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TWENTY CENTS

Ginsburg, Grasso, Bellamy To Celebrate HLS Women

by J. Ezra Merkin

A seminar on women as a political force will bring together such politically powerful women as Connecticut Governor Ella Grasso and New York City Council President Carole Bellamy when women at Harvard celebrate their 25th anniversary next month.

Ruth Bader Ginsburg, professor at Columbia Law School and general counsel to the American Civil Liberties Union, will deliver the keynote speech on Saturday, April 15, as Harvard women and alumnae celebrate a generation of women at the Law school.

The week-long program, called *Celebration 25*, will convene on April 10 to mark the anniversary and to measure the impact of women on the law and the impact of the law on women. Featuring panel discussions, colloquia, and speeches, the celebration also includes a picnic, volleyball game, bicycle rides, and a bake sale.

Sheila Kuehl, 3L, who identifies herself as the "chair" of *Celebration 25*, explains that "we plan to get together to see how we perceive our profession and to look at ourselves in our profession. Nationally, over one-quarter of all law students are women, and we think that statistic should have some impact on the profession. We are not quite sure exactly what that impact is and how it manifests itself, and we hope to clarify a lot of individual theory and thought over the course of the week."

The panel discussions examining these problems will meet, in the main, over the weekend of April 14 to 16. One seminar examining women as a political force, featuring Grasso and Bellamy, will discuss the election process. Other panels will offer suggestions on "Life After Wall Street," and some theorizing "Towards a Feminist Jurisprudence." The latest and most controversial issues in the law which have an impact on the role of women in society will be aired in a panel on current developments, to be moderated by Herma Kay, professor of law at Boalt Hall, (UC - Berkeley).

More Egalitarian

Kuehl is not at all sure what these discussions will produce, al-
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Sheila Kuehl, *Celebration 25* "chair."

House Votes Diversity Cut: Profs Critical

By Bill Ross

The House of Representatives acted rashly last week in voting to abolish diversity jurisdiction, according to civil procedure professors here.

"I think the House was precipitous," said Prof. Arthur Miller. "There are other steps short of it to test the waters. If abolition is to come, it should come in stages," starting with elimination of the ability of in-state plaintiffs to move their cases to federal courts.

"I oppose the drastic nature of the House bill," said C. Clyde Ferguson. "I favor a step-by-step approach, starting with the in-state plaintiffs. This would allow for experimentation and gradual evaluation of how it works out."

The bill, approved in a 266 to 133 vote, would abolish Section 1332 (a) (1) of the United States Code, giving district courts original jurisdiction of all civil actions where the matter in controversy exceeds the sum of \$10,000. Diversity jurisdiction is retained by federal courts for cases between citizens of a state and citizens of foreign nations or citizens of a state and a state or nation itself.

Senate Version Narrower

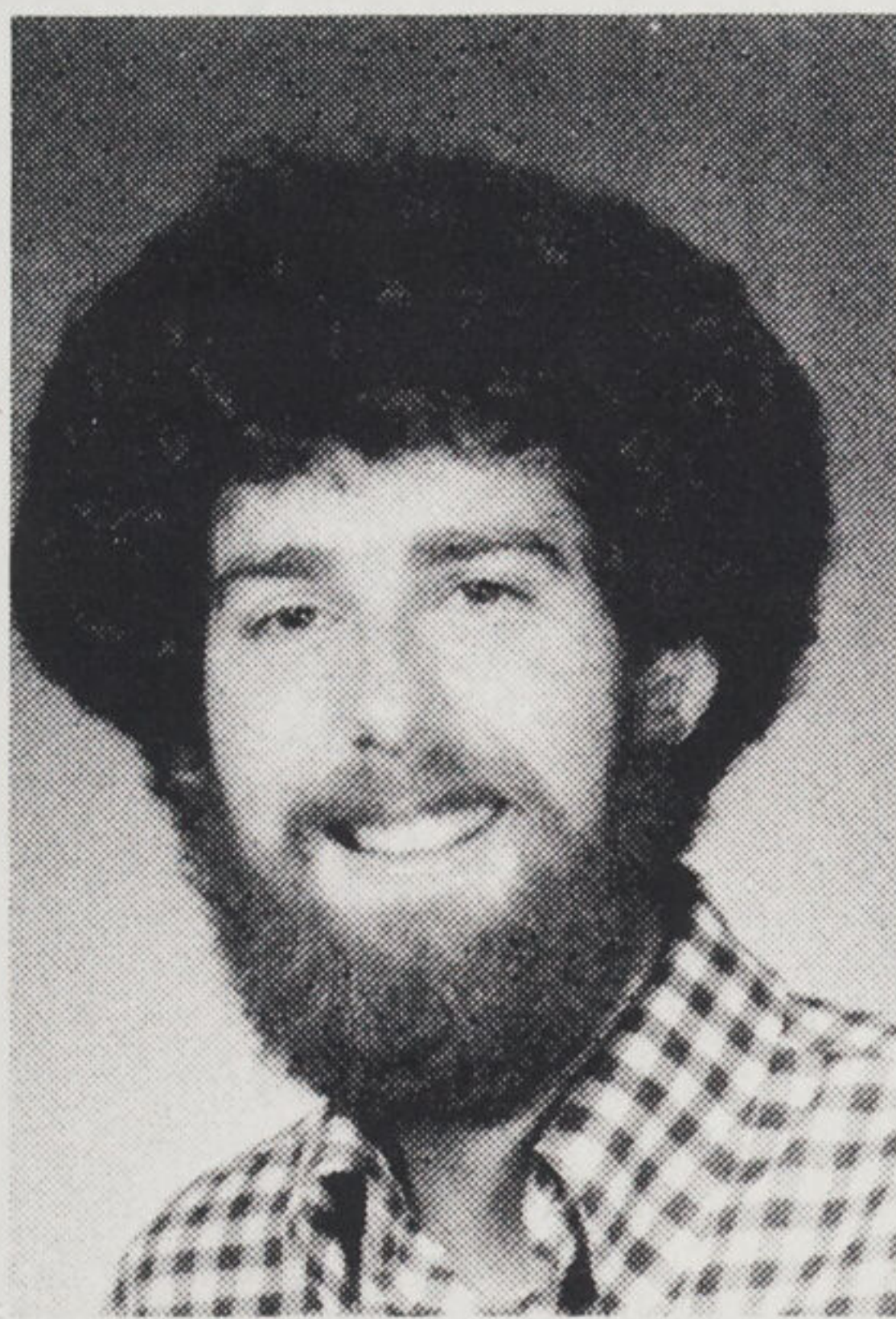
A Senate version of the bill abolishes diversity jurisdiction only to the extent that a plaintiff may not move his case from his
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Nader Group Urges Lawyer Tithing

By Pat Hanifin

A group of HLS students are organizing a Harvard branch of the Equal Justice Foundation, a new public interest legal organization to be funded by members who pledge a percentage of their income. The organization, promoted by Ralph Nader, will aim at reforming "law and lawyers so as to facilitate citizen access to governmental forums," according to a statement from Nader and other organizers.

Organizing efforts at HLS are being headed by Howard Learner, 2L. "Currently about 15 people are working hard to get the local chapter started," Learner said. "We will be sending out a letter to all 3L's inviting them to join. Next week



Howard A. Learner

According to Nader, "Although the tithers will determine the policy, this new engine for justice will have an office in Washington . . ."

we will be having an organizational meeting open to everyone who is interested."

Supported by Tithing

The plan for tithing — contributing a proportion of postgraduate income to the Foundation — is aimed at meeting one of the chronic problems of public interest law — a lack of money. Members will join by pledging at least one percent of their annual gross employment income for at least one year. Pledges will be tax-deductible and will be

moral rather than legal commitments. The organizers are hoping to find matching grant money from foundations to supplement the tithing income.

The tithing members will elect a board of directors, some chosen at large and some by local chapters. Members will also set the Foundation's goals via referenda and surveys. According to Nader, "Although the tithers will determine the policy of the Equal Justice Foundation, the consensus so far indicates that this new engine for justice will have an office in Washington where critical reform legislation and litigation will be advocated." The local chapters will be linked to the national office to help coordinate national efforts.

Local chapters will also work on local goals. "These chapters for example, could lobby national and state legislators on class action reform; fund fellowships or internships for local attorneys or students

in the general area of access reform; launch a court-monitoring project; study the performance of a local or state consumer agency; or file lawsuits against or issue reports on monopolistic behavior by the bar," the Nader group statement suggests. Some tithing funds will go to the local chapters.

National Aims

On the national level, the organizers suggest that the Foundation will work for easier access to the courts by consumer and public interest groups. Other targets could be merit selection of judges and U.S. attorneys, and bar association reform such as fighting al-

Nader hopes students and lawyers fresh out of law school will shake up a legal profession he views as excessively traditional . . .

leged price-fixing, advertising bans and restrictions on legal service plans. Progress on substantive issues, the group feels, is closely linked to improving public interest influence on government. To these ends, the Foundation will engage in litigation, lobbying, drafting statutes, researching and writing reports, and monitoring agencies.

Nader and the other national organizers attack the Burger Court for blocking access to the courts, accusing it of provoking a "crisis in the American justice system" and being "as insensitive to citizen's rights as any Court since the 1930's." Specifically, they criticize decisions eliminating many federal consumer class actions, restricting standing, and blocking many fees for successful public interest attorneys.

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Review:

Law School Show: Stuck in the Stone

By Peter Borowitz

Any drama critic who attends a dress rehearsal — as I did last Tuesday night — has to be worried about violating the gun-jumping provision of the Securities Act of 1933. Section 5(c) expressly prohibits any downstream selling effort before the issuer has filed with respect to the public offering. Such technicalities, however, need not delay any further the rendering of this review. I for one have no intention of selling you the 1978 Law School Show.

It Takes a Fief, destined to become this season's biggest flop, proceeds upon the unlikely premise, as announced in its opening number, that "Cambridge is not so far from Camelot." In transporting Harvard Law School back to the days of the Table Round, author Frank Bowman, 2L, is asking us to exchange our twin visions of Camelot — of an ancient king and a modern president — for a grim reality where the only Lancelot is Liebman and, alternately, where the only Kennedy is Duncan.

Unperturbed by these incongruities, the intrepid Bowman constructs his tale around one Lance Lake, a dreamy 1L, whose sword of legal analysis is irretrievably stuck in the stone of the parol evidence rule. After falling asleep on Fuller and Eisenberg, Lance journeys from Dane Hall to the realm of King Albert the Sackson, who rules over a Round Table of professorial ancestors. There, Lance must occupy himself for two long Acts, which seemingly consume enough time to enable the audience to perfect a claim of adverse possession on the Pound Multipurpose Room. Nevertheless, before the final song title mercifully proclaims, "It's the End," he has somehow managed to win the throne of England only to abdicate — in a style somewhat less elegant than that of Edward VIII — in the interest of the BSA woman he loves.

While the plot may seem innocu-



The cast of the Law School show demonstrates a medieval property concept: the fee tail.

ous enough, the frequent predictability and occasional imbecility of its comedic content cause most of the heavy damage. Harvard Government Attorneys, Voluntary Defenders, Lincoln's Inn, and the Women's Law Association are all accorded their customary caricatures, which never even rise high enough to fall flat. Harkburger jokes crop up almost as regularly in this show as do Prof. Dershowitz's comments in *Newsweek*, and a one-liner about Rule 35, first unveiled by Prof. Friedenthal in last year's production, receives what might be termed a Restatement Second. In fact, the author's half-hearted search for new material within the medieval setting fails to locate anything more than a *Star Trek Star Wars* parody so gratuitous that even Mrs. Gregory would be hard-pressed to find an adequate business purpose therein.

Whatever imagination the author can summon he reserves for the traditional chore of ridiculing the faculty. True, Bowman connects when he explains what Hal Scott's students did with their multilith material, or why the crew-cut Archibald Cox could not prove damages when scalped by his Indian clients, or how the ghost of

Sally Neely — like that of *Swift v. Tyson* — walks again. But an exceptionally insensitive reference to Dean Sacks (which I hope will have been deleted by opening night) as well as the incomprehensible proliferation of puerile swipes at faculty sexuality outweighs whatever wit is displayed elsewhere.

Fortunately, the music and lyrics leave HLS theatergoers with something to show for their patience. Composers Barry Cohen, 3L, and Richard Ruben, 1L, along with lyricists Marcy Shaffer, 1L, and Amy Berman, 2L, are the best of the eight-person squad assigned to the score and are responsible for such winning numbers as "King," "I Want To Be a Knight," "It's the End," and "The Dwarf Song." The showstopper, if such may emerge from a show that never really starts, is an improbable torch song entitled "Even a Nerd (Has Feelings)" and delivered by Elyse Evers (Lady Ellen), who boasts one of the most stylish voices I've ever heard in a Law School show.

Director Craig Fogg must be held strictly liable for failing to exploit the potential, however limited, of this production. He has declined to instill his cast with the sense of

(Continued on Page 7)

Living in the Law School Camelot

By Ken Gormley

Like many 1L's, Lance Lake sits like a zombie in his dorm room, hurling verbal abuse at whatever medieval barons were responsible for creating fee tail specials, contingent remainders, and the whole damned subject of Property.

If only he could rip up that wretched red book, Lance daydreams, and use it as padding for a suit of armor. If only he could burn next year's Financial Aid Application and become a knight in the days of yore, when men fought for damsels in distress, instead of for grades.

In one quick, brilliant flash, Merlin the Magician appears, and leads Lance back through time. Back to Camelot, where the balding King Albert of Saxony is searching for an heir to his throne.

And so this year's Law School Show, "It Takes a Fief," unfolds. A drama — familiar to many Harvard Law students — of the struggle to become King (at least). And the moral dilemma of choosing between power and glory, on one hand, and a warm bed-mate and goblet of mead, in the other.

"The script is packed with a lot of one-liners and other low forms of humor," explained Frank Bowman, 2L, the principal author of the play. "The type of stuff only people with a law school mentality can really appreciate."

Bowman, with the help of three other law students, spent over eight months creating the show, which will run through Sunday night this weekend, and Wednesday through Saturday next week.

Showing His Stuff

The cast, unlike other years, is made up almost exclusively of law students, who don't get so much as a copper shilling for their months of preparation. "But it's worth it anyway," insisted Steve Hirsch, 1L, who is making his bid for stardom as a leotarded-squire. "This is the best excuse not to study I've found all year. Besides, it's not

everyday you get to show off your legs in front of your classmates."

And it's not just the actors who are working without any vested interests in fees. Both Bruce Ryder (the producer, a 2L), and Craig Fogg (an ex-carpenter turned director), took on their jobs gratis.

With all the cast and directors working for less than peanuts, one might exclaim it takes a real fief to charge \$2.50 for tickets (\$3.00 on weekends), without even allowing a discount to law students with moth-eaten holes in their pockets.

There is no fievry involved. All the proceeds from the show are funneled back to the University, which foots the bill in advance for the somewhat extravagant props. But anyone with a real tight fist,

"Law school is like a failed Camelot."



Elyse Evers demonstrates the self-help doctrine to Ralph Thomas.

and a little sense of adventure is reminded that there's a small service elevator in Pound that stops (conditions permitting) somewhere in the theatre (if not on stage).

Local Talent

Keeping tempo with the adventures of Lance and company is a lively set of original tunes, guaranteed to set your feet a-tapping, even if they've fallen asleep halfway through the show. Among those songs destined to rival even Gladys Knight and the Pips: "I Wanna be King (Top Banana)," "Even a Nerd," and "BSA Baby."

The singers boast a wide range of talents, as well as a wide range of previous vocal experience. Bruce Teeter, who solos on "The HVD Song," has appeared on the Dean Martin Show, and more recently spent a great deal of time singing "Geronimo" in a stint as a U.S. Paratrooper. At least his voice has never cracked.

It's to be expected that, in every play, there are a few super-stars and a barrel of bumbling novices who are lucky to keep from tripping on the cracks in the floorboards. The latter are, in order of their guest appearances: Thursday, March 9th — Laurence Tribe; Friday, March 10th — Bernard Wolfman; Saturday, March 11th — Clyde Ferguson; Sunday, March 12th — Frank Michelman; Wednesday, March 15th — David Westfall; Thursday, March 16th — Lloyd Weinreb; Friday, March 17th — Albert Sacks; Saturday, March 18th — Arthur Miller; All eight nights — Mary Upton.

"I may be a little biased," admitted playwright Frank Bowman, "but I think the show will be one of the best ever. It kind of reflects my feelings about this place," he said. "Law School is like a failed Camelot. We all come here with a sort of excitement. But somehow everyone manages to lose this sense of adventure."

Everyone, that is, except Lance.



Lawyer Foundation: Peter Pledging to Pay Paul?

(Continued from Page 2)

The initial organization effort is aimed at law students around the nation. Nader hopes students and young lawyers fresh from law school will shake up a legal profession which he views as excessively traditional and committed to special interests.

Organizing efforts are beginning at over 25 law schools, Learner

After the Harvard group is set up, Learner hopes to see it develop close links with other chapters.

said. For law students the financial contribution will be minimal but he hopes to see students devote some of their time to the Foundation's efforts. Law students will be represented on the national board.

The initial student recruitment drive is aimed primarily at 3L's ac-

Cryptic Law

The following excerpt from that perennial favorite, the UCC, is in "judicial code." This feature's readers may not find this week's selection cryptic, let alone humorous, but they must bear in mind that just about anything seems funny to the Cryptic Lawyer taking commercial transactions at 9:00 a.m. Decode it. (hint: Each letter stands for a different letter of the alphabet.)

"Ykr yr dy pg yjr frgrmdr jrtr dysyrf od
yjsy pg revidsnar ohmptsmvr pg yjr vpmymr-
myd pg yjr etoyomh dohmrf. Yjr qsty yzidy
. . . sadpjsbrjsfmptrsdpmnsnarpqptyimoyu
yp pnysom lmpearfhr. Om fryrtzomomh ej sy
od s trsdpmnsnar pqptyimoyu saa trarbsmy
gsvyptd str yp nr yslrm omyp svvpimy, om-
vaifomh yjr shr smf drc pg yjr qsty, jod
omyraaohrmvr, rfivsyopm smf nidomrdd
rcqrtormvr . . ."

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cording to Learner since they will soon become practicing attorneys. First- and second-year students are welcome, Learner noted.

Meeting Wednesday

The Harvard group will be holding an introductory meeting next Wednesday, March 15, at 1 p.m. in the Mallory Smith room of Harkness Commons. "Everyone who is interested is welcome," Learner said.

Once the school chapter is organized, the members will select local objectives. "We expect that efforts will be directed at basic access area," Learner said. After the Harvard group is set up, Learner hopes to see it develop close links with other chapters in other Boston area law schools, such as Boston University and Boston College.

Some schools have started the organizing process earlier than has Harvard. "The chapters seem to be

For law students the financial contribution will be minimal . . .

FRUSTRATED JOURNALISTS

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starting up well", Learner noted, "and students are showing interest."

Learner became interested in the possibility of starting a national contributor-controlled legal reform group while he was working on the Nader organization's forthcoming book on Harvard Law School. "A group of about ten or fifteen students and Prof. Tribe met to discuss the proposal and I was sent as a

"A group of ten or fifteen students and Prof. Tribe met to discuss the proposal," Learner said.

representative to the national organizing meeting in Washington, D.C. last December," Learner said.

Although Nader and some of his workers have taken a lead in creating the Foundation, it will have no formal links to Nader's other groups and organizations.

Nader, in a public statement supporting the new Foundation, stressed the importance of the student role in the effort: "As part of the more idealistic dimension of the legal profession, law students are initiating the Equal Justice Foundation drive, just as their predecessors marshalled energies a few years ago in to help the civil rights and anti-war movements. With one major difference — the EJF will have continuity and full time staff situated around the country to enlist broader student and lawyer participation in its activities."



Law Notes

The Felix Frankfurter exhibit in Langdell Library has been extended through Wednesday, March 15.

* * *

Professors Ferguson, Fried and Shapiro are currently accepting applications from students interested in teaching first-year Legal Methods sections next autumn.

Are Diversity Cases on the Way Out?

(Continued from Page 1)

home state to federal court when there is diversity of citizenship. It received support from Miller and Ferguson.

The Carter Administration has supported the Senate version of the legislation but a source close to the Judiciary Committee has informed the RECORD that Atty. Gen. Griffin Bell notified Rep. Robert Kastenmeier, (D.-Wisc.), chairman of the

"... many attorneys still believe that there is regional prejudice."

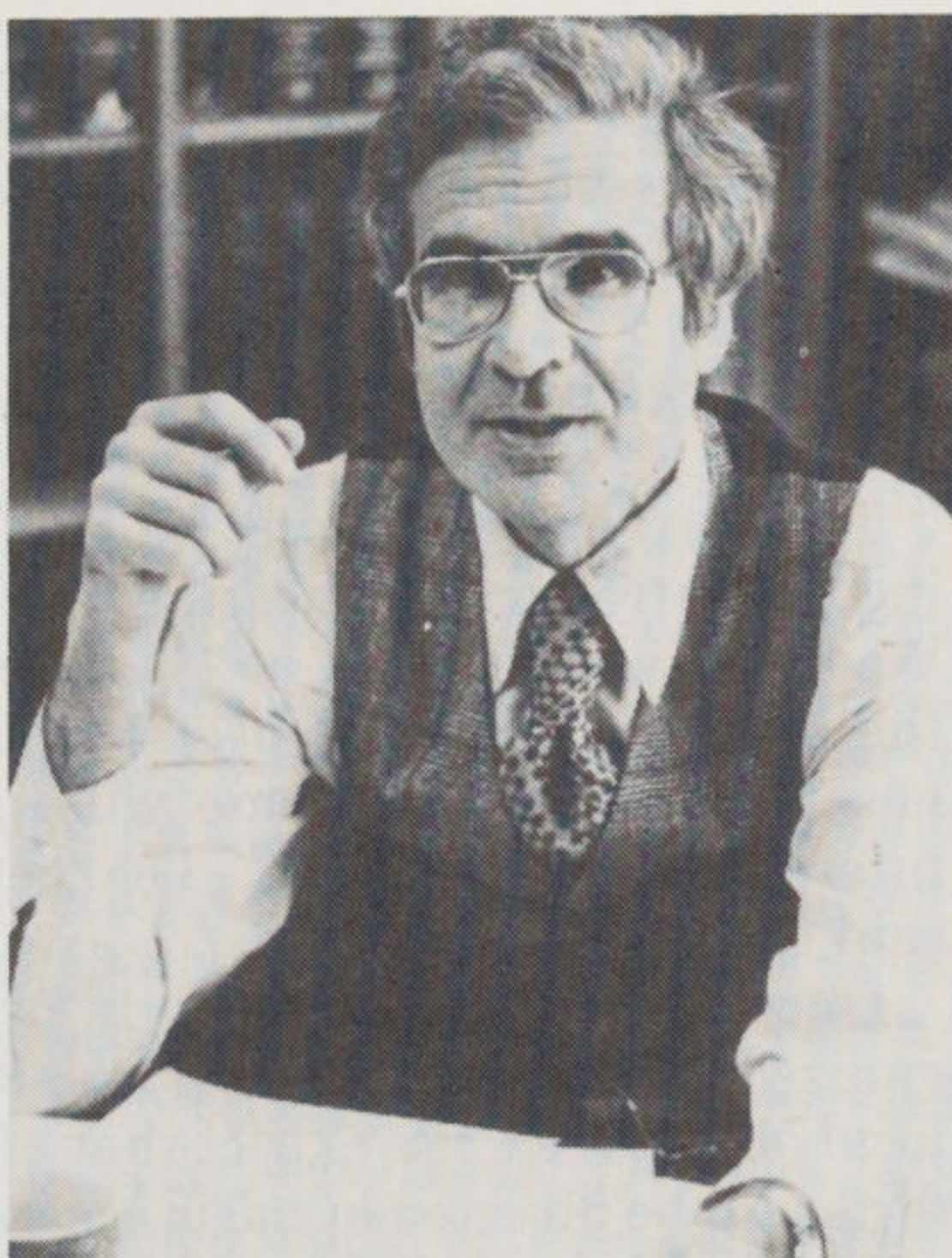
Subcommittee on Courts, Civil Liberties and Administration of Justice, that the Administration has no objection to the House version. The source said that it is likely that the Senate will pass its own bill and then make concessions to the House version when the bills go the Conference Committee.

House members who voted for the bill noted in debate that the legislation would reduce congestion in the federal courts by keeping diversity cases in the state courts.

"As a consequence of this reform, the federal system will turn back nearly 30,000 cases to the state courts," Rep. Peter Rodino (D.-N.J.), chairman of the Judiciary committee, told the House. "This will have a substantial impact on saving the federal courts from insidious court congestion and will allow them to do what they do best — resolving disputes in traditional subject matter areas and protecting basic civil and constitutional rights. The state courts are capable of providing a fair and impartial forum in these cases."

No More Judges

Kastenmeier noted that "the number of diversity cases filed in district courts and the number of appeals in such cases continue to increase each year. In short, the inexorably expanding workload of



Prof. Arthur R. Miller

the federal courts and the resultant congestion and delay make it clear that some reduction in intake is imperative. Abolition of diversity also represents an alternative to constantly adding judges to the federal system."

The only major opposition during the debate to the bill was expressed by Rep. Elizabeth Holtzman (D.-N.Y.), '65, who expressed her "grave doubts" about the bill. "This jurisdiction, part of the legal tradition of the country since 1789, was premised on the fact that citizens of one state were biased against those of another. No evidence has been put forward that suggests that this premise is no longer valid."

Shapiro Cited

Holtzman, one of only two committee members to oppose the bill when it was reported to the House, noted that Prof. David Shapiro's article in the December 1977 *Harvard Law Review* suggested that there may still be a possibility of prejudice to out-of-state litigants in state courts.

Shapiro's article advocated giving each federal district the option of deciding whether or not to allow diversity jurisdiction.

In reply, Rep. Robert Drinan (D-Mass.), said that although Shapiro's "very thoughtful" article was "given the fullest consideration by

the subcommittee," it could not find any evidence of bias. "We looked everywhere for evidence of such bias," Drinan said. "We consulted the civil rights groups and the attorneys groups." He noted that Shapiro's article "does not say that any prejudice actually exists."

But according to Miller, "many attorneys still believe that there is regional prejudice," and hence many oppose the House bill. He

Holtzman urged that the House give the matter fuller consideration.

noted that since in-state plaintiffs cannot reasonably complain of prejudice, the bar is more inclined to support legislation similar to the Senate's.

Ferguson and Miller noted that there are many lawyers who also oppose the abolition of diversity jurisdiction because they believe that federal judges usually are more competent than their state counterparts.

"It is very difficult to demonstrate the quality of the judiciary in different courts," Ferguson said. "But all lawyers know of certain states where they would rather

(Continued on Page 13)

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A Sleepy Night in King Albert's Fief

(Continued from Page 3)

spacing and exuberance it needs to interact effectively. As it is, the performers wander tentatively across the stage and look about as demoralized as a bunch of 3L's who have just learned of their grade in Commercial Transactions. And, when the actors must confront the clumsily designed choreography, they exhibit the desperation of novices badly in need of the Free University's Ballroom Dancing class.

Which brings us to the saddest part of the story. The HLS cast enters the fray with a surprising abundance of talent, but the script and direction conspire to spell the ultimate futility of the exercise. Erik Kitchen, 2L (Lance), Patty Johnston, 2L (Morgan), Bruce Ryder, 2L, Marcia Rimai, 1L, and Ann Byrne join Evers in providing collectively the strongest vocal performance of the last six years. When the considerable acting skills of Bowman (Prosser), Murray Fogler, 3L (Merlin), Ralph Thomas, 3L (Dersh), Roger Kotecki, 3L (Friar Tuck), and Mary Upton (last, but not least, as herself) are added to the balance, the end-result analysis becomes even more depressing. Nor should we forget the hapless plight of Hayden Trubitt, 2L, who has no more than a bit part, but who deserves praise for recognizing his rightful place in the grand scheme of things.

In the program notes, the Harvard Law School Drama Society confidently testifies that *It Takes a Fief* will continue the "tradition of providing entertainment for the Law School community." If I may interpose a limiting instruction, the jury of HLS theatergoers should accept this statement as evidence proving good faith intent but not the truth of the matter asserted.



Scenes from the Law School Show



Ginsburg to Keynote Celebration 25

(Continued from Page 1)

though she has some ideas of her own. "If we gather to examine our proclivities, perhaps we can identify certain resulting changes in the profession. There are now about 400 women in HLS, almost all of whom go to offices where there are not more than one or two women. As that number begins to grow to three or four, certain changes take place. The firms become more egalitarian, more considerate of the general equities of the cases they handle, not just with the usual attitude of 'how are we going to kill them?' They examine their cases from a broader perspective, with greater concern for the effect on all the litigants and for the larger impact of the case. We begin to affect the firms, to change the way they organize and examine their cases."

On a more prosaic level, Kuehl foresees other changes. "I think firms may become involved in child care, in half-days of work, in more

"I think firms may become involved in child care, in half-days of work, and other ways of adjusting work habits," said Kuehl.

varied assignments, and in other ways of adjusting work habits. The relation of lawyers to clerical staff, the methods of how clients are picked, of how the firm is structured internally, may all change."

Celebration 25 is also concerned with the emergence of a new feminist jurisprudence. Perhaps its principal attempt to identify such a trend is publication of the first issue of the *Harvard Women's Law Journal*, which will be available for the first time at the celebration. The journal will feature such articles as "Fathers' Rights and Feminism: The Maternal Presumption Revisited," which will try to show feminist influences and

changes in one area of law. Rena K. Uviller, the author of the article and a Columbia Law graduate says, "the more women enter the legal profession, the more rational the profession becomes." Other articles include "Women on the Football Team? The ERA and Athletics," by Susan Jewett, '77, a Washington, D.C. lawyer and a Harvard Medical School-trained biochemist. Rosabeth Moss Kanter, a Yale University sociologist, has contributed "Reflections on Women and the Legal Profession." "Things have changed," she says, "but not fast enough and not enough. It is still hard to crack at the top but it changes at the entry level. There are more and more doors open to women."

Ladies Day

Celebration 25 sent out a questionnaire to each alumna of HLS, requesting her to describe her experiences as a female law student. Responses will be published in a book and distributed at the celebration. "There have been some extraordinary women in these years," says Kuehl, "and some have extraordinary tales to tell. During the first years, women were sometimes all put into one section only and not divided among the sections. Ladies Day persisted for years, on which occasion all the women were seated in the front of the classroom and given exclusive right to answer questions. On all other days they couldn't respond at all."

The week's scheduled activities start on Monday, April 6, with a mini-marathon open to all purchasers of a *Celebration 25* T-shirt. A six-mile and a one-mile race will each be held. On Monday evening there will be a "Professional Women Lifestyle Panel," open to all, in which a lawyer, doctor, journalist and businesswoman will participate. A panel on women in prison will meet on Tuesday evening; and on Wednesday, a picnic and volleyball game will be held in front of Langdell Hall. A late-afternoon bicycle ride will take

place on Thursday, a bake sale will be held at the Friday TG, and (Friday evening) the opening panel discussion will get underway.

Planning for *Celebration 25* started in November, 1975, when it was known as the Projects Committee of the Women's Law Student Association. Kuehl has

"Ladies Day persisted for years on which occasion all the women were seated in the front of the classroom and given exclusive right to answer questions."

chaired the celebration from the outset. An alumna anonymously donated funds to cover expenses — and her firm matched her donation, perhaps confirming Kuehl's ideas about women changing their firms. "The *Journal*," says Kuehl, "was originally conceived as a one-shot volume, but then we thought why not think big?" The entire *Celebration 25* has thought big, in line with the theme articulated by its chair, Kuehl: "We've been tolerated for 25 years now we want to be celebrated."

Solution to "Cryptic Law"

"The test of the defense here stated is that of excusable ignorance of the contents of the writing signed. The party must . . . also have had no reasonable opportunity to obtain knowledge. In determining what is a reasonable opportunity all relevant factors are to be taken into account, including the age and sex of the party, his intelligence, education and business experience . . ." UNIFORM COMMERCIAL CODE § 3-305, Comment 7 (emphasis added). We can only hope that Hal Scott and his colleagues on the Article 3 - 4 - 8 revision committee see fit to revise this memorable comment.

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Taking the Cheap Way Out

A petition was posted in the dormitory office last week, expressing the view that Dorm Council members should not receive special room-draw preferences just because they pour drinks, show movies, and organize parties.

Because other students participate in worthwhile HLS extracurricular activities without receiving any comparable "subsidy," we believe it is discriminatory to allocate rooms on the basis of membership in *any* organization — including Dorm Council.

The Law School administration apparently has forced the Dorm Council into this position. HLS prefers to give something that costs nothing (room preferences) in exchange for Dorm Council services. The Law School would do well to devise an alternative reward or compensation for students who perform the intrinsically unrewarding activities of Dorm Council.

We feel that the Law School is taking the cheap way out. It would be much fairer to make dorm rooms available to everyone on a straight lottery basis and to pay Dorm Council members (or, in the alternative, work-study persons) fair compensation for the work they do.

Athletic commissioners are in a similar situation. They work hard, often performing thankless tasks, and they should receive some form of adequate compensation — but not the room preferences they currently get.

For resident assistants, obviously, it is necessary to guarantee *some* room on his or her assigned floor. But it isn't necessary that the RA get the best room. Again, the argument is raised that the RA's wouldn't do the work unless they received either an especially good room or adequate compensation. We think they should be paid however much their jobs are worth; but they too should have to take their chances in the lottery, with a guarantee only that they will get at least the *last* room on the particular dorm floor to which they are assigned as a resident assistant.

The room allocation plan for next year is already decided and it is too late to change it now because too many students have worked all year long with the expectation that they will be rewarded by a special preference for next year's housing. However, there is no reason why the system couldn't be changed in time for the following year, especially if students are given notice at the beginning of this next fall semester that the room preference system will be significantly modified.

Dormitory rooms at HLS are a very scarce commodity. But the current selection preference perquisite for Dorm Council members is discriminatory and needlessly increases this scarcity.



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Fenno

Looking around the *Conflict of Laws* class, Fenno beheld a scene rarely observed at the Law School: a room full of students whose full attention was riveted firmly on a single subject. Unfortunately for Professor von Mehren, that subject was Spring Vacation.

A woman seated in the back row drained another cup of coffee and looked around. She shook her head and left the room, with Fenno not far behind.

"I swear, Fenno," she said earnestly upon reaching the hallway, "if boredom ever becomes a question of justiciability, that class will disappear from the face of the earth."

"A matter of weeks, at most," Fenno agreed. "The real problem, though, is that the people who designed the Law School made one crucial mistake: all the seats face front."

"We could all go the Duncan Kennedy route and sit cross-legged on the tables," the woman suggested.

"Does that mean we would all have to comb our hair straight back and never change clothes as well?" Fenno asked.

"Perhaps. I don't know if that's been determined yet."

Fenno thought for a moment. "You're taking a legal history class from him, aren't you?"

"Perhaps. I don't know if that's been determined yet either," the woman said. "It should be billed in the catalogue as *History of Duncan Kennedy's Legal Thought*."

"Well, he couldn't very well simply be informative," Fenno responded. "He's worked long and hard to cultivate that 'brilliant but disorganized' image. No use risking it all now on a bunch of 2L's."

The woman took a step closer to Fenno. "When someone asks a question he gets this big loan shark smile on his face. Law professors aren't supposed to smile at questions, they're supposed to *evade* them."

"You must remember," said Fenno, "most theoreticians have discarded the vast majority of legal reasoning. How interested do you think they are in yours?"

"It is sort of a closed shop," the woman conceded. "It's always 'Morty says this,' or 'Morty says that.' Sometimes I think the class is being team taught."

"But at least it's more interesting than a course the professor has been inconsiderate enough to figure out before teaching. Here, you can feel free to organize the material any way you want. And if, at the end of the year, you happen to have organized it incorrectly, you have no one to blame but yourself." Fenno then put on his best loan shark smile and walked away in a cloud of cigar smoke.



Attila the Hun Visits the West Coast

Ed. Note: This letter, from a West Coast law firm to a Stanford Law student, was forwarded to the RECORD as the occidental entry in our Attila the Hun contest.

We have received your letter of September 26, 1977, asking for a position. Unfortunately, we have no positions available to law clerks or associates who are not locally oriented.

Our bar in the past few years has increased approximately 100%. We are not at this time encouraging anyone from out of state to join the unemployed lawyers irrespective of what school they attended.

Your statement that Stanford is in the two or three highest in the nation regarding entrance requirements came as a great shock to me, as well as the other lawyers in this office. None of us, after long years of practice on the opposite sides of various matters with Stanford graduates, were aware that Stanford lawyers were anointed with some special intelligence or ability. In fact, those Stanford lawyers (with a rare exception) that I have met in twenty years of practice were below average. Consequently Stanford is not, nor has it ever been, nor is it likely to be in the future, on the list of acceptable schools in this office.

The mere fact that the LSAT score of the law school is presently over 700 is likewise unconvincing since it does not demonstrate depth of ability, awareness, ingenuity, and just plain old-fashioned "guts", all of which make good lawyers. Had I ever had any second thoughts about interviewing Stanford students, your letter certainly convinced me of the correctness of my position.

Additionally, your resume does not measure up to our basic requirements for an interview in this firm. First of all, we do not interview students with political science backgrounds and, secondly, the face of your resume does not demonstrate any particular academic ability in law school.

Better luck elsewhere.

SPORTS QUIZ

1. With what baseball team did Jackie Robinson first break the color line?
2. What two college football teams have the oldest rivalry west of the Mississippi River?
3. In how many World Series did Yogi Berra participate for the New York Yankees?
4. In the 1968 Super Bowl, the New York Jets defeated the Baltimore Colts by a score of 16-7. What teams did the Jets and the Colts defeat in their respective league championships?
5. What was the last team Vince Lombardi coached for? How many years did he coach that team?

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Contributing Authors wanted to prepare chapter-length segments of treatise on tax deductions to be published by leading publisher.

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Bravo for Beavers

To the Editor:

As an avid reader of every issue of my boss' *Harvard Law Record*, I was dismayed to see the statement in your nature editorial about the celebration of Groundhog's Day (February 3rd edition) that "no other rodent has a day of its very own (with the debatable exception of the Easter Bunny)".

First, as a member of the order of lagomorphs, the Easter Bunny is hardly a contender.

Second, our own *Castor canadensis* has been honored by the Governor by the proclamation of March 2nd as Beaver Day in the Commonwealth. Surely the groundhog, a mere marmot of a rodent more closely related to squirrels and prairie dogs, cannot compare to the great American beaver.

(By the way, you do not say what day is "Law Day"; I would like the opportunity to give my boss the day off . . .)

Katherine Durham
Boston, Massachusetts

Ed. Note:

First, Webster's New International Dictionary (Second Edition) defines rabbit as "a rodent of the hare family . . ." Second, we apologize to the beavers of Massachusetts. By the way, Law Day is May 1.

Law Notes

Celebration 25 T-shirts are back by popular demand despite the storm. They are on sale weekdays from 12 to 2 p.m. in the Celebration 25 office in the basement of Hastings Hall near the north entrance.

* * *

Persons who wish to apply for a Mark DeWolfe Howe grant, either for the coming summer or for the academic year 1978-79, should pick up an application form from Professor Mansfield's secretary, Room 334, Langdell. Applications should be submitted to the same office no later than Friday, April 14.

The income from this fund, created in memory of the late Prof. Howe, is available to support: 1) Study and research, broadly construed, relating to civil rights or civil liberties in the United States by students, faculty, officers of administration or recent graduates of Harvard University and Radcliffe College. One of the purposes for which grants may be made is to enable students to travel or reside in different parts of the United States to increase their understanding of the problems of civil rights or civil liberties. 2) Study and research in Anglo-American Legal History.

The annual income from this fund is approximately \$4000. This income may be distributed in a single grant or in several grants. Grants will be used to support proposals that are in the spirit of Howe's commitment to the cause of political liberty, social justice and the highest standards of scholarship.

☪

HLS Drops Weekend Series to Dalhousie



By Terry Keeney

In a year when the Montreal Canadiens are dominating the National Hockey League, Canada is flexing its hockey muscle in the law school circuit too.

The Dalhousie Law School hockey team from Halifax, Nova Scotia, swept a weekend series against the Harvard Law School team 4-3 and 5-3. The Canadian team ran its record against HLS to 4-0 this year. Since the series started last year, the Harvard team, now 0-7-1, has failed to win the coveted Dean R. St. John MacDonald trophy, symbolic of excellence in law school hockey, whose namesake is Dalhousie Law's dean.

"We're not at all ashamed of our performance," said John Morrocco, team member who is research assistant for Librarian Morris L. Cohen. "We did outplay them in the first game."

In that first game last Friday Harvard entered the third period

with what seemed an insurmountable 3-1 lead. Dalhousie scored three goals and held HLS scoreless during the final period.

Morrocco said, "We made a reputable showing, but we haven't been able to get over the hump to win a game."

Lost Momentum

The first game loss stripped the Harvard team of some enthusiasm in facing Dalhousie the following night, said Morrocco. The Dalhousie "B" team, intent on showing up the "A" team that played on Friday, outskated HLS to a 5-3 score.

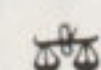
But regardless of the outcome, the 16 HLS team members who drove to Nova Scotia were treated to the Canadian hospitality that has made the trip a pleasant one for two years. The contingent was provided a reception and a brunch, in addition to accommodations, by the host team. Dalhousie enter-

tained its opponents one evening with a Casino Night of poker, blackjack and other gambling events.

To Be Continued

Although many of the organizers of this hockey series will graduate this year, Morrocco and his Dalhousie counterparts are anxious for the series to continue next year. "We've been in touch with the coordinator at Dalhousie and they want to continue with it," he said. If nothing else the continuation will provide the opportunity to avenge recent losses.

The HLS team will round out its very informal schedule with matches against Boston University Law School and the Harvard Business School.



House Votes to Eliminate Diversity

(Continued from Page 6)

face a federal judge rather than a state judge."

Miller remarked that many lawyers favor retention of diversity jurisdiction because federal evidence rules often may favor their clients more than do the state rules in many states.

Moreover, diversity jurisdiction "at least keeps federal judges in tune with state law," Miller said.

Burger's advocacy . . . may have been a critical factor in the House's speedy acceptance of the bill.

Miller also noted that the inherent conservatism of the legal profession inclines many lawyers to support retention of diversity jurisdiction.

Miller said that the House's action came "as a little bit of a surprise." He said that he would not have expected the House to pass it without more extensive consideration.

The bill was passed under a suspension of the rules which limits debate to 40 minutes but requires a two-thirds vote.

Holtzman, noting the importance of the measure, urged that the



Prof. C. Clyde Ferguson

House give the matter fuller consideration.

Burger's Stance Critical

Ferguson said that Chief Justice Warren Burger's advocacy of abolition of diversity jurisdiction may have been a critical factor in the House's speedy acceptance of the bill.

The House legislation also abolishes the requirement that litigants seeking relief in a federal court in a case involving a federal question have a cause of action

worth at least \$10,000.

Although the provision could potentially increase the number of cases in federal court, Miller said that it would have "virtually no effect at all."

"There were so many express waivers to the rule that the provision was almost a joke," Miller said. "The provision has had almost no effect for the past 50 years."

Diversity jurisdiction "at least keeps federal judges in tune with state law."

Both Miller and Ferguson expressed support for the abolition of the requirement, as did Holtzman.

"The only ones directly affected by it were those who had a case that directly involved a constitutional question," Ferguson said. "And they were the very ones who most deserved to go into federal court."

The legislation also raises the jurisdictional requirement for diversity between citizens and citizens of foreign nations and states and foreign nations to \$25,000.

The House bill received bipartisan support. Top leaders of both parties voted in favor of it.

Sources close to the Judiciary Committee said that Senate action is expected during the spring.



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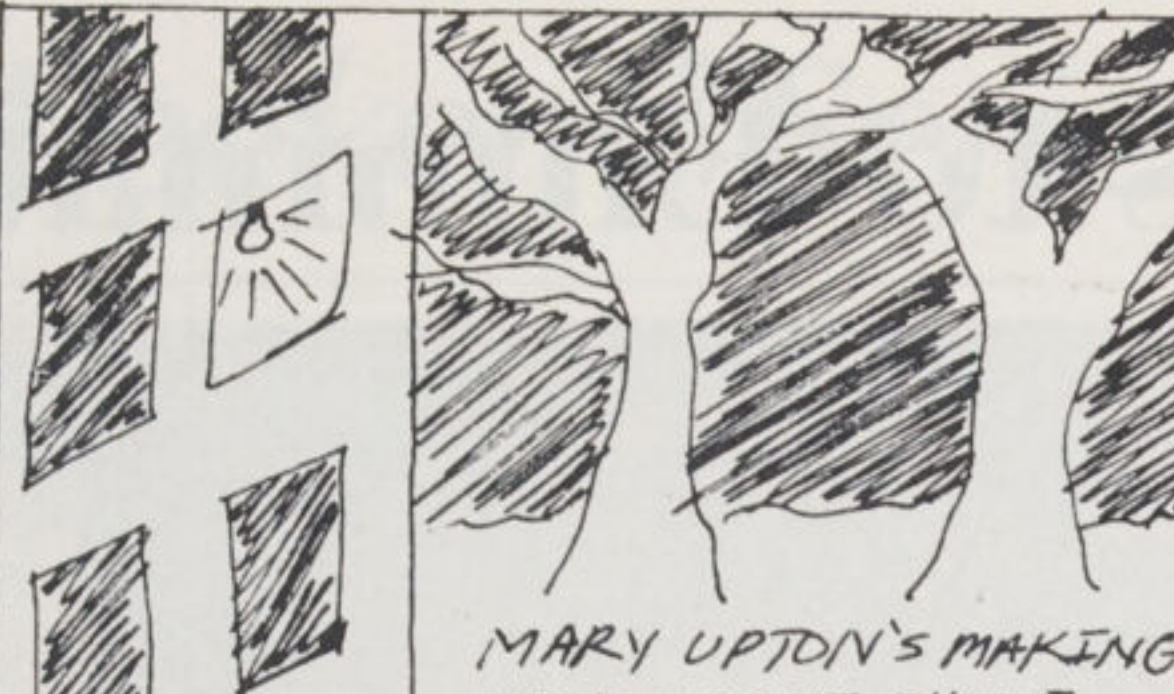
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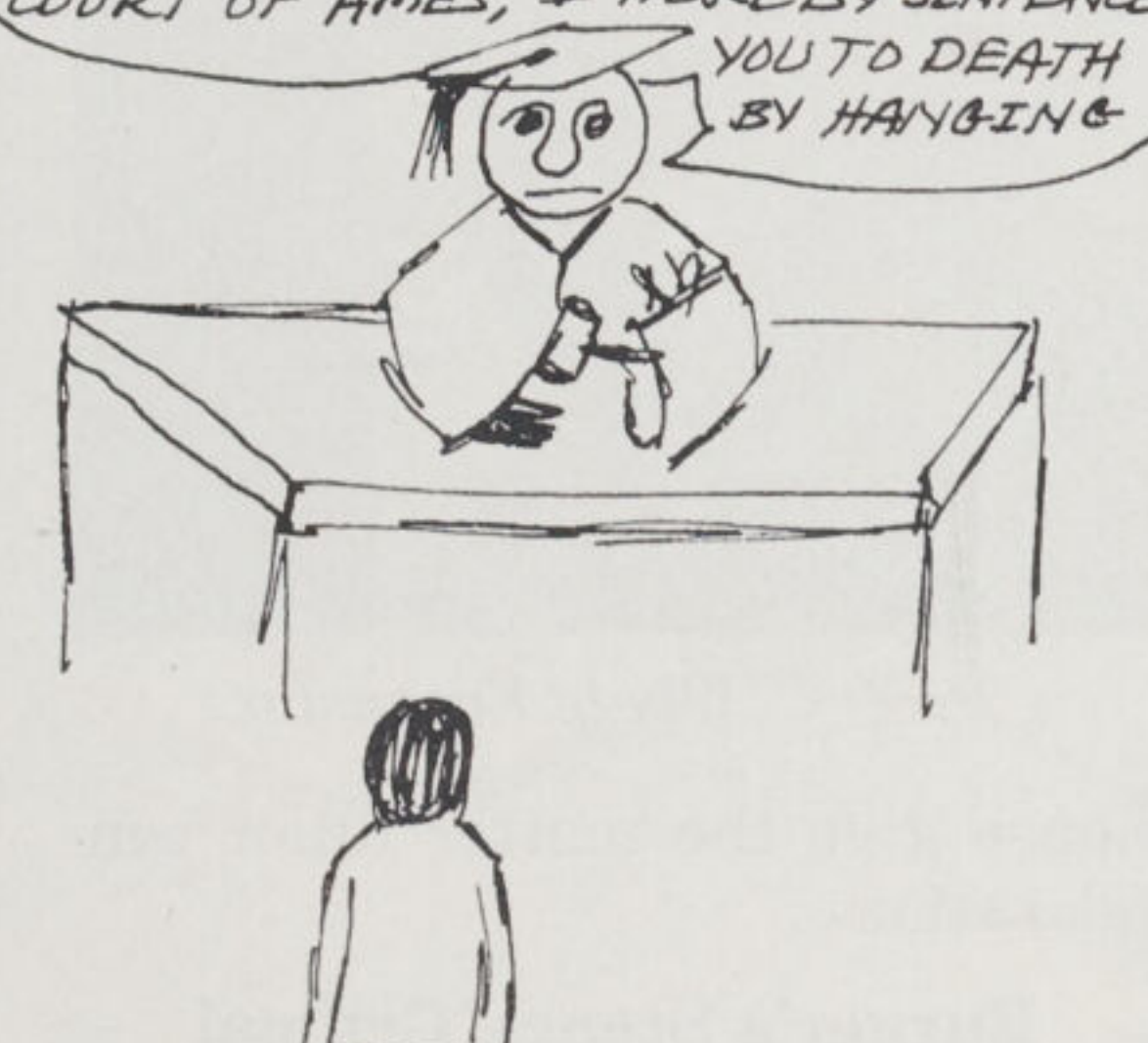
THAT'S STRANGE-SOMEONE REMOVED MY NAME FROM MY LANGDELL MAILBOX...

LADIES & GENTLEMEN OF THE JURY, HAVE YOU REACHED A VERDICT?

WE HAVE, YOUR HONOR, WE FIND THE DEFENDANT GUILTY OF ALL CHARGES



BY THE POWER INVESTED IN ME AS CHIEF JUSTICE OF THE SUPREME COURT OF AMES, I HEREBY SENTENCE YOU TO DEATH BY HANGING



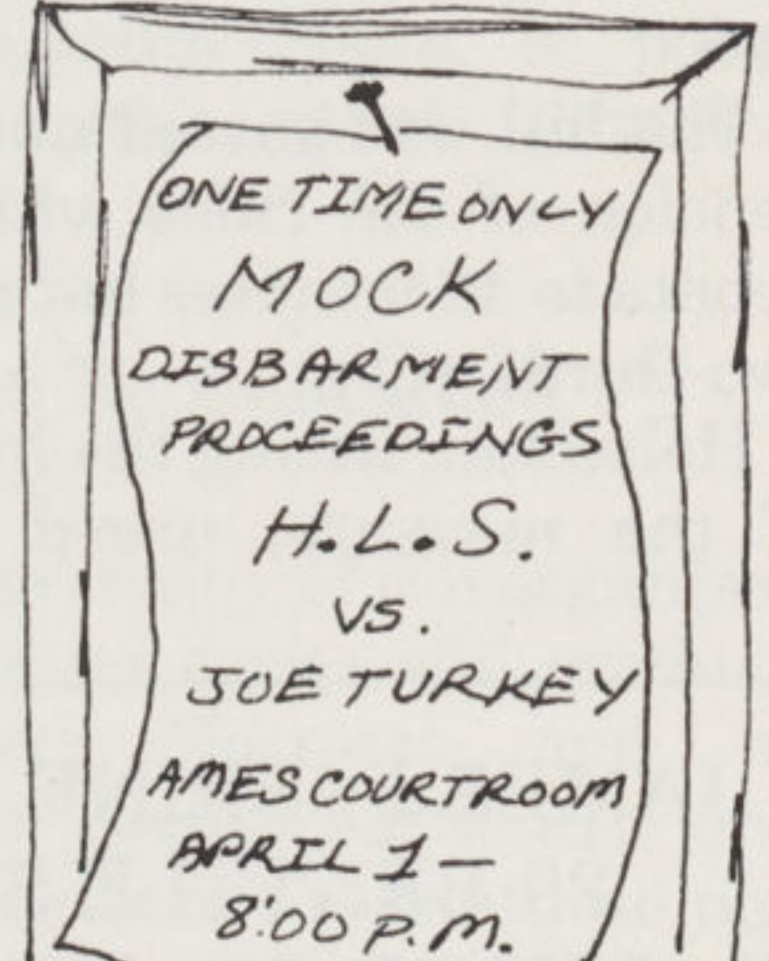
THAT GUY WAS INNOCENT, HOW DID YOU DO IT?



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Sports Answers

1. The Montreal Royals, a Dodger farm club — you didn't think it would be that easy, did you?
2. Cornell College of Mt. Vernon, Iowa, versus Sus Coe College of Cedar Rapids, Iowa.
3. 14
4. Baltimore beat the Cleveland Browns, while the Jets slid by the Oakland Raiders.
5. Lombardi coached the Washington Redskins for one year in 1969 compiling a 7-5-2 record.

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Notes from the Underground

—By Jay Darby

About three months ago, a friend approached me in Harkness Commons and, with an air of conspiratorial importance, asked me if I knew about the secret societies in the Law School. At first, I thought he was talking about the Lincoln's Inn Society, which is so widely ignored that it is practically a secret. However, he proceeded to regale me with an odd story about secret clubs, composed of law students and faculty members, which met surreptitiously for unspecified purposes.

The story seemed so inherently absurd that it struck me as just possibly true, for in my experience only the plausible stories invariably prove to be false. Since I was on campus anyway, I dropped by to see a faculty member that I trust — a select group indeed — and I asked him if he had ever heard a rumor about secret societies. "Of course," he replied sharply, as if I had asked him to confirm that the alphabet had 26 letters or some other widely known fact. There are at least two such clubs, Choate and Pow-wow. Both students and faculty participate, and they meet periodically to do God knows what all — probably decode secret legal opinions and the like.

This news was quite stunning, and it left me feeling just a little paranoid, like the victim of a well-conceived practical joke. Secret societies? Who? When? I walked around eyeing people for the rest of the afternoon. During a class, I picked out a person of slight acquaintance who struck me as Junior G-Man material and afterwards I engaged him in a conversation and casually asked him about Choate Club. His reaction was not artfully concealed, and indeed he reacted rather like I had proof of his unnatural preference for 12-year-olds. He professed no knowledge of any such club and then suddenly recalled a pressing engagement elsewhere.

This sequence of events was so crazy that it aroused my curiosity, and I began to investigate these clubs in earnest. Some of the information that follows was obtained from public records, specifically the *Harvard Crimson* and the HARVARD LAW RECORD, which revealed the existence of these clubs in 1968. Some of the "inside" information was obtained from a per-

In practice the club is heavily preppie, in part because member preppies tend to select their friends.

son who is or once was a member of Choate Club, and who agreed to talk with me after I promised not to use a name. Thus, in order to maintain confidentiality, I will refer to my source merely as Deep Choate.

Choate Club is an organization composed of approximately 40 students and perhaps a dozen faculty members. It designates itself a student organization, meaning that the club is officially run by students. New members are admitted on an "invitation only" basis, with invitations being given to candidates that survive a kind of "blackball" selection process. The selection process is conducted by the students. Faculty members are people who either belonged to Choate Club in student days or who were invited after they joined the faculty.

The club officially claims that it seeks to admit people with a strong interest in outside activities. In practice, the club is heavily preppie, in part because member preppies tend to select their friends and in part because more mature people generally decline the invitations. The club does, however, contain blacks and Jews. One of the

more amusing aspects of the membership criterion is the fact that only certain members of the faculty are invited. In 1968, a big deal was made of the fact that former Dean Griswold was not invited, because "the students did not regard [his] interests outside the law as an outstanding characteristic."

The club was founded in the 1880's, according to a former Choate Club chairman, and its secrecy was typical of societies in that era. The secrecy continued as a matter of inertia until 1968, when the club's existence was reported in the newspapers. At that time, the rules were amended slightly so that now a member can admit membership, although he cannot reveal the names of other members. Members are not allowed to put Choate Club in the yearbook as an activity, and the unstated premise is that one should not discuss the club with outsiders.

Choate Club meets about once per month during the school year. Meetings are held at the Signet House on Dunster Street, where for a \$10 membership fee plus \$8 per a member gets a cocktail hour, dinner, and the dubious honor of hearing a speaker, "most often from the world of letters." (This "world of letters" sounds like an alphabet game that was conceived on Sesame Street; but then the organization sounds like Sesame Street too.) The purpose of these meetings is to engage in scintillating conversations about areas of knowledge not covered in the curriculum of the law school. The club has one rule which I find admirable and which should be enforced around the Law School: members are forbidden to talk about law during dinners.

When the beans were spilled in 1968, the exposure of Choate Club led to a significant response from Choaties and other proponents of the secret societies. One of the

(Continued on Page 16)

Preppies Cluster in Secret Societies

(Continued from Page 15)

apologists was none other than Harvard's favorite blue-blood, Paul Bator. Prince Paul wrote a letter to the editor of the LAW RECORD, which emphasized the organization's interest in "arts and letters," and which concluded with the observation that other students were free to form clubs of their own.

To be fair, Bator's letter was written ten years ago, and may not represent his present opinion. However, in the course of dredging up the information stated above, I talked to a number of people who defended the existence of these secret clubs. One of the frequent pro-Choate arguments, incredibly enough, was that the club is not "secret." This argument was apparently premised on the notion that since the clubs were publicized ten years ago, they are now somehow "public." The only flaw in this admirable thesis is that it is patently absurd. I spoke with at least 30 non-members before writing this article, and not one of them had ever heard of Choate Club. This club has kept a low profile since 1968, and intervening time has erased the collective student memory.

The secrecy, though puerile and obnoxious, is at most a secondary issue, and should not obfuscate the more germane considerations. The real issue is whether there should be private clubs whose membership is comprised of students and faculty, and which exclude other students. Legally, these clubs have every right to do as they please.

But this is not an issue that should be reduced to cavil on legality. Rather, it comes within a far broader ethical question: should the faculty of a law school make themselves deliberately available to a privately organized and exclusive segment of the student body? I think the answer should be no.

Personally, the opportunity to socialize with faculty is one that I could easily pass up; I would just as soon spend an hour in a pool with sharks as eat lunch with a professor. But a lot of students would like a chance to hob-nob with faculty, and this group obviously includes

One of the frequent pro-Choate arguments, incredibly enough, was that the club is not "secret."

the members of Choate Club. (I can just imagine the scintillating conversations on "arts and letters" that go on at these meetings: judging from the people in Choate Club that I know, I think I would prefer dramatic readings from *Am. Jur.*)

These clubs are elitist, and that is a fact. They emit the offensive odor of favoritism and connections.

Faculty should have more dignity than to add prestige and legitimacy to such organizations. A faculty member is not an "ordinary" citizen when the relationship is to law students. I will not call the relationship "fiduciary," but that term brings to the surface some notion of the enormous influence that professors have upon students, and the concomitant responsibility to act fairly towards all students.

There is absolutely nothing wrong with faculty members wanting to associate with students according to their private preferences. It should, however, be according to private preference, and not determined by the selection process of an exclusive club. If faculty members want a chance to "meet students" then let me suggest that they try attending TG's once a month instead. The drinks are extremely cheap, and you can always listen to plenty of salacious gossip.

That has to be better than listening to preppies talk about "arts and letters."



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