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25 CENTS

Tapped Phone Bugs Tribe

By David Snouffer
and Jeff Gershowitz

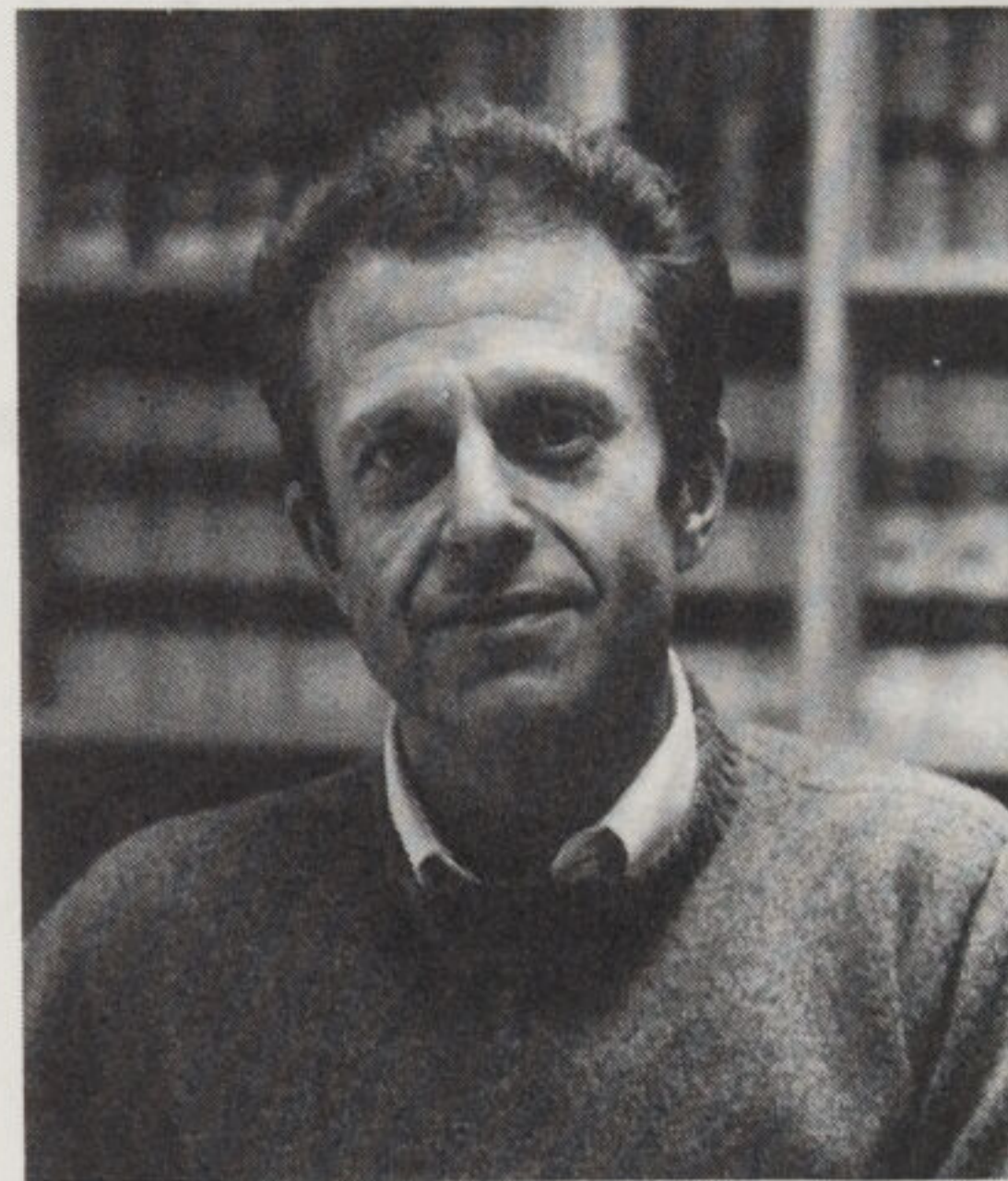
The discovery of a possible wiretap on the law school office telephone of HLS Professor Laurence Tribe '66 has led to investigations by the FBI, the Massachusetts Attorney General's Office and private investigators and counsel retained by Tribe.

The existence of the tap, which experts have since estimated to be between two and eight months old, was first uncovered when a surveillance expert brought in by Tribe discovered a suspicious five-foot jumper wire attached to a phone line from Tribe's office on Griswold Hall's third floor, according to a report in the November 7 *Boston Globe*.

Tribe called the apparent bug-ging "reprehensible and somewhat frightening." Tribe has since declined to talk further to the press about the matter.

Tribe was prompted to call in the experts after his two secretaries, Pamela Massey and Leslie Sterling, each heard what sounded like someone picking up a telephone receiver while they were using the phone on October 30 and 31. The secretaries had heard unusual sounds previously, the *Globe* said.

According to Boston attorney Harvey A. Silverglate '67, who, along with Philip A. Lacovara of Washington, D.C., has been retained by Tribe in this matter, he was originally contacted by Tribe late in the afternoon of Saturday, October 31. At that time, he ex-



Prof. Laurence Tribe '66 seeks phone bug culprit.

pressed concern over the two incidents, and they decided to contact the telephone company and have the phone inspected on Monday.

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Character Issues Sink Ginsburg Nomination

By Chris Crain
and Erick Hachenburg

Overwhelmed by questions about illegal drug use in his past, former HLS Professor Douglas Ginsburg withdrew his name from nomination to the U.S. Supreme Court on Sat., Nov. 7.

Two days earlier, Ginsburg admitted to using marijuana in the 1960s when he was a college student and in the 1970s while he was a

professor at HLS. "All of the attention has been focused on our personal lives and much of that on the events of many years ago. My views on the law and on what kind of Supreme Court justice I would make have been drowned out in the clamor," the D.C. Court of Appeals judge said in his statement from the White House.

Professor Hal Scott, a lifelong friend of the nominee, said the marijuana issue should not have

forced Ginsburg to withdraw. Disclosures coming prior to any Senate confirmation hearings were unfairly damaging to the nomination, Scott said, adding, "I don't think he had a fair hearing. He didn't have a chance to defend himself. People should have a chance to respond to those types of accusations."

In addition to controversy about marijuana use, the press raised

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Foundation Boosts Law & Economics Studies

By Julia Loewy

A group of HLS students and professors gathered on Nov. 3 to hear a presentation of a paper on the economics of constitutional tort litigation by Steward Schwab and Theodore Eisenberg of Cornell Law School. Among the faculty members present were Professors David Shapiro '57, Steven Shavell, David Rosenberg, William Fisher and Louis Kaplow '81. Just one meeting of a weekly seminar series which regularly sparks such faculty interest, the presentation was funded under a grant by the John M. Olin Foundation.

The seminar, lead by Shavell, Kaplow and Assistant Professor Lucien Bebchuk, LL.M.'80, is one of a variety of activities which together constitute the Program in Law and Economics. The Olin Foundation, which established the program with a \$900,000 grant, has funded a number of similar law and economics programs, including those at Stanford, University of Chicago and Yale law schools, and the Department of Economics at Massachusetts Institute of Technology.

Shavell, director of the HLS program, said that the seminar series is "extremely important for the faculty, and it's good for the students also. It brings to the law school some of the outstanding scholars in the field."

The program also sponsors a Discussion Paper Series through which faculty-written papers are circulated to faculty and, upon request, to those on an international mailing list. According to Shavell, although the discussion paper format is used in many other academic fields, this is one of the few examples of its use in law. Shavell said that the series is very effective in keeping people abreast of new developments, and benefits the authors who receive comments. Many of the series' thirty-plus papers have subsequently been published in prestigious journals, he added.

Olin Fellowships in law and economics have also been established

and are awarded yearly to approximately six students. Fellow Scott Edelman, 3L, is currently working on an economic analysis of divorce law. He will make an analogy to the efficient choice of a rule of partnership law where assets contributed by one partner increase in value while those of the other decrease.

Summer Stipend

Among the other activities of the program is provision of one month's summer salary to engage in research in law and economics. The program has sponsored a conference on the Economics of Corporate and Capital Markets Law, papers from which will be published in a book by Cambridge University Press. In the works is a yet-to-be-named journal on law and economics.

Shavell said that "there is nothing

intrinsic in law and economics that the people involved are of one political persuasion," noting that at the law school there is a difference of political views among those most involved in the program. Nevertheless, he said people who identify with the Critical Legal Studies movement rarely attend the seminar series.

Edelman concurs that law and economics need not necessarily be conservative. He is using economic analysis to reach a "liberal conclusion" in his work and suggested that "it is too bad liberals are afraid to speak in that language. It's just a language that happens to be used by a lot of smart conservatives. The liberals should catch up."

In regard to the program's activities, Shavell stated that "all of this adds up to a lot. It's put this place on the map" in the field of law and economics.

Ginsburg Withdraws Name

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ethical questions concerning decisions Ginsburg made as head of the Justice Department's antitrust division which affected the cable television industry, though he simultaneously held \$140,000 of securities in a cable television company.

Scott Pardons Pal

The fact that Ginsburg once smoked marijuana should be less important, Scott said, than his behavior since then. "People should not violate the law, but that's not what is important. The question is how they deal with it. . . . We should let people change, mature and grow. All of us make mistakes. How about speeding and drinking during Prohibition? It's a question of degree: it's not disqualifying. I am prepared to forgive bigger mistakes than that," Scott said.

Scott declined comment on any conversations he has had with

Ginsburg since his nomination Oct. 29.

Professor Laurence Tribe '66 said the administration should make more extensive background checks of potential nominees. "In general, getting it right is more important than doing it fast," he said.

The failure of Ginsburg's nomination places the administration in a politically disadvantaged position, Tribe said. "If they insist on making another controversial appointment like that of Robert Bork, then I do not think he will be confirmed," he stated.

"I feel very sorry for Doug Ginsburg and his family. What has happened reflects more badly on the Reagan administration than on Judge Ginsburg," Tribe said. Earlier, in an interview with *The Harvard Crimson*, Tribe said the "Reagan administration should bear some responsibility for playing with human lives and taking a callous and casual attitude towards the

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B-School Scrutinizes Its Wall Street Emphasis

By Chris Crain

If the stock market crash and the sight of hundreds of colleagues-at-arms going belly-up in the wake of Black Monday were not enough to send shivers through the halls of Harvard Business School, then a recently published novel alleging corruption at HBS and a *Fortune* magazine cover story charging the school with swapping its academic mission for money may have done the trick.

The current issue of *Fortune* devotes its cover and seven pages of inside copy to the "New Debate about Harvard Business School: It's Still Rich and Famous, But Is It Training the Right Kind of Managers?" The article, written by business and law alumnus Walter Kiechel '77, decries the recent penchant of Harvard MBAs to head to Wall Street rather than corporate positions (more than half of last year's graduates took investment banking and management consulting jobs) and suggests Harvard is shirking its duty to provide talented men and women to meet the foreign challenges to American industrial competitiveness.

Warns Kiechel, "Who in 20 or 30 years will be responsible for meeting these challenges at the largest companies, at the end of the day, when the people in blue suits have flown back to New York or Boston? Probably not Harvard MBAs, unless the business school rededicates itself to its historic mission."

Little Sympathy

There appears to be little sympathy for that argument within the HBS administration and student body, as representatives from both groups deny there is a problem and simultaneously blame it on externalities.

William Hokanson, director of communications for HBS, dismissed Kiechel's criticism that the school's curriculum emphasizes finance over real management issues as "misplaced," claiming that "there isn't any graduate school of business

more focused on practical problems than Harvard."

While admitting there was "definitely a concern in the faculty that there are not enough graduates going into manufacturing fields," Hokanson said the MBA recruitment process was "a free market. We can't tell our students where to take jobs. The school does not adjust its curriculum to prepare people for any particular fields."

"Ho, hum"

At least one group of HBS students agrees with Hokanson's defense of the school. In the HBS weekly newspaper, *The Harbus News*, the editorial board wrote, "Our response is a resounding 'ho-hum'. . . . It's not the school that determines where a student chooses to work. Rather it's the interaction between the student and the corporation that provides the impetus."

"In other words, it's the market. And the common elements of this marketplace — compensation, location, and the job itself — are determined by the participants. You've got to speak the language of the buyer (the student) to be a seller (a recruiter)."

Could the same be said of HLS? Is the only difference between law students and business students the fact that, as one 3L put it, "Law students only care about money too, but they feel guilty about it"?

At HLS, administrators recognized the need to promote public interest law in the face of ever-escalating salaries and perks by large firms, and have addressed the problem through public interest workshops and seminars, grants for public interest summer work, and a loan forgiveness program.

HBS Not As Enlightened

Hokanson said that no such plans are under consideration at HBS because "the school doesn't feel that it's the responsibility of the school to promote one career over another. There's no formal program to encourage students to go into any in-

dustrial jobs, and there is certainly no program to encourage consulting and investment banking." As HBS Dean John H. McArthur put it in the *Fortune* article, "I think it's crazy where they're going, but we ought to just relax and enjoy it; it won't last long."

In fact, Hokanson said, administrators are convinced the long-term effect of Kiechel's article will hardly be what the author had in mind. "Most likely, I think applications will go up, just because of more publicity," he said.

Kiechel also raised questions about the commitment of the HBS faculty in this area, admitting that some faculty discourage careers on Wall Street, but charging that "the problem is not what the professors say but what they do: Some are in fairly hot pursuit of money themselves."

The accusation mirrored the theme of a book published last month by William Morrow & Co., *The Empire Builders: Power, Money and Ethics Inside the Harvard Business School*. Written by J. Paul Mark, a graduate of the University of Chicago business school and for ten months in 1984 a researcher at HBS, the book alleges that Harvard business professors regularly use the process of developing problem cases for the classroom as an opportunity to cultivate business sources. These sources then translate into time-consuming and financially rewarding consulting positions and seats on corporate boards of directors. The book also charges that administrators conduct shady deals with those same corporate sponsors for hefty donations to the institution.

Mean-Spirited and False

The administration was not so quiescent in its response to this challenge, as McArthur issued an angry memorandum to HBS faculty and staff, in which he said, "Were it not for the unwarranted pain inflicted on many of our col-

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Appeal Restores Dershowitz's Privilege

By Andrew Pollis

Professor Alan Dershowitz recently found himself in the midst of another of Claus von Bulow's legal battles, and once again, von Bulow emerged victorious. In this action, however, Dershowitz was not representing von Bulow as his attorney; instead, Dershowitz served as a witness in the civil action von Bulow's step-children have brought against the controversial Danish immigrant.

In perhaps the most famous of his criminal cases, Dershowitz defended von Bulow against charges of over-injecting his wife Martha — commonly known as "Sunny" — with insulin, leaving her in a terminal coma. Dershowitz successfully appealed von Bulow's attempted murder conviction over three years ago, winning his acquittal at the second trial. Dershowitz then wrote an elaborate account of the von Bulow case in his 1986 book, *Reversal of Fortune: Inside the von Bulow Case*.

But von Bulow's problems did not end with his acquittal. Sunny's two children from a previous marriage, Alexander Auersperg and Annie Laurie Auersperg-Kneissl, brought a civil suit against him in the Southern District of New York. Since Dershowitz's book recounted some conversations between Dershowitz and von Bulow, the plaintiffs in the current civil case asserted that the book's publication constituted a complete waiver of the attorney-client privilege. They requested production of *all* of Dershowitz's notes on the criminal trial. The trial court upheld the discovery request last February, and von Bulow's attorneys petitioned the Court of Appeals for the Second Circuit for a writ of mandamus.

In his decision of September 10, 1987, Judge Walker ruled that von Bulow's agreement to the publication of *Reversal of Fortune* waived the attorney-client privilege only with respect to those conversations actually described in the book. To the extent the conversations were

not reported in their entirety, the privilege was not waived; nor was the privilege waived as to any matter not contained in the book.

Although he obviously agreed with the reasoning of the Court of Appeals, Dershowitz remarked that the ruling "doesn't affect me at all." He submitted to four straight days of deposition in the civil case and said he answered "the vast majority of the questions" put to him. In addition, according to Dershowitz, absolutely everything that von Bulow ever told him about the facts of the case was "totally exculpatory." Dershowitz further stated that he has "no interest at all personally in the outcome of the case."

Dershowitz asserted that "it's very rare for courts to grant mandamus," and the fact that the Court of Appeals did so in this case "shows just how wrong the trial court was."

☛

Nader Focuses On Roles Of Legal Education

By Joyeeta Gupta

"Basic issues were very rarely discussed at Harvard Law School," Ralph Nader told a crowd of almost 200 at the Boston College Law School campus October 28. "We [Harvard law students] were asked to challenge anything, cases, regulations, interpretations, even Learned Hand, but we were never asked to challenge the basic organization of the profession, the working of the law firms. . . . 80% of the lawyers represent 20% of the people, and millions never get represented. What good is a right if you don't have a remedy? What good is a remedy if you don't have counsel?" he asked rhetorically.

Nader, at the invitation of the Boston College Public Interest Law Foundation, suggested that law school broadens students' frames of reference by introducing a variety

of issues while simultaneously narrowing their horizons through specialization. This increased specialization leaves students vulnerable when it comes to looking for a job, especially those students who have large debts to pay off and, as a result, tend to "rationalize" working for a certain salary.

As a visual demonstration, Nader asked the members of the audience to raise their hands if they wished to work in a public interest job at \$50,000 a year, then at \$40,000 a year, \$30,000, \$20,000, and \$10,000 a year. The hands kept coming down. He concluded that many would like to work in public interest jobs but never do because of the decisive factor of income.

"What you are saying is that I am doing this job because I have to and not because I want to or I'd like to," Nader commented. He asked students to think of the pen-

alty they would have to pay every day they took their consciences to work.

High Tech Serfs

Drawing a parallel to medieval laborers, Nader said that there are many high-tech serfs in the United States today, walking around in chains as the best years of their lives go by. He advised students to decide now where they would like to fit in the pantheon of builders, advocates and networkers.

Nader recalled the case of a past editor of the *Harvard Law Review* who spent many years of his life defending Geritol, a drug which supposedly cures tired blood, against FTC charges of misleading advertising. Nader speculated that this unfortunate practitioner would have

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Symposia Mark Prison Project Anniversary

By Robert Wilkins

Visiting Professor Charles Ogle-tree '78 was among the many speakers to honor the American Civil Liberties Union National Prison Project (NPP) during its 15th anniversary celebration October 23 in Washington, D.C. Georgetown University Law Center hosted the morning workshops and an afternoon symposium. Evening activities included dinner, speakers and a dance. Over 200 judges, prison officials, prison experts, lawyers and former NPP staff members attended the celebration.

The NPP was formed in 1972 through the merger of work done in New York by Herman Schwartz (currently a professor at American University's Washington College of Law) and in Virginia by Phil Hirschkop (now practicing with Hirschkop & Grad in Alexandria, Va.). At that time, the NAACP Legal Defense Fund was the only *organization* doing prisoners' rights litigation.

Hirschkop, who spoke at the celebration, recounted the great need for an organization to curb prisoners' rights abuse and provide a catalyst for institutional reform. In 1970, his law office was receiving over 100 letters a week from prisoners, and the 1971 Attica rebellion which left 43 inmates and guards dead made the drastic problems of prisons known to the public. The ACLU responded in 1972 by forming the NPP and hiring Alvin Bronstein, a prominent civil rights lawyer working in Jackson, Mississippi and New Orleans, Louisiana, to direct it. Fifteen years and at least 102 lawsuits later, the NPP is now a leading organization defending the constitutional rights of prisoners.

Four morning workshops addressed various problems and current prison litigation issues, including AIDS in prison, moving litigation to settlement, race in criminal justice and enforcing compliance with court orders. The workshops were directed by NPP staff attorneys and attorneys from

other organizations with a special interest in these issues. The settlement and compliance workshops served instructional and informational purposes for the lawyers involved, while the AIDS and race discrimination workshops had a wider appeal among the non-lawyers attending the celebration.

Deplorable Conditions

The afternoon symposium began with opening remarks from Judge Robert R. Merhige, Jr., Eastern District of Virginia. Merhige, who has written 62 opinions on prison

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Phone Tap Villains Sought

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Later that day, however, Tribe called Silverglate again and told him that confidential information discussed by Tribe in previous phone calls had "suddenly gotten back to him," according to Silverglate. They decided "at that point to call in a private investigator," he explained.

Silverglate said that on that Sunday, November 1, the first of two experts checked the phones for bugs and found nothing. The second investigator arrived the next day to inspect the phone lines, and it was he who discovered the tap.

This second expert, according to Silverglate, found the jumper wire in a telephone closet outside the office of Professor David Shapiro '57, which is around the corner from Tribe's. The wire, which had been connected to a terminal on the building's second floor, could have allowed someone to hook into Tribe's phone line from a properly equipped telephone if a transmitting or listening device were attached, the expert said, but he found no such device. He also suggested that someone could have removed a device after learning through the telephone tap that Tribe and his secretaries had become suspicious. Finally, there also exists the more mundane possibility that none may have been attached at all.

Tribe has participated in a number of major legal controversies in recent months. He advised Sens. Joseph Biden (D-Del.) and Edward Kennedy (D-Mass.) on President Reagan's unsuccessful nomination of U.S. Appeals Court Judge Robert

Bork to the Supreme Court. The two politicians helped spearhead opposition to Bork, who sits on the D.C. Circuit. In addition, Tribe helped Pennzoil in its effort to preserve a \$10.5 billion judgment it won in a Texas state court against Texaco for interfering with Pennzoil's attempt to acquire Getty Oil.

"It seems clear that conversations may have been intercepted," Harvard Vice President and General Counsel Daniel Steiner '54 said in an official statement issued last week after learning of the discovery. "We take this matter very seriously. Any effort to monitor Professor Tribe's conversations violates not only his privacy but also the sanctity of the academic community."

Although Harvard has reported what was found to the FBI and other law enforcement agencies, Steiner said it is "unlikely that we will discover who was responsible for this apparent felony." But, he added, "maybe we'll be lucky." Outside agencies, rather than Harvard police, are investigating the incident, he said. The University has agreed to pay the fees of the experts called in by Tribe.

"We do not know who it is [that tapped the phone]," said Silverglate. "We are trying to narrow down the subject matter right now, rather than [discovering] who did it," he said, noting that "we're pursuing a lot of leads." Silverglate, a criminal defense attorney for twenty years with experience with wiretap cases, noted that "any day can turn up the information we're looking for."

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Marijuana Issue Labelled Unimportant

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constitutional process of nominating and confirming Supreme Court justices."

Ginsburg, a graduate of University of Chicago Law School, said in his statement that he would retain his post on the D.C. Circuit Court of Appeals, where he has been serving since last year. Ginsburg's admission of marijuana use during his tenure as an assistant professor at HLS has also raised questions about proper conduct for those who teach the law.

HLS Associate Dean Andrew Kaufman '54, an expert on legal ethics, said he was unsure what reaction the school might have to the Ginsburg revelation and the issue

of illegal drug use by professors. "All this has just happened. People haven't started to think about it. If we found anybody on the premises, faculty or students, pushing drugs, the school would step in. As to private use off campus, I would be surprised if the law school stepped in on that," he said.

Profs On Drugs

"It's different than a professor robbing a bank. People regard those two kinds of law differently," he said. Asked whether law professors should set an example by viewing these two illegal activities as equally important, Kaufman said, "I certainly think law professors ought to think long and hard on that issue, but it's hard to legislate

whether they have some special obligation."

Kaufman questioned whether HLS "should be sufficiently concerned to require everybody to fill out a questionnaire" before receiving a faculty appointment. "The answer to that is no unless we have some evidence of impaired abilities," he said.

The associate dean added that there was little the faculty itself could do to monitor the conduct of individual professors. "People have to really make up their minds about when they're going to tell on other people. . . . That's very hard for people to do. It's so hard to be judgmental when so many people are violating that law [prohibiting marijuana use]," Kaufman said. ❧

Tribe Attorneys Plan Information Requests

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Silvergate said that the tap was certainly not installed legally, a status which can only result from a court order. "It is not the m.o. [modus operandi] of any legitimate federal investigatory agency," Silvergate said, adding that nothing in Tribe's background "by any stretch of the imagination" could have authorized a judge to grant

such a request.

"It's an illegal act by someone. If it's governmental, it's certainly not legitimate governmental action," said Silvergate, who suggested that any action by the government would have had to have been done by a "rogue" group within an agency.

Silvergate and Lacovara will be assisting the ongoing investigations as well as conducting their own efforts regarding the matter. The FBI

investigation is likely to last about a week, with the results being forwarded to the U.S. Attorney's office. John Pappalardo, chief of the criminal bureau, is heading up the Massachusetts investigation.

"I will be liaison with the Massachusetts Attorney General's investigation, and I will be conducting the private investigation up here,

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New Book On HBS Raises Controversy

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leagues and friends, I should consider this a trivial episode. I am saddened that this shabby, mean-spirited, and false manuscript has been published."

Hokanson said *Fortune* had originally planned to excerpt the book but "they found this book was as phony as we think it to be. Virtually two-thirds of the book is fabricated." The magazine claims it was the book's publisher that withdrew the serialization offer, but that Kiechel, a member of *Fortune*'s board of directors, decided to look into the school's performance anyway. Mor-

row & Co. has thus far stood behind its book's veracity.

Hokanson admitted Kiechel's facts were essentially correct, but parted ways on the inferences drawn from them. He also cited two factual omissions he believed made the article misleading. Kiechel largely ignored the "terrific interest in entrepreneurial studies," according to Hokanson, citing recent figures indicating that almost one-third of HBS graduates consider themselves self-employed ten years after receiving their MBAs. He also criticized Kiechel's emphasis on the substitution of a course called "Competition and Strategy" for

"Business Policy I" in the required first year curriculum as symbolic of the school's abandonment of traditional goals. Kiechel neglected to mention that "Business Policy II," another required course, was renamed "Management Policy and Practice."

As for the morale at HBS, the recent negative publicity has left most undaunted, according to Hokanson. "If you think we're feeling under siege, or are any way affected by all this, I think that's a mistake. Every day is interesting here. We aren't feeling unhappy." ❧

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HLS Professors In The News

HLS professors in the news. Not in and of itself unusual, but this week they have been given markedly different coverage. Laurence Tribe has discovered a tap on his phone line and one-time HLS Professor Douglas Ginsburg who was nominated by President Reagan to the U.S. Supreme Court withdrew almost before we knew what he stood for.

Tribe's experience seems frightening to say the least. It is unquestionably intrusive and outrageous, but not surprising considering the apparent lack of security surrounding the phone-line cabinet. With the number of professors at HLS involved in matters of important litigation and confidential consultation, the notion that it had never occurred to anyone that a tap like this was possible seems unbelievable. Yet, the phone cabinet remained unlocked, or at best, according to reports, was locked only sporadically. These buildings are understandably not high security. Students and professors must have access to them. This puts them at a high risk for just such tampering and indeed invites it. While a lock may not have prevented this intrusion from occurring, it may certainly have acted as a deterrent. As it was, the unlocked cabinet represented an attractive nuisance.

Ginsburg withdrew as the nominee to the U.S. Supreme Court due to the controversy surrounding his use of marijuana. The debate over the legality of marijuana use is one hotly contested, but the fact remains the drug is an illegal one. Granted, in today's society there may exist few people who have graduated from college and have not in one way or other been exposed to the drug. It is unlikely that the American public would have condemned Ginsburg for his use of marijuana in college or even in law school. But it does appear to indicate a distinct lack of sound judgment to, as has been reported, smoke marijuana at parties as a professor. In private no one may ever have known, but to take the show on the road is certainly exercising poor judgment.

In addition to his prior uses of marijuana, controversy centered on Ginsburg's living with his present wife before they were married and his wife's performing abortions during her medical school internship. To focus on this is ludicrous. It does not speak to his ability to be a Supreme Court justice. What does speak to this by addressing his integrity and honesty is the fact that as head of the Justice Department's antitrust division he headed an inquiry into the cable television industry even though he held investments of about \$140,000 in a cable television company and the reported accusations that he may have misrepresented the number of times he had actually appeared in a courtroom. Why was more never made of this? Why was the main issue that he used marijuana, not that that he used poor judgment? Maybe the American public should decide what it wants in a justice of the Supreme Court before the next nominee is named.

T.M.F.

HARVARD LAW RECORD

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Fenno

"You see this?" barked the gruff looking man on Fenno's T.V. "This is your brain," he scowled, holding an egg sanctimoniously over a hot frying pan. "And this is what happens . . . WHEN YOU SMOKE POT!"

The commercial sparked Fenno's interest in the evil weed once again. "Wow," said Fenno, his face contorting in awe. "My brain hasn't done that since my first taste of Meister Brau years ago at an HLS faculty party. Hmmm. Now where can I get my hands on some grass?"

Fenno thought back to those glorious, fuzzy memories of days gone by when he used to party with close friends in Langdell. "You know, things haven't been the same since Doug's been gone," Fenno said to his pet gerbil. He fondly recalled the days when he used to *earn* his HLS credits by dropping off a clandestine package or two at the faculty club.

Thinking back through the smoky haze of time, Fenno remembered how he and the G-man had debated the merits of Colombian vs. Gainesville Green, how Fenno advised him to screen applicants for the computer dating service and had jointly worried about paraquat.

As he scrambled out of his apartment towards campus, he caught a glimpse of Hal Scott accepting the Best Friend of the Year Award on T.V. The voice whined "And you know I told him: Friends just don't let friends . . ."

Arriving on campus, Fenno headed straight for 113 F.Supp. 714. Opening the reporter, Fenno found that his ancient stash was a pile of dust. "Damn," he thought, "maybe Doug left some in his office."

He slinked along rarely-walked corridors to Griswold. A new name was on the door: L. Tribe. "Who the hell is this runt?" Fenno muttered upon finding the door locked. He needed to get in.

"Maybe this Tribe guy has taken over Doug's operation. I need to find out," Fenno thought to himself. "This calls for *Mission Impossible* tactics. He pulled a tube sock over his head and reached into a nearby telephone closet. Grabbing a spare wire, he deftly connected it to Tribe's line, screwing it in with a beer can flip top.

"That'll do for now." As he slipped away, a horde of reporters stopped Fenno at the Hark. They had recognized him from photos of Ginsburg and him.

"Mr. Fenno, sir. Is it true that students used to drop acid in the middle of Professional Responsibility with Judge Ginsburg?"

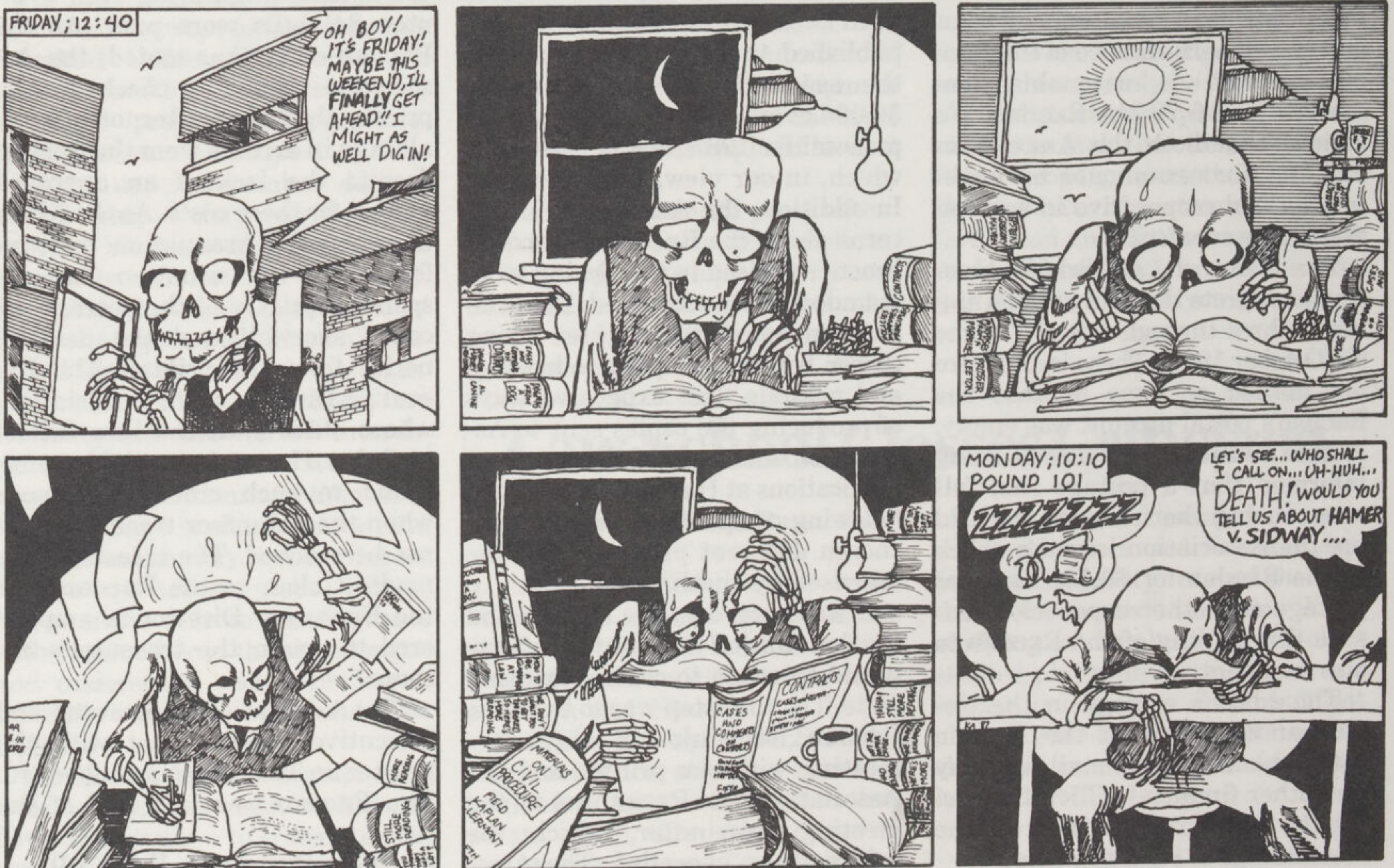
"You mean the guy who looks like the father from *Family Ties* who's up for the high court? Well, I always told my buddies to 'Just say no' to Doug."





STUDY GROUP

by KA



Op. Ed.

By Donald W. Mitchell

An editorial in the November 6th issue of the RECORD (Volume 85, Number 7) expressed concerns regarding the funding of the RECORD from the Harvard Law School Association. On behalf of the Association, I would like to respond to issues raised in that editorial.

The Harvard Law School Association has supported and continues to support the RECORD through sending issues to those of the Association's members who request this benefit. The Association wishes to continue to do so. The RECORD has a responsibility in this relationship to have sound fiscal management, keep to its budgets, discuss unforeseen expenses that it wishes the Association to pay before making these expenditures, and to operate in a cost-efficient manner. The Association's support is not a blank check to the RECORD and has to be limited to what is feasible and practical for the Association to finance. The Association seeks an improvement in fiscal management and in cost performance of the RECORD, as well as reasonable communications from the RECORD. We believe that both the Association and the RECORD should be forthcoming and cooperative in seeking these improvements.

The Harvard Law School Association regrets the delay in mailing issues three through five of Volume 85 (October 1987). These issues were not mailed on time because the RECORD's postal account was empty. Within twenty-four hours of being informed that a postage shortfall was causing the issues to be held up, the Association issued a check to the RECORD for \$6,500 to cover postage and other expenses to ensure the mailing of the RECORD to our members.

The editor's apology in the November 6th issue of the RECORD placed blame for the mailing delay and other financial difficulties facing the RECORD on the failure of the Association to fund the RECORD.

After reviewing the RECORD's financial needs including many overdue bills exceeding \$10,000 last Spring, the Association funded the RECORD for Volume 84 (Spring 1987) to a mutually agreed upon amount arrived at through discussion with the RECORD. The funding included enough money to cover all expenses of Volume 84 (Spring 1987) plus an extra \$1,000 for contingencies.

As the editor indicates, the RECORD overran its budget last Spring by the cost of two issues out of ten and was unable to pay its final printing and mailing bills of \$6,000. This overspending was not approved by the Association, and was only communicated to the Association four months after the fact.

In mid-August the treasurer of the Association wrote to the RECORD requesting a proposed budget for 1987-88 so that the level of funding for the current year could be agreed to before any issues were published. The RECORD ignored this request until two issues of Volume 85 were published this Fall. At that time, the association was told of the \$6,000 overspending, and a budget proposal for 1987-88 was presented, which, in our view, was excessive. In addition, the Association's concerns about the RECORD's spending practices raised in the Spring were not adequately addressed. These issues included the printer being chosen without competitive bidding, and possible, less expensive ways of producing the copies sent to Association members. Other student publications at Harvard Law School, following competitive bidding, have chosen different printers than the one used by the RECORD.

It was agreed by the RECORD and the Association that mutual efforts would be made to control printing costs. The first step was to have the RECORD schedule a three-way meeting with the printer and the Association. The RECORD set up the meeting soon after, which the printer later cancelled. The Asso-

ciation indicated that it did not want to make a final determination about the extent of funding until open questions were resolved. No printing or mailing invoices for Volume 85 (Fall 1987) were then due.

In order to help the RECORD ease its burden of financial record-keeping, the Association has offered, at the Association's expense, to have the Association's accounting firm advise the RECORD on how to regularize its finances, its accounting methods, and necessary tax and organizational filing requirements. To date, the RECORD has not responded to repeated calls by the accounting firm over the last six weeks offering this assistance.

Although representatives of the Association and the printer were scheduled to meet on November 3, 1987, the printer informed the RECORD late Wednesday afternoon, October 28th, that the October 30th issue would not be printed unless the outstanding Spring 1987 (Volume 84) bills were paid. As the RECORD editor has stated, the Association issued a check to the printer that same afternoon to pay all bills in arrears from the Spring, despite the lack of an approved budget for these costs. As the editor is aware, the Association, once informed of the situation, has responded quickly to the postage account shortfall and the demand notice from the printer. The Executive Director of the Association, whose office is at the Law School in Baker House, is available to respond to such emergency needs when the volunteer treasurer cannot be reached. The treasurer has made it clear to the RECORD that the Executive Director is empowered to act in the treasurer's absence.

The Association's treasurer and Executive Director met with the printer on Tuesday, November 3rd. The RECORD was informed of the

(Continued on Page 12)

Peace Corps Opportunities Continue To Grow

by Loret Miller Ruppe

Loret Miller Ruppe is the Director of the United States Peace Corps.

The Peace Corps isn't kidding when it says it is looking for people with the boldness of a pioneer, the resourcefulness of an inventor and the faith of a sword swallower. We need people with gumption and guts to help us meet a challenge laid down by Congress to double our volunteer ranks to 10,000 by 1992.

To address the needs of four-fifths of the world's people who live in developing countries, we must engage the hearts, minds, talents and substance of all Americans. The problems facing these emerging nations are no less severe, the challenge to those of us with affluence to share no less profound, despite a calm that has replaced the cries of crisis in news reporting. In sub-Saharan Africa, for example, there are renewed concerns that another famine-producing drought may hit the vast area in the coming year.

We have launched a Leadership for Peace campaign to tap America's abundant talents and resources. We plan to muster a comprehensive, sustained program of people-to-people assistance designed to forestall famine and combat disease and illiteracy — the greatest threats to peace. We know American people respond to calls for help with a can-do spirit that has distinguished them throughout our nation's history. I know they will do so again.

More and more Americans are realizing that the world's interdependence is a condition with very personal implications and they want to have a hand in shaping a peaceful planet because they realize that we all live together in a global village. We must be able to communicate with one another in the same tongue and understand each other's cultures if we are to compete and grow together.

Leadership in key segments of American society must coalesce to develop new ways to translate concern and compassion into concrete

service overseas and practical support at home. There is a need for nurses, teachers, foresters, farmers and others with special skills. The options have always been there to serve, but we are greatly expanding the opportunities with our Leadership for Peace initiative.

To accomplish our goal of nearly doubling the Peace Corps volunteer ranks in five short years, we must rely on the vision and ingenuity of leaders in the minority community, in business, environmental groups, labor unions, colleges and universities, and community and civic organizations.

Under the Leadership for Peace umbrella, we have begun to build toward the 10,000 volunteer goal. The program will have benefits both at home and abroad. It will better demonstrate the benefits accruing to Americans serving overseas and particularly upon their return home. It will show the many-faceted face of America to the world by increasing minority participation. It will increase the overall number of Americans involved in development work. And it will increase the level of human resources required to meet our mission.

After more than 25 years of experience working in grassroots international development, Peace Corps has refined its mission, narrowed its focus, carefully targeted its services and needs, and devel-

oped specific avenues for active involvement from all sectors in our society.

Corporate America will demonstrate its commitment by allowing its top-notch personnel to take short-term leaves to serve in one of the more than 60 countries where Peace Corps lends a helping hand.

Academic America continues to provide brains and brawn by exporting students and faculty to Peace Corps sites overseas. Just one sample is at Harvard University, which is starting a program to allow fifth-year dental students to serve brief stints in one of our host countries.

Working America has joined in the Leadership for Peace campaign too. The United Auto Workers have a provision which lets their union members share their talents in remote places of the world and then be guaranteed their jobs back when they return.

The options are limitless, the need is greater than ever and the world cannot wait. The bridge to a better tomorrow can only be crossed if we can enlist enough people and resources to make our Leadership for Peace campaign more than a motto. Do you have the strong stomach, level head and big heart to join our ranks? If you do, you will discover it is the toughest job you ever loved.

✽

Law School Classes Criticized

(Continued from Page 4)

to tell his grandchildren, when asked what he had spent his life doing, that he had been defending tired blood, not victims of poverty, pollution and disease.

Recalling his days at HLS, Nader said that when studying criminal law, his class never studied corporate crime, discussing crime in the streets but not "crime in the

suites." When discussing torts, which driver caused the accident, but not the safety level of the cars themselves, was the topic. When studying estate planning, the class studied planning for the dead and especially the rich dead, but not planning for the alive. Finally, the class did not study environmental law.

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Letters to the Editor of the Record

Photo Mix-Ups

To the Editor:

In your October 30th issue it is asserted that the mixup in pictures in the 1986 Yearbook could not have happened to other professors. Let the record show that in the 1981 edition Roberto Unger's biography was switched with mine — to my great advantage. And in 1974 they did me the honor of giving me James Vorenberg's life history.

The overall lesson is that non-malicious, non-discriminatory errors occur all the time when understaffed and overpressured staffs are coping with deadlines.

Detlev F. Vagts
Cambridge, MA

Wald Praised

To the Editor:

(A copy of this letter addressed to Dean Vorenberg was received by the RECORD.)

We are writing to express our tremendous enthusiasm for the recent appointment of Sarah Wald to the position of Dean of Students. In the short time she has been here

at the law school, she has already made her presence felt as someone who is exceptionally willing to listen to students and to devote time to furthering student interests. We have found her to be remarkably accessible, especially in light of the many demands of her new job. In addition to meeting with students in her office on a regular basis, she has, for example, made a point of attending particular student organizational meetings in order to emphasize her support and interest.

Dean Wald has been especially supportive of the concerns of students interested in public interest practice. The experience which she brings to this job, plus her obvious energy and intelligence, promise to be great assets for those of us seeking creative approaches to the task of assisting and further invigorating the HLS public interest community.

Since many of us are fairly vocal when we see opportunity for constructive criticism, we felt it only right that we take this opportunity to be just as forthcoming with our praise of Dean Wald and those who selected her for the job. We believe that her participation will contribute significantly to stu-

dent/administration relations, and look forward to working with her throughout the months and years ahead.

Members of the Alliance for
Public Interest Alternatives

Letters Policy

All letters submitted to the RECORD are read by the RECORD's staff. Many of them appear on our pages, subject only to editorial discretion. We encourage letters on any subject, particularly those subjects which have not been covered in the RECORD. Short letters are more likely to be printed.

Letters must be received by 2:00 P.M. on the Tuesday before the issue. Letters should be addressed to the RECORD rather than to third parties. In no event will the RECORD publish letters by writers who have not identified themselves to the RECORD. Organizations should identify the specific individual(s) responsible for approving the letter. All letters submitted become the property of the HARVARD LAW RECORD Corporation.

Op. Ed. Continued

(Continued from Page 10)

November 3rd meeting on October 28th, but did not attend. As the editor indicated, all outstanding printing bills currently due for the present year were paid. Bills for issues three through seven have not been rendered to the Association. Upon the rendering of bills which are in order, the Association will pay them.

In addition to the services of the Association's accounting firm, the Association has asked the Law School Publications Office, at the Association's expense, to help examine ways in which to limit the printing and mailing costs of the RECORD so future budget overruns can be avoided. The Association will continue to lend its support to develop an equitable budget for the RECORD for the current year, and provide payment for that budget in a way consistent with its accounting firm's recommendations.

Sound business practice does involve paying one's bills on time. It also involves developing a budget

and living within that budget. Overspending a budget and then asking the funding source to cover the deficit with no warning is unbusinesslike and unfair to the Association and alumni.

We look forward to working with the RECORD in a mutually reasonable, cooperative and constructive spirit.

Sincerely,

Donald W. Mitchell

Treasurer, Harvard Law School Association.

Ed. Note: Despite discrepancies between the editorial of last week and this response, the RECORD has declined to add a rebuttal in keeping with the spirit of an open forum.



Tribe Traces Tap Transgressor

(Continued from Page 6)

the precise nature of which I am not willing to talk about," said Silvergate, while Lacovara, a former counsel to the Watergate Special Prosecutor, "will be doing Freedom of Information Act requests as well as [acting as] liaison with the regulatory agencies," Silvergate said.

According to an article in the November 10 *Globe*, Lacovara stated that he will be pursuing official and unofficial channels of information, filing Freedom of Information Act and Privacy Act requests "to find

out what we can from a variety of sources as to who may be responsible for this fairly outrageous kind of intrusion."

Tribe told the *Globe* last week that he knew of only one private phone conversation that he suspected may have been disclosed by someone using the wiretap. That was when Tribe expressed reservations about former HLS Professor and U.S. Appeals Court Judge Douglas Ginsburg's qualifications to serve on the U.S. Supreme Court

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HARVARD LAW RECORD

STAN CHESS

DIRECTOR, BAR/BRI

will be here to discuss the

Massachusetts

Bar Exam

and the

BAR/BRI

Bar Review

for all states.

Date: Wednesday, Nov. 18

Time: 2:00 P.M.

Place: Pound 107

Benefits Of Prison Reform Redound To Society

(Continued from Page 5)

cases, told of the "deplorable" conditions of Virginia prisons in his early cases and of the evolving attitudes of many prison officials, who instead of "fighting everything" now try to work with the other side to do the "best thing possible."

The symposium continued with William Bennett Turner's examination of the history of prisoners' rights litigation. Turner was lead counsel in *Ruiz v. Estelle*, the largest prison case (the entire Texas prison system was involved) and the most expensive civil rights lawsuit in history. Hirschkop spoke on the history of the NPP specifically, and Lynn Walker, former chief of the Justice Department's Special Litigation Division, spoke on the role of the Justice Department in prisoners' rights litigation.

Vince Nathan, Allen Breed and Ogletree then turned to the future of prisoners' rights litigation. Nathan is a special master in Texas,

New Mexico, Puerto Rico and Georgia prison cases. Breed is also a special master and monitor in various prison and jail cases and is currently president of the National Council on Crime and Delinquency. Ogletree's most recent involvement in prison litigation was *Jerry M. v. District of Columbia*, a case filed while he was still with the District of Columbia Public Defender Service. *Jerry M.* attacked the overcrowding, substandard environmental conditions and inadequate medical and mental health care, rehabilitative programs and special education services in D.C. juvenile detention facilities. Ogletree also spoke of representing inmates here at Harvard through the Prison Legal Assistance Project after a prison riot in Massachusetts.

Ogletree answered the question of whether prison litigation is still needed with an emphatic "yes!" He pointed out that litigating specific issues as well as issues of institutional reform are necessary as long

as problems such as racial discrimination, sexual assault, conviction of innocent people, denial of due process and deaths from AIDS exist in prisons all over the country. Ogletree said that prison litigation serves to "restore hope and human decency" to the institutions which are the end product of the criminal justice system.

In the finale to the symposium, Norval Morris, Kreeger Professor of Law at University of Chicago Law School, suggested that prison reform through litigation is a "uniquely American experience," for in no other country can lawyers affect prison conditions through court orders and conciliation — reflecting the importance of American constitutional law. Morris felt that the world as a whole, not just the correctional system, was "better off" as a result of prison litigation, because of its role in the "battle to achieve decency between man and man," he said.



Years Ago . . .

This article originally appeared on the front page of the RECORD on Wed., March 23, 1949 under the title Few Vacation Jobs Open This Summer With Law Offices.

With school not in session this summer, a number of first and second year students have indicated an interest in summer legal employment according to information received from Assistant Dean Louis A. Toepfer of the Law School Placement Office. An effort is being made to collect information that will be of assistance to those seeking these temporary jobs.

The Placement Office reports little concrete success in locating definite summer openings. A few large offices have indicated an interest in high ranking students, but by and large the law firms are reluctant to announce whether they will take on summer help.

Many law offices make a determined effort to carry on the least possible activity during the summer

months, while others have space problems that make the taking of additional help difficult. The relatively high hiring rate of the post-war years has staffed the firms with a number of junior associates so that little need is felt for additional help at this time.

Most offices that accept students for summer employment do this as an accommodation to the individual student who appears seeking a position. Students seeking work away from their home towns are at a disadvantage. The hiring is generally done early and interested students should make their effort to locate a position during the spring recess if possible. The larger law firms metropolitan centers offer the most likely possibilities, although a number of small offices have been known to take summer help in pre-war days. The only sure method of approach is through general canvassing of the offices.

Placement Office information

shows that while a number of firms consider summer employment an advantage for the student, many other offices and lawyers question the merits of such work. They base this view on the ground that a vacation from law work may never come after graduation so that students should take advantage of today's chance.



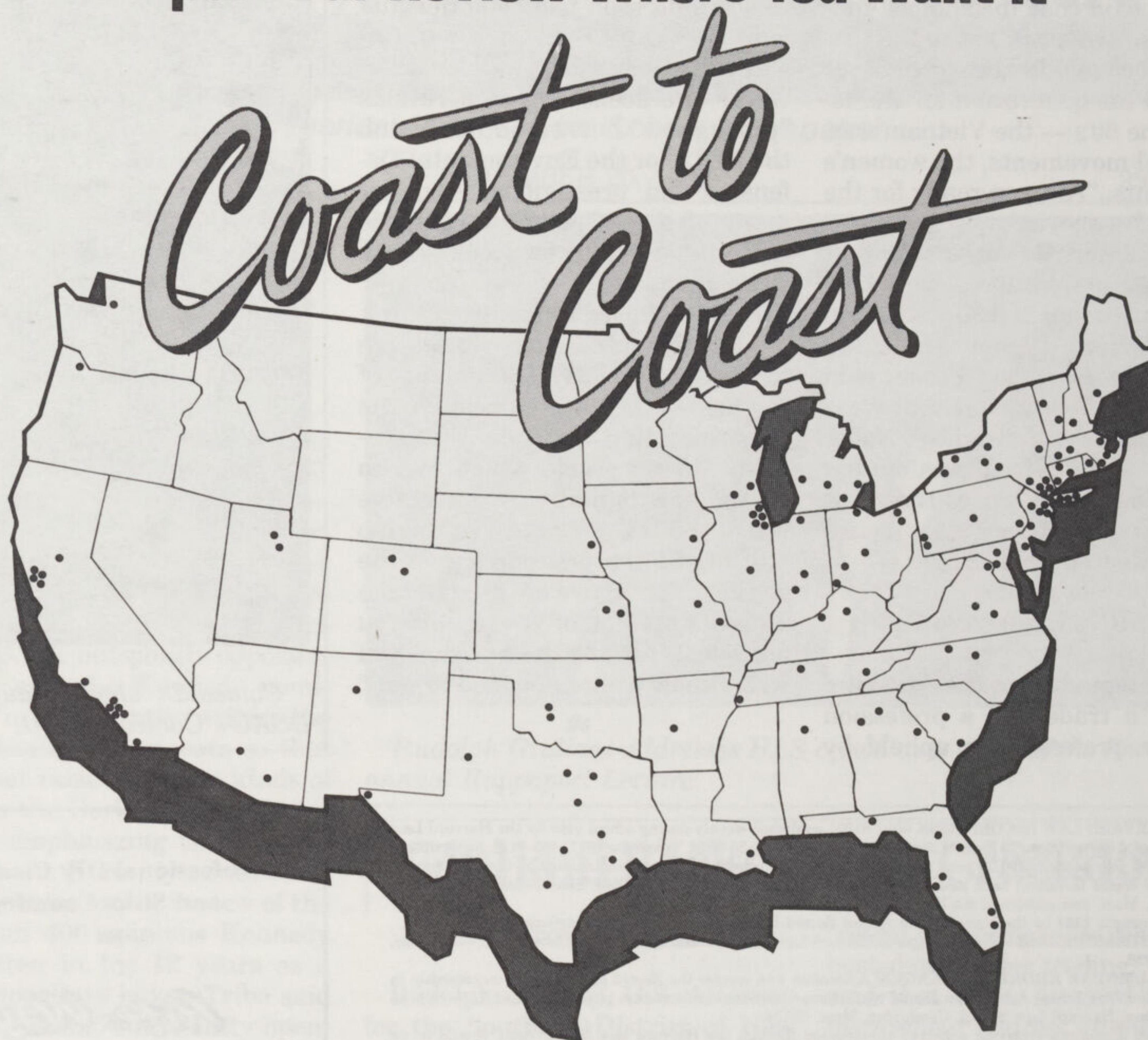
Call Overheard

(Continued from Page 12)

in a conversation with two persons in Washington last month, the day before President Reagan nominated Ginsburg. Tribe said that the next day, he learned of a false rumor among political observers in Washington that he had decided to oppose Senate confirmation of Ginsburg. Ginsburg withdrew his own nomination last week. (See accompanying story).



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Preparing For The Next Decade

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Nader said that in landlord-tenant cases, "we never got to the tenant;" that classes in law school never prepared his generation for the issues of the 60's — the Vietnam war, the racial movements, the women's movements. "Are you ready for the 1990's?" he queried.

Nader described an incident at University of Chicago Law School where a student asked then-Professor Richard Posner about the justice of an issue and Posner said he never wished to hear that word again in class. At law school, Nader said, there is often an assumption that as long as one uses the right methodology and formulae, justice will proceed automatically.

Still A Profession?

According to Nader, the difference between a trade and a profession is that a profession is upheld by

lofty ideals. He suggested that if young lawyers opted for big firms, they would soon feel "emptier and emptier." Ours is a "highly brain-washed generation," Nader said, where one deems big corporations "prestigious" but would never dub the ACLU or the Environmental Defense Fund prestigious. And yet many of these "prestigious" firms represent the biggest crooks in society, he added.

Nader advised students to think of what difference they would like to make to society. The magnet of the big law firms is irresistible, he suggested, and it is now that students should decide which way to go and how to make more creative use of the law. "You are in the top half of the top one percent of the world . . . [and] are entitled to take a higher opinion of yourself. If you don't look toward the horizon, you won't know what happened to you."



Patricia Lee

Comedian shares laughs at DSAC's Comedy Night.

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