

HARVARD LAW RECORD

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Conscientious Law Needed—Nader, Green

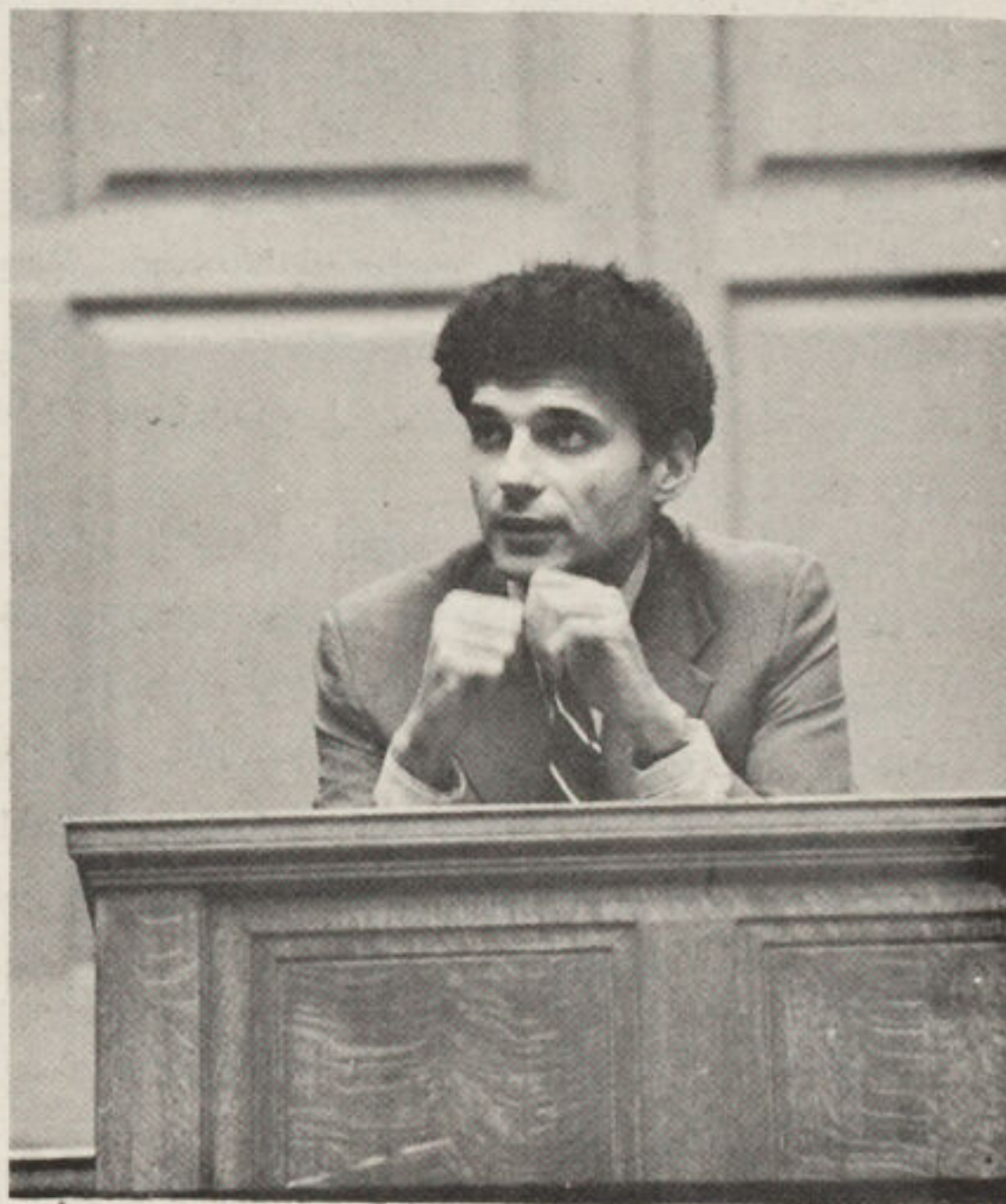
By Phil Heagney

"The real ethical question for law students is whether they will choose to go where they're really needed." This was the conclusion that Ralph Nader, '58 reached at the Ames Courtroom Tuesday night where he and Mark J. Green, '70 spoke for more than two hours on the topic "Law Firms and Law Schools: The Ethical Imperative."

A large audience, with third-year law students conspicuous by their absence, heard Nader and Green deliver a critique of the corporate law firm system and the legal education system. Both speakers emphasized that alternative ways exist for structuring legal education and for structuring the kind of work that lawyers do in the society.

Green, the author of a book on lawyers in Washington, D.C., entitled *The Other Government*, argued that most lawyers "lack an appreciation of the long-range consequences of their zealous representation of their clients." Green emphasized that the problem he was concerned with was not the notorious conduct of a few lawyer/politicians but rather "what a majority of lawyers routinely do everyday"

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Ralph Nader, '58:
"Return to the '50's"

Firm Employees Push for Union, Bring Complaint

By Frank E. Sisson

In 1973, the National Labor Relations Board declined to exercise jurisdiction over complaints of unionizing employees of a law firm. That decision is now being challenged by the messengers, file clerks and library employees of Foley, Hoag, and Eliot, a Boston law firm, subsequent to that firm's alleged "intimidation" of those leading a unionizing effort within the firm.

Neal Kane, a messenger for the firm, was fired on October 23 for
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Unpublished Opinions By 9th Circuit Scored

By Bob Rizzi

Lawyers since the thirteenth century have had to adapt their practice to the limits imposed by the case publication methods of the courts. Now the U.S. Court of Appeals for the Ninth Circuit has decided to reverse the trend which began with the Yearbooks towards more complete case reporting, by cutting back on the number and types of decisions which are published. The implications of this latest innovation in court administration, both for the legal profession and the courts, have attracted widespread attention.

Under the Ninth Circuit's Local Rule 21, the panel hearing the case will only allow publication of an opinion that "establishes, alters,

modifies or clarifies a rule of law." The rule thus goes beyond previous practice under which an appellate court may merely affirm a lower court decision without comment. Decisions that receive the "Not to be Published" stamp may then not be used, under any circumstances, as precedent in subsequent decisions. There is no appeal from the nonpublication ruling, and lawyers may not force cases to be published.

Theoretically, under the new rule the court is required to supply parties to an unpublished decision with a "written, reasoned disposition." However, in several unpublished cases in the past year, the Ninth Circuit has satisfied this re-

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Ethics Urged on Lawyers

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and the effect these services have on people other than the lawyers' clients.

Green illustrated his argument with materials he used in his book. He noted as an example that a large Washington law firm had worked for years on behalf of the Upjohn Company to prevent the Food and Drug Administration from removing one of the company's drugs from the market. Green asserted that the Upjohn Company files included reports that the product in question was dangerous to the public; the defense attorneys had access to these files.

Green concluded that lawyers needed to develop "an ethic of conscientious refusal."

Green, who conceded that he spoke first because Nader was such a tough act to follow, then yielded the podium to his mentor. Emphasizing that lawyers play a much more central role in shaping the social, political, and economic order in the United States than they do in Japan, China, or even Western Europe, Nader raised the question of what legal education should be. He argued that contemporary legal education was biased because it was based on appellate cases and because faculty members were usually unwilling to expand the scope of their teaching, research, and writing.

Nader contended that some of the most important issues of law and justice never reach the courts at all and that law school courses ignore many of the most important contemporary legal questions. As examples of issues ignored in law school, he cited such areas as citizen access to lawyers, the role of the

probate court in estate planning, relations between corporations and municipalities, the role of non-investor corporations, bureaucratic accountability in government agencies, and pre-paid legal insurance plans among others.

"Are the law school bubbling with ferment to deal with major challenges to the legal system?" Nader asked. He answered his own question by noting "the return to the '50's and the parochial obsession with career goals" seems to be the pervasive spirit among present-day law students.

Nader concluded that for those law students and lawyers who were willing to take the risk of breaking new ground a whole world of new studies, new roles,

and new ethics were waiting.

Because legal education has tended to narrowly define what it means to be a lawyer, students have felt strong peer pressure to do traditional legal work rather than choose projects like organizing consumer groups. "But doesn't this kind of organizing have just as much to do with the aims of justice as the things that other lawyers do?" Nader asked.

"If you take a high paying job because you think there's nothing else to do, you're selling yourself short in terms of where you're needed," Nader insisted. "Don't let legal education draw you away from the work of developing new structures to further justice without at least putting up a fight."

Law School Blacks Attempt To Solve Busing Problems

By Bruce Howard

The Harvard Black Law Students Association is currently arranging with the National Conference of Black Lawyers to become involved in Boston's biggest controversy — school desegregation.

The exact nature of BALSAs' role is still being negotiated, according to BALSAs president Loretta C. Argrett, 3L. But she indicated that there may be a need to represent black students suspended or expelled because of racial incidents.

"We've offered our services," Argrett explained, "and now it's just a question of deciding how we can be most effective."

Meanwhile, several other law students are working with the Na-

tional Association for the Advancement of Colored People (NAACP) to handle complaints registered by students and parents in connection with school desegregation incidents.

Marta A. Fleetwood, 2L, BALSAs Academic Affairs Chairperson, is in charge of the law students working with the NAACP on the busing issue. About 25 law students signed up early in the year to help with the project, Fleetwood explained, but because the busing situation in Boston was relatively peaceful this fall, only half of the volunteers have actually been pressed into service.

"Right now things are pretty quiet," Fleetwood said, "but nobody knows what will happen when the rest of the police pull out. Whatever it is, we have lots of volunteers standing by."

So far the law students have provided legal assistance to numerous persons arrested in busing incidents and to students suspended or expelled. "It can really make a difference for a student to have us in a

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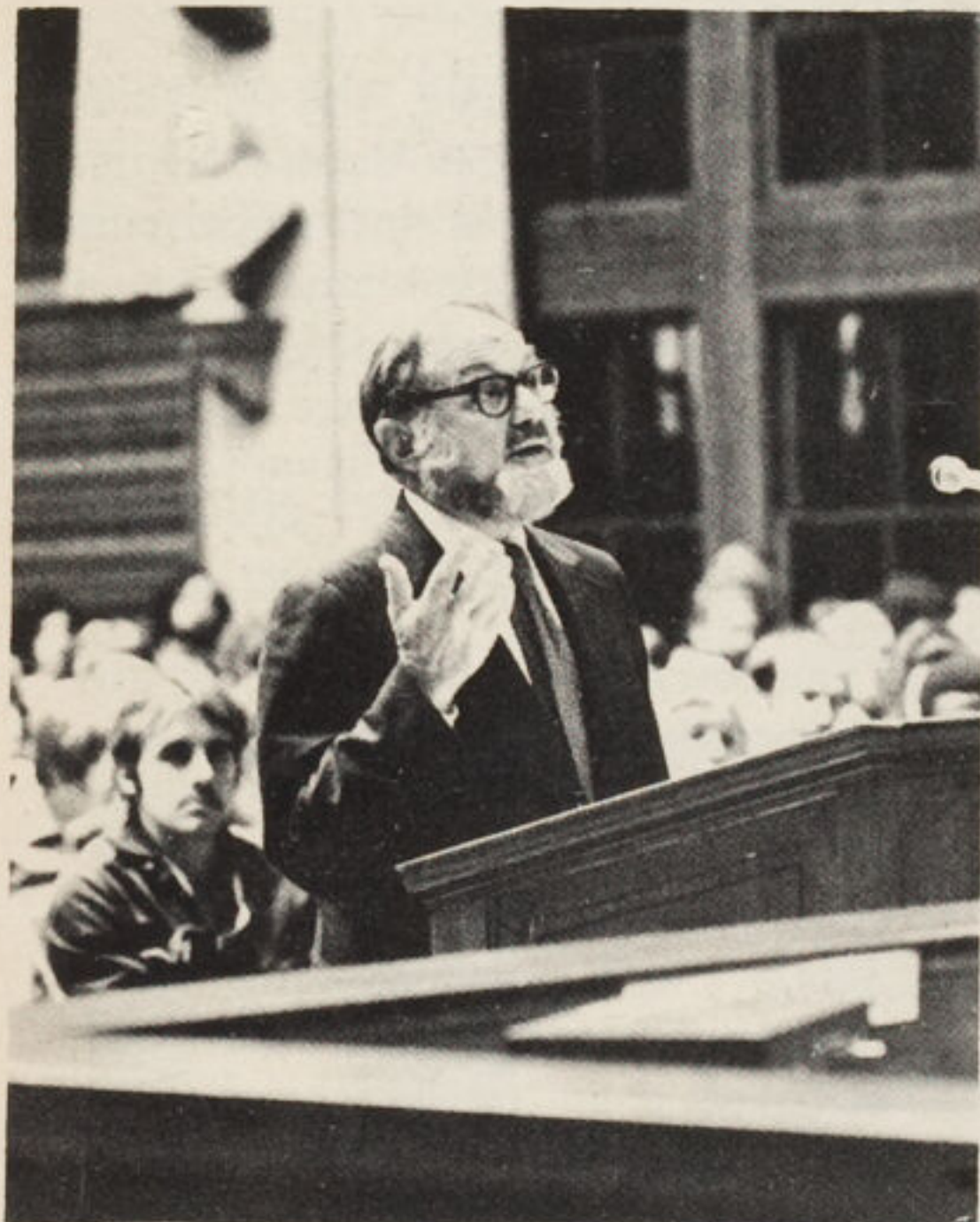
ALUMNI: Alumni who receive the Record as a result of membership in the Harvard Law School Association should mail change-of-address information to the Harvard Law School Association, Harvard Law School, Cambridge, Mass. 02138.

Mock Supreme Court Case Offers Flavor of Real Law

by Beth Emery

Over 550 students packed the Ames Courtroom on Oct. 28 for a Board of Student Advisors-sponsored preview of an upcoming Supreme Court argument.

Termed an "appellate argument of the greatest magnitude" by a faculty member who sat as a justice,



Attorney Victor Rabinowitz

Chayes and McDougal were picked because of their contrasting styles of analysis, thus providing a balanced panel.

Those differences became apparent to the audience when the justices returned to announce the decision. McDougal indicated that Chayes would speak for the Court. But afterwards, he decided to add his own, somewhat different, opinion.

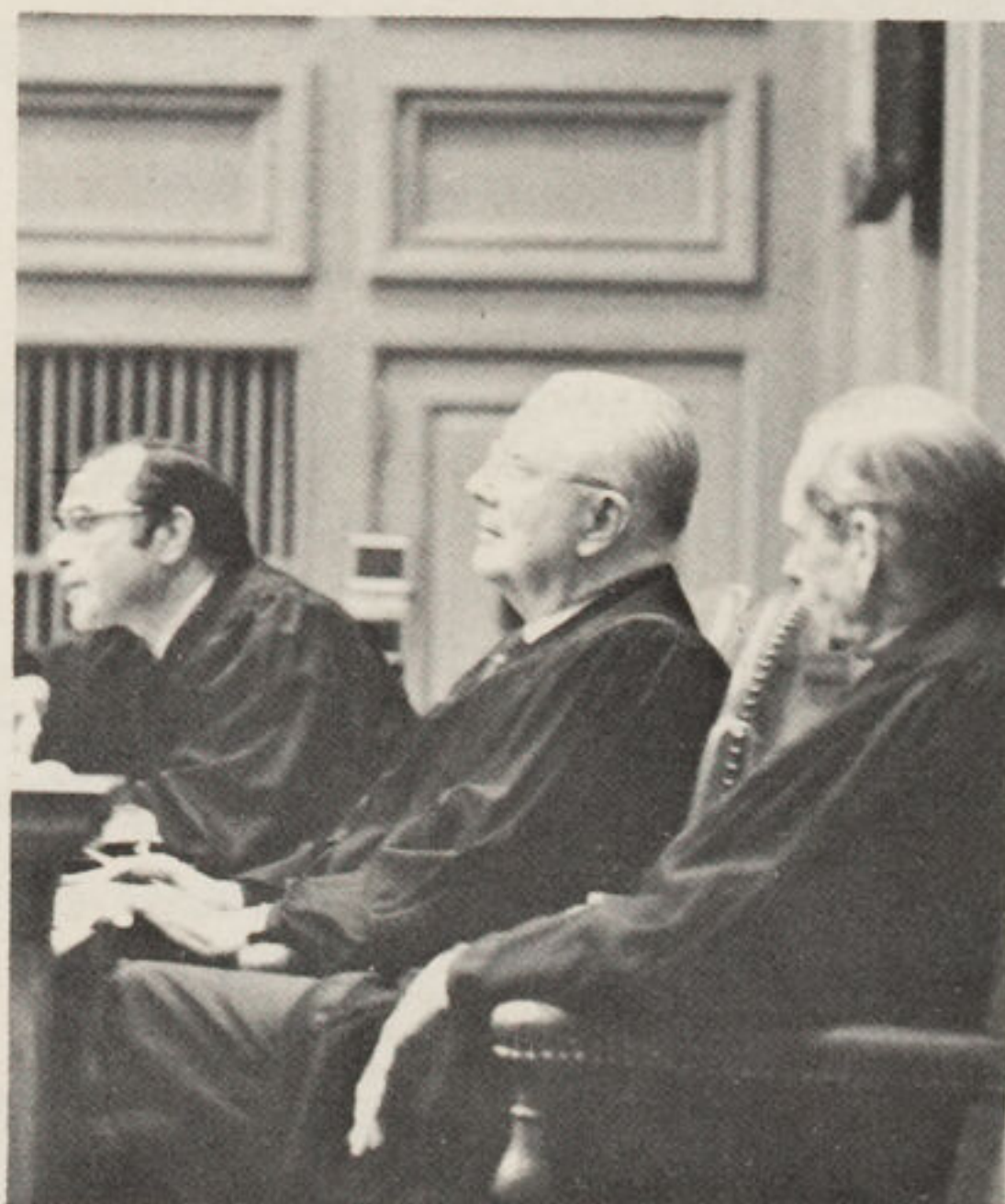
While the justices were deliberating, both attorneys answered questions from the audience, most of which centered on Rabinowitz's spirited oral style.

During Rabinowitz's argument, the crowd broke into laughter several times. McDougal at one point requested him to reserve part of his time to discuss *Banco Nacional de Cuba v. Sabbatino*, a prior relevant case for which the Court requested counsel to prepare arguments in order to reconsider it in light of *Dunhill*.

"I certainly will, if you won't ask me too many questions," Rabinowitz retorted, ending for a moment what had been a steady stream of questions from the justice.

McDougal seemed to be making reference to this period of good-natured exchanges with counsel

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"Judges" Chayes, McDougal, Baxter

the oral presentation featured New York attorneys Victor Friedman of Fried, Frank, Harris, Shriver and Jacobson; and Victor Rabinowitz of Rabinowitz, Boudin and Standard.

Rabinowitz and Friedman will present oral arguments for the case, *Alfred Dunhill v. Republic of Cuba*, in the U.S. Supreme Court later this term.

The case, which has been before the Court once already, concerns Cuba's obligation to repay Dunhill monies received by Cuba after it nationalized its cigar industry in 1960.

Sitting as justices were Yale Professor Myres McDougal, and Harvard Professors Abram J. Chayes and Richard R. Baxter. Justices were chosen for their interest in international law and also their approach to the subject, explained Gary J. Meisel, BSA chairperson of the event.

Meisel pointed out that

Foreign Policy, Jews Subjects Of Talks Here

By Ann T. Bailen

Father Robert Drinan, Democratic representative to Congress from the 4th District of Massachusetts, attacked the Arab boycott of Israel in a Harvard Law School Forum Speech Friday, Oct. 24.

Specifically, Drinan expressed concern about the U.S.'s failure to take a more active role in thwarting the boycott. He cited Raytheon and the Architects' Collaborative in Cambridge as two examples of U.S. firms which have complied with the Arabs. Drinan alleged that both companies have signed contracts with the Arabs in which they agreed not to do business with Israel or to hire Jews. Drinan pointed out that the motivation for the exclusion of Jews is political, not religious, and is linked with opposition of Zionists advocating a separate Jewish state. He conceded that the Arabs have not in practice made a distinction between Zionists and Jews.

Focusing upon what he believes to be the dishonest stance of the executive branch of the U.S. government, Drinan revealed that the Commerce Department has promoted U.S. business with the Arabs by circulating Arab inquiries among U.S. firms. He said Rogers Morton refused to respond to Congressional demands for an explanation of these practices.

Turning to possible solutions, Drinan observed that the Arab contracts might constitute secondary boycotts in violation of the U.S. antitrust laws, but concluded that specific legislation would be necessary to insure successful control. He outlined a bill which he has proposed in the House to make it unlawful for a U.S. firm to sign a contract discriminating against Israel. No penalties would be imposed for violations—it is Drinan's feeling that the contract's illegality under

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Summary Contempt is Venerable

Ed. Note: This is the second installment of a three part article submitted by the author, a criminal lawyer from St. Paul, Minnesota. The article was published in the November-December 1974 Hennepin Lawyer, published by The Hennepin County Bar Association.

By Jack S. Nordby, '67

The Virtues of the Summary Contempt Power

This summary contempt power, for so it is called, is a most efficient, economical and time-saving device. For the judge himself acts as victim, witness, prosecutor, jury, parole board, and, of course, judge.¹² (And occasionally as defendant, as we shall see.) The advantages and reasonableness of this are obvious, and nicely illustrated by Henry Cecil, distinguished English jurist, who recreated an episode in which he found it necessary to hold a man in contempt:

The accused denies that he did it, but I prefer my own evidence on the matter. I have known myself for many years as a most reliable witness.¹³

Mr. Justice Blackmun echoed these sentiments rather more broadly, dissenting¹⁴ last term in the United States Supreme Court's most recent decision on summary contempts:

In the instant case . . . the contempt took place in open court and the incident and all its details are fully preserved on the trial record. . . . I am at a loss,

12. Unless the sentence imposed is for more than 6-months incarceration, under federal Constitutional standards, *Cheff v. Schnackenberg*, 384 U.S. 373 (1966), or more than 90 days under the Minnesota statutes cited in note (11), *supra*, when a jury trial is required, and a different presiding judge. *Mayberry v. Pennsylvania*, 400 U.S. 455 (1971).

13. Cecil, *Brief Tales From the Bench* (London 1971), a fictionalized account; the actual incident is recorded in Cecil's *The English Judge*, (Arrow Ed. 1972), at 98.

14. Fortunately.

therefore, to see the role a jury is to perform.¹⁵

The same, of course, would be equally true of any other crime committed in the courtroom, an assault, say, or an indecent exposure, a libel, even a murder.

To be sure, like any time-honored or innovative procedure, the summary punishment of contempts has its critics, but they ordinarily are academicians and suchlike who harp upon such things as the Constitutional rights of the contemnor, scarcely acknowledging the aforementioned efficiency or the effectiveness of summary punishment.¹⁶ It is quite obvious that a similar procedure applied in all criminal cases would vastly reduce the workload which, we are told, makes increasingly intolerable demands upon our courts, and which

15. *Codispoti v. Pennsylvania*, — U.S. — (June 26, 1974). This decision and the antecedents it cites are indispensable reading for anyone with a serious interest in the law of direct criminal contempts, and therefore beyond the scope of the present article. Compare Justice Black dissenting in *United States v. Barnett*, 376 U.S. 681, 724 (1964):

It is high time, in my judgment, to wipe out root and branch the judge-invented and judge-maintained notion that judges can try criminal contempt cases without a jury. It will be a fine day for the constitutional liberty of individuals in this country when that at last is done.

See also *Taylor v. Hayes* — U.S. — (June 26, 1974, a companion case).

16. I had occasion not long ago in a certiorari proceeding to canvass the learning in the area and produced an overlong brief to which I appended a bibliography of some 158 books, articles and annotations on various aspects of contempt, those dealing with summary punishment being almost universally critical. See Brief of Appellant, *State v. Cotton*, Minnesota Supreme Court No. 43765. The contempt conviction was reversed, not for one of the ten Constitutional and legal errors I alleged, but because the Court found the conduct—a note handed to the judge—not to be contemptuous. *State v. Cotton*, 297 Minn. 501, 210 N.W. 2d 244 (1973). I wish I had thought of that argument.

unfairly causes most inconvenient delays in cases involving important pecuniary and property rights — civil cases, that is, where the parties quite often have broken no laws at all, much less acted contemptuously.

How to Obtain a Trial by Jury for a Direct Criminal Contempt

Go to Alaska.¹⁷

17. In *State v. Browder*, 486 P. 2d 925 (Alaska 1971), that State's Supreme Court succumbed to the radical notion that all criminal contemnors are entitled to jury trial regardless of punishment, saying, in language the like of which one seeks largely in vain since the United States Supreme Court's discovery of the Fourteenth Amendment:

"The mere fact, however, that the United States Supreme Court has not extended the right to jury trial to all types of offenses does not preclude us from acting in this field. While we must enforce the minimum constitutional standards imposed upon us by the United States Supreme Court's interpretation of the Fourteenth Amendment, we are free, and we are under a duty, to develop additional constitutional rights and privileges under our Alaska Constitution if we find such fundamental rights and privileges to be within the intention and spirit of our local constitutional language and to be necessary for the kind of civilized life and ordered liberty which is at the core of our constitutional heritage. We need not stand by idly and passively, waiting for constitutional direction from the highest court of the land. Instead, we should be moving currently to develop and expound the principles embedded in our constitutional law." Quoting *Baker v. City of Fairbanks*, 471 P. 2d at 401-402 (Alaska 1970).

Answering the argument that their decision would foist an insupportable burden upon the courts, the Court replied in the words of Mr. Justice Cardozo, who cautioned that "[w]e are to beware of the insularity of mind that perceives in every inroad upon habit a catastrophic revolution," and concluded:

We recognize that this decision represents an advance from what historically was thought by some to be

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NY ERA Opposition Gains Strength

By Susan Gillette

Ruth Bader Ginsburg, nationally known as counsel or amicus in leading Supreme Court cases on sex discrimination, faced surprisingly pugnacious opponents of the concept of the Equal Rights Amendment when she appeared at legislative hearings in New York State recently.

The opposition carried the day in New York Tuesday. Voters defeated a proposed women's rights amendment to the state constitution in a 60-40 vote. New Jersey voters killed a similar amendment by a slimmer margin.

These defeats for women's rights amendments mark another step in a rising anti-ERA sentiment which has led lawmakers in two states—

Nebraska and Tennessee—to rescind earlier approval of the federal ERA, passed by Congress in 1972. Allowing for rescissions, the number of state ratifications of ERA now stands at 32. The ERA will fail if it is not approved in 38 states before March, 1979.

In a telephone interview last month Ginsburg, a Columbia Law School professor, cited the cause of rising resistance to ERA as "deep-seated fear." It leads men and women to oppose or ignore ERA, she said.

Ginsburg recalls that one of her first contacts with such fears occurred in 1971 while she was teaching a "gender discrimination" course at the Harvard Law School (the first sex discrimination course offered

here). After one class a young man came up and said to Ginsburg, "It's not just equal pay and equal work that you want. You really want to change everything, don't you?"

This fear is the basis of the arguments of organizations ranging from the John Birch Society to the Communist Party, which have joined ERA for Phyllis Schlafly in a disunited but effective campaign to halt the progress of ERA.

Both opponents, dominated by Schlafly, and proponents, led by N.O.W. and businesswomen's groups, are gearing up for popular campaigns and legislative lobbying which will bury ERA or boost it to become part of the law of the land.

ERA opponents talk of the "horrible" consequences of ratification: drafting women, ending separate bathrooms, making the Girl Scouts admit young men, destroying woman-protective labor laws, and otherwise "undermining the family."

Ginsburg seeks to dispel these fears, which she considers baseless. But she's finding that women — and men — of the "persuasion" that fears change "tend not to reason".

In fact, many ERA opponents believe the law is on their side. They cite Schlafly's interpretations of comments made by Harvard Professor Paul Freund in the 1971 Harvard Civil Rights-Civil Liberties Law Review.

(Last year Ginsburg mailed Freund a collection of the most blatant of Schlafly's misstatements of his writing on sex discrimination. Freund termed those arguments unworthy of serious treatment in this article and declined to discuss them.)

In addition to facing public opposition to ERA, Ginsburg is vying against a more invidious danger: claims that the 5th and 14th amendments to the Constitution, the "due process" amendments, provide adequate tools for the judiciary to strike

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Gotham City Teeters On The Brink

"There's a worm in the Big Apple."—Stanley Gacek, 2L

Vice President Rockefeller's statement Monday that he will not run on the Ford ticket in 1976 may reflect not only guilt over his own administration's insensitivity to his hometown, but also a fear that entering the 1976 electoral arena would prevoke a more searching inquiry into his role in bringing about New York's debacle.

After all, it was Rocky who, as Governor of New York, authorized such circumlocutions of New York State's constitutional limitations on local indebtedness as writing 20-year notes on school textbooks with a usable life of 2½-years, taking 'manpower' out of expenses and including it under capital items, and, at the advice of John Mitchell, issuing "moral obligations" to fund the Urban Development Corporation. It is also surely no coincidence that Rockefeller's brother David presides over the Chase Manhattan Bank, part of the banking community that for 15 years has tolerated such practices and bought New York's bonds.

Quite a record for a man whose 1958 campaign slogan was "Pay As You Go."

Such practices, mingled in the sordid miasma that is New York municipal finance, have made a default imminent. Just how imminent is uncertain. Mayor Beame's latest "rabbit out of the hat" trick, the sudden chance of a deal with the

city pension funds, has cost his credibility dearly in Washington. Reports of "certain" default on December 1 have subtly metamorphosed into predictions of default early in 1976.

Default would be disastrous. The trust indenture for the bonds is so severe as to authorize bondholders to divert to themselves money earmarked for supplemental pension benefits to retired public employees. Furthermore, the indenture creates a summary procedure by which creditors could execute on city property within a day. New York may seek a federal restraining order based on the right of government to take property without compensation where its very existence is at stake, declared by a 1935 Supreme Court decision.

A state court suit by bondholders to force New York into receivership would probably founder on a sovereign immunity defense. However, the SEC could force a receivership in federal court at any time. A federal receivership "could last 75 years," according to Professor Louis Loss, since non-consenting creditors cannot be forced to discount their claims.

While these legal issues are litigated, Mayor Beame will be watching Congress wrestle with Ford's proposed amendments to the Bankruptcy Act which might (and might not) make bankruptcy a feasible alternative for New York. He

may be watching a long time. Rep. Don Edwards (D-Cal.), has quietly let it be known that he too, Chairman of the responsible House subcommittee, prefers not to take up these proposals until the proposed new Bankruptcy Act is considered in its entirety next year.

The only way in which the existing Bankruptcy Act might prove useful is that it does provide a means of obtaining a preliminary stay of suits by creditors for up to 120 days without filing a formal bankruptcy petition. However, to obtain such a stay, New York would have to declare that there is a "reasonable" prospect of acceptance of a plan by 51% of creditors within a "reasonable" time—something easy to allege, but impossible to demonstrate.

Even if Congress does act swiftly on Ford's proposals, they are riddled with defects, according to Professor Vern Countryman. In his testimony last Friday before the Senate Judiciary Committee, which is considering the proposals, Countryman left Sen. Roman Hruska (R-Neb.), Ford's arm on the Committee, "shaken" with several criticisms.

First, the Ford amendments require that, for the bankruptcy petition to be approved by the bankruptcy judge, a plan of composition must be submitted. This plan must make it likely that the city will achieve a balanced budget within a reasonable time, and must be "feasible." If a balanced budget for New York is more pie-in-the-sky, as Countryman believes, then no petition New York might file could ever be approved.

Even if the court approves the petition at the outset, creditors can come in to challenge this approval at any time before the plan is confirmed.

If creditors can come in just before confirmation and prove that a balanced budget never was very likely, the court might

(Continued on Page 16)

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Court Awaiting ERA's Mandate On Sex Issues

(Continued from Page 5)

down discriminatory legislation and practices.

This may be so, Ginsburg said doubtfully, but she believes such interpretations are achieved only by painfully stretching the plain meaning of the 14th Amendment. "It was not designed with women in mind" and the Supreme Court knows this, Ginsburg said.

Judicial reluctance to make innovative rulings from 14th Amendment language is also due to a desire to avoid sex discrimination issues in expectation of a popular mandate soon through passage of ERA, Ginsburg said.

Ginsburg did not speculate what the Court's reaction to a mandate against ERA, by failing to ratify it, might be. She only suggested that "if the political process isn't working the next step would have to be something like what happened in Brown v. Board of Education."

Ginsburg seemed optimistic about the chances of ERA's ratification and even more optimistic about successful implementation.

In any case, Ginsburg is taking no chances. Speaking as amicus to the Supreme Court, as general counsel to the American Civil Liberties Union, and as law professor, she is pushing for maximum realization of women's rights and equality under the 14th and 5th amendments.

Lack of an ERA definitely impedes the legal process of ending discrimination, Ginsburg believes. And waiting for the political processes of 38 states to grind out ratifications is galling and ironic to the frustrated advocate, who says, "It is unquestionable that if the Constitution were written today there would be a provision guaranteeing men and women equality."



Rule 26: Castro Oil

By Gary Hailey

RECORD readers with questions under Rule 26 of the Federal Rules of Civil Procedure (Discovery) are encouraged to bring them to the RECORD office, turn them in to your neighborhood RECORD reporter, or leave them at Law School newsstands selling the RECORD.

Q. There's a tacky rumor going around about a mistake being discovered in the Blue Book. Is the Blue Book flawed? Is God dead?

A. The Blue Book may indeed be flawed, according to an unidentified

source. Check page 82 carefully and you may find something. Then again, you may not.

Q. Everyone knows that Ralph Nader was once the editor of the RECORD. Was this before or after he became an American operative for Fidel Castro?

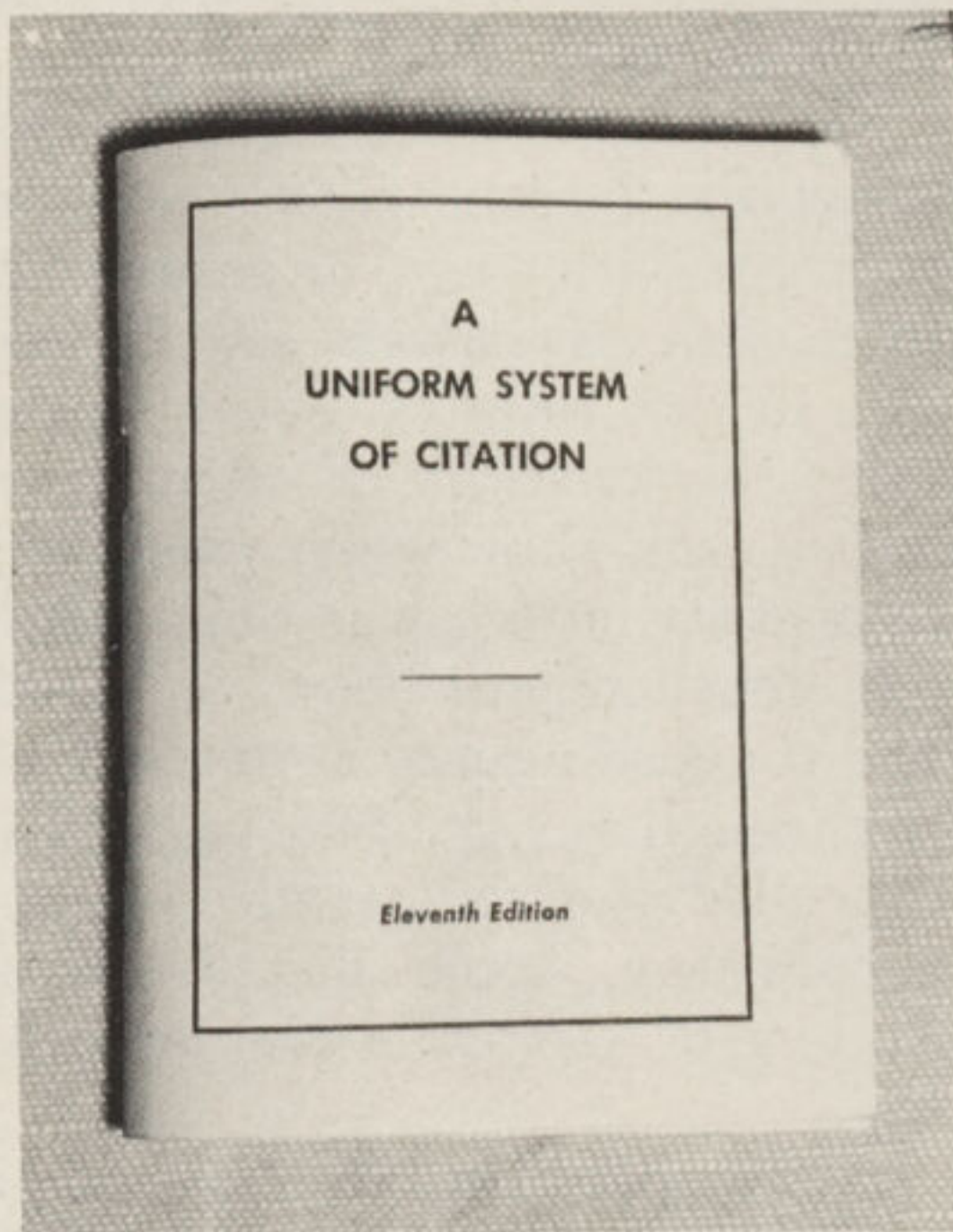
A. When did you stop beating your wife? Nader did travel to Havana in 1959 during Castro's pre-Communist "honeymoon" while he (Nader, not Castro) was a RECORD staffer. However, according to Walter Scott's "Personality Parade," neither Nader nor any of the other reporters who met with Fidel received any secret instructions during the visit.

Q. Gulf Oil recently gave almost \$200,000 to Harvard University. What was the law school's piece of the Gulf Oil pie?

A. Don't expect law school tuition to drop due to Gulf's generosity. The International Tax Program picked up \$1000, but the rest of the law school drilled a dry hole. (Only a month ago, Senator Ernest Hollings said here that "all good Harvard lawyers go to Big Oil" anyway. If they've already got us, they don't need to give us presents.)

Q. Why is graduation three weeks after exams end and two weeks after the bar review courses begin?

A. The Law School believes in communing with the masses. Graduation is set to coincide with the college ceremonies.



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Random Ideas Expressed on Court System

(Continued from Page 4)

magazine only a full-page apology in a subsequent issue. "John Weidman, one of our editors who is an attorney as well, said VW could have gotten a big enough judgment to bankrupt us. A similar thing happened when we ran a topless Minnie Mouse on a cover and Disney sued us. They claimed we were using their characters to sell our magazines."

An Interesting But Not Very Useful Example of the Summary Contempt Power in Action



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and the company
store.

At the time and place appointed for the preliminary examination in the case of State v. Brandt it appears that Judge Lohren refused to abdicate in favor of Justice Wagner, and while hearing argument on the proposition from the prisoner's counsel the justice boi-

"A Unique Function"

Kelly noted that the *Lampoon* is heading in a new direction. "We were the first people to really make fun of the counterculture, which had really become embarrassing by 1970. A few years later, none of our readers remembered the sixties, so we needed something new — of course, Richard Nixon came along, and he carried us for several years. We know that our original readership has grown up, so we're trying to make the magazine a little more mature — this month's issue is titled 'Work' and our next two will concentrate on 'Money' and 'Conspiracy.'

"Not Kennedy, or the Kopech-
nes," said Sean Kelly, one of the
editors of the *National Lampoon*,
during a visit to Lesley College last
week. "What we get away with is
appalling — we can call Jackie
Kennedy a 'douchebag,' or Pat
Nixon a 'lesbo,' and nothing will
happen to us. But when we step on
someone's property rights, like
using the VW trademark — that's
when we get in real trouble in court.
And I can assure you that more
judges find the *Lampoon* offensive
than humorous."

18. Some opinions in this and other courts are less amusing and more instructive; some are less instructive but also less amusing; some, in turn, are more amusing but more instructive. No decision both *more* amusing and *less* instructive has been found.

19. An interesting if uncommon procedure which might reward further exploration.

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HARVARD LAW RECORD

NY Lawyers Probe NYC Practice

By Judith Albert

Practicing Law in New York City. The Council of New York Law Associates has put together a volume of essays entitled, aptly enough, *Practicing Law in New York City*. The Council, whose main function is to serve as a clearing house for information on public service activities, designed this volume "to fill a gap in the education of young lawyers"—that is, to provide information on what the practice of law is like in a "major law city."

The extent to which young lawyers are ignorant of what practicing lawyers actually do is remarkable. One Harvard graduate recently told me he had gone into an antitrust department expecting to do the theoretical analysis he had enjoyed in classes, only to find himself spending two months in Minneapolis sifting through documents. When his stint in antitrust was up, he switched into a labor practice, which turned out more to his liking.

The portion of *Practicing Law* which is devoted to legal specialties might have aided this fellow. Though the individual descriptions provide no more information than would speaking with several practitioners, the collection of such information on fifteen fields is a welcome resource. The topics covered range from what the work entails and what young lawyers (as opposed to partners) do, to suggested background courses and long-term prospects. While each section is, of necessity, couched in generalities, the generalization in turn means that the descriptions are probably applicable to practice in major cities other than New York.

In the same vein, the authors treat the relative merits and disadvantages of small, medium and large firms. They avoid evaluating individual firms, suggesting in-

stead things one might look for to do one's own evaluation.

Lest anyone get the idea that *Practicing Law* is directed solely towards corporate practice and helping lawyers decide which Wall Street firm they would like to work at, I hasten to point out that the volume begins with the not so tongue-in-cheek "So? YOU Want to Be a Wall Street Lawyer!??!" and includes a number of essays on alternatives to law firm practice in both the private and public sector.

It is not exhaustive, for it fails to mention private public interest groups along the lines of the ACLU and the Legal Defense Fund. However, it does provide

with the general approach required to meet the needs of smaller clients would be better suited for a small firm than large. Perhaps the greatest benefit of *Practicing Law* is to set out images of what the alternatives are, so that the young lawyer can figure out which most appeal.

The Council of New York Law Associates had a purpose in writing this book in addition to the one stated above. It wishes to convey the spirit of excitement which these lawyers feel to be the essence of New York practice. The authors have disclosed the drawbacks of the practice, most notably the hierarchical

... "big problems" and "big deals" of big city practice viewed ...

fairly specific descriptions of government offices (District Attorney, Corporation Counsel, Attorney General) and neighborhood law offices.

Included, too, is a program for starting one's own firm, though after reading one hundred pages on firm practice and recognising that the center of gravity in the New York legal community rests with the large firms, I admit to wondering whether this alternative is a realistic one.

The point which most impressed me as I read these essays is that the determination to work in one kind of law office or in a particular field or, for that matter, in New York City, involves serious consideration of one's personality and talents. It would seem that the young attorney who enjoys developing the complex fact situations found in antitrust suits and who has the patience to stick with those suits for months or years is a different person from the young real estate lawyer who is, at an early stage in her career, negotiating with outside lawyers and non-lawyers. The lawyer who likes client contact and is at ease

structure and institutional quality of many of the firms. However, they are caught up in the challenge (to use their word) of handling "big problems" and "big deals". *Caveat emptor*: Having this state of mind may be a prerequisite to practicing law in New York City.

As a postscript, for those looking for jobs in New York or wondering whether they would like New York, *Practicing Law* includes some hints on interviewing and basic information on living in the city. And finally, for those with additional questions about practicing in New York, it lists an additional source of information—the Council itself.

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Bogey

We sympathize with the pressures and administrative inefficiencies which plague the Placement Office and interviewing organizations. The RECORD story on organizations that failed to file discrimination questionnaires included the names of several interviewers who had either filled out such questionnaires or were clearly lacking in improper motives because of this inaccuracy in the Placement Office's Files. Thus, we are happy to print the letter from the Placement office on the facing page which clarifies the facts. (The Placement Office has conceded that our listing of organizations without questionnaires on file was accurate.)

It is difficult for us to sympathize with claims of some firms that our list put them in an undeserved bad light because their hearts were in the right place (and their typewriters simply slow). Late facts are useless to those students who weigh this information in deciding whom to interview. Clearly, the questionnaires should precede the interview by several weeks.

Admittedly, the Placement Office must take part of the blame for either not pushing hard enough or for inefficient filing. We are aware that "keeping the file up to date has been difficult." But this can't change the fact that the requirement for information is established by Harvard—it is unfair to all if not administered in a timely fashion.

Eagle

The president-elect of the American Bar Association, Justin A. Stanley, suggested in an October 10 address to the State Bar of New Mexico that a possible solution to the shortcomings of American legal education would be to eliminate the third year of law school and give students a national exam at the end of two years. A third year would be spent in the area where the student desired to practice preparing for further examinations specified by state supreme courts.

The idea that two years of law school would be sufficient to serve basic educational needs deserves serious consideration. The practical education gained in the context of actual experience would seem superior to that gained in a restless nineteenth year of classes. Clinical programs are generally available, but not sufficient to satisfy the need by the profession of more balanced new attorneys. Bring out the hemlock.

HARVARD LAW RECORD

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Fenno

"Why am I doing this?" Fenno asked, pulling his jacket more snugly around his body against the autumnal chill. "Why am I out of bed at seven o'clock in the morning walking toward Gannett House of all places?"

The 2L walking between Fenno and the 3L did not answer. The 3L stopped swearing softly long enough to answer Fenno's question.

"Our friend here decided to go through the writing competition. He skipped all his classes and beat his brains out for two weeks or so, and now he's got to find out whether he made it. And he wanted us along to provide moral support."

"Moral support," Fenno muttered, somewhat alarmed that the sun was much lower in the Eastern sky than he had ever seen it. "I'm very good at moral support at 11:30. What's magical about seven o'clock."

This elicited no response, so Fenno directed his attention to the 2L.

"Is it worth it to get the chance to spend the summer negotiating profit-splits on the Blue Book with Ivy League schools of faded glory which wouldn't be allowed to actually do any of the work on the book even if they wanted to?"

"Yes," the 2L responded.

"Is it worth it just for the opportunity to take reams of copy and write 'split infinitive' in the margin next to every sentence like the last one I used?"

"Yes," the 2L responded.

At that moment they reached the front door of Gannett House and found the 2L's number neatly typed on a posted list of those who had made the Review from the writing competition. As the 2L slowly comprehended the import of this, his eyes snapped open in wonder; then he seized his chest and collapsed on the porch.

"Are you having a heart attack?" Fenno asked.

"Yes," the 2L responded.

Fenno started to summon help, but before he could get off the porch the front door opened and four Review editors carrying a stretcher came out.

"Get the oxygen tanks from behind the Pepsi machine," one of the editors shouted to someone in the house as the other editors lifted the 2L onto the litter, "we've got another one. Also he may need surgery, so tell the Developments people that we'll need their desks as an operating table and their copy as an anesthetic."

With that, the editors carried the 2L's stricken form into Gannett House and the door closed behind them. Forever.

"You know," the 3L said, "he could have died."

"It looks like he'll make it, though," Fenno responded, shaking his head. "Some people are just born unluckily."

Letters to the Editor of the RECORD

Review Selection Is Called Into Question

To the Editor:

We are a group of four second year students who feel that the RECORD should do an article on the way people are selected for the Law Review. The article should cover the ways in which people are selected and whether or not this makes sense. Some suggested areas:

I. How are people selected?

A. We understand that the top 25 or some people are selected from first year grades. What about second year grades? If approximately 8 are chosen after the second year are they chosen from second and first and second year grades? If so, is it 4 and 4 or does each person have 2 averages (a 2d yr average and an average representing the 1st & 2d year) and the first 8 in terms of either average is selected.

B. What happens if someone selected after the second year was previously selected and declined membership on the review? At that time (after 1st year)?

C. How is the information compiled? We have reason to believe that computational mistakes have been made. Persons with higher averages than some who were selected were not also chosen. How can this be? What were the lowest grade averages of persons selected after the first year and after the second year?

D. What if someone takes fewer courses or takes many courses in other departments by cross registration?

II. Does this make sense?

A. The foregoing suggests that the procedures are ludicrous and inaccurate. The registrar's computer doesn't work very well. Publish the minimum grade averages (the lowest averages of those who were selected for review), and we'll bet that some people with higher averages, but who were not selected will step forward. No need to publish names, just facts. Were these errors purposeful?!

B. How do other schools select people? Stanford and Yale do publish first-rate reviews.

C. Are Harvard students disadvantaged because only 5% are selected for review whereas at other schools 10-15% are selected?

D. Does the law school subsidize the review with space, utilities, money? If so, is it fair to have some

students pay for something that only directly benefits others?

(unsigned)

Cambridge, Massachusetts

Ed. Note: The questions imply a definite stance toward law review selection and thus are printed as they were received in this column. We invite the Law Review to respond to the criticisms and queries raised.

Employers Late Or Lazy But Not Racist

To the Editor:

In reply to the article listing those employers who have not provided the Placement Office with information about their employment of women and minority groups:

The list was compiled from a working file used by the Placement Office; it should not be interpreted as a final listing of employers who have failed to return the questionnaire. As a matter of fact, the F.T.C., Washington, and Gadsby & Hannah, Boston, have since sent in their questionnaires and others may be in transit. In addition, a number of interviewers are dropping off the questionnaire the day they come to interview.

The law firm of Cox, Langford & Brown, of Washington, D.C., has been the unwitting victim of a failure on the part of the Placement Office to revise its working file to indicate that the firm had in fact returned its questionnaire. This is also true of Morgan, Lewis & Bockius, of Philadelphia, and Mahoney, Hawkes & Goldings, of Boston.

A number of employers, although protesting the questionnaire, have completed it. Others have not completed it, but we have no way of knowing why. Only a few employers have reported they found the questionnaire too offensive to fill out.

Because so many employers return interviewing materials to the Placement Office piecemeal, keeping the file up to date has been difficult.

Eleanor R. Appel
Placement Director

Quizzers Strike Out On Pitching Question

To the Editor:

The sports quiz in your October 24, 1975 issue was both informative and challenging, except in one minor respect. I believe if you would check the films of Don Larsen's perfect game, you will find that Dale Mitchell, in a last, valiant effort, went down swinging!

Andrew H. Levy, '69
Washington, D.C.

Respond to Letter! Says HLS Debtor

Ed. Note: A copy of the following letter, addressed to Assistant Dean Russell A. Simpson and Harvard Student Loan Officer Kenneth Higgins was forwarded to the RECORD by the author.

Dear Mr. Simpson and Mr. Higgins:

Thank you for your recent reminders that there is still several hundred dollars outstanding on my repayment of loans to Harvard Law School.

I am anxious to repay these loans, because I know they are necessary to help other students, and I am grateful for the help the Law School extended me while I was a student there.

However, I am deeply disturbed by what I have read in the September 26 issue of the *Harvard Law Record* with regard to issues stated in a letter written by Jeff Reiman, president of the Law School Council.

The information in this article gives me the impression that the Law School is using high handed and irresponsible policies with regard to student needs and opinions.

It is my opinion that the Law School is there to serve the students. It is primarily the students who are paying for the service of being educated. The students, hence, should have the greater power in determining what the Law School teaches, who teaches it, and what the requirements are for the degree. I believe that the students who comprise the Harvard Law School body are intelligent, responsible individuals who can be trusted to make proper decisions.

After 21 years of schooling, I have had enough experience to know what it's like to be a powerless student who is asked to pay money and put up with the worst possible professors and the most irresponsible and abusive of administrations. I don't want to see my beloved Harvard Law School turn into this type of institution.

I would like a reply from you gentlemen concerning the points made in Jeff Reiman's letter and in particular a promise that students will be given effective participation in the policies of what courses are offered, who teaches them, and what the requirements are for the degrees.

Having received satisfactory answers to these points, I will be more than happy not only to repay the remaining amount on the loan but look forward in the future to contributing to the continued growth of Harvard Law School.

Dr. Richard Iacobucci '68
Cambridge, Massachusetts

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.)

"V qluunw lmtoo wrlw vw znsge fo
sutolhnulfgo wn vuioit itnk wro suevhysswoe
ilqwh wrlw wro xskyvum tnyo zlh wnn
hrntw int wro ystynho lue wro kluuot vu
zrvqr vw zlh shoe."

SPORTS QUIZ

- Before Bud Wilkinson tried his hand at broadcasting, he was an incredibly successful coach at Oklahoma. His teams had two lengthy winning streaks: 31 games from 1948 to 1951, and 45 games from 1952 to 1957. The same team ended both streaks; name that school.
- Which two teams met in the first Rose Bowl game on January 1, 1902?
- What Professional Hall of Fame receiver fumbled only once in his entire career?
- Since 1960, seven quarterbacks have won the Heisman Trophy, but only three have achieved even a modicum of success in pro ball: Roger Staubach, Navy, 1963; Steve Spurrier, Florida, 1966; and Jim Plunkett, Stanford, 1970. Name the four other Heisman-winning quarterbacks who have suffered mediocre professional careers?
- John Wooden's first NCAA championship squad had three players who went into the pros. Name the three, and the year of that first of many triumphs for Wooden.
- Who was the first player in NBA history to amass 20,000 points in his career?
- The Boston Celtics acquired Bill Russell out of the University of San Francisco in the 1956 college draft. Who did the Celtics trade to St. Louis for the Hawks' number two position in the draft, who was the first player chosen ahead of Russell, and who won Rookie of the Year honors after the 1956-57 season?
- Another great NBA center, Wilt Chamberlain, scored 100 points in one game against the New York Knicks on March 2, 1962, as Connie Dierking and Cleveland Buckner fouled out trying to stop him. Within two points either way, what was Wilt's scoring average for that 1961-62 season, and whose record for most points in a single regulation game did Chamberlain shatter?
- Who are the only other two players to score 100 points in a single game, holding the small-college and university division records respectively? (Hint: one went on to play professional ball as a

- guard for the Los Angeles Lakers.)
- The words to the great Michigan fight song are:
"Hail to the conquering heroes,
Hail to the victors valiant;
Hail, Hail to Michigan,
The Champions of the West."
What mean these final words?

Bonus Question for true sports buffs.
Who held the world chess championship before Boris Spassky?

Law Notes

Jimmy Breslin will speak in Lecture Hall B of the Science Center at 8 p.m. Monday, Nov. 10. The speech is sponsored by the HLS Forum. Tickets are \$2.00.

* * * * *

General David Elazar, Commander in Chief of the Israeli Armed Forces during the Yom Kippur War, will discuss **"The Long Range Effects of the Yom Kippur War"** in Lecture Hall B of the Science Center on Tuesday, Nov. 11.

* * * * *

A **wine tasting party** will be held in Harkness Commons, first floor, at 8 p.m. on Thursday, Nov. 13. Wine, cheese and bread will be provided by the Harvard Law Community Association. Non-members must pay 50 cents admission.

* * * * *

"Can Israel Feed Itself?" will be the topic of the Sabbath Table Talk at the Brooks House at 8:45 p.m. on Friday, Nov. 14. Yair Mundlak, visiting professor of economics from Hebrew University, will lead discussion.

* * * * *

Massachusetts State **Legislator Elaine Noble** will speak in 335 Pound at 8 p.m. Wednesday, Nov. 19. Her discussion will center on women's involvement in academic and political fields. Refreshments will be served at 7:30 p.m. The event is sponsored by the HLCA and the Women's Law Association. Non-members will be charged 50 cents admission.

Sports Answers

- Notre Dame du Lac.
- The University of Michigan crushed Stanford 49-0, capping a season in which they went 11-0 and scored 550 points while limiting their opponents to zero.
- Raymond Berry of the Baltimore Colts.
- Terry Baker, Oregon State, 1962; John Huarte, Notre Dame, 1964; Gary Belban, UCLA, 1967; and Pat Sullivan, Auburn, 1971.
- The year was 1963-64, and Walt Hazzard, Gail Goodrich, and Keith Erickson were the three.
- Bob Pettit, who finished his career with 20,880 points.

- Red Auerbach traded the second highest scoring center in the league, Easy Ed Macauley, and a promising rookie, Cliff Hagen, for Russell, although Tommy Heinsohn wound up being Rookie of the Year. Oh yes, the first pick that year was guard Sihugo Green.
- a.) Wilt's average was 50.4 points per game. (Let's have no cheating — 48 is more than two points away!)
b.) Elgin Baylor had scored 71 points for the Lakers on November 15, 1960.
- Bevo Francis scored 113 points for little Rio Grande College, and Frank Selvy of Furman scored 100 points against Newberry in 1954.
- The Big Ten conference used to be known as the Western Conference — simple, huh?
- Bonus Question**—Tigran Petrosian of the U.S.S.R.

SCORING

- How do you find so much time for sports, Henry, what mit running ze country und all?
- What's that, Birch? You'd like to change your answers?
- We'll call you when we have a quiz on touch football, Sarge.
- Uh oh, Scoop. I was afraid you'd bomb!

Solution to "Cryptic Law"

"I cannot agree that it would be unreasonable to infer from the undisputed facts that the jumping rope was too short for the purpose and the manner in which it was used."
Wire v. Williams, 270 Minn. 390, 133 N.W.2d 840 (1965) (dissent, arguing that failure by teacher to anticipate injury to second grade student jumping rope presented a jury issue as to teacher's negligence; the majority opinion contained the legal definition of jumping rope: "the procedure which permitted a pupil to jump rope until the right to do so was forfeited by stepping on the rope or having it strike the pupil's feet . . ." Got that, kids?)

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Solution to Busing Problems Is Sought By HLS Students

(Continued from Page 2)

hearing on his suspension," Fleetwood said. "The school officials act much more fairly and carefully when we're sitting there."

The problem of black student suspensions has been taken up by still another group of law students in conjunction with the Childrens Defense Fund, a public interest group. Since last spring, law student Michael A. Davis, 2L, has been working with CDF on a lawsuit to provide relief to suspended black students.

"Last spring figures came out that showed black students were being suspended at a rate twice that of white students and twice what the rate for blacks had been," Davis explained. "We felt this represented institutional racism in the Boston school system."

Davis explained that the CDF suit, which is still in the discovery

stage, has already had a positive effect in "putting school officials on notice that their conduct is being watched. The word got around to be cool with suspensions, and the rate has already gone down."

The CDF's longterm goals for the suit include, according to Davis, establishing fairer review procedures for school suspensions, such as the requirement of an independent examiner at suspension hearings.

Davis and another law student, Judith Loesser, have spent much of their time with CDF searching for witnesses to testify on the problem areas in the suspension process.

"It was tougher than I thought getting the teachers to talk," Davis explained. "The entire school system, from the top officials down to the lowest janitors, were all aware of the political nature of the problems. They were really hesitant to get involved."

The last numbers of Volume 61 of the RECORD will be published on November 14, November 21, December 5, and December 12. The RECORD welcomes contributions of cartoons and caricatures pertaining to life at the Law School or to law in general, as well as Rule 26 questions, Cryptic Law cases, and article ideas.

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Drinan Opposes U.S. Assistance To Arab Boycott

(Continued from Page 3)

U.S. law would induce the Arabs to rescind the boycott rather than to cease doing business with U.S. companies. Drinan also described a bill proposed by Representative Elizabeth Holtzman of New York which would entail civil and criminal penalties.

Father Drinan, who was a well-known opponent of the Vietnam War, and an active participant in the impeachment proceedings against Richard Nixon, had other harsh words for the executive branch. He noted that during his confirmation hearings former CIA director William Colby called Laos a "perfect example" of covert operations.

On Tuesday, October 28, Senator Claiborne Pell (D.-R.I.) spoke to the Forum. Senator Pell, who is a member of the Senate Foreign Relations Committee, discussed the future of American foreign policy. The U.S. should be neither isolationist nor internationalist in the future, Pell recommends. Rather, the U.S. should contract its activities in the areas of military assistance and involvement, while expanding its humanitarian efforts.

Pell believes that the U.S. has enormous educational and cultural resources, which it should share with the rest of the world. Pell conceded that the U.S. is committed to its present level of military assistance to certain countries, such as South Korea. But he feels that the U.S. can and should encourage the South Korean government to adopt a less authoritarian attitude.

In response to a question concerning the future of the CIA, Pell said he would not like to see the CIA dismantled, but suggested that its intelligence-gathering be separated from its covert operations. On the question of Portugal, Pell expressed the opinion that the U.S. should not become involved.

Efficiency: Spectre of Abuse?

(Continued from Page 1)

quirement with only the bare minimum of commentary.

Unpublished opinions, argues a recent article in the American Bar Association Journal, have already led to confusion in the Circuit's case law, and may lead in the future to further misunderstandings and even to judicial abuse. The author of the article, James N. Gardner, asserts that two recent maritime cases in the Ninth Circuit were inconsistently decided, but that the inconsistency cannot be rectified, because only one of the cases was published. The unpublished case will remain unknown to all but a few lawyers, and will in any event be unavailable as a precedent in later cases. Such an outcome is obviously undesirable. The potential for similar results in the future, states Gardner, inheres in the discretion permitted the court under the loose language of Rule 21.

The potential for the abusive application of the Rule arises out of the temptation for judges to decide not to publish decisions that may not be entirely consistent with precedents, but that in the particular case may seem justified. The inconsistency in the erroneous decision would not affect the precedential value of the previous decisions — and therefore the "doctrinal integrity" of the court — because the error would be limited to the parties to the dispute. The only limit would be the discretion of the court applying to its own decision the standard of Rule 21 that the new case does not "change" the law.

Clerks on the Ninth Circuit, who asked not to be quoted directly, forcefully argued in telephone interviews that the potential for abuse has never been realized, and that their judges in the Circuit are disturbed by what they regard as completely unfounded speculation that discretion under nonpublication rules will be abused.

Criticisms such as those voiced in the ABA Journal are also met with the argument that the rule is neces-

sary for increasing judicial efficiency. Judges that do not plan to publish their opinions need not spend time worrying over punctilious style and other requirements of "legal scholarship." Permitting certain opinions to remain unpublished, so the proponents of the new rule reason, eliminates unnecessary formalism in appellate decisions, and relieves judges and staff of the need to spend excessive time with routine cases.

The nonpublication rule is also intended to increase the efficiency of lawyers. The growing research burden on lawyers may be eased if cases with limited precedential value are eliminated from the information pool. Those who believe that the ever-increasing flow of cases from the courts is beginning to inundate lawyers who must analyze the data find this a persuasive point of view. Finally, nonpublication rules reduce the costs of legal publication, for legal publishers, and for lawyers and law schools.

The support for these advantages of nonpublication is reflected in a recent report on procedures of the federal appellate court system. The study by the so-called "Hruska Commission," notes that a number of Circuit courts are experimenting with procedures to reduce their work load. Those include elimination of oral arguments and the use of form opinions, which can have about the same effect as the Ninth Circuit's Rule 21.

Where will such reforms lead? "The spectre of these proposals," said Professor Paul A. Freund in a recent interview, "is always far more frightening than the experience itself." The Harvard expert on constitutional law and court administration did not foresee any of the constitutional problems in nonpublication rules implied in Mr. Gardner's article in the A.B.A. Journal. However, there are some disturbing implications in recent trends, he asserted, which threaten the traditional function of appellate courts as "small groups of thinkers." The potential result of these developments is to turn appellate judges into one more variety of bureaucrat.

Whether such innovations as nonpublication rules will ease the burden of the courts is open to serious question. If the rules open the way to less rigorous decision-making or inconsistent case law, the solution may be worse than the problem.

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Coming High Court Battle Heard By 550 At HLS

(Continued from Page 3)

when he later called the argument "brilliantly done, under great provocation."

When asked about the retort, Rabinowitz explained, "I bit back," and added he might not have done so had he been facing Chief Justice Burger. "I suppose my manner was less formal here," he said, "but not much. This is my style . . . I try to see to it that no judge falls asleep."

While the argument was advertised in terms of a reexamination of *Sabbatino*, students had little chance to hear arguments on that case. Friedman tried to ignore *Sabbatino* completely, claiming it could be distinguished.

And in spite of McDougal's request, Rabinowitz ended with little time to say more than that *Sabbatino* should be reaffirmed with "a ringing decision."

Instead, most of the argument centered on defining an "act of state." This point might have been somewhat confusing to students, Meisel explained, due to the complex fact situation of the case.

"But it seemed to go very well, even with that difficulty," Meisel said.

The presentation of a mock appellate argument is an annual event sponsored by BSA, Meisel said. This year was somewhat unusual, however, because both sides were argued by the actual counsel. Meisel noted that in the past a faculty member has usually taken one side.

Meisel said the second half of the program to expose students to oral advocacy will come in two weeks, when the BSA will present a model trial based on cases now being studied by 1L's in their Legal Methods groups.

Court Contempt Also in Judge's Own Disability

(Continued from Page 8)

terously proclaimed himself judge of the municipal court and undertook to take the chair of Judge Lohren, whereupon the judge promptly tipped the justice out, and the latter, owing to a temporary disability, slid under the table and became profane and abusive, whereupon the judge fined him for contempt of court, and, failing to pay the fine, he was committed to the respondent's keeping, where he went to sleep; but his attorney was alert and petitioned for a writ of habeas corpus.²⁰

20. 134 N. W. at 509. On second thought, there probably is no more amusing reported contempt case, and note 18 *supra* should be read accordingly.

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TOYOTA DISK BRAKES MAJOR	\$ 79.95
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VOLVO SHOCKS 190 SERIES/PAIR	\$ 30.00
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NYC Default Analyzed, Seen As Imminent

(Continued from Page 6)

be forced to conclude that it never had jurisdiction of the case, dismiss it, and thereby nullify all actions taken by the City under its authority during the years since approval of the petition in bankruptcy.

A dismissal at such a late date would leave in the lurch those financiers who tried to help New York out of its plight. They would be caught holding certificates of indebtedness, bonds issued on the bankruptcy court's authority with priority over all previous debts, which would be rendered worthless by dismissal.

If New York wants to buy as much time as possible without assistance from the Federal Government or the pension funds, it might get 120 days from a sympathetic judge on a petition for a preliminary stay under Chapter IX. After that, New York could file a Chapter IX, getting a stay of suits, and a month later have it dismissed. It could appeal, seeking a stay of the dismissal pending appeal, and meanwhile file under the Ford bill, which would as proposed be in addition to the existing Chapter IX. That way, it could get still another "reasonable time" before the stay on lawsuits could be removed. Thus, New York conceivably might be able to protect itself from suits without ever having a bankruptcy petition approved, all the way up to June, 1976.

Lampoon Editor Speaks on VWs, Topless Mouse

(Continued from Page 8)

still 18-year-old class clowns — you know the type. We don't have many women readers — maybe because our humor is so aggressive. For instance, I doubt that many women appreciated our "Joan Little: A Blow for Freedom?" headline. I think women have a more pleasant, natural sense of humor, especially about sex."

The *Lampoon* editors have diverse political stances, according to Kelly, but they are unanimous when it comes to picking the next President. "For us, Nixon was the greatest President ever — he was so evil that we never ran out of things to do to him. Our staff feels that Rockefeller would be almost as good for the *Lampoon* as Nixon was — everyone can hate Rocky. Ford's just dumb, and how long can you make jokes about plain dumbness."

Kelly's current speaking tour is taking him to several colleges in New England and Canada. He had a hand in two of the *Lampoon's* newest special projects, a record album and a not-so-serious, coffee-table treatise on comics, but Kelly is unsure of his future plans.

"I can't stay with the *Lampoon* forever and wouldn't want to, but it does have a unique function. The things it publishes would never be seen if the *National Lampoon* didn't exist, and it does provide a living for people like me."

Firm Resists Union Efforts Of Employees

(Continued from Page 1)

"not performing his messenger duties properly, abusing employee privileges and disrupting office procedures." Kane, a leader in the movement to form the United File Room Clerks and Messengers, claimed the firm has gone to great "trouble and expense . . . attempt to dissuade us."

The case has received the support of workers groups including 9 to 5 (Boston), Women Office Workers in New York, Women Employed in Chicago, and Women Organized for Employment in San Francisco. These associations assisted the United File Room group in preparing the brief submitted to the NLRB.

Charges were filed in Washington this Monday. Joanne Goldstein, an attorney for Angoff, Goldman, Manning, Pyle and Wanger, another Boston firm, is acting as counsel for the complaining employees.

Goldstein stated: "It's definitely going to be a battle." She commented that "most law firm employees in the non-professional categories" are women and that the case thus has important implications as a case for women's rights, as well as for law firm employees. Goldstein added that success before the NLRB would provide a precedent for law firm employees around the country to unionize.

In *Boddle, Fogel, Jubler, Reinhardt & Rothschild*, 206 NLRB 512 (1973), involved a smaller California law firm. The NLRB in a 3-2 decision refused to exercise jurisdiction due to lack of interstate commerce issues, special confidentiality problems regarding clients, and a lack of evidence of a need for union activity in the area. The Kane brief, according to Jackie Ruff of 9 to 5, overcomes these three points of the NLRB opinion.

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