

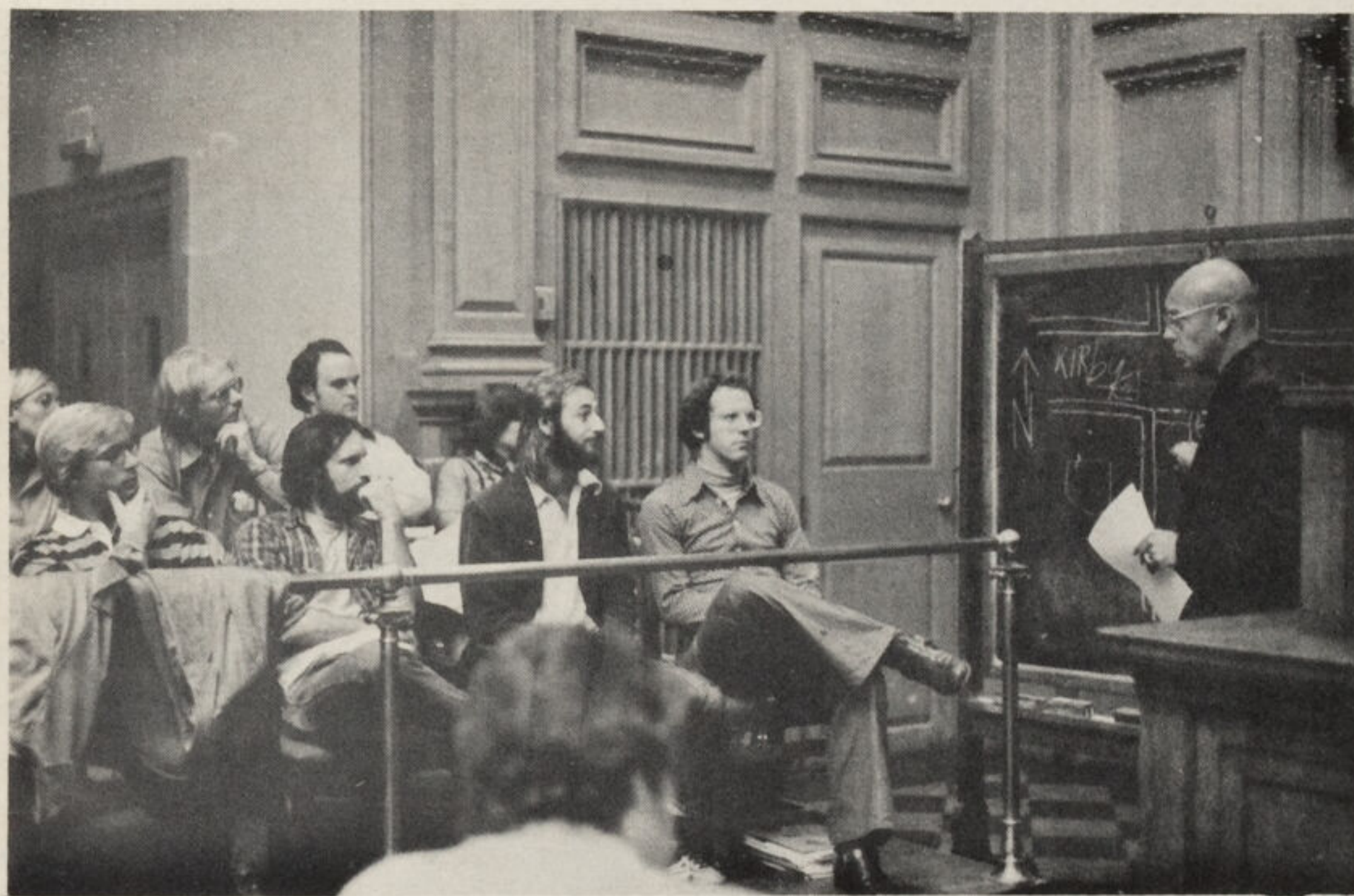
HARVARD LAW RECORD

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TWENTY CENTS



Neil Galatz, a Las Vegas attorney, conducts moot personal injury case for the benefit of participants in the Trial Advocacy program. For reflections on the intense first three weeks of the course, see page 6.

LL

Unlisted Firms Add to Wrinkles Of Job-Hunting

By Jim Kainen

The new Placement Office requirement that interviewing firms provide information concerning the number of women and minority attorneys that they employ has added an interesting wrinkle to the job-finding process for HLS students.

Firms who refuse to provide the requisite information will neither have their descriptions posted nor have their interview schedules printed on the daily sheet. Access

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What's Behind Rise in Honors Earned Here?

By Frank E. Sisson

In June, 1950, 16.3 per cent of that year's Harvard Law School graduates attained their J.D. degrees with honors. Last June, 25 years later, 41.7 per cent of the class graduated with honors. This radical change occurred without any tampering with the academic requirements for honors, and was

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Dean Asserts Reiman Letter Not Proper For Time, Place

Dean Albert M. Sacks has reaffirmed the position of the administration that the Law School Council organizational letter was properly withheld from the registration packet sent to entering students this summer.

In a memorandum to the faculty circulated on September 25, the Dean stressed that the packet is an official Law School document which would be made non-viable were organizations free to use space to levy "specific charges, complaints and attacks" against others or the Law School.

Sacks explained that "the inclusion of both the letter and a response would have taken up much of the space and altered

the character of the Registration booklet." The need for a "full response" was even more pronounced by what Sacks termed "some misstatements, distortions, and over-generalized conclusions" that had been included in the letter by Jeffrey F. Reiman, 3L, President of the Council. According to the Dean, inappropriateness of the forum was the problem: "I felt that the presentation of charges and answers was peculiarly inappropriate for a group of people who hadn't yet arrived at the School and therefore could have no

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Requests for Hiring Statistics Don't Deter Recruiting Firms

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to these firms is limited to letters giving only their names and addresses and a listing of interviewing times in the Placement Office calendar.

The calendar, however, is published infrequently and many such appointments are made on too short notice to be printed. Students and non-complying firms may thus still make contact, but not without the added effort required to work around the Placement Office.

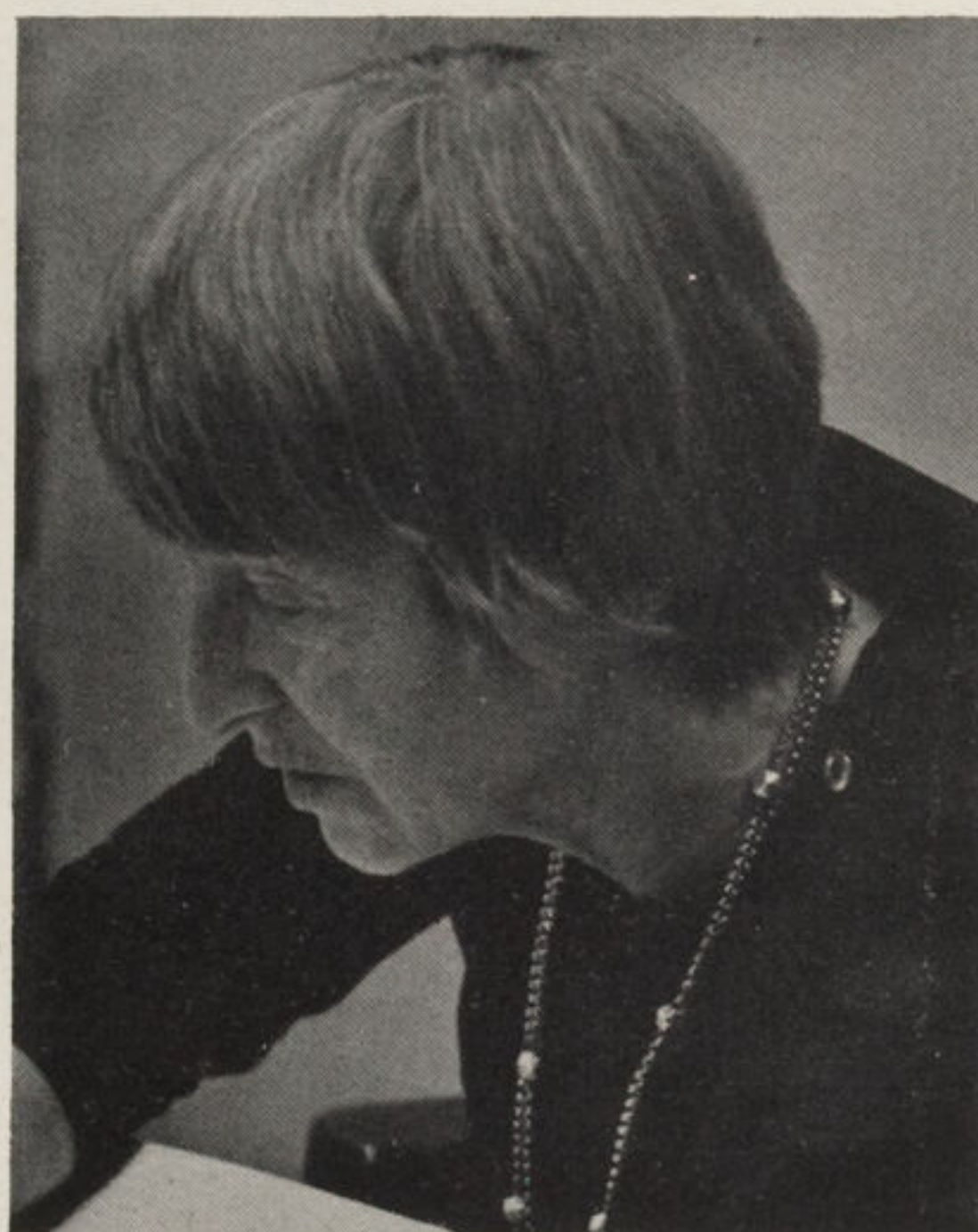
According to Eleanor R. Appel, Director of the Placement Office, the vast majority of firms have complied with the new rule and the total number of recruiters is not down from last year. Nonetheless, assessing the total impact of the new policy requires far more information than is currently available.

A second mailing has gone out to the firms who did not return the information with their employment requests in an effort to ascertain whether they merely overlooked the questions or consciously failed to answer. Several firms did respond with principled arguments against providing the requested information.

Appel noted that the majority of these letters questioned the constitutionality of the request. Others objected to the breakdown into "women, blacks, and other minorities" on the grounds that "other minorities" could be read to include groups whose battle for equality has already been fought and won. The Placement Office responded to this objection by revising its form to correspond

with the EEOC's definition of other minorities as "Asian, Spanish-surnamed, and American Indians."

Even more difficult to evaluate is the amount of positive effect the new requirement will have on hiring practices. Whether or not providing such information will awaken employers who have not



Eleanor R. Appel,
Placement Director

taken equal employment requirements seriously remains to be seen.

Finally, Appel reports that the new requirement may have had a slightly counterproductive effect. She suspects that some of the firms who refused to comply on constitutional grounds were those who otherwise had been genuine equal opportunity employers. But, Appel added, this effect is limited to only a handful of cases.

(Appel estimated that 80 per cent of the second year class would take summer clerkships with private firms.)

Bond with Past Makes HLS Better School

By Ann Bailen

The Harvard Law School Association is probably the only organization with offices on campus which hasn't peppered incoming students with information and invitations. That's because the Association is concerned with alumni.

From its office in the basement of Hastings Hall the Association generates communication between the law school and all its living alumni. It has 58 affiliate organizations in the United States, Puerto Rico, the United Kingdom and Europe.

The Association has two goals: keeping alumni informed about their law school classmates and keeping alumni donations flowing into the Association. Donations to the Annual Giving Program — which totalled \$1.5 million in 1973-74 — are added to the Harvard Law School Fund. Dues paid by active members of the Association finance Association expenses; a contribution to the school's National Scholarship Program; and an unrestricted donation to be used at Dean Albert M. Sacks' discretion.

Donations to the Fund have increased steadily over the years, nearly doubling since 1963-64. Recent success has been due in part to a special drive for the Scott Professorship, established in honor of Professor Austin Wakeman Scott. Despite record giving, the Association believes that many graduates are not making contributions commensurate with their financial ability.

Active members of the Association receive a free subscription to the RECORD and to the Harvard Law School Bulletin, a quarterly magazine which contains news items, articles, book reviews and letters, and provides a forum for

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Hiss Reinstated By Justices

Ed. Note: This is the second installment of a three part report on the reinstatement of Alger Hiss contributed by the author to the RECORD.

II.

The paneled courtroom in which the Supreme Judicial Court of Massachusetts sits contains just two portraits. One of them is Justice Oliver Wendell Holmes, Jr., for

on his behalf. At the beginning of the argument, Groden asked the seven justices of the Supreme Judicial Court to focus on the most relevant question: Hiss's *present* fitness for the bar — "What is the moral character of Alger Hiss *right now*." He pointed out that, in December, 1974, the Boston Bar Association, which in 1952, had been the moving party of Hiss's initial disbarment, had voted strongly to recommend reinstatement.



E.B. Boatner

Alger Hiss, flanked by John Reed '34, and John F. Groden '33, attorneys at his reinstatement hearing, runs a gauntlet of newspeople.

whom Alger Hiss had clerked in 1929-30. The stern countenance of his old mentor peered down at him as Alger Hiss arrived at the oral argument in his case on May 9th. He was present "as a spectator only," but held himself available to speak to the justices if they so requested. "Look who's up there on the wall," exclaimed his son, Anthony Hiss, a staff writer for the *New Yorker*, nudging his father. The elder Hiss, glancing up at Holmes's handlebar moustache, replied: "I'm so pleased to look up there and see him looking exactly as I remember him."

John Groden, a partner of the late Claude Cross, who had for so many years (along with Harold Rosenwald, Esq.) represented Alger Hiss, presented the oral argument

Bar Counsel Robert De Giacomo, whose duty it was to present the opposition of the Board of Bar Overseers, took the unusual step of disagreeing with the Board's position, which he believed unduly wooden, that public recantation should be an absolute requirement of readmission to the bar. "The implications of political justice, together with a loss of basic human dignity which are implicit in such a demand, in this case would serve no purpose. This Court and this political system need no such affirmation." Mr. De Giacomo did, however, present the Board of Overseers' view that perjury, particularly in the interest of espionage, was so serious an offense — and went so centrally to the issue of what it means to be an attorney —

that conviction of it should forever bar reinstatement.

Although the justices did not ask Mr. Groden any questions from the bench, the Board of Bar Overseers' spokesman did not escape so lightly. Justice Paul Reardon wondered whether it was "proper to ask whether there is any instance in which jury verdicts might be mistaken?" DeGiacomo replied: "Indeed, juries are fallible and they do make mistakes." Chief Justice G. Joseph Tauro inquired: "Is there anything in the record in the past twenty five years which would support the fact that Hiss was guilty of espionage?" DeGiacomo again replied (I sensed with a twinge of relief): "I know of nothing, your honor. Since his conviction, he has conducted himself as an honorable man. In his modest station, he has been a credit to society. There is no question about that."

III.

In its decision to reinstate Alger Hiss, handed down in early August, the Massachusetts Supreme Judicial Court rejected the argument that some crimes are so serious that they should forever bar readmission, irrespective of good conduct or reform:

Such a harsh, unforgiving position is foreign to our system of reasonable, merciful, justice. It denies any potentiality for reform of character. A fundamental precept of our system (particularly our correctional system) is that men can be rehabilitated. . . . Time and experience may mend flaws of character which allowed the immature man to err. The chastening effect of a severe sanction such as disbarment may redirect the energies and reform the values of even the mature miscreant. There is always the potentiality for reform, and fundamental fairness demands that the disbarred attorney have opportunity to adduce proofs.

While this may seem an obvious conclusion, in some states — Illinois, Minnesota, Colorado, Delaware and Tennessee — the conviction of particularly severe crimes results in permanent disbarment.

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Bertha Bumped from LM

By Susan Gillette

Bye-bye, Bertha.

That's Bertha. Not Birdie. Bertha Chysky, the perennial hero of Legal Methods at Harvard Law School.

Bertha ate a piece of cake which contained a hidden nail. It pierced her mouth. She sued. And the judges' deliberations on her case became first year students' introduction to the development of the law.



Bertha Chysky's demise.

But, alas, no more. An unassuming gentleman called Jack Katz has ousted Bertha. Jack has been discharged by his boss, an efficiency-minded business school type who has no enthusiasm for lifelong employees and permanent employment contracts. Jack is going to sue. Legal Methods will be handling the case.

The object of this change in the introductory law course is to shift from a focus on how *judges* think to a concentration on how *lawyers* think, according to Nathan Crystal, director of Legal Methods. The revamped Legal Methods seems to be "more interesting" for students, Crystal said, and it makes "more effective use" of the Teaching Fellows, who are former practicing lawyers.

Crystal says abandoning Bertha and a mountain of Xeroxed excerpts from Karl Llewellyn's *The Bramble Bush* has made

Legal Methods less dull.

Crystal has also tried to unify the materials. Formerly there was a sharp division between the introductory materials, dealing with Bertha, and the second half of the course, which involved handling a "case" developed by the Teaching Fellow in charge of each Legal Methods section.

Most sections eventually held trials after giving students an opportunity to prepare by taking

depositions, submitting interrogatories and preparing and arguing summary judgment motions. Much of this will be repeated for the Jack Katz case. The trial this year, however, will be held as the Board of Student Adviser's model trial, scheduled for November.

Crystal said the new Legal Methods program will not be a pure skills course, despite Bertha's disappearance. Students will "step back and think about the implications of being a lawyer" after initial research and library orientation.

"Lawyers are not removed from value judgments," Crystal said. "Students who are learning techniques should never be led to believe that techniques are neutral and can be separated from values involved." Readings from Tolstoy are being used to prompt discussion of this subject.

13 HLS Deans Tackle Troubles Of Student Body

By Harold Cooke

Thirteen deans. Do you know what they're doing?

Each dean at Harvard Law School has responsibilities which concern not only delivering an excellent legal education to students here but also clinical work, placement, advice on computers in law...

As Dean Bruce put it, "A deanship is a service job." But because of the complexity of the law school's bureaucracy, the deans' areas of responsibilities overlap. This article outlines the principal function of each dean.

STEPHEN M. BERNARDI, Assistant Dean and Secretary of the Law School, handles matters which relate to teaching schedules, the Committee on Legal Education and academic counseling.

WESLEY E. BEVINS, JR., Assistant Dean and Director of the Harvard Law School Fund, is responsible for maintaining a channel of communication between HLS, alumni and other friends who might be helpful in keeping the Fund active.

WILLIAM L. BRUCE, Vice Dean, oversees the operation of the dormitories, student organizations, HLS personnel, the physical plant and law school dining halls. He is also a co-director of a continuing legal education program, the *Program of Instruction for Lawyers*.

DOROTHY CHIN, Assistant Dean and Associate Administrator of the Graduate Program, coordinates the graduate program's admission and financial aid offices. Ms. Chin, along with David Smith, counsels graduate students on course selection and LL.M. paper topics. She also manages the school's Visiting Scholars Program.

JEROME A. COHEN, Associate Dean, Director of East Asian Legal Program, Chairman of Graduate Program, and Professor of Law, directs the planning and development of graduate level programs and policies.

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Alumni Group Binds Former Students (And Their Money) to the Alma Mater

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the exchange of views and opinions.

In addition, active members of the Association receive free copies of the Harvard Law School Alumni Directory, which is published in a Quinquennial Catalogue (the most recent edition came out in 1973).

Born of a dream of a National Law School, the Association came into being on September 23, 1886. Louis D. Brandeis, acting as secretary, presided over a meeting of 150 HLS graduates in Boston. Officially the Association was founded on November 5, 1886, when 400 HLS graduates joined the celebration of Harvard College's 250th anniversary and heard speeches from Harvard's President, Justice Oliver Wendell Holmes, Dean Christopher C.

Langdell and the Association's first president, James C. Carter.

Although earlier proposals for an alumni association had been made in 1850 and 1868, the Association of 1886 was the first successful organization for HLS alumni. It drew the concern of such illustrious grads as Oliver Wendell Holmes, who was president of the Association from 1911 to 1922.

On June 3, 1947, the Association adopted a constitution, which states that the purposes of the organization are "... to advance the cause of legal education, to promote the interests and increase the usefulness of the Harvard Law School, and to promote the mutual acquaintance and good fellowship among all members of the Association."

According to Wilson H. Pile, Sec-

retary for Alumni Affairs and the Association's Cambridge representative, the final stage in the evolution of the Association occurred in 1950 when the Annual Giving Program was started, following a fund drive to construct Harkness Commons and the new dormitories.

The Association currently has about 10,500 dues-paying members, far fewer than ten years ago. Although there are more life members than ever before, total active membership has continually declined. New membership tends to increase in the years when the Quinquennial Catalogue is published.

The Catalogue was originally the creation of John Hines Arnold, Law School Librarian, who published the first Quinquennial Catalogue in 1888.

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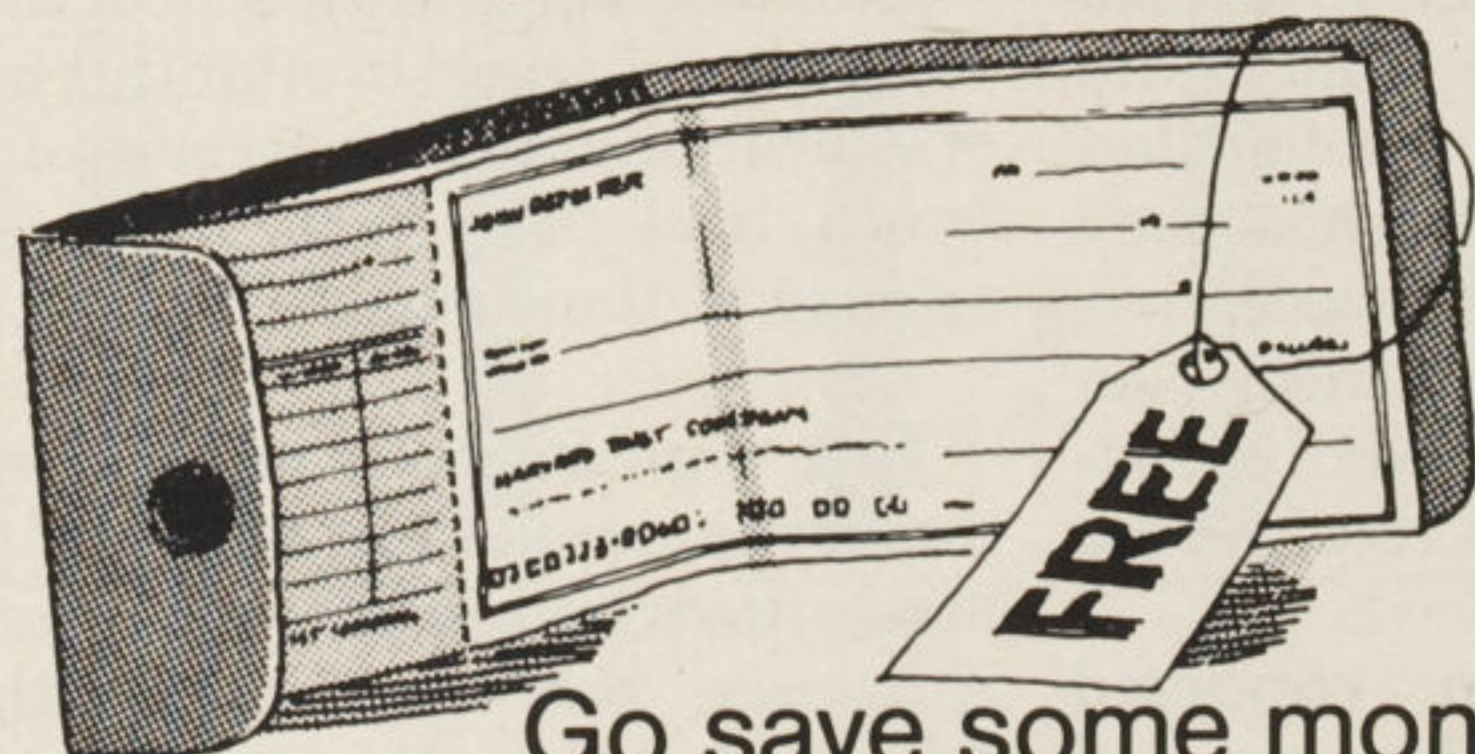
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Trial Advocacy: Pain and Gain

By Phil Heagney

Why would anyone who knows anything about legal education sign up for a law school course that meets eight hours a day for five days a week?

No one could trick third-year Harvard law students, who seem to be the glumest, most despondent people in Boston this fall, into signing up for such a course. The 2Ls may be a little more lively, but they're no more likely to engage in such undisguised masochism.

Nevertheless, for the past three weeks, more than 60 second- and third-year students participated in a course called *Introduction to Advocacy* which required them to attend class from 2:00 p.m. to 10:00 p.m., five days a week, as well as participate in a daily class in *Professional Responsibility*.

Professor Robert E. Keeton, the faculty member most responsible for developing *Introduction to Advocacy*, explained that the course was modeled on the National Institute for Trial Advocacy, a three-week summer workshop which was begun in 1972 for practicing attorneys. After participating in the NITA program for three years, Keeton concluded that it might be a more effective method of introducing students to trial advocacy than the Law School's traditional semester-long *Trial Practice* course.

The daily workshop began on the first day of classes. A faculty member or lawyer or judge and a teaching fellow headed each of the four sections. In addition, at least one practicing lawyer and one judge joined each section weekly.

Most of each eight-hour day was devoted to simulated exercises followed by critiques of student performances. The course made use of the Law School's videotape equipment; most of the students agreed that videotape replays were a very effective teaching method despite the painfulness of having to watch themselves perform.

Every student tried one jury and one non-jury case during the second and third weeks.

The three-week workshop encountered endless problems. Most of the students had no prior experience in trial work. Students were initially given a huge amount of materials to read and digest. Administrative problems, like room changes, plagued the course continuously. No one could decide what jurisdiction's law governed the simulated exercises. And one or two of the participating lawyers were more autocratic than helpful in their manner.



Trial Advocacy program participants argue counterfeit case before judges during three week clinical introduction.

But the overwhelming opinion among the students who lived through the three weeks was that *Introduction to Advocacy* worked despite its problems. Many students in the course concluded that for the first time in law school they felt that they had enjoyed their classroom work and learned from it. Students praised the daily feedback that participants received for their work.

Professor Keeton reported that a group of professors and teaching fellows involved in the three-week workshop have already begun analyzing the

strengths and weaknesses of the *Introduction to Advocacy* project. Professor Andrew L. Kaufman, who taught one of the *Professional Responsibility* sections, noted that changes will be made in the presentation of the legal ethics component of the course.

Some larger questions lie just below the surface of the apparent success *Introduction to Advocacy* has achieved in its first run. Professor Keeton contended that a low ratio of students to teachers is essential to the effectiveness of the course. Professor Kaufman noted

that the course offered an exciting approach to legal education, but also an expensive approach. And, Keeton added: "No law school could realistically afford to offer this kind of education unless members of the bench and bar contribute generously of their time."

But *Introduction to Advocacy* deserves praise for many of the students who took *Introduction to Advocacy*, the course breathed life back into a legal education that had become more uninspiring and irrelevant with each passing semester.

HLS Classes See More Honor Graduates Over Last 25 Years

(Continued from Page 1)

noted not without some surprise by the administration earlier this week.

While the number of honors graduates increased steadily from 1970 to 1975, it was not then that most of the change occurred. The increase over this five year period was only 4.2 per cent. According to figures provided by Annie C. Bombard of the Registrar's Office, the remarkable jump occurred between 1960 and 1970, when the percentage increased from 18.8 to 37.3 per cent.

The numerical average required for a student to graduate with honors has been maintained at 71.5 since a 1927 faculty meeting established this minimum. That meeting lowered the honors cutoff from the former figure of 75, established when the Law School first decided to use the honors designation in 1878.

Assistant Dean Stephen Bernardi suggested that "squishier faculty and smarter students" might be contributing to the higher percentage figures.

Registrar Mary D. Upton

suggested that some of the increase might be due to the expansion of take home exams over the last few years, or to the demise of the "required course" in favor of the "elective." Upton conceded, however, that student course preference has not radically changed despite the conversion of former required courses to electives.

Upton pointed out that the change in the correlation of letter to number grades in 1968 (the same number grades could thereafter represent higher letter grades) would have had no effect on the percentage of honors granted, which has never been figured on the basis of letter grades. The honors figure, 71.5, currently represents a letter grade of slightly above the minimum for a B+; before 1968, the figure was a solid B.

Upton noted that the 80 per cent Harvard College honors figure was based not upon grades obtained, but upon papers required for graduation. The Registrar expressed doubt that the Law School would be nearing the 80 per cent mark in the foresee-

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Daniels Accepts Placement and Counselling Job

By David A. Halprin

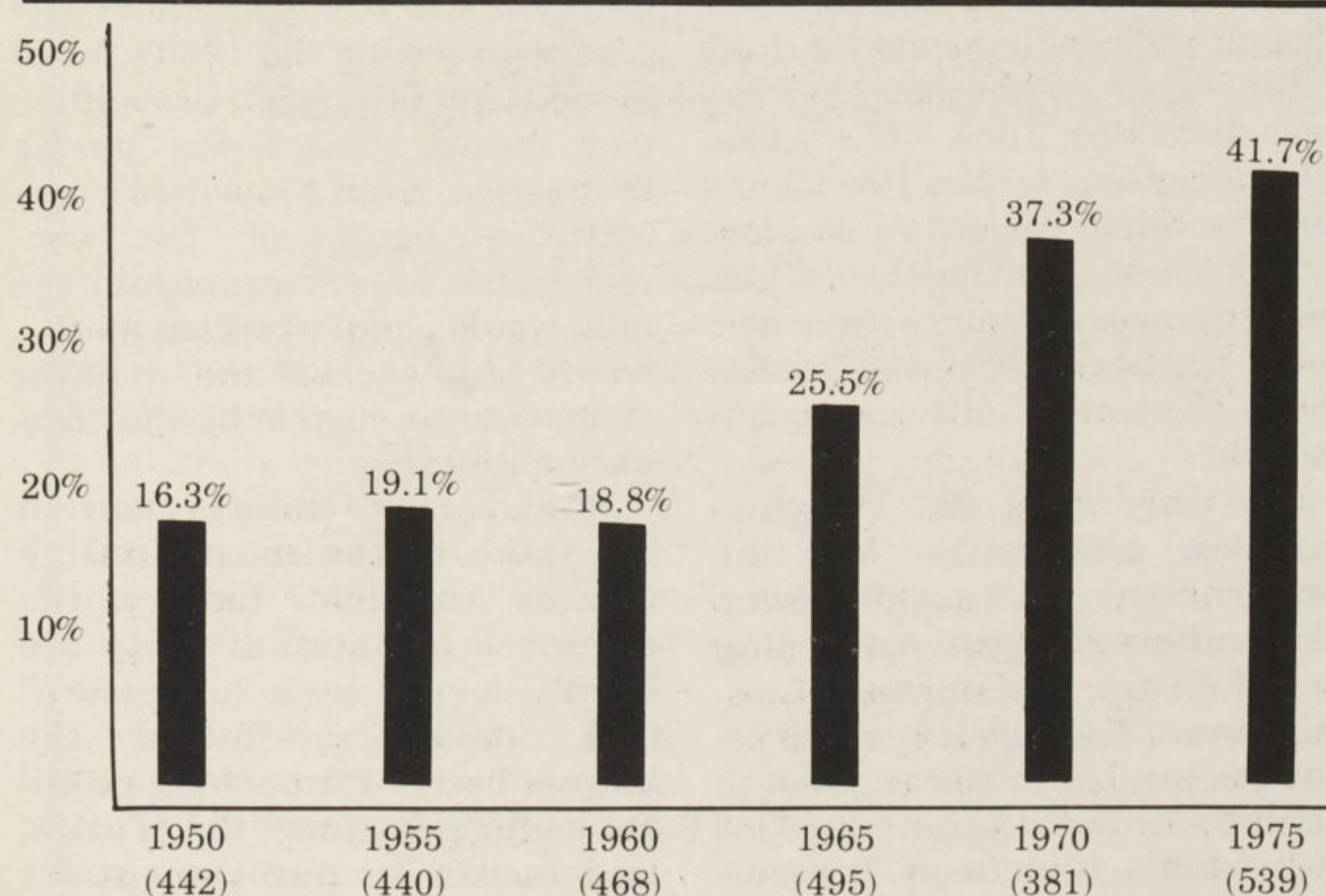
The announcement this week of a new Office of Placement and Counselling under the direction of Assistant Dean Alfred Daniels is the result of a fortuitous combination of the school's need to expand its placement services and the availability of a man with appropriate qualifications. Dean Daniels moved from being an air force major to law student to assistant dean in a little more than three years at a time when a need to strengthen placement services was becoming increasingly obvious.

Dean Daniels, as director of the new office, will have a number of responsibilities. First, he will take over the job of developing public service job opportunities. Second, he will oversee the activities involved in helping students obtain law clerkships. Third, he will develop the "lawyer-speaker" series in which lawyers who have come here for interviewing purposes can meet with students in the low-pressured context of legal methods classes.

Fourth, he will work on a "visitor series" under which lawyers who would not ordinarily use the interviewing facilities can inform students of opportunities in other types of law practice (public interest firms, small city and rural practices, etc.). Fifth, he will be exploring the possibility of bringing a trained vocational counselor into the Law School.

"Our students can plainly benefit from more counselling services than have been available in the past. Counselling has tended to be an informal and incomplete process," said Dean Sacks this week, adding, "The creation of this office reflects both an appreciation of the talents of Al Daniels and a feeling that it is an important addition to the school's resources."

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Graph indicates the percentage of HLS graduating classes that received honors (numbers in parentheses are total number of graduates in each class).

Amnesty Policy Called Total Failure

Ed. Note: "Freezing in the Dark" will occasionally appear in this paper containing the personal opinions of RECORD staffers on matters of current interest.

By Arnold S. Rosenberg

A plaque on the wall of his plain paper-strewn office declares, "Moderation in the pursuit of justice is no virtue; extremism in the defense of liberty is no vice." But one wonders after talking to him whether Henry Schwarzschild, Director of the American Civil Liberties Union's Project on Amnesty in New York, is really an extremist or whether, instead, it is Gerald Ford who, by implementing his clemency program for draft evaders and deserters, has perpetrated a fraud on the American public.

In the wake of the Sept. 15 dissolution of the Presidential Clemency Board, Mr. Schwarzschild, who has spent the last several months monitoring and criticizing, decries the "two-fold failure" of the Program: (1) its very assumptions were "punitive", and "demeaning and hostile to the commitments of war resisters"; and (2) it was a "statistical failure even within its own assumptions" — it failed to reach even those whom it was designed to help.

Now, it is facile to echo William F. Buckley's judgment that "if you opt for civil disobedience, you take the penalty." Yet, if it is really civil disobedience — refusal to go to Vietnam — that is being punished by the condition of alternative service that is attacked to clemency in Ford's program and which makes it so unattractive, then why does the Program fail to provide a less punitive clemency program for the 650,000 Vietnam veterans who now frequently go jobless due to their less-than-honorable discharges? A large percentage of them *did* go to 'Nam, and were discharged for reasons as vague

as "unsuitability" and "for the good of the service," yet the Clemency Program leaves them with empty hands.

Nor is the Program aimed primarily at those most visible of antiwar activists, the exiles in Canada. A little-publicized "catch" in the Clemency Proclamation exempts from eligibility those persons who are excludible from the United States under U.S.C. 1182. Section 1182 excludes those who left or remained away from the country to avoid military service. Instead of the supposed firebreathers of Toronto, the bulk of the Program's participants have been deserters, most of whom, according to the authorities who processed them in the Clemency Program, ran away for personal rather than political reasons.

The Clemency Program thus poses a curious inconsistency: neither the most nor the least deserving, in Ford's view, are affected by it. It also leaves intact one further anomaly. Numerous Americans who have tried to re-enter the United States from Canada have been turned away at the border on the basis of s.1182, even though their indictments for draft evasion or desertion had long ago been dismissed. Thus, while people who according to the President's and the Silent Majority's assumptions deserve punishment are getting "clemency" many others who could not possibly be convicted of these "clemencied" offenses remain in exile.

Not only does the Program function aberrantly, but the Government can't seem to keep its numbers straight. According to a Library of Congress Congressional Research Service report, compiled at the request of Senator Edward Kennedy, 5388 individuals had been "processed" for alternative service as of August 26. Ninety-three of these had completed their terms, 1863 were performing their alterna-

tive service, and 2,166 had "failed to complete" it — i.e., had presumably quit the Clemency Program. Adding up the latter three numbers, we are left with 1,316 people who seem simply to have disappeared.

The report additionally cites the number of applications for clemency as 22,266. Of these, approximately 9,000 received unconditional clemency, largely persons who had already served prison terms for "eligible" crimes. Subtracting one from the other, we are left with over 13,000 people, of whom approximately 8,000 show up nowhere in the alternative service figures, and of whom only 1,956 had done any kind of alternative service.

Compare these numbers with the roughly 130,000 that the Government concedes were probably eligible for the Clemency Program, and the magnitude of its statistical failure becomes apparent. Mr. Schwarzschild points out yet another incongruity in this regard. While the last two Directors of the Selective Service, Curtis Tarr and Byron Pepitone, have estimated that from 4 to 10% of all males who turned 18 during the 1960's failed to register for the draft, two million men turned 18 *each* year during that period. Even if one uses a conservative figure of 5% non-registrants, says Schwarzschild, the total would equal a million men — nearly ten times the number claimed to be eligible by the clemency authorities.

However, one thing is clear. In the wake of the most divisive war in America's history, the purposes of national unity are hardly served by a "clemency" that leaves unaffected the largest body of American political refugees since the Tories, and insists on punishment for many others. Rep. Robert Kastenmeier's bill, H.R. 9596, would go far toward remedying these conditions.

Daniels Designated 1st Head Of New Counselling Position

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Both Dean Sacks and Daniels expressed a desire that the office serve the needs of students, and a hope that students would make their needs known. Dean Daniels said he has a "sense of the needs" but believes that "this is a time for me to listen rather than talk."

Dean Daniels came to the Law School as a student after 20 years in the Air Force. He had worked his way up from an enlisted man to an officer through the Aviation Cadet Program. On the way he acquired a bachelor's degree in electrical engineering.

By the time he retired as a major he had been accepted to the law school. "I took the La Salle law course to Viet Nam with me to see if I liked it well enough to proceed. I decided I did like it, and applied to Harvard."

Although the change posed some problems of adjustment, Daniels found the Law School "not too different from the Air Force." Upon graduating in June 1975, he was offered the deanship. Al-

though the exact duties of the position had not been determined, it was clear that it would involve placement, and extensive contact with students.

"I was older and yet as recent a graduate as you could get, and I could bring as much student perspective into the job as a man of 40 could do."



Assistant Dean Alfred Daniels

Jimmy Carter: President From A New South?

By G. Bruce Kuehne

Can a politician from the deep South be elected president? "Four years ago, doubtful. Today, yes," says James Earl Carter, former governor of Georgia and current candidate for the Democratic nomination.

Carter made it clear to the 200 people who attended last Friday's Forum that he intends to put his conviction to the "most severe test." He's scheduled 250 grueling days on the stump this year, plus extra time for his home state. In his eyes, the effort is paying off, since he is now recognized by about 50 percent of the electorate, up from 16 percent in January.

Carter's liabilities are obvious. He is from the South and won't easily shed the stereotype. He's a relatively inexperienced politician, claiming only two terms in the Georgia Senate and one term as governor. He doesn't have a great deal of personal wealth, nor a great many wealthy friends to help raise campaign funds. Finally, his speaking technique lacks vitality (although it is stirring compared to Senator Henry Jackson's).

On the other hand, Carter has as much broad-based appeal as any candidate could pray for. Consider this:

— He's a farmer. Born the son of a farmer in Plains, Ga. (that's 20 miles west of Americus, for those of you who are geographically unlearned), when his father died in 1953 he resigned his commission in the Navy to return home to work the family farm.

— He's a small businessman. While working the farm, he managed to open a seed and fertilizer business.

— He's a military man. Graduating from Annapolis, he served aboard destroyers and

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Ad In?

During the past week additional facts have come to light regarding the refusal of the administration to print Jeff Reiman's letter in the 1L registration packet. There is apparently some question as to Reiman's authorization by the Council to draft that particular letter. More critical is the fact that the letter was received by Registrar Mary D. Upton long after her posted deadline. This delay would seem to have prevented any meaningful cooperation between the administration, Reiman and the Council to produce a mutually acceptable product.

Dean Sacks remark that the packet was not the proper *place* for Reiman's letter is well taken. The packet would become virtually non-viable as a source of information if it were used as a forum for arguments between the administration and the student body.

We are not convinced that the summer before entering HLS is an inappropriate *time* for exposure to criticisms of the institution. However, Sacks has indicated a willingness to release the names and addresses of incoming students to student organizations as an alternative solution to such problems—one which, incidentally, has been employed in the past. The cost of postage and materials to mail information to 550 students would *not* be prohibitive to the Law Council or any other organization really concerned with making an early statement.

We are addressing the substantive issues raised by Reiman. However, with the waters a bit less muddy than last week, the action of the administration seems justified. We maintain that entering students possess the maturity to handle early criticism but concede that the "Harvard Law School Registration Materials" packet is an awkward forum for specific charges. The RECORD "backbencher" is always available to those with a point to make. Freedom of speech can (and should) be maintained without fouling the gears of the Registrar's Office.

Service

The registration period for courses in the Free U is rapidly drawing to a close. Any member of the Law School community who has not at least glanced at the course offerings may soon regret it, having foregone the opportunity to gain some practical or esoteric knowledge in non-legal areas and to meet with others in a relaxing atmosphere to pursue a common interest.

The courses vary in subject matter from Chinese Poetry to "10-Speed Bikes: Care and Feeding." One can pick up the basics of Marlinspike Seamanship or the fine points of Wine Tasting. The courses may not all be "free" (\$65 to complete Transcendental Meditation) but they represent a particular freedom of thought which should be noted by those with a little free time and interests which extend beyond the walls of Langdell.

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Fenno

"You'd better hurry," the 3L said to Fenno, who never hurried. "It's pretty serious."

"How serious?" Fenno asked.

"Well, let me put it this way," the 3L answered. "He's reading *Herzog v. Dark*, and he just finished *McKeon v. Kaufman*."

"That's not so bad," Fenno offered. "Lots of first year students are still reading assigned cases at the beginning of October."

"Those aren't assigned cases," the 3L responded. "Those are cases cited in a footnote in a LAW REVIEW article his Torts professor mentioned."

"I thought the faculty had adopted a policy against mentioning LAW REVIEW articles," Fenno commented, "to go with their policy against reading them."

"They make an exception for articles they write," the 3L explained. "But that's not responsive to the problem before us."

They had by now reached the first-year student's room, which they entered by using the pass-key the 3L had to return to the RA several weeks before.

"Can't talk now," the 1L mumbled mechanically at their entrance. "I'm right in the middle of the dissent's attempt to distinguish *Roe v. Wade* on the grounds that decisions written by Justice Blackmun are never intended by the majority to be taken seriously."

"I just wanted you to meet a friend of mine who's on the LAW REVIEW," the 3L said.

"I'll get you for this," Fenno hissed.

"The ends justify the means," the 3L retorted, "no matter what Professor Unger says."

This exchange was lost on the 1L who had, at the mention of the words "LAW REVIEW," lifted an adoring gaze from the Xeroxed® pages in front of him to Fenno.

"Are you really on the REVIEW?" he asked in a small voice. "And here you are in my room, just like any human human."

"Well," Fenno said modestly, "they let us out every Thursday night to mingle with the common people if we've been good. You know, *noblesse oblige* and all that."

"What do you mean they 'let you out' on Thursdays?" the 1L asked, somewhat taken aback.

"Oh, it's not automatic or anything," Fenno hastened to assure him. "If we don't remember that the names of authors of articles in periodicals are printed in LARGE-AND SMALL CAPS in footnotes to sentences with compound dangling participles during any period within the octave of a high holy day, we have to stay in all weekend and read the Bluebook."

Letters

Why Scribes Don't Make the Review

To the Editor:

It might be well to inform your readers that the statute on cash registers is G.L. c. 58 sec. 56C rather than G.L. c. 95 sec. 5(c).

Howard S. Whiteside '37
Boston, Mass.

Jogging No Bonanza For Video Viewers

To the Editor:

While I had been aware of the recent increase in the fees for use of athletic facilities, I am prompted by last week's RECORD article discussing the hike to \$80 per year and the suggested "alternatives" for students whose financial situations do not admit of the absorption of the increase to submit a few thoughts of my own on the subject. Let me add that my interest in the matter is rather more academic than not, as general physical non-coordination prevents me from participating actively in such endeavors; however, I speak as a Concerned Student whose life is touched by the trials of those about her and whose pocket-book is equally imperiled.

I personally experienced four of the "Reagan Years" as a student at the University of California; thus I am not unaware of the problems University administrators face when confronted with tightened budgets, inflation, and the like. As a callow undergrad, I looked upon those great educational institutions "back East" with the awe of one as yet uninitiated into an understanding of the cobwebby nature of endowments, the ethereal generosity of wealthy alumnae, the ravaging ferocity of competition from other Ivy League schools.

In my innocence, I conceived of the substantial tuition fees of these institutions as an important but by no means exclusive source of revenue for the upkeep and improvement of the quality education such institutions supplied. I (the term must be understood to include all who contribute, financially and otherwise, to maintain my status as a tuition-paying student) was quite willing to contribute the requisite sum which would transform me into a member of the Harvard Law Community, with all the privileges and responsibilities appurtenant thereto.

Now, even in the starvation years at UCLA (which are by no means over), a student was permitted access to and use of the athletic facilities without charge. Such athletic exercise was even encouraged, so that we might maintain our California physiques. I understand that Harvard

places its emphasis on higher and worthier aspirations than physical fitness, but I admit that I was a trifle surprised to find that Harvard charged any athletic fee at all. Conceive of my amazement when I learned the fee was \$50!! I was given only a year to accustom myself to this fact; now the fee has been raised to \$80.

Those who cannot afford this increase are informed that they can jog in place in front of the TV. This is all very well and good, but falls victim to a fallacious assumption that one who cannot afford \$80 a year in athletic fees nevertheless has been able to acquire a television set.

The point: it seems to me that consideration should be given to alternative methods of raising future revenue for the maintenance and improvement of our education at Harvard Law School. (I do not consider the most obvious alternative — raising tuition — in my discussion, because finer minds than mine have already pinpointed this method as feasible). Several methods I can suggest, off the top of my head:

- charge rent for seats in classes (with a surcharge for the back benches).
- decrease the quality of the food at the Hark.
- install coin-operated bookshelves in the library (much like parking meters) for the more popular volumes, such as C.J.S., Am.Jr., all hornbooks, etc.
- cut the course of instruction down to two years, increase the number of students in each class by at least 50%, and institute a student-tutoring method of instruction on a tier basis (A students are taught by professors; they in turn teach the B students, etc.) to accommodate the increased numbers.

Anyone with imagination will see that these are but a few of the possibilities open to those desiring to solicit that extra little bit of contribution from the student, that just may make the difference in maintaining quality education at HLS, and in forming those properly and gratefully generous attitudes towards The Old School in the hearts and minds of those about to become important, influential and well-heeled (though the muscles may have atrophied to the consistency of overdone pasta, ah! but the brain marches on!) members of the legal community.

Mary E. Miller, 2L
Cambridge, Mass.

Law Notes

The Hillel Forum will present "Modes of Midrashic Thought" by Dr. William Braude, Translator of Midrashic Literature at 4 p.m., Oct. 5, at the Phillips Brooks House.

Rep. Paul McCloskey (D-Calif.) will speak at the HLS Forum at 8:30 p.m., Oct. 6, at Langdell South Middle.

* * * * *

Seventeen Japanese woodblock prints are currently being exhibited at the Third Floor Art Gallery of Langdell Hall.

* * * * *

The Harvard-Radcliffe Hillel Society is presenting a Sabbath Table Talk featuring Professor Alan Dershowitz at 8:45 p.m., Oct. 3, at the Phillips Brooks House parlor. Dershowitz will discuss "Defending Dissidents in Moscow."

* * * * *

Organizations wishing to purchase space in the 1976 HLS Yearbook should contact the Yearbook office, 23 Everett St., or call 495-4411. Inquiries are welcome from any group under any name, even if organized solely to purchase space. Rates are \$20 per half page and \$35 for a full page. Deadline is Oct. 13.

Solution to "Cryptic Law"

Justice Blackmun).
405 U.S. 596 (1972) (concurring opinion of United States v. Topco Associates, Inc., . . . apparently must be by way of legislation. . . . I could not oppose it. Relief this late date, I could not oppose it. Relief firmly established by the Court that, at allocation], however, now appears to be so interest. The per se rule [against territorial reality seems at odds with the public in- should find it easier to get bigger and . . . [grocery] chains. The big, therefore, competition with the great and larger favor will tend to stultify Topco members' Today's decision in the Government's

The RECORD invites "cryptic lawyers" to contribute their favorite judicial abdications and convolutions. Send excerpts to our offices at 23 Everett Street, Cambridge; coding will be provided free of charge.

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SPORTS QUIZ

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IN MEMORIAM:
CASEY STENGEL (1890-1975)

In honor of the Red Sox winning the division title, we feel it appropriate to look back to other happy days in Boston.

1. How many current Sox are left from the 1967 pennant winners, and who are they?
2. What place did the Red Sox finish in 1966?
3. Three other teams were embroiled in that torrid pennant race all the way through September, 1967. Which teams were involved in one of the tightest four-team races in baseball history?
4. Who started the first game of the 1967 World Series for the Red Sox against the St. Louis Cardinals?
5. Name the other Sox starters in the seven-game Series (hint: there were three others).
6. Rick Wise and Luis Tiant both came close to pitching no-hitters this summer. Who was the last Boston pitcher to hurl a no-hitter?
7. The last Boston pennant before 1967 was in 1946, and their Series opponent was also the St. Louis Cardinals. With two out and the score tied at three-all in the 8th inning of the seventh game of the Series, Enos Slaughter scored all the way from first base as Johnny Pesky, a later Red Sox manager, held the relay from short left field. Who was the other major league manager-to-be who got the Series-winning hit?
8. Yaz, of course, won the Triple Crown in 1967, batting .326 with 44 home runs and 121 rbi's. Who was the last American League hitter before him to win it?
9. Since 1950, four Red Sox have won a total of eight batting titles. Can you name these players, noting the fact that despite the inviting Green Monster at Fenway, all were left-handed batters?
10. The Red Sox tied the Cleveland Indians for the pennant in 1948, but lost the one game play-off 8-3 as manager Lou Boudreau went four-for-four and hit two home runs. Who were the starting pitchers for both teams?

BONUS QUESTION

Frank Robinson has been a player-manager for this year's American East fourth-place Cleveland Indians. What other star held this position for the pennant-winning Indians of another era?

Harvard Deans Hold Various Jobs, Positions

(Continued from Page 4)

ALFRED C.W. DANIELS, *Assistant Dean and Director of Office of Placement and Counseling*, helps students who are interested in obtaining law clerkships. He is in the process of developing a "lawyer-speaker" series which will enable HLS students to inform themselves about job opportunities in public interest firms, legal aid societies, and group practices.

ROBERT E. KEETON, *Associate Dean and Langdell Professor of Law*, oversees the planning and development of essential, yet often overlooked programs, like legal methods, the legal clinic, teaching fellow activities and trial advocacy. Mr. Keeton is also involved in directing the use of novel modes of instruction, such as audio-visual material and computers.

JEANNE KETTLESON, *Assistant Dean and Administrative Director of the Clinical Program*, supervises the clinical program.

PATRICIA LYDON, *Assistant Dean and Director of Admissions*, handles all facets of the admissions office. Ms. Lydon is also on the Admissions Committee.

ALBERT M. SACKS, *Dean and Dane Professor of Law*, is the Chief.

DAVID SHAPIRO, *Associate Dean and Professor of Law*, has been primarily concerned with matters relating to curriculum and teaching schedules.

RUSSELL SIMPSON, *Assistant Dean and Director of Financial Aid*, handles all facets of the financial aid office. In addition, he is on the Financial Aid Committee.

DAVID SMITH, *Assistant Dean for International Legal Studies and Administrator of the Graduate Program*, is responsible for all administrative aspects of the Graduate Program. He also is responsible for Harvard University Fellowships for study abroad, and International Legal Studies.

Jimmy Carter, Southern Gov., Speaks at HLS

(Continued from Page 9)

submarines and was pre-commission commander of one of the United States' first atomic submarines.

— He's something of an egg-head, having done graduate work in nuclear physics.

— Finally, Carter is the only non-lawyer in the race. This, he says smilingly, may account for his increasing popularity.

After a brief introductory speech in which he stated his aspirations for the U.S., Carter responded to a number of questions from the floor.

The CIA, he said, has an essential function. But upon his "word of honor," if he were elected it would function in accordance with "national, international and moral law."

Detente should be continued, he said. "The problems in North Korea, the Middle East and elsewhere cannot be solved without the cooperation of Russia." Since it is impossible to change the internal political processes of other nations, we should content ourselves with keeping channels of communication open and relations amicable so that they can understand and predict our actions and vice versa.

Inflation and unemployment are twin problems which can be brought under control, Carter said. The key to the control of inflation is an attempt to balance

(Continued on Page 14)

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SJC Responsive to Hiss Plea

(Continued from Page 3)

Perhaps the Massachusetts court's opinion will make such states reconsider the wisdom of automatically depriving some people forever of the livelihood for which they were trained. No other decision makes rehabilitative sense.

The Supreme Judicial Court also accepted Bar Counsel DeGiacomo's argument that it would be wrong to require candidates for reinstatement to proclaim repentance and affirm their adjudicated guilt:

... [W]e recognize that a convicted person may on sincere reasoning believe himself to be innocent. We also take cognizance of Hiss's argument that miscarriages of justice are possible. Basically, his underlying theory is that innocent men conceivably could be convicted, that a contrary view would place a mantle of absolute and inviolate perfections on our system of justice, and that is an attribute that cannot be claimed for any human institution or activity.

Simple fairness and fundamental justice demand that the person who believes he is innocent though convicted should not be required to confess guilt to a criminal act he honestly believes he did not commit. For him, a rule requiring admission of guilt and repentance creates a cruel quandry; he may stand mute and lose his opportunity, or he may cast aside his hard-retained scruples and, paradoxically, commit what he regards as perjury to prove his worthiness to practice law. Men who are honest would prefer to relinquish the opportunity conditioned by this rule. . . .

While this reasoning also seems correct, a number of states, such as Delaware and Minnesota, still

seem to require an avowal of repentance as a prelude to reinstatement at the bar.

Finally, the Massachusetts court considered Alger Hiss's present fitness to serve as an attorney. It underscored the Board of Bar Overseers finding that, since his disbarment, he had "not been implicated in any activities which contained the slightest hint of dishonesty or moral turpitude." On the contrary, he had "courageously and industriously set himself to earn an honest living and to support his family, without bewailing the financial loss caused by his conviction and disbarment."

Old friends, who had stayed by Hiss through the years, had also come forth to urge his reinstatement, and the justices of the Massachusetts Supreme Judicial Court were impressed by their tributes to the man. Professor Victor Brudney of Harvard Law School emphasized Hiss's "first rate mind" and his "perceptions and . . . sensitivity for the interests of others in controversial situations." Professor Richard Field, also of Harvard Law School, commented on Hiss's "deep interest" in the law and his persistence in keeping himself "well abreast of developments" in international law, his specialty. He would gladly employ Alger Hiss as a legal consultant in this area. Unfortunately, the justices felt compelled to add, in a footnote: "The force of Professor Field's testimony is vitiated to an extent by his ad-

mission that he has never believed that Hiss was guilty of the crimes charged and that his opinion of Hiss's moral character was not changed by his conviction and disbarment." This, despite the justices' footnote on the proceeding page of the opinion: "It is true that the petitioner's record prior to the incident in question was outstanding and without blemish and that his life for the past two decades since his release from prison has been impeccable. It is equally true that nothing in the record corroborates in any way the fact of guilt and, further, that the Department of Justice, although invited, has declined to appear in these proceedings."

Helen Bittenweiser, Hiss's New York attorney, likewise bore witness to Alger Hiss's integrity. "If he has a fault," she had told the Board of Bar Overseers, "it is that he tends to bend over backwards for fear he might possibly be trying to persuade somebody to do something which was beyond what he wanted to do." But surely the most impressive witness was Alger Hiss himself. The Supreme Judicial Court found his testimony before the Board "forthright and principled," and, despite its disclaimers that it was not passing any judgment on the correctness of Hiss's original conviction, seemed to admire his candor in protesting his innocence: "I have not had any complete change in moral character. I am the same person I have been, I believe, throughout my life. If that's the law of Massachusetts (requiring repentance and complete change of moral character), I am excluded." Nor did he hold any grudge against the judicial system:

[A]s far as the courts are concerned . . . I have never had the slightest doubt that ours is the finest judicial system there is, and I don't just mean in the Churchill sense . . . [i.e. that it's] better than any he knows about. I think it makes mistakes, and I know it made a mistake in my case, but there is no human institution that doesn't sometimes make mistakes.

(Next week: *An Analysis*)

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Cryptic Law

The following excerpt from a not-so-dated opinion is in "judicial code." Decode it. (Hint: Each letter stands for a different letter of the alphabet.)

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pinto qezz lady lt bljzlepx Ltzft hahmaob'
fthzaleletd qelg lga coail idy ziocao [cot-
faox] fgiedb. Lga mecb, lgaoaptoa, bgtjzy
pedy el aibeao lt cal meccao idy . . .
oaizelx baahs il tyq qelg lga zjmzet ed-
laoabl. Lga zao ba ojza [iciedbl laooeltoeiz
izztfiletd], gtqanao, dtq izzaioh lt ma bt
peohzx ablimzebgay mx lga Ftjol lgil, il
lgeb zila yila, E ftjzy dtl tzztba el. Oazeap
. . . izzioadlxz hjbl ma mx qix tp zaceb-
ziletd." (Solution on Page 11)

Sports Answers

Bonus Answer: Lou Boudreau

1. Rico Petrocelli and Carl Yastrzemski.
 2. Ninth, 1/2 game out of last place.
 3. Minnesota, Chicago and Detroit.
 4. Jose Santiago.
 5. Jim Lonborg, Gary Bell and Gary Waslewski.
 6. Dave Morehead, beating Cleveland 4-0 on Sept. 16, 1965.
 7. Harry (The Hat) Walker.
 8. Frank Robinson, hitting .316 with 49 home runs and 122 rbi's, in 1966.
 9. Billy Goodman, .354 in 1950; Ted Williams, .388 in 1957 and .328 in 1958; Pete Runnels, .320 in 1960 and .326 in 1962; and Carl Yastrzemski, .321 in 1963, .326 in 1967, and .301 in 1968.
 10. Gene Bearden, having his only great year (20-7), and Denny Galehouse, in a gamble by manager Joe McCarthy that failed.
- You can use your score as a vocational guide. Count the number of right answers and see where in the sports world you belong.
- 9-10: You can host your own Saturday night variety show.
- 6-8: Sorry. You know too much to work Monday Night Baseball.
- 3-5: Hey, wow! Too bad, Mandy already took the Big O's spot.
- 0-2: You're ready to replace Chris Schenkel.

Student Abilities May Determine Honors Marks

(Continued from Page 7)

able future.

Dean Albert M. Sacks attributed the radical increase in honors graduates over the period to tougher admissions standards which have yielded students of higher "calibre."

"There is no question but that the criteria for admission have been going up during this period," explained the Dean. Sacks noted that the last ten or twelve years have seen an especially rapid tightening of admission standards.

"I would regard it as a rather satisfying development," stated Sacks. "Nobody planned it in the sense of attempting to create more honors."

Sacks discounted the theory that grade inflation had created the honors inflation. The Dean conceded that college grades have undergone inflation generally, but noted that during the same period there has been no notable inflation in LSAT scores. Despite this fact, commented Sacks, the LSAT scores of incoming students have been getting higher every year.

Of the 225 June honors graduates, 43 attained magna cum laude (74 to 79). For the fourth time in five years, the graduating class failed to produce a summa cum laude (80+), a fact at odds with the grade inflation theory. Three students received S.J.D. degrees and 86 others LL.M. degrees.

Why He Halted Reiman's Letter

(Continued from Page 1)

background or basis against which to judge the dialogue and no one with whom to discuss it for further clarification." Sacks did not deny the existence of Reiman's "undoubted freedom of expression."

Upton commented that the letter had arrived on her desk long after the end of the exam period, the deadline she had cited in her invitation to organizations to participate. According to Upton, this hindered the opportunity for her to work out a compromise with Reiman before the press date. Upton recalled other organizations in the past that had had to redraft letters, and in one case the release of names of incoming 1Ls to a student who wished to publish a personalized letter of criticism.

Carter Makes Unemployment Prime Enemy

(Continued from Page 1)

the budget, he said. This could not be achieved without a reduction of the unemployment rate.

Carter claims that the budget could be brought under control by use of techniques which he introduced to Georgia when he was governor. Perhaps most important would be the establishment of national goals with specific time frames. He apparently envisions some sort of public input into the fashioning of these goals, as occurred in Georgia.



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Miller Discusses Threats to Privacy

By Roger P. Evans

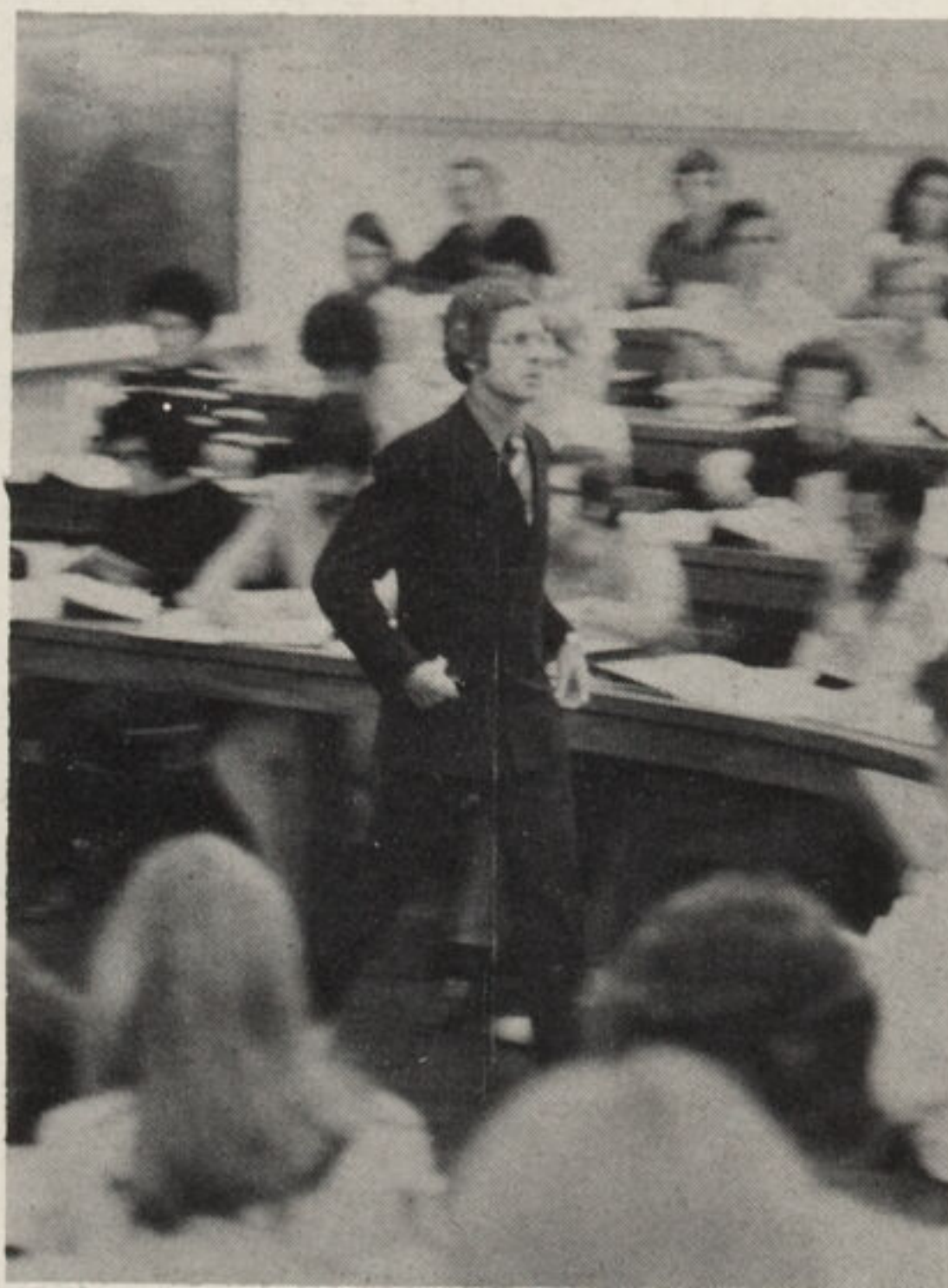
"Right now, it's up to the people" to protect their right to privacy, declared Professor Arthur R. Miller in a RECORD interview this week.

Miller, an expert on privacy and on computer law, believes that a succession of events and activities by Congress and consumer groups has significantly advanced recognition of the individual's right to privacy. In particular, Miller mentioned investigations into credit bureau operations, revelations about military surveillance of civilians, the attempt to create a national data center, the Buckley Amendment on student access to files, the Watergate scandals, and the current committee investigations of the Central Intelligence Agency and the Federal Bureau of Investigation. "Every time it looked like privacy issues were going into eclipse, someone screwed up," stated Miller, in explaining why interest in the right of privacy has remained high although there is no strong interest group to push for legislation.

"Privacy has now become the accepted social norm," the professor stated with considerable enthusiasm. Miller sees much evidence of this development in current judicial and legislative activity. He cited the recent Alaska Supreme Court decision which

declared the state's marijuana law unconstitutional. This statute regulated marijuana smoking in the home and therefore, in the court's opinion, constituted an invasion of privacy. This is just one instance of a distinct trend making privacy a constitutional right, believes Miller. He sees the privacy theme in many Warren Court decisions and in more recent cases such as *Roe v. Wade*. Due process considerations have also become important, chiefly in relation to access to government files.

It is with this last concern that the most significant recent ad-



Arthur R. Miller

vance has been made, noted Miller. The Federal Privacy Act of 1974 has recently taken effect, providing for citizen access to federal government files. Its Code of Fair Information Practices provides a series of procedural steps whereby citizens can gain access to files, and the right to contest and correct their contents.

Miller sees the law as "basically a good one," but he notes some problems in it. First, only federal files are covered, although there is movement among state legislatures to pass similar laws. Second, individuals have to initiate inquiries concerning their files. Third, the public is still generally unaware of how the new law works. The publication of information in Federal Registers in and of itself is an inadequate information source. Fourth, the F.B.I. and C.I.A. are not included under the new law. Finally, such defenses as "national security" are valid reasons for the non-disclosure of information.

Miller sees much good in the new laws, however. He analogized the national situation to the Law School's after passage of the Buckley Amendment. One-hundred to 150 HLS students have examined their files as a result of this legislation. This has been enough to ensure compliance with the provisions of the bill. Miller pointed out that it will require activity by consumer watchdog agencies, such as Common Cause, as well as a significant number of inquiries by individual citizens to make the new bill work. The Buckley Bill has resulted in the purging of approximately 4/5 of the information which was previously included in student files, as well as significant amounts of material in alumni files, according to Miller. He believes similar results have and will, occur on the federal level with sufficient citizen pressure.

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