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TWENTY CENTS

ERA at Issue in Ames Finals

By J. Ezra Merkin

Chief Justice Warren E. Burger will preside over the Ames Court Final Round Competition tonight, to decide a case questioning the interpretation of the equality of rights guaranteed by the proposed 27th Amendment to the Constitution of the United States, the Equal Rights Amendment.

Together with Judge Irving L. Goldberg of the Fifth Circuit Court of Appeals and Judge Vincent L. McKusick of the Supreme Judicial Court of Maine, the Chief Justice

A major question in the case will be the validity of a states decision of ERA passage.

will hear arguments in the case of *Jane Maloney v. Municipality of Lincoln, Lincoln Fire Department and Rescue Squad, and Kenneth Greer et al.*, a suit filed by a woman because of her persistent exclusion from firehouse jobs in the town of Lincoln, Tennessee.

Set in the future, the case assumes that Congress has resolved to extend the ratification period of the ERA for a period of three years.

The case further assumes that two states which had ratified the amendment rescinded their approval; that two weeks into the extension period two additional states ratified the amendment; and that a third state attempted to withdraw its pre-extension ratification five days after the original period elapsed.

Remedy and Reform

Against this background of national political activity, lawyers for the petitioner will ask the Court to shape some equitable remedy and reform the hiring practices of the town of Lincoln and of its Fire Department. The petitioner's lawyers — Patricia Brannan, Don S. DeAmicis, David L. Lillehaug, Robert S. Osborne, Robert P. Reznick, and Craig R. Spiegel, all 3Ls — will argue that the 27th Amendment was validly adopted, guaranteeing equality of rights regardless of sex. They will claim that Congress had the power to extend the deadline for ratification of the amendment, and that the rescissions by the state legislatures are invalid. The absolute exclusion from firehouse jobs, as well as departmental requirements that applicants for firehouse jobs meet strength and height requirements are asserted by the Petitioner to deny the equality of rights guaranteed by the 27th amendment.

Briefs filed by the lawyers for the
(Continued on Page 6)

HLS Law Guild Organizes Protest of Burger Court

By Emily Bresler

The Harvard Law Guild is organizing a protest against the policies and decisions of the Burger Court to coincide with Chief Justice Warren E. Burger's appearance at the Ames Moot Court finals tonight. The Guild, in cooperation with 16 other law school student organizations, also presented a forum last night about the trend of recent Supreme Court decisions.

The demonstration will be held outside Austin Hall before the Ames finals and will feature speakers and two local political folk-rock bands. The demonstration will include a "guerrilla theater" segment consisting of a short satire acted out by law students and others. The original play was written for the occasion by Jeff

Blum, 2L, and is called "The Discreet Charm of the Burger Court."

In addition to these activities, the demonstrators plan to distribute leaflets to those going into the moot court. Each student organization supporting the demonstration contributed a statement regarding the Burger Court decisions in its area of interest. Any donations received in the course of the demonstration will go to covering the expense of these leaflets and other expenses of the protest.

Three Speakers

The forum last night, "Critical Perspectives on Burger Court Decisions," featured three speakers: Michael Avery of the National Lawyer's Guild and the American

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'Law Revue' Gets Favorable Subcite

By Michael Smith

All of you who spent Friday and Saturday nights in the library this week really missed a good time. Those of us who had the sense to attend the Drama Society's Fall Show were well entertained.

The program was a cabaret-type evening with 20 different acts, ranging from comedy skits to full-scale musical production numbers, called "From Rags to Rhythm: A Law Revue." Everyone in it was a Law School student or was connected with the Law School.

The ability of the production staff to work with the facilities at the school was impressive. They have to use an auditorium which resembles an old barn — just wide-open space surrounded by four walls. There aren't any of the usual theater trappings (such as stages), so the performers and the production people have to worry about much more than just putting on a show. It worked out just fine. Stewart Thomsen's lights made it seem as if you were in a much more intimate club, and the sound person, Tom Hamerlinck, did a fine job overcoming the difficulties of the room.

Surprises

I learned suprising things about people I knew from classes. Peter Jones, with a microphone in his hand and a girl to sing to, can put her in his pocket. Every girl in the audience wanted his phone number when he was done. Bruce Teeter is another one who has a great singing voice, and he is a past master at playing to an audience.

There were lots of talented women, too. Shirley Wilcher was



These men, led by Erik Kitchen, 3L, are "True To Their School."

great, equally at home with the power necessary for "Satin Doll" and the softness that makes a ballad like "Home" go over well. Karen Abernathy and Peter Jones did a version of "Close to You" that raised the temperature in the room several degrees and would have gotten the Carpenters arrested. Denise Ferguson, has a potent voice which I never would have guessed from her quietness in class.

In addition to the soloists and duets, there were several good groups. Four guys have formed a barbershop quartet called the Pocket Parts which was pretty good. Some of the other groups suffered from not having worked together long enough but it never was so bad that I didn't enjoy the song.

The range of music the program offered was tremendous. We went from "Boogie Woogie Bugle Boy" to upbeat disco. There were even orig-

inal numbers. One, by Joel Farley, was especially good. He has a good voice and did a fine job of accompanying himself on the piano. There was even a sing-along of "Charley on the MTA." It was better than Saturday night at the Silver Dollar Saloon.

The show had a strong dose of Law School humor too. I'm not sure it will make it on Ted Mack, but if you know the Law School it is pretty funny. My favorite was a song about the life of a law student called "I Am the Very Model of a Student Here at Harvard Law." There was also a spoof of a game show called "Give it Back" and of a commercial advertising a creditor repellent called "Lien Off".

Barbershop Opera

One of the most novel numbers was when George Spera played the piano with an orange. That's right, an orange. And at the end he used three of them. The barbershop quartet's version of Rigoletto may have offended "serious" opera buffs, but the rest of us enjoyed it.

The audience really had a good time. There was a full house at each

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UHS Offers Peer Contraceptive Counseling

By Emily Bresler

Beginning this week, University Health Services is sponsoring a new program for users of the Law School Health facilities. Peer Contraceptive Counseling is designed to provide law students with a place to get answers and advice about questions and issues related to contraception.

The program is an extension of a similar project started by University Health Services last semester in the undergraduate college. The purpose of the program is to provide informational counseling on contraception options to individuals or couples in an effort to help them select that method of contraception which will best suit their lifestyles and personal preferences. Counseling is available for law school students and their spouses, faculty, employees, and other affiliates. All counseling is completely confidential.

Student Counselors

The unique feature of the program is its use of student counselors. The eight female and one male counselors underwent special training designed to provide them with the most up-to-date information available on all contraception alternatives. In addition to receiving written material, the counselors met with a gynecologist, a pharmacist, a nurse practitioner, and other medical speakers. The students were briefed on typical questions, what and how to answer, and most importantly, when to refer a student to a medical doctor. Finally, the counselors will meet weekly with Nadja Gould, their University Health Services Supervisor, to discuss particular problems and get additional information and training. The Law School branch is supported by Dr. Preston Munter, head of the HLS Health Services, with Dr. Hasi Venkatachalam as a medical backup.

Peer Contraceptive Counseling is designed to fill the need for easy access to information about con-



Ruth Kent

traceptive alternatives. Often doctors do not have or will not take the time to fully explain various methods in terms of pros and cons, possible side effects, effectiveness and proper use.

Ruth Kent, 2L, one of the counselors, explained: "Some people feel they shouldn't take up a doctor's valuable time or are embarrassed to ask. Peer counseling is informal and totally confidential. Counselors will take time to answer questions, give complete explanations, and can offer detailed and sometimes little known information." A common problem is that many women choose birth control pills as their first form of contraception but become concerned about possible long-term effects. Without an adequate source of information about available and effective alternatives, they will be hesitant to change to another method.

Not For Women Only

Although contraceptive counseling is generally oriented towards women, this program is designed to be used by male and female students. The program stresses that at the very least men should become educated about available alternatives. "Men should understand the problems involved and the factors women have to consider when they choose a means of contraception," said Kent. If men gain a better understanding of these considerations they are more likely to be sensitive to the problems women encounter. Similarly, men in steady

relationships will be less hesitant about becoming involved in contraception decisions and sharing responsibility for contraception if necessary.

Kent emphasized, "Men shouldn't be embarrassed about not knowing much; education and responsibility have traditionally been almost exclusively women's problems." Men are encouraged to use the program even if only to get general information and an overview of methods and problems. A male counselor is available if preferred, although the female counselors are also willing to advise men.

Couples Too

The program also provides special arrangements for couples who wish to share decisions about contraception. These couples are encouraged to come to the counseling session together. Arrangements can be made by appointment to see two counselors (one female and one male) at the same time so that neither partner feels uncomfortable.

Peer Contraceptive Counseling will be offered in the Law School Clinic on Mondays from 1:45-4:30 P.M. on a walk-in basis only. Counseling is also available at University Health Services on the second floor of Holyoke Center on Tuesdays from 10-5 and Wednesdays from 9-4.

The Holyoke Center location also operates on a walk-in basis but appointments may be made by phoning 495-2070. Both male and female counselors are available at the Holyoke Center location on Tuesdays from 3-5. All other times and locations have all female counselors. All law school affiliates are encouraged to take advantage of the program for any and all questions they may have about contraception. Any student interested in becoming a peer counselor should contact Ruth Kent, 2L, at 498-7389.

Transforming Theory into Practice:

By Michael Smith

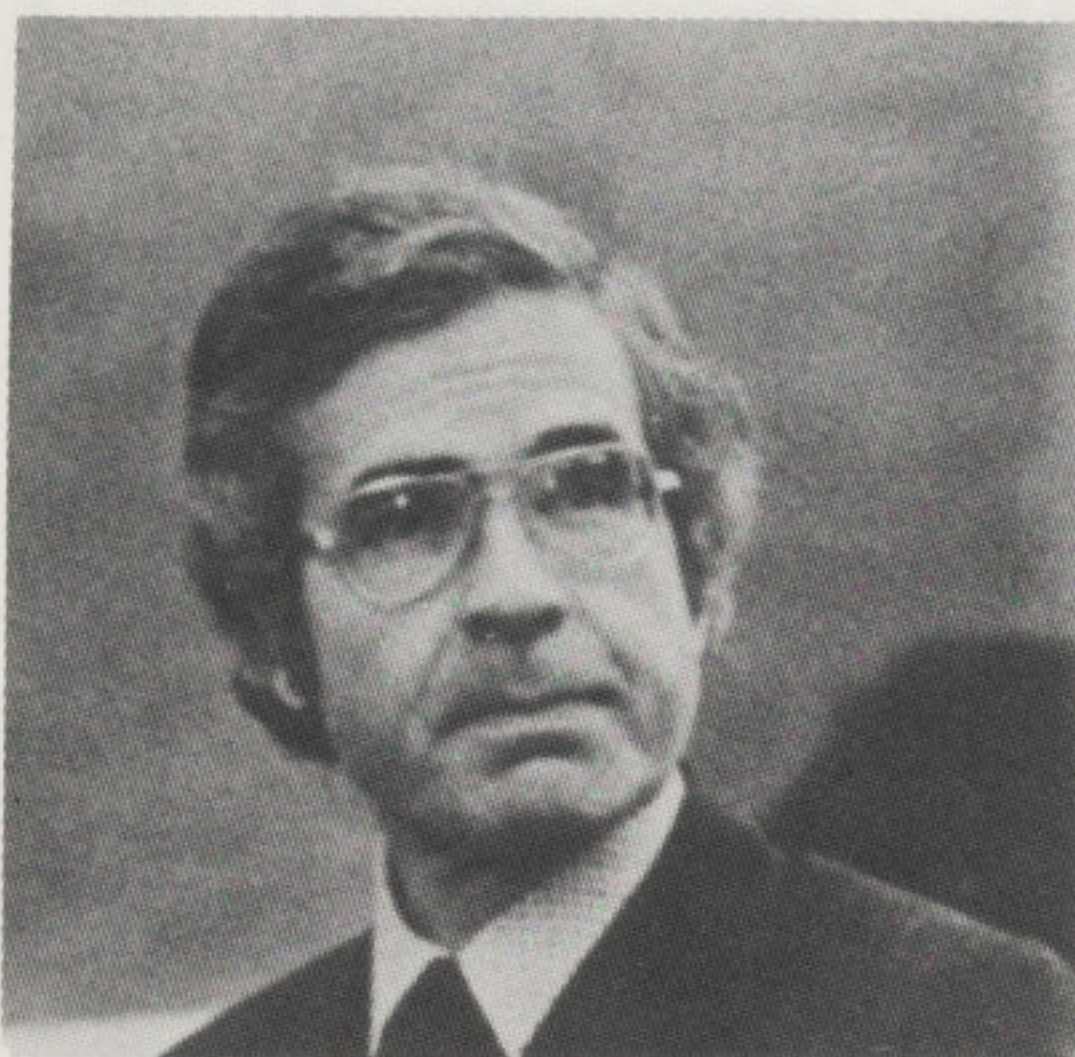
"It's a great honor and it's in a great tradition," according to Prof. Arthur R. Miller. The honor is his appointment as Reporter for the Advisory Committee on Civil Rules of the Judicial Conference of the United States. The tradition is a history of prominent persons as Reporter, including Benjamin Kaplan, formerly a faculty member at Harvard Law School and currently a Justice on the Massachusetts Supreme Judicial Court, and Albert Sacks, presently dean of the Law School.

Miller's appointment was effective the first of November and will run for four years. The chairman of the committee is Judge Walter Mansfield of the Second Circuit Court of Appeals. The other members of the committee are judges and attorneys. The committee is designed to be "broadly representative of the bench and the bar."

The Advisory Committee on Civil Rules is one of three remaining Advisory Committees which exist as part of the Committees on Rules of Practice and Procedure. This committee was established through the authority vested in the Judicial Conference by 28 U.S.C. §331. Its authority to recommend rules comes from the Supreme Court's power to make rules under the Rules Enabling Act. The first Advisory Committee on Civil Rules was responsible for the development of the Federal Rules of Civil Procedure.

Past Committees

Later committees, according to Miller, have been "creative revisors." They have "embellished and adjusted the rules to take care of changes and needs as they have arisen." One of the major changes occurred while Kaplan was Reporter, when the Advisory Committee developed the rules which deal with complex forms of litigation, including the new class action rule. When Sacks was Reporter, the Advisory Committee made major re-



Prof. Arthur R. Miller, cub reporter.

visions in the discovery section of the rules.

The immediately past Advisory Committee was chaired by Judge Elbert Tuttle of the Fifth Circuit Court of Appeals. The Reporter was Prof. Bernard Ward, University of Texas Law School. This committee has unfinished business in the form of amendments to discovery rules, which should be acted on in December.

The Reporter

The function of the Reporter will vary according to how the committee wishes to use that office. Miller says that, "at one level, the job is to be the service arm of the committee and execute its desires." This is generally done by transforming their wishes into research papers and drafts of the rules and notes. In Miller's opinion, though, the most critical aspect "to identify what the committee should consider. I would hope to have some impact on this."

Generally, the Reporter for the committee has been a civil procedure professor. Miller offers several explanations: "One of the theories is that an academic steeped in the subject, because of his ability to allocate his time and the way he views the subject as a system, may be better able to get the committee moving. It is also easier for an academic to do the research and present talking drafts."

Miller and the committee were appointed by U.S. Supreme Court

Chief Justice Warren E. Burger, but he feels that his contact with Burger will be limited. "I assume there will be no interaction at the working level — no day-to-day supervision."

Despite this, the Supreme Court will remain an important element in the process because the Court will "be passing on the work product in a hierarchical sense." In addition, Miller would not be surprised if the Court offered some input "in terms of general guidelines or views as to what is important."

An Important Time

Miller views this particular Advisory Committee as being formed at an important moment in time for the Federal Rules of Civil Procedure. This is the fortieth anniversary of the original Rules and in that time Miller believes that much has occurred.

One of the most important changes, in Miller's mind, has been the change in the character of the litigation coming before the federal courts. No longer is the typical case a simple contract or tort action involving two parties. "One immediately recognizes you are talking about two different litigation worlds." Miller would like to use this opportunity to "go back and take a look at the premises upon which the rules are based — to see if they make sense in a different litigation environment."

Another important change is what Miller sees as a change in the attitude of Congress. "After years of a hands-off attitude by Congress regarding the rule-making process, Congress has evidenced a willingness to oversee the process."

Miller notes that there are two attitudes towards the change in Congressional outlook. One is that the rule-making process has become too politicized. But Miller believes that "it reflects a healthy, growing awareness by Congress of the important public policy con-

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HARVARD LAW RECORD

Miller Is New Procedure Reporter

(Continued from Page 4)

cerns of the underlying operations of the federal courts."

This time is unique for the committee because of the growing awareness in all branches of the government that something needs to be done about improving the processing of civil cases in the fed-

eral courts. Miller cites the development of the Office for Improvement in the Administration of Justice, in the Justice Department, as evidence of the executive branch's concern. He also sees the Judiciary Committees of Congress as having "a deep interest in the functioning of the federal courts."

Sacks, Kaplan Hail Selection of Miller As Civil Rules Reporter

The position of Reporter for the Advisory Committee on the Civil Rules has been held in the past by two Harvard faculty members, Benjamin Kaplan and Albert Sacks. Both were very pleased that Miller had been named to the position, and each had much the same concerns for the work facing the Advisory Committee.

Kaplan feels that Miller is "the best possible choice" because he is a "very close student of procedure." Miller had assisted Kaplan during the period that Kaplan had served

"It can be a source of significant reform and I think [Miller] is a person who would be interested in . . . that kind of reform."

as Reporter, and thus has "seen how it worked." According to Kaplan, Miller is "in every way perfectly qualified."

Sacks was "very pleased" at Miller's appointment. "I think that it can be a source of significant reform and I think that he is a person who would be interested in working for that kind of reform."

Sacks's principal concern about the work facing the committee "is one shared by many other people. We have an explosion of litigation. We have a large increase of delay, litigation cost, and diversionary issues." It is these issues he feels the committee will have to address.

Kaplan echoes Sacks's sentiments about the cost and time involved in litigation. He feels that it is possible for the committee to develop two sets of rules, one of which would be simpler and would be available to the parties on a consensual basis.

Scholarly Work

Kaplan sees the Reporter's job as being very important to the work of the committee because "all of the scholarly work is done by the Reporter." This committee also faces a more difficult task, in his opinion, because it is "possible" that Congress will see fit to intervene in the process and Congress "is not really suited" to this kind of rule-making process. "This will happen if very great care is not taken to respond to comments from the outside."

Both Sacks and Kaplan see Miller's appointment as leading to opportunities for potential student involvement in the rule making process. Although neither of them suggested a specific arrangement, both were hopeful that something could be developed.

Sacks does not foresee a drastic change in Miller's teaching load at the Law School. "In the past, the person holding the Reporter's position has usually had a regular teaching load. Obviously work as a Reporter tends, to some extent, to displace scholarship, but just as frequently it feeds into teaching and other scholarship being done by that teacher. It may be just as much a reinforcement as a diversion."

Miller's Approach

These positive factors encourage Miller, who would like to approach the subject differently than have other committees. He would "like to go back to ground zero and look things over from stem to stern", rather than amending individual rules. Indeed, it may require "rethinking certain aspects of the adversary model." An example of this might be the development of a dual system of procedure. One would apply to complex cases and the other would govern in simpler actions.

This broad approach may cause some problems. Miller recognizes that his thoughts are very ambitious and may be seen as "a threatening concept to those who earn their daily bread under the existing structure." But he justifies this approach because there is a "crisis in our courts."

Miller would also like to bring some sense of order to the many changes which have occurred in procedure since the development of the original rules. Innovations such as district court local rules, the creation of magistrate procedures, and the manual on complex litigation, have created a situation where "the right hand and the left hand may be operating in inconsistent ways."

Miller would like the Advisory Committee "to think about harmonizing or generalizing these multiple sources of procedure for federal courts."

Excited by the Opportunity

While recognizing that there are "limitations of structure and jurisdiction" to what the committee can accomplish, Miller is tremendously excited about the opportunity. "Emotionally I am very committed to the Federal Rules. They are the greatest procedural innovation in the Twentieth Century. I hope the committee is adventuresome enough to take a long hard look."

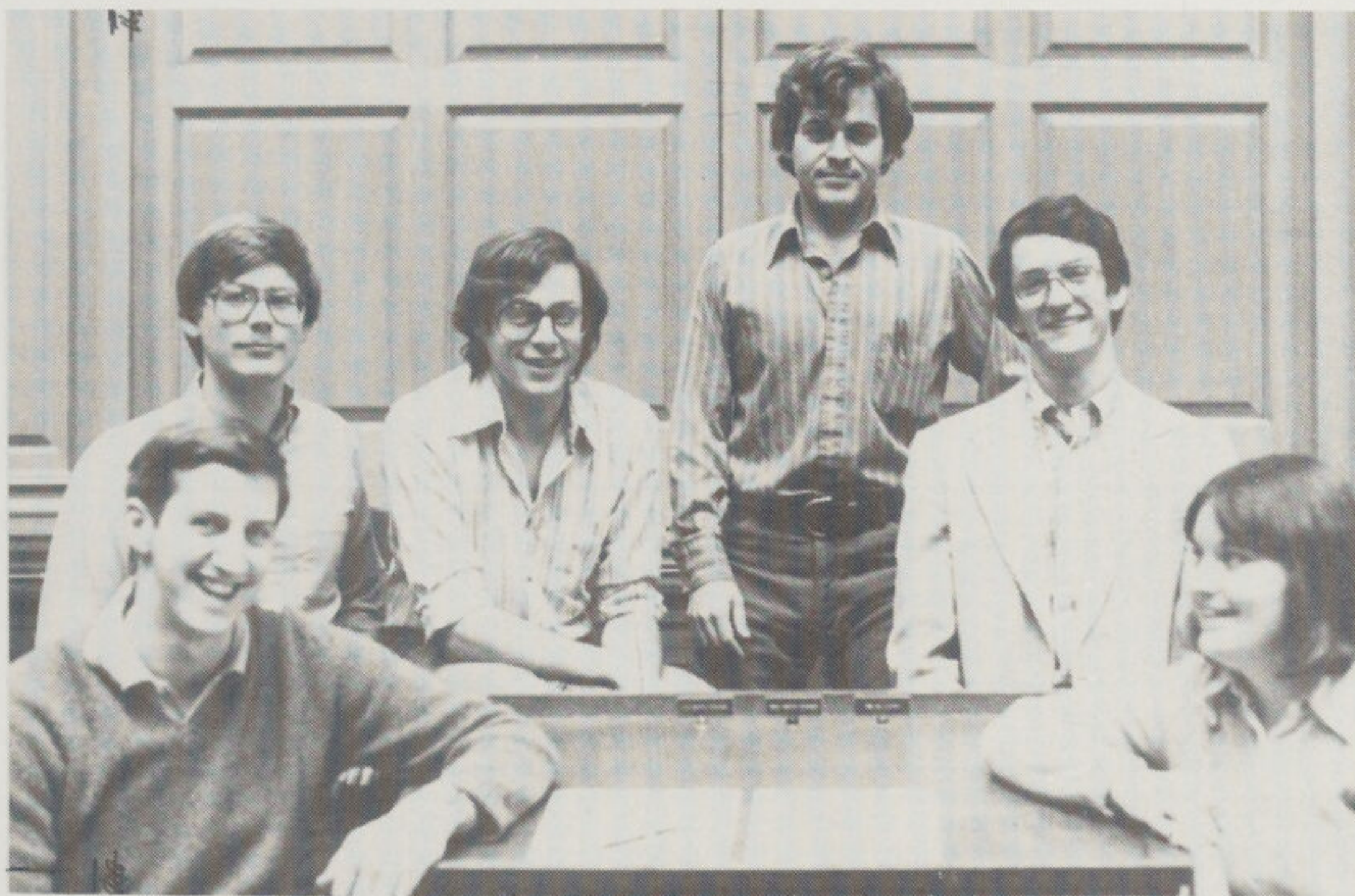
Miller views the appointment "as a natural development of the work

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Burger To Preside At Ames Final;

(Continued from Page 1)

respondents — Arthur H. Bryant, Michael Jung, Daniel I. Small, Kenneth J. VandeVelde, Patricia L. Wells, and Milly A. Whatley, also 3Ls — will argue that the extension of time for ratification of the ERA was invalid, and that the amendment has not been ratified by three-fourths of the states. Their briefs also claim that the Fire Department's exclusion of women from firehouse jobs is constitutional, and that the height and strength requirements are related to job performance and are therefore constitutional under the amendment. Although neutral on its face, the height requirement alone excludes 93 percent of all women candidates. Nonetheless, the Department claims the requirements are reasonably related to job performance, and are not pretexts for discrimination. The absolute ban against women is said to have been imposed in the belief



The Marshall Arts Club: Robert S. Osborn, David L. Lillehaug, Robert P. Reznick, Don S. DeAmicis, Craig R. Spiegel, and Patricia A. Brabban.

case was brought, the Fire Department was found to have systematically excluded black citizens from its employ for one hundred years, and was ordered to hire its

next 15 employees from a pool of buildings, and investigate fires. Over half of the non-firehouse employees are females.

Are conditions in the firehouse suitable for females as well as males?

that firehouse jobs cannot be adequately executed by a mixed group of men and women because of the intimate working conditions necessitated both by the structures of the firehouses and by the demands of the job itself.

Class Action Problems

Neither the petitioner nor the respondent will stand alone before the Court tonight. At the trial in the District Court of Tennessee, a class represented by Maloney was certified, consisting of all the women who have applied in the past for firehouse positions, who would have applied but for the Fire Department's policies, or who will apply for the positions in the future. While the Maloney trial was in progress, a class of blacks was permitted to intervene as party defendants. In a consent decree obtained a year before the Maloney

black applicants who otherwise qualify under the Fire Department's employment requirements.

Both briefs rely heavily on the record compiled in the District Court. It shows that the Lincoln Fire Department's employees are divided into two categories. The firehouse employees live at the station during working hours and actually man the equipment. They work 24 hour shifts and live in one large room atop each firehouse. In the words of the District Court judge, "Their quarters are actually a residence with a single dormitory-style sleeping room. . . their clothes for fire fighting are hung on pegs along the side of the common room, and the firemen almost literally leap into their trousers when the alarm bell rings at night."

At the same time, the Department hires non-firehouse employees to do repair work, inspect

Town is Insolvent

The briefs also make much of the fact that the town of Lincoln is insolvent. Lincoln has failed to pay its employees for almost one out of every three weeks of work during the past fiscal year. There are no readily available funds with which to convert the firehouses into facilities the district court thought adequate for the presence of women in firehouse conditions.

The District Court emphasized these facts and gave great importance to the testimony of the wives of firehouse employees that "they would not permit their husbands to live atop a firehouse with women for 24 shifts." The District Court found that "the morale of the department, being essential to their physical safety, would obviously be jeopardized by such domestic discord."

Analogy to Military

In holding for the Fire Department and for the town of Lincoln,

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Oralists To Argue ERA Extension

(Continued from Page 6)

the District Court concluded that changing the barracks to the relief requested by Maloney would require the investment of funds "which simply do not exist." The Court also held that the jobs of firehouse employees "are analogous to combat military assignments, which the ERA was never intended to affect."

The Sixth Circuit Court of Appeals affirmed the decision of the District Court. In its grant of certiorari, the Court in which the case will be resolved tonight directed the parties to speak to the following questions:

"1. Can the validity of the ERA be determined in this proceeding, or is it a non-justiciable question?"

"2. Is the ERA valid?"

"3. Are the employment practices of defendant fire department in violation of the ERA?"

"4. May the court modify the previous order and interfere with the relief previously awarded black defendants, or is there some rule of priority which protects the deliberate and speedy relief granted blacks in these circumstances?"



The Marshall Club: P. Michael Jung, Daniel I. Small, Arthur H. Bryant, Patricia L. Wells, Kenneth J. VandeVelde, and Milly A. Whatley.

Ames Finalists Remember Pain, Exaltation on Eve of Argument

By J. Ezra Merkin

Two teams of six 3Ls will square off tonight in the Ames Courtroom, and all 12 lawyers have had their eyes on the final round competition for a long time.

"I attended my first Ames final round as a 1L," said one of tonight's oralists, "and resolved then and there that I wanted to be in Ames as a 3L. Not grades, not journals, not societies — Ames was my goal from the beginning."

No matter how long they may have been dreaming about them, the participants went to work on their arguments on September 29, when the record was distributed. Six weeks of intensive work followed: three weeks passed until the petitioner's brief was due, ten days more until the respondent's brief was in, and then another week passed before petitioner's filed their reply brief, ten days ago. In tonight's arguments, Patricia Brannan and Robert Osborne will speak first for the petitioner to be followed by the respondent's oralists, Michael Jung and Arthur Bryant.

The first speakers of each team will discuss the procedural issues revolving around the ratification of the Equal Rights Amendments, and the second pair will debate the legal and policy merits of the hiring practices of the Lincoln, Tennessee Fire Department. (see accompanying article).

Year in Advance

Long before the record was distributed in September, the Board of Student Advisers was working on this year's final competition. Wendy Wildung, 3L, co-ordinator of the final round, began planning it almost as soon as last year's was over. "We work about a year in advance," says Wildung, setting the date, arranging the judges, and securing the Ames Courtroom. Some thought was given to moving to a larger facility, in order to accommodate the anticipated crowd of over 2000, but the Board decided to retain the traditional courtroom. Chief Justice Warren Burger was first asked informally in November,

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1L's Traverse Globe on Summer Jobs

By Jorie Roberts

Despite the fun and excitement which most first-year students experience at HLS, several students tore themselves away from the hallowed halls of Langdell last summer to work in overseas law jobs. Twelve students clerked in law firms or for judges in Ireland, England, Australia, Thailand, Taiwan, Japan, and Guam, finding the jobs through personal contacts, the International Law Society, and Martindale-Hubbell.

The students are generally enthusiastic about their summer work experience, both as a way to understand a second legal system and as a means to better understand the U.S. legal system by comparison.

"It really gives one an insight into how the American system functions by working in a country with similar substantive law that is applied in such a different way,"

said Marissa Wesely, 2L, who worked for the Sydney, Australia firm of Allen, Allen, and Hemsley. Wesely points out two differences: in Australia policy is not nearly as important as precedent in the application of law, and the bar there, as in Great Britain, is divided between barristers and solicitors.

Wesely worked primarily in the litigation and commercial depart-

"Working with Asian law was a great introduction to Asian culture."

ments, meeting with clients and writing pleadings and opinion letters. Although the nature of her work was similar to that done by clerks in U.S. firms, "there were no Australian clerks and no equivalent to Shepard's," Wesely noted. "My research was largely done in the *Commonwealth Legal Report*,

but many cases aren't reported," she said.

Impracticality Praised

Jay Zimmerman, 2L, who worked for a judge in Luton, England, also found working within a divided bar to be one interesting facet of his work. However, Zimmerman questions whether his job will improve his legal practice in the U.S. "I'm not sure the clerkship was practical, but after one year at HLS, it's good to be impractical," he said.

Zimmerman had worked in a New York law firm before law school, so he was able to compare working within the British and the American legal systems. "In many ways my job was similar to working for a judge in this country. I sat in on court room proceedings and discussed cases with the judge." Much of Zimmerman's work dealt

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Splintering the Movement

The Seventies seem likely to go down in history as the "Me" decade. Evidence of the solipsism of the age permeates all of what passes for popular culture, from the current jogging craze, to the glut of best sellers on such subjects as *How to be Your Own Best Friend* and *Looking Out for Number One*.

One of the saddest victims of America's self-absorption in its collective navel has been the loss of the idealism of the civil rights movement of the Sixties. Instead of a single, unified movement with the goal of equality and justice for all, there are now a group of specialized civil rights movements — gay rights, women's liberation, and organizations representing every conceivable racial and religious group.

At Harvard Law School, for example, the Women's Law Association, the Jewish Law Students' Association, and the Committee on Gay Legal Issues have all sprung up within the past two years.

One result of this splintering of the civil rights movement has been that various organizations defending the rights of various groups have frequently ended up at each other's throats. The hypothetical fact situation of this year's Ames case — blacks and women fighting each other for the right to employment by a fire department — is all too common in the real world.

Recently NAACP Chairman Margaret Bush Wilson complained in a talk at the Law School that she is "finding more and more, overtly and covertly, a tendency for these (other civil rights) groups to vie for a piece of the pie."

Several things are troubling about all this squabbling and bickering among different groups. One is the unstated but implicit assumption that there are only so many rights to go around, and that a gain for one group is necessarily a loss for all the other groups. One had hoped and supposed that there was no fixed supply of rights, that society could be made more just for everyone. But many of the leaders of the current movements seem to believe otherwise.

Even more disturbing is the notion that special interest groups offer the proper framework for thinking about civil rights. Groups don't have civil rights — people do. Classifying people into groups for the purpose of determining their civil rights is itself a violation of the fundamental civil right not to be pigeon-holed or stereotyped, but to be treated as a unique individual. It's paradoxical that the "Me" decade has such a flawed understanding of the nature of individual rights.



HARVARD LAW RECORD

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Fenno

Fenno watched the 2L pace back and forth outside of the Placement Office.

"You'll have to pick up your pace if you want to get into shape for intramural basketball season," Fenno said.

"No," the 2L groaned. "I've got a *real* problem this time."

Fenno frowned. "Don't tell me that Miller and Fried are team-teaching again," he said. "I think there's a law against that now."

"It's not that either," the 2L explained. "I've got a few offers for summer clerkships and I just can't figure out how to decide which one to take."

"Well you'll never get anywhere by trying to apply any rational criteria," Fenno scolded. "All those firms are fungible on any rational scale. That's why you should use the *Fenno Scale of Law Firm Rating*."

"I'm afraid to ask," the 2L said.

"It's really quite simple," Fenno continued. "It's all done on the basis of office decor."

"Take the size of desks, for instance. Tiny desks mean that the firm is cheap; large desks, on the other hand, mean that they have too much work to do. What you're looking for is a firm with no desks at all."

"Sort of a Goldilocks approach," the 2L offered.

"Sort of," said Fenno. "And take a good, long look at the color of the walls. White is too conservative, red is too liberal, and wood paneling reminds me of leisure suits."

"Maybe a nice blue?" the 2L asked.

"Or a pinstripe," said Fenno. "It's always a touch of class when a lawyer's suit matches the color of his office."

"What about carpeting?" the 2L asked.

"Very important," said Fenno. "A worn rug means that an office is too busy; a new-looking rug means that the attorney is usually chained to his desk. The ideal carpet is in good condition except for long ruts, each about as wide as a golfball."

"Or four parallel ruts, each about as wide as roller skate wheels," the 2L noted.

"Now you're catching on," Fenno smiled. "Of course, if the *Fenno Scale* doesn't work, you can always use the *Sacks Method of Decision-Making*. Take a piece of paper and write down all the pluses and minuses of each alternative. Assign weights to each plus or minus and multiply.

"Then just total your figures, toss the paper in the wastebasket and flip a coin. Works for the Dean every time."

Letters to the Editor of the RECORD

Young in Rebuttal

To the Editor:

I was flattered to have Brian Holman reproduce as part of his Comment on the case of grass vs. ball playing my memo to Law School dorm residents. I was warmed to note his comment in reference to my memo that "arguments of this kind are hard to refute." I would have been happier had he left it at that. But imbued with the spirit of excellence which is the Harvard Law School he struggles on to take me to task for enforcing a rule which he feels lacks adequate justification.

I have a few comments. The underlying problem is lack of a suitable playing field for law school people. This problem I am working on. First, Baker Kurrus of the Law School Council and Ray Streinz of the Dorm Council are now formulating for me a comprehensive proposal on improvement of athletics at the law school. Resolving the issue of good playing fields (not to mention improving basketball and volleyball facilities) will be an important part of this effort.

Second, a priceless piece of unimproved land very near the Law School over which I had cast a covetous eye and sought to acquire for a playing field sadly will soon succumb to inches of blacktop in a transfiguration of raw nature into an improved parking lot. I have also spoken with Mr. Goyette of the University Planning Office on other alternatives.

Third, an architect whom I asked to visit the dorms has educated me to the fact that the only part of Walter "Form Follows Function" Gropius' graduate center which draws people in and together is the sunken greensward before the Hark. Thus to flow with the force of the architecture (as a good Taoist would instruct) I am exploring the cost of installing special grass and a sprinkling system. This would permit pick-up football and frisbees to be played before the Hark but not games with more intensely concentrated foot work such as soccer and volleyball.

Fourth, the interest of students in playing ball before the Hark has long been recognized by the School's administration. A series of broken windows has testified to their awareness of this student preference. However, the propinquity of some students to that part of the School's natural environment should not give them, in my judgment, an a priori claim to priority or privilege. A balance of interests among different people, primarily students, must be arrived at.

Fifth, as I told the Dorm Council at their meeting after sending out the memo I welcome their input and arguments on this issue which I am most eager to resolve so as to meet the needs and preferences of all who

are concerned. I hope any resulting rule will reflect a wide community of interest.

Sixth, expecting a conflict leads to defining an issue such as this in zero-sum terms of a "pro-grass, anti-student" trade-off. Then as long as the rule remains, the School can be seen as "anti-student," a conclusion reinforcing the initial outlook. Thus my citation of Walt Whitman as authority had more than one objective. Whitman of Brooklyn born understood that greatness and genius lie in seeing the unity of all and the breath of the Creator in everyone and in everything, even the grass.

Stephen B. Young, '74
Assistant Dean
Cambridge, Massachusetts

Support for Smith

To the Editor:

Congratulations on your article *Administration Sets Dangerous Precedent* and *On Judging a Firm by Its Clients*.

Harvard Law School, as established by the leaders of the past such as Ames, Langdell, Roscoe Pound, and others, went in for law and not politics, hence the reason for the greatness of the school.

Keep up the good work!

Warren S. Reese, Jr., '28
Montgomery, Alabama

Insulting Caricature

To the Editor:

I wish to complain about an insulting caricature which is currently on display in front of the elevator entrance on the second floor of Langdell Hall. The caricature is a gross depiction of a black man and a black woman drawn by the late Harris B. Steinberg, an alumnus of this Law School. Mr. Steinberg might have been an outstanding criminal lawyer, a devoted and loyal supporter of the Law School, and a competent caricaturist, but these are not sufficiently compelling reasons to display one of his degrading caricatures of blacks in Langdell Hall. Using the little tort law that I think I understand at this time, it seems to me that the Law School has acted negligently towards blacks (at least those at the Law School) by publicly displaying Steinberg's caricature in callous disregard of their feelings: *res ipsa loquitur*.

One would think that Harvard Law School, a renowned and prestigious institution, would have the sensitivity not to display such an obviously derogatory carica-

ture. Indeed, one experiences a peculiar, gut wrenching feeling upon viewing the drawing, a feeling caused, at least in part, by the almost surrealistic aspect of the basic incongruity inherent in its very display at the Law School: a hateful reminder of how blacks were commonly depicted in popular literature three or four decades ago, being displayed prominently at an enlightened and progressive educational institution. Personally, I am deeply hurt and offended by the caricature. I do not want to tread on any First Amendment toes, but I should very much appreciate it if the caricature were taken out of the display box. As a fellow College alumnus, Daniel Webster, might have put it: "It is a small deed, but there are those who would love it."

Miles J. Le Blanc, 1L
Cambridge, Massachusetts

Issue of Role Models

To the Editor:

Your issue of October 20, 1978 reports the organization of a "Committee on Gay Legal Issues." A spokesman is quoted as saying that the goal is the achieving of equal status under the law for homosexuals. The article also quotes him as saying that the group is "very concerned about the growing national attack on the civil rights of gay people."

A time when the country is properly concerned about "role models" is also a time when many persons are concerned about "gays" as role models. One reason why people want gays to stay in the closet is that they do not want their children to see gays as role models. Many persons take that position, even while not liking Anita Bryant.

Roger P. Stokey, '48
Boston, Massachusetts

Re-examine the Speculation

To the Editor:

As a follow-up on the October 6 story, "Are Women Underachieving at HLS?," the RECORD might try a few comparative side-glances. My impression is results are different at some sister institutions, Columbia and N.Y.U., for example. If that impression is correct, and women have been over-represented at the top in several classes at those schools, then some of the HLS student and faculty speculation reported by Bill Ross bears re-examination.

Ruth Bader Ginsburg
Professor of Law
Columbia University

Letters to the Editor of the RECORD

An Impeccable Correction

To the Editor:

The "Sports Quiz" in your otherwise impeccable edition of October 20 contained an error which I would like to correct.

The answer to Question 2 identified Ben Ticknor '30 as the last Harvard football player to be inducted into the College Football Hall of Fame. In fact, that honor belongs to the immortal Endicott ("Chub") Peabody '42, an All-American guard and linebacker. Chub later served as governor of Massachusetts, and is today my boss at Peabody, Rivlin, Lambert & Meyers, a noted Washington law firm.

A hale and hearty 58 years old, Chub regularly thrashes me (thirty years his junior) at squash, tennis and all other physical endeavors. His son, Bob Peabody '77, played varsity football at Harvard.

Chub, a staunch supporter of Ivy League football, sincerely believes that he will not be Harvard's last contribution to the Hall of Fame.

Lawrence White, '71
Washington, D.C.

Tactics Without Ethics

To the Editor:

This letter is in reference to the article "Pertschuk Finds Fulfillment at FTC," which appeared in the October 6, 1978 issue of the Harvard Law RECORD.

I gather from the article that on September 28, Mr. Pertschuk, among other things, related a number of anecdotes concerning his experiences at the FTC. One is summarized by your reporter as follows: "One of Pertschuk's own young attorney-advisors got himself ensconced in a congressional conference committee meeting discussing legislation to limit the FTC's powers, and with both Houses thinking he represented the other, somehow managed to rewrite the legislation in the FTC's favor." (Page 9)

I find the anecdote extremely disturbing in two respects. First, the attorney involved, from the time he first became aware of the conference committee's confusion regarding his status, clearly embarked upon a scheme to consciously deceive that committee. That he "somehow" managed to rewrite the legislation in a fashion different from that originally contemplated by the committee simply reflects the extent to which the committee members reposed trust and confidence in him and the degree to which he betrayed that trust. Similar conduct by a member of a corporate legal staff would probably result in criminal prosecution of both the employer corporation and the offending attorney. Thus, whereas Pertschuk appears to find the conduct of his attorney-advisor clever and amusing, I find it reprehensible and

outrageous.

Secondly, the incident illustrates the degree to which federal regulatory agencies have obscured the constitutional distinction between executive and legislative functions. It is one thing for an agency to appear before Congress and submit evidence and arguments in favor of expansion of its role and responsibility in government. It is quite another thing for that agency to attempt to inject itself directly into the legislative process and attempt to manipulate and control the result thereof. Neither Pertschuk nor any of his staff enjoys any popular mandate to change the antitrust laws of this nation. If Pertschuk wishes to undertake legislative responsibility he should resign his post and stand for Congress. If, on the other hand, he wishes to continue executive responsibility in the national government, he should confine himself to his proper role.

Harry Downs, '55
Cambridge, Massachusetts

Questioning Stereotypes

To the Editor:

I have been reading the Harvard Law RECORD ever since it started to have general alumni distribution. The party line obviously varies from year to year, but the one continuing note which I find disturbing, and which seems to have become immutable as a result of constant repetition, is that there are just two kinds of law practice — corporate (wicked) and public interest (virtuous).

After fifty-one years of practice I find this confusing, and I wonder how many of your editors have ventured into the real world. Of the lawyers and law firms that I know, I could classify far less than half as either corporate or public interest.

Are the estate planners and the estate administrators corporate — or does it depend on the size of the estate or the size of

the office with which they are affiliated? How about the litigators? Are they chameleons depending on the parties in the particular case they are trying at the moment? How about the criminal bar? I sometimes get the impression that the more wicked the client, the greater the chance of his or her particular lawyer being classed as public interest (virtuous). Do the lawyers who specialize in defending negligence cases become corporate and wicked when they represent insurance companies, while their opponents remain virtuous when operating on a contingent fee basis and collecting fees substantially higher than the amount paid to defendant's counsel? Does the Ma and Pa store which incorporates become a wicked client, while the individual who operates a venture many times its size as an individual proprietorship remain virtuous? How do you classify the divorce lawyers?

The practice of law is a very diverse thing. Specialization is undoubtedly increasing, and the percentage of lawyers engaged in purely individual practice is decreasing. These trends will continue. Corporate law is a major specialty. I would venture, however, that corporate law is still substantially less than half of the business to which lawyers in private practice devote their time.

I submit that not even Fenno should mislead guileless 1L's into your over-simplified classification system.

Edward Winsor, '27
Providence, Rhode Island

Cryptic Law

This week's selection illustrates that there are some things worse than putting your foot in your mouth.

Apg qhsduhnadtgto bu ubbr, vgkgtwgo,
rtdwo, nbsrlqgsao, hsr nbsugnalbso phkg
vggs pgmr mlhvmg ab dmalqhag nbsodqgto
ubt rhqhwgo tgodmalsw utbq sgwmlwgsa
ytgythlals bu apgl ytbrdno. . . Jg nhs
lqhwlsb sb tghobs jpz, jlap btrlshtz nhtg,
pdqhs abgo nbdmr sba vg mgua bda bu
npgjlsb abvhnnb, hsr lu abgo htg ubdsr ls
npgjlsb abvhnnb, la oggqo ab do apha
obqgbsg pho vggs kgtz nhtgmgo.

SPORTS QUIZ

1. Who was the first pitcher to pitch a no-hit nine-inning baseball game?
2. Who was the first football team and where were they organized?
3. Who was the first horse to win a purse of over \$100,000 in one race?
4. Harvard played a unique role in the first Davis Cup contest. What were the details of the first Davis Cup contest and what was Harvard's role?
5. Who is credited with having the first unassisted triple play in a modern major league game?

(Answers on Page 16)

(Solution on Page 13)

HARVARD LAW RECORD

Groups to Attack Burger Court Decisions

(Continued from Page 1)

Civil Liberties Union on civil liberties and civil rights; Winston Kendall of the National Conference of Black Lawyers on minority issues; and Katherine Triantafillou, a Boston attorney, on the impact of recent Court decisions on women's rights.

Student group endorsements were obtained when either the group's membership or its Board voted to support the entire protest and submit a statement. Participating student organizations are the Black Law Students Association, Women's Law Association, Prison Legal Assistance Project, Harvard Defenders, Harvard Legal Aid Bureau, Committee on Gay Legal Issues, Committee on Chicano Legal Issues, the Chicano Law Students Association, Harvard Community Against the Death Penalty, Civil Liberties/Civil Rights Law Review and Research Committee, Environmental Law Society, Students for Public Interest Law, the Committee on Military Justice, Harvard Government Attorneys Project, and the Law School Council.

Steve Smith, 2L, speaking for the Guild, said that while it is hoped that people from the general community will participate, the main thrust of the publicity about the event has been to students in the Law School. Flyers have been posted around the Law School and the undergraduate campus and

sent to other Boston area law schools. In addition, an announcement of the planned activities was printed in last week's Adviser, which is distributed to law students. The announcement was preceded by a disclaimer wherein Dean Albert Sacks indicated that he felt "the demonstration planned for Thursday evening is inappropriate under the circumstances." Sacks stated that while he believed the students should be able to use the Adviser in the interests of free communication, he "simply wanted to eliminate anyone's thinking that the law school approved of the demonstration."

"This is a particularly appropriate occasion for people to consider the political consequences of the Burger Court decisions," Smith said. "Harvard Law students can influence the attitudes of the legal community and this is a good opportunity to make our feelings known."

Smith emphasized that "we do not mean this as a personal attack on any particular Justice. Rather, this is an attack on the trend of recent decisions overall, regardless of which Justice voted for or against any given matter. We are condemning that kind of thinking that sees the Supreme Court as a continuing institution merely building on precedent and simultaneously being removed from contemporary politics and power struggles."

The High Court Jesters, the theater group acting out the satire at the demonstration, explained their outlook on the protest: "Recent Supreme Court decisions, although atrocious as jurisprudence, nevertheless furnish appropriate material for guerrilla theater. As a mixture of tragedy and ineptitude the decisions bring us to a stage where the law itself becomes a farce. This tendency we have sought to capture with a theatrical production."

A similar demonstration was planned for last year's Ames finals. However, participation was less than expected, largely because Associate Justice Thurgood Marshall replaced Burger who was hospitalized with a back ailment. Opposition to last year's protest centered on the idea that the protesters should not mar Ames for the finalists who had worked so hard all year. Smith emphasized that the demonstration will definitely end by 8 so as not to disrupt the Ames proceedings. He further stated that the protesters did not want to discourage attendance at Ames.

✽

Solution to "Cryptic Law"

Pillars v. R. J. Reynolds Tobacco Co., 18 So. 365 (1918)
careless.
seems to us that someone has been very and if toes are found in chewing tobacco, it toes could not be left out of chewing tobacco, no reason why, with ordinary care, human tion of their products. . . . We can imagine damages resulting from negligent prepara been held liable to ultimate consumers for drugs, condiments, and confections have The manufacturers of food, beverages,

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Ames: How Briefs Were Written

(Continued from Page 7)

1977, and Dean Albert Sacks sent a formal invitation in February, 1978. The Board began informal conferences on the record in the spring, bearing in mind, says Wildung, "that we needed a case with significant constitutional and social issues. One on the rule against perpetuities would not work."

Michael Davis, a graduate student, was selected as the record-writer, and began to work full time on inventing a case in the early summer. In a departure from recent years, no currently pending case was used as a prototype; indeed the record is projected into the future, and assumes a set of developing political events, commencing in April, 1979.

Invented Record

Davis confesses to "one or two false starts. Not everything worked exactly right every time, and not always could we get facts amenable to argument, without a complicated record. Ideally, we looked for a case with a long record that had been mooted, say, because of an improvident grant, but we couldn't find anything. So we invented our own."

Working with the Board, and

with some faculty advice, Davis constructed a record. "We had no huge complaints," he says. "We held a record conference, in which both sides mostly jockeyed for position, inquiring what really happened, trying to firm things up their way. If both parties were in agreement as to a greater detailing, we accommodated them, always remembering that the case is artificial, which presents some dangers." Since September, Davis has been watchfully waiting, working on an LL.M. and keeping an eye out for a teaching position next year.

By the time the record was completed, the two sides had decided on their oralists. None of the oralists for either team were the oralists in the semi-finals last spring. According to Brannan, her team "went into the qualifying round with four people. We chose lots; winner had to do that round, and losers had to argue the finals." Jung explains that his team "was prepared to draw lots back last spring, rather than go on perceived skill, since each of us has a big enough ego never to speak to another again if he were told that he was not the best. As it turned out, lots weren't necessary, since two wanted to take a chance on the finals and two wanted to be sure they would argue."

Substance Interesting

Each of the teams seems quite secure with its position. "I wanted to go first," says Brannan, "that way I would not be at all guided by what happened before me." She sees the questions she plans to take up — the extended ratification period and the state recisions — as "not strictly procedural issues, but as implicating broader constitutional questions." Jung, who will argue opposite Brannan on the same questions, sees "the procedural side as more real, and less interesting. As a matter of human interest Bryant (Jung's partner, who will argue the substantive policy questions) will be the bad guy, and he'll have to fight off the Court."

Davis agrees with Jung that the substantive issues are more likely to attract the Court's — and the spectators' — attention. "Judges orient themselves to the human questions, not to the abstract legal questions. I would be surprised if the Judges concentrated on the ratification process. That abstract legal question can be debated in the briefs, and the issue of ratification is far-reaching and unprecedented. The human claims to rights and prerogatives will probably be focused on in Court. The oral argument should be concentrated on the appealing question of where do we stop letting women in — on what standard, and on what level. The point is practical and it has people in it."

Jung admits that "there is something in this case for everybody. Our first reaction was to wonder over the mass of complexity and detail." Brannan agrees that "we worked with a golden record. It achieved several simultaneous objectives. Every time we broke the case down and worked individually we had to review the work as a whole. The result is a collegial experience, which is rare at HLS. My impression is that this is what lawyering is all about, painful, maddening, and glorious."

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1L Summer Clerks See World

(Continued from Page 8)

with family law, which "frequently involved trying to resolve disturbing problems."

Wesely's clerkship was one of two with Sydney firms which regularly hire HLS first-year students. David Kennedy, 2L, worked at the same firm this summer, and Joel Farley, 1L, will work there in the summer of 1979. In addition, Ellen Kelman, 2L, worked at a second Sydney firm. Zimmerman, however, obtained his clerkship through a lawyer he had met on bar exchange in the U.S.; it was a one-time opportunity since usually only student barristers work for English judges.



John Irving, the author of The World According to Garp, appeared Thursday November 2, 1978 at the Harvard Law School Forum.

TGIF: Friday, Oct. 13 from 4-6 p.m.
in the Hark.

"The Best Years of Our Lives"

Friday, Nov. 17 and Saturday, Nov. 18

at 8:00 p.m. in the
Harkness Commons Dining Hall.

Admission: \$1.00 or \$.50 with
HLSDC Activity Card.

Learning a Life Style

While these students were working within English law-based systems, other students were clustered in East Asia and the Pacific region, working in both U.S. and Asian law firms. One student, who worked for the law firm of Ferenz, Bramhall, Williams, and Gruskin in Agana, Guam, characterizes the island to be the "farthest place from Cambridge where one can still learn U.S. law, while at the same time experiencing a different lifestyle and unique culture." Although her work included banking, litigation, and real property research and writing, similar to that done by any clerk in a U.S. law firm, she had the added advantage of overlooking the Pacific Ocean from her office.

"The practice of law on Guam is also unique because it's a place where small U.S. law firms handle major clients, such as Citibank, in all sorts of problems, since there are no larger firms close enough to refer complex cases," she said. She also found the Guamanians to be "a very friendly, helpful, and open group of people. And I was even surprised to discover another Harvard lawyer had discovered the pleasant working environment of Guam."

Asian Law Is Simpler

Joel Trachtman, 2L, also working for a U.S. law firm overseas,

spent his summer in Bangkok, Thailand. Trachtman was the second HLS student to work for the firm of Kirkwood, Kaplan, Russin & Vecchi. Bruce Stern, 3L, worked there during the summer of 1977. Trachtman enjoyed his working environment as well as his work.

"The Thais are the friendliest group of people I can imagine," he said. "Working with Asian law was a great introduction to Asian culture; though the law is not as complex as American law." Trachtman worked on several immigration problems and research problems for such clients as Citibank and Dole Pineapple Company.

In contrast, Mike Kaye, 2L, worked for a Japanese firm of Nagashima & Ohno, where he had worked for 15 months before beginning HLS. In his job Kaye worked with Japanese lawyers in preparing for negotiations with U.S. lawyers and translated documents from Japanese to English. "I got a good feel for the lawyering process in Japan, but I did not have enough time to really understand Japanese law," Kaye said.

While most students who worked overseas value their summer experiences for providing a needed break from first-year studies, Kaye plans to return to Japan to study Japanese law after graduation. "People in business are just waking up to the importance of Japan," Kaye said.

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From Rags to Rhythm the HLS Way

(Continued from Page 2)

show, which restored my faith in the ability of law students to get away from the books for awhile. The producers and directors of this show, Lisa Poyer, Dave Fleischer, Terry Leahy, and Peter Jones, hope that they can convert that into encouraging many people to try out for the Law School Spring Show.

The directors and producers deserve a lot of credit for the high quality of the evening. It would be difficult for anyone to put together a show of 20 acts, but to be able to do

that at a law school is great. Sure there were small problems with timing and projection, but those were more a reflection of the fact that law students don't have much time to rehearse than of a lack of talent.

It's nice to know that there are talented people here. And it's even nicer to know that they are willing to go the work and take the time necessary to share their talents with the rest of us.



Peter Jones and Denise Ferguson

Miller Hopes for Look at Overhaul of F.R.C.P.

(Continued from Page 5)

I have been doing for fifteen years. . . I will be trying to build better mousetraps rather than writing about them."

Miller says that he is "overwhelmed" by the honor. The work may also be overwhelming because he feels that "to do it right requires a hell of a lot of work." He may be able to involve students in that work. "I am now trying to think of ways, within our curriculum, to get students involved." One approach he is considering would be a research seminar where the seminar approach is paired with "a parceling out of discrete topics" where the student's research would be of use to the committee. The benefit to the students would be that this

would be a "nice pairing of law and the real world."

(Ed. Note: Others on the Advisory Committee on the Civil Rules, in addition to Miller and Mansfield, include the following: Judge Ozell M. Trask of the Ninth Circuit Court of Appeals; District Court Judge A. Sherman Christensen, Salt Lake City; District Court Judge Louis F. Oberdorfer, Washington D.C.; District Court Judge Philip Pratt, Detroit; District Court Judge Walter J. Skinner, Boston. The Committee also includes the following attorneys: David N. Henderson of Washington D.C.; Earl W. Kintner of Washington D.C.; William T. Kirby of Chicago; Jay Vernon Patrick Jr. of Birmingham, Alabama; and Ab-

raham L. Pomerantz of New York City. Two more members will be named at a later date.)



Sports Answers

1. Joseph E. Borden of the Philadelphia team of the National Association on July 7, 1875 in Philadelphia against the Chicago National Association team.
2. They were the Oneida Football Club and they were organized in 1862 by Gerrit Smith Miller at the Epes Sargent Dixwell School in Boston, Massachusetts. They played all comers from 1862 to 1865 and were never defeated or scored against.
3. It was Whichone, a two year old, who won \$105,730 on September 14, 1929 in the 40th Belmont Futurity.
4. The first Davis Cup was held from August 8th to August 10th, 1900 at the Longwood Cricket Club in Brookline, Massachusetts. The American team, Malcolm Douglas Whitman, Dwight Filly Davis, and Holcombe Ward, won. All three members of the American team were Harvard men.
5. The man is shortstop Neal Ball of the Cleveland American League team. His feat took place on July 19, 1909 in Cleveland in the 2nd inning of the first game of a double header against the Boston American League team. Ball caught Amby McConnell's liner, touched second to retire Honus Wagner who was on his way to third and tagged Jake Stahl as he came up to second.

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