

HARVARD LAW RECORD

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TWENTY CENTS

Nesson, Edelin Patiently Await SJC Reversal

By Frank Sisson

Professor Charles R. Nesson, co-counsel to Dr. Kenneth C. Edelin, is patiently awaiting a decision by the Massachusetts Supreme Judicial Court that the prosecution of the Boston City Hospital physician for allegedly causing the death of a

(Continued on Page 13)

Board of Overseers Hears Student Groups Sear HLS

By Paul Coady

Muffled explosions sounded beneath the surface of the Law School in recent weeks as a battery of largely unallied student groups trained its fire on upgrading the level of education at HLS. With varying degrees of intensity, such organizations as the Board of Student Advisors, the HLS Guild, the

Dormitory Council, the Students for Public Interest Law (SPIL), and a group of first year students self-styled the Ad Hoc Committee on Legal Education (AHCLE) have each backed at least part of a long shopping list of proposals to modify features of the Law School.

On Friday, April 23, representatives of each of these bodies mobilized en masse in Pound 102 with a specially convened subcommittee of the Board of Overseers Visiting Committee. In a free-wheeling meeting chaired by

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Browning: Patricia Hearst Should Have Surrendered

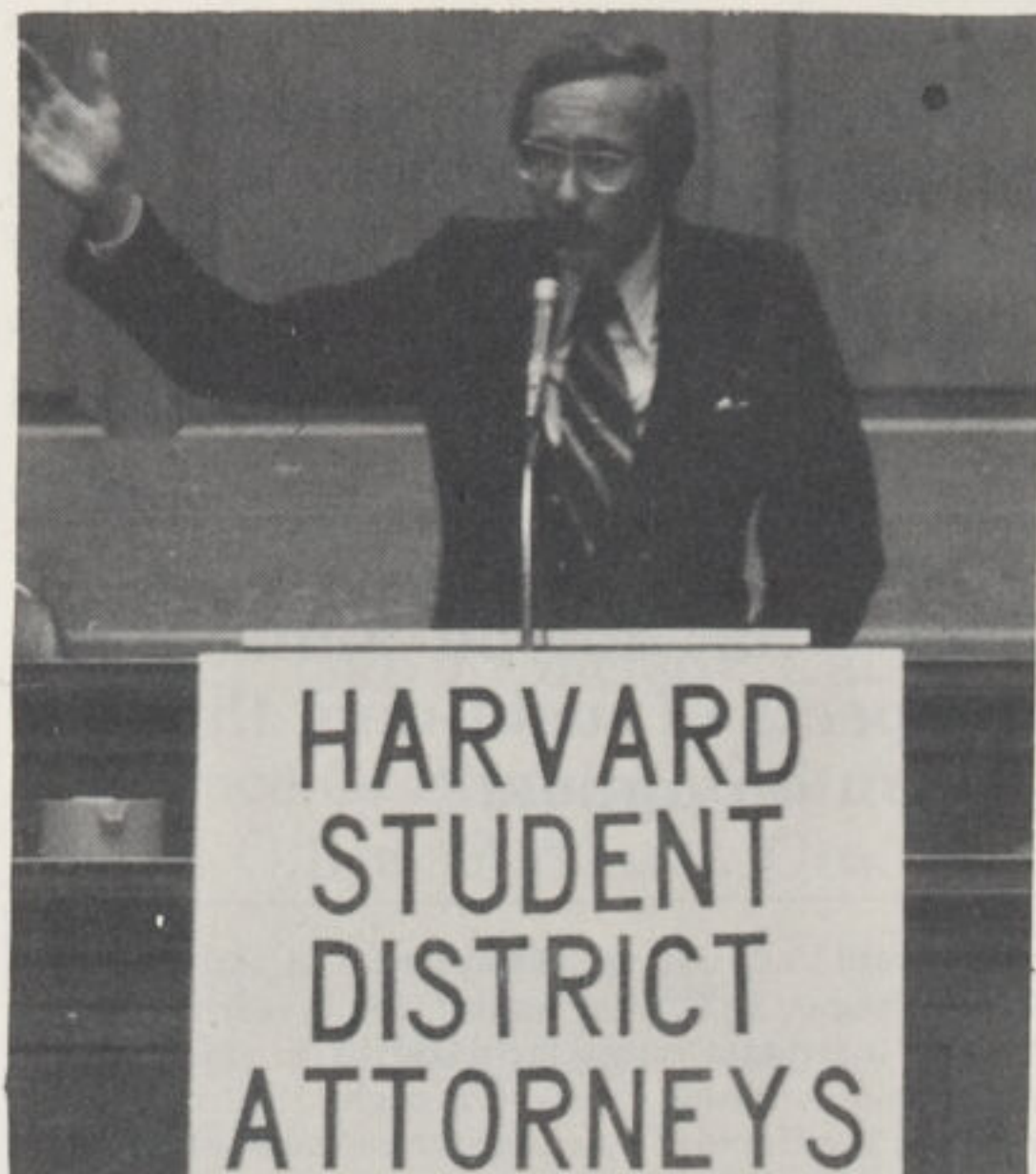
By Harold Cooke

"Patty Hearst was not convicted for what she did, but for what she became after the bank robbery," says Professor Allan Dershowitz, who assisted Boston lawyer F. Lee Bailey in Hearst's defense. To get the prosecution's perspective on the Hearst case, which has produced much controversy and comment, the RECORD interviewed James L. Browning, the chief prosecutor in the Hearst trial. Browning was here April 26 for a lecture sponsored by the Harvard Student District Attorneys.

Q: It has been commented that Patty Hearst should never have been indicted. But the publicity surrounding her long tenure as a fugitive was such an embarrassment to the federal authorities that it was an inescapable fact that she would be indicted upon her capture. Under what circumstances was she indicted?

A: I disagree with that whole theory. Had she turned herself in

(Continued on Page 2)



James L. Browning, chief Hearst trial prosecutor, addresses HLS audience.

Faculty Panel Reveals Views On Education

By Barry A. Miller

A panel discussion on legal education at HLS drew an overflow crowd of 175 students to Pound 101 Monday night. Professors Phillip E. Areeda, Morton J. Horwitz, Duncan M. Kennedy, and Arthur R. Miller conducted an energetic discussion, moderated by Natalie Lichtenstein, 1L.

The Ad Hoc Committee on Legal Education (AHCLE) sponsored the discussion. AHCLE was formed earlier this semester by a group of first-year students from Section 1 who were concerned about many educational and structural issues at HLS.

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Hearst Prosecutor: We'll Win

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at any time during the year-and-one-half or so after the bank robbery, I think the government would have had a difficult time in successfully prosecuting her. Her surrender would have squared with her contention that she was a kidnap victim and they had forced her to rob the Hibernia Bank. The fact of the matter is that she missed opportunity after opportunity to turn herself in or to turn the Harrises in, or even to get word to her parents.

The government might well have reduced or dismissed the charge had there been any indication that she was in the bank under duress. From the available evidence we concluded that she voluntarily joined the S.L.A. For example, the shootout at Mel's Sporting Goods Store, in Los Angeles, a month after the bank robbery, was not consistent with the contention that she was being coerced. On that occasion she was alone in a van, the Harrises were being arrested across the street, and instead of fleeing she fired a weapon in order to free them.

Q: Did you have any doubts about the authenticity of the tapes?

A: Anybody would have doubts about whether her statements on the tapes were free and voluntary. But, after the shootout at Mel's the government's case was consolidated with respect to her guilt or innocence.

Q: What were your impressions of Mr. Bailey and the defense strategy?

A: He is a marvelous attorney. He is very articulate, with a charming manner with juries.

I was surprised that he presented

a straight physical duress defense. I had thought that perhaps he would have presented a straight brainwashing defense. Assuming that you could establish brainwashing — no one knows the legal effect of this defense in a civilian case.

The other possible tactic is what I call the "Robin Hood" defense. She could have testified, "Sure I was in the bank voluntarily. I thought it was a good idea at the time. I saw problems like poverty and discrimination close-up for the first time in my life. It seemed reasonable to do what I did at the time, now I know that it was wrong." In short, I think that this would have been closer to the truth. Although she would have thereby been making a judicial admission of guilt, probably the jury would have acquitted her.

Q: What were the decisive factors in obtaining the guilty verdict?

A: It is hard to say what impresses a jury, and often different things will impress different juries. Certainly, the most impressive items of evidence were the shootout at Mel's Sporting Goods; the fact that Ms. Hearst took the Fifth Amendment, in front of the jury; and some of her testimony was discredited on rebuttal.

The government psychiatrists were instrumental in offsetting the defense's contention that the defendant was an apolitical young woman, who was totally out of character in joining the S.L.A. One prosecution psychiatrist described her, at the time of the kidnapping, as a rebel in search of a cause.

Q: What do you think of the prospects of sustaining the conviction on appeal?

A: I think that they are excellent. I don't think that there was any reversible error. I believe that there are three main categories that the defense will complain about: one, the evidence from the L.A. shootout; two, Judge Carter's ruling that Ms. Hearst was required to testify about the period between the bank robbery and her apprehension, and three, the judge's exclusion of the speech analysis of the tapes.

Q: What will be the prosecutor's recommendation for sentencing?

A: The government may not have an opportunity to make a recommendation. The Federal Rules of Criminal Procedure, as amended last year, specify that the government has the right of allocution at the sentencing. But sometimes these rules are honored in their breach. If the judge does not ask, we may not make any recommendation.

But, I am confident that Judge Carter will impose an appropriate sentence for Ms. Hearst, a person without a prior criminal record and who was kidnapped originally.

This case must be viewed in the context of the unfortunate circumstance that it aroused keen public interest. There was the widespread fear that because of her wealth and family influence Ms. Hearst might beat the "system." It was important to allay these fears and convince the public that the government does not back down from a case merely because of money or influence.

Q: It has been reported that Ms. Hearst has turned state's witness. What effect will this fact have upon her possible sentence?

A: I have never confirmed nor denied that Ms. Hearst has turned state's evidence or is cooperating with the government. It is possible that if she is cooperating it is a sign of good faith.

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HLS Boycott Planned By 3Ls

By Andrea Brown

The Class Marshall, who traditionally heads the graduation procession, this year may brandish a glitter-covered wand if he succumbs to his fantasy. But even if he carries the more prosaic traditional baton, Jeffrey L. Reiman, Marshall of the Class of 1976, plans to be anything but a traditional marshall.

In the past, class committees have done little more than plan reunion activities for their classes. Reiman sees his position as that of an activist, a liaison between his class and the administration, and perhaps as a gadfly on the alumni corpus. He plans to send out periodic newsletters reporting on what has *not* been done at the Law School, to balance the sunshine stories sent to alumni by those soliciting contributions.

Once students have left the Law School, Reiman feels, they tend to retain fond memories of Boston — of concerts, Fenway Park, squash courts — and confuse these memories with others relating to the Law School itself. Reiman believes that it is important that the dissatisfaction that third-year students have with the Law School's treatment of its students, and with the atmosphere here, not be submerged in the warm nostalgia that tends to coagulate over recent graduates' memories of the passing years.

While fond memories of a Golden Age do little harm to those harboring them, they can inhibit necessary reform of the institution and can make current students feel isolated and out of place for seeing flaws where others recall perfection, in Reiman's opinion.

Concern with the morale of students who come after him motivates Reiman in another, more radical plan: encouraging a boycott of alumni contributions. On Tuesday, the Class Committee voted to

suggest to recent graduates that they contribute to some charity other than to the usual funds at the Law School.

The boycott's primary impact is expected to be on the students, to reassure them that alumni also faced problems at the Law School, and that the problems are not necessarily individual, as many students fear, but institutional.

The newsletter and the boycott are not planned to poison memories of the law school experience. Rather, they are intended to keep memories honest. Reiman hopes that by keeping alive memories of those areas in need of reform, the newsletters might induce alumni to pressure the administration for change.

The 1976 class charter reflects this concern. While similar to those of past years, the charter now authorizes class officers to keep in touch with the administration about areas of student concern, and to keep alumni informed of progress.

When contacted, Dean Sacks

would not comment specifically on the newsletter, as he had not been informed by the committee of plans for it. He said that, to the best of his knowledge, more information is already available to alumni of Harvard Law School than of other law schools, and he pointed out that alumni can read of student perceptions of the Law School in the RECORD.

He also emphasized that students can currently raise issues of concern through faculty and administrative committees; no substantial issues thus raised have been ignored, he said, although, of course, they are not necessarily determined the way objecting students might wish.

Concerning the planned boycott campaign, Sacks commented that whereas the class of 1976 has benefitted from the largesse of past classes, the incoming students will be dependent for aid on those who will be encouraged to withhold contributions, possibly resulting in serious financial problems for these students.

SFF to Fund Nine

Student-Funded Fellowships has announced that nine students will receive fellowships ranging from \$500 to \$1,250 for summer, 1976. Recipients are:

Richard L. Alfred, Legal Aid Society, Employment Law Center, San Francisco, Cal.

Bruce G. Berning, U.S. Attorney's Office, Portland, Ore.

Carey F. Corbaley, Equal Rights Advocates, Inc., San Francisco, Cal.

Jennifer K. Harbury, Texas Rural Aid, Welasco, Tex.

Randolph M. McLaughlin, Legal Aid Society, Criminal Defense Division, New York, N.Y.

Margaret E. Montoya, La Oficina de Ley del Pueblo, Tierra Amarilla, N. Mex.

David Oppenheimer, Breeker, Cobin, & Dayley, Oakland, Cal.

Donald J. Russell, Public Citizen Litigation Group, Washington, D.C.

Thomas F. Birmingham, Brown Lung Project or Appalachian Project, Guild Summer Projects Committee, Boston, Mass.

Don't Be Fooled By Substitutes

By Sam Goldberg

We can understand that you're upset. This is, after all, the last installment this year of that vibrant law school newspaper which brought you so much comfort during those one-and-one-half hour Friday classes. A great sense of loss will inevitably accompany this issue.

It is for this reason that we hesitate to bring the following devastating addendum to your attention. Why, after all, bring more grief into a world already filled with so much sorrow? But of course it must be done. The public has a right to know, and all that. Brace yourselves, then. For this is to be the final Jaw Review. The lapse of an institution. The end of an era.

The final true Jaw Review, that is. The uniform may not be retired; there may be others who will attempt to repeat what has come before, but it is time for the Jaw Reviewer to step down and to move on to better things (Note: regular RECORD readers may be interested to learn that the Jaw Reviewer's departure is not irrevocable. He will in fact take over — well, actually, establish — the RECORD's mid-west bureau, and will also be our official Kansas City Correspondent). This is all part of life. Don't take it too hard. We certainly don't.

You may be wondering why we tell you all this, knowing the heartbreak and, yes, pandemonium that will ensue. There is, of course, our obligation to our readers. But beyond that, our primary reason is that there is simply not all that much to say about this week's object of our gastronomic proclivities.

What we do have to say, though, is overwhelmingly favorable. There may be a few of you out there who are getting tired of using a pound of napkins to sponge off the grease from your Three Aces pizza.

Who blanch at even the thought of a mushroom-steak grinder. Who have uncontrollable nightmares about imminent arteriosclerosis resulting from the vast quantities of both which are nevertheless consumed.

Obviously, what you are looking for is the natural pizza. And we have found it at the recently established Bel Canto restaurant, a dumpy little storefront on Mass Ave about one block up and on the opposite side of the street from the Orson Welles complex.

It's always difficult to decide which ethnic or minority group to insult in any particular week. Bel Canto is a Sicilian restaurant run by a fellow named Goldberg (a solid, upright and, yes, noble name) which serves a form of pizza. Perhaps we had better stop there.

Actually, Bel Canto serves a deep-dish Sicilian concoction known as a *torta*. It can be made with either whole wheat or white dough, which forms a much thicker, chewier and tastier "crust" than anything which we have been served in a long time.

On top of the spread-out dough can be placed a variety of wholesome and fresh ingredients, such as mushrooms, sausage, broccoli, walnuts, and green peppers. This is then covered with tomato sauce and cheese and placed in a pastry oven for about 15-20 minutes (longer if they're crowded).

On our first visit we sampled a mushroom and green pepper *torta* (about \$2.85). One of the most striking aspects of this dish was that the mushrooms were indeed fresh, not the canned brand which Harvard House aficionados ought to know is the norm. No botulism for us. The whole wheat crust had a taste of its own, with just a touch of sweetness, and was far superior to the plastic dough which usually makes up a sub shop pizza.

Later, we indulged in a Peppo's Honor (\$2.75), which is a sausage, broccoli and walnut *torta*. This seemingly odd combination had a surprisingly fresh and unique flavor, the whole wheat dough complementing the nuts and vegetable perfectly. And, in spite of the thickness of the crust, we came away from the meal without the heavy feeling which pizza generally supplies.

For grinder fans, Bel Canto also serves your favorite fillings surrounded in dough as a type of sandwich, smaller than a *torta*, called *calzone* (\$1.25). Although we were unable to partake of this selection, it looked pleasant enough.

It may occur to you that a little bottle of the old eminently palatable would go nicely with your meal (Bel Canto does serve soft drinks). If so, there is a liquor store a few doors down the street which will not only supply you with the materials necessary for quenching your thirst, but will also provide a little atmosphere.

When we visited it, we immediately noticed that the owner had apparently been burglarized a few times, and was playing Kojak in an effort to discourage further thefts. He had his head shaved bald, had a few menacing-looking tattoos (on his arm, not his head), was dressed all in black, and was calmly wearing both a rather large revolver and a police billy club on his hips. Not being overly fond of guns, we were not encouraged to prolong our stay for a casual chat.

Fortunately, raw fear rarely takes away our appetite, and we were still able to enjoy Bel Canto's unique preparations. Their natural food in an unnatural form brought much pleasure to this reviewer's palate, as it undoubtedly would to yours. Three Aces can afford to lose you for a night.

Bye-bye.

the Coop

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National BALSA Will Fight Bias

At the National BALSA convention in mid-April the HLS BALSA chapter presented a resolution, adopted overwhelmingly by the approximately 100 chapters attending, to develop its own mechanisms "to investigate and resolve to its satisfaction allegations of racial discrimination which are not properly met" by law schools.

The resolution includes provisions to publish the results of investigations in the national newsletter to encourage BALSA members and non-minority students to boycott firms which have been shown to engage in discriminatory and offensive activities.

Although the resolution does not mention Harvard, Loretta Argrett, 3L, local BALSA president, confirmed that it was prompted by Meldon S. Hollis, 2L, as a result of dissatisfaction with the handling of Gail M. Bowman's formal complaint against a Chicago firm and several informal complaints filed by BALSA members this fall.

Argrett said that in following up on the resolution BALSA would consider conducting a survey to determine discriminatory patterns in employment. The survey would be similar to the one which the coalition is seeking to have the Placement Office conduct.

The Harvard Law School Association and the Overseers' Committee to Visit the Harvard Law School mourns the death of Judge William H. Hastie. As practitioner, teacher, public official, and for twenty-six years Judge of the Court of Appeals for the Third Circuit, Judge Hastie did as much as any lawyer of our time to bring the process and the substance of the American legal order into congruence with the fundamental principles of our constitutional democracy. Judge Hastie's exemplary career placed him in the forefront of the Harvard Law School's most distinguished graduates. His life in the law enriched his country. And it brought honor to Harvard.

NERD COMIX

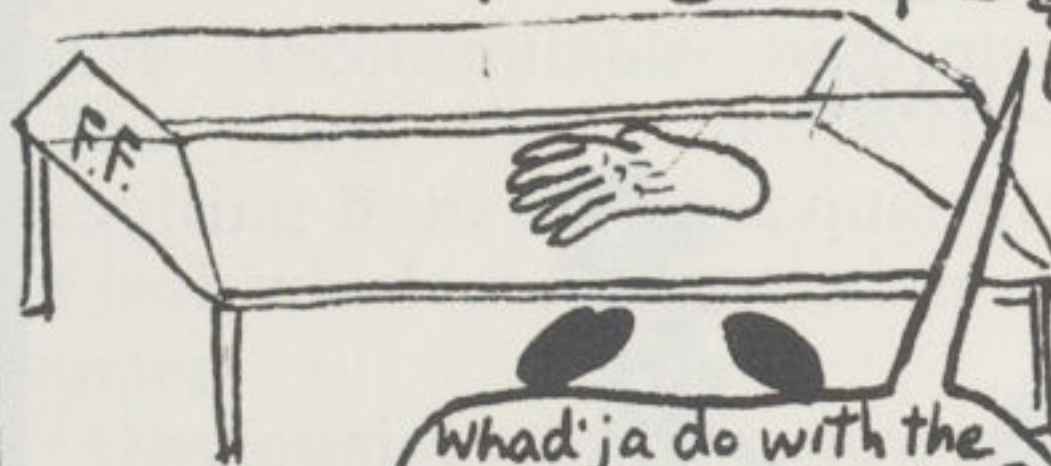
starring
Herb
Garnish



Herb shows his blind date,
Irma Fluorine, a good time...

And believe it or not,
that's Felix Frankfurter's
right hand in there!
The one he wrote all
his opinions with!

It's a very
learned
hand



Whad'ja do with the
rest of the Doritos?

This shelf's got all the private correspon-
dence of the law clerks for the
Pennsylvania Superior Court. All the way
back to 1926!

Anything
dirty up
there?

No...
I think
they
dust
weekly



MINUTES LATER...

The greatest
legal strategist
in all English—

HERB!!
I CAN'T
STAND
THIS!
YOU'RE
NOT
CUT
OFF
BELOW
THE
WAIST
ARE YOU??

Well?

Law is a bunch
of crap, Herb!
Let's go back to
the dorm and
get it on!

On what?
What on?

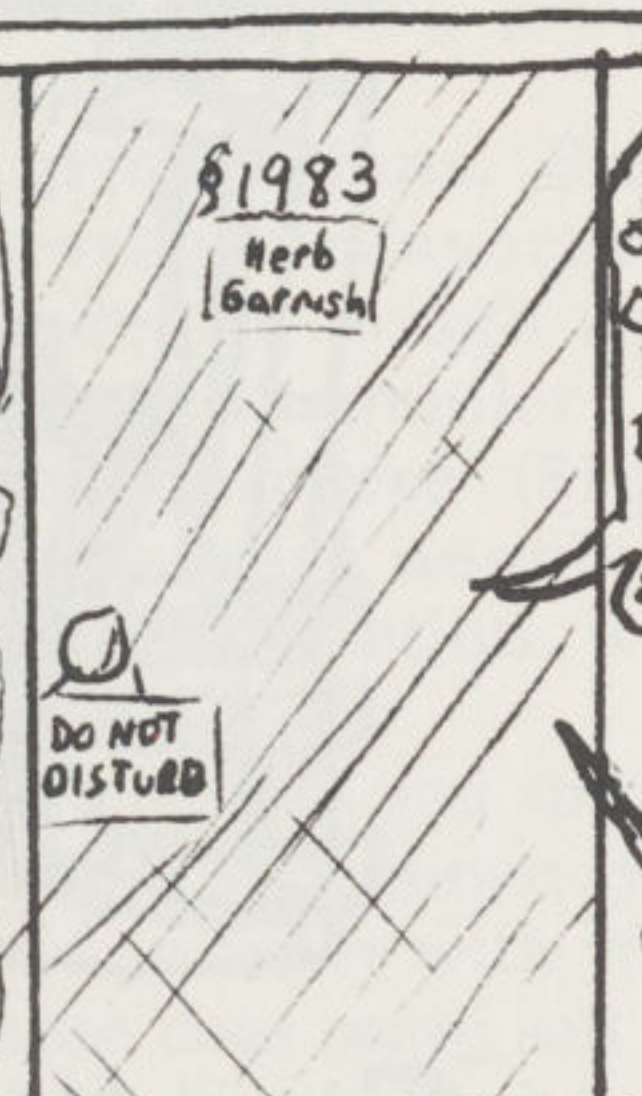
On your DESK, I
don't care—there
must be something
under that
jumpsuit!

Sounds
like
Herb's
really
in there,
guys!

HERB?

Yeah!
Listen!

HEY
HEY
HEY!



OH HHHH!
OH HHHH!
I CAN'T
BELIEVE
IT!
OH HHHH!

Oh
wow!!

OH HHHH! I CAN'T
BELIEVE IT! THIS
IS THE WORST...THE...
AAAAAGGGGHH!

Oh wow! This Arkansas
case really puts it
to the Rule in Shelley's
Case as applied to
tenancy by the
entirety! Getting
these advance sheets
really pays off!



LATER...

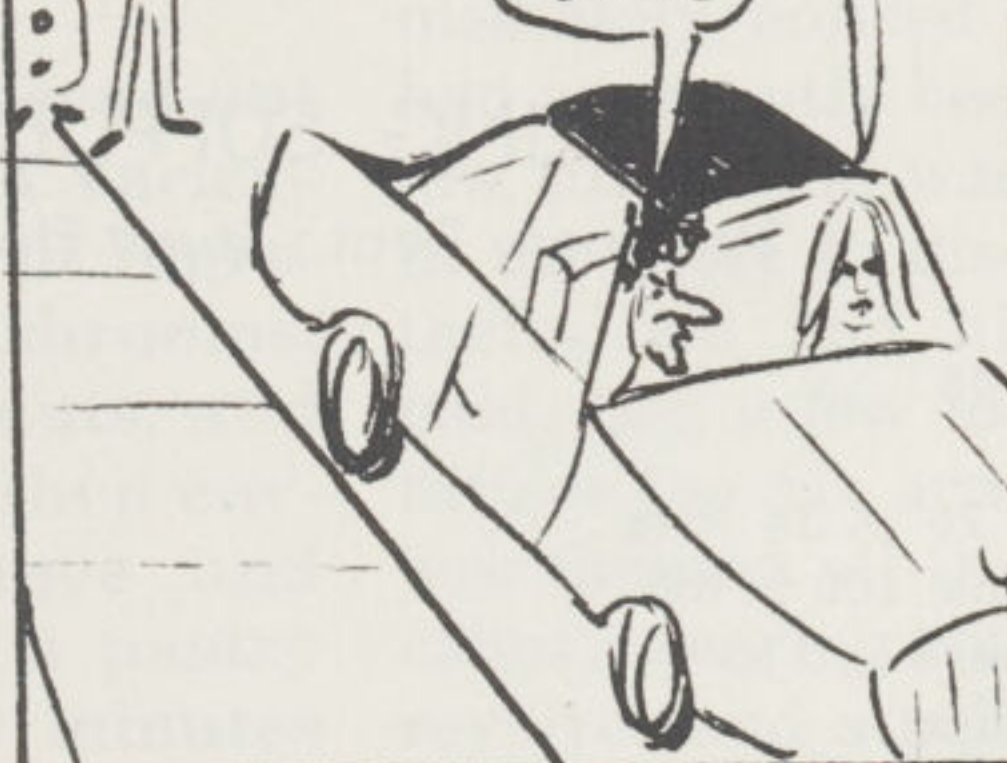
Bye!
Bye!

Whaddya hear?
Whaddya hear?



Have a good
time?

Shut up
and
drive

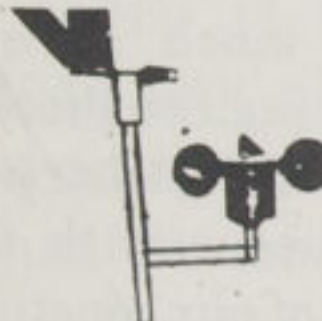


What'd
ya get,
Herb?
Woo!
Nice
goin',
Herberoo
Mr.
Smooth



Scott Patterson
(Inship & Burakoff,
of counsel)

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KI 7-8008

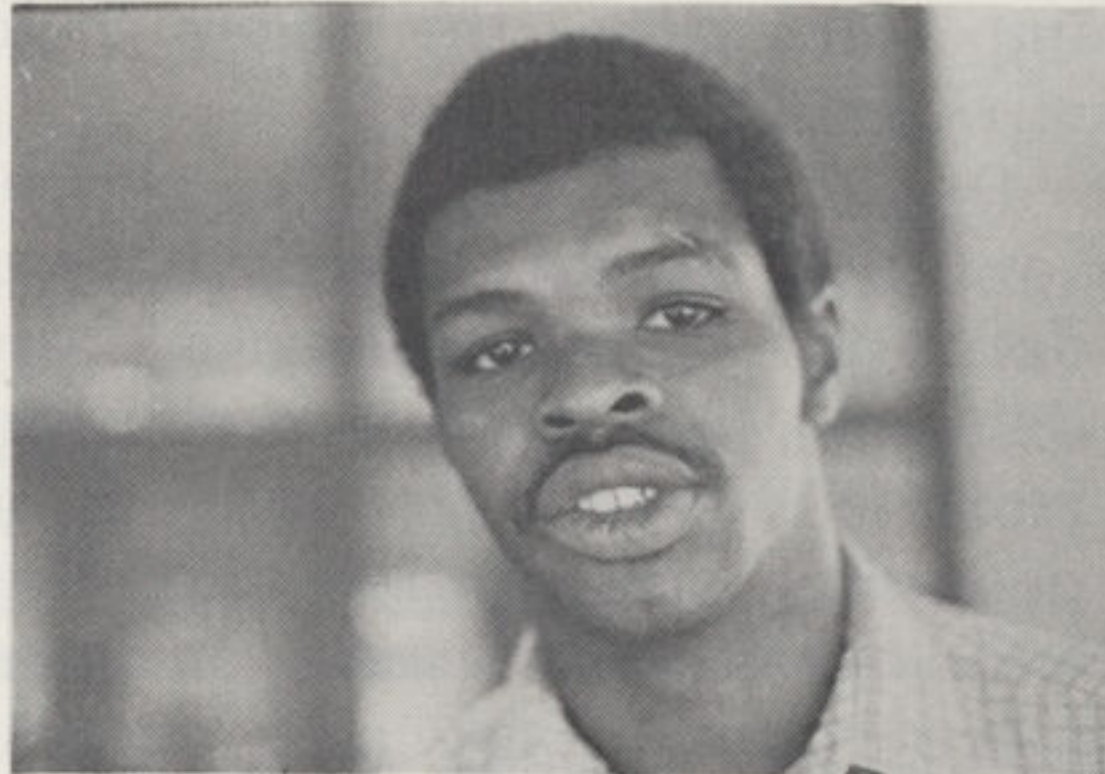
4 Hudson St., Cambridge
(off 1672 Mass. Ave.)

Inquiring Photographer

By David Halprin and Mark Bravin
Photographs by Stephanie Smith

Question: What is the most significant thing that has happened to you as a result of being a student here?

To be very frank, Torts. It's really changed my life. Twenty years from now when I'm handling a personal injury case, I'll think of Professor Milton Katz. — *Calvin Biggers, 1L*



An appreciation of the western part of the United States. I am not in an admiration society of the East here. — *Jack Guernsey, 2L*



It is impossible for a person with any sensitivity to live through the experience of Harvard Law School and not emerge with a profoundly deepened sense of injustice. — *Suzanne Stocking, 2L*



Participating in the Ames alternative sponsored by Harvard Voluntary Defenders and learning how screwed up the Massachusetts court system is. This law school doesn't stress the practical aspects of how justice is actually delivered and how to improve the criminal justice system. — *Jim Cole, 1L*



I really can't think of anything. — *Rob Sedgwick, 2L*



HLSA Meeting

The annual meeting of the Harvard Law School Association was held on April 23 and 24 at the Law School.

In addition to regular business matters, including officer elections, the Treasurer's report, reports on the RECORD and the Bulletin, and a report by the directors of the Harvard Law School Fund, members of the Association heard three addresses by faculty members.

Professor Jerome A. Cohen spoke on "The Graduate Program at the Law School." Professor Robert E. Keeton addressed the group on "New Curriculum Developments," and Professor Morris L. Cohen gave "A Report on the Library."

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Overseers Note Reform Proposals

(Continued from Page 1)

William G. Young '67 which saw one faculty member charge from the room in a fit of rage, students wrestled with a gamut of issues from Legal Methods to financial aid, from public interest courses to faculty aloofness.

The overall quality of the education dispensed at HLS was frequently pinpointed as lying at the foundation of students' sense of disaffection. One 3L student who vowed to persuade students not to attend the Law School when he would be practicing in New York next year, placed the blame squarely on the faculty's shoulders. "The faculty here doesn't teach," he complained. "I don't think that by comparison to other classmates who went to other law schools, I am in as good a position to practice law . . . This is too much a research institution."

Another student sided with this negative assessment of the educational product marketed here and regarded the need to postpone learning law until out in practice as a sad tribute to the caliber of the Law School. "The Law School, under the pretense of being neutral, is ensuring that students merge into the status quo, and that there is no criticism of the status quo," she said.

In a lengthy statement read by Barry A. Miller, 1L, the Ad Hoc Committee on Legal Education indicted the Law School for failing to live up to the responsibilities which accompany its position in the legal profession. AHCLE faulted the Law School's silence on what its graduates do after acquir-

ing their degrees, and the school's tendency to measure its own success on "the high number of lawyers that HLS always places with the biggest firms, by the large income of its graduates, and by the important places the alumni hold in their communities."

David W. Moyer, 1L, a representative of the newborn Students for Public Interest Law, decried the chilly reception Harvard gives to the concept of providing substantive and clinical public interest courses more room in the curriculum. While the Placement Office has held a number of employment programs in past months which focused on legal services for the "traditionally underrepresented," Moyer noted that "symposia in public interest law do not suffice when compared to the substantive burden you learn here in three years."

Frederic J. Cowan, 1L, of the same organization, called the committee's attention to courses such as Professor David Shapiro's FEDERAL LITIGATION, which has joined clinical and substantive law with unparalleled success, and which consistently win plaudits from students. Cowan charged that the Law School is lagging behind miserably in its progress into the sphere of Public Interest teaching. He assigned significance to the Law School's continued failure to hire a faculty member competent in this field. "It's a measure of its support for public interest law that Dean Kettleson, now, at the end of the year, states that there is not a single lawyer in the country who could come here to teach public interest law."

Responding to Cowan's claim, Dean Albert M. Sacks countered with the statement that he would like to see more Public Interest programs enacted, but that the Administration was turning into that direction with sufficient haste. "I think the speed at the moment . . . is enough for the rate we want to get into this — a speed that you perceive as foot-dragging," he said.

The Dean also contended that the Law School had made a good faith attempt to find a qualified candidate who would fit into the teaching slot the Administration had in mind. "Those who believe in such a program as much as you do and I do, have tried very hard and haven't come up with an appropriate person."

Steven S. Miller, 2L, a representative from the Board of Student Advisors, revealed the same cast of mind as earlier speakers when he recommended that Harvard give students the options to choose whatever they view as educationally and morally proper for themselves. He complained, however, that merely slating "Consumer Law" as a first year elective is almost the only indication to date of the Law School's commitment.

Miller voiced dismay at the Administration's lackadaisical pace in acquiring public interest teaching staff and undercut the Dean's argument that not a single qualified instructor could be found. Pointing to the fact that he had recently spoken with Charles R. Halpern of the Council for Public Interest Law and with Paul Gewirtz of the Center for Law and Social Policy, Miller related, "Charlie Halpern's response was 'nonsense . . . I can send you a list of 25 people' and Paul Gewirtz told me 'I'm tied into the grapevine and these people tell me that they have gotten offers from every law school except Harvard.'"

Miller also raised the topic of the little attention the Law School pays to a first-time teacher's ability to conduct

(Continued on Page 16)



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Kennedy Favors Ending Big Classes; Miller Defends In Terrorem Style

(Continued from Page 1)

The wide-ranging discussion addressed many issues. Special attention was paid to the case method, the Socratic technique, the professional responsibility requirement, teachers' problems as role models, the question of faculty sensitivity to students, the first year, and the last two years. The four faculty members reached a consensus on some issues. On most, they discussed their differing opinions.

Kennedy called for a change of the present political content in the first-year program. He feels that the attempt made by some faculty members to separate doctrine from policy in class discussions is futile. Instead, he says that law should be viewed as an attempt to reconcile contradictions within the society.

HLS, according to Kennedy, puts "too much emphasis on disciplining people to learn to perform the analytic operations correctly through fear, anxiety, and . . . very powerful peer pressure." He is in favor of abolishing the system of "140-person courses all taught by the Socratic method."

Areeda responded that there "is such a thing as legal doctrine, and it has a dynamic of its own." He feels that HLS teaches the skill of legal reasoning.

In response to a question on change at HLS, Areeda said, "I don't want to leave the impression that I think the Harvard Law School is the greatest and most divine institution in existence. I don't think that's quite true."

He said that much has changed over the last decade, "within an evolutionary context of incremental change to make things better. That is the way I would like to continue doing it."

Miller revealed that after 15 years of teaching at six or seven different schools, he has "become a profound anarchist in terms of legal education." He

thinks that this faculty is among the "most heterogenous groups of people that you could possibly imagine." He attacked the present structure of the second and third years. "The biggest disaster at this law school, other than the absence of writing, and feedback, and one-on-one, is the second and third year." He felt that team-teaching and inter-

course coordination should be tried in all three years. Miller defended his "in terrorem" classroom tactics as a useful classroom tool for furthering professionalism among the students.

Horwitz agreed that the second and third year had no coherent philosophy or ideology to justify them..

(Continued on Page 15)

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We urge faculty and administration consideration of the adoption of a trimester system at the Law School.

Other law schools, most notably the University of Michigan, have instituted summer law study with a good deal of success. This Law School had a similar program following World War II. Many students, particularly those who have pursued other degrees or other careers since college graduation, are actively interested in shortening their term of legal study. Summer job opportunities would be forgone, but there are students willing to make this sacrifice.

A sizeable group of students find the third year of study a waste of time, and some professors concur. Students often feel they have a good grasp of legal fundamentals and are anxious to begin their careers. While we see some merit in this viewpoint, we do not feel that elimination of the third year of study is the most beneficial way to approach the problem.

We believe that there can be value to third year courses. Therefore, the inclusion of the full number of credit hours in an accelerated program seems the best option for those who desire to speed up their legal educations.

All the President's Men

Breaking loose from the bonds of precedent, Paul J. Coady, 1L, has become the first student in recent RECORD history to be elected editor at the end of his first academic year. Other officers elected by the RECORD Board of Directors on Tuesday night were Charles Jordan, 1L, as managing editor, and Steven R. Davidson, 2L, as business manager.

Next fall, Coady steps into the shoes worn by such renowned predecessors as Ralph Nader '58, Samuel Dash '50, and Paul M. Branzburg '66, the reporter in the Supreme Court case which held that newsmen could not refuse to disclose their sources.

Contacted late Tuesday night, Coady remarked to a RECORD reporter with characteristic insouciance, "With the tear-'em-up job done by some of the Editors who have gone before me — like Pat Kennedy, Frank Sisson, and the inimitable Roger Evans — I'm going to have a tough act to follow."

The RECORD congratulates these new officers and wishes them Godspeed.

HARVARD LAW RECORD

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Fenno

"Well," Fenno said to the 3L, "what have you learned in three years at the Harvard Law School?"

The 3L sighed contentedly. "For one thing," he answered, "I've learned the value of student-faculty consultation."

"Oh?" Fenno remarked laconically.

"Yes. Just yesterday I went to my third-year paper adviser."

"And he told you something useful about your paper?"

"No," the 3L said, "I told him that when he was through with the paper, I wanted the binder back. This taught me that the value of student-faculty consultation is \$1.95."

"Have you learned anything else?"

"Sure," the 3L reflected. "And if you come back an hour before my *Estate Planning* exam, I'm sure I'll be able to tell you what it is."

"Three years at HLS seems to have left you somewhat cynical," Fenno commented.

The 3L sighed, agreeing. "*Où sont la naïvete d'antans?*" he asked wistfully.

"I didn't realize you'd picked up any French here."

"That's Latin, actually," the 3L explained. "It just sounds like French because of my Midwestern accent."

"Why are you so defensive about being from the Midwest?"

"I'm not; I'm condescending toward people from the East."

"That seems rather parochial, if you'll pardon my saying so," Fenno commented, "especially in someone who's going to pick up his second university degree in less than six weeks."

"I can't help it," the 3L shrugged. "It's just that so many of the people from the East one meets around here are undergraduates. It distorts your perceptions."

"It's unseemly to blame your prejudices on Harvard undergraduates," Fenno scolded.

"Query," the 3L replied.

"Especially that prejudice," Fenno admonished. "Do you realize I get three nasty letters every time you use language like that in this column?"

The 3L smiled apologetically. "I'll forego the opportunity to point out how dramatically my use of such language apparently increased your readership."

It was Fenno's turn to smile. "I can't help having the feeling," he said, "that the old place is going to be exactly the same without you."

"Why shouldn't it be?" the 3L demanded mildly. "After all, it was exactly the same with me."

"You see," Fenno observed, "you did learn something here after all."

Letters to the Editor of the RECORD

Transcript Policy "Cored" by Appel

To the Editor:

There seems to be a great deal of misunderstanding about the article entitled, "Transcript Policy Should End Recruiting", which appeared in the April 23 RECORD.

The Law School has no policy which allows an employer to request an official law school transcript or forbids such a request. The fact is that if students open up the subject of grades and report them, they should know that from time to time employers are likely to want to have that information confirmed by the Registrar's Office. This confirmation can be obtained *only* with a student's permission.

On the other hand, the School does have a policy concerning second year students who choose not to disclose their grades: Employers are asked not to initiate inquiries concerning a student's first year grades, and a request by an employer for an official transcript runs counter to this request.

Eleanor R. Appel
Placement Director
Harvard Law School

Pro Bono Boner: Program Not "Ex"

To the Editor:

Contrary to the statement of Charles Halpern, as reported in the April 16, 1976, issue of the RECORD that Arnold & Porter's *pro bono* activities are now "practically none," Arnold & Porter's *pro bono* program is in fact alive and well.

Mr. Halpern apparently was unaware that the firm is expending more time now, both in absolute terms and in relation to other work, than was expended during the period five years ago when Halpern himself acknowledges that "Arnold & Porter had a very aggressive public interest law program. . . ."

In the past year, we have represented the Reporters' Committee in the Nixon Tapes cases; we have successfully challenged, as co-counsel with the Center for Law & Social Policy, HEW regulations regarding the sterilization of welfare recipients; we have initiated litigation on employment discrimination against a major domestic corporation; we have handled a wide variety of environmental matters for such groups as the National Wildlife Federation; and we have been involved in various legal matters for Vietnam veterans. This is by no means an exhaustive list but it is il-

lustrative of the wide variety of this firm's present *pro bono* activities.

In short, the *pro bono* program is a basic part of the firm's practice. Hence, we believe that the "RECORD", so to speak, must be corrected.

Stuart J. Land '54
J. Bradway Butler
Pro Bono Partners
Arnold & Porter
Washington, D.C.

Pro Bono Booster Clears, Corrects

To the Editor:

I would like to clarify and correct a few of the points in your account of my recent meeting with public interest oriented law students at the Harvard Law School. (RECORD, April 16, 1976, p. 3).

I want to emphasize that public interest law is alive and well. Your headline writer's suggestion that we are facing the task of "resurrecting *pro bono's* ghost" implies a premature declaration of death. In fact, the present status of public interest law within the larger legal community can be significantly affected by pressure from younger graduates on law firms, law schools, and bar associations to provide more support for public interest law ventures.

There are a few excellent career opportunities in full-time public interest practice directly out of law school, for graduates who are strongly motivated toward public interest law and are willing to seek out the jobs aggressively. In addition, there are rewarding and socially valuable government jobs at all levels. In these or any other jobs, recent law school graduates should take into account the quality of supervision and training.

I do not believe that "a few years in corporate practice" are essential to furnish the "intellectual hardware needed for public interest law work." On the other hand, beginning a legal career in corporate practice is not inconsistent with a strong public interest law commitment. Some corporate firms still maintain serious *pro bono* programs, although the energy and zeal which characterized some of these programs five years ago are increasingly hard to find. In many firms, the formal commitment to *pro bono* work still exists, and there is potential for reviving and re-energizing their *pro bono* programs. These opportunities are waiting to be seized; recent graduates, in general, tend to underestimate their ability to influence the firms in which they work.

Regarding my own experience in private practice in the late 1960's, I found the training in lawyering skills at Arnold & Porter

excellent and, with a little pushing, I had substantial opportunity for public interest work. There were a few light remarks (senior partner: "Did you put in any billable hours this week?"), but in general, my *pro bono* activity was supported. When I concluded that the private firm mix of corporate and *pro bono* practice wasn't for me and I began working with a number of friends on the idea that came to be the Center for Law and Social Policy, the firm provided encouragement. Arnold & Porter's *pro bono* commitment continues to this day, and the firm is now engaged in a variety of important *pro bono* matters, ranging from employment discrimination cases to a challenge to an HEW sterilization program. The statement attributed to me in the article, that the firm's public interest law program has shrunk to "practically none", is incorrect.

A word about the canons of ethics. That extremely flawed document is now being subjected to long-overdue critical scrutiny — on policy and Constitutional grounds. Regrettably, the canons provide very little guidance for the difficult ethical problems which arise for public interest lawyers. I recommend that the canons be rewritten, not disregarded.

Charles R. Halpern
Washington, D.C.

Ed. Note: The RECORD wishes to emphasize that Mr. Halpern is merely qualifying comments accurately quoted by the RECORD reporter.

Purloined Boards and Free Speech

To the Editor:

Recently, the Women's Law Association, the Black Law Students' Association, and the National Lawyers' Guild joined forces in creating a coalition which proposed changes in Placement Office that would have had a disastrous effect on the Law School community. A group of us formed an *ad hoc* committee in opposition to this coalition's proposal, and circulated a petition against it which obtained nearly 100 signatures.

Last Friday, we met with the Visiting Committee's Subcommittee on Placement, along with representatives of the coalition. Four days earlier, its members had decided to pack the meeting, in flagrant violation of the limits on student participation which had been set by the Administration. On the day before the Committee's arrival, we learned that the Administration had lifted the limits in response to the coalition's pressure — far too late for us to get our own supporters to the meeting.

Not satisfied with this, the coalition and its supporters behaved with a studied discourtesy to those of us who attacked their proposal in front of the Committee. Later that same day, or

(Continued on Page 12)

— Letters —

(Continued from Page 11)

early the next morning, the Republican Club bulletin board was removed by person(s) unknown from Harkness Commons. Curiously enough, the three speakers who opposed the coalition's proposal at the meeting were all Republican Club members.

Now, we do not mean to imply that this outrage was committed by our opponents; we realize that every cause has adherents who cannot be restrained by even the most responsible leadership. It is our hope, however, that the coalition will dissociate itself from this act by officially condemning it. Silence on this matter would be a tacit endorsement of the illiberal view that freedom of speech is a right too precious to give to our adversaries.

Paul Strohl, Jr., 2L
Mark Pridgeon, 1L
Donald Mazzullo, 2L
Cambridge, Massachusetts

Board Bandits Irk Onlooker

To the Editor:

I am not a member of the Law School Republican Club, but I have particularly enjoyed reading the news and commentary they have made available to the Law School community on their bulletin board in the Hark. During the past few weeks, however, the bulletin board has been marred by vandalism, and in particular the news clippings themselves have been repeatedly ripped off the board.

It struck me, on hearing these things, that these acts are particularly noxious at such an institution as Harvard Law School, whose members are presumably committed to intelligent and informed discussion, and whose students aspire to a profession in which good moral character is a prerequisite. The cowardice and intellectual dishonesty involved in deciding what others should and should not read are singularly inappropriate traits in any Harvard Law School degree candidate — and such offenses more serious, I submit, than stealing notebooks from the Coop.

And so I was particularly dismayed that when a woman enrolled at Harvard Law School was last week caught in the act of ripping articles off the same bulletin board, the Law School administration expressed little concern. I was similarly dismayed when, this week — perhaps as a result of the lack of any stigma attaching to this activity — the entire bulletin board was ripped off the wall.

I do not know the woman who was caught ripping off the articles, nor the individuals responsible for the recurrent vandalism, nor the latest of them who tore down the bulletin board itself; nor do I care to know any of them. I suggest, however, that these members of the Law School community reflect seriously on the trenchant moral disease of which their hopefully thoughtless acts are symptomatic.

C. Christopher Cox, 2L
Cambridge, Massachusetts

Alumnus Holds Sides As He Reads "Ides"

To the Editor:

Your satirical issue of March 19th was brilliant and hilarious. I cannot recall any of the Lampoon parodies during my days at the College and Law School that were any funnier.

You are all to be felicitated.

L. Arnold Weissberger '30
New York, New York

Guinness Aspirant States His Claim

To the Editor:

I am sorry that I carelessly threw away my Law RECORD for the month of March including the statement of Mr. Whipple, a graduate of the Law School of the Class of 1902. Apparently, he is the earliest graduate of the Law School still practicing law, but those of my class, all three who still go to their offices, would seem to me to be able to claim to be the graduates of the oldest class still attending their respective offices.

Arthur Drinkwater seems to be going to his office and I go to my office every day. I think Murray Seasongood goes to his office every now and then. I do very little, if any, practicing, although I am able to do something, but my partners don't let me do anything that amounts to anything and I am telling you this for the record.

Walter S. Hilborn '03
Los Angeles, California

Reader Shells Carter Letter

To the Editor:

Ha! Ha! You people are tremendous! The Ides of March may be over, but they linger on, from week to week, in your "Letters to the Editor" column. The humor is unending and never fails to brighten my day. I particularly want to commend you on the recent letter about Jimmy Carter which you cleverly signed with a student's name. Why, if one wasn't on to your little tricks, one might have almost thought there was an uptight, intolerant, paranoid student at HLS! What tipped me off to you folks was that I've had a lot of experience where I come from with HLS students; enough to

know that they are invariably calm, rational, truly tolerant of differing opinions and lifestyles, and they never judge people according to some arbitrary sociological classification.

I must admit, though, you had me fooled for a minute. You really know what you're talking about when you ask: "Who says those who attend HLS lack a sense of humor?"

Daniel C. Bort '74
Address Not Supplied

SPORTS QUIZ

By Katz, Noto, & Zagrans

1. What was the last major league team to have its first black baseball player, and who was he?
2. Who holds the National League record for most home runs at home in one season?
3. Bobby Bonds currently holds a major league record for striking out 189 times in a season. Who held the record before Bonds, and who held it before that? (Hint: Both men were right-handed power hitters in the American League in the 1960's.)
4. The winner of the Cy Young award in 1964 was not one of the greatest hitters in baseball history. In fact, in 1965 he struck out 56 times in 75 at bats. Name him.
5. Who was the only man ever to pinch hit for Ted Williams?
6. When the Yankees dealt Roger Maris to the Cardinals, who did they get in return?
7. Of active major leaguers, who won the National League's Rookie-of-the-Year award the longest time ago? Who won the American League's the longest time ago?
8. In 1964, a Red Sox player hit thirty home runs in his second season in the friendly confines of Fenway, after totalling only 29 during an eight year stay in the National League. Who was he?

SPECIAL BONUS: What has three heads, no brains, asks a lot of questions it doesn't know the answers to, and returns in the fall?

Sports Answers

1. Boston Red Sox, Pumpsie Green.
 2. Ted Kluszewski, 34, 1954, Cincinnati.
 3. Dave Nicholson, 175, 1963; Harmon Killebrew, 142, 1962.
 4. Dean Chance.
 5. Carroll Hardy.
 6. Charlie Smith, a third-baseman.
 7. Player-manager Frank Robinson — 1956, N.L.; player-coach Tony Oliva — 1964, A.L.
 8. Felix Mantilla.
- BONUS:** No, there are four Contracts professors. The answer is the Sports Quiz. Have a nice summer.

Edelin, Nesson Await SJC Decision

(Continued from Page 1)

fetus during an abortion was improper.

Nesson, optimistic about the outcome of the appeal, describes Edelin's case as "very strongly and solidly presented." Nesson notes that exactly when the decision will be handed down is uncertain. The wait could be six months.

Oral arguments on the appeal were presented on April 5. Nesson and William P. Homans Jr., Edelin's trial counsel, jointly argued for Edelin. The appeal was heard over a year after Edelin was convicted by a Suffolk County Superior Court jury for manslaughter of the approximately 22-week-old fetus during a BCH abortion.

"The key argument on oral was that from the doctor's point of view, practicing as he was in good faith,

Cryptic Law

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

"... svd odqd texmwsaqd ik svd fqwuudd
et w takkebedms wbbdcswmbd [ik w fqwks].
... es oats mis hdwq wmj uiqft em-
febwssemx wm emsdms si qdkatd si vimiq
svd herr; wmf misvemx em svet cqineteim
et emsdmfdi si bvwmxd tabv fdbeteimt wt
Miqsim n. Gmwcc... virfemx svws svd,
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he believed, and believed reasonably, that he was aborting a pre-viable fetus and that *Roe v. Wade* gave him an absolute right to effectuate his patient's desire for abortion in those circumstances," explained Nesson.

Roe v. Wade, the 1973 Supreme Court case holding unconstitutional state statutes prohibiting early (first trimester) abortions, or unduly regulating later abortions (performed after the fetus is viable), has provided a background for the Edelin case. The operation at issue in *Edelin* occurred in October, 1973, before the Massachusetts legislature had replaced its prior abortion statute, invalid under *Roe* standards.

Edelin was prosecuted for common law manslaughter, thus forcing a focus on the issues of "viability" (left unclear by *Roe*), as well as whether such common law prosecution was valid under the Supreme Court's decision.

The prejudicial nature of the prosecution's presentation of a picture of the removed fetus, kept four months in a ten percent formalin solution, was also "stressed heavily in oral argument." According to Nesson, the justices themselves seemed to react noticeably to the picture; it was the one area of the case where the justices asked "rather pointed questions."

An appeal to the U.S. Supreme Court would be "the logical next step" should the SJC rule adversely to Edelin, though Nesson notes that

a habeas corpus action (to put the case in federal court) is possible.

Should the SJC remand the case for a new trial due to some particular error of the trial court (in contrast to a decision that the prosecution was itself illegal), problems with the "final judgment rule" may bar immediate further appeal, Nesson explained.

Nesson feels that the Commonwealth's miscitation to the Ames Moot Court record (regarding a hypothetical instruction of a trial judge in the Edelin-based moot case), confusing that record with the actual record in the case, was "incredible." But rather than seeing the mistake as an argument against using local controversial cases as Ames cases, Nesson feels the incident "if anything tremendously compliments the Ames process."

He suggests that writers of the prosecution's brief must have looked to students' Ames briefs for ideas and neglected to account for the differences in the trial records.

Three students — Benjamin B. Sendor, 3L, Jamie S. Gorelick '75 and Ladd B. Leavens '75 — assisted Nesson and Homans in initial efforts to prepare the appeal. David Rosenberg, past Legal Methods director and current lecturer on law, and his law partner Jeanne Baker, "worked with me solidly during the appeal," added Nesson. Edelin and his legal support team can do little now but wait while the SJC formulates its response.

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Grades People Play

The Committee on Legal Education will present three possible reforms of the Law School exam grading system at the faculty meeting May 12. The Committee's report will include a majority recommendation, a proposed amendment to it, and a minority recommendation.

The majority of the Committee proposes that professors be required to record grades assigned to exams before they adjust the grades of any students. The adjusted grade would appear on Law School transcripts; the student would receive both the original and adjusted grades.

Members of the Committee divided evenly on an amendment to this recommendation. The amendment would prohibit lowering exam

grades in courses which did not have graded written exercises other than the exam.

Current faculty policy is not to lower grades, a recent survey by the Committee showed. Members of the Committee who backed the amendment argued that students would be reassured if the faculty announced a policy that students cannot be penalized for in-class statements.

The minority report advocates anonymous grading, the exam being the only determinant of the course mark.

The Law School Council plans to present the faculty with a counter-proposal to the Committee positions, according to President Melton S. Hollis, 2L.

Editing Workshop

The Law School will hold workshops in legal writing and editing next year in September for 2Ls and in February for 1Ls. Lawyers and editors of student law journals will teach groups of seven in the workshops. The program will be open to all first and second year students.

The Civil Rights Civil Liberties Law Review, Journal on Legislation and International Law Journal proposed the workshop program to the Law School. Editors of these journals, recommend the workshop for students planning to work on a journal, although workshop participation will not be a requirement for membership on a journal staff.

The director of the workshops is a lawyer who heads the College's expository writing program. Participation will involve three or four night sessions and preparation time.

Faculty Finds 2d and 3d Years 'Disaster'; Horwitz Calls Sensitivity 'Moral Imperative'

(Continued from Page 9)

"We haven't got the slightest idea what we're doing in the second and third years," he said.

"Legal education must be reconsidered from top to bottom," Horwitz said, adding that we must ask what its relation to the world should be. "It is no longer, I believe, possible for us to simply rely on its neutral skill-teaching, weapon-producing character. That will no longer do it. You all know better," he told the audience.

Among the "obvious" changes he recommended were

the abolition of the LAW REVIEW, pass-fail grading in the first year, and smaller classes.

One questioner asked the faculty panel about the fact that of all the ratings taken in the recent faculty evaluation survey, those for sensitivity were consistently lowest. Miller and Kennedy agreed that it was impossible to be sensitive in a large class. Miller added, however, that "many of us do reach out at a variety of points to individuals in ways that the student body would never know and should never know."

Horwitz felt that it was possible for a teacher to be sensitive to a class of 140. "I believe that it is a moral imperative for professors at the Harvard Law School to act humanely toward their students."

When Miller pressed Horwitz on whether the faculty does act humanely toward the students, Horwitz responded, "I would never pass judgment on my colleagues. . . . I will speak only of the teachers who taught me. . . . I believe that some of the teachers who taught me were dirty bastards."

AHCOLE plans to hold similar panel discussions next year. Although AHCOLE is now suspending operations for exams and for the summer, it is looking forward to working in the fall to develop additional ways of presenting important issues to the law school community. All interested students should watch the RECORD and the Adviser next September for information about meetings and programs.



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Solution to "Cryptic Law"

... the mere signature of the drawee is a sufficient acceptance [of a draft]. . . . It must not bear any words indicating an intent to refuse to honor the bill; and nothing in this provision is intended to change such decisions as Norton v. Knapp . . . holding that the drawee's signature accompanied by the words "Kiss my foot" is not an acceptance." Uniform Commercial Code § 3-410, Comment 4. It is indeed fortunate that the court so held; a decision that the command created a binding contract might have had disastrous ramifications (greatly rewarding to the imaginative) in the field of commercial law.

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Alumni Feathers Ruffled By HLS 'Young Turks'

(Continued from Page 8)

class before placing him before a room full of students. Miller observed that the "sink or swim" policy, where students are "guinea pigs" to an experiment, produces substantial effects where an unsuccessful teacher holds a five-year contract. "I think it would be a terribly scary experience to have a person who has never taught before get up in front of 140 students and develop a teaching style . . . I myself was a teacher once — I know how badly it can be done," he said.

Mark L. Perlis, 2L, of the Committee on Legal Education, hammered away at the theme that a wide gulf yawns between faculty and students. His voice quavered as he declared that students and faculty are hardly part of the same institution. "What struck me here is that no students know any faculty members — unlike college and unlike graduate schools . . . Not only do students not get to know faculty members during their first year, but by the second year, they don't want to get to know them."

Money was an issue that triggered on outpouring of student dissent. From nearly every group which had assembled, students made known their dissatisfaction with the structure of tuition charges and the financial aid program. One student contended that holding tuition at a level \$1000

below most other law schools yielded a subsidy to those who could afford to pay more.

Ted C. Radosovich, 1L, also complained about the financial aid program's long-run effects. "You leave this place with so many thousands of dollars in loans to pay back that you almost end up being forced into a corporate job," he said.

The myriad reform proposals advanced by students failed to win the acclaim of at least part of the Visiting Subcommittee. Robert H. Mnooken '68, a Professor of Law at Berkeley, labelled the afternoon's events "a grand shuck" and remarked that the students had approached the wrong forum.

Frank Weil '56 responded to the desire to revise the financial aid structure to make student contributions a fixed percentage of long-term income as a "populist point." Confessing that he might sound like "an antediluvian hard-hat," Weil reduced the argument to the question of "what society owes brilliant young people like yourselves in terms of legal education and then the freedom to pick whatever job you want."

John Buchanan, '12, former president of the Harvard Law Alumni Association, spelled out his conviction that undertaking the sorts of extensive programs which had been recommended would interfere with the "job" of the Harvard Law School. Buchanan announced that the Law School's role should be "to do as much as it can to produce many more law teachers."

He concluded by referring to the Law School's limitations. "I am sorry for those who came into life without the fullest capacities, but I think we should just leave it to the educated people to do their best for the nation . . . Harvard Law School cannot be the fount for reforming law."

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