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25 CENTS

1Ls Challenge Article On CLS Professor

By George M. Borkowski

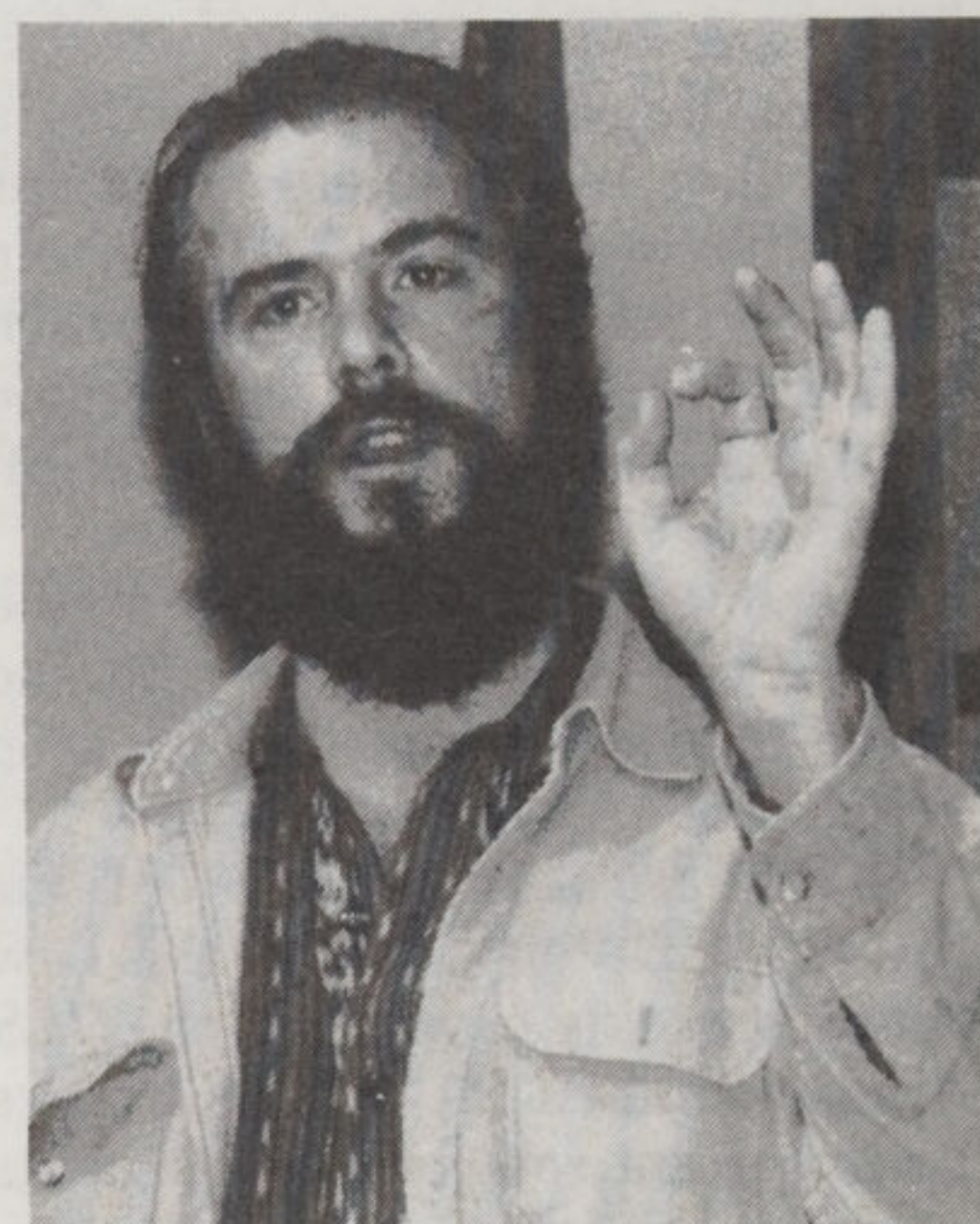
Another example of the seemingly endless attention paid by print media to Critical Legal Studies at HLS has generated controversy at the law school. This time, however, a group of students, rather than faculty members, have taken issue with the way CLS has been portrayed.

On February 18, *The Boston Phoenix*, a weekly Boston newspaper, ran an article by Peter Canellos entitled "Overruling Tradition." The article focused on Professor Duncan Kennedy as head of the CLS school of thought.

The article stated that "By all accounts, sentiments are running against the Critical Legal Studies movement and in particular against Duncan Kennedy, the movement's most vituperative scholar." The *Phoenix* went on to say that Kennedy was not a popular professor despite the fact that "his classes are generally considered lively and intellectually stimulating."

Canellos did not speak to any students who had Kennedy as a professor during this academic year. Several third-year students were interviewed, however. Their comments were generally negative.

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File Photo

Professor Duncan Kennedy

Tribe Wins Berkeley Rent Control Case

By Vincent T. Chang

In two separate cases involving constitutional issues, the United States Supreme Court and the Second Circuit have resolved cases in which Ralph S. Tyler, Jr. Professor of Constitutional Law Laurence Tribe was counsel.

In the Supreme Court case of *Fisher v. City of Berkeley*, Tribe represented Berkeley in its successful (8-1) defense of its rent control ordinance against a landlord's attempt to invalidate that ordinance on antitrust grounds. In the Second Circuit, Tribe assisted Pennzoil in litigation arising out of a \$10.5 billion judgment that Pennzoil won against Texaco. The court in that case ruled that the merits of the suit must be appealed in Texas state court but that Texaco need not meet a Texas bonding requirement which

would have forced the oil company to post a \$12 billion bond.

The Fisher Case

In *Fisher v. City of Berkeley*, appellant claimed that Berkeley's rent control ordinance forced landlords to fix prices and thus constituted a conspiracy between tenants and the city—per se violation of the Sherman Antitrust Act. *Fisher* reached the Supreme Court on appeal from the California Supreme Court and was the first case the U.S. high court had heard on the application of the antitrust laws to local governments since the 1983 case of *Cable Communications v. Boulder*, which held that the antitrust laws could be applied to municipalities—for only state governments were shielded from antitrust laws.

Tribe, representing the city of

Berkeley, summarized his argument to the court as saying that "the social contract is not a combination in restraint of trade and the existence of democratically imposed state controls on economic actors cannot be equated with private cartels without demolishing the theory of representative government and democratic self governance." To drive home his point, Tribe pointed to examples of vital municipal services which would be jeopardized if the antitrust laws were applied broadly to invalidate local actions.

For example, the regulation of emergency ambulance prices could be seen as a vertical combination between ambulance owners and the city.

Broad application of the antitrust laws to municipal actions could, Tribe contended, have "a devastat-

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Coffee House Debuts In ILS Basement

By David Snouffer

Harvard Student Agencies, a service enterprise managed by Harvard College undergraduates, will open a coffee shop in the basement of the International Legal Studies Building on Monday, March 10, HLS Dean of Students Mary Upton announced last week. At the same time, Upton and other administrators are exploring the possibility of putting a coffee shop in Harkness Commons and of having a concessionaire help students manage the Backbench Pub in Harkness, currently operated by the Dormitory and Student Affairs Council.

Responding to an article in the *Record* of Feb. 14, Upton said she never proposed having a coffee shop replace the student-run Pub.

"There are no plans to discontinue the Pub," Upton wrote in the Law School's weekly newsletter, the *HLS Adviser*, on Feb. 20. "The Pub plays an important role for some students as a place for relaxation and a refuge from studies," she said.

In a meeting last October, Upton and several other administrators discussed the possibility of putting a coffee shop in either the ILS building or the pub's space with Bruce McCall, 3L, who until last week was president of DSAC.

Upton said she never intended to open a coffee shop in Harkness Commons to conflict with the pub's hours of operation (nightly, from 9 p.m. to 1 a.m.). A coffee shop could operate in the pub in the morning or early evening without conflicting with DSAC's student bar, she added.

But a questionnaire Harvard Student Agencies distributed to some 1Ls last month, which said HSA was "interested in operating the 'One Night Stand' in the old Pub or in ILS," asked students filling out the survey to choose time ranges between 7 p.m. and 2 a.m. for the new coffee shop's operation, which the form called a "grille." HSA last spring operated an evening coffee shop in ILS similar to the one it will soon open in the Graduate Student Lounge.

McCall said he was concerned when he first saw the survey last month that the choices of hours HSA listed for its new coffee shop "all presumed no Pub." When he contacted the organization, McCall said one of its officers assured him that the group had not meant to refer to the HLS bar as "the old Pub."

HLS administrators did not authorize HSA to conduct the survey, Upton said. HSA President Linda Doyle was not available this week for comment on the questionnaire or the new coffee shop in ILS.

Upton's recent statements that she wants to keep the Pub are "good news for the student body and good news for DSAC," McCall said. "I think that what's happened is that she's realized that students don't want a coffee shop in the Pub."

On Feb. 20, five students presented HLS Dean James Vorenberg and Vice-Dean David Smith with a petition that about 800 students had signed between Feb. 14 and 19 to support DSAC's Pub, said Joe Rzeppa, 2L, one of the students.

"I think [the petition] showed that the student body is really united on saving the Pub," Rzeppa said.

Having Harvard undergraduates run a pub at the Law School "makes no inherent sense," he said.

Upton reiterated criticisms she made of DSAC's management of the Pub over the years, saying that the bar has come "very close" to losing its liquor license and that vendors that the Pub's managers had not paid have occasionally stopped all deliveries. In addition, she said the Pub was so dirty last spring that it sent a smell through Harkness Commons that became notorious.

"Fruit flies multiplied and flew up the ramp into the dining room upstairs," she added.

But Upton emphasized that the Pub's management underwent a "tremendous improvement" under McCall's management of DSAC.

The Pub is an important revenue source for DSAC, McCall said, and allows the organization to operate the Harkness game room and intramural athletic program at a loss.

Questionnaire Results

Among the 451 students who returned a survey Upton distributed to all students in January about the proposed coffee house, the majority of respondents preferred having the establishment operate from 9 p.m. to 1 a.m. The second most popular time was 9 to 11:30 a.m.

The most popular foods listed on the questionnaire turned out to be bagels, fruit, juice, sandwiches, coffee, muffins and hot chocolate, Upton said.

HLS administrators earlier this year asked DAKA, which operates the cafeteria on the second floor of Harkness, to consider helping DSAC serve food in the Pub area, HLS Administrative Dean Simone Reagor said this week, but DAKA's management does not want to participate until at least next fall.

HLS only has a few places where a coffee shop could be located feasibly. Reagor said, including the Pub.

"We're trying to make the best use of what space we have for what students want," she said.

To sell food in the Pub's space would be "practically unrealistic" without using DAKA's "fabulous kitchen on the Harkness second floor, she said. DAKA "would have to work out some kind of deal with DSAC," she added. "It's an opportunity, if DSAC and DAKA want to pursue it."

Reagor said DSAC had agreed to work out a "menu of what foods they might serve" and submit it to HLS administrators, but when the organization had not done so by January, Upton decided to herself ask students what foods they might like.

DSAC members generally have trouble scheduling meetings among themselves and with administrators between October and February each year, McCall said, because students are busy with interviews, fly-outs, and exams.



3Ls, Law School Council Elect New Reps

By David Snouffer

The Law School Council last month elected leaders to head the 15-member organization for the next 12 months and then oversaw balloting by 3Ls for representatives to help organize HLS commencement activities this spring.

The Council decided at its meeting on Feb. 11 to choose permanent officers at the following week's meeting and to stop having different members take turns heading the group. Elected on Feb. 18 were Jay Ward, 2L, president; David Schwartzbaum, 2L, vice president; and Julie Chiu, 1L, secretary.

Ward said last week that the new Council leaders, who will serve until next February, hope to increase students' "voice" in what goes on at HLS and to help the Council "take a larger role in representing student concerns."

The Council ran the 3L elections, held Feb. 25, 26, and 27 in Harkness Commons, at the request of the HLS alumni organization, the Harvard Law School Association. Third-year students chose Loulan Pitre as their class secretary and Einer Elhauge as class marshall. They also elected Doug Hagerman, Maria Imperial, John Orgain, Jennifer Ostrom, and Audrey Selden to form a class committee that will help plan commencement ceremonies scheduled for June 5.

The Council abandoned the system of "rotating facilitators" it instituted in September and elected permanent officers "after a lot of debate and discussion," Chiu said last week, because members decided "it seems to make better sense having the same people running the [group's] meetings and talking with [HLS] administrators."

Since last fall, different groups

of Council members have directed the organization each month. The Council had decided to have leaders rotate because in years past the council's permanent officers had been "doing all the work," Chiu said.

The new officers will try to share their burden with other Council members by delegating responsibilities to Council committees and by setting specific goals for the organization, Chiu said.

Chiu's election as secretary is provisional, because her term expires in April, when first-year students will choose representatives to sit on the Council during their remaining two years at HLS.

Schwartzbaum defeated Neil Quinter, 1L, for the Council's number two job, the only position that was contested. Council officers said they kept no tally of the vote.

Harvard Bunnies Sought For Men's Mag

By David A. Price

David Chan, a photographer for *Playboy* magazine, is in Cambridge this week to recruit Harvard University women for the magazine. The women he recruits will appear in "Women of the Ivy League," a feature in *Playboy's* upcoming October issue. The feature will reprise an earlier pictorial on Ivy League women that was published in September of 1979.

HLS Models?

Based on his 1979 visit, Chan predicted that 40 to 50 Harvard women would sign up for interviews, of whom one or two might be law students. He said that no HLS students have appeared in *Playboy* so far, but he added that *Playboy* models in the past have included law students from other schools.

Chan asserted that the feature would help to dispel an incorrect image of Harvard women. "Movies and television portray well-educated

women as plain and undesirable," he suggested. "In fact, I've seen a lot of attractive women on the Harvard campus. If you haven't noticed them, you're studying too hard."

Feminists Exploit Playboy?

Chan conceded that *Playboy* and similar magazines are unpopular among feminists. "Some women's groups pick on *Playboy*," he said. "That gets them notice and attention. They're exploiting *Playboy* for their own purposes." Chan denied that the magazine harms women; he claimed that many women are *Playboy* readers.

The *Harvard Crimson*, an undergraduate newspaper, refused to print *Playboy's* advertisement for models. On March 3, the *Crimson* issued a statement explaining that the majority of the staff felt *Playboy* degrades women and that "the *Crimson* should not aid that degradation either tacitly or explicitly." The *Harvard Independent*, another undergraduate newspaper, printed

Playboy's advertisement.

Some *Playboy* models have lost their jobs as a result of their modelling work. Chan agreed that some women's careers had been hurt by their modelling, but he said that all of the Ivy League women in the 1979 feature now have "booming professional careers."

Modest Rewards

The financial rewards of appearing in *Playboy* are modest. Women who pose fully clothed receive \$100, those posing semi-nude receive \$250, and those posing fully nude receive \$500. Women chosen as centerfolds receive \$15,000.

According to Chan, *Playboy* models aren't motivated by the financial reward. "They don't even ask about the money," he said. "It's an ego trip. Men and women both like to be noticed."

Dr. Ruth Calls For Greater Sexual Literacy

Ruth Westheimer, nationally known sex therapist, told a crowd that filled the Ames Courtroom and two additional video galleries on Feb. 18 that society needs greater sexual literacy. Westheimer's appearance was sponsored by the HLS Forum.

Westheimer's rise to prominence began when she started hosting a radio call-in show, *Sexually Speaking*. She is currently expanding her advocacy of "good sex" into different media, including cable television, home video and print. She has also tapped another lucrative market with her recent release, *Dr. Ruth's Game of Good Sex*.

Although some have criticized Westheimer as a pop psychologist, she has spent most of her life as an academic and practicing psychosexual therapist. Born in Germany, she studied in Switzerland and then at the Sorbonne in Paris. She immigrated to the United States in 1956 and continued her studies, receiving a Doctorate of Education from Columbia University. Since completing her doctorate, she has taught at many of the nation's leading educational institutes, including Columbia University, West Point, and the Cornell Medical Center.

In her address, "Dr. Ruth" decried the lack of knowledge that most people, especially the young, have about sex. She also said many myths continue to be widely accepted despite their falsity. As one example, she informed the audience that it was once widely believed that masturbation caused loss of hair and the need to wear glasses. The audience, most of whom had thinning hair or glasses after spending time at HLS, responded with very appreciative laughter, especially when



Ki Ingersol/Adele Hendrix

Dr. Ruth Westheimer

Westheimer singled out one student for special attention.

Need for Sexual Literacy

While maintaining her humorous style, Westheimer made a serious case for the need for sexual literacy and stated her belief that more education will lead to less sexual dysfunction. She cited many examples from her clinical experience and particularly stressed the need for accurate knowledge and of use of contraception. Westheimer attributed her popularity in large part to this need in society's need for a transfer of information.

Toward the end of her address, Westheimer reacted to criticism of her media-based approach. She said she does not conduct therapy on the air, but rather just tries to educate the public.

In terms of the information conveyed, she said everything she says on the air is heard by millions of people and thus a mistake is very

unlikely to slip by. In contrast, she said, inaccurate information given in a therapist's office is unlikely ever to be contradicted and thus she feels accuracy can be well served by her approach.

Some members of the audience ask questions from the floor, but others wrote theirs on cards distributed prior to her speech. She encouraged reluctant live questions with a call for an "applause of hands" for each person who dared to approach the microphones. Subjects ranged from technical matters such as the G spot and the contraceptive sponge to more general issues such as sexual confidence and pornography.

Questions Answered

Westheimer responded to questions in the explicit manner to which her audience has become accustomed, although she was careful to avoid going outside her field of competence into medical issues. Unfortunately, this was the fate of the audience's favorite question about the caloric content of seminal fluid, which drew the response, "I'm not a nutritionist!" Despite these limitations in the question period Westheimer left her audience entertained.

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Graduate Schools Plan Joint Activities

By Michael Reilly

Ever wonder what goes on in all those Harvard buildings surround the Law School? Did you ever think that HLS would be the setting of a music video? The answers to these burning questions, and more, will be revealed at the kickoff party of the newly formed Graduate and Professional Schools Council, (GAPSC) to be held March 14, in the Arco Auditorium at the Kennedy School of Government.

According to Julie Pearl, GAPSC president and a Kennedy School student, the party will be the first of many activities aimed at fulfilling the group's purpose: "To unite graduate students in their daily lives, from athletics, to community outreach, to social events."

The council was the inspiration of several Harvard Business School students, who enlisted the assistance of the student councils at the various graduate schools. HLS was one of the organization's earliest supporters. Under its constitution ratified last December, the GAPSC is represented by every Harvard graduate school except the Divinity School.

Voting Distribution

The voting representation is distributed so that the three largest schools, HLS, the Business School and the Graduate School of Arts

and Sciences, each with enrollments of over 1,500, are entitled to three votes apiece. All the other schools have two votes each. In addition, each school may send as many non-voting representatives as it wishes to attend the council's meetings. The HLS representatives are Luis Caldera, 2L (JD-MBA), Julie Chiu, 1L, and David Schwartzbaum, 2L.

Besides parties, the council also plans to organize a grad student intramural athletic program, community outreach events such as the tutoring and coaching of high school and handicapped youth, and the maintenance of an "Events Hotline." The council's hotline will be in operation by March 20 and a recorded message will list all the "open" events occurring at the various graduate schools at Harvard.

Job Sessions Planned

In response to practical concerns of graduate students, the council

will regularly sponsor multi-disciplinary job scholarship sessions. Recognizing that fields overlap and that students from the Law, Business and Kennedy Schools and the Graduate School of Arts and Sciences, for example, often seek similar jobs, the council will invite representatives of firms or agencies that recruit from several Harvard graduate schools to address a cross-disciplinary audience. Currently, the group plans four of these sessions a year with the hope that this will provide a forum for an exchange of ideas among students themselves as well as between students and employers. Meetings of the council will be every other Wednesday and rotated among the member schools.

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Group Discusses Changes In Philippines

By Michael Sturm

A former U.S. diplomat described newly installed Philippine President Corazon Aquino as being an unknown quantity among U.S. observers in a lecture and discussion Feb. 28 on the turbulent situation in the Philippines.

Leonard Unger, who teaches at the Fletcher School of Law and Diplomacy at Tufts University and has served as U.S. ambassador to Laos, Thailand and China, led the East Asian Legal Studies discussion held in Pound Hall.

Topic Change

The lecture, scheduled before the fall of the government of former Philippine President Ferdinand Marcos, was originally focused on possibilities for U.S. intervention. Recent change in the South Pacific country, however, forced the talk to concentrate instead on the prob-

lems facing the new Aquino government headed by Aquino.

Unger said that the economies of most non-Communist Southeast Asian nations are improving but that the Philippine economy has declined for the last several years. The Ambassador attributed much of this to mismanagement and the corruption under the Marcos regime. He noted that Aquino must deal not only with these problems, but also with the New People's Army, a communist guerilla group that has substantial support in some rural areas.

Strong Personal Qualities

Unger stated that even those who knew Aquino and her late husband, Benigno, when they lived in Boston cannot say how Aquino will perform as a leader. Unger recalled meeting her while her husband, who was slain upon his return to the Philippines, was at Harvard. He praised

Aquino's personal qualities, her integrity, her devotion to her country, and intelligence. Unger also said that in recent weeks she seems to have learned to enjoy the leadership role into which she was thrust unexpectedly.

During the discussion, issues were raised ranging from the U.S. role in bringing about Marcos' downfall to the question of who will really run the new government. Unger said U.S. policy has been "more carefully considered and constructive than I had feared."

He believes that it is too early to tell how Aquino will fill her role as president, but that she is intent on avoiding a repetition of the Marcos regime. One of her greatest challenges in this regard will be the need to retain some Marcos administrators for their experience while avoiding substitution of one corrupt administration for another.



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HLS Offers DNA And Biotech Course

By Julia Loewy

Learn about recombinant DNA in law school? That's exactly what the students in Professor Richard Stewart's seminar on Biotechnology and Law are doing.

According to Stewart "the class is quite diverse" compared to a typical HLS course, which is considered to be one of the most enjoyable aspects of the course. The students are from throughout the University and include an Assistant Professor of Medicine who is doing genetic research, researchers from the School of Public Health, and several students from the Kennedy School.

The course work on a system where several students and guest speakers present the week's course material. Students also prepare papers linked to their presentations. The first two course meetings were devoted to learning about recombinant DNA. Class members with strong backgrounds in science taught others what was necessary to understand the legal problems facing new technologies.

Nancy Johnson, a Ph.D. candidate in immunology who presented one of the background materials said she is "enjoying it immensely and looking forward to examining the legal and policy aspects further."

Course Focus

The course focuses on how the law facilitates and controls a set of new technologies. According to Stewart, "in some cases the prob-

lems facing new technologies are the same as those facing traditional ones." The computer industry is one example. Others, such as nuclear power require special regimes like the Nuclear Power Commission and the Nuclear Regulatory Commission to promote and control them.

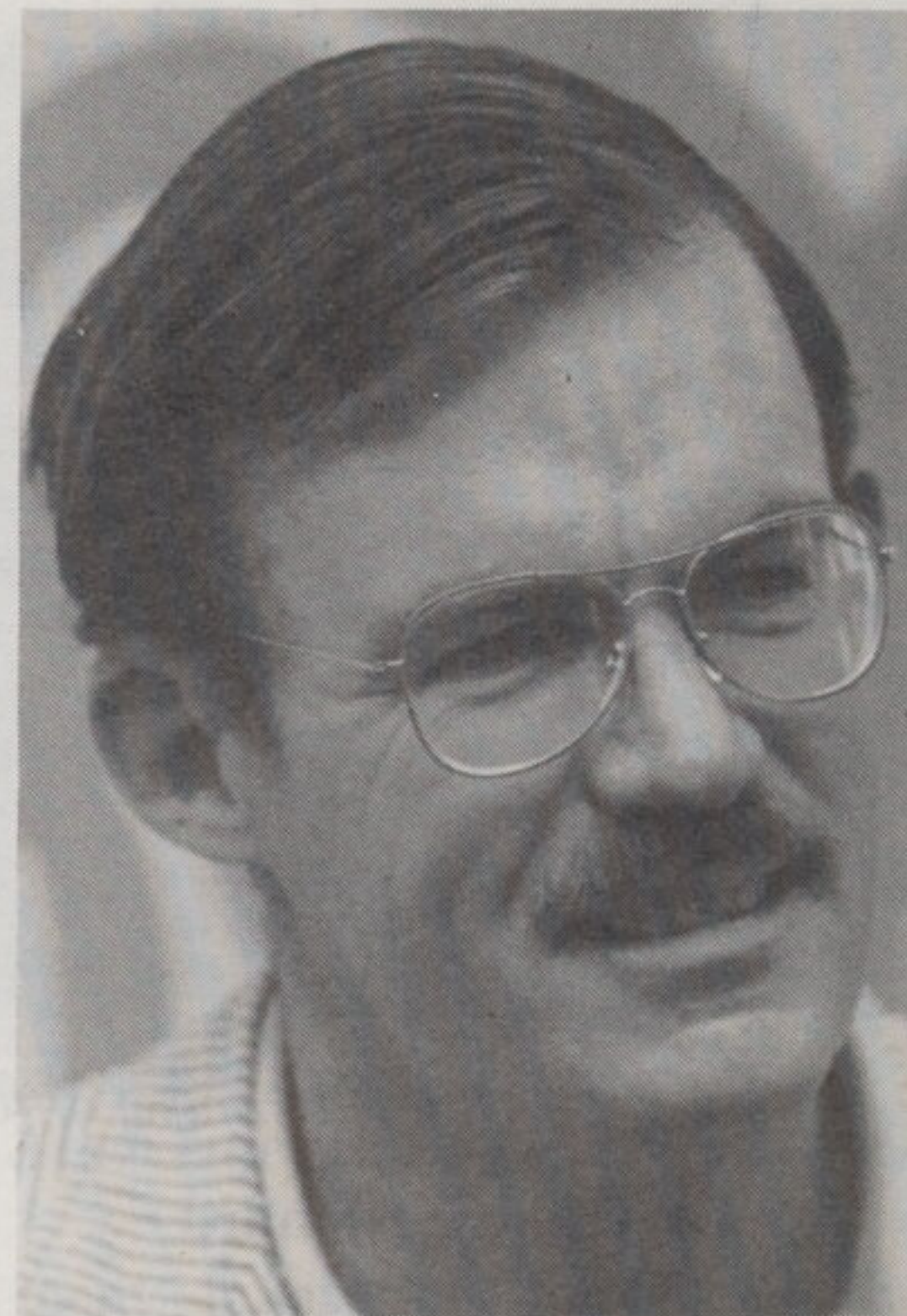
The biotechnology industry presents a special problem with regard to what the proper relationship between universities, industry, and government should be. The secrecy required by the companies seeking profit is sometimes inconsistent with university research and the government's duties under the Freedom of Information Act. There is also some concern that researchers with a financial stake in biotechnological ventures will choose the most lucrative projects, thus distorting scientific inquiry.

Later in the semester the course will look at the regulation of biotechnology. Stewart said that initial concerns that sloppy procedures in labs would "unleash a Frankenstein" have died down as people realize the risks are low.

The focus has shifted to fears that field applications will disrupt the environment. Litigation is just beginning over the possibility that organisms used to increase agricultural productivity, stop frost, or lower pollution levels will become pathogenic as a result of gene interchanges.

Genetic Engineering

The final sessions of the seminar



HLS Yearbook

Prof. Richard Stewart

will be on genetic engineering and humans. Topics will include gene therapy, which would supply missing genes or enzymes, and germ-line therapy which would make it possible to alter inheritable characteristics like sickle-cell anemia.

Stewart said the class will discuss the social, ethical, and religious considerations and "the spectre of the master race mentality" which it raises. Procedures allowing genetic screening for birth defects or other traits may result in "indirect eugenics." Parents may be able to choose whether to abort because a fetus' eye color is not satisfactory. A discovery that a certain group is more susceptible to a certain disease may lead to discrimination.

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Journal Postpones Change In Selection Process



Sal Casente

Gannett House, office of the Law Review

By Hillary Richard

The *Harvard Law Review* held a meeting for all members on Tuesday, March 4th, to discuss possible changes in the *Review's* selection procedure. Under the current system, which has only been in effect for one year, everyone who wants to join the *Review* must enter the writing competition. Half of the members are then chosen strictly on the basis of their writing and the other half are chosen based on a formula of 70% grades, 30% writing competition.

The meeting was called by the newly elected President, Adam Cohen, in response to a memorandum drafted by *Review* members Carlton Montgomery (3L, Treasurer) and Bill Forbush (3L). The memo, which was addressed to Cohen, outgoing President Carol Steiker and all editors, requested a meeting to review the selection procedure for *Review* members and

offered the following proposal as a replacement for the current system: An optional writing competition, with half of the editors being selected solely on the basis of their grades and the other half solely on the basis of the writing competition. All new editors would join the *Review* in August.

The *Review's* official statement to the press was that they voted "to retain the status quo for next year." They refused to comment further on the meeting.

One student, who requested anonymity, gave the following account of the meeting. The *Review* was faced with three different proposals for selection. The first was a return to selection based solely on grades. The second was the Montgomery/Forbush proposal. The third, proposed by Ed Baer, 2L, was a system whereby if 200 people entered the competition, it would be strictly a selection based on writing. If there were less than 200 applicants, then

4 members would be selected on grades per each group of 20 applicants.

The unofficial account of the meeting is that a vote was taken strictly on the procedural question of whether the new procedure (which had not yet been voted upon) would be implemented this year. The *Review* voted not to implement any changes this year.

The *Review* then voted on the selection process. The all grades proposal was voted down. The Montgomery/Forbush proposal was then tabled by a 34-33 vote. Finally, by a narrow margin, the *Review* voted to accept the Baer proposal for next year.

According to one student, the vote was in part due to the 1L petition circulated by Suzanne Jackson, Amy Shapiro, Katina Leodas and Peter Levine, which stated that the Class of 1988 "opposes any effort to increase the influence of grades in the selection of members of the *Harvard Law Review*. Between 300-350 first-year students signed the petition.

If the *Review* had voted to adopt a new selection procedure for this year, it would have been the third procedure used in as many years. By amending the process from one based entirely on grades to the current system, the various *Reviews* have tried to de-emphasize the role of grades in an attempt to make the *Review* less of an "honor society." The call for a move back to the old system is seen by many as a sad slide back towards an elitist, grade-oriented *Review*.

Both drafters of the memo, Carlton Montgomery and Bill Forbush, declined to comment on the motivating factors behind the request for a new selection procedure. Speculation abounds, however, that pressure from the upcoming Faculty Law Journal, combined with faculty disapproval of the current writing-based system are the key factors behind the new proposal. While the current selection process shall remain in place for this year, it will be next year's *Review* that decides the fate of the selection process for 1987.



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New Center Sponsors Summer Internships In Asia

By Marla Becker

The International Center for Land Development, located in Pound 410, is a newly-organized research center devoted to the study of land use, urban development, and environmental policy in Asian countries. The Center will arrange for fellowships for law student internships in housing, urban and environmental planning, finance, and land use. The Dean's Office will sponsor two to three fellowships this summer, which will cover air fare and living expenses.

The Center has three primary goals: to provide a forum for the comparative study of land development issues from an interdisciplinary perspective, combining legal, planning, and political approaches; to carry out in-depth case studies of selected topics, ranging from programs for the provision of low-income housing to the effects of international investment in real estate; and to offer training programs for professionals and government officials in Asian countries.

Louis D. Brandeis Professor of Law, Charles Haar, the director of the Center, has had extensive experience as a land-use expert, serving as a consultant to such international agencies as the Agency for International Development and the World Bank in Asia, Indonesia, and Sri Lanka. Professor Lance Liebman and Vice Dean David Smith are also involved with the Center. Liebman has done extensive work in India, and Smith is an expert on law and development issues. HLS co-sponsors the Center with the Lincoln Institute of Land Policy, a research center based in Cambridge, and MIT's Spaulding Institute for Real Estate Development. The Center will focus on the problems of urban development, including unsanitary conditions and overcrowding of cities.

According to Liebman, urbanization in countries such as India and China poses significant problems of shortages in housing, education and employment. In countries where greater than seventy percent of the people are still living



Provision of municipal services in Asian cities will be one focus of the new center.

in rural areas, greater agricultural efficiency leads to increased urbanization. "The biggest question, then, becomes 'How can countries stabilize the rate of urbanization?'" Liebman pointed out that diverse approaches can be made to regulate the rate of urbanization, using legal mechanisms such as permit requirements for housing in Asian cities.

Law students interested in traveling to Asian countries this summer will intern with government agencies, lender institutions, private and international developers, or international foundations. The Center has a network of contacts for placement in many Asian, East Asian, and Southeast Asian countries. Students can work in the legal departments of agencies, participating in negotiation strategies, institution building, and legislation. Possible topics include urban rent control in major Asian cities, advocating legal rights of squatters and slum-dwellers, international taxation, strategies for inducing a flow of domestic and international capital into the housing sector, land title security programs, urban migration, hazardous waste, and environmental law and planning.

According to Administrative Director Jon Lindsay, the Center is negotiating to set up fellowships with the Asian Foundation, A.I.D., the Asian Development Bank, and various other private and govern-

ment institutions, such as the Housing Development and Finance Corporation in India. Lindsay, who has been involved with the Center since its inception, has worked independently on problems of land-use waste in India, and has prepared affidavits on behalf of the Indian government in the Bhopal toxic gas discharge action against Union Carbide.

Student Research Programs

Lindsay stressed that students can develop their own research programs or can opt for a more structured summer internship. He also stressed that no particular background is required to qualify for a fellowship. Fluency in Asian languages is not required, since English is an official language of most Asian countries.

The program has attracted interest from a wide range of students — from 1Ls with no prior experience in Asia or in the area of land use development, to students particularly interested in traveling to Kuala Lumpur ("Muddy Estuary") in Malaysia to study the legal component of land acquisition problems, to students interested in the effects that the termination of the British lease on Hong Kong (a 99-year lease) will have on real estate in Hong Kong, as the lease reverts back to the People's Republic of China in 1997.

What's The Reason For The Secret?

Some people can't seem to make up their minds. At least that is what appears to be the problem over at the *Harvard Law Review*.

For the past three years, the members of the *Review* have analyzed, discussed and altered their process for selecting members to their journal. And now they are at it again.

Evidently, some of the members of the journal want to increase the weight given to grades in their selection process. And not surprisingly, no one from the journal wants to talk about why they believe this reversal is necessary. Silence, however, is not the best way to approach this issue. Their silence only raises questions of a desire for elitism. This is especially true when some of the proponents of the reversal are people who two years ago signed a petition to decrease the influence of grades.

If there are good reasons for wanting to increase the influence of grades in the selection process, then the *Review* should be up-front with them. As it stands right now, the majority of the first year class does not believe that the journal should return to selecting any of its members on a grades-only basis. If the journal came forward with the concerns they face by requiring everyone to participate in the writing competition, then possibly some public opinion would swing to their favor.

One reason for the reversal could be concern over last year's low turnout for the writing competition. If this is the reason, the *Review* should at least give students a few years to adjust to the new timing of the competition. Low turnout should also cause the *Review* to engage in open discussion with first year students to determine why they do not stay for the competition.

The *Review* faces an uncertain future as the new faculty-edited law review comes into existence next year. This is not the time to alienate students with deliberations shrouded in secrecy.

The members have to make up their minds. Do they want the *Review* to be an honor society? Do they want it be an outlet for students with interests and talents for scholarly legal work? The decision is theirs, but really, they should decide already.

G.K.K.



HARVARD LAW RECORD

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Fenno

Fenno was late for class. That was unusual. Fenno usually didn't go to class. But he hadn't been feeling good lately.

As he hurried along, he suddenly got wind of a particularly pungent aroma. Then he realized it was coming from himself. Ummm, Eau du Meister-Brau, the scent of hangovers. He wished he had taken a shower.

When Fenno went to slide into his favorite seat in the back bench, he was appalled to find it occupied by some man in a suit. In fact a whole bunch of well-dressed strangers were sitting in the back row. As Fenno found a seat between a gray-haired man in a blue pin-striped suit and a woman sporting a string of pearls, he wondered why anyone would want to come to this class if they didn't have to.

Fenno smiled at his neighbors as he sat down and got out his notebook. They tried hard to ignore him by pretending they were concentrating on the lecture. Fenno took a bite out of the bagel he had brought with him and then held it out to the woman. "Want some?" She shook her head violently.

One of the other immaculately dressed strangers raised his hand. The professor called on him. "Our firm frequently deals with issues of these kinds," the man began, "and I'd like to comment on your interpretation of..."

"Who's this clown?" chortled Fenno to the man on his right. "Does he think we care about what he has to say?" The man simply glared back at him.

As class dragged on, Fenno pulled out *The New York Times* crossword puzzle and began working on it. Soon he was stuck. He leaned over to the man and asked "What's Mme. Bovary's first name? Four letters." The man turned away.

The woman on his left began sniffing the air with a sour look on her face. She reached up and held her nose. Fenno reached into his pocket, pulled out a crumpled tissue and held it to her. "Winter cold, huh? I got one too," said Fenno. "By the way, can I have a sip of your coffee? I didn't have time to stop this morning and this bagel's all stuck in my teeth. See?"

The couple grabbed their coats and fled from the room.

Later, outside Langdell, he overheard the couple talking. The man had obviously calmed down.

"If that's an example of a law school radical," he said, "then we capitalist oppressors haven't a thing to worry about."

Fenno shrugged. He was no revolutionary. The dictatorship of the proletariat would probably force him to wake up before noon.



TOM the DANCING BUG BY RUBEN BOLLING



Great Moments in the Law

A Maryland law states: "Any person who shall enter upon the land or premises of any other person, whether owner or lessee of said property, and willfully and maliciously injure any ice upon any pond or stream of water upon said land or cast any substance to injure ice shall be judged guilty of a misdemeanor."

Next Record: March 14

Letters to the Editor of the Record

To the Editor:

In the February 7, 1986, issue of the RECORD (Vol. 82, No. 1), Tom Rozinski made a strong case that the Law School administration should encourage students to cross register into other University courses. He argued that "a large number of [law] students ... lack the intention of joining the legal profession," and they should be allowed to study in those disciplines which engage their intellects. He further suggested that most students are tired of learning law after one year: "they spend most of their time on outside activities ..."

Tom's assertion that 2Ls and 3Ls are seldom engaged by law school classroom work seems to be a fundamentally refutable truth about HLS. We expect so little in the classroom from ourselves, our professors, and our classmates that most of us could wait another 2-plus months for our grades; it would make no difference to us. The 10-week wait should outrage us! It is a bitter irony that most of us get better feedback on our legal work and learning from the money-making firms that pay us than from the institution we

pay and which many of us once respected as the country's finest legal educator. It may take a supervising attorney a month to tell you "I liked your memo," yet even this response tells one no less than the inarticulate, grunting feedback of a single letter grade (with its profound modifier "+" or "-"). The faculty and administration's performance should embarrass them. Our lack of response to this Kafkaesque charade of administrative inefficiency, human insensitivity, and pedagogical bankruptcy should frighten the great HLS, for it is a sign that the bulk of the institution's work with the senior 2/3 of its client/members borders on total irrelevance.

I disagree, however, with Tom's suggestion that the best way for the administration to respond to this overwhelmingly apathetic attitude is to abdicate its responsibility and encourage law students to flee to other parts of the University. The overwhelming majority of us *do* intend to be lawyers, the school has a mission to educate lawyers, and there is much learning for us to do. Harvard Law School must accept the difficult task

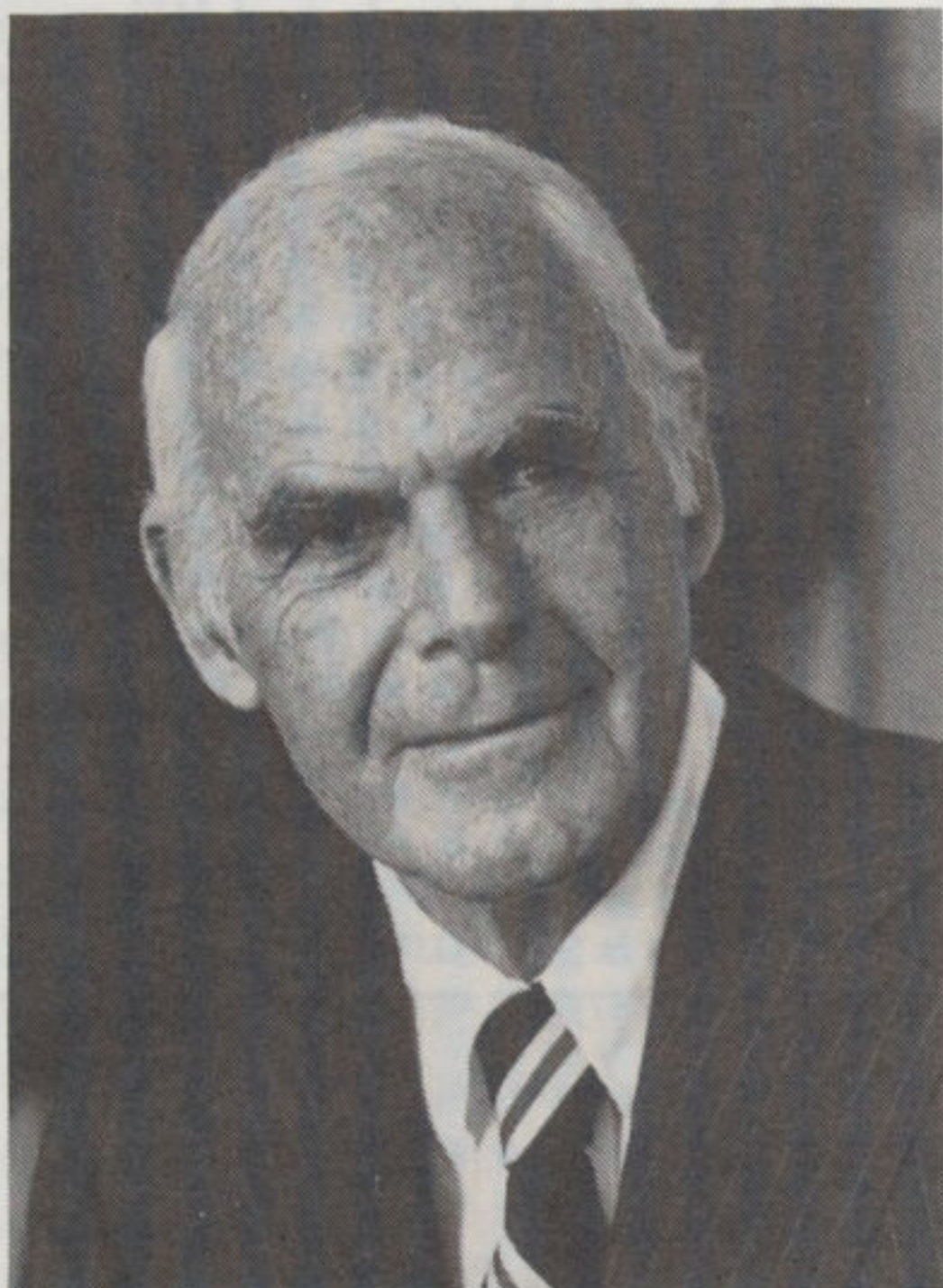
of discovering or re-learning how it can fully engage its students in their legal training.

It seems abundantly clear that the traditional practice of teaching bodies of doctrinal law to classes of 200 students is a costly obsolescence. Corporations, Ad Law, Evidence, and even Con Law classes often remind me of doctors' waiting rooms or Ford factories—with their collections of bleary-eyed looks and gaping holes of absentee workers. Gilbert's, Emmamuels's, and law review outlines provide sufficient backgrounds in most of these areas. Maintaining the same old game—with little twists like "panels" that implicitly admit that no one is prepared to think—is a costly fiction: exceptionally intelligent and dedicated people are not engaging in the *work* of learning. HLS must learn how to facilitate this work.

My regret in leaving Harvard in May will not be that I could not study more in other departments. I will regret the fact that much of my experience in HLS classes was so often unengaging. Like so many of my colleagues,

(Continued on Page 15)

Is The 's' In 'Esquire' Becoming A \$ Sign?



Leonard S. Janofsky, '34, a founding partner in the Los Angeles law firm of Paul Hastings, Janofsky & Walker, is a past president of the American Bar Association. He has presented these ideas in remarks to the California Bar Association and in the California Lawyer.

As lawyers we call ourselves professionals. We claim to be officers of the courts and protectors of rights. We like to think that what we are engaged in is noble, righteous and worthy of respect. We acknowledge that our public image could be better, but we attribute most of that problem to a lack of understanding of what we do. And despite our tarnished image, we are proud to put "Esquire" after our names.

But by becoming more like businessmen and less like professionals, are we losing the right to be proud? So much of our energy is devoted to "marketing" our services that it is difficult to see the "s" in Esquire as anything but a dollar sign. Many of us sit around trying to follow a consultant's advice to "create" more business. The word create is dangerously close to the word manufacture, and the word business is dangerously far away from the word professional. And this increasing concern with "selling" our wares is

dangerous, not for lawyers, but for our clients.

When those entrusted with the exclusive right to handle legal matters put their own financial interests first, their clients suffer. We have a right to earn a living, and even a right to advertise our services. But before any right we have a special obligation. Perhaps this idea of obligation is foreign to many of today's lawyers because their entire legal education focused on the *rights* of individuals.

In our culture and under our laws, a person is defined as someone with rights. In our society, the more rights, the more one is to be respected. Or put another way, the most pathetic creature one can think of is the person with no rights.

*"Some
lawyers
treat the system
of justice
as a game
to fatten
their
pocketbooks"*

But, as Professor Robert Cover of Yale Law School has pointed out, other cultures use other models. For example, Professor Cover shows that under Judaic Law the concept of right is not the fundamental one; the fundamental concept is obligation. In that system, the most pathetic creature is the person without obligation. The most worthy person is the one with the most obligations. In Hebrew the word for obligation—commandment—is mitzvah. When a Jewish child is recognized by the community as an adult—Bar Mitzvah—the child is given obligation.

Bible passages that speak of the Jews as a chosen people make it

clear that this means chosen to have special obligations, not special rights.

To be a professional is to be chosen in this same sense—what distinguishes the professional is special obligations, not special rights. A professional is one who has an obligation to serve that transcends self-interest.

In *Bates v. State Bar of Ariz.* ((1977) 433 US 350), the Supreme Court held that lawyers had a constitutional right to advertise and that advertising by lawyers could be regulated but not wholly prohibited. I believe that decision was correct as a matter of constitutional law, and I have no quarrel with it.

But I quarrel with a statement the court made in that decision. The court said, "The belief that lawyers are somehow above trade has become an anachronism." If the court were merely trying to point out that some lawyers conducted themselves as if they had no greater obligation to serve the public than a butcher, baker or candlestick maker, I would, with great regret, have to agree. But the court seemed to be saying: "Who's kidding whom? Lawyers sometimes talk as if they had greater obligations to the public than do butchers, but no one believes this, and what's more, there is no need to believe this." Yet our obligations are different. And when they go unfulfilled we all suffer.

When lawyers treat the system of justice as a game designed to fatten their pocketbooks, the whole system is debased. The public's confidence in the law is diminished and our democracy is weakened. If lawyers put their own interests before their obligations to others, then our system of justice is likely to be the next anachronism that the Supreme Court finds itself commenting on.

Are we really ready to accept prosecutors or defense counsel who put their own interests first? Or corporate counsel who are more

Off the Record Of Lawyers, Dollars, And Sense

by Leonard S. Janofsky

concerned with their own fees than with the interests of shareholders? Are we proud of the spectacle of lawyers descending on Bhopal? Are we prepared to encourage this behavior? Can our justice system stand this, and will the public tolerate it?

Around the turn of the century, the sociologist, Emile Durkheim, compared ethics of business and those of the professions, including law. What he found most disturbing was the "amoral character of economic life." In industry and trade, Durkheim saw a moral vacuum. And he wrote that "the unleashing of economic interests has been accompanied by a debasing of public morality." (Durkheim's views were posthumously published in 1950 in "Professional Ethics and Civil Morals" which was translated in 1957. Durkheim died in 1913.)

He urged business to become more like the professions, not the reverse. He wanted to see businessmen adopting higher standards of morality, not lawyers adopting lower ones. Since Durkheim's time, we have moved away from his vision and toward a world that defines its rules by the lowest common denominator.

To stop this trend we must face the criticism of the skeptics, the people who believe, as Victor Hugo said, "in only one certainty, [a] full glass." We must dare to believe more than the skeptic. We must dare to believe that people are capable of acting out of higher motives, that money and self-interest

*"Durkheim
urged
business to
become more
like the
professions,
not the
reverse"*

can and will be sacrificed if the cause demands it.

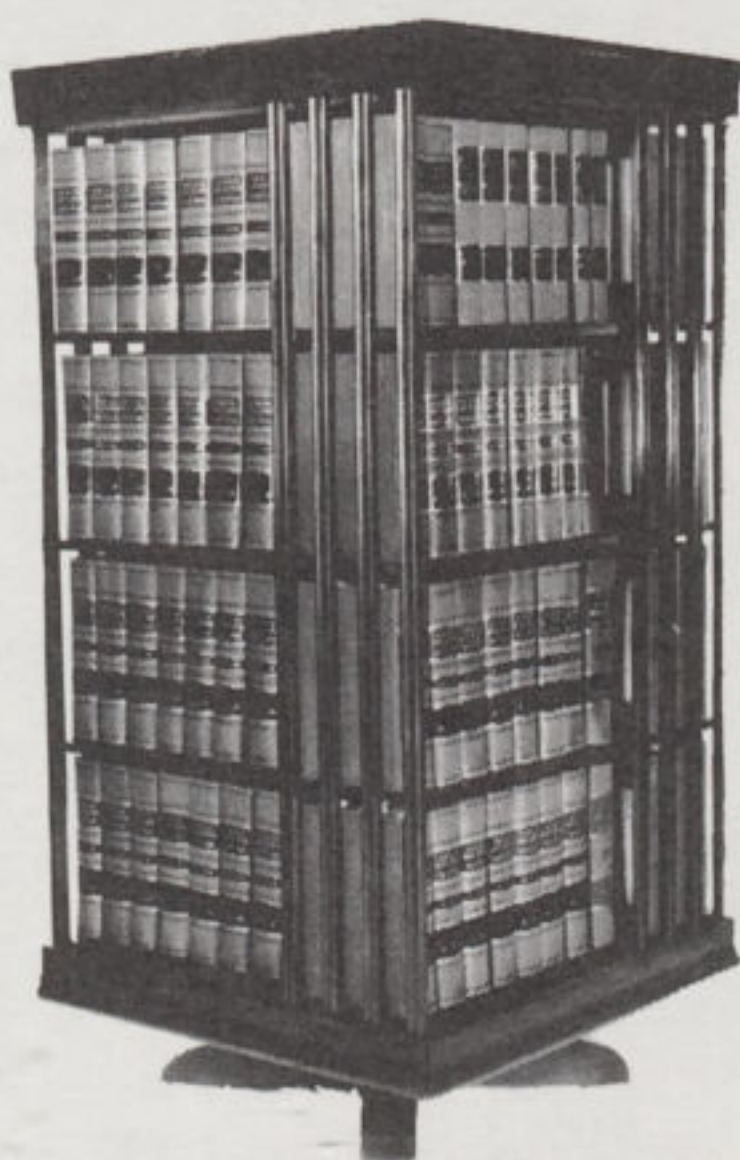
In defense of lawyers in the Bhopal case, Hofstra Law School professor Monroe Friedman said, "Yes, (they're in it for the money) and yes, they should be. What else but the profit motive could have brought

to the doorsteps of the impoverished people of India some of the finest legal talent in America?"

My response is: If we are needed, it is our obligation to go to the doorsteps of those who need us. If profit moves us and not obligation, then what will stop us from selling out our clients' interests to further our own ends? We have a right to earn a living, but that right must flow from our obligation, not precede it.

We can only prove ourselves worthy of the title Esquire if we put our obligations to society and our clients first. By working to ensure that the poor and near-poor get the legal services they need, by improving our competency, and by supporting law reform and alternative dispute mechanisms we prove ourselves worthy of our obligations and can be proud that we are lawyers.

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BAR REVIEW

Sports Quiz

By Russ Marsh

Spud Webb's electrifying performance in the slam-dunk contest at the NBA All-Star game in Dallas last month, as well as Manute Bol's recent shot-blocking exploits for the Washington Bullets have brought renewed attention to the role of height in basketball. This week's quiz looks at the long and short of it in hoops history.

1. Long the only NBA player under six feet tall, he once scored 68 points in a college game while playing for Niagara. Name this former Houston Rocket great, who was also a champion baton-twirler.
2. While leading the NBA in blocked shots last season, this Utah Jazz big man compiled several "triple doubles" (double figures in points, rebounds, and assists). Name the center on last year's NBA All-Defensive Team.
3. In 1974, the North Carolina State Wolfpack, led by David Thompson, broke UCLA's seven-year hold on the NCAA basketball crown. The team also featured players at both ends of the height spectrum.
 - a. Who was the team's 5'5" guard known for his passing and long-range bombs?
 - b. Who was the 7'4" center, who later languished in relative obscurity with the Seattle Supersonics?
4. Considered by many fans to have been the game's first dominant big man, this center led the Minneapolis Lakers to five world championships during the 1950's. Name this giant.
5. This former Indiana Hoosier star recently won his second All-Star Game MVP award. Name this Detroit Piston who edged out a player eight inches taller than he for the NBA assist title last season.

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Letters to the Editor of the Record

(Continued from Page 11)

I was shocked and thrilled at the number of remarkably intelligent, articulate and good people who entered HLS with me two and a half years ago. And I remain confused and disturbed and disappointed that our individual and institutional behavior served to sabotage our efforts to share our thoughts, our experiences, and our feelings in classes.

Perhaps the administration should get in the lead of the crowd of students who learn much more about the law from the Bureau, Defenders, PLAP, the mediation project, reviews, etc. That is where student intellectual and emotional energy is and it is probably well spent. Professors might find that they

could be used much more effectively and appreciated more if they brought their expertise to bear in these situations.

Many other solutions have been discussed: from making class sizes more manageable to providing intelligent and intelligible feedback to students. Discussion of alternatives belongs elsewhere. My intention was merely to suggest that many of us are indefatigably driven to learn, are quite interested in becoming lawyers, and are disappointed that the institution seemed to barely scrape the surface of our potential in this collective pursuit.

Daniel K. Mulhern, 3L



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Students Praise Kennedy's Teaching

(Continued from Page 1)

On February 25, 117 students from Kennedy's Fall 1985 Contracts class signed a letter to the *Phoenix* protesting the article as a "[mis-characterization of Kennedy's] class and the students' reaction to it." The letter took specific issue with "Canellos' report that 'Duncan Kennedy's classes leave students feeling intellectually enriched but deficient in practical knowledge of the law. And most of today's students would choose rote knowledge over intellectual enrichment.'"

The student response stated that they learned an "ample" amount of black letter law in Kennedy's class. They added, "We are all grateful for the rhetorical and theoretical skills we learned, and recognize how unique and critical Professor Kennedy's Contracts course was to our legal education."

"We learned more doctrine and black letter law than in any of our other classes, and the theory too," said Neil Quinter, Section 1's rep-

resentative to the Law School Council and one of the forces behind the letter. "Contracts was felt to be our best class," Quinter continued. "It has carried over the most to other classes in terms of the use of different kinds of arguments and theories."

Part of Larger Problem

Peter Levine, the actual author of the letter, said the *Phoenix* article was only a symptom of a larger problem. He stated that the recent articles in the press "all painted a picture of Kennedy that does not at all correspond to what he is like in class. But the *Phoenix* article was by far the worst and most distorting."

"The CLS debate in the press overlooks the fact that these CLS people are *teachers*, and in this way it forgets about the students," Levine said. If the press took a closer look at students taking courses with CLS professors, "it would see that these professors are [considered to

be] the most exciting ones."

Quinter added that a major reason for the letter was to get across Section 1's belief that "Kennedy was an excellent professor, and that we didn't like unfounded criticisms of him." He said that portraying Kennedy as resisting black letter law was "totally inaccurate."

Levine agreed, saying that "Dunc was the most exciting professor we had last semester — and the best teacher, as well."

Neither Quinter nor Levine recalled anyone affirmatively refusing to sign the letter in their section of 144 students. The 117 signatures were collected during the course of one class on one day.

Kennedy declined to comment on the letter, feeling that to do so would be inappropriate. Levine, however, said that Kennedy was "happy" with the students' effort.

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Corrections

In an article that appeared on page 15 of the February 21, 1986, edition of the *RECORD* (Vol. 82, No. 3), Judge Skelly Wright was incorrectly identified as a judge on the U.S. Court of Appeals for the Second Circuit. He is, of course, a judge on the U.S. Court of Appeals for the D.C. Circuit.

In last week's story regarding signature forgeries on financial aid forms, the *RECORD* incorrectly stated that Dean Upton had initiated an enforcement program to prevent such forgeries. In actuality, Dean Upton does not review financial aid files. The Financial Aid Office is enforcing the anti-forgery policy. The *RECORD* regrets the errors.

Sports Answers

1. Calvin Murphy
2. Mark Eaton
3. a. Monte Towe, b. Tom Burleson
4. George Mikan
5. Isaiah Thomas

COOP NOMINATIONS

The Board of Directors of the Harvard Cooperative Society has 23 members, of whom 11 are students from M.I.T. and Harvard, 11 are members of the faculty and staff or alumni of M.I.T. and Harvard, and one is the President of the Society. The following persons have been nominated by the stockholders of the Society to serve as Student Directors during the 1986-1987 school year.

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Randall Scott Hancock '87
Tamara Yvette Woolfork '88
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HARVARD GRADUATE STUDENTS

Daniel Malarkey '87
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Alison B. Sander '87

M.I.T. UNDERGRADUATE STUDENTS

Charles P. Coleman '87
Steven Schondorf '88

M.I.T. GRADUATE STUDENTS

David Waggoner '89
Sching L. Lin '87

PROCEDURE FOR ADDITIONAL NOMINATIONS FOR STUDENT DIRECTORS

Additional nominations for student directors may be made by the petition process. Petitions for student directors must be validly signed by at least 100 student members and filed with the Clerk of the Society (by leaving the petition at the President's office in the Harvard Square store) not later than 5 p.m., March 14, 1986.

Ballots will be distributed in April to all student members for the purpose of electing 11 from the whole list of nominees. If you are interested in becoming a petition nominee you should promptly acquire petition forms and instructions from the cashier's office in any of the Coop stores between the hours of 9:30 a.m. to 5:00 p.m., Monday through Friday. Remember that completed petitions cannot be accepted after 5 p.m. March 14, 1986.

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Job Transition Stress Eased

By Paula Tuffin

Law School Clinic Psychiatrist Dr. Jessica Oesterheld and Law School Counselor Angela Gillem are in the process of organizing a support group to help ease the transition from law school to work. The idea for the group grew out of Oesterheld's research on stress produced by the transition from 3L to first-year associate in New York and Boston.

Oesterheld found that students tend to underrate the stressfulness of the transition to work. She also found that the transition was equally stressful for both men and women, but that women tend to be better "predictors [of stress] than 3L men."

In her position at the law school, Oesterheld witnesses what she calls the "3L women syndrome" each spring. At that time, 3L women are asking questions such as: "Am I competent?", "Do I want to be a lawyer?", and "What have I been doing here?"

Oesterheld sees a need in the law school community for group-oriented support for these students. The group will provide an opportunity to discuss the questions and anxieties 3Ls experience and help guide women in their plans so they can make a smooth adjustment to work.

Oesterheld said that the reason the group is currently limited to women is because women tend to be more willing to articulate their feelings. She envisions that such an arrangement will facilitate the initial development of the group. But she would like to see men involved in the group in the near future.

Oesterheld has found that adaptation to the first job is "more stressful than [students] realize" and that "a good deterrent to stress is to plan for it. A bad adjustment is to ignore stress." Short screening interviews for the group are being given at the Law School Clinic.



Circuit Court Renders Texaco-Pennzoil Decision

(Continued from Page 1)

ing impact on local economic regulations of every kind. It's gratifying that the Court squarely rejected this theory."

Tribe argued that *Fisher* "did not really change" the earlier *Boulder* decision.

States and localities "can't invoke an automatic shield of antitrust immunity," Tribe noted. If local actions "squarely conflict" with the antitrust laws, they are still subject to those laws.

Tribe suggested that cases involving favoritism or corruption are still possible targets for antitrust action, as are "cases in which the city acted as a market participant in a way that's anti-competitive." However, the Berkeley rent control ordinance was enacted democratically, and in no way did the city and tenants display the concerted conspiratorial intent necessary to establish a *per se* violation of the antitrust laws, Tribe argued.

The Supreme Court decided *Fisher* on grounds radically different from those the California Supreme Court had laid down. "If the case had to be defended that way, we would have been in trouble. When I read the opinion and saw the Supreme Court had decided to take the case, I thought it would be an uphill fight just because the opinion of the California Supreme Court is so vulnerable," Tribe said.

In that opinion, California justice Mosk "sailed off the charts of established doctrine" to create a "rule of reason" by which city governments could defend themselves against antitrust challenges. Tribe said that he would have been "surprised" if any of the justices had supported precisely this contention. With this argument alone, "we might have lost badly," Tribe claimed. Thus, recognizing "that the Supreme Court didn't take the case just to affirm the reasoning in it," Tribe tried—successfully—to recast the case in a different light.

Tribe worked on the case only at the Supreme Court level and was

assisted by Professor Kathleen Sullivan.

Texaco-Pennzoil

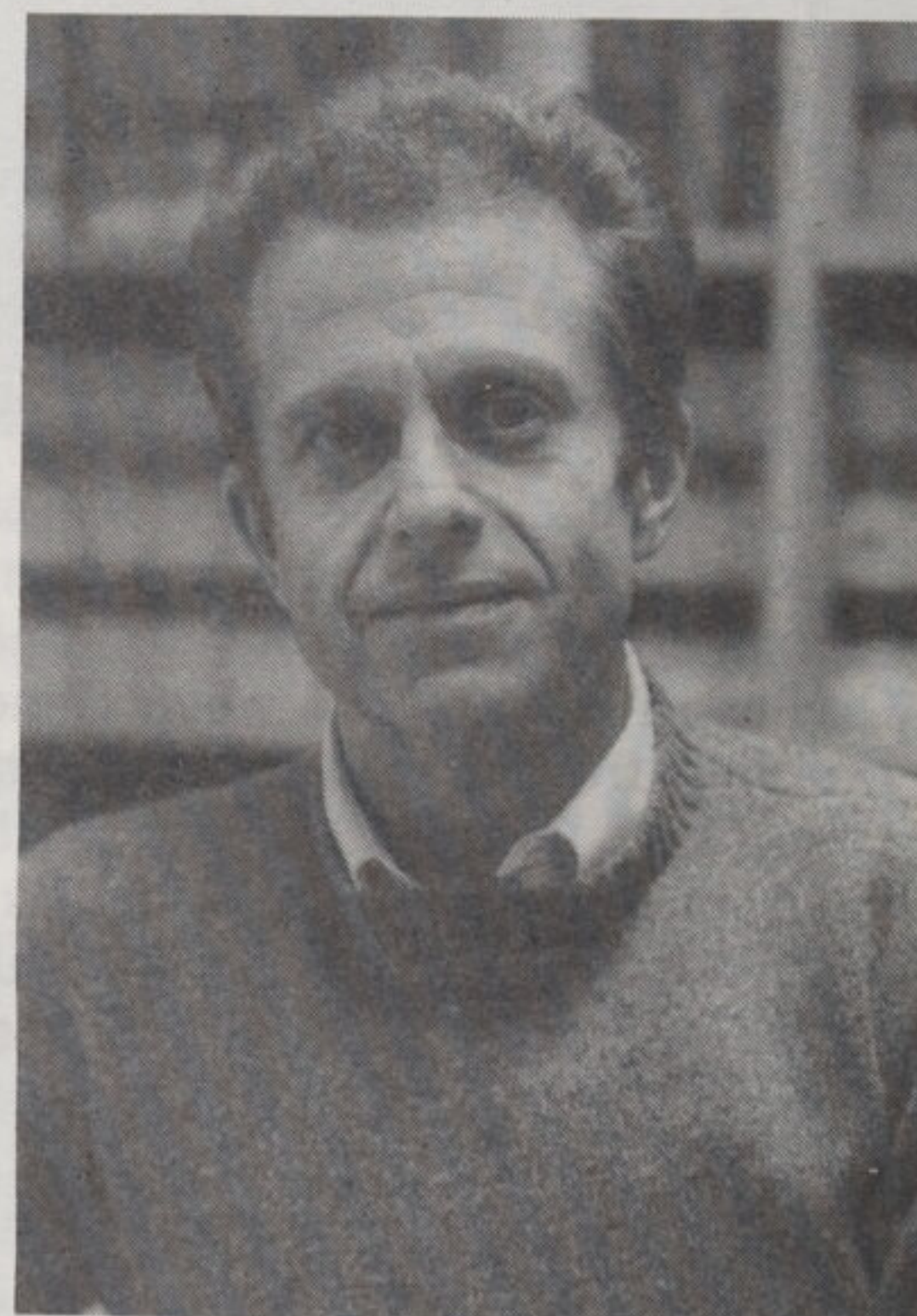
The Second Circuit recently resolved yet another episode in the ongoing struggle between Texaco and Pennzoil, which arose last year when a Texas state court jury awarded Pennzoil a \$10.5 billion judgment against Texaco. Texaco allegedly interfered with Pennzoil's attempted partial takeover of Getty Oil. Pursuant to Texas state law, the trial court also imposed a \$12 billion bonding requirement on Texaco as a precondition for its appeal of the judgment.

Texaco successfully appealed the bond requirement in the court of New York Federal District Judge Charles L. Brieant. At that level, the bond was invalidated as a violation of due process, an unfair infringement upon Texaco's right to have its day in court. The federal judge also spoke to the merits of the issue, contending that the Texas judgment in favor of Pennzoil was too large.

Decision

The Second Circuit ruled, as Tribe urged it to on Pennzoil's behalf, that district courts have only original jurisdiction and hence no jurisdiction to review the merits of Texaco's appeal. Tribe described this ruling as "the flip side of *Marbury v. Madison*." Because the New York district court has no original jurisdiction in this case, the appeal will now go back to Texas state court—where many predict Texaco will fare badly. According to the Second Circuit, Texaco cannot return to federal district court even after it has exhausted possible Texas remedies.

The circuit court, however, accepted Texaco's argument that it should uphold the district court's ruling that the Texaco bond was so unprecedented in size that the lower court could find that such a bond violated due process. However, the circuit court departed from the rea-



File Photo

Ralph S. Tyler, Jr. Professor of Constitutional Law Laurence Tribe.

soning of the district judge. Judge Brieant had recalculated the Texas damage award and concluded that the damages should have been much lower—only \$800 million. On that basis, Brieant concluded that the bond should be far lower than the \$12 billion required by Texas law and imposed a \$1 billion bond.

The Second Circuit held that Brieant's recalculation was unlawful, but upheld the smaller bond on the ground that there was little danger that Texaco would encumber its massive assets; hence, a bond was not necessary to safeguard Pennzoil's judgment rights. Tribe, however, contended that "we were worried about other creditors coming in ahead of Pennzoil," rather than about the possibility that Texaco would waste or dissipate its assets.

Tribe noted that the circuit court attempted to limit its opinion to the facts of the case because of the unprecedented magnitude of the bond. Tribe would not comment on the possible implications of the ruling nor on the possibility that Pennzoil may appeal to the Supreme Court those parts of the decision unfavorable to Pennzoil.



Boston Attorneys Practice More Than Law

By Gregory Klima

In Boston, some lawyers really know how to play. Their musical instruments, that is. And they play together once a week in the Boston Area Lawyers' Orchestra.

The Orchestra, the only one of its kind in the country, has been in existence for about a year. The Orchestra came about when Gene Dahmen, from the firm of Homans, Hamilton, Dahmen & Marshall, mentioned to Sue Malone, the Executive director of the Boston Bar Association, that "it would be fun if lawyers who were musicians could get together and perform."

Malone placed an announcement about the Orchestra in the Boston Bar Journal, directing interested parties to contact Dahmen. "It took off from there," said Dahmen.

The Orchestra's first performance together was in February of 1985. The group went on to perform two other concerts in that year. Tonight, March 7, 1986, the Orchestra will perform for the fourth time.

The Orchestra currently has approximately 55 members, 30 of whom are from the legal community. The members from the legal community are attorneys, law students, paralegals, legal secretaries and a court reporter. The attorneys practice in a wide variety of areas, including patent, trademark, tax, personal injury, family and corpo-



Sal Casente

Orchestra members James F. Whipple, '65; Steven P. McSloy, '88; David Halpert, '71; Ed Chansky, '87.

rate law, according to Orchestra member Debra Benson of the firm of Morse, Altman & Dacey. She stated that one member is from the office of the Massachusetts Attorney General and another is from the office of the Environmental Protection Agency.

The group is led by F. John Adams of the New England Conservatory. Adams was the Director of Chorale Activities at Harvard from 1970-78.

Two HLS students are also currently members of the group. Ed Chansky, 2L, and Joe Kohanski, 1L, both play trombone. Chansky commented, "The whole idea is to have fun." Chansky also added that the Orchestra has been an enjoyable

way to meet members of the Boston legal community. Benson said, "You really meet people from a different perspective. You have to be more open, more vulnerable when you play with a group."

The Orchestra rehearses once a week, on Tuesday afternoons, at the Tremont Temple in downtown Boston. An 8-week rehearsal period usually precedes a concert.

Tonight's performance will be held at the Harvard Club on Commonwealth Avenue. The Orchestra will perform Brahms' "Concerto for Violin and Cello," Wagner's Overture to "Der Meistersinger," and Mahler's "Kindertotenlieder." The Mahler composition will feature soloist baritone Thomas Wardell, '66, from the firm of Haussermann, Davison & Shattuck. Tickets are \$10 and are available at the door or by calling Betsy Saunders of the Boston Bar Association at 742-0615. Jacket and tie are required.

The Orchestra continues to recruit new members. The ensemble currently needs persons who play the tuba or string instruments, specifically violin, viola and bass. A chorale group is also forming and male voices are especially needed. Anyone interested in joining either group should contact Betsy Saunders at the Boston Bar Association.

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