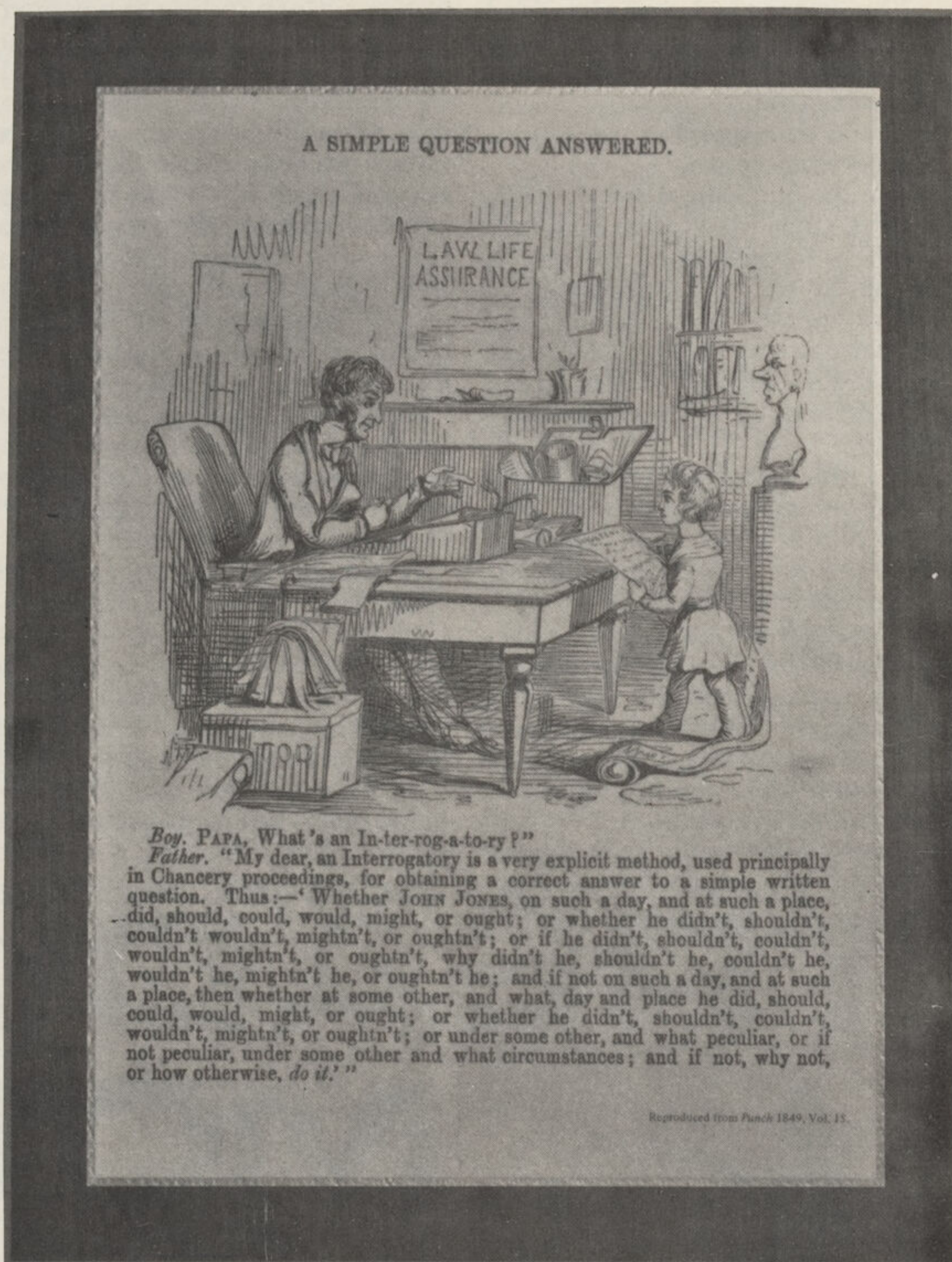
(Answers on Page 12)

Solution to Cryptic Law

It is better for all the world, if instead of waiting to execute degenerate offspring for crime, or to let them starve for their imbecility, society can prevent those who are manifestly unfit from continuing their kind. The principle that sustains compulsory vaccination is broad enough to cover cutting the Fallopian tubes. Three generations of imbeciles are enough.

Justice Oliver Wendell Holmes in *Buck v. Bell*, 274 U.S. 200 (1927).

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 HARVARD LAW RECORD

Workshop Added to Clinical Program

By Phil Heagney

Assistant Dean Jeanne C. Kettleson's office has announced that next year's clinical program will offer a special eight-credit course during the fall semester entitled *Introduction To Advocacy*.

In addition, the clinical program will include two seminars in the fall. Kettleson will teach *Lawyers, Change, and the Public Housing Bureaucracy* and Judge John C. Cratsley will offer *Lower Trial Courts*. Both seminars will provide institutional placements. In the spring, Cratsley will offer *Criminal Trial Advocacy*, and Kettleson will teach *Lawyering Process*. Five sections of *Trial Practice* will also be available.

Kettleson will meet with first- and second-year students on Wednesday, April 9th, at 6:00 p.m. in Langdell North, and again on Thursday, April 10th, at 4:00 p.m. in Pound 101 to explain the clinical program for next year. Information on the special registration for clinical programs will be given out at these meetings, and the next week Kettleson's office will be open to students for consultation on individual programs.

Introduction To Advocacy was developed by Professor Robert E. Keeton and represents a major innovation in the clinical program. Keeton said that the course will consist of three segments. The first three weeks of the semester will be devoted to an intensive workshop with students meeting from 2:00 p.m. to 9:00 p.m. five days a week. Beginning in the fourth week, students will transfer to a section of *Lawyering Process* taught by Professor Gary Bellow or to a section of *Criminal Trial Advocacy* taught by Professor Charles R. Nesson. The course will also include a *Professional Responsibility* component taught by Professor Andrew L. Kaufman.

"This course is founded on the hope that we can combine simulated exercises and field work," Keeton explained. "I don't know of any other school where this combination has been tried. It's an experiment, but, if it works, I hope that it

might encourage the development of more options in the clinical program."

Keeton said the workshop would be patterned on the three-week summer sessions of intensive simulated exercises offered by the National Institute for Trial Advocacy. The workshop will admit 88 students who will be divided into two groups. Each group would be led by a team consisting of one professor, a trial judge, and two trial lawyers. Students would participate in simulated exercises and later watch videotapes of their performances. Each instruction team would also stage some demonstration exercises.

people will be from the Boston area, but maybe a third will come from outside New England. The trial bar has shown a great interest in these kinds of programs."

Seva Kramer, Kettleson's assistant for clinical programs, emphasized that all students interested in taking a clinical course next year should attend one of the meetings on April 9th and 10th. "There are lots of little twists and Catch-22's in the pre-registration," she said, "and, if students only read the materials we hand out, they will be confused by the details."

Kramer explained that the uncertain status of the student legal practice rule in Massachusetts was

"This course is founded on the hope that we can combine simulated exercises, field work."

"I believe that we can teach some things better in intense courses offered over a short period of time," Keeton noted. Originally he thought the workshop section would have to be offered in August before regular classes began.

Bellow then proposed that the workshop be substituted for the first three weeks of *Lawyering Process*, and Nesson offered to teach his first clinical course at the Law School in conjunction with the workshop.

Keeton said that he was still looking for another professor to join him as a team leader for the three-week session. He added that the attorneys and judges in the project would probably change every week. "I don't anticipate any problems attracting people from the profession," Keeton said. "Most of the

causing many of these complications. If the rule is not modified, only third-year students will be able to take clinical courses next year. This year's first-year students will be allowed to register for clinical courses, but they will also register for a full load of regular courses pending a final decision by the Supreme Judicial Court on the legal practice rule.

Kettleson's office was confident that most students who wanted to do clinical work could find a place in one of the courses even if the Court allows 2Ls and 3Ls to practice. Kramer explained that "if there are oversubscriptions, there will be waiting lists. This year we were able to offer a place to every student on the waiting lists, and we'll have 20 to 30 more places next year."



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Farm Workers' Backers Organize at HLS

By Rob Leflar

A group of Law School students has determined to carry the campaign for support for Cesar Chavez's United Farm Workers (UFW) to the Law School community.

The Harvard Law Student's UFW Support Committee was organized last week. On Sunday, March 23, UFW backers from all over Cambridge converged on the Old Cambridge Baptist Church for a fund-raising "fiesta."

An enthusiastic fiesta crowd estimated at 800 watched flamenco dancers, ate Mexican casserole, sang UFW songs, listened to poetry, and danced to the beat of a mariachi band. The UFW film "Why We Boycott" was shown, and the Cambridge Ensemble staged a benefit performance of "Tania."

"The fiesta generated a terrific amount of enthusiasm," said Hugo N. Morales, 3L, an organizer of the law students' support committee. "And I think that we're getting across the UFW's basic message: that this is not just a union movement, but a movement for basic social and economic change in the farming communities."

The farm workers, explained Morales, form the bottom social layer of the farming communities, much as did the Arkies and Okies during the Depression. Their demands for a voice in working conditions, for health care clinics, for control of pesticides in the fields, and for pension and insurance plans, reflect their drive for social recognition in communities dominated by growers and ranchers.

The nationwide boycott, not

the local strike, is the UFW's most effective weapon, Morales pointed out. The surplus of Chicano laborers who have no choice but to work at low wages, even when it means strike-breaking, he said, tends to vitiate

Cesar Chavez will be coming to Harvard later in the spring for the opening of the UFW's new film, "Fighting for Our Lives," Lewin added.

Law students are needed to work on antitrust liability problems the



Harvard students march in support of Gallo boycott at recent Cambridge demonstration.

the effectiveness of the strike—especially since the local government, police, and judiciary are hostile to the movement.

So, the nationwide UFW support campaign has concentrated on the boycott strategy. The target currently being emphasized is Gallo products. Pickets regularly descend on Harvard Provision Company on Mount Auburn Street, the only retail outlet in the Harvard Square area presently stocking Gallo wines.

Jeff L. Lewin, 3L, an organizer of the Law Students' Support Committee, said that Gallo sales in eastern Massachusetts have declined sharply since the boycott started.

There is a possibility that

UFW may encounter, and on other lawsuits, said Lewin. The support committee is also encouraging volunteers for summer work for the UFW legal department in Arizona and California.

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