

HARVARD LAW RECORD

America's Oldest Law School Newspaper

© 1979 BY THE HARVARD LAW SCHOOL RECORD CORPORATION

VOL. 68, NO. 3

MARCH 2, 1979

TWENTY CENTS



Getting ready for the Law School show are seven of the eight Deadly Sins: (left to right) Ken Neisser, Bruce Ryder, Elyse Evers, Jim Feinerman, Erik Kitchen, Theresa Lauzon. (Seated) Robert Emerson. See story, Page 2.

First Year Elective Program: Most See Need for Change

By Michael Smith

The first-year elective program has come under increasing scrutiny this year. Students are not content with the selection of courses and the Law School administration is beginning the long process of examining the program with the aim of correcting some of its flaws.

Assistant Dean and Registrar Mary D. Upton is the first to hear of student dissatisfaction with the first-year elective program each year. Her office takes the initial student course requests and tries to satisfy as many as possible. After the class lists are posted, her office deals with those students who want to change their assigned courses.

Upton indicated that she has not

seen "as much distress this year" as compared to previous years. She credits this to several factors, of which the most apparent to students was the addition of a Federal Litigation section. In addition, the requests she received for classes were more evenly-balanced than in past years.

There were, however, problems with this year's elective schedule, said Upton. "There was no non-law-school class this year. It would have been good if there had been one or two," she said. In other years, there have been first-year electives involving courses from the Kennedy School.

Another problem was that 200 people had signed up for the 96

(Continued on Page 4)

Vandalism Hits Books At Library

By Richard B. Bernstein

Book vandalism at Langdell Law Library has reached its worst level in several years, according to library officials. During the month of February alone, librarians have discovered 14 separate incidents of book mutilation — the removal of pages from bound volumes of court decisions and legal periodicals — totaling over 200 pages, as well as incidents involving the hiding of books and the hoarding of closed reserve materials.

Prof. Morris Cohen, the librarian for the Law School, commented that this outbreak is "the first in a while — in the eight years I've been here."

Both Cohen and Assistant Librarian Bob Berring were quick to point out, however, that the problem was "not of epidemic proportions, but distressing." Berring said, "It's not a Harvard problem, specifically, but it's disturbing wherever it rears its ugly head."

Berring suggested that although "we view the numbers as alarming, it could merely be a couple of consistently malevolent people. Of course, we don't know. If you discover five or six in a weekend, there's probably more we don't know about yet."

Not Just Here

The problem is not restricted to the Law School. A check with other

(Continued on Page 12)

'Replevin Can Wait' a Helluva Story

By Jorie Roberts

What is more dramatic than sitting through one of Irving Younger's Evidence classes, more relaxing than sleeping until noon when you have three morning classes, funnier than observing moves at an HLS mixer?

No, it's not the Woody Allen festival at the Harvard Square Cinema, or even a late-night tromp to Steve's for a Cinnamon Nutmeg sundae — it's the annual Law School Show. And this year's production, "Paradise Remanded, or, Replevin Can Wait," promises to be one of the best ever.

The show is produced by 2Ls David Fleischer and Lisa Poyer, and directed by 2L Peter Jones. With a cast of 36 and an additional production staff of 30, the show will run from March 8-11 and 14-17, in the Ropes-Gray Room of Pound, with the curtain rising at 8 P.M. each night.

For the first time, this year's show resulted from large communal efforts in writing the script, the score, and the lyrics, to create what Fleischer calls "a really fantastic show, with fifty percent more songs than last year's production."

Eleven people worked on the script, primarily 3Ls Emily Cheslow, Ken Neisser, Joan Shear, and Amy Berman. Fleischer explained the reason for so many writers; "A number of people applied with good ideas last year, and that's how the people who we finally selected wanted to do it." Furthermore, Fleischer feels the show profited from the "smaller time commitments," since music and script writers were "able to put lots of energy into one or two good pieces."

Faust, 1L

The plot centers around a 1L



Actor Dan Waters, 3L

named Quincey Faust (Frank Bowman, 3L) and his "love interest" Marguerite Mead (Andrea Davis, 1L), a *Globe* reporter Faust knew before entering HLS. Initially, like most 1Ls, he is a little confused and awed by his classmates and surroundings, but he then sells his soul to the Devil's chief agent Mephistophles (Dan Waters, 3L), to become the number one first year student. With the assistance of the eight deadly sins, Faust achieves his goal, including an unprecedented early election to the *Law Review*.

Yet after a bout with Lust, and several wild and wooly parties with Sloth and Gluttony, Faust reconsiders his earlier bargain, and decides to go to Hell to undo his exchange.

Upon arriving in Hell, Faust is shocked by its resemblance to HLS — "only redder" — and after a tour of the place, pleads his case before none other than Satan, played by Prof. Arthur Miller. The outcome of the trial will be revealed to those

who see the play.

In addition to Miller, the show will include Mary Upton — or "Up Town"—playing herself each night, and Irving Younger as a gameshow host during the first week, as well as two guest professors each night.

The music for this year's production will be created by, in Fleischer's words, "a really outstanding orchestra — about 15 pieces." The show will include 18 numbers as well as an overture and an entracte, written by 10 students. Those writing more than one piece of music were 3L Terry Leahy, 2Ls Kaye Thomas and Ralph Steinhardt, HLS graduates and Show alums Geoffrey Menin and Barry Cohen, and Harvard student David McIntosh. Similarly, the lyrics were written by a group of 10, primarily 3Ls Amy Berman, David Zippel, and Erik Kitchen, and 2L Kaye Thomas.

Special Effects

In addition, Fleischer calls this year's show "technically the most sophisticated ever attempted at the Law School." Under the supervision of 3L Steuart Thomsen, this year the HLS Drama Society purchased its own lighting equipment, which will give the Society "incredible flexibility as well as a hedge against the rising equipment rental costs." The set has also been expanded this year, with a larger raised stage, designed primarily by Madeleine Yuona.

Finally, several of those involved in this year's show have had professional experience in the entertainment field outside of the Law School production. Songwriter Zippel has a number currently being recorded by Rita Coolidge, and Director Jones' play "The Family Line" has been performed at Harvard and at Ohio State University. Technician Thomsen has been on the road as a carpenter for the Beach Boys and Chicago, and Actor Bruce Teeter has worked as a professional singer as well as performed in several movies. Miller has appeared in

(Continued on Page 5)

HARVARD LAW RECORD

Published ten times each semester by the Harvard Law School Record Corporation, 23 Everett St., Cambridge, Mass. 02138. Telephone 617-495-4418. Subscription price: \$2.80 semester, \$5.60 year mailed; \$8.00 year mailed outside U.S.; students \$3.00 year distributed at the Law School. Individual copies including back issues: 20 cents at the Law School, 50 cents mailed. Second class postage paid at Boston, Mass. Copyright 1979 by the Harvard Law School Record Corporation. The opinions expressed in the Harvard Law Record are those solely of the students comprising the Board of Directors of the Harvard Law School Record Corporation.

ALUMNI: Alumni who receive the Record as a result of membership in the Harvard Law School Association should mail change-of-address information to the Harvard Law School Association, Harvard Law School, Cambridge, Mass. 02138. Each alumnus receiving a Record subscription through the Harvard Law School Assn. should be on notice that \$2.80 of his H.L.S.A. annual dues are used to purchase the Record subscription he receives. Dues paid at any time during the H.L.S.A. fiscal year which began in April 1979 and ends in March 1980 will purchase a subscription which begins in September 1979 and expires in August 1980, and so on in following years.

Archibald Cox: Playing Many Parts

By Joshua Dratel

Archibald Cox was discussing his unfulfilled desires. "If I could have had time, I would like to have been an expert mountaineer," he confessed. "What I can do with my hands and toenails, I've done."

And one might add that the same applies to Cox's use of his legal abilities.

Born in Plainfield, N. J. in 1912, Cox, Carl M. Loeb University Professor, has had a distinguished and diverse career in the law since joining the HLS faculty as a Lecturer in 1945. A professor the following year, Cox's tenure at HLS has been augmented by a variety of special assignments his country and profession have required of him.

"You put in a long day, work hard, and neglect your family," Cox noted of the periods during which he has done double duty. "Luckily, my wife has always been very supportive."

Still, Cox considered his primary obligation to be to the classroom. "While these other opportunities are exciting, I'd like to think that my long-term occupation is and has been at Harvard," he commented. "It is important that they (outside positions) never become so dominant that you neglect your role as a teacher. I've done my share of scholarly writing, but I hope I haven't sloughed off in the teaching aspect, either. But then, I'm probably not the right judge of that."

While Cox's most notable post was his stint as Watergate Special Prosecutor in 1973, he had previously worked for the U.S. Department of Labor, supervisory governmental and higher education commissions, and the Solicitor General's office in the Justice Department. He held the Solicitor General position from 1961 through 1965.

"I suppose that the peak for a lawyer is oral argument as Solicitor General before the Supreme Court in a major case," Cox remarked. "Happily for me, there were quite a few while I was Solicitor General."

The *Baker v. Carr* rehearing in



Prof. Archibald Cox

1962 offered a "satisfied exhaustion that can't be explained."

Challenge and Prestige

Despite the challenge and prestige of such tasks, though, Cox has been discriminating in his acceptance of these extra burdens.

"I ask myself, 'How much is what I'm being asked to do my cup of tea? Can others do it better? What will it contribute to my teaching and writing?'"

Indeed, when approached concerning the Watergate Special Prosecutor job, Cox asked Attorney General Elliot Richardson, "Why me?" After Richardson convinced Cox that he was the man for the post, Cox, a 1934 graduate of Harvard College and a 1937 recipient of an LLB from HLS, decided; "It

seemed to be a no-win job that somebody had to do, and who could do that sort of job better than an aging law professor?"

Although a casualty of President Nixon's "Saturday Night Massacre," Cox maintained, "The whole key is that, while I was fired, everyone else (in the Prosecutor's office) stayed on board. My chief ace was in persuading the key people not to resign."

"I told them, 'If you stick by your guns, nobody can get this thing off the track.'"

Higher Standards

Beyond the immediate goal of uncovering the misdeeds of the Nixon 1972 re-election campaign, the Watergate Investigation, according to Cox, "has genuinely elevated (government) standards, re-implementing the notion that public office is a public trust. It won't bring the Millennium, but it's ground gained."

Cox's special prosecutor role represents his chief extra-academic contribution of the current decade, but some of his work during the 1950s remains topical in 1978. While serving as Chairman of the Federal government's Wage Stabilization Board in 1952, Cox developed two strong convictions.

"The administration must be through a tripartite board composed of labor, management, and public officials," he argued. "And if wage and price controls are to be

(Continued on Page 8)

Temporary Health Protection

- * Temporarily Unemployed
- * Unprotected Spouse and Family
- * Foreign Visitors

Now there is no need for your spouse and family to go without medical insurance while you are temporarily without full-time coverage. We can offer major hospital protection for periods of 60, 90, 120, and 180 days. This plan is also ideal for people who will have foreign relations or friends visiting them.

Alternatives to University health plans are also available for your spouse and family.

W. T. Phelan & Co.

Insurance Agency, Inc.

11 Dunster St., Harvard Square (next to the Holyoke Center).

876-0876. Representing Aetna, Travelers, Hartford.

Contact Ed Collins for further details.

1Ls Dissatisfied With Choice of Electives

(Continued from Page 1)

spots to be offered in Federal Litigation. Because the number of classes offered this year is smaller than in past years, many of them have larger enrollments than were originally planned. Only two classes, Western Legal Tradition and Comparison of Soviet and American Law, did not fill up this year. Upton indicated that if a student had wanted a small class, they could have chosen one that had an enrollment limit, or looked like it would not attract many people, but she did not want to cut people arbitrarily to get a small class.

Frustration Up

The Administrative Board also has seen a large amount of the frustration caused by the first year schedule. This year, requests from first year students who wanted changes from the regular first-year electives were higher than they had ever been.

First-year students who are seeking some sort of change in the first-year elective program are often sent to see Prof. Charles R. Nesson, of the Administrative Board. When the student wanting a change contacts Nesson, he will explain the procedure involved and will give the student his own judgment about the possible success of the request. If the student completes the petition, the full Administrative Board makes an independent judgment on the request.

Nesson indicated that the chance of success for any particular petition depended on the type of request. A student who is trying overlap classes or pick a preferred teacher is told that the deviation won't be permitted. "The system is not built to facilitate forum-shopping for teachers."

If the student has requested to substitute a class that is not normally part of the first-year program, the Administrative Board follows the same procedure, but will consider the reasons behind the student's request as part of the evaluation process. No such stu-

dent requests have been approved this year, despite the fact that a number of the requests were supported by "not insubstantial" reasons. One request, initiated by a professor, was approved.

A problem was that 200 people had signed up for the 96 spots offered in Federal Litigation.

The Administrative Board's response to class substitution requests has been tighter this year than in years past because the Board does not want to open the "floodgates" to these requests and then be faced with the problem of defining where the limits are. Nesson indicated that the effect of a second- or third-year class on the first year student was not a major factor in the denials. The courses requested were not "beyond the student's capabilities," said Nesson.

Of the nine requests to admit a 1L to a Law School course other than a first-year elective, only one was granted. That one request had been initiated by a professor who had requested that a student with a particular academic background be admitted to a class where that background would be an asset to the professor and the rest of the class.

Another category of requests was from those students who wanted to add an additional class to their schedule. Nesson indicated that if the additional class requested was a Law School class, the answer was always "no," mostly because of the workload. If the class was from some other school and was not for Law School credit, the Administrative Board would consider the degree of the student's interest, evaluate whether the student was making a mature judgment and whether the decision was irrevocable. If those factors all seem to be present in sufficient degree, then

the Board will permit the student to take the course.

Nesson believes there is a relationship between the number of first-year electives and the requests the Administrative Board hears. "It is clear to me that the more restricted and limited the elective choice is, the more students will want to depart from it — more students want exceptions."

The Administrative Board will not react officially to the increasing number of students who are requesting changes in the first-year program, because, Nesson said, "the perception of Administrative Board members that there is a problem gets very quickly communicated to the dean and the associate deans."

In Committee

The area of first year electives has been referred to committee for study. Professor William D. Andrews, chairman of the Committee on Legal Education, indicated that his committee's mandate in regard to first-year electives is a general one. "We have sought so far to define the problem and are still groping for parameters to think what solutions there are."

Thus far the Legal Education Committee has not "reached the point where any part of [the first year elective problem and its solution] is ripe for discussion." Andrews feels that it would be "premature" for them to offer formal options at this point. Committee members have also spent much time thinking about other ways of meeting the objective of providing a small group academic experience in the first year.

Although the committee has "spent some time trying to think if there are immediate changes which can be made without reviewing the whole curriculum," Andrews feels that nothing will come of that because "time has run out to make any significant change for next year."

(Continued on Page 5)

Administration, Faculty Analyze Problem

(Continued from Page 4)

Writing an Issue

The Writing Committee, has also considered the problem of first-year electives in relation to an overall program of writing at the Law School. Nesson, chairman of the committee, says that the committee is "impressed with the success of Federal Litigation, not simply as a course, but as a writing course, and is disposed to see that kind of offering expand." This is not just a reflection of the role of writing within the first-year elective program, but is part of the broader scope of inquiry set before the Writing Committee. Says Nesson: "More attention should be paid to overall programmatic considerations bearing on the total writing the student does at the Law School."

Associate Dean James Vorenberg indicated that the concept of a first-year elective program extended back to the late 1960's when the Law School offered Development of Legal Institutions (DLI) a legal history course, which was considered a "perspective course." The experience with DLI led to a feeling that the school should try to offer a selection of perspective courses, partly to give people "the opportunity to try to have some small section options" and to give "a loosening up or a breadth." The aspect of giving students some choice in what they took was also a consideration. Finally, the elective program was part of the administrative accommodation to the process of what Vorenberg calls "semesterization" at the Law School.

Vorenberg explained the administrative complications to a major change at the Law School because of the interrelationship of the entire class schedule. "One of the biggest problems is priorities — there are many people who are giving major and sought-after second and third-year courses who would be willing to substitute for some smaller course. You can't ask them to do both, so you are constantly

having to make a choice." Vorenberg indicated that the choice would generally be in favor of the large sought-after class.

One of the original hopes for the first-year electives had been that the faculty members would use that slot to try out new ideas and materials. Vorenberg felt that this had happened occasionally, but that it is much more likely to happen in a second- or third-year seminar class.

Although there are no concrete proposals, Sacks is "sure that we are not going to let the current setup remain exactly as it is."

Looking for Change

Vorenberg feels that the Law School faculty is aware of the problems in the first-year elective program, and that there is a feeling that something needs to be done. He explained that, before any options could be offered the faculty for consideration, there were issues that needed discussion. Among these were the "notion that students will feel they are in over their heads, in what is a high tension time in the first year", and that with some courses "you have a feeling the student should have finished the first year to take them."

Vorenberg indicates that there are no specific options currently being discussed and none for which he has any particular affinity. He did indicate that he felt the best way of proceeding would be to develop several options and place them side by side for faculty consideration over the next few years.

Dean Albert M. Sacks agrees that some type of re-examination of the first-year elective program is called for. At this time, since there are no concrete proposals available for study, he is not committed to any particular choice. However, Sacks is "sure that we are not going to let the current setup remain exactly as it is."

Sacks pointed out that choice of electives to offer has been a problem in the past, partly due to the uncertainty of whether a potential offering fits within a "rather uncertain objective."

Other constraints are placed on the program by the structure of the entire first-year program. The electives are only offered in the spring and end up competing with several year-long courses that have more weight.

Despite the problems that exist in regard to the first-year elective program, Sacks, Vorenberg, Andrews and Nesson all seem to assume that there will continue to be a program of first-year electives. The program may under go some change in the near future, but there is also talk of major changes for the long run, especially through the newly-formed Committee on Legal Education and Development, whose task is to review the Law School's curriculum with an eye to providing recommendations for the next five to ten years.

✽

HLS Faculty Make Foray Into Faust

(Continued from Page 2)

his own law school production for many years.

Tickets are available at Holyoke Center, the Langdell Reception Desk, in the Harvard Union at dinner, and in the Hark at lunch. Tickets will also be sold at the door for nights not completely booked by advance sales. But better hurry — Fleischer warns, "My guess is we will sell out at least half the nights."

✽

Symposium Airs Multinational Issues

By Jorie Roberts

The need to use national policy to curb international bribery, and the problem of calculating foreign subsidies, were among the topics discussed at a *Harvard International Law Journal* symposium on Saturday. Centered on the theme of "United States Attitudes Toward Multinational Corporations," the symposium was held in celebration of the *Journal's* 20th anniversary.

The featured speakers were HLS Professors Detler Vagts and Louis Loss, David Tillinghast of Hughes, Hubbard, and Reed in New York, Peter Ehrenhaft of the Treasury Department, and Walter Surrey, a partner in the D.C. firm of Surrey, Karasik, and Moore, and the brother of HLS Prof. Stanley Surrey.

Surrey addressed "The Future of Multinational Corporations," concentrating on the Foreign Corrupt Practices Act and the problems of eliminating "sensitive payments" in international business transactions. After asserting, "I am not in favor of bribery — it is a criminal act which is offensive to my morality," Surrey pointed out several problems with the present government stance towards bribery. Under federal regulations, a parent corporation is liable for subsidiary bribes which the parent had "reason to know" about, but "reason" remains undefined. Surrey also discussed the effective use of grease payments — the "international tip to the Maitre d'" — and extortion, in order to avoid economic threats to international business.

Surrey went on to state, "The U.S. can only eliminate bribery when all major countries have a similar code. What we need is a change in the moral tone of many overseas countries, which does not seem to be forthcoming." Currently, no other capital exporting country has reporting requirements as strict as those of the U.S.

Surrey suggested that U.S. criminal penalties were not the most effective way to curb international bribery, and that the U.S. should

"use its national policy to eliminate bribery, not the U.S. corporation control route."

Vagts discussed "The United States and Its Multinationals: Protection and Control." He focused on the different relationships between government and business in the United States and elsewhere, pointing out that government and business do not work together as closely in the United States as in other countries, so that it is more difficult for them to work together in the international context. In turn, Vagts concluded, this absence of a cooperative effort puts the United States businesses at a comparative disadvantage internationally.

Taxing Dilemma

Next, Tillinghast discussed "Taxing the Multinational: Where Is The United States Headed?" Tillinghast pointed out that labor has been pushing for tight treatment while multinational corporations are pushing the other way, and that "legislative changes have been piecemeal." He then predicted, "We continue to suffer from protectionist sentiment, which runs counter to international business expansion. My impression is that in the immediate future, the ambiguity characterizing U.S. policy towards multinationals will continue."

Tillinghast then mentioned three policy issues: deferral of income, the foreign tax credit, and transfer pricing. On tax deferral, where earnings of foreign subsidiaries are not taxed until remitted to the U.S., Tillinghast remarked, "Congress declined as recently as last year to undertake a change in deferral" and stated that he sees little impetus for change in the foreseeable future. Tillinghast supported the tax credit, where U.S. corporations get a credit on their U.S. income tax for income taxes paid abroad, because "if the U.S. doesn't grant the tax credit, the result could be dampening to a degree not justified by the offset-

ting stimulus in U.S. investment."

Finally, Tillinghast called transfer pricing "the major tax issue with respect to multinationals," pointing out the difficulties in determining the arms-length prices through which non-related parties deal. Tillinghast concluded by stressing that increasing use of tax treaties and reference to an impartial fact finder could help resolve international tax policy.

Fighting Dumping

Peter Ehrenhaft, Deputy Assistant Secretary and Special Counsel on Tariff Affairs for the Treasury, next spoke on "Multinational Corporations and the Antidumping and Countervailing Duty Laws," concentrating on several problems in enforcing the anti-dumping laws with regard to multinational corporations.

In first defining dumping, Ehrenhaft said "If it's fair to sell a product for one price in one country, the same company shouldn't sell the product in a second country for a lower price. If a foreign country can produce at a lower price, the U.S. manufacturer has the burden of adjusting to the import. If they can't produce at a lower price without subsidies, they shouldn't shift the burden of adjustment to the U.S."

Ehrenhaft pointed out several problems in ascertaining the existence of dumping and foreign subsidization. Time lags often exist between purchase and sale, during which the prices change. Also, sometimes it is impossible to compare the domestic and export prices because different goods are produced for sale in the respective markets. Markets also often have different characteristics which affect prices. By way of example, Ehrenhaft mentioned the state-owned firms in planned economies as compared to the private firms in free economies.

Finally, Ehrenhaft pointed to ongoing multilateral trade negotiations at GATT in Geneva which

(Continued on Page 13)

Nelson: From State to U.S. Bench

By Steve Friedland

Judge David S. Nelson is hoping that his case will be removed from a state to a federal court. Nelson, Massachusetts Superior Court Judge and member of the Harvard Law School faculty, has been nominated for a Federal District Court judgeship. A lecturer on criminal trial practice at HLS since 1969 and a leader of 'Introduction to Advocacy' since its inception, Nelson would be Massachusetts' first black federal judge, if approved.

Under the new merit-selection process for federal judges, President Carter has asked senators to form citizen panels to select the most high-qualified District judge candidates. Senator Edward Kennedy's panel nominated state judge John J. McNaught and attorney Rya Zobel as well as Nelson and HLS Associate Dean Robert E. Keeton [RECORD, Dec. 8, 1978].

But according to Nelson, a panel recommendation is far from being tantamount to final approval. He first was required to reveal a great deal of information about his professional life — his writings and decisions, for example — to the eleven-member citizen panel. Then he was interviewed by Kennedy, who nominated him for the judgeship.

The nomination was delivered to Carter, whereupon the scene shifted to Washington, D.C..

"I had to respond to four very involved and private inquiries. I found that when I responded to the FBI, to the Justice Department, to the President, and to the Senate subcommittee I was telling things I never told anybody in my life. I was giving out information that I didn't have available until I did some research," said Nelson. He added that the investigations didn't stop with himself. "Not only are your own personal finances, lifestyle and associations investigated, but your spouse, parents and so forth. My mother, for example: they know everything about my mother that nobody else in the world knows."



Judge David S. Nelson

So Far, So Good

At the present, Nelson has passed muster in all phases of the process that he has participated in. After several independent and extremely rigorous reviews — including the ABA, the IRS, and the FBI — Nelson now faces consideration by the Senate Judiciary Committee, chaired by Kennedy. After gaining the committee's approval, he still must receive confirmation from the full Senate.

Nelson spoke favorably about the new merit-based procedure, saying that it has worked very well in some states. He added, "What is clear . . . is that it opened up the doors to people who've never had a shot, both in categories and personalities. Having committees will make it more likely that Republicans will be selected by Democrats and vice versa. Or people who are not personally known to the senator will now have a door to the senator through the committee."

Yet he also recognizes the new procedure's deficiencies: "The major difficulty that I have [with the new system], . . . is that there's always a danger that out of a selection committee you will not get the best even though you clearly won't get the worst."

In order to interest the superior candidate in a judgeship, according to Nelson, a personal plea by the senator or executive who does the

nominating was often necessary. "A lot of times people in those circumstances are not going to want to step down from their positions for economic and prestige reasons," he explained. And they're also not going to bare themselves, their private lives, to public scrutiny."

Fear of Harvard

Nelson stated that he has enjoyed his association with HLS, although, he said, "I came to it (HLS) with trepidation, because I was never a member of the Harvard community. [Before I began to teach at HLS] I don't think I had walked through anything but the glass museum or something."

Nelson arrived at Harvard almost inadvertently. While teaching an undergraduate course at Boston University as an Assistant Professor in the Law of Communications and the Law of Civil Rights, his name was submitted to the late Prof. Richard Field and to Prof. Robert Keeton, who were looking for someone to teach a criminal trial practice course. He was asked to come for an interview which has remained memorable: "It was the first time in my life that anyone asked to see my marks." Even during his association with a Boston law firm — in which he became partner — his law school grades were not subject to similar scrutiny, commented Nelson.

Nelson got the job, and said that from the start it was a two-way learning experience: "I learned a lot from others, such as Bob Keeton, who provided pointers on how to approach the course." Nelson attributed some of the success of the criminal trial practice course to its different orientation from the regular course fare. He also cited its progressive increase in popularity as reflective the changing interests of the students at HLS: "Now, people who weren't traditionally interested in trial practice — especially at Harvard, because trial practice was [then] the least worthy of pursuits — have all

(Continued on Page 15)

Cox Muses on Busy, Varied Career

(Continued from Page 3)

imposed, they ought to be imposed quickly so wages and prices don't shoot up in anticipation."

Columbia Fact-Finder

In addition to his work for the government, Cox also served as Chairman of the Cox Commission, a fact-finding and recommending body that studied Columbia University's 1968 student protests.

"When well done, (advisory commissions) are very useful," Cox offered. "My philosophy is pitched in the belief in the power of reason, of facts, and the importance of persuasion and consent." Advisory commissions offer an opportunity to be heard, to sort out the facts, present concerns, and focus discussion, with some hope that a good percentage of the time you will help precipitate a new consensus."

But Cox was more than an observer during the campus unrest at Harvard one year later. Acting for President Nathan Pusey, as coordinator of campus security and processor of disciplinary action, Cox was "torn in the sense that something could be said in one way or another for most of those involved, and I'm talking about everyone — students, faculty and administration."

Throughout the time he was in charge, Cox attempted to maintain order without overreacting. "My concern was to keep the University afloat, to see that it continued to function while avoiding the bloodshed, violence, and reaction that ensues when you bring police into University buildings."

"It was extraordinarily intense and agonizing."

Experience and Theory

Less agonizing, and in fact welcome, have been his returns to teaching. "This is the permanent part of my life," Cox explained. Yet his experiences elsewhere have reinforced his teaching theories.

"My experience tends to confirm my view of close analysis of cases,"

he pointed out. "That includes hard study of details, and development and presentation of ideas that make a man effective in influencing the court. One must present the case so it seems congenial to a majority. Those (justices) whose hearts tell them to go one way, but are doubtful about the intellectual side, have to have a convincing intellectual path laid out for them."

The above approach supports Cox's view that the Law School can convey this philosophy to its students and thereby contribute to society.

The Long View

"What we can do best is on the intellectual side," he stated. "Our

function in the world is to enable people to live together with mutual- and self-respect, freedom, and responsibility. A very large part of the capacity to do that comes from independence of point of view, and it also comes from having a sense of the relevant and an ability to take the long view — things learned in law school."

For Cox, "nothing is more satisfying in the end than to contribute to the education of a student, which you often have to take on faith."

But those rare times in which the proof is evident and concrete fulfill Cox's goal of "leaving a part of the world a little better off than you found it."



HOFSTRA LAW SCHOOL

Summer Program 1979

For further information
write or call
(516) 560-3636

SUMMER SESSION I MAY 29-JULY 9

COURSES	CREDITS
Conflict of Laws	3
Criminal Procedure I	3
Debtor Creditor	3
Evidence	4
Family Law	3
Individual Income Tax	4
International Law	2
Land Use Planning	3
Secured Transactions	3

SUMMER SESSION II JULY 11-AUGUST 24

Business Organizations	4
Commercial Paper	3
Communications Law	3
Health Law	3
Labor Law	3
Products Liability	3
Wills, Trusts & Estates	4

HOFSTRA 
UNIVERSITY **SCHOOL OF LAW**

HEMPSTEAD, NEW YORK 11550

HLS Women Compile Directory for N.Y.

By Becky Wesley

The camaraderie and support of fellow classmates sometimes seems to be the only thing that keeps a law student afloat through the more harrowing of law school days. Thanks to the inspiration of Celebration 25 — a reunion held last year to commemorate women at HLS — and Laura Lou Meadows ('60), women who have left these hallowed halls to enter practice in New York City now have that same access to each other's fellowship and expertise in the field of law.

Last December, a self-appointed Directory Committee of Harvard Law women in the New York Metropolitan Area distributed a directory compiled over a period of months of about 180 HLS women graduates who live and work in the vicinity. It is the intent of the Directory Committee that the project serve to put these women in touch with each other and provide prospective employers with a previously unavailable source of information about the career interests and experience of women lawyers. They also hope the directory will be a model for similar undertakings in other cities, or even nationally.

"I was so impressed with the mammoth editorial effort of the Celebration 25 Directory," said Meadows. "It was fascinating browsing through the personal comments of Harvard Law women — there are now around 700 — about their professional experiences since graduation from law school. Our directory is less interesting reading, since we omitted comments, but I recognized a real lack in the New York legal community of something like the Celebration 25 Directory that we could use from a professional reference standpoint," she continued.

The New York women who formed the Directory Committee used the Celebration 25 Directory as a starting point and sent out questionnaires to update addresses, phone numbers, and current affiliations. The committee then organized the information in two alphabetical listings: the first

is by name, and includes graduating class, addresses, phone numbers, cross-referencing to former last names, and length and type of legal experience; the second lists last names under categories of legal specialty.

Important Innovation

This second listing by specialty, not incorporated in the Celebration 25 Directory, is Meadows' innovation and the most important aspect of the New York directory. No other sourcebook of lawyers, such as Martindale-Hubbell or the ABA Section directories, includes such an extensive cross-indexing to specialty and experience. The Committee is now working on a distribution list of area firms which will be able to use the directory to locate qualified women to fill jobs opening to them in an ever-increasing number of specialized fields.

Meadows relates, "During my eight years as senior tax counsel to a pharmaceutical corporation I did some recruiting and I'm sympathetic to the 'headhunters' problems. I once needed to fill a position in which I wanted a woman with four to six years of tax and some international experience. After a month and a half of exhausting my own connections, I finally hired a referral service which spent two more months and over 200 telephone interviews to find the woman I hired right under our noses in NYC. Now the directory lists a dozen and a half women with the qualifications I sought — it would have been incredibly more efficient."

Women who have been less accessible to recruiters because their work is "less mainstream" than that of their male counterparts, or because they have returned to practice after an absence for child-raising, will now be represented through the directory. The Committee hopes its efforts to provide this specialized access to female legal talent will decrease the time required to achieve equal employment in areas of legal work previously dominated by men.

Opening Channels

The directory will also facilitate referrals and advice on a non-fee basis among NYC women lawyers who are able and willing to use these aids in their own practice. And not unimportantly, it has helped open channels of social communication. "The Harvard Law Alumni Association holds two annual functions, a spring dinner and winter luncheon, but mostly men attend and we wanted some activities geared especially to women," says Meadows. The NYC women have organized three social functions, with attendance of 20 to 30 each. One function was a dinner at the Harvard Club in Manhattan last June. Another function held last September featured speaker Brenda Feigen-Fasteau '69, who told of her past work in a large firm and for the ACLU, her present partnership in private practice with her husband, and her state senatorial campaign. A consciousness-raising theater party open to male guests was also held to see and discuss the Broadway play "First Monday in October", about the first woman nominated to the Supreme Court. They are arranging a talk by Rep. Elizabeth Holtzman '65 (D. N. Y.) for March, and planning an early summer meeting to welcome HLS '79 women graduates who will be establishing practice in the New York City Metropolitan Area.

✽

Cryptic Law

Octdbx qab jbaxwrx . . . jskgbt wcl mawz
lib zwxl tbnlawcx yquhbax uiw qab dawur
wyt wa yqvh; qrt iqpsrd ebbx esqxbt qyy
libsa yspbx qdqsrxl lacli qrt bfcslh, ysb crtba
xcki q mqlqy rbkbxxslh wm mqpwasrd
maqct, jbaocah, qrt wjjabxxswr, liql S iqpb
grwur xwzb wm libz lw iqpb abmcxxt q
yqadb easeb mawz lib xstb uibab ocxlslb
yqh . . .

(Solution on Page 16)

Time for a Choice

First-year students had a limited list of electives from which to choose this year, even more limited than last year's list. At a faculty meeting several weeks ago, there were indications that the dean and others are dissatisfied with the options, so far, for next year's first-year electives.

Faculty and administration members say they are concerned about problems with the 1L elective program, yet the only "solution" they offer is the long, slow, it's-in-committee route. Moreover, those involved with the committees considering the issue expect no real action for at least a few years.

Since most of those faculty members asked seem to realize that there is a problem with first-year electives, and part of that problem involves a scarcity of options (for example, there were only two four-credit courses offered this year, Administrative Law and several sections of Constitutional Law) perhaps one idea that could be tried is to throw open upper level courses to 1Ls, inasmuch as that is possible, and vice versa. Most upper level courses are not beyond the grasp of first-year students; and those few that are could be put off limits. Moreover, there are upper level students who would enjoy taking some of the courses only offered to 1Ls, such as Federal Litigation, or Constitutional Law taught by certain professors.

The all-level option would allow, also, more chance at a small-course experience in the first year, an apparent aim of the first-year electives program that is not being satisfied. It might also alleviate the pressure on the Federal Litigation courses of 1Ls starved for clinical options. That pressure was eased somewhat when a third section of Federal Litigation was added for this year, but there were still twice as many students applying as could be accommodated. Allowing 1Ls a wider variety of courses might siphon some off from the Fed Lit lineup, although, of course, the best solution to that problem would be to offer still more sections, at all class levels.

In the long run, a hard look has to be taken at the first-year curriculum, and that look should include a major inquiry into the views of students. The BSA course evaluations, while valuable, do not provide as much data as is necessary regarding 1L views on the elective program in general, and choices available in recent years in particular. The faculty-staff committees involved should make open hearings, and possibly an all-student survey, a part of the agenda.

But that's the long run. For next year's 1Ls, however, something should be done — and the experiment of options might be one possibility.

Fenno

Fenno straightened his tie and walked to the podium at the front of the room.

"May it please the court," he began. "But even if it doesn't.

"My name is Fenno, and I'm pleased that the BSA has given me the opportunity to talk with the three of you tonight."

"Excuse me, Mr. Fenno," one of the judges interrupted. "Don't you think that you had better wait until your partner arrives before you begin your argument?"

Fenno smiled. "I don't have any partner," he said, "And I don't have any argument either. I do have a few complaints, however, so if you'll be so kind as to listen —"

"This is supposed to be a Moot Court competition," the second judge said angrily. "Suppose you begin by telling us why you haven't submitted a brief."

"I didn't think I'd need one," said Fenno. "I don't have any opponents."

"He's got us there," the third judge said.

"I thought that this would be an ideal time for me to air some grievances," Fenno continued. "Where else will I find a professor, an alumnus and a BSA member together as a captive audience?"

"At a meeting of the Charley Haar Fan Club?" the first judge offered.

"I don't think so," Fenno responded. "Neither Charley nor his brother are members of the BSA."

"Now about those complaints," said Fenno as he shuffled the papers in front of him. "First of all, I'd like to complain about the weather. It's left a little bit to be desired this week.

"And even though the school has done everything in its power to discourage them, the lunch lines at the Hark are still too long.

"Finally, I think Mondays and Fridays deserve some mention. Mondays are always miserable because they're the beginning of another school week. And Fridays are frustrating because even though the weekend is so close, there still are classes to attend."

The judges looked puzzled. "And just what are we supposed to do about these problems?" the first judge asked.

"The same thing that's done about most problems around here, I suppose," said Fenno with a sly grin as he gathered up his papers and rested his case.

HARVARD LAW RECORD

TAMMY JACOBS
Editor

MICHAEL SMITH
Managing Editor

JEFF SCHUMACHER
Business Manager

SENIOR EDITORS: Terry Keeney, Robert Reznick, Jorie Roberts, Bill Ross, Larry Vilardo, Larry Zelenak.

ASSOCIATE EDITORS: Emily Bresler, Dan Hershman, Pat Hanifin, Chris Rinik, Dave Quinto, Beckey Wesley.

PHOTOGRAPHY EDITORS: Chaz Fitzhugh, Chris Rinik.

STAFF: Richard B. Bernstein, Joshua Dratel, Ken Gormley, Amy Grossman, Brian Holman, Charles Johnson, Steve Karel, Barbara Kritchevsky, Gina Markey, Ezra Merkin, Joan Shear.

Letters to the Editor of the RECORD

Lest We Forget

To the Editor:

I am informed that at a session of the Third World Conference on February 17, 1979, William Kunstler chastised me for my "hypocrisy" in defending Anatoly Shcharansky while doing nothing on behalf of American political prisoners. He specifically mentioned the trial of Joanne Little as one about which I had said and done nothing. But Mr. Kunstler is surely aware that I helped to prepare the brief on behalf of Ms. Little's trial lawyer who was facing disciplinary proceedings for his role in Ms. Little's trial. I have repeatedly spoken out against the denial of counsel to Ms. Little and others. Mr. Kunstler also neglected to mention that I participated in the preparation of the brief in Kunstler's own appeal to the Seventh Circuit from his contempt conviction growing out of the "Chicago Seven" trial. He also chastised me for not speaking out on behalf of the "Wilmington Ten." Yet I am certain he is aware that I did precisely that on a nationally televised debate on NBC last year. As Kunstler is also well aware, I have participated in the defense of Johnnie Harris, and represented numerous other Americans charged with political crimes. Mr. Kunstler's well-known disregard for the facts is legion, but lest anyone forget, he is always there to remind us once again.

It is Mr. Kunstler's own hypocrisy that is clearly demonstrated by the record: it is he — who claims to be a universal defender of human rights — who has adamantly refused repeated requests to speak out on behalf of Anatoly Shcharansky and other political prisoners of the Soviet Union and other socialist regimes.

Alan M. Dershowitz
Professor of Law
Harvard Law School

No Misrepresentation Intended

To the Editor:

I'm afraid that a passing humorous reference that I made during my recent visit to the Law School on September 28, 1978, may have been misconstrued by some people who read your account.

The remark (which was reported in the October 6, 1978, issue of the Harvard Law RECORD) arose from a series of thumbnail sketches I was drawing of various paths to successful public interest advocacy through FTC service. In describing the role and importance of tact and sensitivity in Congressional relations, I used as an illustration the case of a Commission attorney who had so gained the confidence of the members of a

Senate/House Conference that he was listened to as if he were their own staff. I did not mean to suggest that he had actually failed to disclose the fact that he represented the FTC or that the members of the conference were not fully informed of his identity. Such was not the case.

Michael Pertschuk
Chairman
Federal Trade Commission
Washington, D.C.

It Should Have Been Sooner

To the Editor:

It was both gratifying and a bit saddening to see the write up about facilities for the handicapped at Harvard Law School in the November 3 issue of the RECORD.

It was gratifying because facilities for handicapped students are long overdue and it is very necessary that the law school cooperate with the federal government in this area. It has always been my belief that sometimes a very slight effort in terms of money and programs can make a very large difference to the handicapped.

It is also a bit saddening because I went through Harvard Law School with a disability, which I still have. Although not confined to a wheel chair, I use crutches and braces due to polio. When I was a student at the law school (graduating in 1956) there were no hand rails on the exterior steps of Langdell and some other buildings. I can't tell you about the unimaginable horror of trying to negotiate those steps, especially in icy weather. In this connection, I would urgently recommend that if simple hand rails have not been installed on all steps that this necessary adaptation be accomplished. Another saddening aspect is that the impetus for these changes has come from the federal government, and not from the law school. Better late than never.

It was also interesting to note that part of the program for the handicapped is to eliminate discrimination in the hiring of handicapped persons who are able to perform the duties a job requires. On this point I will only say that, perhaps ironically, I have been satisfyingly employed by an agency of the federal government. While the agency is not HEW, which implements the Rehabilitation Act, it is an agency of the same federal government that has imposed these legal requirements on schools receiving federal funds.

Richard B. Treanor, 56
Washington, D.C.

P.S. I would have no objection if part or all of this were printed in the RECORD.

A Better Idea

To the Editor:

It was with mixed feelings that I read in the RECORD (November 3, 1978) of the law school's new program to make its facilities accessible to the physically handicapped. Of course this is a splendid idea — yet one can't help wondering why it took so long to receive the support of the school administration. Physically handicapped students, after all, are far from a new phenomenon in Cambridge. I for one spent three successful years at the school more than two decades ago, confined to a wheelchair by polio, and I am sure that many others have since done the same. It wasn't easy, but somehow we all managed without ramps and lifts: for example, I was carried in my wheelchair up and down the steps of Langdell and Austin Halls by a small but dedicated group of fellow students and numerous passing volunteers. They performed this task ably and cheerfully, in all kinds of weather, every day for three years, and I shall always be grateful to them for their assistance. (If any are among your readers, I would like them to know their efforts were not in vain: I have had a rewarding career in public law, and I am currently a senior research attorney on the staff of the California Supreme Court.)

Still, it would show bad grace not to be very pleased that the first steps are being taken at last. Hopefully the administration will make up for its years of immobility by now moving as quickly as humanly feasible to eliminate the last vestige of the school's architectural barriers. As your perceptive editorial in the same issue of The RECORD observed, "Justice and compassion both mandate whatever expenditure of resources is necessary to enable the handicapped to participate as fully as possible in society." A great institution like Harvard Law School can do no less.

Peter J. Belton '59
San Francisco, California

SPORTS QUIZ

1. Which man and which woman hold the most World Cup skiing titles?
2. The November 1, 1964 Houston Oilers/ Buffalo Bills game was a memorable one for George Blanda. What happened in that game that he will remember?
3. Another member of the Houston Oilers team will also remember 1964. Why?
4. When did Clemson win its last major post-season bowl game — prior to 1978?

(Answers on Page 16)

Letters to the Editor **Rippers Stalk Langdell** of the RECORD

A Complaint

To the Editor:

I was most disappointed to see the name of Christ treated with disgust in your newspaper article reviewing *Surviving the First Year in Law School* which appeared in the February 9 edition. I am sure we are all entirely persuaded that Mr. Robert Reznick should be able to think and say exactly what he pleases. But I am not convinced that your newspaper should provide him that forum.

I am hopeful that you and your readers may both realize that there are many at the law school who believe, as do I, that Jesus Christ is alive, is Lord, and is the only means by which people may find favor with God.

Douglas P. Long, '79
Cambridge, Massachusetts

Law School Show "Typecasting"

To the Editor:

I must express my shock and disappointment at the choice of posters for the Law School Show.

Please consider what you are doing by publicizing your production with posters depicting a female devil with explicit sexual features. You are falling right in step with the American advertising industry. Because advertisers long have known that female bodies catch the eye, women have been used to sell just about everything. But this is a community capable of responding to a pitch that uses techniques more sophisticated than the old debase-the-woman trick. I trust that the Law School community will respond to the show on its merits. If anyone should share that trust, I would expect that it would be you.

But more importantly, the posters potentially insult a large number of students by perpetuating the worst of the old stereotypes about women. Woman as temptress, woman as sex object. Let's have the decency to avoid the typecasting here.

Please take the posters down.

Patricia Brannan, '79
Cambridge, Massachusetts

SANIBEL ISLAND FLORIDA

New Beach Front 2 BR, 2 Bath. Condo on Tropical Island. Elegantly furnished, private balcony, pool, tennis, golf, fishing, shelling. By week, month, season. Phone 312-279-9330 daily or 312-447-5619 evenings or write R.H. Baumrucker, 110 So. Herbert, Riverside, ILL 60546.

(Continued from Page 1)

Harvard libraries revealed that all have had to contend with theft and mutilation of materials in their collections. Sheila Hart of Widener Library said, "We have a chronic case, and have had it for years." Her comment was echoed by Pat Hall of Lamont Library: "It's a steady problem, but there have been no real serious problems recently."

The problem is not confined to Harvard. Cohen cited a recent editorial in the *Massachusetts Lawyers Weekly* denouncing those who have mutilated or stolen materials at various law libraries throughout the state and calling for investigation and prosecution of those responsible.

Some students have suggested that those who commit "book crimes" do so out of a desire to deny access to certain materials to other students in order to obtain a competitive advantage. Cohen was skeptical. "I don't know why. I doubt if there is a change in the morality of students."

"Law students," he continued, "are no worse than other students; they are no worse than lawyers. And lawyers are no worse than other people."

Other librarians agree that students razor pages out of books or steal them merely from "just plain laziness," in Hart's words. Malcolm Hamilton, of the Education

School's Gutman Library, commented, "It's there and they want it, so they take it." And Hall observed, "It's not something malicious — it's probably sort of an extreme carelessness."

Expensive, Inconvenient

Berring also commented that the students who are responsible for the acts do not realize the consequences. "It is very difficult to replace these things. It's expensive — acquisition costs can run as high as \$20 per item, and rebinding costs can run \$10 to \$15 per item. More important from the user's point of view, the items are immediately unavailable."

Asked about the possibility of catching those who commit book crimes, neither Cohen nor Berring was optimistic. While there is a Massachusetts statute carrying criminal penalties which conceivably could apply to those who mutilate or steal library materials, and while the Administrative Board announced in the *Advisor* that "any theft, concealment, or destruction of library materials may lead to serious disciplinary sanctions", the ultimate deterrent to library crimes may be peer pressure.

However, as Hamilton despairingly noted, "It's a horrible situation that one has come to accept as the way things are."

Mass. auto insurance, explained.

Mass. automobile insurance can get a little complicated. And if you're under 25, it can get expensive.

We'll simplify things. And we'll help you keep your premiums as low as possible.

W. T. Phelan & Co.

Insurance Agency, Inc.

11 Dunster St., Harvard Square (next to the Holyoke Center).
876-0876. Representing Aetna, Travelers, Hartford.

Mayor White Wants You, Forum Told

By Pat Hanifin

"I've come here looking for talent — yours," Mayor Kevin White of Boston told the Law School Forum audience Tuesday night. "I'd settle for one of you. I'd be overwhelmed by two. The cities won't survive without talent like yours."

White's recruiting effort was part of a speech that emphasized the continuing crisis of the cities. "American cities are still under siege and challenge" as they were in the '60s, White said. "Domestic problems left untended are more fatal to our survival and civilization than anything happening in Iran."

The cities are worth saving, White argued, citing Boston as an example of a city undergoing a "Renaissance" and being "on the verge of attaining what a city should be." But the city cannot bridge the remaining gap to that attainment with "second-class talent." White pointed out that only six percent of last year's graduating class at HLS went into government and that three-quarters of those went to the "more glamorous" federal government.

Mistreated Cities

The urban crisis, White claimed, is largely due to mistreatment of the cities by the federal and state governments, the judiciary and public opinion.

"There has long been a childish opinion in America that the cities are cancerous enclaves," White said. This has combined with the current shift to the right in which "the American public has joined in the opinions of the Cassandra's who say the only solution to serious domestic problems is to ignore and run away from them." Consequently, the cities cannot hope for much assistance from the federal government.

Yet it was federal programs such as highway building and court-imposing busing that were the crucial factors in suburban migration. The federal government continues to draw more money out of major

cities like Boston and Chicago than it sends in, White said.

White blamed the states for imposing "archaic and unfair tax structures on the cities." He cited Boston's building the Quincy Market and receiving from the market's first year only \$50,000 while the state, "which had made no contribution to creating it" got \$3,000,000. "Boston gets 70% of its income from property taxes but 56% of the land is tax-free and 20% of the people in the city are on welfare," White said. Yet he claimed that if it were allowed a better tax structure Boston could pay its own way.

Weak Leadership

He sees increasingly weak leadership on the state and federal levels due to erosion of public confidence since Watergate. Many men are getting elected now — "like [Massachusetts Gov.] Edward King — who appear to have power but are like the little kid who gets in the drivers seat of a car and beeps the horn, turns the wheel and pumps the brakes, but the keys are still in the house."

Some of White's harshest language was reserved for judges who go beyond adjudicating into administering executive departments like the school system, as Federal District Judge Arthur Garrity has done in Boston. "The judges have shown an almost childish delight in exercising the power that comes with running large executive authorities and a childlike unwillingness to let go."

He accused the judiciary of contributing to the paralysis of political solutions by encouraging people to settle problems by fighting them out in court. "It is not the proper role of the courts to administrate. There is a certain insanity in having a judge assisted by only two law clerks running the school system."

Returning to his recruitment effort, White stressed the need for "good judges and good lawyers to fight good judges."

White listed three major problems for the cities in the 1980's which "people like you" will have

to answer: First, the federal government must decide whether it will raise nearly all the tax money itself and send some back to the localities which will decide how to spend it; or whether the federal government will get out of the business of raising money for the localities and let them have the tax powers to raise it themselves. Second, someone must decide whether there is a role for the state governments to play. "Since the 1950's they have become middlemen between the cities and the federal government," White said. Third, the political role of the judiciary must be resolved.

About 350 members of Massachusetts Fair Share, protesting the high Boston water rates, confronted Mayor White at the reception after his speech and demanded a further rate reduction than has been adopted for 1979. They left after he promised to meet with them next week.



International Law Subject of Symposium

(Continued from Page 6)

he hopes will "bring international codes into alignment."

Loss concluded the symposium by discussing "Extraterritoriality in the Federal Securities Code." Loss pointed to the need to codify extra-territorial application of the Federal Securities Code, by combining the SEC's rule making powers with the traditional rules of international law. Loss stressed, "There is a role for the SEC as far as it wants to play it, within a fairly workable structure."

Approximately 75 persons attended the session, including former HLS Dean Erwin Griswold, present and former *Journal* Board members, local lawyers, and HLS professors and students. The five speeches will be printed in an upcoming volume of the *Journal*, to be released before June.



Profs Vary: Soft-Shoe to Hard-Souled

By Kenneth G. Gormley

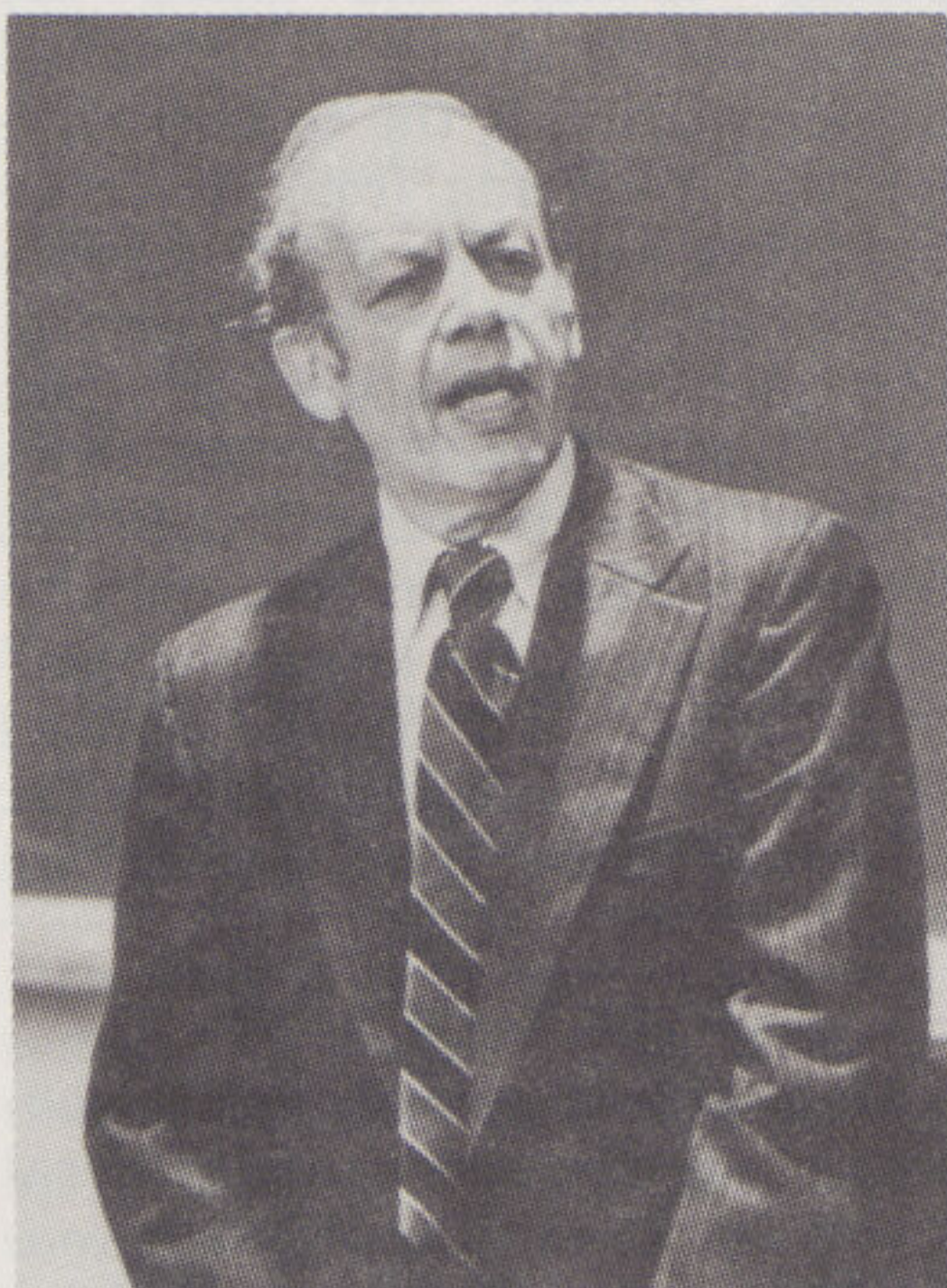
PROFILE #1: Herman Hobdecker. Senior at the University of Dayton. Double-major in political science and zoology. Minor in drugs. Score of 810 on the LSAT (suspiciously smudged thumbprint). He received his letter of admission to Harvard Law School on Jan. 15, 1979. Hitchhiked to Cambridge two weeks later to audit classes before making a final decision. Attended first day of Irving Younger's "Trial Practice and Professional Responsibility." Immediately reported to the Office of the Registrar and signed letter of enrollment.

PROFILE #2: J. Arthur Honeywell. Honor student, Columbia University. Rhodes Scholar. Ambition — lawyer extraordinaire. Received admission letter to HLS while on winter break in Florence. Parents financed visit to the Law School on Jan. 29th, 1979. Audited first day of Professor Wolfman's "Taxation" course. Attempted suicide in Langdell broom-closet later that day. New ambition: Franciscan Monk.

One of the most attractive features of Harvard Law School is the enormous variety of courses offered. And the wide sampling of teaching methods which students can experience. Occasionally, though, a professor's approach to teaching stretches to such unprecedented heights of innovation that students begin to wonder if, perhaps, it were meant for another world.

It should be obvious by now that this is all leading up to a little journalistic gossip about Prof. Irving Younger's "Trial Practice" and Prof. Bernard Wolfman's "Tax." Those two courses — perched on opposite extremes of conceivable teaching methodologies — have generated more controversy over the dinner table this semester than Duncan Kennedy's wardrobe.

What is it that's raised eyebrows about Younger's 4-credit course? Just the fact that there are no re-



Prof. Bernard Wolfman

quired readings (He did pass out a list of ten or so suggested books, but didn't recommend any of them — even the one which he wrote — very highly). And the fact that attendance is optional. Oh, one more thing. He did mention that students could feel assured they would receive a B+ or better (except, possibly, where there was an intentional and malicious attempt to flunk the final exam).

Suprisingly, the RECORD discovered little dissatisfaction among those who managed to enroll in Younger's course. Some clearly revelled in the prospect of finally having gotten something for nothing at HLS ("What professor at Harvard Law School would I get up for at 7:30 every morning? None of them. That's why I decided to take Younger's class. It's the greatest thing since the free University wine tasting class").

But others claimed that the subject matter coupled with Younger's exciting teaching style draws them to class more regularly than usual (Class is still packed, despite the early meeting time).

There were, however, a few grunts and groans of malcontent from those not taking "Trial Prac-

tice" this semester:

- Some had lost respect for those slothful, grade hungry students (See above quote. See, also, the byline on this article) who flocked to the course for a "free ride."

- Others puzzled about the fairness, and Constitutionality, of the "B+ or better" guarantee.

- A large number were appalled that Younger's course required so little work. A typical comment, "It really makes me sick. I mean, why couldn't I fit it into my schedule?"

Younger admitted that the course is in some ways experimental; a pioneer attempt, he said, to teach something in a large group which is traditionally taught in a small workshop.

On the lack of texts: "It's like Intro to Advocacy," he said. "Sure, there are books on the subject — but none of them have the authority that, say, a Conflicts of Law book has. I hope students dip into them. But that's all they're good for — dipping into."

On the guaranteed B+: "I wanted students' attention, undistracted by grade consciousness. In this respect, too, it's like Intro to Advocacy. If we graded on merit, everyone would get an F. Nobody knows what they're doing. But if

(Continued on Page 16)

JAMES F. BRINE, INC.
29 BRATTLE ST.
HARVARD SQ. 876-4218

SPORTS EQUIPMENT AND
APPAREL FOR THE
ENTIRE FAMILY

- Squash • Soccer • Skating
- Skiing • Jogging • Basketball
- Warm Winter Clothes • Down Parkas
- & Vests, Socks, Gloves & Sweaters



1-L Wins Rhodes Scholarship

By Jorie Roberts

Nancy-Ann Min, a first year student at HLS, will take a two-year hiatus from the "halls of Langdell" to study for an Honors B. A. in Philosophy, Politics, and Economics as a Rhodes Scholar at Oxford. Min will study in Balliol College, which is admitting women for the first time this year.

Min, a resident of Tennessee, was "pretty surprised and very, very happy" when she was selected to receive the Rhodes. "I was prepared the whole time to lose; my friends in Torts who took notes for me when I was gone thought I was sick, not in Tennessee for the interview. I didn't tell anyone that I was applying."

Min chose to study Philosophy, Politics, and Economics, planning to concentrate in the comparative studies of politics and economics. "I look forward to studying such issues as the underlying policies of communism versus capitalism and, more specifically, the U.S., British, and Soviet economies."

Min considered studying law at Oxford, but she states; "I talked to attorneys who had read law at Oxford, and they felt that it was not as productive as studying something else, especially since the emphasis there is frequently on older forms of law, such as Roman law. Besides, I have always wanted to gain more depth in political philosophy and economics."

Why a Rhodes?

In describing her reasons for seeking a Rhodes Scholarship, Min

"I felt that I needed more time to explore myself. . ."

relates, "I hadn't thought seriously about seeking a Rhodes while I was in College — law school was my major objective then. Yet once I got here, I found that while I enjoyed the study of law very much, it seemed much more vocationally oriented than my undergraduate studies. I felt that I needed more time to explore myself — that never again would I have such an opportunity and the time to read and to learn for their own sakes."

Moreover, Min doesn't anticipate any significant problems as a consequence of breaking-up her legal education. "I've talked to people who took time off, and they reassured me that one quickly picks up what one forgets. Also, I've heard that the second year courses don't build directly on the first year courses to a major extent."

Min comes from Rockwood, a town of 5,000 in the conservative, eastern section of Tennessee, not far from Dayton, the scene of the 1927 Scopes trial. She graduated from the University of Tennessee in 1978. Having worked in D. C. for three summers for Congresswoman Marilyn Lloyd, the Supreme Court, and the Federal Judicial Center, she anticipates a possible career in government after graduating from HLS in 1983.

Nelson Finds Nominee's Life Very Revealing

(Continued from Page 7)

of a sudden taken a serious interest in it."

And the program works, too, according to Nelson. "When the intensive one month course ends, you can bet by and large that the students will be better lawyers than those that appear before you."

Nelson is the owner of a lengthy list of activities and accomplishments. From his experience as Chairman of the Board of Directors of Roxbury Multiservice Center to his position as Chairman of the Board of Trustees of Boston City Hospital, he has been involved in a great number of civic activities.

Although Nelson says he enjoys his present position as a Massachusetts Superior Court judge, he is looking forward to becoming a Federal judge. When he was asked to be a Superior Court judge, he thrice declined before finally accepting. This time he only had to be asked once.

Gino & Mike's Barber Shop

A CUT
ABOVE THE REST

ONE BLOCK FROM THE LAW SCHOOL
OPPOSITE HOLIDAY INN

354-6878

We do razor styling

Looking at Our Jekyll and Hyde

(Continued from Page 14)

we graded on effort, everybody would get an A. So I figured, what the hell."

At 10:10, as the chuckles from Younger's course are finally starting to die down, Bernard Wolfman takes over the podium in Austin North. Some say it's like being transported from a Polish wedding to a German wake. Wolfman requires that every student come to class prepared every day — or not come at all. Nobody is quite sure what happens when a student is caught unprepared; but everyone knows it's something slightly worse than death.

Few students approached by the Law RECORD questioned Wolfman's teaching effectiveness (Over the past few years, student evaluations on the BSA Questionnaires have overwhelmingly praised his ability to teach an inherently dull subject. Summed up one student, "He's an arrogant som' bitch, but an excellent professor.").

Yet there were a number of recurring complaints about his classroom tactics:

- "No matter what they call it, this course is required," said one student, who demanded anonymity. "And Wolfman's was the only one that fit into my schedule. I'm paying \$200 a credit to take it. I'd like to feel I can sit in class and take notes whether I'm prepared or not, without getting bullied around."

- "I live in constant terror," said one 2L woman, hunched over a fresh set of Regs. "Do you think I'd be reading this trash otherwise?"



Prof. Irving Younger

And you better not even *think* of printing my name, buddy." (If these interviews demonstrate anything, they prove that nobody around here trusts the "anonymous grading" system).

Wolfman feels strongly, however, that his approach is the most effective one for conveying the often-confusing mass of material in the field of tax.

Of his Socratic method: "It makes for a participation of students in an active rather than a passive way," he explained. "For me — I need that participation. I get stimulated."

Of his "come prepared or else" rule: "In class, we are engaged in a joint enterprise. I want it to be a full joint venture — rather than

some riding on the coattails of those who participate. Students know this before they take the course. They don't have to enroll." (Just for the record, Wolfman hasn't found it necessary to ask anyone to leave the class, for being unprepared, since the late 60's).

Whatever one thinks of Wolfman's in-terrorem tactics, it's certainly understandable that he came to develop this unique style. Wolfman admitted that his teaching approach was heavily influenced by those professors he most respected as a law student at Penn. "One of those was Professor Byse

Say no more.

Solution to "Cryptic Law"

Jonathan Swift, *Gulliver's Travels*
from the side where justice lay . . .
some of them to have refused a large bribe
jury, and oppression, that I have known
such a fatal necessity of favoring fraud, per-
lives against truth and equity, lie under
old or lazy; and having been biased all their
the most dextrous lawyers who are grown
Judges are persons . . . picked out from

Sports Answers

1. For the men, Gustavo Thoeni of Italy has held the title 4 times — 1971, 1972, 1973 and 1975. Annemarie Proell of Austria holds the record for the women with five titles from 1971 through 1975.
2. He set the still standing records for passes attempted and completed in a single game, hitting 37 out of 68.
3. Charley Hennigan has a season record pass reception total of 101 that still stands today.
4. The win came in the 1951 Orange Bowl when Clemson beat Miami of Florida 15 to 14.

SECOND CLASS POSTAGE
PAID AT BOSTON, MA

RETURN ADDRESS:
HARVARD LAW RECORD
HARVARD LAW SCHOOL
CAMBRIDGE, MA 02138

Professional Dry Cleaning
and Shirt Laundry
at

Rite-Way
DRY CLEANERS, INC.

KI 7-8008
4 Hudson St., Cambridge
(off 1672 Mass. Ave.)