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America's Oldest Law School Newspaper

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TWENTY CENTS

Large Midwestern Firm Challenged By HLS Student

By Susan Gillette

A black 2L and several campus organizations are waiting to hear what action the Law School will take concerning a formal complaint the student filed against a law firm alleging that its on-campus interviewer made three discriminatory remarks during an interview here, violating Placement Office rules.

The case has tested the ability of the Placement Office complaint system to resolve arguments of fact arising when a student alleges discriminatory remarks and the ac-

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Woman Heads Review

By Beth Emery

A makeshift sign on the Gannett House door says "Under New Management." Inside, Susan R. Estrich, 2L, from Marblehead, Mass., has become the first woman in *Harvard Law Review's* 89-year history to occupy the president's office.

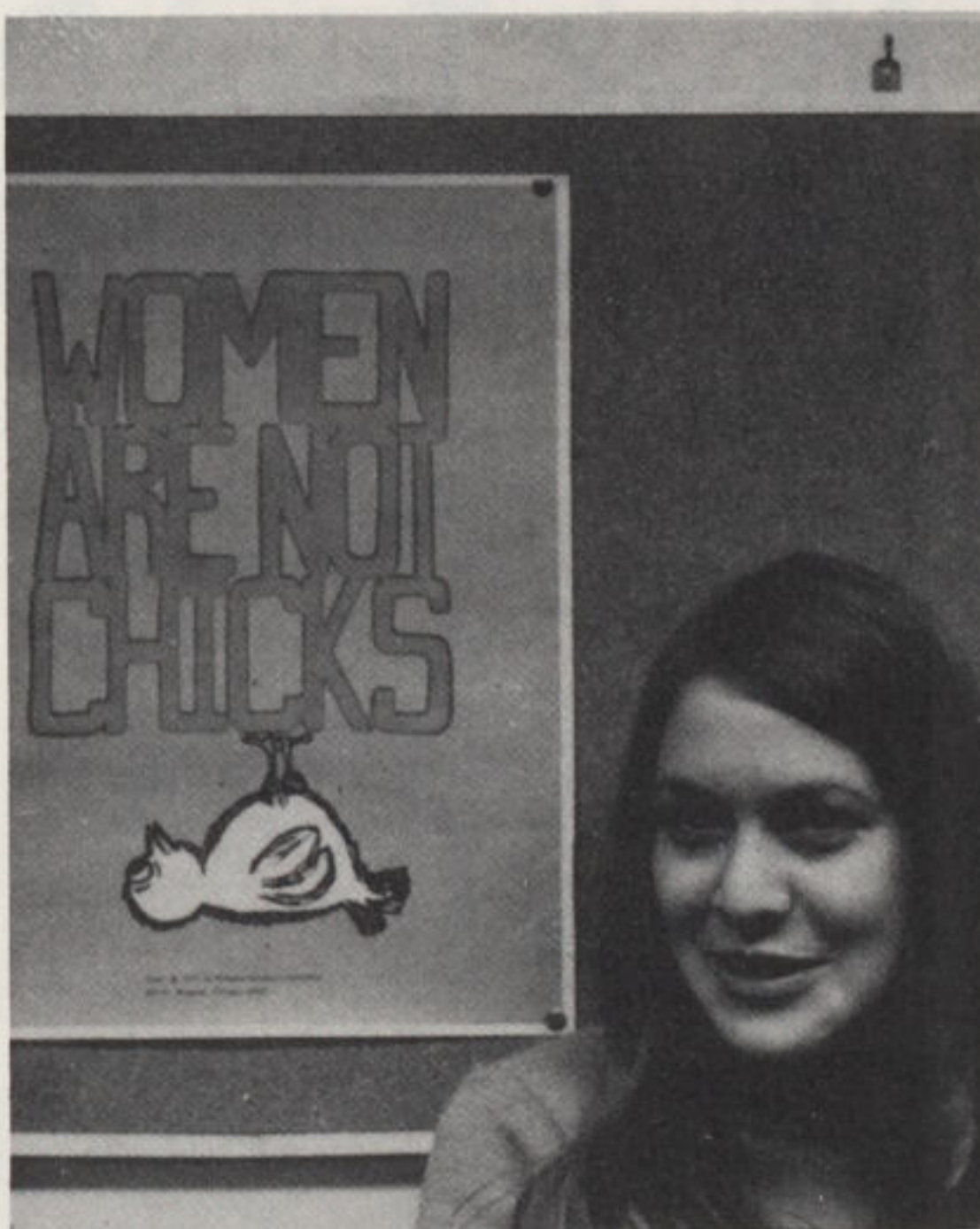
In past years, being elected president of the *Law Review* has meant important, but seldom monumental, changes for the student: things like working 100 rather than 60 hours per week; spending a year of one's life in a private (albeit unplush) office, rather than amid stacks of law reporters in a Langdell carrell; and, of course, knowing one follows in the footsteps of such notables as Felix Frankfurter and Eliot Richardson.

But to Estrich, sitting beyond the door marked "President" has also meant late-night calls from national wire services; her name in major newspapers; being flown to New York to appear on ABC's "Good Morning, America"; and the constant battle to negate the suspicion lurking in every interviewer's mind — that affirmative action has finally penetrated "what has always been considered a male bastion."

Estrich, and her predecessor, F. Whitten Peters, 3L, have both repeatedly emphasized that the position was awarded on merit, not sex.

"Affirmative action is not the way decisions are made here either for president or for the officers the president appoints," Estrich said. "All we look at are the files (containing

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Susan R. Estrich, 2L

Dershowitz, Bailey Consult On Plans of Hearst Defense

By Harold Cooke

Case No. 74-364: *U.S. v. Patricia Campbell Hearst*, one of the most controversial courtroom dramas of recent years. The trial should clear up some of the mysteries surrounding her 19½ months with the Symbionese Liberation Army as kidnap victim and possible comrade. The government is prosecuting her for participating in the armed robbery of the Hibernia Bank's Sunset branch on April 15, 1974. F. Lee Bailey has been retained as her attorney.

Bailey brought Professor Alan M. Dershowitz into the case because of their earlier associations

(for example, Dershowitz represented Bailey, a defendant, in the Glenn Turner- "Dare to be Great" case) and because of Dershowitz's expertise in law and psychiatry. He has prepared a legal memorandum for the defense on duress, coercion and admissibility of evidence, and has met with Robert Lifton, the principle defense psychiatrist.

Dershowitz began his interview for the RECORD by straightening out a media misconception about the defense of duress and coercion. Contrary to media reports, this defense has been used for at least 200 years in the criminal law, he

(Continued on Page 14)

Money Piles In; SFF's Go Out

By Stephen Jacobs

With over 150 student pledges amounting to more than \$4000 already received, the directors of Student Funded Fellowships have decided to go ahead with the program intended to subsidize students taking low-paying public service jobs for the summer.

Though encouraged by the early response, Charles Bachman, the 2L heading the drive, emphasized that "it has not been as strong as it could and needs to be." A telephone campaign to all students will take place during the second two weeks in March. Its aim will be to answer questions about SFF and to generate more pledges, he said.

Bachman is also anxious to involve alumni, faculty and law firms in the program. Noting that a contribution to SFF will directly aid students who might otherwise be unable to support a summer in the public service field, he urges potential donors to contact Student Funded Fellowships, Langdell Hall, Cambridge, MA 02138.

In view of the fact that more than 40 first and second year students have indicated an interest in qualifying for a SFF grant, the money raised so far is only a small percentage of the amount needed, he said.

"Next summer, Harvard Law students as a group will easily earn in excess of \$1 million," Bachman said. "If each student were to contribute as little as half a day's salary to the fellowship \$20,000 to \$30,000 could be raised."

Yale Law School, whose student body is less than one-third the size of Harvard's, raised in excess of \$4000 in the first year of

their Student Funded Fellowship program, he said.

While the fund-raising continues, the Board of Directors of SFF is finalizing the criteria upon which applicants will be evaluated. Copies of both the criteria and the application form will be posted in the offices

of the Board of Student Advisors and will be available to anyone on request after March 8.

Students who have already indicated an interest in receiving a SFF grant will receive a copy of the application form in their law school mailbox, Bachman added.

Mock Trial Duo Winners; Stiff Competition Overruled

The trial team of Michael S. Feldberg and Eric H. Zagrans, both second-year law students, won the National Mock Trial Competition held in Houston, Texas from February 12 through 14. The Harvard team, having won the New England regional round on January 24, represented the New England law schools. The State Junior Bar of Texas sponsored the competition which included six other teams which had won their respective regional rounds. Competing in Houston were Emory University, Villanova, The University of Texas, Notre Dame, Golden Gate, and the University of Washington. Harvard defeated Notre Dame in the final round of a five-round double-elimination competition.

A board of twelve laymen judged the final round. A silver bowl was awarded to Feldberg, Zagrans, and their adviser, Ronald Levine, 2L, by the American College of Trial Lawyers. Zagrans also received the Best Advocate Award from the International Academy of Trial

Lawyers. A second award for advocacy skills was presented to Feldberg by the Texas Trial Lawyers Association.

Originally, approximately 75 teams from fifty law schools entered the National Mock Trial Competition. All teams litigated the same case, *Mary Jones v. Great Northern Apartment Corporation*. The mock case is a civil suit in which the plaintiff alleges that she suffered damages as a result of being beaten and robbed by an intruder in the apartment she had rented from the defendant. She relies on the theories of negligence, warranty, and strict liability to obtain recovery. The teams were evaluated on such courtroom skills as the handling of witnesses, making objections, and persuasiveness.

This is the first year in which Harvard entered the National Mock Trial. The Board of Student Advisors runs an annual Harvard Elimination Round and enters the best Harvard team in the New England Regionals.

Robert E. Keeton, Langdell Professor of Law, served as the team's faculty adviser. Both Zagrans and Feldberg believe that they received invaluable training and experience in Professor Keeton's Introduction to Trial Advocacy, an intensive clinical program which began this fall.

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Bellow: Students Need More Practice; Real Life Best Part of Legal Education

By Charles Jordan

There is a tendency, when discussing Gary Bellow's life with Gary Bellow, to suspect a masquerade. Bellow is someone older, I tell myself, someone who has had the years necessary to jam his experiences in. Or someone younger, who still has the energy, desire and abandon to put himself repeatedly on the line, as Bellow has done. But there is "only" Bellow, a 41-year-old professor.

Bellow teaches clinical courses at the Law School. He is on academic leave this semester, but when he is here, he teaches criminal trial advocacy and lawyering process to 2Ls and 3Ls hungry for a healthy dose of reality.

Bellow's formal education came at Yale, Harvard and Northwestern. He collected degrees until 1961, when he began to work with a public defender group in Washington, D.C., as an investigator. He soon became a defense lawyer there; in Bellow's words, "I worked my way up to manslaughter."

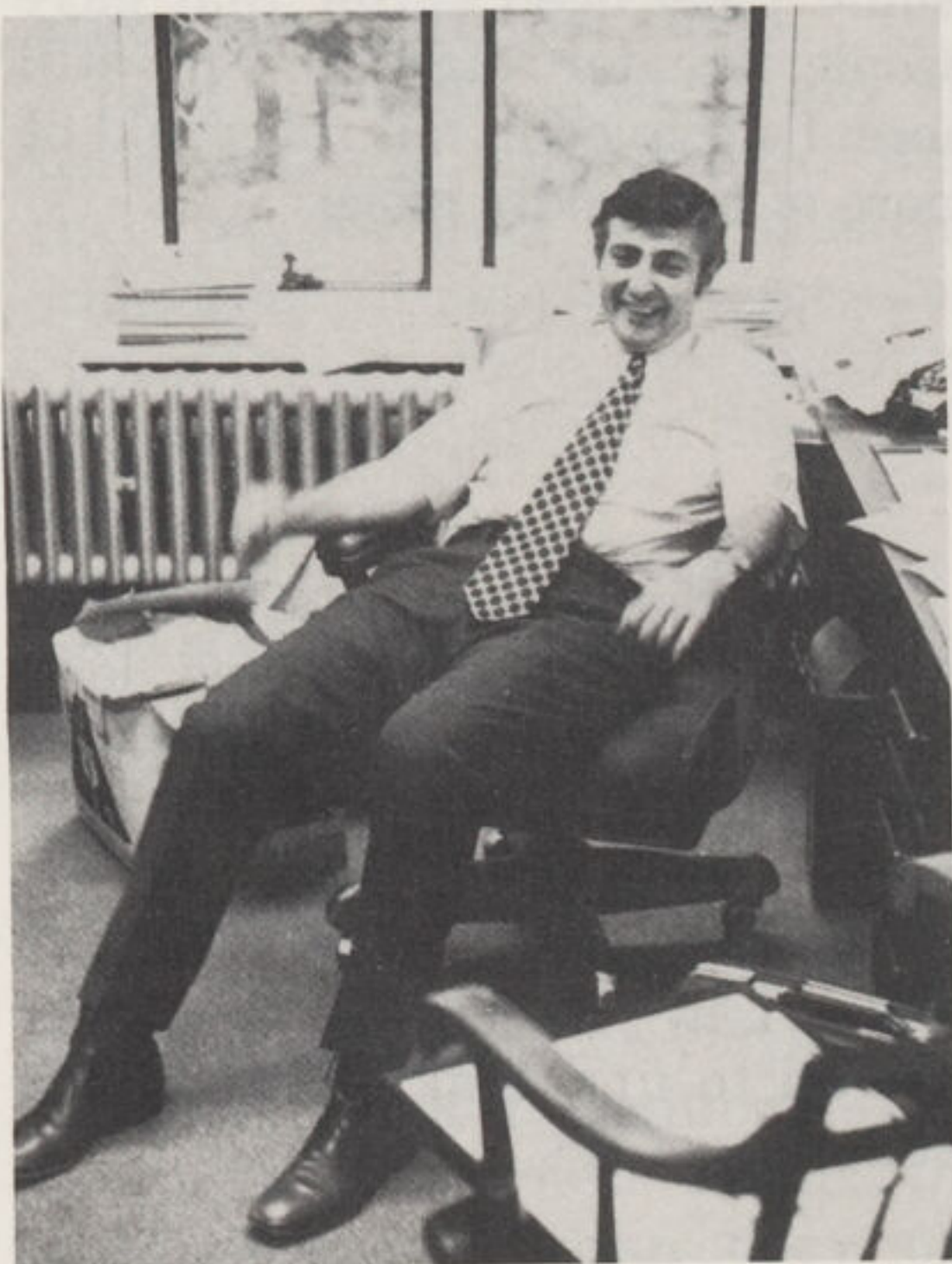
Bellow distinguished himself by soon becoming Deputy Director of the Legal Aid Agency for the District of Columbia, the first OEO-funded legal project of its kind in the country.

The agency in its infancy was a training ground for Bellow in three distinct fields — training of other lawyers, coordinating agency work and, most important, using the agency to further proscribed political goals. The agency provided welfare, housing, consumer protection, education and medical services to its clients.

Bellow the administrator soon began to miss Bellow the lawyer. About his restlessness, he says, "I began to miss one-on-one contact with clients. I heard from a friend about a legal services

project starting up at that time (1967) in southern California — California Rural Legal Assistance (CRLA). I visited them briefly, liked what I saw, and told them I'd be back in a month to stay."

The California phase of Bellow's life has since become immortalized as a Kennedy School "case" — "California Legal Service, Inc." The "fictionalized" account of the formative years of CRLA features Brooklyn-born "David Goldman," who bears a striking resemblance to Bellow.



Professor Gary Bellow

Bellow knew the CRLA was for him when he heard it had been disapproved by the California bar before it was even funded. "Reagan said we were going to use the resources of the federal government to fuel one side of an economic struggle. And you know, he was exactly right!"

From a home base in tiny McFarland, Cal. (pop. 400), Bellow attacked everything from muddy tap water to ill-timed fertilizing and crop-dusting.

Targets of CRLA litigation ranged from grape-growers to the U.S. Department of Labor to Ronald Reagan himself.

"I don't believe in the dichotomy between 'test cases' and 'real cases.' They all involve real people, and any one case can be important for many reasons — among them the change effected in legal doctrine."

"First we took whatever came — trouble with door-to-door salesmen with contracts that were of course enforced in L.A. and San Francisco, farm labor housing, discriminatory welfare offices — then we began to see patterns. With these in mind, we started to travel around to existing groups and ask what troubles they were having."

The problem, Bellow says, was that the poor people were afraid of the government. "There were laws. California has some of the most advanced labor laws in the country. But they're not enforced. Our problem was to take the huge number of unenforced rights and teach the people how they could get them enforced."

Bellow and his co-workers were soon involved in all phases of unionization. "If you help people who are terrified of big government, the next thing you know, they're talking unions. We didn't have any formal relationships with the unions. But in southern California, no one working with poor people can avoid talking unions."

The CRLA was frequently involved in fracas between the U.F.W. and the Teamsters, but its main accomplishment, according to Bellow, was not in litigation.

"The 'legal' work we did was always subsidiary to the larger goal of forming political bases for change. The legal establishment wants peace, control, stability and regularity. Claims

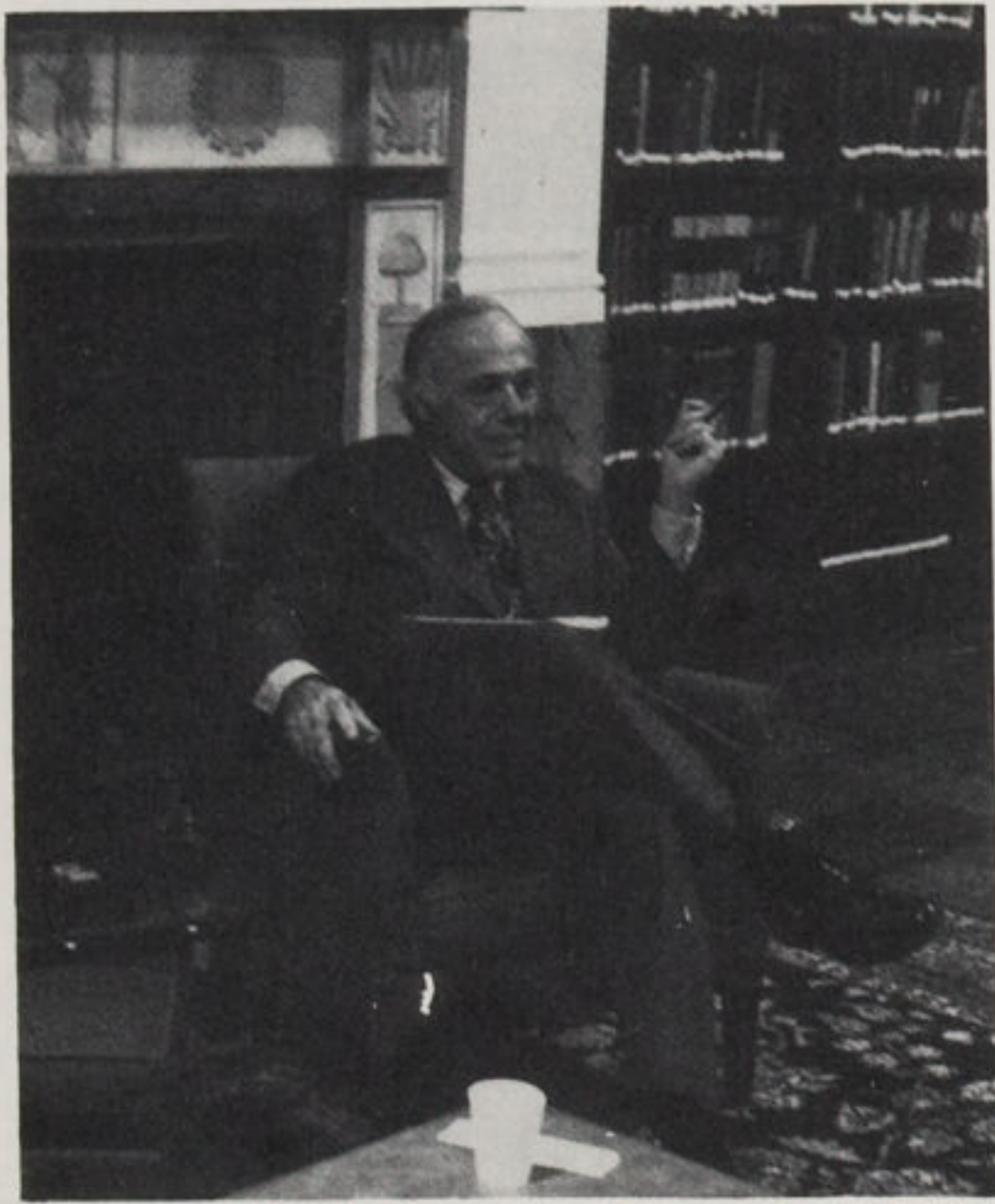
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St. Clair Talks Of Impeachment

By James Kainen

In a Root Room talk last Tuesday, James D. St. Clair, '44 ('47), Counsel for President Richard M. Nixon during the impeachment hearings, regretted that the congressional proceedings had not resolved the issue of what is an impeachable offense.

Referring to President (then Congressman) Gerald R. Ford's contention that an impeachable offense is "whatever a majority of the House considers it to be" as "inapposite to the problem," St. Clair insisted that "high crimes and misdemeanors" should be read to mean "a serious crime committed while in office." He argued that neither the American people nor the separation of powers would accommodate a lesser definition.



SJ

James D. St. Clair '44 ('47)

St. Clair specifically took issue with Congressman Rodino's ruling that each member of the House Judiciary Committee could decide for himself what constituted an impeachable offense. The result of this ruling was to have up to 57 possible charges before the committee, ranging from the President's taxes to his authorization of the Cambodian bombing.

Thus, it was impossible to specify the relevance of material subpoenaed by the committee. St. Clair reported that the request amounted

(Continued on Page 8)

Inquiring Photographer

Question: What did you think of the way first-year grades were distributed?

"I really didn't like it very much for personal and existential reasons. I wanted to have them but not look at them. I would prefer they were sent to me. It made a big deal out of grades, much more than if they were mailed."

"It was very inhumane, it lacked privacy and therefore was anxiety-producing. People were afraid, self-conscious, aware of the expression in their faces. Any other way would have been better that gave people greater dignity. I'm still here; I survived it, but this could be more of a friendly place."

"First year students are considered nothings, nobodies, and don't deserve to be treated like people. It was dehumanizing. But I'm concerned about an underlying attitude that black students can't make Law Review and I was pleased to find that several black students got A's."

"It was just delightful. I only have one criticism — they should have had us line up according to height and hold hands."



SS

C. Steven Fury, 1L



SS

Phoebe Salten, 1L



SS

Earl W. Jackson, 1L



SS

Richard E. Witten, 1L

(See Related Story, P. 14)

HARVARD LAW RECORD

Untying The Invisible Hand

By Paul Strohl

Recently I visited a local bank in order to open a NOW account for a Law School organization of which I am an officer. I went immediately to one of the Vice-Presidents and told him what I wanted.

"You're from a non-profit organization?" he asked.

"Yes," I replied.

He picked up the receiver of his phone and quickly dialed a number. Judging from bits of conversation that I was able to hear from his end, I concluded that he had called the bank's central office for advice. After finishing his call, he put the receiver down and abruptly turned to me.

"No one's sure whether we can let a non-profit group open up a NOW account, and I'm not taking any chances. The law in this area changes every other day, thanks to the efforts of your (expletive deleted) law professors at your (expletive deleted) law school. I'm afraid that I'll have to turn you down."

Once upon a time, that outburst would have astonished me. In those days, I might have marveled at the lack of respect shown for our idealistic system of economic regulation by a mean-spirited lackey of the corporate nobility.

But I know better now. Let's look at some of the worst abuses of the Bureaucratic State:

Item. Since its creation in 1938, the Civil Aeronautics Board has not permitted one new company to enter the airline industry. Regulated price fixing has forced airline passengers to pay nearly \$500 million per year in excess fares.

Item. Government regulators have forbidden the advertising of prescription drugs in many states, on the grounds that customers need protection against the abuses that could result from an unregulated drug market. In these states, drug prices are as much as 1200 per cent higher than in the states that do not

prohibit advertising.

Item. Banking regulations such as usury laws keep whole classes of entrepreneurs from obtaining credit, while many ordinary citizens reap a smaller return on their savings, thanks to interest ceiling.

Item. The Council of Economic Advisors added up the costs of regulating American business and came up with the figure of \$130 billion. The Council also concluded that those costs fall heaviest on consumers and small businessmen.

In light of the foregoing, I think one can fairly argue that the costs of our present system of economic regulation outweigh its benefits. The reasons for this "agency failure" are reasonably well-known by now, and I need only list them.

First, agencies must obtain the personnel and information that they require from the industries which they are supposed to monitor. Hence, little by little, the regulators become the captives of the regulated.

Second, given the great size and complexity of the American economy, regulators cannot possibly hope to catch all violations of the law. Thus, they must resort to making examples of certain enterprises (usually the small ones that cannot afford Washington lawyers).

Third, most bureaucrats are far less concerned about the public interest than they are about keeping their jobs and building their own administrative empires.

To date, the standard response to agency failure has been a call for more agencies, more regulators, and more regulations. Yet I fail to see how one can improve matters by adding another layer of bureaucracy to those which already exist.

First, no one has demonstrated why the new, Naderite administrators will be any more devoted to the public interest than the old ones. To the best of my knowledge, neither Congress nor Mr. Archibald Cox has figured out a way of

abolishing Original Sin.

However, I will concede that at least some of the new regulators will not stray from the Path of Righteousness. This concession leads to my second objection: in order to avoid becoming captives of industry, agencies would have to be given sizable investigatory powers, and large staffs to exercise them.

Such an apparatus would be costly to maintain, and, in its pursuit of "the public interest," it could abuse its power as readily as the CIA, the FBI, or, for that matter, the IRS.

At a time when the Federal Government seems too strong for the liberties of American citizens, we should be cautious about strengthening it still more.

A final observation: American commerce is carried on by about two million corporations, not to mention countless partnerships and sole proprietorships. No group of regulators, however zealous, virtuous, powerful, or well-financed, could possibly hope to monitor even the tiniest fraction of these activities.

Is regulation totally worthless, then? No, not if its aims are limited to controlling rather than eradicating the grosser abuses of economic freedom. To such an end, I make the following suggestions for reform:

First, deregulate industry and consolidate agencies with overlapping jurisdictions, whenever it is possible to do so.

Second, transfer bureaucratic functions to the judiciary by encouraging private parties to bring suit against those violating rights established by the legislature. Private entities, and not "the public" or "society," suffer the most from abuse of economic power.

Third, encourage small business by (among other things) altering our laws on estate taxation, which make it nearly impossible for family enterprises to be handed down from one generation to the next.

Recruiting Discrimination Complaint Tests System *Staff Taps*

(Continued from Page 1)

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cused interviewer denies that his remarks had discriminatory intent.

The Placement Committee made a recommendation Monday to the Dean regarding action to be taken on the complaint of Gail M. Bowman. Fol-

after the meeting Monday night, said the Committee was "taking secrecy a little far" and that choosing confidentiality was "not wholly their decision to make."

Bowman, willing to discuss the case, related reports she has had

all *Review* work for that member) and the needs of the magazine."

The election came late Saturday night after a three-round selection process which began earlier that week with self-nominations; continued on February 19 with a narrowing of the field to six by the 3L members; and ended on the 21st with a 12-hour voting session which eliminated nominees one-by-one.

Estrich noted that the time taken was not unusual, since voters spend much of the time examining the nominees' files. Looking at the files is important since the basic criterion for the post is being "very good" at legal writing, and members must examine all of the nominees' work to judge that quality.

A classmate from last year's Section 1, Phillip A. Gelston, was final contender with Estrich for the office. Monday, as Gannett House still buzzed with reporters' calls and photographers taking pictures, Gelston noted good-naturedly that he "made all this possible by losing."

His easy-going attitude seemed indicative of the rest of the 66-member staff who were present at the time. There seems to be general agreement that Estrich won the position on her merits.

Estrich states that she hopes the main significance of her election

Interviewer Says Charge Based On Innocent Misunderstanding

lowing its normal procedure in complaint cases, the Committee has made no announcements concerning the matter.

But the basic facts of the incidents and the parties involved have become widely known at the Law School through various students' conversations with Bowman and involvement of the Law School Guild and other organizations.

The firm involved, Kirkland & Ellis of Chicago, was written by Meldon S. Hollis, 2L, representing the Guild, who learned of the interview from Bowman. He sent copies of his letter concerning Bowman's complaint to the heads of several student organizations.

The Kirkland & Ellis interviewer who spoke to Bowman sent copies of his reply to Hollis and all who had received copies of Hollis' letter.

Bowman, apparently irritated by the fact that the Placement Committee had not communicated its recommendation to her

from student members of the Committee that Kirkland & Ellis had withdrawn all financial support from HLS after the Committee began investigating the complaint.

Dean Albert M. Sacks, Assistant Dean Russel A. Simpson, a member of the Committee, and Assistant Dean Wesley E. Bevins, Jr., director of the HLS Fund, all said Tuesday that those rumors about the financial contributions are baseless.

Bowman said she filed a formal complaint only after persuasion by Hollis and Mark S. Halperin, 3L, a member of the Committee, that her complaint was a good "test case" and that filing would encourage other students to use the Placement Office complaint procedure.

Acting on the complaint, the Placement Committee has been forced to try to determine whether certain alleged statements were made and whether they were in-

(Continued on Page 15)

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Estrich New President of Review

(Continued from Page 6)

will be to tell women they can be judged solely on merit and assume traditionally male-dominated positions of leadership.

This is the first time a woman has been elected president although women have been members and (appointed) editors of the *Review* since 1955, one year after the Law School first admitted women.

Noting that "everyone here is excited" over the history-making vote, she did, however note concern for the "incredible amount of publicity." "This is a team effort," Estrich said. "I am



(Continued on Page 9)

New Review editors are (seated) Stephen Nightingale, Susan R. Estrich, (standing) Jerry A. Monikoff, Marc K. Temin, Kate S. Pressman, Merrick B. Garland, Jonathan B. Dubitzky, Claude M. Tusk, Phillip A. Gelston, and Stuart S. Taylor.



St. Clair Concurred in Resignation

(Continued from page 4)

to an order for the President to "turn over his files" leaving the burden on him to respond as he saw fit. Since noncompliance could have been grounds for impeachment, the committee's procedure could have led to the result of the President's being impeached for protecting material for which he could properly have maintained executive privilege.

St. Clair also agreed with the limited role given to the judiciary during the impeachment process. The only possible role he saw for the Court was to define "high crimes and misdemeanors" in a declaratory judgment, since this sort of constitutional interpretation falls within the traditional role of the Court. Besides that possible limited exception, St. Clair felt impeachment was a political matter among Congress, the President, and the American people.

The Committee's decision to gather evidence in executive session and then broadcast their deliberations also drew criticism from St. Clair. He argued that the proceedings should have been public from the start (except for grand jury testimony presented to the committee) to enable the American people to form their own views on the weight of the evidence. The root of this problem, according to St. Clair, was the Committee's false conception of itself as a "grand jury" — a legal analogy inappropriate to the impeachment function.

St. Clair expressed satisfaction with the Supreme Court's ruling on the Special Prosecutor's subpoena for the tapes. Taking issue with Raoul Berger's contention that executive privilege is a "myth," St. Clair was gratified that the Court had recognized executive privilege for the first time, even though the claim did not withstand a demand that the requested material be surrendered as evidence of crime. He confessed that he did not know whether he would have continued in his role if President Nixon had

decided not to comply with the request, and admitted that he could imagine a situation in which a President might refer to an adverse ruling by the Court as "guidance, but not governing."

Generally, St. Clair felt that the Office of the Special Prosecutor had worked out well, but he did not support institutionalizing it. He noted that this proposal, the major sugges-

tion of the Ervin Committee, would probably be shelved, as former Special Prosecutors Ruth and Jaworski have testified against it.

Finally, Mr. St. Clair termed his reaction to the contents of the incriminating June 23 tape as "unmitigated disaster," and concluded by stating that he concurred in the wisdom of Nixon's decision to resign.

WHERE WERE YOU IN '52?

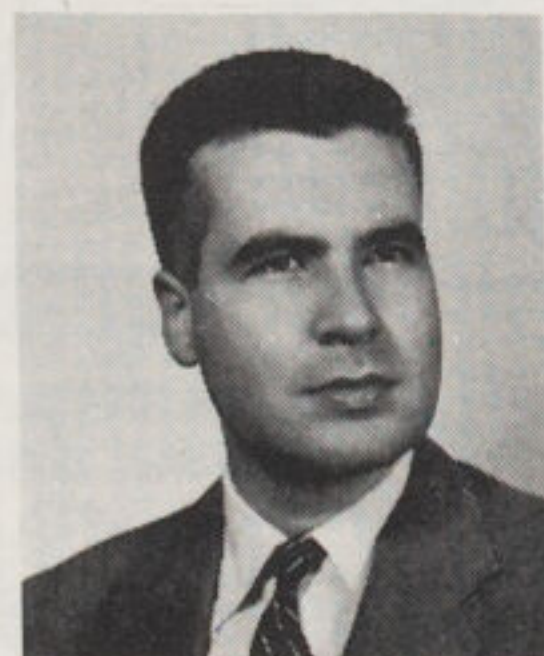
Compiled by Frank Sisson and Ellen Taylor

Contrary to the belief of first-day 1Ls, Harvard Law School professors were students themselves once. Having stumbled across a number of back editions of the HLS Yearbook in the RECORD Office (perhaps driven to that "stumbling" by the feelings evinced by the proximity of grade reception), we offer to our readers this exercise in (arguably) legal nostalgia. Identify the following HLS personalities from their '50s (in some cases '40s) yearbook photographs. Answers are on Page 13.

1.



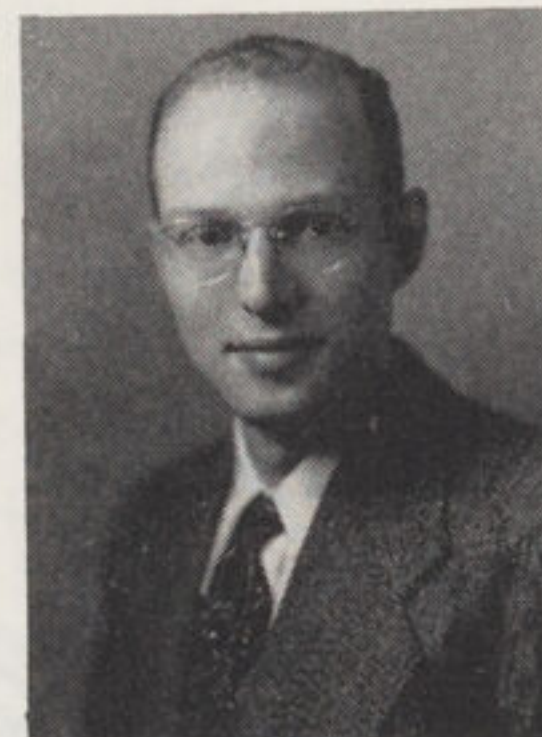
2.



3.



4.



5.



6.



Head Selected on Merits, Not Sex, Review Reports

(Continued from Page 7)

not the *Harvard Law Review*. There are 66 of us."

Included in that number are the 2L's Estrich has appointed to vari-

Club Instigates Intern Program

The Law School Republicans have organized a legislative internship program for students interested in working with Republican lawmakers at the State Capitol.

Paul Strohl, president of the club, said, "Some Massachusetts GOP legislators need staff help, while some of our members want to get a feel for life on Beacon Hill. I think that this arrangement will benefit all parties concerned."

Strohl said the legislators need help with everything from legal research to routine constituents' affairs. He added, "Obviously, the sort of work that one gets will depend on the legislator for whom he is working. Still, doing even the most menial tasks might be of use to someone who has had little or no direct contact with the legislative process."

All work will be on a volunteer basis. Strohl said those interested in the program should contact the participating legislators at the following numbers: Rep. Whip Saltmarsh (727-5374), Rep. Richard Rogers (727-7502), Reps. Robert Manzelli and David Bodham (727-7660), Rep. Andy Cord (727-8206), and Rep. Peter McDowell (727-7378).

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ous positions they will hold during their third year. They are: Treasurer, Stephen Nightingale; Executive Editor, Claude M. Tusk; Articles Editors, Merrick B. Garland, Kate S. Pressman, William B. Schmalzl and Marc K. Temin; Case Editors, Alan E. Brownstein, Robert N. McDonald and Jerry A. Menikoff; Developments Editors, Richard A. Briffault and David B. Watkiss; Notes Editors, Jonathan B. Dubitzky, Daniel M. Harris, Stuart S. Taylor, Jr. and Peter A. Wald; Supreme Court Editors, Christopher F. Edley, Jr. and Gelston.

Senior Editors are Filiberto Agusti; Brad D. Brian; C. Christopher Cox; Andrew E. Furer; Robinson B. Lacy; Richard M. Lent; Alexander A. Notopoulos, Jr.; Mark L. Perlis; Dinah A. Seiver and George M. von Mehren.

First year students will test their negotiating and drafting skills in the annual Williston Competition March 8-24.

Approximately 100 1Ls are expected to vie for Williston honors, including \$750 in cash prizes. Registration forms can be picked up at the Langdell receptionist's desk and deposited in the box nearby.

ABA OKs Ads

The American Bar Association last week authorized lawyers to advertise limited information about fees and services in the Yellow Pages and in other ABA-approved publications.

The change in the Code of Ethics, adopted in 1880, is not binding on state or local bar associations.

Lawyers will be allowed to advertise their office hours, legal education, credit terms, and field of concentration in Yellow Pages or "reputable" directories.

Prior to this ruling, lawyers were allowed to list themselves alphabetically in both the white and yellow pages. Business card distribution and change-of-address announcements had also been permitted.

The resolution was adopted on a voice vote after three hours of debate. It was made in response to several suits which have been brought challenging the price-advertising ban, and to the recent Supreme Court ruling removing antitrust protection from the legal profession.

Further challenges by consumer groups are expected by the ABA.

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The Big Sleep

The long-standing rules of the American Bar Association virtually banning advertising by attorneys have given way to more relaxed ethical code requirements as the result of a resolution passed in last week's ABA meeting in Philadelphia.

The centennial of the ad ban rules, part of the ethical code since 1880, is one celebration that will not be sorely missed. The long grey lists of undifferentiated attorneys published in telephone directories, peculiarly uninformative business cards, and even ABA-approved directories (i.e. those instruments heretofore representing the extent of allowable advertising by the non-pro bono attorney) have never been much help to the potential client in need of particular legal advice. A more rational choice of where one is to begin is now possible.

And with the limited expansion of price advertising should come some correspondingly limited competition which may belay claims of price-fixing without turning the profession into another Madison Avenue oriented business. Law will always be a profession, and unrestricted advertising would not parallel the qualitative differences of a professional from a business built less upon responsibility to the public.

While we applaud the ABA resolution, it should be recognized that state and local bar associations are not bound by the change, and it is they that truly regulate the practice. We hope that they recognize the need for change which motivated their parent organization to vote as it did.

It might be noted that this is one case where lawyers, who are quick to criticize the court system as lagging behind the times, were spurred to action on this issue by recent and pending legal cases, including, most notably, the *Goldfarb* case decided by the Supreme Court last summer. (Dean Sacks predicted early last fall that the lifting of the total ban on advertising would be the first notable impact of that decision. [See Harv. L. RECORD, Sept. 19, 1975].)

The ramifications of the changes will, of course, vary among different attorneys, attorney groups and members of the public. But the resolution does illustrate that the legal profession is ready to move voluntarily from stubborn traditionalism toward controlled but expanded commercial responsibility in the atmosphere of an increasingly scrutinous judiciary.

HARVARD LAW RECORD

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Fenno

The 1L looked — well, the only word was spiffy. A tasteful, charcoal gray three-piece suit, nicely set off by a fuchsia shirt, day-glo orange tie, and white bucks.

"Where are you headed?" Fenno asked her.

"Pound 107," she answered. "My Ames argument is tonight."

"Aren't you dressed a bit, uh, formally for something as trivial as a moot court presentation?"

"Oh yeah," she explained hurriedly. "But the BSA's holding a meeting for future members right afterward. *That's* what I dressed up for."

"I see," Fenno said, which wasn't true. "Which case do you have?"

"We got stuck with the fairy," the 1L replied laconically.

"You mean the administrative law / due process / first-fourth-ninth-fourteenth-amendments / personal privacy / penumbras case?"

"Right. The poor son-of-a-bitch we're defending is not only queer, but he hasn't won a case around here in four years."

"Maybe he's trying to join the faculty," Fenno suggested in an effort to be helpful. "What arguments are you trying?"

"Well, in our draft brief we challenged the jurisdiction of the Ames Supreme Court to hear our appeal."

"That was pretty cagey, since you lost below."

"Well, it had the desired effect. As soon as he read the words, '28 U.S.C.' — which for some reason appears to be the jurisdictional statute for the Commonwealth of Ames — our BSA adviser put his thumb in his mouth and began whimpering softly."

"That was really very mean of you," Fenno said. "The BSA tries very hard to keep jurisdictional problems out of their first-year cases, and smart-alecks like you cause them to lose confidence in their ability to spot issues."

"I know," the 1L admitted remorsefully. "But he was much easier to deal with after that. He let us cite state cases to the West reporters only, and he pretended not to notice that the second half of our brief bore a strange resemblance to part of a Harv. L. Rev. Developments Note of a few years back."

"Are you sure he knew?"

"He must have. The cites were all right. Besides, it was on the issues sheet."

"How do you know that?"

"How the hell do you think I found the Developments Note? I stole the issues sheet from him while he was busy closing up a space we'd left in F.2d."

"You know," Fenno said thoughtfully, "you don't really seem to be into the spirit of the first year Ames competition."

The 1L shrugged — not an easy thing in her suit. "Let's just say I've decided to put as much energy and commitment into it as the faculty," she said.

Letters to the Editor of the RECORD

Winning with Loss: How He Plays Game

To the Editor:

In last week's RECORD, an article which purported to report on the recent Securities Regulation examination contained several gratuitous references to the quality of Professor Loss' teaching. We found those remarks, which were veiled in anonymity, to be both distorted and offensive.

It was apparent to us, in our experience in one or more of Professor Loss' courses, that he took great care to present thoroughly and with a sustaining good humor materials which were sometimes dry and often complex. He hardly deserved the RECORD's virulent criticism or the pain it surely evoked.

John Gordon, Steve Hengen,
Rud Istvan, Alan Quasha,
Ted Wells, Don Wilson
Cambridge, Massachusetts

Ed. Note: The RECORD stands by its story. The quotations were accurate and reflected the overwhelming sentiment of those who took the Securities Regulation course. It is unfortunate, but certainly understandable, that those quoted did not wish to reveal their names.

Second Unger Critic: "Intellectual Arrogance"

To the Editor:

Thank you for printing Mr. Feinerman's letter in your issue of February 6, 1976, exposing Mr. Roberto Unger (the Law School's wunderkind) for his patronizing remarks about China's legal tradition.

Mr. Feinerman is absolutely right in his critique of Mr. Unger who, apparently, has learned nothing in the last five years since I first heard his presentation on the relative merits of the Chinese and Western legal traditions.

My own research on the Vietnamese Imperial Law Codes of the 1400's convinced me that, as of that date, even the Vietnamese had a more sophisticated, more rational, and more elaborate legal structure than England during the same years.

As Mr. Feinerman wrote in his letter, the Chinese legal experience cannot be simply dismissed as the creation of a Confucian elite. A point generally ignored by Chinese legal scholars and by Mr. Unger is that the Buddhist religion, important among the masses of China, was founded on a conception of law. So were the popular tradition of Taoism and the doctrine of Legalism. Legalism was as important as Confucianism in building China's bureaucratic form of so-

ciety. Little is more legalistic than China's complex set of rules for Mandarin behavior. The Chinese were positively Weberian in their rationalizations of authority.

The problem of intellectuals such as Mr. Unger, formed in the arrogant Continental tradition of Kant and Descartes, is that they throw out generalizations as first propositions and build a structure of imperative norms from these assertions. What flows from that intellectual approach is a cognitive imperialism giving rise to authoritarian tendencies — the very antithesis of the spirit of the common law.

I am still puzzled why the Law School community continues to be intimidated by Mr. Unger's intellectual arrogance.

Stephen B. Young, '74
New York, New York

Desiderata Debate Reaches Crescendo

To the Editor:

An attorney friend brought me a copy of the February 6, 1976, issue of your paper which contained the article on DESIDERATA, which is one of our copyrights. I read it with great interest and it was generally correct although missing in some of the fundamental details.

First, with this letter I have enclosed a copy of the TOGETHER MAGAZINE article of June, 1966, which was mentioned in your story. This article, I think, truly sets forth how DESIDERATA got confused in the public mind with St. Paul's Church in Baltimore. I won't comment more on that since it is self-explanatory but would like to correct some of the other items in the article which need to be set straight.

First, the Ehrmanns did not sue; I did. What gave me the right to sue? The answer lies in that kind of chain of title which have driven a few attorneys to hold their heads. As is common in all publishing contracts the author gives publishing rights to the publisher who in turn remits royalties on books sold plus a portion of subsidiary rights money received for use. What happened was this: In 1948 Mrs. Bertha Ehrmann, the heir of Max Ehrmann, made a contract to publish THE POEMS OF MAX EHRMANN (which included DESIDERATA). She did this under the property rights given to her under the will of Max Ehrmann, who died in 1945. The company with whom she made that agreement, Bruce Humphries, Inc., published the book with a 1948 copyright date. However, inasmuch as DESIDERATA had been copyrighted separately in 1927 by Max Ehrmann, his

widow, under her rights, renewed that copyright separately in 1954. When Bruce Humphries, Inc. was dissolved and I started Crescendo Publishing Company the rights to the POEMS OF MAX EHRMANN came to me and I had it recorded in the Library of Congress. So much for the publishing rights.

As to the author's rights, as previously mentioned Max Ehrmann copyrighted DESIDERATA in 1927 and Mrs. Bertha Ehrmann renewed the copyright in 1954. When she passed away, the rights were given in her will to her nephew. Years ago, before DESIDERATA became popular, I recognized (or rather liked) the sentiments therein and purchased the rights to DESIDERATA and THE POEMS OF MAX EHRMANN from the nephew of Mrs. Ehrmann, Richmond Wight. So now I stand both in the shoes of the author and also through the company have the publishing rights.

Commenting on the Pro Arts case, in addition to the \$5,000 awarded, attorneys' fees plus costs were also given. They appealed to the United States Federal Appeals Court in Cincinnati and their appeal was denied. They then appealed to the Supreme Court but the Supreme Court denied a writ of certiorari and so they finally had to settle with us. In all fairness, however, they did not do \$1,200,000 worth of business on DESIDERATA alone; DESIDERATA being just one of the many posters they manufactured and sold. My only other comment on that case is that we could have settled very easily without having to go to court except that they kept denying us basic information and it was only when the trial was finally ready to begin that they offered to settle, but by that time the legal fees were too high to settle on the basis they wished and we went to trial.

I also want to correct the impression that DESIDERATA appeals only to liberals. Some of the most conservative people (by reputation, at least) in the country have told us how much they liked the sentiments therein.

The fight for royalties for DESIDERATA has been long and rather exhausting. We have threatened over 200 companies who had infringed DESIDERATA and I have gained legal experience to the point where I will argue copyright law with any attorney. In general I have found that 99% of all attorneys know nothing about copyright; that those attorneys who have on their letterhead "patents and copyrights" are usually versed only in patents and know practically nothing about copyright; and that I have arrived at a happy state where I do not have to employ legal help unless the other side gets very difficult and refuses to settle. In addition to the United States I have journeyed to Edmonton, Alberta, Canada, in a case and can give you the ins and outs as to why one should separately copyright his work in Canada, England, Australia or any other place in the world.

(Continued on Page 12)

— Letters —

(Continued from Page 11)

One thing which may be of interest to you — I could not have proceeded as long as I have and achieved what I consider justice if it had not been for the legal system in this country which permits attorneys to take cases on a contingency basis. I have been up against some of the largest law firms in the United States as well as some of the smallest and if I had ever had to put up the front money for legal fees infringers could have continued to act with impunity. The fact that I had what seemed incontrovertible copyright convinced attorneys to take the case on contingency (except for my paying for my out of pocket costs) and I can say that none was sorry to have taken the matter on contingency. I say this because the British Commonwealth does not allow contingency and presents some very difficult problems because of that. (Not every lawyer who represented us was on a contingency basis.)

Finally, I am also including a copy of **DESIDERATA** with the correct version. Note particularly that the words should be "vexatious" rather than "vexations" and "be cheerful" rather than "be careful."

Robert L. Bell
President
Crescendo Publishing Co.
Boston, Massachusetts

Law Notes

The series of informal talks in the Langdell Library Root Room continues on Monday, March 1 with **Jill Wine Volner**, former Special Watergate prosecutor (and currently an attorney with Fried, Frank, Harris, Shriver & Campelman). All are invited to the talk, which begins at 4 p.m. Refreshments will be provided.

* * * * *

The **East Asian Law Speakers Program** will present the following guest speakers over the next two weeks: today (Feb. 27), **Professor Joseph Fletcher** (Harvard) — "The Ming Dynasty;" Wednesday (March 3), **Yung Wei** (Deputy Director, Institute of International Relations, Taipei) — "The Legal Status of Divided Nations and Non-State Nations;" Thursday (March 4), **Takakazu Kuriyama** (Political Counselor, Japanese Embassy) — "Legal Aspects of Sino-Japanese Relations;" Friday (March 5), **Professor Jonathan Spence** (Yale) — "The Ch'ing Dynasty: An Overview;" Thursday (March 11), **Professor Lucian Pye** (M.I.T.) — "Mao: The Man in the Leader;" Friday (March 12), **Professor John K. Fairbank** (Chairman, Harvard Council on East Asian Studies) — "Ch'ing Documents." All talks begin at 1:10 (bag lunch at 12:45) in Pound 419.

SPORTS QUIZ

By Katz, Noto, & Zagrans

SPRING TRAINING

1. When Jim (Catfish) Hunter wins his 16th game next season, it will constitute his 200th lifetime victory at the age of 30. Which other pitchers have won 200 games in the big leagues before their 31st birthdays?
2. There are eleven new managers now about to begin the first spring training with their teams. Name the four who took over during 1975, and five of the seven managers who were hired during the winter.
3. Rusty Staub stands a good chance of becoming the highest paid Detroit Tiger ever, but it may take a prolonged contract dispute to do it. Who gave Tiger GM Jim Campbell his biggest battle by conducting a long and bitter holdout in 1963?
4. New owner Ted Turner wants to change the nickname of the Atlanta Braves to what?
5. When Ken Holtzman asked for a multi-year contract, owner Charlie O. Finley told him that he doesn't give them, thus precipitating what may be a heated battle. But Finley has given multi-year pacts to three A's in the last few years. Who are they?
6. Who were the four Dodgers traded to Atlanta for Dusty Baker and Ed Goodson?
7. Frank Robinson says he is not going to play this year. Last season, he was the first player-manager in 14 years. Who was the last one?
8. Fans of the Milwaukee Bucks this year stuffed the ballot box in NBA All-Star game voting. This situation recalls the 1957 baseball All-Star voting, when Cincinnati fans managed to get all the Reds' starters except first-baseman George Crowe into the N.L.'s starting lineup. Name the two Reds that Commissioner Ford Frick removed.
9. Which Red Sox player roomed with Bill Lee at USC?
10. Last year John Mayberry hit 34 homers for the Kansas City Royals. This total was four short of the all-time Kansas City (K.C. Athletics or Royals) record. Who holds that record?

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Sports Answers

1. Cy Young, 214 wins by his 31st birthday; Walter Johnson, 276 wins; and Christy Mathewson, 263 wins.
 2. Hired last season: Billy Martin, Yankees; Whitey Herzog, Royals; Frank Lucchesi, Rangers; Bill Virdon, Astros. Signed over the winter: Alex Grammas, Brewers; Chuck Tanner, Athletics; Paul Richards, White Sox; Gene Mauch, Twins; Joe Frazier, Mets; Karl Kuehl, Expos; Dave Bristol, Braves.
 3. Rocky Colavito.
 4. Atlanta Eagles.
 5. Bert Campaneris, Billy Williams, and Catfish Hunter.
 6. Jim Wynn, Lee Lacy, Jerry Royster, and Tom Paciorek.
 7. Hank Bauer, 1961, K. C. Athletics.
 8. Outfielders Wally Post and Gus Bell. The other starters were Ed Bailey, catcher; Johnny Temple, 2B; Roy McMillan, SS; Don Hoak, 3B; and Frank Robinson, OF.
 9. Pitcher Tom House, acquired over the winter for Rogelio Moret, USC grads on the Sox include House, Lee, Fred Lynn, and pitcher Mark Barr (a great name for a player in Boston).
 10. Bob Cerv.
- There will be no grading scale this week. Taking razor in hand, our co-writer attempted to style his sideburns to emulate the modish Belgian hair of Jean-Pierre Coopman: Though badly mangled, he is expected to recover before the Lion of Flanders. Pies may be sent care of the Record.

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.)

[A]wv shc [yo uhisvni] ah fv adbvi ah
awv emdyi hl Cjdgvoavyzi yi awyo ahti,
twvjv vgymsvho djv upoahndjymx
epiyowvs, dis [ah] fv awvjv wdicvs fx awv
vqvupayhivj ah awv cdmhtho tyaw d jhev
piaym svdaw viopvo, [dis] lpjawvj wyo svds
fhx [owdmm] fv sjdcevs hi d wpjsmv ah awv
cdmhtho-lyvms dis [owdmm] jvndyi wdicyc
ah awv cdmhtho, ah awv svavjjyc hl hawvj
shco dis ah dmm do di vqdnemv; nhjvhgvj,
[tv] svumdjv dmmwyo chhso, owhpms wv
wdgv dix ah fv uhilyoudavd dis lhjlvayvshj
awv fvivlya hl awv uhpiaowye.

(Solution on Page 15)

HARVARD LAW RECORD

Public Interest Corporation Forming, Goal to Finance Consumer Litigation

By Roger Bernstein

A corporation whose sole purpose is the financing of lawsuits to protect consumers from abuses of governmental and corporate power is now in the process of formation. The corporation, called Public Equity Corporation, is to make its money by receiving a percentage of any damage and fee awards in the litigation it supports. This income is to be applied primarily to support further lawsuits, and only a limited amount will go to payment of dividends.

Capital for the corporation is to come from the pooled share interests of small, public-interest-minded investors—hence the name Public Equity Corporation. The minimum subscription is \$50 (ten shares at five dollars each), and the maximum amount of stock that can be held by any one individual is 1% of the total number of shares outstanding.

Each stockholder, regardless of the number of shares held, is limited to one vote, on the principle that relative wealth should not determine the degree of one's control over a social institution. Stock will be sold directly by the corporation rather than through brokerage houses.

The board of directors represents a cross-section of activist groups—male and female, blacks and whites, lawyers and laymen. Board members range in age from 25 to 66. They operate under a "no-conflict" pledge that requires full public disclosure of present investments and

divestment of same if deemed necessary for objective decision-making on potential litigation.

Financing on a for-profit basis litigation undertaken by others presents interesting legal problems of a kind not heretofore resolved. Assisting others in the carrying on of litigation constitutes the ancient common law offense of maintenance. Rendering such assistance in exchange for an agreed-upon share of the recovery comprises the equally venerable offense of champerty.

However, Public Equity's founders believe that the corporation's proposed litigation-financing program does not violate the rules against maintenance and champerty. Their argument is that those rules were designed to guard against abuses of the judicial process, and not against suits brought to vindicate a broad public interest.

The Corporation also takes the position that its activities on behalf of consumers are a protected expression of First Amendment rights of assembly and speech.

These positions find strong but not overwhelming support in Supreme Court cases decided within the last decade and a half. In *NAACP v. Button*, decided in 1963, the Court held that meetings held to solicit blacks to serve as plaintiffs in school desegregation suits were protected by the First Amendment's guarantee of freedom of assembly.

In three cases decided in 1964,

1967, and 1971, the Court held that union support of members' workmen's compensation litigation also comes within this First Amendment guarantee.

Although all four of these suits were brought by non-profit entities against government bodies, they contain language that would support Public Equity's argument that for-profit support of public interest litigation against private corporations is not within the scope of the common law's anti-litigation rules.

Public Equity also plans to operate a "closed" legal services plan—the kind that offends the ABA's rule against participating in a group legal services plan conducted for profit.

The Corporation argues that any attempt by a state bar association to discipline an attorney for participation in a for-profit legal services plan would run afoul of the *Gibson v. Berryhill* holding that members of a state licensing board may not have a pecuniary interest in the outcome of the cases they adjudicate. (For-profit legal services plans based on salaried support of member lawyers would compete with fee-supported lawyers.)

If successful in raising capital and in defeating any attempts to restrict its activities, Public Equity Corporation will, because of its revolving fund character, have the potential for bringing about a major increase in the frequency and consistency with which public interest suits can be brought.

With financing from the Corporation, for example, it will be easier to meet the *Eisen* requirement that all class action plaintiffs receive notice of a pending action on their behalf. Similarly, it will be easier to bring major antitrust and environmental cases.

Those wishing to obtain a Prospectus from Public Equity Corporation may write to it directly at P.O. Box 361, Larchmont, New York 10583. The current share offering ends on March 31st.



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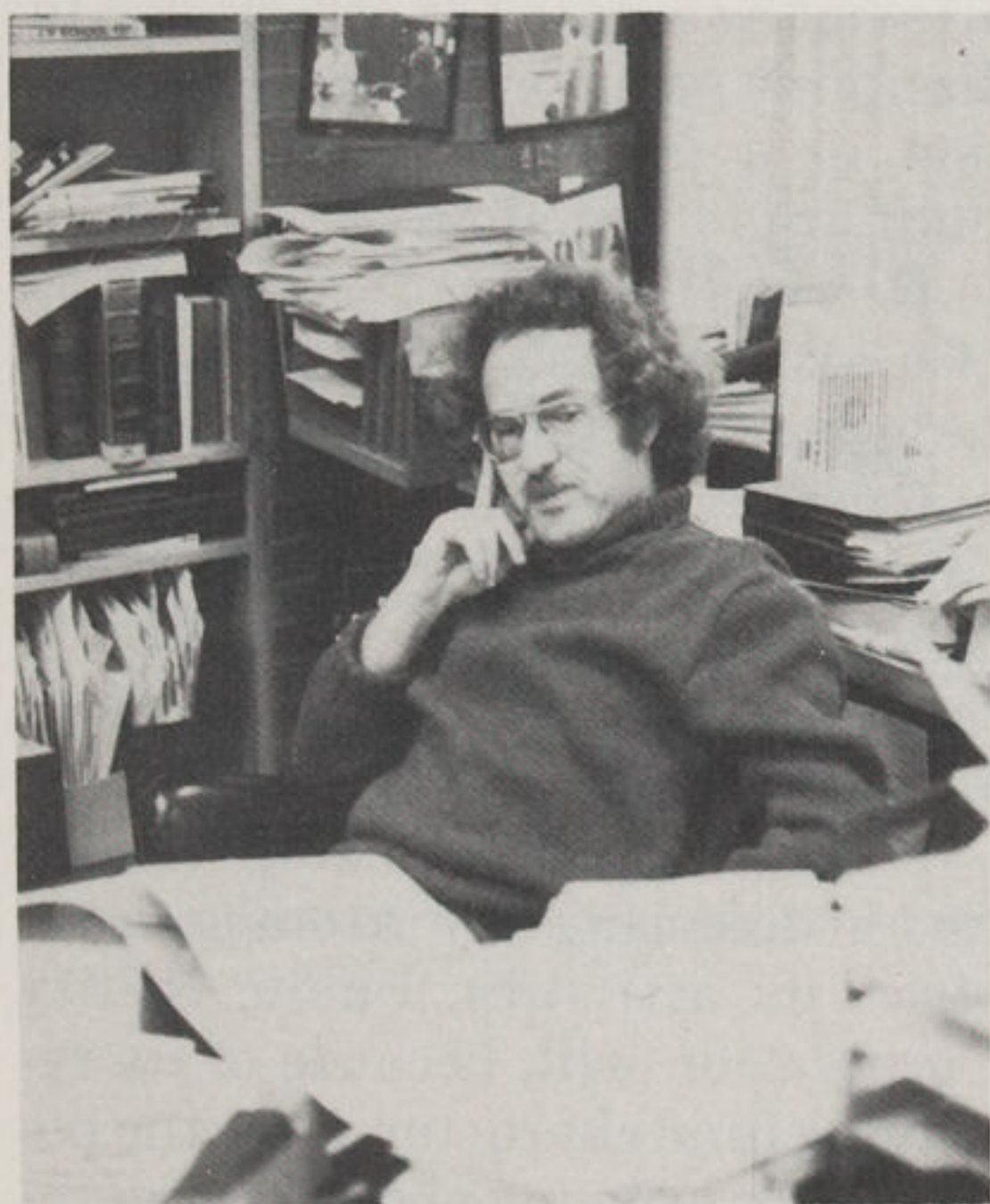
Prof. Assisting Hearst Defense

(Continued from Page 1)

said. If a person was effectively a captive, he was not held responsible for actions he took under the direction of his captors.

In the Hearst case, Dershowitz said, there is no question that the defendant was a bona fide kidnap victim. She allegedly was kept in a closet for most of the time between the time of the kidnapping and the time of the Hibernia bank robbery and was sexually assaulted. If this was all of the evidence in the case there is no question that she would have been acquitted, Dershowitz contends.

But there is other evidence. After the bank robbery she made certain statements which indicated that possibly she had been converted to the S.L.A. position.



Professor Alan Dershowitz

There are two stages to the defense in this case. The first stage deals with the fact that she went into the bank under direct duress and bodily threat. If this is true she should get the traditional defense of duress, coercion and lack of voluntariness. The second stage deals with her post-bank robbery statements. The defense explains her post-crime statements and attitudes as the results of brainwashing.

The brainwashing defense and the psychiatric testimony will be

(Continued on Page 16)

Grade Delivery Attacked

By Philip Heagney

Although her office was able to pass out grade reports to most of this year's 552 1Ls in forty-five minutes on February 18th, Registrar Mary Upton reported that she has received a substantial number of complaints from first-year students about the system used to distribute their first Harvard Law School grades.

Upton explained that her staff handed out first-year grades in the Langdell North and North Middle classrooms between 2:00 p.m. and 3:00 p.m. last Wednesday. Two 1L sections were assigned to each room. Each student's grades for Torts and Criminal Law were printed on standard computer print-out sheets, and all but about 50 students picked up their grades in the Langdell classrooms. Students had been advised the day before as to when and how they could pick up their grades.

Upton said that a similar system, used to distribute first semester 1L grades last year, had provoked few complaints. However, many members of the Class of 1978 appeared to be very critical of the system. The most common complaints were that people did not like to receive their grades in a large room filled with their classmates and that the delay between the Tuesday announcement and the Wednesday afternoon distribution caused an unnecessary build-up of tension within the first-year sections.

"There was just something about lining up in a giant room to get a slip of paper," commented William I. Sussman, 1L, echoing the sentiments of a number of his classmates. Jani K. Rachelson, 1L, added that the grade distribution system created unnecessary curiosity about other students' grades and increased the pressure to compare grade results. Lisa E. Goldberg, 1L, said that the distribution system seemed to reinforce the Law School's emphasis on the importance of grades.

Natalie G. Lichtenstein, 1L, recommended putting the grades in the Langdell mailboxes, mailing them out, or distributing them through the first-year advisors as better methods for delivering 1Ls their first grades. She added that she saw no reason why the Law School did not use a pass/fail system for the first-year. Several other 1Ls endorsed pass/fail grading, and some students questioned the long time professors took to turn their grades into the Registrar's Office.

Upton said that she has experimented with several distribution systems during the past five years. The use of the Langdell mailboxes produced complaints of stealing and crowding. The Registrar has mailed out first semester grades, but, this system adds several days delay to the delivery of the grades and insures that some students will receive their grades before others. Upton said that she has received complaints about every system she has used in the past.

The Registrar emphasized that her office was willing to try any system that is reasonable, and welcomed suggestions as to how first semester grades could be distributed. Upton said that her goal has been to get grades out as soon as possible. She said that for the past several weeks she has received calls daily from students asking when they will get their grades.

Upton said that all second- and third-year grades were due by 10 a.m., February 23, but many professors had not felt bound by this deadline. She added that her office will distribute grades to 2Ls and 3Ls in the same manner that 1L grades were given out. Students who do not want to pick up their grades in a large classroom can obtain them at the Registrar's Office any time after the official distribution is made. Upton said that she didn't know when all the upperclass grades would come in, but she promised: "I'll get something out by next week."

Committee Hears Interview Gripes

(Continued from Page 3)

produce conflict, no matter *how* they are asserted. So cases were important — to me, maybe the most important thing is to get clean water to a family that has been forced to drink muddy water.

"But creation of a mechanism for lasting change is more important. We taught the unions there how important legal assistance was — just as they taught us how important economics were. As a result, the people there are less vulnerable now."

The problems Bellow had finding young lawyers to do the work that CRLA needed done led him to take up teaching. He began to teach at U.S.C. in 1969, with the purpose of training students for just such "alternative" work as CRLA was doing. "Most schools train students for entry level jobs in large corporate firms, where it is expected they'll go through another learning period. Therefore, certain necessary things are lacking in a typical legal education."

Despite the talk of teaching students to "think like lawyers," law schools, in Bellow's estimation, still fall far short of their necessary goal. "The important thing is to help people learn to learn. To do that, Harvard and U.S.C. don't need "poverty law" courses as much as they need clinical courses. Asked how he would change Harvard, Bellow answered candidly, "I'd change everything. But I'll never be an administrator."

Bellow ascribes the success of his

own courses to the fact that "they are much more explicitly concerned with linking practice and education. I try to help people learn to learn. If they can't do that, they will always be prisoners of their own social backgrounds."

Bellow is presently involved with yet another legal services program in Cambridge. He is litigating for the Children's Defense Fund, which he describes as "a national organization designed to develop political coalitions around the unprotected minority of children." Like his other projects, Bellow likes to feel that this work "speaks to the needs of the next generation."

"I handle a typical local legal services caseload. I've always needed to practice. You can't teach a course on practice all the time. This work keeps me honest — I enjoy the clients and I recognize it as part of my own development.

"At the same time, I can re-evaluate my teaching. Is what I'm teaching what I do? Sometimes. Also, I'm able to notice things in practice better because of my teaching. I'm a better observer, but I don't think it's affected my involvement."

Professor Bellow is involved with a variety of cases. He has argued for black students suspended from school, against utilizing behavior modification with juvenile delinquents, and against certain types of special education practiced in Massachusetts.

"The work is exhausting, emotionally demanding. In California, some of the lawyers new to this type of involvement would 'routinize' their work to escape these pressures. I'm trying to find a way to stay with it for a while longer, by working six months with the Defense Fund and teaching for six months. The arrangement seems ideal, because each half of the year is like research for the other."

Bellow will be back teaching next fall. Take his course and discover the real Gary Bellow. And learn to learn.

(Continued from Page 6)
tended to be discriminatory.

Bowman complained of three statements made during her interview with Kirkland & Ellis. All were made in the course of explaining why the firm's hiring statistics on file in the Placement Office showed that no black attorneys were employed.

Bowman recalled the interviewer saying that his firm previously had employed a "black girl — just like you only short;" that the firm "just can't keep black lawyers because corporations hire them . . . they have to keep their quotas, too;" and "the last black attorney to leave went to Clorox . . . isn't that funny, a black man going to work for a bleach company."

Hollis' letter to Kirkland & Ellis alleged that the interviewer found it "particularly funny that 'the last black to work for the firm left to work for a bleach company,'" quoting the interviewer.

The interviewer replied that the "facts relating to the interview disclose nothing more than an innocent misunderstanding." He did not deny using the phrase "bleach company" to refer to Clorox, but called the quotation in Hollis' letter "inac-

(Continued on Page 16)

Solution to Cryptic Law

[T]he dog [is condemned] to be taken to the plain of Cravesteijn in this town, where evil-doers are customarily punished, and [shall] be there hanged by the executioner to the gallows with a rope until death ensues, [and] further his dead body [shall] be dragged on a hurdle to the gallows-field and [shall] remain hanging to the gallows, to the deterring of other dogs and to all as an example; moreover, we declare all his goods, should he have any, to be confiscated and forfeited for the benefit of the countship.

The Case of Provette (1595) reprinted in Goldstein, Dershowitz & Schwartz, *Criminal Law* (1974) at 341. The "Schepenen of Leiden" was evidently quite satisfied that the dog, "now a prisoner," had indeed bitten the child who "died of fright" a few days later since evidence included "the prisoner's own confession made without torture or being placed in irons." The Cryptic Lawyer has resisted the temptation of entitling this week's column: "Cryptic Paw"

'52 ANSWERS

Solution to Where Were You in '52: 1. Abram J. Chayes, '49; 2. Arthur R. Miller, '58; 3. William L. Bruce, '51; 4. Albert M. Sacks, '48; 5. David L. Shapiro, '57; 6. Donald T. Trautman, '51.

2L Charges Firm

(Continued from Page 15)

curate" and said he and the firm "find nothing 'funny' about the employment of our former associates" but are instead "proud of their accomplishments."

Bowman said she has reviewed a letter sent to Simpson (in response to an interrogatory) by a Kirkland & Ellis senior partner who apparently considered her grievance a "grudge complaint by a disgruntled student who didn't get a job," in Bowman's words. She recalled that the partner described the interviewer as a sensitive person whose circle of friends includes blacks.

Hollis' involvement in this matter and resulting student attention came about after Bowman consulted him because she was initially discouraged by Simpson when she attempted to file an informal complaint.

Simpson would not give her an

informal complaint form the first time she consulted him, she said, but told her to come back in a week if she still wanted to make a complaint.

During that week Hollis wrote his letter. Bowman then received the form she sought from a student on the Committee. She completed the form and hand-delivered it to Simpson. After reading it, he suggested Bowman file a formal complaint instead.

After consulting Halperin and others, Bowman filed a formal complaint in early December, nearly two months after the interview in question.

In an interview Sunday Lenore W. Tucker, 2L, a member of the Placement Committee, said Bowman's case was a "big issue" and there had been "a lot of mismanagement" in handling the complaint.

After Monday's Committee meeting, Tucker declined further comment on the case in order to protect the confidentiality of the firm and interviewer involved. Tucker served on a subcommittee, including Simpson and a Boston lawyer, which investigated Bowman's complaint.

Tuesday, Sacks said he assumed that Bowman would receive a written report of the Committee recommendation as soon as it is made available to him. He said if the committee did not give its recommendation to Bowman he would do so.

Hearst Case Like Law School Hypo

(Continued from Page 14)

used to explain the post-crime statements, not her participation in the bank robbery. Dershowitz believes that the post-crime statements should not have been admitted into evidence by Judge Carter.

"The probative value of this evidence is outweighed by its prejudicial effects," Dershowitz said. The psychiatric testimony is directed toward explaining how a person like Hearst might have been coerced into the Hibernia bank and then, weeks later, express views which make her actions appear to be voluntary.

Dershowitz believes that this might be a case of "double jeopardy." The victim not only underwent the horror of being kidnapped, but also suffered the fear of being tried for a crime, which "but for" the kidnapping she would not have committed.

The "but for" causation is not enough for an acquittal, but it shifts the burden of proof to the government. The government must prove beyond a reasonable doubt that Hearst made a dramatic individual conversion and went into the bank because she affirmatively wanted to. Dershowitz does not believe that the government can meet this burden.

The only chance she has of being found guilty, in Dershowitz's opinion, is if the jury discriminates against her on account of her wealth. "Had she been some poor, unknown woman, exposed to this kind of situation, there would not have been a trial," he said.

Dorm Council Activities

This Weekend

TGIF—Today, 4-6 p.m.

Harkness Downstairs Lounge

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